



Journal of the Senate

Number 14

Tuesday, April 5, 1994

CALL TO ORDER

The Senate was called to order by the President at 9:00 a.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

Excused: Senators Childers, Jenne, Kirkpatrick and Scott, periodically for the purpose of working on Appropriations

PRAYER

The following prayer was offered by the Rev. W. Doyle Bell, Pastor, Fellowship Baptist Church, Tallahassee:

Heavenly Father, I lift you up for praise today for you are truly worthy of all our praise. I thank you for these men and women who have made themselves available for service to the people of the State of Florida.

I ask you to make the wisdom of God to be their wisdom for the tasks they have undertaken in their various areas of responsibility. May the decisions they make be godly decisions that will result in the common good of the people of our state. I ask you to give them the courage needed to stand with those decisions, even when it means that they will become unpopular with those who oppose truth and righteousness.

I ask you to give them physical and emotional strength to withstand the daily pressures placed upon them by the very nature of their position of responsibility. I ask you to give them your providential protecting care, keeping them safe from any dangers surrounding them. I ask you to provide your care for the families of these who are separated from their loved ones for these days of service. I pray that you will give both them and their families your precious peace that lets them know that you are with their loved ones wherever they are.

Again, I thank you for these who serve. I ask all these things in the name of the Lord Jesus. Amen.

PLEDGE

Senate Pages, Allison Turnbull of Winter Park and Parker M. Hightower of Jacksonville, led the Senate in the pledge of allegiance to the flag of the United States of America.

CONSIDERATION OF RESOLUTIONS

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

By Senator Thomas—

SR 3154—A resolution saluting James Herndon, a true public servant, upon his retirement from the Department of Highway Safety and Motor Vehicles after 40 years of dedicated, considerate, courteous, and efficient service to the public.

WHEREAS, James Herndon retired March 31, 1994, after almost 40 years of service to the State of Florida, and

WHEREAS, on July 1, 1954, Jim Herndon began his career with the Department of Highway Safety and Motor Vehicles, in Crestview, Florida, as a radio operator for the Division of Florida Highway Patrol and worked his way up through the ranks of supervisor, district supervisor, regional supervisor for the Division of Drivers' Licenses, regional administrator, assistant chief of field operations, and assistant chief and program manager, and

WHEREAS, Jim Herndon is well-known for his warm, courteous, and helpful work at the Department of Highway Safety and Motor Vehicles, where he exemplifies the type of employee who is the backbone of a state agency because he has demonstrated his institutional knowledge and experience and superior skill in assisting the public, and

WHEREAS, the department has received many letters of appreciation that attest to Mr. Herndon's efficient, helpful, and courteous handling of situations and to the fact that he is a credit to the department, NOW, THEREFORE,

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

That this legislative body salute James Herndon, a long-time, loyal, and dedicated employee of the State of Florida whose service to the Department of Highway Safety and Motor Vehicles is much appreciated by the people of this state.

BE IT FURTHER RESOLVED that a copy of this resolution, signed by the President of the Senate, who, incidentally, has been a close personal friend of Mr. Herndon for more than 20 years, with the Seal of the Senate affixed, be presented to Mr. James Herndon, as a tangible token of the respect and appreciation of the members of the Florida Senate for a job well done.

On motion by Senator Childers, **SR 3154** was read by title and was read the second time in full and adopted.

SPECIAL GUEST

Senator Childers introduced the following guest who was seated in the chamber: Mr. James Herndon.

Upon request of the President, Senator Childers escorted Mr. Herndon to the rostrum where he was presented a copy of the resolution.

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

By Senator Williams—

SR 3152—A resolution expressing regret for the death of Wesley L. Silas.

WHEREAS, Wesley L. Silas served honorably as an agricultural law enforcement officer in the Department of Agriculture and Consumer Services for 13 years before his death in the line of duty on March 1, 1994, during a routine truck inspection, and

WHEREAS, Wesley L. Silas is survived by his mother, Minnie Pearl Silas, his brother, Lamar Silas, and countless friends, and

WHEREAS, Wesley L. Silas devoted more than 20 years of volunteer service to the youth of Suwannee County, serving in various coaching and training capacities with high school and youth football and baseball teams, and

WHEREAS, Wesley L. Silas' enthusiasm, professionalism, and loyal devotion to duty touched all who were privileged to know him, and his tragic and untimely death has caused a void in the hearts and minds of all he touched, and

WHEREAS, the Department of Agriculture and Consumer Services has lost a valuable employee and friend, and Wesley L. Silas' family has suffered an even greater hardship, and

WHEREAS, Wesley L. Silas' life exemplified his love of family, sense of duty, conviction to uphold what is right and proper, and commitment to always do one's best, and his life is a beacon of dedication to public service, NOW, THEREFORE,

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

That the Florida Senate extends its deepest sympathy to Wesley L. Silas' mother, Minnie Pearl Silas, and his brother, Lamar Silas, for the tragic loss of their loving son and brother.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Minnie Pearl Silas and Lamar Silas as a tangible token of the sentiments of the Florida Senate.

On motion by Senator Williams, **SR 3152** was read by title and was read the second time in full and adopted.

MOTION

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

INTRODUCTION OF BILL

By Senator Williams—

SB 3156—A bill to be entitled An act to designate an agricultural inspection station in Suwannee County as the Wesley L. Silas Agricultural Inspection Station; providing for the erection of markers; providing an effective date.

—which was read by title.

On motions by Senator Williams, by unanimous consent, **SB 3156** was taken up out of order and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Jenne, by two-thirds vote **Senate Bills 572, 1218, CS for SB 1268, Senate Bills 1498, 1598, CS for SB 1946, SB 2136, CS for SB 2290, CS for SB 2372, CS for SB 2498, SB 2778, CS for SB 3102 and CS for SB 1868** were withdrawn from the Committee on Appropriations.

On motions by Senator Jenne, by two-thirds vote **CS for SB 2782** was removed from the calendar and referred to the Committee on Appropriations.

On motion by Senator Wexler, by two-thirds vote **CS for SB 2570** was withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Grant, by two-thirds vote **SB 2648** was withdrawn from the committees of reference and further consideration.

COMMITTEE MEETING CHANGE

On motions by Senator Wexler, the rules were waived and the Select Subcommittee on Claims Bills of the Committee on Finance, Taxation and Claims was granted permission to add **SB 3150** to the agenda at the meeting this day; and the Committee on Finance, Taxation and Claims was granted permission to add **SB 3150** to the agenda at the meeting this day.

On motions by Senator Wexler, by two-thirds vote **SB 1330** was withdrawn from the Special Master; and the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to add the bill to the agenda at the meeting this day.

On motion by Senator Jenne, the rules were waived and the Subcommittees of the Senate Appropriations Conference Committee were granted permission to meet upon adjournment until 11:30 a.m.

MOTIONS

On motions by Senator Kirkpatrick, by two-thirds vote **SB 198** was placed on the Special Order Calendar; and **CS for CS for SB 2110** was removed from the Special Order Calendar for Wednesday, April 6.

SPECIAL ORDER

Consideration of **CS for SB 1440** and **SB 284** was deferred.

CS for SB 636—A bill to be entitled An act relating to the Mary McLeod Bethune Scholarship Challenge Grant Fund and the Jose Marti Challenge Grant Fund; amending ss. 240.412, 240.4125, F.S.; revising the names of the funds; deleting the provisions relating to matching grants; providing for the moneys in the trust funds to be allocated by the Department of Education to certain institutions; providing for those institutions to award the scholarships; revising eligibility requirements for renewal; requiring that scholarships be given to students who have the least amount of funds available; requiring annual reports to the department on the scholarships; providing an effective date.

—was read the second time by title. On motion by Senator Meadows, by two-thirds vote **CS for SB 636** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 526—A bill to be entitled An act relating to ad valorem tax administration; amending s. 197.332, F.S.; providing that tax collectors shall be allowed to collect attorney's fees and court costs in performing their duties; amending s. 197.402, F.S.; revising the number of advertisements required for real property with delinquent taxes; amending s. 197.413, F.S.; providing that the tax collector is not required to issue a warrant for delinquent personal property taxes of less than \$50; providing an additional fee for each warrant issued; amending ss. 197.462 and 197.472, F.S.; increasing the fees collected by tax collectors for administering the transfer or redemption of tax certificates; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Wexler and failed:

Amendment 1—On page 2, strike all of lines 3-12 and insert:

(3) Except as provided in s. 197.432(4), on or before June 1 or the 60th day after the date of delinquency, whichever is later, the tax collector shall advertise once each week for 3 4 weeks and shall sell tax certificates on all real property with delinquent taxes. He shall make a list of such properties in the same order in which the lands were assessed, specifying the amount due on each parcel, including interest at the rate of 18 percent per year from the date of delinquency to the date of sale; the cost of advertising; and the expense of sale.

Senator Wexler moved the following amendments which were adopted:

Amendment 2 (with Title Amendment)—On page 1, between lines 20 and 21, insert:

Section 1. Effective July 1, 1994, subsection (7) of section 45.031, Florida Statutes, is amended to read:

45.031 Judicial sales procedure.—In any sale of real or personal property under an order or judgment, the following procedure may be followed as an alternative to any other sale procedure if so ordered by the court:

(7) **DISBURSEMENTS OF PROCEEDS.**—On filing a certificate of title the clerk shall disburse the proceeds of the sale in accordance with the order or final judgment, and shall file a report of *such* the disbursements and serve a copy of it on each party not in default, and on the *Department of Revenue* if it was named as a defendant in the action, in substantially the following form:

(Caption of Action)

CERTIFICATE OF DISBURSEMENTS

The undersigned clerk of the court certifies that he disbursed the proceeds received from the sale of the property as provided in the order or final judgment to the persons and in the amounts as follows:

Name	Amount
	Total

WITNESS my hand and the seal of the court on , 19.
 (Clerk)
 By (Deputy Clerk)

If no objections to the report are served within 10 days after it is filed, the disbursements by the clerk shall stand approved as reported. If timely objections to the report are served, they shall be heard by the court. Service of objections to the report does not affect or cloud the title of the purchaser of the property in any manner.

Section 2. Effective July 1, 1994, subsection (4) is added to section 69.041, Florida Statutes, to read:

69.041 State named party; lien foreclosure, suit to quiet title.—

(4)(a) *The Department of Revenue has the right to participate in the disbursement of funds remaining in the registry of the court after distribution pursuant to s. 45 031(7). The department shall participate in accordance with applicable procedures in any mortgage foreclosure action in which the department has a duly filed tax warrant against the subject property and with the same priority, regardless of whether a default against the department has been entered for failure to file an answer or other responsive pleading.*

(b) *This section applies only to mortgage foreclosure actions initiated on or after July 1, 1994, and to those mortgage foreclosure actions initiated before July 1, 1994, in which no default has been entered against the Department of Revenue before July 1, 1994.*

Section 3. Effective July 1, 1994, paragraph (a) of subsection (10) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(10) LOCAL ADMINISTRATION OF TAX.—

(a) A county levying a tax under the provisions of this section and s. 125.0108 may be exempted ~~exempt~~ from the requirements of this section and s. 125 0108 that the tax collected be remitted to the Department of Revenue before being returned to the county, and that such taxes ~~tax~~ be administered according to the provisions of part I of chapter 212, if the county adopts an ordinance providing for the collection and administration of the tax on a local basis.

Section 4. Effective July 1, 1994, subsection (6) is added to section 199.185, Florida Statutes, to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(6) *Every liquor distributor that is domiciled in this state, that is authorized to do business under the Beverage Law, and that has paid the license taxes required by s. 565.03(2) is exempt from paying tax on accounts receivable owned by the taxpayer which are derived from, arise out of, or are issued in connection with a sale of alcoholic beverages transacted in another state with a customer in another state.*

Section 5. Effective July 1, 1994, section 199.232, Florida Statutes, is amended to read:

199.232 Powers of department.—

(1)(a) The department may audit the books and records of any person to determine whether an annual tax or a nonrecurring tax has been properly paid.

(b) An audit is ~~shall be~~ commenced by service in person or by certified mail of a written notice to the taxpayer of intent to audit ~~upon the taxpayer, either in person or by certified mail.~~

(2) The department may inspect all records of the taxpayer which may be relevant to the audit, and the department may compel the testimony of the taxpayer under oath or affirmation. The department may also issue subpoenas to compel the testimony of third parties under oath

or affirmation and the production of records and other evidence held by third parties, including corporations and brokers. Any duly authorized representative of the department may administer an oath or affirmation. If the taxpayer fails to give testimony or to produce any requested records, or if a third party fails to comply with a subpoena, any circuit court having jurisdiction over the taxpayer or third party may, upon application of the department, issue such orders as are necessary to secure compliance.

(3) With or without an audit, the department may assess any tax deficiency resulting from nonpayment or underpayment of the tax, as well as any applicable interest and penalties. The department shall assess on the basis of the best information available to it, including estimates based on the best information available to it if the taxpayer fails to permit inspection of the taxpayer's records, fails to file an annual return, files a grossly incorrect return, or files a false and fraudulent return.

(4) Following an assessment, the department shall collect the assessed amount from the taxpayer. The assessment is ~~shall be~~ considered prima facie correct, and the taxpayer ~~has shall have~~ the burden of showing any error in the assessment it.

(5) The department shall credit or refund any overpayment of tax that ~~which~~ is revealed on an audit or for which a claim for refund is filed. A claim for refund may be filed within 3 years ~~after from~~ the due date of the tax or the payment of the tax, whichever date is later. It ~~must shall~~ be filed by the taxpayer, or the taxpayer's heirs, personal representatives, successors, or assigns, and ~~must shall~~ include such information as the department ~~requires may require~~.

(6) In its discretion, the department may, for reasonable cause, grant extensions of time not to exceed 3 months for paying any tax due, or for filing any return or report required, under this chapter.

(7)(a) *If it appears, upon examination of an intangible tax return made under this chapter or upon proof submitted to the department by the taxpayer, that an amount of intangible personal property tax has been paid in excess of the amount due, the department shall refund the amount of the overpayment to the taxpayer by a warrant of the Comptroller, drawn upon the Treasurer. The department shall refund the overpayment without regard to whether the taxpayer has filed a written claim for a refund; however, the department may request that the taxpayer file a statement affirming that the taxpayer made the overpayment.*

(b) *Notwithstanding paragraph (a), a refund of the intangible personal property tax may not be made nor is a taxpayer entitled to bring an action for a refund of the intangible personal property tax more than 3 years after the due date of the tax or the payment of the tax, whichever date is later.*

(c) *If a refund issued by the department under this section is found to exceed the amount of refund legally due to the taxpayer, the provisions of s. 199.282 concerning penalties and interest do not apply if the taxpayer reimburses the department for any overpayment within 60 days after the taxpayer is notified that the overpayment was made.*

Section 6. Effective July 1, 1994, section 206.028, Florida Statutes, is amended to read:

206.028 Costs of investigation; department to charge applicants; contracts with private companies authorized.—

(1) The department ~~may is authorized to~~ charge any anticipated costs incurred by the department in determining the eligibility of any person or entity specified in s. 206.026(1)(a) to hold a license against such person or entity.

(2) The department may, by rule, determine the manner of payment of its anticipated costs and the procedure for filing applications for eligibility in conjunction with payment of those ~~said~~ costs.

(3) The department ~~must shall~~ furnish to the applicant an itemized statement of actual costs incurred during the investigation to determine eligibility.

(4) ~~If in the event~~ there are unused funds at the conclusion of the ~~such~~ investigation, the unused ~~such~~ funds ~~must shall~~ be returned to the applicant within 60 days after the determination of eligibility has been made.

(5) ~~If the In the event~~ actual costs of investigation exceed anticipated costs, the department ~~must shall~~ assess the applicant those moneys necessary to recover all actual costs.

(6) *The department may enter into contracts with private companies to conduct investigations to determine the eligibility of any person or entity specified in s. 206.026(1)(a) to hold a license. The costs of the investigations must be charged to the applicant as provided in this section.*

Section 7. Effective January 1, 1995, subsection (1) of section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

(1) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, ~~or~~ letting, or granting a license to use any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, or tourist or trailer camp. *However, any person who rents, leases, lets, or grants a license to others to use, occupy, or enter upon any living quarters or sleeping or housekeeping accommodations in apartment houses, roominghouses, tourist camps, or trailer camps, and who exclusively enters into a bona fide written agreement for continuous residence for longer than 6 months in duration at such property is not exercising a taxable privilege.* For the exercise of such taxable privilege, a tax is hereby levied in an amount equal to 6 percent of and on the total rental charged for such living quarters or sleeping or housekeeping accommodations by the person charging or collecting the rental. Such tax shall apply to hotels, apartment houses, roominghouses, or tourist or trailer camps whether or not there is in connection with any of the same any dining rooms, cafes, or other places where meals or lunches are sold or served to guests.

Section 8. Effective July 1, 1994, paragraph (k) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(k)1. At the rate of 6 percent on charges for all:

a.1. Detective, burglar protection, and other protection services (SIC Industry Numbers 7381 and 7382). Any law enforcement officer, as defined in s. 943.10, who is performing approved duties as determined by his local law enforcement agency in his capacity as a law enforcement officer, and who is subject to the direct and immediate command of his law enforcement agency, and in his uniform as authorized by his law enforcement agency, is performing law enforcement and public safety services and is not performing detective, burglar protection, or other protective services, if the law enforcement officer is performing his approved duties in a geographical area in which the law enforcement officer has arrest jurisdiction. Such law enforcement and public safety services are not subject to tax irrespective of whether the duty is characterized as "extra duty," "off-duty," or "secondary employment," and irrespective of whether the officer is paid directly or through his agency by an outside source. The term "law enforcement officer" includes full-time or part-time law enforcement officers, and any auxiliary law enforcement officer, when such auxiliary law enforcement officer is working under the direct supervision of a full-time or part-time law enforcement officer.

b.2. Nonresidential cleaning and nonresidential pest control services (SIC Industry Group Number 734).

2. As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

3. *The sale or use of a service taxable pursuant to this paragraph is exempt from the tax if the service is used outside this state. A service shall only be deemed to be used outside this state if:*

a. *the service directly relates to real property located outside this state;*

b. *the service directly relates to tangible personal property that has acquired business situs outside this state;*

c. *the service directly relates to a local market of the service purchaser located outside this state;*

d. *the service directly relates to a job or place of employment located outside this state;*

4. *If a transaction involves both the sale or use of a service taxable under this part and the sale or use of a service or any other item not taxable under this part, the consideration paid must be separately identified and stated with respect to the taxable and exempt portions of the transaction or the entire transaction shall be deemed taxable.*

5. *If the purchaser of the service has tax nexus in this state and the sale of the service occurs outside this state, the purchaser is required to remit use tax on any transaction which is not exempt under 3. However, if the seller of a taxable service has tax nexus in this state and the sale of the service occurs outside this state, the seller must collect and remit sales tax on any transaction which is not exempt under 3.*

6. *Sellers of taxable services may sell such services which meet the requirements of 3. for use out-of-state without collecting and remitting tax; however, if such services are found to be subject to tax pursuant to this part the provisions of s. 212.07 shall apply.*

7. *Each seller of services taxable pursuant to this paragraph shall maintain a monthly log showing each transaction for which sales tax was not collected because the services meet the requirements of 3. for out-of-state use. The log must identify the purchasers name, location and mailing address, and federal employer identification number, if a business, or the social security number, if an individual, the service sold, the price of the service, the date of sale, and the sales invoice number.*

Section 9. Effective January 1, 1995, paragraph (j) of subsection (2) of section 212.06, Florida Statutes, is amended to read:

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

(2)

(j) The term "dealer" is further defined to mean any person who leases, or grants a license to use, occupy, or enter upon, living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles, docking or storage space or spaces for boats in boat docks or marinas, or tie-down or storage space or spaces for aircraft at airports. The term "dealer" also means any person who has leased, occupied, or used or was entitled to use any living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles or docking or storage space or spaces for boats in boat docks or marinas, or who has purchased communication services or electric power or energy, and who cannot prove that the tax levied by this chapter has been paid to the vendor or lessor on any such transactions. *The term "dealer" does not include any person who leases, lets, rents, or grants a license to use, occupy, or enter upon any living quarters, sleeping quarters, or housekeeping accommodations in apartment houses, roominghouses, tourist camps, or trailer camps, and who exclusively enters into a bona fide written agreement for continuous residence for longer than 6 months in duration with any person who leases, lets, rents, or is granted a license to use such property.*

Section 10. Effective July 1, 1994, paragraph (ee) is added to subsection (7) of section 212.08, Florida Statutes, to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—

(ee) *Taxicab leases.*—The lease of or license to use a taxicab or taxicab-related equipment and services provided by a taxicab company to an independent taxicab operator are exempt, provided, however, the exemptions provided under this paragraph only apply if sales or use tax has been paid on the acquisition of the taxicab and its related equipment.

Section 11. Effective July 1, 1994, paragraph (c) of subsection (1) of section 212.11, Florida Statutes, is amended, present paragraph (d) of that subsection is redesignated as paragraph (e), and a new paragraph (d) is added to that subsection, to read:

212.11 Tax returns and regulations.—

(1)

(c) However, the department may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding four quarters ~~quarter~~ did not exceed \$1,000 ~~\$100~~ and may authorize a semiannual return and payment when the tax remitted by the dealer for the preceding four quarters ~~6 months~~ did not exceed \$500 ~~\$200~~.

(d) The Department of Revenue may authorize dealers who are newly eligible for quarterly filing under this subsection to file returns for the 3-month periods ending in February, May, August, and November, and may authorize dealers who are newly eligible for semiannual filing under this subsection to file returns for the 6-month periods ending in May and November.

Section 12. Effective January 1, 1995, paragraph (a) of subsection (3) of section 212.18, Florida Statutes, as amended by this act, is amended to read:

212.18 Administration of law; registration of dealers; rules.—

(3)(a) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps which are subject to tax under s. 212.03, or to lease, rent, or let or grant licenses in real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business, and it shall be accompanied by a registration fee of \$30. However, no registration fee is required to accompany an application to engage in or conduct business to make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued, and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. *Except as provided in this paragraph*, no person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps which are taxable under this part, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or subject to injunctive proceed-

ings as provided by law. Such failure or refusal also subjects the offender to a \$100 initial registration fee in lieu of the \$30 registration fee authorized in this paragraph.

Section 13. Effective July 1, 1994, paragraphs (a), (c), and (d) of subsection (1) of section 212.67, Florida Statutes, are amended to read:

212.67 Refunds.—

(1) The following refunds apply to the tax imposed by this part, to the extent provided in this section:

(a) Refunds on fuel used for local transit operations.—Any person who uses motor fuel or special fuel on which the taxes imposed by this part have been paid for any system of mass public transportation authorized to operate within any city, town, municipality, county, or transit authority region in this state, as distinguished from any over-the-road or charter system of public transportation, is entitled to a refund of such taxes. *However, such transit system shall be entitled to take a credit on the monthly special fuel tax return not to exceed the tax imposed under ss. 212.62 and 336.026 on those gallons which would otherwise be eligible for refund, when such transit system is licensed as a dealer of special fuel.* A public transportation system or transit system as defined above may operate outside its limits when such operation is found necessary to adequately and efficiently provide mass public transportation services for the city, town, or municipality involved. A transit system as defined above includes demand service that is an integral part of a city, town, municipality, county, or transit or transportation authority system but does not include independent taxicab or limousine operations. The terms "city," "county," and "authority" as used in this paragraph include any city, town, municipality, county, or transit or transportation authority organized in this state by virtue of any general or special law enacted by the Legislature.

(c) Return of tax to municipalities and counties.—The portion of the tax imposed by this part which results from the collection of such taxes paid by a municipality or county on motor fuel or special fuel for use in a motor vehicle operated by it shall be returned to the governing body of such municipality or county for the construction, reconstruction, and maintenance of roads and streets within the municipality or county. *A municipality or county, when licensed as a dealer of special fuel, shall be entitled to take a credit on the monthly special fuel tax return not to exceed the tax imposed under ss. 206.60 and 212.62 on those gallons which would otherwise be eligible for refund.*

(d) Return of tax to school districts and nonpublic schools.—

1. The portion of the tax imposed by this part which results from the collection of such tax paid by a school district or a private contractor operating school buses for a school district or by a nonpublic school on motor fuel or special fuel for use in a motor vehicle operated by such district, private contractor, or nonpublic school shall be returned to the governing body of such school district or to such nonpublic school. *A school district, when licensed as a dealer of special fuel, shall be entitled to take a credit on the monthly return not to exceed the tax imposed under ss. 206.60 and 212.62 on those gallons which would otherwise be eligible for refund.*

2. Funds returned to school districts shall be used to fund construction, reconstruction, and maintenance of roads and streets within the school district required as a result of the construction of new schools or the renovation of existing schools. The school board shall select the projects to be funded; however, the first priority shall be given to projects required as the result of the construction of new schools, unless a waiver is granted by the affected county or municipal government. Funds returned to nonpublic schools shall be used for transportation-related purposes.

Section 14. Effective July 1, 1994, paragraph (m) is added to subsection (7) of section 213.053, Florida Statutes, as amended by sections 3 and 7 of chapter 93-414, Laws of Florida, to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(m) *Information relative to part I of chapter 212 to the Office of Agriculture Law Enforcement of the Department of Agriculture and Consumer Services in the conduct of the Bill of Lading Program. This information is limited to the business name and whether the business is in compliance with part I of chapter 212.*

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 15. Effective July 1, 1994, subsection (3) of section 213.21, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

213.21 Informal conferences; compromises.—

(3)(a) A taxpayer's liability for any tax or interest specified in s. 72.011(1) may be compromised by the department upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) may be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. In addition, a taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) in excess of 25 percent of the tax shall be settled or compromised if the department determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The department shall maintain records of all compromises, and the records shall state the basis for the compromise. The records of compromise under this paragraph shall not be subject to disclosure pursuant to s. 119.07(1) and shall be considered confidential information governed by the provisions of s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(b) A taxpayer's liability for the service fee required by s. 215.34(2) may be settled or compromised if it is determined that the dishonored check, draft, or order was returned due to an error committed by the issuing financial institution, and the error is substantiated by the department. The department shall maintain records of all compromises, and the records shall state the basis for the compromise.

(6) The Department of Revenue may modify the reporting or filing periods required for any tax enumerated in s. 213.05, for purposes of facilitating the calculation of penalty and interest due on tax payments made as a result of a taxpayer's voluntary self-disclosure or the department's selection of a taxpayer for self-analysis. Interest or penalty calculations may not be based on a filing period longer than 1 year. Modified reporting periods apply only to taxpayers not previously registered for the specific tax disclosed and to registered taxpayers with annual gross receipts of less than \$500,000. Annual filing periods must be based on a calendar year or the fiscal year used for federal income tax reporting by the taxpayer.

Section 16. Effective July 1, 1994, paragraph (c) of subsection (5), paragraphs (a) and (e) of subsection (6), and paragraph (a) of subsection (7) of section 403.7197, Florida Statutes, are amended to read:

403.7197 Advance disposal fee program.—

(5)

(c) By June 1 of each year, beginning in 1994, the Department of Environmental Protection ~~Regulation~~ shall take final agency action declaring exemptions from the advance disposal fee pursuant to this subsection and provide the Department of Revenue with a list of the individual products covered by such exemptions. The exemption is valid for 2 years unless withdrawn by the petitioner or canceled by the department pursuant to paragraph (d). A petition for renewal shall be filed at least 60 days before the expiration of the exemption. The person exempted from the fee shall, pursuant to the same limitations for keeping records provided in paragraph (6)(d) ~~for at least 3 years~~, keep records of the number of containers on which the advance disposal fee would have been imposed had the exemption not been granted and shall make such records and other information supporting the certification available for review and audit by the department during normal business hours.

(6)(a) Except as provided in subsections (4) and (5), beginning October 1, 1993, there shall be imposed on each container sold in this state an advance disposal fee of 1 cent per container. Beginning January 1, 1995, the advance disposal fee shall be 2 cents per container. Such fees shall be collected by distributors from dealers. If a dealer receives from within or outside of the state containers on which the fee imposed by this para-

graph has not been paid, the advance disposal fee is imposed on such containers. If a manufacturer sells containers or products packaged in containers, which are subject to the fee, directly to consumers, the fee is imposed on such containers. Each distributor or dealer shall pay to the Department of Revenue the fees imposed on all containers to which the fee applies. *If any establishment regulated under chapter 509 or chapter 561 purchases products in containers subject to the advance disposal fee from a distributor whose invoice does not include the distributor's sales tax certificate number and the invoice does not identify the amount of any advance disposal fee due or previously paid on such containers, the establishment shall remit to the Department of Revenue the advance disposal fee on such containers less the dealer's credit allowable to distributors for such remittances. Establishments regulated under chapter 509 or chapter 561 are not liable for penalties thereon if the distributor who failed to collect the fee has registered or should have registered with the Department of Revenue.*

(e) The Department of Revenue and the Department of Environmental Protection ~~Regulation~~ ~~are authorized~~ to employ persons and incur other expenses for which funds are appropriated by the Legislature. The departments ~~may be empowered~~ to adopt such rules and shall prescribe and publish such forms as ~~are may be~~ necessary to effectuate the purposes of this section. The Department of Revenue ~~may be authorized~~ to establish audit procedures, recover administrative costs, and to assess delinquent fees, penalties, and interest. *The Department of Revenue may also assess a specific penalty of \$25 for failure to provide all information required on the return used for remitting the advance disposal fee for returns due on or after July 1, 1994.*

(7)(a) Each distributor collecting and remitting an advance disposal fee on containers shall separately identify the amount of any advance disposal fee imposed on the invoice or other form of accounting of the transaction submitted by the distributor to a dealer to which such container is sold or distributed. No distributor who sells containers shall directly or indirectly absorb all or any part of the fee or relieve a dealer of the payment of all or any part of the fee by any method whatsoever. *Each distributor selling products in containers subject to the advance disposal fee to establishments regulated under chapter 509 or chapter 561 shall separately identify on the invoice the amount of any advance disposal fee due or previously paid on such containers and the distributor's sales tax registration number.*

Section 17. Effective July 1, 1994, subsection (1) of section 538.09, Florida Statutes, is amended to read:

538.09 Registration.—

(1) A secondhand dealer shall not engage in the business of purchasing, consigning, or pawning secondhand goods from any location without registering with the Department of Revenue. *A fee equal to the federal and state costs for processing required fingerprints must be submitted to the department with each application for registration. A fee of \$24 shall be submitted to the department with each application for registration, which fee includes the federal and state costs for processing required fingerprints.* One application is required for each dealer. If a secondhand dealer is the owner of more than one secondhand store location, the application must list each location, and the department shall issue a duplicate registration for each location. For purposes of subsections (4) and (5) of this section, these duplicate registrations shall be deemed individual registrations. A dealer shall pay a fee of \$6 per location at the time of registration and an annual renewal fee of \$6 per location on October 1 of each year. All fees collected, less costs of administration, shall be transferred into a trust fund to be established and entitled the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund. The Department of Revenue shall forward the full set of fingerprints to the Department of Law Enforcement for state and federal processing, provided the federal service is available, to be processed for any criminal justice information as defined in s. 943.045. The cost of processing such fingerprints shall be payable to the Department of Law Enforcement by the Department of Revenue. The department may issue a temporary registration to each location pending completion of the background check by state and federal law enforcement agencies, but shall revoke such temporary registration if the completed background check reveals a prohibited criminal background. An applicant for a secondhand dealer registration must be a natural person who has reached the age of 18 years.

(a) If the applicant is a partnership, all the partners must apply.

(b) If the applicant is a joint venture, association, or other noncorporate entity, all members of such joint venture, association, or other noncorporate entity must make application for registration as natural persons.

(c) If the applicant is a corporation, the registration must include the name and address of such corporation's registered agent for service of process in the state and a certified copy of statement from the Secretary of State that the corporation is duly organized in the state or, if the corporation is organized in a state other than Florida, a certified copy of statement from the Secretary of State that the corporation is duly qualified to do business in this state. If the dealer has more than one location, the application must list each location owned by the same legal entity and the department shall issue a duplicate registration for each location.

Section 18. Effective July 1, 1994, paragraph (a) of subsection (1) of section 538.25, Florida Statutes, is amended to read:

538.25 Registration.—

(1) No person shall engage in business as a secondary metals recycler at any location without registering with the department.

(a) ~~A fee equal to the federal and state costs for processing required fingerprints must be submitted to the department with each application for registration. A fee of \$24 shall be submitted to the department with each application for registration, which fee includes the federal and state costs for processing required fingerprints.~~ One application is required for each secondary metals recycler. If a secondary metals recycler is the owner of more than one secondary metals recycling location, the application must list each location, and the department shall issue a duplicate registration for each location. For purposes of subsections (3), (4), and (5) of this section, these duplicate registrations shall be deemed individual registrations. A secondary metals recycler shall pay a fee of \$6 per location at the time of registration and an annual renewal fee of \$6 per location on October 1 of each year. All fees collected, less costs of administration, shall be transferred into the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund established pursuant to s. 538.09.

Section 19. Effective July 1, 1994, subsection (3) of section 624.5091, Florida Statutes, as amended by section 4 of chapter 93-409, Laws of Florida, is amended to read:

624.5091 Retaliatory provision, insurers.—

(3) This section does not apply as to personal income taxes, *nor as to sales or use taxes*, nor as to ad valorem taxes on real or personal property, nor as to reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, nor as to emergency assessments paid to the Florida Hurricane Catastrophe Fund, nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance, except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the department in determining the propriety and extent of retaliatory action under this section.

Section 20. It is the intent of the Legislature that the amendment to section 624.5091, Florida Statutes, provided in this act, is remedial legislation intended to clarify the application of the tax.

Section 21. Effective July 1, 1994, section 561.025, Florida Statutes, is amended to read:

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under ss. 210.15, 210.40, or under s. 569.003 and the Beverage Law *with the exception of state funds collected pursuant to ss. 561.501, 563.05, 564.06 and 565.12* shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary, ~~and shall be distributed as follows:~~

~~(1) Moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the secretary and the Division of Administration of the Department of Business and Professional Regulation; except that:~~

~~(1)(2) The revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s. 561.342(1) and (2); and:~~

~~(2)(3) Ten percent of the revenues derived from retail tobacco products dealer permit fees collected under s. 569.003 shall be transferred to the Department of Education to provide for teacher training and for research and evaluation to reduce and prevent the use of tobacco products by children, pursuant to s. 233.067(4).~~

~~(4) Nine and eight-tenths percent of the surcharge on the sale of alcoholic beverages for consumption on premises as provided in s. 561.501 shall be transferred to the Children and Adolescents Substance Abuse Trust Fund, which shall remain with the Department of Health and Rehabilitative Services for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents.~~

~~(5) The balance of receipts into the trust fund shall be transferred to the General Revenue Fund. The Department of Business Regulation shall cause such transfers to occur on or about the 5th, 20th, and last day of each month. In determining the amount to be transferred to the General Revenue Fund, the department is allowed to withhold only those funds necessary for the effective and efficient administration and enforcement of this chapter and chapters 210, 502, 563, 564, 565, 567, 568, and 569 and that are within the department's approved budget as defined in chapter 216.~~

Section 22. Effective July 1, 1994, section 561.121, Florida Statutes, is created to read:

561.121 Deposit of Revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of collection shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not exceed \$2,000,000. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than \$2,000,000, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and \$2,000,000 from July's collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12. Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

(3) Funds deposited into the Alcoholic Beverage and Tobacco Trust Fund pursuant to subsection (1) shall be used for administration and enforcement of chapters 210, 561, 562, 563, 564, 565, 567, 568, and 569.

(4) State funds collected pursuant to s. 561.501 shall be paid into the State Treasury and credited to the following accounts:

(a) Nine and eight-tenths of the surcharge on the sale of alcoholic beverages for consumption on premises shall be transferred to the Children and Adolescents Substance Abuse Trust Fund, which shall remain with the Department of Health and Rehabilitative Services for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents.

(b) The remainder of collections shall be credited to the General Revenue Fund.

Section 23. Effective July 1, 1994, and applicable retroactive to January 1, 1992, subsection (11) is added to section 196.011, Florida Statutes, to read:

196.011 Annual application required for exemption.—

(11) *Notwithstanding subsection (1), when the owner of property otherwise entitled to a religious exemption from ad valorem taxation fails to timely file an application for exemption, and because of a misidentification of property ownership on the property tax roll the owner*

is not properly notified of the tax obligation by the property appraiser and the tax collector, the owner of the property may file an application for exemption with the property appraiser. The property appraiser shall consider the application, and if he determines the owner applied timely, the property appraiser shall grant the exemption. Any taxes levied on such property shall be cancelled and if already paid, refunded. Any tax certificates outstanding on such property shall be cancelled and refund made pursuant to s. 197.432(1).

Section 24. Effective October 1, 1994, paragraph (a) of subsection (1) and subsection (2) of section 72.011, Florida Statutes, are amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(1)(a) A taxpayer may contest the legality of any assessment or denial of refund of tax, fee, surcharge, permit, interest, or penalty provided for under s. 125.0104, s. 125.0108, chapter 198, chapter 199, chapter 201, chapter 203, chapter 206, chapter 207, chapter 210, chapter 211, chapter 212, chapter 213, chapter 220, chapter 221, s. 336.021, s. 336.025, s. 336.026, s. 370.07(3), chapter 376, s. 403.717, s. 403.718, s. 403.7185, s. 403.7195, s. 403.7197, s. 538.09, s. 538.25, chapter 550, chapter 561, chapter 562, chapter 563, chapter 564, chapter 565, chapter 624, or s. 681.117 by filing an action in circuit court; or, alternatively, the taxpayer may file a petition under the applicable provisions of chapter 120. However, once an action has been initiated under s. 120.56, s. 120.565, s. 120.57, or s. 120.575, no action relating to the same subject matter may be filed by the taxpayer in circuit court, and judicial review shall be exclusively limited to appellate review pursuant to s. 120.68; and once an action has been initiated in circuit court, no action may be brought under chapter 120.

(b) A taxpayer may not file an action under paragraph (a) to contest an assessment or a denial of refund of any tax, fee, surcharge, permit, interest, or penalty relating to the statutes listed in paragraph (a) until the taxpayer complies with the applicable registration requirements contained in those statutes which apply to the tax for which the action is filed.

(2) No action may be brought to contest an assessment of any tax, interest, or penalty assessed under a section or chapter specified in subsection (1) after 60 days from the date the assessment becomes final. No action may be brought to contest a denial of refund of any tax, interest, or penalty paid under a section or chapter specified in subsection (1) after 60 days from the date the denial becomes final. The Department of Revenue or, with respect to assessments or refund denials under chapter 207, the Department of Highway Safety and Motor Vehicles or, with respect to assessments or refund denials under chapters 210, 550, 561, 562, 563, 564, and 565, the Department of Business and Professional Regulation, shall establish by rule when an assessment or refund denial becomes final for purposes of this section and a procedure by which a taxpayer shall be notified of the assessment or refund denial. It is not necessary for the applicable department to file or docket any assessment or refund denial with the agency clerk in order for such assessment or refund denial to become final for purposes of an action initiated pursuant to this chapter or chapter 120.

Section 25. Effective October 1, 1994, subsection (1) of section 72.031, Florida Statutes, is amended to read:

72.031 Actions under s. 72.011(1); parties; service of process.—

(1) In any action brought in circuit court pursuant to s. 72.011(1), the person initiating the action shall be the plaintiff and the Department of Revenue shall be the defendant, except that for actions contesting an assessment or denial of refund under chapter 207 the Department of Highway Safety and Motor Vehicles shall be the defendant, and except that for actions contesting an assessment or denial of refund under chapters 210, 550, 561, 562, 563, 564, and 565 the Department of Business and Professional Regulation shall be the defendant. It shall not be necessary for the Governor and Cabinet, constituting the Department of Revenue, to be named as party defendants or named separately as individual parties; nor shall it be necessary for the executive director of the department to be named as an individual party.

Section 26. Effective October 1, 1994, for the purpose of incorporating the amendment to section 72.011, Florida Statutes, section 95.091, Florida Statutes, is reenacted, and subsection (3) of said section is amended, to read:

95.091 Limitation on actions to collect taxes.—

(1)(a) Except in the case of taxes for which certificates have been sold or of taxes enumerated in s. 72.011, any tax lien granted by law to the state or any of its political subdivisions, any municipality, any public corporation or body politic, or any other entity having authority to levy and collect taxes shall expire 5 years after the date the tax is assessed or becomes delinquent, whichever is later. No action may be begun to collect any tax after the expiration of the lien securing the payment of the tax.

(b) Any tax lien granted by law to the state or any of its political subdivisions for any tax enumerated in s. 72.011 shall expire 20 years after the last date the tax may be assessed, after the tax becomes delinquent, or after the filing of a tax warrant, whichever is later. An action to collect any tax enumerated in s. 72.011 may not be commenced after the expiration of the lien securing the payment of the tax.

(2) If no lien to secure the payment of a tax is provided by law, no action may be begun to collect the tax after 5 years from the date the tax is assessed or becomes delinquent, whichever is later.

(3)(a)1. With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to s. 220.23, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer and the Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer:

a. Within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

b. Within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return;

c. At any time while the right to a refund or credit of the tax is available to the taxpayer;

d. At any time after the taxpayer has failed to make any required payment of the tax, has failed to file a required return, or has filed a grossly false or fraudulent return; or

e. In any case in which there has been a refund of tax erroneously made for any reason, within 5 years after making such refund, or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

2. For the purpose of this paragraph, a tax return filed before the last day prescribed by law, including any extension thereof, shall be deemed to have been filed on such last day, and payments made prior to the last day prescribed by law shall be deemed to have been paid on such last day.

(b) The limitations in this subsection shall be tolled for a period of 2 years if the Department of Revenue has issued a notice of intent to conduct an audit or investigation of the taxpayer's account within the applicable period of time as specified in this subsection. The department shall commence an audit within 120 days after it issues a notice of intent to conduct an audit, unless the taxpayer requests a delay. If the taxpayer does not request a delay and the department does not begin the audit within 120 days after issuing the notice, the tolling period shall terminate.

(4) If administrative or judicial proceedings for review of the tax assessment or collection are begun within a period of limitation prescribed in this section, the running of the period shall be tolled during the pendency of the proceeding. Administrative proceedings shall include taxpayer protest proceedings initiated under s. 213.21 and department rules.

Section 27. Effective October 1, 1994, for the purpose of incorporating the amendment to section 72.011, Florida Statutes, subsection (6) of section 215.26, Florida Statutes, is reenacted to read:

215.26 Repayment of funds paid into State Treasury through error.—

(6) A taxpayer may contest a denial of refund of tax, interest, or penalty paid under a section or chapter specified in s. 72.011(1) pursuant to the provisions of s. 72.011.

Section 28. Effective October 1, 1994, for the purpose of incorporating the amendment to section 72.011, Florida Statutes, subsection (2) of section 26.012, Florida Statutes, is reenacted to read:

26.012 Jurisdiction of circuit court.—

(2) They shall have exclusive original jurisdiction:

(a) In all actions at law not cognizable by the county courts;

(b) Of proceedings relating to the settlement of the estates of decedents and minors, the granting of letters testamentary, guardianship, involuntary hospitalization, the determination of incompetency, and other jurisdiction usually pertaining to courts of probate;

(c) In all cases in equity including all cases relating to juveniles except traffic offenses as provided in chapters 39 and 316;

(d) Of all felonies and of all misdemeanors arising out of the same circumstances as a felony which is also charged;

(e) In all cases involving legality of any tax assessment or toll or denial of refund, except as provided in s. 72.011;

(f) In actions of ejectment; and

(g) In all actions involving the title and boundaries of real property.

Section 29. Effective October 1, 1994, subsection (1) and paragraph (b) of subsection (3) of section 120.575, Florida Statutes, are amended to read:

120.575 Taxpayer contest proceedings.—

(1) In any administrative proceeding brought pursuant to chapter 120 as authorized in s. 72.011(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and the Department of Revenue shall be designated the "respondent," except that for actions contesting an assessment or denial of refund under chapter 207 the Department of Highway Safety and Motor Vehicles shall be designated the "respondent" and for actions contesting an assessment or denial of refund under chapters 210, 550, 561, 562, 563, 564, and 565 the Department of Business and Professional Regulation shall be designated the "respondent."

(3)

(b) The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment or denial of refund by the Department of Revenue, ~~or by the Department of Highway Safety and Motor Vehicles, or the Department of Business and Professional Regulation.~~

Section 30. (1) Effective July 1, 1994, subsection (3) of section 72.011, Florida Statutes, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; depositions.—

(3) In any action filed in circuit court contesting the legality of any tax, interest, or penalty assessed under a section or chapter specified in subsection (1), the plaintiff must:

(a) Pay to the applicable department the amount of the tax, penalty, and accrued interest assessed by such department which is not being contested by the taxpayer; and either

(b)1. Tender into the registry of the court with the complaint the amount of the contested assessment complained of, including penalties and accrued interest, unless this requirement is waived in writing by the executive director of the applicable department; or

2. File with the complaint a cash bond or a surety bond for the amount of the contested assessment endorsed by a surety company authorized to do business in this state, or by any other security arrangement as may be approved by the court, and conditioned upon payment in full of the judgment, including the taxes, costs, penalties, and interest, unless this requirement is waived in writing by the executive director of the applicable department.

Failure to pay the uncontested amount as required in paragraph (a) shall result in the dismissal of the action and imposition of an additional penalty in the amount of 25 percent of the tax assessed. *Provided, however, that if, at any point in the action, it is determined or discovered that a plaintiff, due to a good faith de minimus error, failed to comply with any of the requirements of paragraph (a) or paragraph (b), the plaintiff shall be given a reasonable time within which to comply before the action is dismissed. For purposes of this subsection, there shall be a rebuttable presumption that if the error involves an amount equal to or*

less than 5 percent of the total assessment the error is de minimus and that if the error is more than 5 percent of the total assessment the error is not de minimus.

(2) It is the intent of the Legislature that the amendment to subsection (3) of section 72.011, Florida Statutes, as set forth in this section, be applied in all pending and future actions.

Section 31. Effective July 1, 1994, subsection (1) of section 193.075, Florida Statutes, is amended to read:

193.075 Mobile homes.—

(1) A mobile home shall be taxed as real property if the owner of the mobile home is also the owner of the land on which the mobile home is permanently affixed. A mobile home shall be considered permanently affixed if it is tied down and connected to the normal and usual utilities. However, ~~this provision does not apply to a mobile home that is permanently affixed shall not be taxed as real property if it is~~ being held for display by a licensed mobile home dealer or a licensed mobile home manufacturer and that is not rented or; occupied, ~~or located on property used for mobile home occupancy.~~ A mobile home that is taxed as real property shall be issued an "RP" series sticker as provided in s. 320.0815.

Section 32. Effective July 1, 1994, paragraph (c) of subsection (4) of section 193.085, Florida Statutes, is amended, and paragraphs (d) and (e) are added to that subsection, to read:

193.085 Listing all property.—

(4) The department shall promulgate such rules as are necessary to ensure that all railroad property of all types is properly listed in the appropriate county and shall submit the county railroad property assessments to the respective county property appraisers not later than June 1 in each year. However, in those counties in which railroad assessments are not completed by the department by June 1, for millage certification purposes, the property appraiser may utilize the prior year's values for such property.

(c) The values determined by the department pursuant to ~~this subsection (4) and (5)~~ shall be certified to the property appraisers when such values have been finalized by the department. Prior to finalizing the values to be certified to the property appraisers, the department shall provide an affected taxpayer a notice of a proposed assessment and an opportunity for informal conference before the executive director's designee. A property appraiser shall certify to the tax collector for collection the value as certified by the Department of Revenue.

(d) *Returns and information from returns required to be made pursuant to this subsection may be shared pursuant to any formal agreement for the mutual exchange of information with another state.*

(e) *In any action challenging final assessed values certified by the department under this subsection, venue is in Leon County.*

Section 33. Effective July 1, 1994, subsections (1) and (3) of section 194.171, Florida Statutes, are amended to read:

194.171 Circuit court to have original jurisdiction in tax cases.—

(1) The circuit courts have original jurisdiction at law of all matters relating to property taxation. Venue is in the county where the property is located, ~~except that venue shall be in Leon County when the property is assessed pursuant to s. 193.085(4).~~

(3) Before an action to contest a tax assessment may be brought, the taxpayer shall pay to the collector not less than the amount of the tax which he admits in good faith to be owing. The collector shall issue a receipt for the payment, and the receipt shall be filed with the complaint. *Notwithstanding the provisions of chapter 197, payment of the taxes the taxpayer admits to be due and owing and the timely filing of an action pursuant to this section shall suspend all procedures for the collection of taxes prior to final disposition of the action.*

Section 34. Effective July 1, 1994, and applicable retroactively to January 1, 1994, subsection (1) of section 196.031, Florida Statutes, is amended to read:

196.031 Exemption of homesteads.—

(1) Every person who, on January 1, has the legal title or beneficial title in equity to real property in this state, ~~as recorded in the official records of the county in which the property is located,~~ and who resides

thereon and in good faith makes the same his permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person, is entitled to an exemption from all taxation, except for assessments for special benefits, up to the assessed valuation of \$5,000 on the residence and contiguous real property, as defined in s. 6, Art. VII of the State Constitution. Such title may be held by the entireties, jointly, or in common with others, and the exemption may be apportioned among such of the owners as shall reside thereon, as their respective interests shall appear. If only one of the owners of an estate held by the entireties or held jointly with the right of survivorship resides on the property, that owner is allowed an exemption of up to the assessed valuation of \$5,000 on the residence and contiguous real property. However, no such exemption of more than \$5,000 is allowed to any one person or on any one dwelling house, except that an exemption up to the assessed valuation of \$5,000 may be allowed on each apartment or mobile home occupied by a tenant-stockholder or member of a cooperative corporation and on each condominium parcel occupied by its owner. Except for owners of an estate held by the entireties or held jointly with the right of survivorship, the amount of the exemption may not exceed the proportionate assessed valuation of all owners who reside on the property.

Section 35. Effective January 1, 1995, subsection (1) of section 196.031, Florida Statutes, as amended by this act, is amended to read:

196.031 Exemption of homesteads.—

(1) Every person who, on January 1, has the legal title or beneficial title in equity to real property in this state, ~~as recorded in the official records of the county in which the property is located,~~ and who resides thereon and in good faith makes the same his permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person, is entitled to an exemption from all taxation, except for assessments for special benefits, up to the assessed valuation of \$5,000 on the residence and contiguous real property, as defined in s. 6, Art. VII of the State Constitution. Such title may be held by the entireties, jointly, or in common with others, and the exemption may be apportioned among such of the owners as shall reside thereon, as their respective interests shall appear. If only one of the owners of an estate held by the entireties or held jointly with the right of survivorship resides on the property, that owner is allowed an exemption of up to the assessed valuation of \$5,000 on the residence and contiguous real property. However, no such exemption of more than \$5,000 is allowed to any one person or on any one dwelling house, except that an exemption up to the assessed valuation of \$5,000 may be allowed on each apartment or mobile home occupied by a tenant-stockholder or member of a cooperative corporation and on each condominium parcel occupied by its owner. Except for owners of an estate held by the entireties or held jointly with the right of survivorship, the amount of the exemption may not exceed the proportionate assessed valuation of all owners who reside on the property. *Before such exemption may be granted, the deed or instrument shall be recorded in the official records of the county in which the property is located. The property appraiser may request the applicant to provide additional ownership documents to establish title.*

Section 36. Effective July 1, 1994, subsection (1) of section 196.041, Florida Statutes, is amended to read:

196.041 Extent of homestead exemptions.—

(1) Vendees in possession of real estate under bona fide contracts to purchase when such instruments, under which they claim title, are recorded in the office of the clerk of the circuit court where said properties lie, and who reside thereon in good faith and make the same their permanent residence; persons residing on real estate by virtue of dower or other estates therein limited in time by deed, will, jointure, or settlement; and lessees owning the leasehold interest in a bona fide lease having an original term of 98 years or more in a residential parcel or in a condominium parcel as defined in chapter 718, or persons holding leases of 50 years or more, existing prior to June 19, 1973, for the purpose of homestead exemptions from ad valorem taxes and no other purpose, shall be deemed to have legal or beneficial and equitable title to said property. In addition, a tenant-stockholder or member of a cooperative apartment corporation who is entitled solely by reason of his ownership of stock or membership in the corporation to occupy for dwelling purposes an apartment in a building owned by the corporation, for the purpose of homestead exemption from ad valorem taxes and for no other purpose, is deemed to have beneficial title in equity to said apartment and a proportionate share of the land on which the building is situated.

Section 37. Effective July 1, 1994, subsections (3) and (5) of section 196.101, Florida Statutes, are amended to read:

196.101 Exemption for totally and permanently disabled persons.—

(3) The production by any totally and permanently disabled person entitled to the exemption in subsection (1) or subsection (2) of a certificate of such disability from two licensed doctors of this state or from the United States Department of Veterans Affairs or its predecessor, ~~or an award letter from the Social Security Administration~~ to the property appraiser of the county wherein the property lies, is prima facie evidence of the fact that he is entitled to such exemption.

(5) The physician's certification shall read as follows:

PHYSICIAN'S CERTIFICATION
OF
TOTAL AND PERMANENT DISABILITY

I, . . . (name of physician) . . . , a physician licensed pursuant to chapter 458 or chapter 459, Florida Statutes, hereby certify Mr. . . . Mrs. . . . Miss . . . Ms. . . . (name of totally and permanently disabled person) . . . , social security number . . . , is totally and permanently disabled as of January 1, . . . (year) . . . , due to the following mental or physical condition(s):

- Quadriplegia
- Paraplegia
- Hemiplegia
- Other total and permanent disability requiring use of a wheelchair for mobility
- Legal Blindness

It is my professional belief that the above-named condition(s) render Mr. . . . Mrs. . . . Miss . . . Ms. . . . totally and permanently disabled, and that the foregoing statements are true, correct, and complete to the best of my knowledge and professional belief.

Signature.....
Address (print).....
Date.....
Florida Board of Medicine license number.....
.....
Issued on.....

NOTICE TO TAXPAYER: Each Florida resident applying for a total and permanent disability exemption must present to the county property appraiser, on or before March 1 of each year, a copy of this form or, a letter from the United States Department of Veterans Affairs or its predecessor, ~~or an award letter from the Social Security Administration~~. Each form is to be completed by a licensed Florida physician.

NOTICE TO TAXPAYER AND PHYSICIAN: Section 196.131(2), Florida Statutes, provides that any person who shall knowingly and willfully give false information for the purpose of claiming homestead exemption shall be guilty of a misdemeanor of the first degree, punishable by a term of imprisonment not exceeding 1 year or a fine not exceeding \$5,000 \$2,500, or both.

Section 38. The amendment to section 196.101(3) and (5), Florida Statutes, made by this act applies to claims for homestead exemption filed for the 1995 tax roll and thereafter.

Section 39. Effective July 1, 1994, subsection (2) of section 196.131, Florida Statutes, is amended to read:

196.131 Homestead exemptions; claims.—

(2) Any person who knowingly and willfully gives false information for the purpose of claiming homestead exemption as provided for in this chapter is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by fine not exceeding \$5,000 \$2,500, or both.

Section 40. The amendment to section 196.131(2), Florida Statutes, made by this act applies to claims for homestead exemption filed for the 1995 tax roll and thereafter.

Section 41. Effective July 1, 1994, subsection (1) of section 196.161, Florida Statutes, is amended to read:

196.161 Homestead exemptions; lien imposed on property of person claiming exemption although not a permanent resident.—

(1)(a) When the estate of any person is being probated or administered in another state under an allegation that such person was a resident of that state and the estate of such person contains real property situate in this state upon which homestead exemption has been allowed pursuant to s. 196.031 for any year or years within 10 years immediately prior to the death of the deceased, then within 3 years after the death of such person the property appraiser of the county where the real property is located shall, upon knowledge of such fact, record a notice of tax lien against the property among the public records of that county, and the property shall be subject to the payment of all taxes exempt thereunder, a penalty of 50 percent of the unpaid taxes for each year, plus 15 percent interest per year, unless the circuit court having jurisdiction over the ancillary administration in this state determines that the decedent was a permanent resident of this state during the year or years an exemption was allowed, whereupon the lien shall not be filed or, if filed, shall be canceled of record by the property appraiser of the county where the real estate is located.

(b) In addition, upon determination by the property appraiser that for any year or years within the prior 10 years a person who was not entitled to a homestead exemption was granted a homestead exemption from ad valorem taxes, it shall be the duty of the property appraiser making such determination to serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against that person's property which was improperly receiving the exemption and any other property owned by that person in the county, and such property shall be identified in the notice of tax lien. Such property which is situated in this state shall be subject to the taxes exempted thereby, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. Before any such lien may be filed, the owner so notified must be given 30 days to pay the taxes, penalties, and interest.

Section 42. Effective July 1, 1994, subsection (4) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(4) The resolution or ordinance approved in the manner provided for in this section shall be forwarded to the property appraiser and, the tax collector, and the Department of Revenue within 3 days after the adoption of such resolution or ordinance. No millage other than that approved by referendum may be levied until the resolution or ordinance to levy required in subsection (2) is approved by the governing board of the taxing authority and submitted to the property appraiser and, the tax collector, and the Department of Revenue. The receipt of the resolution or ordinance by the property appraiser shall be considered official notice of the millage rate approved by the taxing authority, and that millage rate shall be the rate applied by the property appraiser in extending the rolls pursuant to s. 193.122, subject to the provisions of subsection (5). These submissions shall be made within 101 days of certification of value pursuant to subsection (1).

Section 43. The amendment to section 200.065(4), Florida Statutes, made by this act applies beginning with the 1994 property tax rolls.

Section 44. Effective July 1, 1994, subsection (1) of section 193.1142, Florida Statutes, is amended to read:

193.1142 Approval of assessment rolls.—

(1) Each assessment roll shall be submitted to the executive director of the Department of Revenue for review in the manner and form prescribed by the department on or before July 1. The department shall require the assessment roll submitted under this section to include the social security numbers required under s. 196.011. The roll submitted to the department need not include centrally assessed properties prior to approval under this subsection and subsection (2). Such review by the executive director shall be made to determine if the rolls meet all the appropriate requirements of law relating to form and just value. Upon approval of the rolls by the executive director or his designee, the hearings required in s. 194.032 may be held.

Section 45. The amendment to section 193.1142(1), Florida Statutes, made by this act shall take effect on the effective date of SB 670 or similar legislation amending section 193.1142(1), Florida Statutes, to provide a public records exemption for such social security numbers, and the amendment made to that section shall apply to information included in claims for exemption filed for the 1995 tax roll or thereafter.

Section 46. Effective July 1, 1994, subsection (1) and paragraph (a) of subsection (9) of section 196.011, Florida Statutes, are amended, and subsections (11) and (12) are added to that section, to read:

196.011 Annual application required for exemption.—

(1)(a) Every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

(b) The form to apply for an exemption under s. 196.031, s. 196.081, s. 196.091, s. 196.101, or s. 196.202 must include a space for the applicant to list the social security number of the applicant and of the applicant's spouse, if any. If an applicant files a timely and otherwise complete application, and omits the required social security numbers, the application is incomplete. In that event, the property appraiser shall contact the applicant, who may refile a complete application by April 1. Failure to file a complete application by that date constitutes a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

(9)(a) A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for exemption of property within the county after an initial application is made and the exemption granted. The waiver under this subsection of the annual application or statement requirement applies to all exemptions under this chapter except the exemption under s. 196.1995. Notwithstanding such waiver, refiling of an application or statement shall be required when any property granted an exemption is sold or otherwise disposed of, when the ownership changes in any manner, when the applicant for homestead exemption ceases to use the property as his or her homestead, or when the status of the owner changes so as to change the exempt status of the property. In its deliberations on whether to waive the annual application or statement requirement, the governing body shall consider the possibility of fraudulent exemption claims which may occur due to the waiver of the annual application requirement. It is the duty of the owner of any property granted an exemption who is not required to file an annual application or statement to notify the property appraiser promptly whenever the use of the property or the status or condition of the owner changes so as to change the exempt status of the property. If any property owner fails to so notify the property appraiser and the property appraiser determines that for any year within the prior 10 years the owner was not entitled to receive such exemption, the owner of the property is shall be subject to the taxes exempted as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes exempted. Except for homestead exemptions controlled by s. 196.161, it is shall be the duty of the property appraiser making such determination to record in the public records of the county a notice of tax lien against that person's property which was improperly receiving the exemption, except for property receiving homestead exemption which is controlled by s. 196.161, and any other property owned by that person or entity in the county, and such property must shall be identified in the notice of tax lien. Such property is or properties shall be subject to the payment of all taxes and penalties. Such lien when filed shall attach to any property, identified in the notice of tax lien, owned by the person who illegally or improperly received the exemption. Should such person no longer own property in that county, but own property in some other county or counties in the state, it shall be the duty of the property appraiser to record a notice of tax lien in such other county or counties, identifying the property owned by such person or entity in such county or counties, and it shall become a lien against such property in such county or counties.

(11) For exemptions enumerated in paragraph (1)(b), granted for the 2000 tax year and thereafter, social security numbers of the applicant and the applicant's spouse, if any, are required and must be submitted to the department. Applications filed pursuant to subsection (5) or subsection (6) may be required to include social security numbers of the applicant and the applicant's spouse, if any, and shall include such information if filed for the 2000 tax year or thereafter. For counties where the annual application requirement has been waived, property appraisers may require refiling of an application to obtain such information.

(12) Notwithstanding subsection (1), when the owner of property otherwise entitled to a religious exemption from ad valorem taxation fails to timely file an application for exemption, and because of a misidentification of property ownership on the property tax roll the owner is not properly notified of the tax obligation by the property appraiser and the tax collector, the owner of the property may file an application for exemption with the property appraiser. The property appraiser must consider the application, and if he determines the owner of the property would have been entitled to the exemption had the property owner timely applied, the property appraiser must grant the exemption. Any taxes assessed on such property shall be cancelled, and if paid, refunded. Any tax certificates outstanding on such property shall be cancelled and refund made pursuant to s. 197.432(10).

Section 47. The amendment to section 196.011(1), Florida Statutes, and the addition of subsection (11) to that section, made by this act shall take effect on the effective date of SB 670 or similar legislation amending section 193.114(6), Florida Statutes, to provide a public records exemption for such social security numbers, and the amendments made to that section shall apply to claims for exemption filed for the 1995 tax roll and thereafter. The new subsection (12) of section 196.011, Florida Statutes, added by this act shall apply to the 1992 property tax year and thereafter.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2 and 3 and insert: An act relating to tax administration; amending s. 45.031, F.S., which provides procedures for judicial sales of real or personal property; providing for filing a copy of the report of disbursements with the Department of Revenue; amending s. 69.041, F.S., which provides requirements relating to certain civil actions in which the state is named a party; providing requirements relating to the right of the department to participate in the disbursement of surplus funds in mortgage foreclosure actions; providing applicability; amending s. 125.0104, F.S.; authorizing counties levying the areas of critical state concern tourist impact tax to collect and administer the tax on a local basis; amending s. 199.185, F.S., exempting certain taxpayers from intangible personal property tax on accounts receivable derived from certain sales of alcoholic beverages; amending s. 199.232, F.S.; requiring the department to refund overpayments of intangible personal property tax without written claim; amending s. 206.028, F.S.; authorizing the Department of Revenue to contract with private companies to investigate applicants for a motor fuel refiner, importer, or wholesaler license; amending ss. 212.03, 212.06, and 212.18, F.S.; providing that persons who rent or grant a license to use accommodations in apartment houses, rooming-houses, and tourist or trailer camps for periods longer than 6 months are not exercising a taxable privilege and are not considered sales tax dealers; amending s. 212.05, F.S.; providing an exemption from the sales and use tax for out-of-state sales of detective, burglar protection, and other protection services; providing for record keeping; amending s. 212.08, F.S.; exempting certain leases of or licenses to use taxicabs or taxicab related equipment and services from the sales and use tax; amending s. 212.11, F.S.; revising conditions under which the department may authorize quarterly or semiannual sales tax returns; amending s. 212.67, F.S., which authorizes refunds of the tax on sales of fuels; authorizing transit systems, municipalities, counties, and school districts that are licensed as special fuel dealers to take a credit in lieu of refund; amending s. 213.053, F.S.; authorizing the department to provide certain information relating to part I of chapter 212, F.S., to the Office of Agriculture Law Enforcement of the Department of Agriculture and Consumer Services; amending s. 213.21, F.S.; authorizing the department to settle or compromise a taxpayer's liability for the service fee imposed on a dishonored check or draft under certain conditions; amending s. 403.7197, F.S., relating to the advance disposal fee; requiring distributors to disclose previously paid ADF and sales tax registration numbers on invoices to bars and restaurants; providing relief from penalties under certain circumstances; revising certain record-keeping requirements; authorizing the department to assess a penalty for failure to provide required information on returns; amending ss. 538.09 and 538.25, F.S.; revising the fee required for fingerprint processing of applicants for registration as a secondhand dealer or secondary metals recycler; authorizing the department to modify reporting or filing periods to facilitate calculation of penalty and interest due under certain conditions; amending s. 624.5092, F.S.; clarifying that the retaliatory tax does not apply to sales and use taxes; providing legislative intent; amending s. 561.025, F.S., relating to the distribution of funds deposited into the Alcoholic Beverage and Tobacco Trust Fund; creating s. 561.12, F.S., relating to deposit of revenues; amending s. 196.011, F.S.;

providing for granting late filed application for property tax exemption; providing retroactive application; amending ss. 72.011 and 120.575, F.S.; providing that provisions relating to the contesting of certain tax matters are applicable to chapters relating to tax on tobacco products, pari-mutuel wagering, and the Beverage Law; amending s. 72.031, F.S.; providing that the Department of Business and Professional Regulation is the defendant in such actions; reenacting and amending s. 95.091, F.S.; specifying the time limits for the department to determine and assess taxes; reenacting ss. 215.26(6) and 26.012(2), F.S., for the purpose of incorporating changes to s. 72.011, F.S.; amending s. 72.011, F.S.; granting a plaintiff additional time to comply with jurisdictional requirements in certain instances; providing a rebuttable presumption relating to de minimus errors; providing legislative intent; amending s. 193.075, F.S.; exempting certain mobile homes from ad valorem taxation; amending ss. 193.085, 194.171, F.S.; revising provisions relating to assessment of railroad property; authorizing the sharing of information; providing for venue in actions relating to such property; providing for suspension of collection of taxes in certain circumstances; amending s. 196.031, F.S.; prescribing requirements to be eligible for a homestead exemption; amending s. 196.101, F.S.; removing an award letter from the Social Security Administration to certify total and permanent disability for receiving an ad valorem tax exemption; permitting osteopathic physicians, in addition to physicians, to certify total and permanent disability; requiring the address of the physician on the physician's certificate certifying disability; amending ss. 196.101, 196.131, F.S.; requiring willfulness, in addition to knowledge, to be guilty of a misdemeanor and revising the penalty for giving false information to claim disability; amending s. 200.065, F.S.; deleting a requirement that the resolution or ordinance adopted by a taxing authority stating its millage rate be sent to the Department of Revenue; amending ss. 193.1142 and 196.011, F.S.; requiring the inclusion of the social security numbers of an applicant for specified ad valorem tax exemptions, and of the applicant's spouse, if any, in exemption applications and assessment rolls; providing procedures for refiling of applications that omit the social security numbers; providing for implementation; providing a contingent effective date; providing that only property owned by persons not entitled to an exemption is subject to a tax lien; providing that under certain conditions religious organizations may refile for a tax exemption; amending s. 196.041, F.S.; allowing lessees owning the leasehold interest in a bona fide lease having an original term of 98 years or more in a parcel in a residential subdivision to be deemed to have legal or beneficial and equitable title to property, thus qualifying them for a homestead exemption; amending s. 196.161, F.S.; requiring the property appraiser to serve a notice of intent to record a notice of tax lien against property that improperly received homestead exemption and allow the owner 30 days to pay taxes, penalties, and interest; clarifying that only property owned by the person improperly receiving the homestead exemption is subject to tax lien; amending s. 197.332, F.S.;

Amendment 3—On page 3, strike line 12 and insert:

Section 6. Except as otherwise provided herein, this act shall take effect January 1, 1995.

Senator Forman moved the following amendments which were adopted:

Amendment 4 (with Title Amendment)—On page 1, between lines 20 and 21, insert:

Section 1. Effective October 1, 1994, subsection (5) of section 199.232, Florida Statutes, is amended to read:

199.232 Powers of department.—

(5) The department shall credit or refund any overpayment of tax which is revealed on an audit or for which a claim for refund is filed. A claim for refund may be filed within the period specified in s. 215.26(2) ~~3 years from the due date of the tax or the payment of the tax, whichever is later.~~ It ~~must~~ shall be filed by the taxpayer, or the taxpayer's heirs, personal representatives, successors, or assigns, and ~~must shall~~ include the ~~such~~ information ~~required by~~ as the department ~~may~~ require.

Section 2. Effective October 1, 1994, subsection (6) of section 211.125, Florida Statutes, is amended to read:

211.125 Administration of law; books and records; powers of the department; refunds; enforcement provisions; confidentiality.—

(6)(a) The department may credit or refund any overpayments of amounts due under this part which are revealed by an audit or for which a timely claim for refund has been properly filed.

(b) A claim for refund may be filed within the period specified in s. 215.26(2) ~~3 years after the date of payment or the due date of the tax, whichever is later.~~

(c) A claim for refund ~~must~~ shall be signed by the taxpayer or the taxpayer's duly authorized representative, successor, or assigns and ~~must~~ shall include such information as the department ~~requires~~ may require to determine the correctness of the claim.

Section 3. Effective October 1, 1994, subsection (6) of section 212.67, Florida Statutes, is amended to read:

212.67 Refunds.—

(6)(a) Each refiner, importer, wholesaler, dealer, or retail dealer shall, in accordance with the requirements of the department, keep at his principal place of business in this state or at the bulk plant where the sale is made a complete record of or duplicate sales tickets for ~~of~~ all motor fuel or special fuel sold by him for which a refund provided in this section may be claimed, which records ~~must~~ shall give the date of each such sale, the number of gallons sold, the name of the person to whom sold, and the sale price. A ~~No~~ refiner, importer, wholesaler, dealer, or retail dealer, or his agent or employee, may ~~not~~ acknowledge or assist in the preparation of any claim for tax refund.

(b) Every person to whom a refund permit has been issued under this section shall, in accordance with the requirements of the department, keep at his residence or principal place of business in this state a record of each purchase of motor fuel or special fuel from a refiner, importer, wholesaler, dealer, or retail dealer, or his authorized agent; the number of gallons purchased; the name of the seller; the date of the purchase; and the sale price.

(c) The records required to be kept under this subsection ~~are subject, shall at all reasonable hours, be subject to audit or inspection by the department or by any person duly authorized by the department~~ it. Such records shall be preserved and may not be destroyed until the period specified in s. 215.26(2) ~~has elapsed 3 years after the date the motor fuel or special fuel to which they relate was sold or purchased.~~

(d) The department shall keep a permanent record of the amount of refund claimed and paid to each claimant. Such records ~~are~~ shall be open to public inspection.

Section 4. Effective October 1, 1994, subsection (2) of section 215.26, Florida Statutes, is amended to read:

215.26 Repayment of funds paid into State Treasury through error.—

(2) Application for refunds as provided by this section ~~must~~ shall be filed with the Comptroller, except as otherwise provided in this subsection ~~herein~~, within 3 years after the right to the ~~such~~ refund has ~~shall~~ have accrued or else ~~the~~ such right is ~~shall~~ be barred. ~~However, an application for a refund of a tax enumerated in s. 72.011, except for chapter 198 and s. 220.23, which tax was paid after September 30, 1994, must be filed with the Comptroller within 5 years after the date the tax is paid.~~ The Comptroller may delegate the authority to accept an application for refund to any state agency, or the judicial branch, vested by law with the responsibility for the collection of any tax, license, or account due. ~~The~~ Such application for refund ~~must~~ shall be on a form approved by the Comptroller and ~~must~~ shall be supplemented with ~~such~~ additional proof as the Comptroller deems necessary to establish ~~the~~ such claim; provided, ~~the~~ such claim is not otherwise barred under the laws of this state. Upon receipt of an application for refund, the judicial branch or the state agency to which the funds were paid shall make a determination of the amount due. If an application for refund is denied, in whole or in part, the judicial branch or such state agency shall ~~so~~ notify the applicant stating the reasons therefor. Upon approval of an application for refund, the judicial branch or such state agency shall furnish the Comptroller with a properly executed voucher authorizing payment.

Section 5. Effective October 1, 1994, section 220.727, Florida Statutes, is amended to read:

220.727 Limitations on claims for refund.—

(1) Except as otherwise provided in this section:

(a) A claim for refund ~~must~~ shall be filed within the period specified in s. 215.26(2) ~~not later than 3 years after the date the return was filed or 1 year after the date the tax was paid, whichever is the later; and~~

(b) For purposes of this subsection, payments of estimated tax shall be deemed paid either at the time the taxpayer files its return under this code or at the time such return is required to be filed under this code, whichever occurs first, and not at such earlier time as such payments of estimated tax were actually made. ~~No credit or refund shall be allowed or made with respect to the taxable year for which a claim was filed unless such claim is filed within such period.~~

(2) Returns that were filed or taxes paid on or before September 30, 1994:

(a)1. A claim for refund shall be filed not later than 3 years after the date the return was filed or 1 year after the date the tax was paid, whichever is the later; and

2. No credit or refund shall be allowed or made with respect to the taxable year for which a claim was filed unless such claim is filed within such period.

(b)(2) The amount of any credit or refund resulting from a claim for refund shall be limited as follows:

1.(a) If the claim was filed during the 3-year period prescribed in subsection (1), the amount of the credit or refund shall not exceed the portion of tax paid within the period, equal to 3 years plus the period of any extension of time for filing the return, immediately preceding the filing of the claim.

2.(b) If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the year immediately preceding the filing of the claim.

(c)(3) For purposes of subsection (2) ~~this section~~, a tax return filed on or before the last day prescribed by law for the filing of such return, determined without regard to any extensions thereof, shall be deemed to have been filed on such last day.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2 and 3 and insert: amending ss. 119.232, 211.125, 220.727, F.S.; revising the period within which a claim for refund of an overpayment of tax may be filed with the Department of Revenue; amending s. 212.67, F.S.; revising the period during which records of the purchase of motor fuel and special fuel must be retained for purposes of claiming a tax refund; amending s. 215.26, F.S.; specifying the period within which an application for certain tax refunds must be filed with the Comptroller;

Amendment 5—On page 3, strike line 12 and insert:

Section 6. Except as otherwise provided herein, this act shall take effect January 1, 1995.

Senators Grogan and Gutman offered the following amendment which was moved by Senator Grogan and adopted:

Amendment 6 (with Title Amendment)—On page 1, line 21, insert:

Section 1. Effective upon this act becoming law, and applying retroactively to January 1, 1994, section 196.1994, Florida Statutes, is created to read:

196.1994 Space laboratories exemption.—

(1) Notwithstanding other provisions of this chapter, modules, racks, lockers and their necessary subsystems owned by any person and intended for use as space laboratories launched into space aboard the space shuttle for the primary purpose of conducting scientific research in space are deemed to carry out a scientific purpose and are exempt from ad valorem taxation.

(2) This section is repealed July 1, 2004.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2 and 3 and insert: creating s. 196.1994, F.S.; providing an exemption from ad valorem taxes for certain space laboratories;

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

Amendment 7 (with Title Amendment)—On page 3, strike line 12 and insert:

Section 6. Effective upon this act becoming law and applying to the 1994 and subsequent tax rolls, subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. *The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historical preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose.* The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program. Real property and tangible personal property owned by the Federal Government and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee.

Section 7. If the provision of this act amending section 196.012(6), Florida Statutes, is held to be invalid or inoperative for any reason, it is the legislative intent that the invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Section 8. Except as otherwise provided herein, this act shall take effect January 1, 1995.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: amending s. 196.012, F.S.; revising the definition of "governmental,

municipal, or public purpose or function" to provide that use of property by a lessee, licensee, or management company as a convention center, concert hall, arena, stadium, park, or beach which is open to the public is deemed to serve such purpose or function; providing that property deeded to a municipality by the United States which is required to be maintained for historical preservation, park, or recreational purposes is deemed to serve a municipal or public purpose; providing for severability;

On motion by Senator Forman, further consideration of **SB 526** with pending **Amendment 7** was deferred.

SENATOR GUTMAN PRESIDING

The Senate resumed consideration of—

CS for HB 309—A bill to be entitled An act relating to referenda; amending s. 101.161, F.S.; providing filing requirements for challenges to the legal sufficiency of the ballot language of a constitutional amendment proposed by the constitution revision commission or the taxation and budget reform commission; providing for revision of the ballot language of such a proposed constitutional amendment under certain circumstances; providing an effective date.

—with pending **Amendment 2A** which had been considered April 4.

POINT OF ORDER

Senator Boczar raised a point of order that pursuant to Rule 7.1 **Amendment 2A** was not germane to the bill.

The President referred the point to Senator Kirkpatrick, Chairman of the Committee on Rules and Calendar.

Further consideration of **CS for HB 309** was deferred.

The Senate resumed consideration of—

SB 526—A bill to be entitled An act relating to ad valorem tax administration; amending s. 197.332, F.S.; providing that tax collectors shall be allowed to collect attorney's fees and court costs in performing their duties; amending s. 197.402, F.S.; revising the number of advertisements required for real property with delinquent taxes; amending s. 197.413, F.S.; providing that the tax collector is not required to issue a warrant for delinquent personal property taxes of less than \$50; providing an additional fee for each warrant issued; amending ss. 197.462 and 197.472, F.S.; increasing the fees collected by tax collectors for administering the transfer or redemption of tax certificates; providing an effective date.

—with pending **Amendment 7** which was adopted.

Senator Foley moved the following amendments which were adopted:

Amendment 8 (with Title Amendment)—On page 3, between lines 11 and 12, insert:

Section 5. Effective July 1, 1994, and applying beginning with the 1994 tax year, subsection (1) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(1) Upon completion of the assessment of all property pursuant to s. 193.023, the property appraiser shall certify to each taxing authority the taxable value within the jurisdiction of the taxing authority. This certification shall include a copy of the statement required to be submitted under s. 195.073(3), as applicable to that taxing authority. The form on which the certification is made shall include instructions to each taxing authority describing the proper method of computing a millage rate which, exclusive of new construction, additions to structures, deletions, and property added due to geographic boundary changes, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year. *For purposes of calculating ad valorem tax revenue for the prior year, the taxable value contained in the rolls extended pursuant to s. 193.122 for the prior year shall be used.* That millage rate shall be known as the "rolled-back rate." The information provided pursuant to this subsection shall also be sent to the tax collector by the property appraiser at the time it is sent to each taxing authority.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 16, after the semicolon (;) insert: amending s. 200.065, F.S.; specifying the taxable value to be used to calculate ad valorem tax revenue in the prior year for purposes of determining the rolled-back rate;

Amendment 9—On page 3, strike line 12 and insert:

Section 6. Except as otherwise provided herein, this act shall take effect January 1, 1995.

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

Amendment 10 (with Title Amendment)—On page 1, between lines 20 and 21, insert:

Section 1. Effective January 1, 1995, section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; quarterly reports; penalties.—

(1) As used in this section:

(a) "Vending machine" means a machine, operated by coin, currency, credit card, slug, token, coupon, or similar device, which dispenses food or beverage items.

(b) "Operator" means any person who possesses a vending machine for the purpose of generating sales through that machine and who maintains the inventory in and removes the receipts from that vending machine.

(2) Notwithstanding any other provision of law, the amount of the tax to be paid on food and beverage items that are sold in vending machines shall be calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor, determined as provided in this subsection, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor shall be equal to the sum of 1.0665 for beverage items; or 1.0645 for food items, *except that, for counties having a 6.5-percent sales tax rate, the divisor must be equal to the sum of 1.0689 for beverage items or 1.0682 for food items, and, for counties having a 7-percent sales tax rate, the divisor must be equal to the sum of 1.0743 for beverage items or 1.0735 for food items plus any applicable local option tax authorized by this part, expressed as a decimal.* However, the amount of the tax to be paid on natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products, natural fruit juices, or natural vegetable juices shall be calculated using the divisor that is specified for food items.

(3)(a) An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the department and has affixed an identifying device issued by the department a notice to each vending machine operated in this state. The identifying device shall be issued by the department upon application by the operator. An application must contain a listing of the vending-machine serial numbers and types of machine to which the identifying devices must be affixed. The identifying device must include a unique decal number and other information as required by the department. The operator shall permanently mark the device with the operator's name, the operator's sales tax number, and the vending-machine serial number of the vending machine to which it is to be affixed. An identifying device may not be transferred from one machine to another or from one operator to another. In the event the machine is transferred, the selling operator must remove the decal and report such removal from inventory annually to the department by December 31 of each year which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to have an FEI number, the notice shall include his sales tax registration number. The identifying device notice must be conspicuously displayed on the vending machine when it is being operated in this state and must shall contain language providing notice to customers of the requirement that an identifying device must be affixed to the machine and that a machine without an identifying device may be reported to the department for a possible reward. the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT ANY MACHINE WITHOUT A NOTICE TO (TOLL FREE NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

(b) There shall be no fee for an identifying device.

(c) An identifying device issued by the department must be displayed on any vending machine operated in this state on or after January 1, 1995.

(d)(b) The department shall establish a toll-free number to report any violations of this section. Upon a determination that a violation has occurred, the department shall pay the informant a reward of up to 10 percent of previously unpaid taxes recovered as a result of the information provided.

(4)(a) ~~Each operator shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report in a format prescribed by the department which provides the number of vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines, separate statements for food machines and for beverage machines which indicate the gross receipts from the operation of the machines during the quarterly period, and the amount of tax remitted pursuant to this part with respect to such receipts. All information shall be broken down by county.~~

(b) A penalty of \$250 per machine is imposed on an operator who fails to properly obtain and display the required identifying device notice on any machine. A penalty of \$250 is imposed on an operator who fails to provide the annual inventory report as required under subsection (3) timely file a quarterly report or who files false information. Penalties accrue interest as provided for delinquent taxes under this part and apply in addition to all other applicable taxes, interest, and penalties.

(c) ~~The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.~~

(5)(a) Any person who sells food or beverages to an operator for resale through vending machines shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator described in paragraph (b) who has purchased such items from said person and states the net dollar amount of purchases made by each operator from said person. In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of 25 cases or more.

(b) Each operator who purchases food or beverages for resale in vending machines shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state that the purchaser is a vending machine operator. The certificate shall initially be provided upon the first transaction between the parties and by November 1 of each year thereafter.

(c) A penalty of \$250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so or who files false information. A penalty of \$250 is imposed on any operator who fails to comply with the requirements of this subsection or who provides the dealer with false information. Penalties accrue interest as provided for delinquent taxes under this part and apply in addition to all other applicable taxes, interest, and penalties.

(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(6) The provisions of this section do not apply to vending machines owned and operated by churches or synagogues.

(7) Operators of small bulk vending machines that are placed on a single stand are required to display one identifying device for each stand.

(8)(7) In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(9)(8) The department may adopt rules necessary to administer the provisions of this section, including the application for, and the issuance

of, identifying devices, and may establish a schedule for phasing in the requirement that existing notices be replaced with revised *identifying devices notices* displayed on vending machines.

Section 2. Effective January 1, 1995, paragraph (b) of subsection (1) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,200, no allowance shall be allowed for all amounts in excess of \$1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or \$50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown.

a. For returns remitted on or after February 1, 1992, the department shall also require that sales made through vending machines as defined in s. 212.0515 be separately shown.

b. For returns remitted on taxes due on or after February 1, 1995, the number of coin-operated amusement and coin-operated vending machines that dispense food, beverages, or other items of tangible personal property operated in this state and the sales made through each type of those machines must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same provisions regarding the dealer's collection allowance, estimated taxes, penalties, and interest for late filing, incomplete filing, or failure to file as are provided for the sales tax return shall apply to that form. In addition to other penalties imposed under this part, a \$50 penalty is imposed for misrepresenting the number of vending machines that dispense food or beverage items required to be reported on the return or form, plus \$5 for each unreported machine in excess of 10 unreported machines.

Section 3. Effective July 1, 1994, there is appropriated to the Department of Revenue, for fiscal year 1994-1995, the sum of \$550,000 from the General Revenue Fund, which sum shall be transferred into the department's Administrative Trust Fund to implement the provisions of this act.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2 and 3 and insert: amending s. 212.0515, F.S.; revising the requirements for calculating the tax on sales of foods and beverages through vending machines in counties levying a local option tax; requiring that identifying devices rather than notices be affixed to such vending machines; providing requirements relating to identifying devices; requiring certain reports on inventory; providing penalties for failure to display such devices or make such reports; removing requirements relating to the quarterly report required to be filed by operators of such machines; amending s. 212.12, F.S.; requiring that information relating to such vending machines and coin-operated amusement machines and sales made through such machines be separately shown on returns or a separate form; providing penalties; providing an appropriation;

Senator Dyer moved the following amendments to **Amendment 10** which were adopted:

Amendment 10A—On page 9, between lines 3 and 4, insert:

Section 3. Effective July 1, 1994, there shall be established a commission to review and report to the legislature concerning the advisability of adopting a per-machine fee to replace the sales tax on sales of food and beverage items through vending machines. The commission shall consist of 12 members, six of whom shall be appointed by the Speaker and six of whom shall be appointed by the President. Each group of six appointees shall consist of two representatives of the food and beverage vending industry, two representatives of the beverage-only vending industry and two representatives from companies having 25 employees or less and which operate food and/or beverage machines but which are not primarily engaged in the sale of food or beverages through vending machines. Employees of the Department of Revenue together with staff from the appropriate committees of the Florida Legislature shall cooperate and work with the commission in its study and report. The commission's report shall be submitted to the Legislature no later than July 1, 1995. Members of the commission shall not be entitled to any compensation for expenses or otherwise for their participation in commission proceedings.

(Renumber subsequent section.)

Amendment 10B—On page 3, line 19, strike "January 1" and insert: March 1

Amendment 10 as amended was adopted.

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

Amendment 11—On page 3, strike line 12 and insert:

Section 6. Except as otherwise provided herein, this act shall take effect January 1, 1995.

Senator Wexler moved the following amendment which was adopted:

Amendment 12 (with Title Amendment)—On page 1, between lines 20 and 21, insert:

Section . (1) Effective upon becoming a law, notwithstanding the provisions of section 201.02, Florida Statutes, the tax imposed pursuant to that section shall not apply to any deed, instrument, writing or other document executed after April 1, 1994 by which a corporation grants, assigns, transfers, or otherwise conveys to a qualifying corporation, as defined below, any lands, tenements, or other real property, or any interest therein, including without limitation buildings and improvements thereon. As used herein, a "qualifying corporation" shall mean a corporation which meets all of the following requirements:

(a) it is a member of the same affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code of 1986, as the corporation which grants, assigns, transfers or otherwise conveys the subject real property interest;

(b) it receives the subject real property interest in exchange for the issuance of shares of its stock to the affiliate corporation in a transaction described in s. 351 of the Internal Revenue Code of 1986; and

(c) there is assigned to such corporation one or more contracts between the transferring affiliate corporation and the U.S. Government or agencies thereof relating to the development of aircraft engines or engine parts or to space propulsion related products.

The qualifying corporation shall, at the time such document is presented for recording, furnish to the clerk a written statement certifying that it meets the foregoing requirements.

(2) This section is repealed on December 31, 1995.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2 and 3 and insert: providing an exemption from the documentary stamp tax imposed by s. 201.02, F.S., for real property transfers by certain corporations; providing for the repeal of the exemption;

Senator Dudley moved the following amendment which was adopted:

Amendment 13—On page 1, strike all of lines 27-29 and insert: and by seizure and sale of personal property. *The tax collector shall be allowed to collect reasonable attorney's fees and court costs in actions on proceedings to recover delinquent taxes.*

Senator Forman moved the following amendment which was adopted:

Amendment 14 (with Title Amendment)—On page 3, between lines 11 and 12, insert:

Section 5. Subsection (7) is added to section 215.26, Florida Statutes, to read:

215.26 Repayment of funds paid into State Treasury through error.—

(7) *For all taxes refunded under this section, interest shall be paid at the rate of 1 percent per month from the date the tax was paid by the taxpayer or from July 1, 1999, whichever is later, until the date the refund is delivered to the taxpayer. However, for all taxes paid pursuant to chapter 220, interest shall be calculated and paid in accordance with s. 220 723.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 16, after the semicolon (;) insert: amending s. 215.26, F.S.; prescribing interest rate for refund of certain taxes;

RECONSIDERATION OF AMENDMENT

On motion by Senator Forman, the Senate reconsidered the vote by which **Amendment 14** was adopted. **Amendment 14** was withdrawn.

Senator Dyer moved the following amendment which was adopted:

Amendment 15—On page 1, line 6, after the semicolon (;) insert: establishing a commission to report to the legislature concerning the advisability of adopting an alternative to the sales tax on foods through vending machines;

On motion by Senator Forman, by two-thirds vote **SB 526** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33 Nays—2

On motions by Senator Hargrett, by two-thirds vote **HB 1513** was withdrawn from the Committees on Corrections, Probation and Parole; Community Affairs; and Appropriations.

On motion by Senator Hargrett, the rules were waived and—

HB 1513—A bill to be entitled An act relating to county prisoners; amending ss. 925.08, 951.01, and 951.05, F.S.; extending the types of projects on which county prisoners may be employed to work; amending s. 951.22, F.S.; adding tobacco products to the list of contraband articles; providing an effective date.

—a companion measure, was substituted for **SB 2092** and read the second time by title. On motion by Senator Hargrett, by two-thirds vote **HB 1513** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Dyer, by two-thirds vote **CS for HB 1585** was withdrawn from the Committees on Professional Regulation and Commerce.

On motion by Senator Dyer—

CS for HB 1585—A bill to be entitled An act relating to hearing-impaired persons; amending s. 413.275, F.S.; increasing membership of the Florida Council for the Hearing Impaired; amending ss. 468.1135 and 484.044, F.S.; requiring at least one hearing aid user on the Board of Speech-Language Pathology and Audiology; directing that board and the Board of Hearing Aid Specialists to adopt rules to ensure that prospective hearing aid purchasers receive certain information; amending ss. 468.1225 and 484.0501, F.S.; requiring audiologists and hearing aid specialists to provide certain information at the time of an initial examination for a hearing aid; revising procedures relating to client's waiver of use of a certified testing room for audiometric testing; providing for procedures and equipment used in conducting hearing assessments; amending ss. 468.1245 and 484.051, F.S.; correcting references; creating ss. 468.1246 and 484.0512, F.S.; providing a trial period and money-back guarantee for hearing aid purchases; requiring certain notice; providing for rules; providing for costs and a cancellation fee; amending s. 484.042, F.S.; modifying membership of the Board of Hearing Aid Specialists; providing an effective date.

—a companion measure, was substituted for **CS for SB 2476** and read the second time by title. On motion by Senator Dyer, by two-thirds vote **CS for HB 1585** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

SB 2580—A bill to be entitled An act relating to lobbying; amending s. 11.062, F.S.; prohibiting the use of certain state funds to pay lobbyist registration fees; providing an effective date.

—was read the second time by title.

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

Amendment 1 (with Title Amendment)—On page 1, lines 9-31, strike everything after the enacting clause and insert:

Section 1. Section 11.045, Florida Statutes, is amended to read:

11.045 Lobbyists; registration and reporting; exemptions; penalties.—

(1) As used in this section, unless the context otherwise requires:

(a) "Committee" means the committee of each house of the Legislature charged by the presiding officer with responsibility for ethical conduct of lobbyists.

(b) "Expenditure" means a payment, distribution, loan, advance, reimbursement, or deposit of money or its equivalent, or the provision of anything of value, made by a lobbyist or principal for the purpose of lobbying or encouraging others to lobby or for the purpose of attempting to engender the goodwill of a member of the Legislature.

(c) "Legislative action" means introduction, sponsorship, testimony, debate, voting, or any other official action on any measure, resolution, amendment, nomination, appointment, or report of, or any matter which may be the subject of action by, either house of the Legislature or any committee thereof.

(d) "Lobbying" means influencing or attempting to influence legislative action or nonaction through oral or written communication ~~with or an attempt to obtain the goodwill of~~ a member or employee of the Legislature.

(e) "Lobbyist" means a person, other than an employee of the principal, who, for the purpose of lobbying, is employed and receives payment,

or who contracts for economic consideration, for the purpose of lobbying, or a person who is an employee of the principal and whose significant employment responsibilities include lobbying who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that principal that other person or governmental entity.

(f) "Principal" means the person, firm, corporation, association, unit of government, or other entity which has employed or retained a lobbyist.

(2) Each house of the Legislature shall provide by rule, or both houses may provide by a joint rule adopted by both houses, for the registration of lobbyists who lobby the Legislature. The rule may provide for the payment of a registration fee. The rule may provide for exemptions from registration or registration fees. The rule shall provide that:

(a) Registration is required for each principal represented.

(b) Every registrant shall be required to state the extent of any direct business association or partnership with any current member of the Legislature.

(c) Each lobbyist and each principal shall preserve for a period of 4 years all accounts, bills, receipts, computer records, books, papers, and other documents and records necessary to substantiate reportable lobbying expenditures. Any documents and records retained pursuant to this section may be inspected under reasonable circumstances by any authorized representative of the Legislature. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.

(d) All registrations shall be open to the public.

(e) Any person who is exempt from registration under the rule shall not be considered a lobbyist for any purpose.

(3) Each house of the Legislature shall provide by rule the following reporting requirements:

(a)1. Statements shall be filed quarterly by all registered lobbyists, which statements shall disclose all lobbying expenditures by the lobbyist or and the principal and the source of funds for such expenditures. A separate report must be filed for each principal.

2. All expenditures made by the lobbyist or and the principal for the purpose of lobbying must be reported, except that the rule may provide a method by which expenditures may be rounded to the nearest \$5. The report of such expenditures must identify whether the expenditure was made directly by the lobbyist, directly by the principal, initiated or expended by the lobbyist and paid for by the principal, or initiated or expended by the principal and paid for by the lobbyist.

3. An expenditure made by a person other than a lobbyist or principal, if made at the direction of a lobbyist or principal, shall be considered to have been made by the directing lobbyist or principal.

4. An expenditure is considered to be a goodwill expenditure if it is a gift, an entertainment, any food or beverage, or any other item or service of similar personal benefit to a member or employee of the Legislature unless the member or employee is a relative of the lobbyist. For the purposes of this section, a relative is an individual who is related to the member or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, step-sister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, or step great grandchild; any person who is engaged to be married to the member or employee or who otherwise holds himself or herself out as or is generally known as the person whom the member or employee intends to marry or with whom the member or employee intends to form a household; or any natural person having the same legal residence as the member or employee.

5. Expenditures made must be reported by the category of the expenditure, including, but not limited to, the categories of food and beverages, entertainment, research, communication, media advertising, publications, travel, and lodging. Lobbying expenditures do not include the a lobbyist's or principal's salary, office expenses other than the costs of printing and postage of publications, and personal expenses for lodging, meals, and travel of a lobbyist, a principal, or the employee, partner, or associate of a lobbyist or principal.

(b) A principal who is represented by two or more lobbyists shall, prior to or concurrent with the registration of the second lobbyist, designate one lobbyist whose expenditure report shall include all lobbying expenditures of the principal and of all of the lobbyists on behalf of that principal as required by paragraph (a). Specific requirements for filing the consolidated expenditure report are as follows:

1. A list of all lobbyists representing the principal shall be included with the report. An expenditure report for each lobbyist on the list must be made pursuant to the reporting requirements of paragraph (a). The report for each lobbyist on the list must contain a cumulative total for the reporting period for all reportable categories. The consolidated report filed on March 31 January 15 shall contain a cumulative total for the preceding calendar year for all reportable categories for each lobbyist and shall contain a cumulative total for the preceding calendar year of all lobbying expenditures of all lobbyists represented on the consolidated report.

2. The report of lobbying expenditures by the principal shall be made pursuant to the requirements of paragraph (a). The report shall contain a cumulative total of expenditures made by the principal for the reporting period. The report filed on March 31 January 15 shall contain a cumulative total of all expenditures of the principal for the preceding calendar year.

3. The principal is responsible for the accuracy of figures reported as lobbying expenditures made by the principal. Each lobbyist whose expenditures are included in the report is responsible for the accuracy of the lobbying expenditure figures submitted to the principal by that lobbyist for inclusion in the consolidated report filed by the designated lobbyist.

(c) The reporting statements shall be filed by June 30, September 30, December 31, and March 31 April 15, July 15, October 15, and January 15 of each year and shall include the expenditures for the period from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, respectively. The report due March 31 January 15 shall include a cumulative total for the preceding calendar year for all reportable categories. The statements shall be rendered in the identical form provided by the respective houses, shall be signed in the identical manner provided by the respective houses unless exempted, and shall be open to public inspection. A reporting statement need not be filed if there have been no expenditures during a reporting period. However, the registrant shall certify on the report due March 31 January 15 that there were no expenditures during any reporting period for which a report was not filed. Reporting statements may be filed by electronic means, when feasible.

(4) Each house of the Legislature shall provide by rule, or both houses may provide by joint rule, a procedure by which a person, when in doubt about the applicability and interpretation of this section in a particular context, may submit, in writing, the facts for an advisory opinion to the committee of that the respective house or of both houses, if provided by joint rule and may appear in person before the committee. The rule shall provide a procedure by which:

(a) The person designated to render advisory opinions will committee shall render such advisory opinions to any person who seeks advice as to whether the facts in a particular case would constitute a violation of this section.

(b) The committee shall make Sufficient deletions to prevent disclosing the identity of persons in the decisions or opinions will be made, if specifically requested.

(c) All advisory opinions will of the committee shall be numbered, dated, and open to public inspection.

(5) Each house of the Legislature shall keep, for public inspection, all advisory opinions of the committees relating to lobbyists and lobbying activities, as well as a current list of registered lobbyists and their respective reports required under this section, all of which shall be open for public inspection.

(6) The committee of the respective house shall investigate any person engaged in legislative lobbying upon receipt of a sworn complaint alleging a violation of this section, s. 112.3148, or s. 112.3149 by such person. Such proceedings shall be conducted pursuant to the rules of the respective houses. Any documents and records retained under this section may be inspected under reasonable circumstances by any author-

ized representative of the Legislature who is designated in writing, except that such person must not be a lobbyist registered under this section or s. 112.3215. This right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction. If the committee finds that there has been a violation of this section, s. 112.3148, or s. 112.3149, it shall report its findings to the President of the Senate or the Speaker of the House of Representatives, as appropriate, together with a recommended penalty, to include a fine of not more than \$5,000, reprimand, censure, probation, or prohibition from lobbying for a period of time not to exceed 24 months. Upon the receipt of such report, the President of the Senate or the Speaker of the House of Representatives shall cause the committee report and recommendations to be brought before the respective house and a final determination shall be made by a majority of that said house.

(7) Any person required to be registered or to provide information pursuant to this section or pursuant to rules established in conformity with this section who knowingly fails to register or to disclose any material fact required by this section or by rules established in conformity with this section, or who knowingly provides false information on any report required by this section or by rules established in conformity with this section, commits a noncriminal infraction, punishable by a fine not to exceed \$5,000. Such penalty shall be in addition to any other penalty assessed by a house of the Legislature pursuant to subsection (6).

(8) There is hereby created the Legislative Lobbyist Registration Trust Fund, to be used for the purpose of funding any office established for the purpose of funding the administration of the registration of lobbyists lobbying the Legislature, including the payment of salaries and other expenses. The trust fund is not subject to the service charge to general revenue provisions of chapter 215. Fees collected pursuant to rules established in accordance with subsection (2) shall be deposited into the Legislative Lobbyist Registration Trust Fund.

Section 2. Section 11.062, Florida Statutes, as amended by chapter 93-121, Laws of Florida, is amended to read:

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

(1) No funds, exclusive of salaries, travel expenses, and per diem, appropriated to, or otherwise available for use by, any executive, judicial, or quasi-judicial agency or department shall be used by any state employee or other person for lobbying purposes, including the payment of lobbyist registration fees. This prohibition is not to be construed to limit the flow of information from any such agency or department to the Legislature which information is requested by a legislator or legislative employee which shall include the cost for publication and distribution of each publication used in lobbying; other printing; media; advertising; including production costs; postage; entertainment; and telephone and telegraph. Any state employee of any executive, judicial, or quasi-judicial department who violates the provisions of this section shall have deducted from that employee's his salary the amount of state moneys spent in violation of this section.

(2) Notwithstanding the provisions of subsection (1), each department or agency prohibited from expending funds for lobbying purposes may pay the lobbyist registration fees for no more than two employees.

(3) Notwithstanding the provisions of this section, a constitutional officer is not prohibited from advocating policies or issues and using the reasonable resources of the office in the normal conduct of the officer's duties, unless the use of such resources is limited by general law.

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

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

(c) This subsection shall not be construed to prohibit a department of the executive branch, a state university, a community college, or a water management district from retaining a lobbyist for purposes of representing the entity before the executive or legislative branch of the Federal Government. Further, any person so retained is not subject to the prohibitions of this subsection.

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

(e) Any person or agency affected by this subsection may seek an advisory opinion from the Commission on Ethics, as provided in s. 112.322(3), as to the applicability of this section to the person or agency in a particular context.

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

Section 3. Section 112.3215, Florida Statutes, is amended to read:

112.3215 Executive branch lobbyists; registration and reporting; investigation by commission.—

(1) For the purposes of this section:

(a) "Agency" means the Governor, Governor and Cabinet, or any department, division, bureau, board, commission, or authority of the executive branch.

(b) "Expenditure" means a payment, distribution, loan, advance, reimbursement, or deposit of money or its equivalent, or the provision of anything of value, made by a lobbyist or principal for the purpose of lobbying or encouraging others to lobby or for the purpose of attempting to engender the goodwill of an agency official or employee.

(c) "Fund" means the Executive Branch Lobby Registration Trust Fund.

(d) "Lobbies" means seeking, on behalf of another person, to influence an agency with respect to a decision of the agency in the area of policy or procurement or an attempt to obtain the goodwill of an agency official or employee.

(e) "Lobbyist" means a person, other than an employee of the principal, who, for the purpose of lobbying, is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is an employee of the principal and whose significant employment responsibilities include lobbying who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that principal that other person or governmental entity. "Lobbyist" does not include a person who is:

1. An attorney, or any person, who represents a client in a judicial proceeding or in a formal administrative proceeding conducted pursuant to chapter 120 or any other formal hearing before an agency, board, commission, or authority of this state.

2. An officer or employee of an agency or of the legislative or judicial branch of state government acting in the normal course of the officer's or employee's his duties.

3. A confidential informant who is providing, or wishes to provide, confidential information to be used for law enforcement purposes.

4. A person who lobbies to procure a contract pursuant to chapter 287 which contract is less than the threshold for CATEGORY ONE as provided in s. 287.017(1)(a).

(f) "Principal" means the person, firm, corporation, association, unit of government, or other entity which has employed or retained a lobbyist.

(2) The Executive Branch Lobby Registration Trust Fund is hereby created within the commission to be used for the purpose of funding any office established to administer the registration of lobbyists lobbying an agency of the executive branch, including the payment of salaries and other expenses. The trust fund is not subject to the service charge to ~~general revenue~~ ~~General Revenue~~ provisions of chapter 215. All annual registration fees collected pursuant to this section shall be deposited into such fund.

(3) A person may not lobby an agency until such person has registered as a lobbyist with the commission. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar year basis thereafter. The registration shall require the lobbyist to disclose, under oath, the following information:

- (a) *The lobbyist's* ~~His~~ name and business address;
- (b) The name and business address of each principal *the lobbyist* ~~he~~ represents;
- (c) *The lobbyist's* ~~His~~ area of interest;
- (d) The agencies before which *the lobbyist* ~~he~~ will appear; and
- (e) The existence of any direct or indirect business association, partnership, or financial relationship with any employee of an agency with which *the lobbyist* ~~he~~ lobbies, or intends to lobby, as disclosed in the registration.

(4) The annual lobbyist registration fee shall be \$20 for each principal represented.

(5)(a)1. A lobbyist must also submit to the commission, quarterly, a signed expenditure report summarizing all lobbying expenditures by the lobbyist or ~~and~~ the principal. *A separate report must be filed for each principal.*

2. All expenditures made by the lobbyist or ~~and~~ the principal for the purpose of lobbying must be reported, *except that the commission may by rule provide a method by which expenditures may be rounded to the nearest \$5.* The report of such expenditures must identify whether the expenditure was made directly by the lobbyist, directly by the principal, initiated or expended by the lobbyist and paid for by the principal, or initiated or expended by the principal and paid for by the lobbyist.

3. *An expenditure made by a person other than a lobbyist or principal, if made at the direction of a lobbyist or principal, shall be considered to have been made by the directing lobbyist or principal.*

4. *An expenditure is considered to be a goodwill expenditure if it is a gift, an entertainment, any food or beverage, or any other item or service of similar personal benefit to an officer or employee of an agency unless the officer or employee is a relative of the lobbyist. For the purposes of this section, a relative is an individual who is related to the officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, or step great grandchild; any person who is engaged to be married to the officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the officer or employee intends to marry or with whom the officer or employee intends to form a household; or any natural person having the same legal residence as the officer or employee.*

5. Expenditures made must be reported by the category of the expenditure, including, but not limited to, the categories of food and beverages, entertainment, research, communication, media advertising, publications, travel, and lodging. Lobby expenditures do not include ~~the lobbyist's or principal's~~ salary, office expenses *other than the costs of printing and postage of publications*, and personal expenses for lodging, meals, and travel of a lobbyist, a principal, or the employee, partner, or associate of a lobbyist or principal.

(b) A principal who is represented by two or more lobbyists shall, prior to or concurrent with the registration of the second lobbyist, designate one lobbyist whose expenditure report shall include all lobbying expenditures of the principal and of all of the lobbyists on behalf of that principal as required by paragraph (a). Specific requirements for filing the consolidated expenditure report are as follows:

1. A list of all lobbyists representing the principal shall be included with the report. An expenditure report for each lobbyist on the list must be made pursuant to the reporting requirements of paragraph (a). The report for each lobbyist on the list must contain a cumulative total for the reporting period for all reportable categories. The consolidated report filed on ~~March 31 January 15~~ shall contain a cumulative total for the *preceding* calendar year for all reportable categories for each lobbyist and shall contain a cumulative total for the *preceding* calendar year of all lobbying expenditures of all lobbyists represented on the consolidated report.

2. The report of lobbying expenditures by the principal shall be made pursuant to the requirements of paragraph (a). The report shall contain a cumulative total of expenditures made by the principal for the reporting period. The report filed on ~~March 31 January 15~~ shall contain a cumulative total of all expenditures of the principal for the *preceding* calendar year.

3. The principal is responsible for the accuracy of figures reported as lobbying expenditures made by the principal. Each lobbyist whose expenditures are included in the report is responsible for the accuracy of the lobbying expenditure figures submitted to the principal by that lobbyist for inclusion in the consolidated report filed by the designated lobbyist.

(c) The reporting statements shall be due on ~~June 30, September 30, December 31, and March 31 April 15, July 15, October 15, and January 15~~ of each year and shall include the expenditures for the period from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, respectively. The report due ~~March 31 January 15~~ shall include a cumulative total for the *preceding* calendar year for all reported categories. *The statements shall be signed in the manner provided by the commission by rule, unless exempted in that rule.* A statement need not be filed if there have been no expenditures during a reporting period. However, the registrant shall certify on the report due ~~March 31 January 15~~ that there were no expenditures during any reporting period for which a reporting statement was not filed.

(d) The commission shall adopt a rule which allows reporting statements to be filed by electronic means, when feasible.

(e) Each lobbyist and each principal shall preserve for a period of 4 years all accounts, bills, receipts, computer records, books, papers, and other documents and records necessary to substantiate *reportable* lobbying expenditures. ~~Any documents and records retained pursuant to this section may be inspected under reasonable circumstances by any authorized representative of the commission. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.~~

(6) A lobbyist may cancel a ~~his~~ registration with the commission upon termination of ~~that his~~ contract or other such employment relationship with ~~that his~~ principal. Such cancellation must be by written notice to the commission.

(7) The commission shall investigate every sworn complaint which is filed with it alleging that a person covered by this section has failed to register, has failed to submit an expenditure report, or has knowingly submitted false information in any report or registration required by this section ~~herein~~. *Any documents and records retained under this section may be inspected under reasonable circumstances by any authorized representative of the commission who is designated in writing except that such person must not be a lobbyist registered under this section or s. 11.045. This right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.* All proceedings, the complaint, and other records relating to the investigation shall be confidential and exempt from the provisions of s. 119.07(1) either until the alleged violator requests in writing that such investigation and records be made public records or until the commission determines, based on the investigation, whether probable cause exists to believe that a violation occurred.

(8) If the commission finds no probable cause to believe that a violation of this section occurred, it shall dismiss the complaint, whereupon the complaint, together with a written statement of the findings of the investigation and a summary of the facts, shall become a matter of public record, and the commission shall send a copy of the complaint, findings, and summary to the complainant and the alleged violator. If the commission finds probable cause to believe that a violation occurred, it shall report the results of its investigation to the Governor and Cabinet and

send a copy of the report to the alleged violator by certified mail. Such notification and all documents made or received in the disposition of the complaint shall then become public records. Upon request submitted to the Governor and Cabinet in writing, any person whom the commission finds probable cause to believe has violated any provision of this section shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification. However, the Governor and Cabinet may on its own motion require a public hearing and may conduct such further investigation as it deems necessary.

(9) If the Governor and Cabinet find that a violation occurred, it may reprimand the violator, censure the violator, or prohibit the violator from lobbying all agencies for a period not to exceed 2 years.

(10) Any person, when in doubt about the applicability and interpretation of this section to *that person himself* in a particular context, may submit in writing the facts of the situation to the commission with a request for an advisory opinion to establish the standard of duty. An advisory opinion shall be rendered by the commission and, until amended or revoked, shall be binding on the conduct of the person who sought the opinion, unless material facts were omitted or misstated in the request.

(11) Agencies shall be diligent to ascertain whether persons required to register pursuant to this section have complied. An agency may not knowingly permit a person who is not registered pursuant to this section to lobby the agency.

(12) Upon discovery of violations of this section, an agency or any person may file a sworn complaint with the commission.

(13) The commission shall adopt rules to implement the provisions of this section, which shall include forms for registration and expenditure reports, procedures for registration, and procedures which will prevent disclosure of information which is confidential as provided in *this section herein*.

Section 4. This act shall take effect January 1, 1995.

And the title is amended as follows:

In title, on page 1, strike all of lines 1-5 and insert: A bill to be entitled An act relating to lobbying; amending ss. 11.045 and 112.3215, F.S.; revising provisions relating to regulation of legislative lobbyists and executive branch lobbyists; revising definitions; revising reporting requirements and dates; revising advisory opinion provisions applicable to legislative lobbyists; providing a fine for failure of a legislative lobbyist to register if so required; amending s. 11.062, F.S.; revising a prohibition against the use of state funds for lobbying; providing exceptions; providing for advisory opinions; providing an effective date.

On motion by Senator Crenshaw, by two-thirds vote **SB 2580** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 2306—A bill to be entitled An act relating to insurance guaranty of payments; creating s. 631.142, F.S.; providing that an action by a receiver is not barred under certain circumstances; amending s. 631.271, F.S.; revising the priority of distribution of claims from an insurer's estate; specifying applicability; amending s. 631.713, F.S.; exempting certain policies and contracts from part III of ch. 631, F.S.; amending s. 631.717, F.S.; providing duties of the association; providing for alternative or reissued policies and specifying obligations thereunder; amending s. 631.718, F.S.; revising procedures for and limits on assessments by the association; specifying applicability; amending s. 631.719, F.S.; providing for premium tax or corporate income tax credits for assessments paid; amending s. 631.821, F.S.; specifying time for appeal of Florida Health Maintenance Organization Consumer Assistance Plan actions; requiring compliance pending exhaustion of appeal; repealing s. 631.719(3), F.S., relating to scheduled repeal of s. 631.719, F.S.; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Holzendorf and adopted:

Amendment 1 (with Title Amendment)—On page 1, line 29 through page 2, line 7, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, strike all of lines 3-5 and insert: amending s.

Amendment 2—On page 12, strike all of said lines 15-17 and insert: *assessment was paid*.

On motion by Senator Holzendorf, by two-thirds vote **CS for SB 2306** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Bankhead, by two-thirds vote **CS for HB 1371** was withdrawn from the Committees on Governmental Operations; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Bankhead—

CS for HB 1371—A bill to be entitled An act relating to regional poison control centers; amending s. 395.1027, F.S.; providing legislative intent; limiting the facilities which may be listed as a poison information center, poison control center, or poison center; amending s. 768.28, F.S.; providing that regional poison control centers shall be considered agents of the State of Florida, Department of Health and Rehabilitative Services; requiring the poison-control centers to indemnify the state for any liabilities; providing an effective date.

—a companion measure, was substituted for **CS for SB 2598** and read the second time by title. On motion by Senator Bankhead, by two-thirds vote **CS for HB 1371** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

THE PRESIDENT PRESIDING

On motion by Senator Dantzler, by two-thirds vote **CS for HB 1227** was withdrawn from the Committee on Natural Resources and Conservation.

On motion by Senator Dantzler—

CS for HB 1227—A bill to be entitled An act relating to recreational use of water management district lands; amending s. 373.1395, F.S.; including horseback riding and bicycling as allowable outdoor recreational purposes on water management district lands for purposes of limiting a water management district's liability to those engaging in such activity; providing an effective date.

—a companion measure, was substituted for **CS for SB 1258** and read the second time by title. On motion by Senator Dantzler, by two-thirds vote **CS for HB 1227** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator McKay, by two-thirds vote **CS for HB 753** was withdrawn from the Committee on Commerce.

On motion by Senator McKay—

CS for HB 753—A bill to be entitled An act relating to insurance; amending s. 627.736, F.S.; specifying a violation of the Insurance Code for a certain activity; creating s. 627.7401, F.S.; requiring the Department of Insurance to provide by rule for notification by insurers of certain rights of insureds; requiring insurers to provide such notification to insureds under certain circumstances; providing an effective date.

—a companion measure, was substituted for **CS for SB 1210** and read the second time by title.

Senator McKay moved the following amendment which was adopted:

Amendment 1—On page 2, strike all of lines 25-27 and insert: insured within 21 days after receiving from the insured notice of an automobile accident or claim involving personal injury to an insured who is covered under the policy. The department may allow an insurer additional time to provide the notice specified in subsection (1) not to exceed 30 days, upon a showing by the insurer that an emergency justifies an extension of time.

On motion by Senator McKay, by two-thirds vote **CS for HB 753** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

Consideration of **CS for SB 1448** was deferred.

CS for SB 1784—A bill to be entitled An act relating to drugs, devices, cosmetics, and household products; reenacting s. 499.035, F.S., as amended, relating to dimethyl sulfoxide; reenacting s. 499.05, F.S., relating to rules of the Department of Health and Rehabilitative Services; reenacting s. 499.051, F.S., as amended, relating to inspections and investigations; reenacting s. 499.066, F.S., as amended, relating to penalties and remedies; providing intent; providing for retroactive effect; amending s. 381.0203, F.S.; authorizing the Department of Health and Rehabilitative Services to contract for purchase of drugs to be used by state agencies and political subdivisions; providing an effective date.

—was read the second time by title.

Senator Myers moved the following amendments which were adopted:

Amendment 1 (with Title Amendment)—On page 3, lines 3-31 and on page 4, lines 1-21, strike all of said lines and insert:

Section 3. Section 499.051, Florida Statutes, is reenacted and amended to read:

499.051 Inspections and investigations.—

(1) The agents of the Department of Health and Rehabilitative Services and of the Department of Law Enforcement, after they present proper identification, may inspect, monitor, and investigate any establishment permitted pursuant to ss. 499.001-499.081 during business hours for the purpose of enforcing ss. 499.001-499.081, chapters 465, 501, and 893, and the rules of the department that protect the public health, safety, and welfare.

(2) In addition to the authority set forth in subsection (1), the department and any duly designated officer or employee of the department may enter and inspect any other establishment for the purpose of determining compliance with ss. 499.001-499.081 and rules adopted under those sections regarding any drug, device, or cosmetic product. The authority to enter and inspect does not extend to the practice of the profession of pharmacy, as defined in chapter 465 and the rules adopted under that chapter, in a pharmacy permitted under chapter 465. The Department of Professional Regulation shall conduct routine inspections of retail pharmacy wholesalers at the time of the regular pharmacy permit inspection and shall send the inspection report regarding drug wholesale activity to the Department of Health and Rehabilitative Services.

(3) Any application for a permit or product registration or for renewal of such permit or registration made pursuant to ss. 499.001-499.081 and rules adopted under those sections constitutes permission for any entry or inspection of the premises in order to verify compliance with those sections and rules; to discover, investigate, and determine the existence of compliance; or to elicit, receive, respond to, and resolve complaints and violations.

(4) The authority to inspect under this section includes the authority to secure:

(a) Samples or specimens of any drug, device, or cosmetic; or

(b) Such other evidence as is needed for any action to enforce ss. 499.001-499.081 and the rules adopted under those sections.

~~(5) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from the provisions of s. 119.07(1) until the investigation and the enforcement~~

~~action are completed. This subsection does not prohibit the department from providing such information to any law enforcement agency or any other regulatory agency. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

And the title is amended as follows:

In title, on page 1, line 7, after “reenacting”, insert: and amending

Amendment 2 (with Title Amendment)—On page 7, line 10, insert:

Section 7. Section 499.033, Florida Statutes, is created to read:

499.033 Ephedrine; prescription required.—Ephedrine is declared to be a prescription legend drug and may be dispensed only upon the prescription of a practitioner authorized by law to prescribe medicinal drugs.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 16, after “subdivisions;” insert: creating s. 499.033, F.S., relating to ephedrine;

On motion by Senator Myers, by two-thirds vote **CS for SB 1784** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 11:00 a.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:15 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

SPECIAL ORDER, continued

CS for SB 1448—A bill to be entitled An act relating to homestead property; amending s. 192.001, F.S.; redefining the term “assessed value of property,” for purposes of ad valorem taxation, to include a reference to s. 4(c), Art. VII of the State Constitution; redefining the term “homestead” to delete reference to s. 4(a)(1), Art. X of the State Constitution; creating s. 193.155, F.S.; providing for implementing s. 4(c), Art. VII of the State Constitution, which prescribes limits in increases in valuation of homestead property; amending s. 193.461, F.S.; providing for separation of property containing a residence from property receiving agricultural classification which is under the same ownership; amending s. 195.073, F.S., to require that tax rolls be subdivided into homestead and nonhomestead property; amending s. 195.0985, F.S., to change the type of sales studies to be conducted by the department with county tax rolls; amending s. 196.012, F.S.; redefining the term “real estate used and owned as a homestead,” for purposes of tax exemptions, to delete reference to s. 4(a)(1), Art. X of the State Constitution; amending s. 200.069, F.S.; including additional assessment information pertaining to homesteads; providing an effective date.

—was read the second time by title.

Senator Wexler moved the following amendments which were adopted:

Amendment 1 (with Title Amendment)—On page 1, line 31, after the colon (:) insert:

Section 1. Effective July 1, 1994, subsection (7) of section 45.031, Florida Statutes, is amended to read:

45.031 Judicial sales procedure.—In any sale of real or personal property under an order or judgment, the following procedure may be followed as an alternative to any other sale procedure if so ordered by the court:

(7) DISBURSEMENTS OF PROCEEDS.—On filing a certificate of title the clerk shall disburse the proceeds of the sale in accordance with the order or final judgment, and shall file a report of such the disbursements and serve a copy of it on each party not in default, and on the Department of Revenue if it was named as a defendant in the action, in substantially the following form:

(Caption of Action)

CERTIFICATE OF DISBURSEMENTS

The undersigned clerk of the court certifies that he disbursed the proceeds received from the sale of the property as provided in the order or final judgment to the persons and in the amounts as follows:

Name	Amount
Total	

WITNESS my hand and the seal of the court on , 19.
 (Clerk) . . .
 By . . . (Deputy Clerk) . . .

If no objections to the report are served within 10 days after it is filed, the disbursements by the clerk shall stand approved as reported. If timely objections to the report are served, they shall be heard by the court. Service of objections to the report does not affect or cloud the title of the purchaser of the property in any manner.

Section 2. Effective July 1, 1994, subsection (4) is added to section 69.041, Florida Statutes, to read:

69.041 State named party; lien foreclosure, suit to quiet title.—

(4)(a) *The Department of Revenue has the right to participate in the disbursement of funds remaining in the registry of the court after distribution pursuant to s. 45.031(7). The department shall participate in accordance with applicable procedures in any mortgage foreclosure action in which the department has a duly filed tax warrant against the subject property and with the same priority, regardless of whether a default against the department has been entered for failure to file an answer or other responsive pleading.*

(b) *This section applies only to mortgage foreclosure actions initiated on or after July 1, 1994, and to those mortgage foreclosure actions initiated before July 1, 1994, in which no default has been entered against the Department of Revenue before July 1, 1994.*

Section 3. Effective July 1, 1994, paragraph (a) of subsection (10) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(10) LOCAL ADMINISTRATION OF TAX.—

(a) A county levying a tax under the provisions of this section and s. 125.0108 may be exempted exempt from the requirements of this section and s. 125.0108 that the tax collected be remitted to the Department of Revenue before being returned to the county, and that such taxes tax be administered according to the provisions of part I of chapter 212, if the county adopts an ordinance providing for the collection and administration of the tax on a local basis.

Section 4. Effective July 1, 1994, subsection (6) is added to section 199.185, Florida Statutes, to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(6) *Every liquor distributor that is domiciled in this state, that is authorized to do business under the Beverage Law, and that has paid the license taxes required by s. 565.03(2) is exempt from paying tax on accounts receivable owned by the taxpayer which are derived from, arise out of, or are issued in connection with a sale of alcoholic beverages transacted in another state with a customer in another state.*

Section 5. Effective July 1, 1994, section 199.232, Florida Statutes, is amended to read:

199.232 Powers of department.—

(1)(a) The department may audit the books and records of any person to determine whether an annual tax or a nonrecurring tax has been properly paid.

(b) An audit is shall be commenced by service in person or by certified mail of a written notice to the taxpayer of intent to audit upon the taxpayer, either in person or by certified mail.

(2) The department may inspect all records of the taxpayer which may be relevant to the audit, and the department may compel the testimony of the taxpayer under oath or affirmation. The department may also issue subpoenas to compel the testimony of third parties under oath or affirmation and the production of records and other evidence held by third parties, including corporations and brokers. Any duly authorized representative of the department may administer an oath or affirmation. If the taxpayer fails to give testimony or to produce any requested records, or if a third party fails to comply with a subpoena, any circuit court having jurisdiction over the taxpayer or third party may, upon application of the department, issue such orders as are necessary to secure compliance.

(3) With or without an audit, the department may assess any tax deficiency resulting from nonpayment or underpayment of the tax, as well as any applicable interest and penalties. The department shall assess on the basis of the best information available to it, including estimates based on the best information available to it if the taxpayer fails to permit inspection of the taxpayer's records, fails to file an annual return, files a grossly incorrect return, or files a false and fraudulent return.

(4) Following an assessment, the department shall collect the assessed amount from the taxpayer. The assessment is shall be considered prima facie correct, and the taxpayer has shall have the burden of showing any error in the assessment it.

(5) The department shall credit or refund any overpayment of tax that which is revealed on an audit or for which a claim for refund is filed. A claim for refund may be filed within 3 years after from the due date of the tax or the payment of the tax, whichever date is later. It must shall be filed by the taxpayer, or the taxpayer's heirs, personal representatives, successors, or assigns, and must shall include such information as the department requires may require.

(6) In its discretion, the department may, for reasonable cause, grant extensions of time not to exceed 3 months for paying any tax due, or for filing any return or report required, under this chapter.

(7)(a) *If it appears, upon examination of an intangible tax return made under this chapter or upon proof submitted to the department by the taxpayer, that an amount of intangible personal property tax has been paid in excess of the amount due, the department shall refund the amount of the overpayment to the taxpayer by a warrant of the Comptroller, drawn upon the Treasurer. The department shall refund the overpayment without regard to whether the taxpayer has filed a written claim for a refund; however, the department may request that the taxpayer file a statement affirming that the taxpayer made the overpayment.*

(b) *Notwithstanding paragraph (a), a refund of the intangible personal property tax may not be made nor is a taxpayer entitled to bring an action for a refund of the intangible personal property tax more than 3 years after the due date of the tax or the payment of the tax, whichever date is later.*

(c) *If a refund issued by the department under this section is found to exceed the amount of refund legally due to the taxpayer, the provisions of s. 199.282 concerning penalties and interest do not apply if the taxpayer reimburses the department for any overpayment within 60 days after the taxpayer is notified that the overpayment was made.*

Section 6. Effective July 1, 1994, section 206.028, Florida Statutes, is amended to read:

206.028 Costs of investigation; department to charge applicants; contracts with private companies authorized.—

(1) The department may is authorized to charge any anticipated costs incurred by the department in determining the eligibility of any person or entity specified in s. 206.026(1)(a) to hold a license against such person or entity.

(2) The department may, by rule, determine the manner of payment of its anticipated costs and the procedure for filing applications for eligibility in conjunction with payment of those said costs.

(3) The department ~~must~~ shall furnish to the applicant an itemized statement of actual costs incurred during the investigation to determine eligibility.

(4) ~~If in the event~~ there are unused funds at the conclusion of the ~~such~~ investigation, the unused ~~such~~ funds ~~must~~ shall be returned to the applicant within 60 days after the determination of eligibility has been made.

(5) ~~If the in the event~~ actual costs of investigation exceed anticipated costs, the department ~~must~~ shall assess the applicant those moneys necessary to recover all actual costs.

(6) *The department may enter into contracts with private companies to conduct investigations to determine the eligibility of any person or entity specified in s. 206.026(1)(a) to hold a license. The costs of the investigations must be charged to the applicant as provided in this section.*

Section 7. Effective January 1, 1995, subsection (1) of section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

(1) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, ~~or~~ letting, or granting a license to use any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, or tourist or trailer camp. *However, any person who rents, leases, lets, or grants a license to others to use, occupy, or enter upon any living quarters or sleeping or housekeeping accommodations in apartment houses, roominghouses, tourist camps, or trailer camps, and who exclusively enters into a bona fide written agreement for continuous residence for longer than 6 months in duration at such property is not exercising a taxable privilege.* For the exercise of such taxable privilege, a tax is hereby levied in an amount equal to 6 percent of and on the total rental charged for such living quarters or sleeping or housekeeping accommodations by the person charging or collecting the rental. Such tax shall apply to hotels, apartment houses, roominghouses, or tourist or trailer camps whether or not there is in connection with any of the same any dining rooms, cafes, or other places where meals or lunches are sold or served to guests.

Section 8. Effective July 1, 1994, paragraph (k) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(k)1. At the rate of 6 percent on charges for all:

~~a.1.~~ Detective, burglar protection, and other protection services (SIC Industry Numbers 7381 and 7382). Any law enforcement officer, as defined in s. 943.10, who is performing approved duties as determined by his local law enforcement agency in his capacity as a law enforcement officer, and who is subject to the direct and immediate command of his law enforcement agency, and in his uniform as authorized by his law enforcement agency, is performing law enforcement and public safety services and is not performing detective, burglar protection, or other protective services, if the law enforcement officer is performing his approved duties in a geographical area in which the law enforcement officer has arrest jurisdiction. Such law enforcement and public safety services are not subject to tax irrespective of whether the duty is characterized as "extra duty," "off-duty," or "secondary employment," and irrespective of whether the officer is paid directly or through his agency by an outside source. The term "law enforcement officer" includes full-time or part-time law enforcement officers, and any auxiliary law enforcement officer, when such auxiliary law enforcement officer is working under the direct supervision of a full-time or part-time law enforcement officer.

b.2. Nonresidential cleaning and nonresidential pest control services (SIC Industry Group Number 734).

2. As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

3. *The sale or use of a service taxable pursuant to this paragraph is exempt from the tax if the service is used outside this state. A service shall only be deemed to be used outside this state if:*

a. *the service directly relates to real property located outside this state;*

b. *the service directly relates to tangible personal property that has acquired business situs outside this state;*

c. *the service directly relates to a local market of the service purchaser located outside this state;*

d. *the service directly relates to a job or place of employment located outside this state;*

4. *If a transaction involves both the sale or use of a service taxable under this part and the sale or use of a service or any other item not taxable under this part, the consideration paid must be separately identified and stated with respect to the taxable and exempt portions of the transaction or the entire transaction shall be deemed taxable.*

5. *If the purchaser of the service has tax nexus in this state and the sale of the service occurs outside this state, the purchaser is required to remit use tax on any transaction which is not exempt under 3. However, if the seller of a taxable service has tax nexus in this state and the sale of the service occurs outside this state, the seller must collect and remit sales tax on any transaction which is not exempt under 3.*

6. *Sellers of taxable services may sell such services which meet the requirements of 3. for use out-of-state without collecting and remitting tax; however, if such services are found to be subject to tax pursuant to this part the provisions of s. 212.07 shall apply.*

7. *Each seller of services taxable pursuant to this paragraph shall maintain a monthly log showing each transaction for which sales tax was not collected because the services meet the requirements of 3. for out-of-state use. The log must identify the purchaser's name, location and mailing address, and federal employer identification number, if a business, or the social security number, if an individual, the service sold, the price of the service, the date of sale, and the sales invoice number.*

Section 9. Effective January 1, 1995, paragraph (j) of subsection (2) of section 212.06, Florida Statutes, is amended to read:

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

(2)

(j) The term "dealer" is further defined to mean any person who leases, or grants a license to use, occupy, or enter upon, living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles, docking or storage space or spaces for boats in boat docks or marinas, or tie-down or storage space or spaces for aircraft at airports. The term "dealer" also means any person who has leased, occupied, or used or was entitled to use any living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles or docking or storage space or spaces for boats in boat docks or marinas, or who has purchased communication services or electric power or energy, and who cannot prove that the tax levied by this chapter has been paid to the vendor or lessor on any such transactions. *The term "dealer" does not include any person who leases, lets, rents, or grants a license to use, occupy, or enter upon any living quarters, sleeping quarters, or housekeeping accommodations in apartment houses, roominghouses, tourist camps, or trailer camps, and who exclusively enters into a bona fide written agreement for continuous residence for longer than 6 months in duration with any person who leases, lets, rents, or is granted a license to use such property.*

Section 10. Effective July 1, 1994, paragraph (ee) is added to subsection (7) of section 212.08, Florida Statutes, to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—

(ee) *Taxicab leases.*—*The lease of or license to use a taxicab or taxicab-related equipment and services provided by a taxicab company to an independent taxicab operator are exempt, provided, however, the exemptions provided under this paragraph only apply if sales or use tax has been paid on the acquisition of the taxicab and its related equipment.*

Section 11. Effective July 1, 1994, paragraph (c) of subsection (1) of section 212.11, Florida Statutes, is amended, present paragraph (d) of that subsection is redesignated as paragraph (e), and a new paragraph (d) is added to that subsection, to read:

212.11 Tax returns and regulations.—

(1)

(c) However, the department may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding ~~four quarters~~ ~~quarter~~ did not exceed \$1,000 ~~\$100~~ and may authorize a semiannual return and payment when the tax remitted by the dealer for the preceding ~~four quarters~~ ~~6 months~~ did not exceed \$500 ~~\$200~~.

(d) *The Department of Revenue may authorize dealers who are newly eligible for quarterly filing under this subsection to file returns for the 3-month periods ending in February, May, August, and November, and may authorize dealers who are newly eligible for semiannual filing under this subsection to file returns for the 6-month periods ending in May and November.*

Section 12. Effective January 1, 1995, paragraph (a) of subsection (3) of section 212.18, Florida Statutes, as amended by this act, is amended to read:

212.18 Administration of law; registration of dealers; rules.—

(3)(a) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps which are subject to tax under s. 212.03, or to lease, rent, or let or grant licenses in real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business, and it shall be accompanied by a registration fee of \$30. However, no registration fee is required to accompany an application to engage in or conduct business to make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued, and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. *Except as provided in this paragraph, no person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the*

engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps which are taxable under this part, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or subject to injunctive proceedings as provided by law. Such failure or refusal also subjects the offender to a \$100 initial registration fee in lieu of the \$30 registration fee authorized in this paragraph.

Section 13. Effective July 1, 1994, paragraphs (a), (c), and (d) of subsection (1) of section 212.67, Florida Statutes, are amended to read:

212.67 Refunds.—

(1) The following refunds apply to the tax imposed by this part, to the extent provided in this section:

(a) Refunds on fuel used for local transit operations.—Any person who uses motor fuel or special fuel on which the taxes imposed by this part have been paid for any system of mass public transportation authorized to operate within any city, town, municipality, county, or transit authority region in this state, as distinguished from any over-the-road or charter system of public transportation, is entitled to a refund of such taxes. *However, such transit system shall be entitled to take a credit on the monthly special fuel tax return not to exceed the tax imposed under ss. 212.62 and 336.026 on those gallons which would otherwise be eligible for refund, when such transit system is licensed as a dealer of special fuel.* A public transportation system or transit system as defined above may operate outside its limits when such operation is found necessary to adequately and efficiently provide mass public transportation services for the city, town, or municipality involved. A transit system as defined above includes demand service that is an integral part of a city, town, municipality, county, or transit or transportation authority system but does not include independent taxicab or limousine operations. The terms "city," "county," and "authority" as used in this paragraph include any city, town, municipality, county, or transit or transportation authority organized in this state by virtue of any general or special law enacted by the Legislature.

(c) Return of tax to municipalities and counties.—The portion of the tax imposed by this part which results from the collection of such taxes paid by a municipality or county on motor fuel or special fuel for use in a motor vehicle operated by it shall be returned to the governing body of such municipality or county for the construction, reconstruction, and maintenance of roads and streets within the municipality or county. *A municipality or county, when licensed as a dealer of special fuel, shall be entitled to take a credit on the monthly special fuel tax return not to exceed the tax imposed under ss. 206.60 and 212.62 on those gallons which would otherwise be eligible for refund.*

(d) Return of tax to school districts and nonpublic schools.—

1. The portion of the tax imposed by this part which results from the collection of such tax paid by a school district or a private contractor operating school buses for a school district or by a nonpublic school on motor fuel or special fuel for use in a motor vehicle operated by such district, private contractor, or nonpublic school shall be returned to the governing body of such school district or to such nonpublic school. *A school district, when licensed as a dealer of special fuel, shall be entitled to take a credit on the monthly return not to exceed the tax imposed under ss. 206.60 and 212.62 on those gallons which would otherwise be eligible for refund.*

2. Funds returned to school districts shall be used to fund construction, reconstruction, and maintenance of roads and streets within the school district required as a result of the construction of new schools or the renovation of existing schools. The school board shall select the projects to be funded; however, the first priority shall be given to projects required as the result of the construction of new schools, unless a waiver is granted by the affected county or municipal government. Funds returned to nonpublic schools shall be used for transportation-related purposes.

Section 14. Effective July 1, 1994, paragraph (m) is added to subsection (7) of section 213.053, Florida Statutes, as amended by sections 3 and 7 of chapter 93-414, Laws of Florida, to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(m) *Information relative to part I of chapter 212 to the Office of Agriculture Law Enforcement of the Department of Agriculture and Consumer Services in the conduct of the Bill of Lading Program. This information is limited to the business name and whether the business is in compliance with part I of chapter 212.*

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 15. Effective July 1, 1994, subsection (3) of section 213.21, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

213.21 Informal conferences; compromises.—

(3)(a) A taxpayer's liability for any tax or interest specified in s. 72.011(1) may be compromised by the department upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) may be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. In addition, a taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) in excess of 25 percent of the tax shall be settled or compromised if the department determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The department shall maintain records of all compromises, and the records shall state the basis for the compromise. The records of compromise under this paragraph shall not be subject to disclosure pursuant to s. 119.07(1) and shall be considered confidential information governed by the provisions of s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(b) *A taxpayer's liability for the service fee required by s. 215.34(2) may be settled or compromised if it is determined that the dishonored check, draft, or order was returned due to an error committed by the issuing financial institution, and the error is substantiated by the department. The department shall maintain records of all compromises, and the records shall state the basis for the compromise.*

(6) *The Department of Revenue may modify the reporting or filing periods required for any tax enumerated in s. 213.05, for purposes of facilitating the calculation of penalty and interest due on tax payments made as a result of a taxpayer's voluntary self-disclosure or the department's selection of a taxpayer for self-analysis. Interest or penalty calculations may not be based on a filing period longer than 1 year. Modified reporting periods apply only to taxpayers not previously registered for the specific tax disclosed and to registered taxpayers with annual gross receipts of less than \$500,000. Annual filing periods must be based on a calendar year or the fiscal year used for federal income tax reporting by the taxpayer.*

Section 16. Effective July 1, 1994, paragraph (c) of subsection (5), paragraphs (a) and (e) of subsection (6), and paragraph (a) of subsection (7) of section 403.7197, Florida Statutes, are amended to read:

403.7197 Advance disposal fee program.—

(5)

(c) By June 1 of each year, beginning in 1994, the Department of Environmental Protection ~~Regulation~~ shall take final agency action declaring exemptions from the advance disposal fee pursuant to this subsection and provide the Department of Revenue with a list of the individual products covered by such exemptions. The exemption is valid for 2 years unless withdrawn by the petitioner or canceled by the department pursuant to paragraph (d). A petition for renewal shall be filed at least 60 days before the expiration of the exemption. The person exempted from the fee shall, pursuant to the same limitations for keeping records provided in paragraph (6)(d) ~~for at least 3 years~~, keep records of the number of containers on which the advance disposal fee would have been

imposed had the exemption not been granted and shall make such records and other information supporting the certification available for review and audit by the department during normal business hours.

(6)(a) Except as provided in subsections (4) and (5), beginning October 1, 1993, there shall be imposed on each container sold in this state an advance disposal fee of 1 cent per container. Beginning January 1, 1995, the advance disposal fee shall be 2 cents per container. Such fees shall be collected by distributors from dealers. If a dealer receives from within or outside of the state containers on which the fee imposed by this paragraph has not been paid, the advance disposal fee is imposed on such containers. If a manufacturer sells containers or products packaged in containers, which are subject to the fee, directly to consumers, the fee is imposed on such containers. Each distributor or dealer shall pay to the Department of Revenue the fees imposed on all containers to which the fee applies. *If any establishment regulated under chapter 509 or chapter 561 purchases products in containers subject to the advance disposal fee from a distributor whose invoice does not include the distributor's sales tax certificate number and the invoice does not identify the amount of any advance disposal fee due or previously paid on such containers, the establishment shall remit to the Department of Revenue the advance disposal fee on such containers less the dealer's credit allowable to distributors for such remittances. Establishments regulated under chapter 509 or chapter 561 are not liable for penalties thereon if the distributor who failed to collect the fee has registered or should have registered with the Department of Revenue.*

(e) The Department of Revenue and the Department of Environmental Protection ~~may Regulation are authorized~~ to employ persons and incur other expenses for which funds are appropriated by the Legislature. The departments ~~may are empowered to~~ adopt such rules and shall prescribe and publish such forms as ~~are may be~~ necessary to effectuate the purposes of this section. The Department of Revenue ~~may is authorized~~ to establish audit procedures, recover administrative costs, and to assess delinquent fees, penalties, and interest. *The Department of Revenue may also assess a specific penalty of \$25 for failure to provide all information required on the return used for remitting the advance disposal fee for returns due on or after July 1, 1994.*

(7)(a) Each distributor collecting and remitting an advance disposal fee on containers shall separately identify the amount of any advance disposal fee imposed on the invoice or other form of accounting of the transaction submitted by the distributor to a dealer to which such container is sold or distributed. No distributor who sells containers shall directly or indirectly absorb all or any part of the fee or relieve a dealer of the payment of all or any part of the fee by any method whatsoever. *Each distributor selling products in containers subject to the advance disposal fee to establishments regulated under chapter 509 or chapter 561 shall separately identify on the invoice the amount of any advance disposal fee due or previously paid on such containers and the distributor's sales tax registration number.*

Section 17. Effective July 1, 1994, subsection (1) of section 538.09, Florida Statutes, is amended to read:

538.09 Registration.—

(1) A secondhand dealer shall not engage in the business of purchasing, consigning, or pawning secondhand goods from any location without registering with the Department of Revenue. *A fee equal to the federal and state costs for processing required fingerprints must be submitted to the department with each application for registration. A fee of \$24 shall be submitted to the department with each application for registration, which fee includes the federal and state costs for processing required fingerprints.* One application is required for each dealer. If a secondhand dealer is the owner of more than one secondhand store location, the application must list each location, and the department shall issue a duplicate registration for each location. For purposes of subsections (4) and (5) of this section, these duplicate registrations shall be deemed individual registrations. A dealer shall pay a fee of \$6 per location at the time of registration and an annual renewal fee of \$6 per location on October 1 of each year. All fees collected, less costs of administration, shall be transferred into a trust fund to be established and entitled the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund. The Department of Revenue shall forward the full set of fingerprints to the Department of Law Enforcement for state and federal processing, provided the federal service is available, to be processed for any criminal justice information as defined in s. 943.045. The cost of processing such fingerprints shall be payable to the Department of Law Enforcement by the

Department of Revenue. The department may issue a temporary registration to each location pending completion of the background check by state and federal law enforcement agencies, but shall revoke such temporary registration if the completed background check reveals a prohibited criminal background. An applicant for a secondhand dealer registration must be a natural person who has reached the age of 18 years.

(a) If the applicant is a partnership, all the partners must apply.

(b) If the applicant is a joint venture, association, or other noncorporate entity, all members of such joint venture, association, or other noncorporate entity must make application for registration as natural persons.

(c) If the applicant is a corporation, the registration must include the name and address of such corporation's registered agent for service of process in the state and a certified copy of statement from the Secretary of State that the corporation is duly organized in the state or, if the corporation is organized in a state other than Florida, a certified copy of statement from the Secretary of State that the corporation is duly qualified to do business in this state. If the dealer has more than one location, the application must list each location owned by the same legal entity and the department shall issue a duplicate registration for each location.

Section 18. Effective July 1, 1994, paragraph (a) of subsection (1) of section 538.25, Florida Statutes, is amended to read:

538.25 Registration.—

(1) No person shall engage in business as a secondary metals recycler at any location without registering with the department.

(a) A fee equal to the federal and state costs for processing required fingerprints must be submitted to the department with each application for registration. A fee of \$24 shall be submitted to the department with each application for registration, which fee includes the federal and state costs for processing required fingerprints. One application is required for each secondary metals recycler. If a secondary metals recycler is the owner of more than one secondary metals recycling location, the application must list each location, and the department shall issue a duplicate registration for each location. For purposes of subsections (3), (4), and (5) of this section, these duplicate registrations shall be deemed individual registrations. A secondary metals recycler shall pay a fee of \$6 per location at the time of registration and an annual renewal fee of \$6 per location on October 1 of each year. All fees collected, less costs of administration, shall be transferred into the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund established pursuant to s. 538.09.

Section 19. Effective July 1, 1994, subsection (3) of section 624.5091, Florida Statutes, as amended by section 4 of chapter 93-409, Laws of Florida, is amended to read:

624.5091 Retaliatory provision, insurers.—

(3) This section does not apply as to personal income taxes, *nor as to sales or use taxes*, nor as to ad valorem taxes on real or personal property, nor as to reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, nor as to emergency assessments paid to the Florida Hurricane Catastrophe Fund, nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance, except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the department in determining the propriety and extent of retaliatory action under this section.

Section 20. It is the intent of the Legislature that the amendment to section 624.5091, Florida Statutes, provided in this act, is remedial legislation intended to clarify the application of the tax.

Section 21. Effective July 1, 1994, section 561.025, Florida Statutes, is amended to read:

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under ss. 210.15, 210.40, or under s. 569.003 and the Beverage Law with the exception of State funds collected pursuant to ss. 561.501, 563.05, 564.06 and 565.12 shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary, and shall be distributed as follows:

(1) Moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the secretary and the Division of Administration of the Department of Business and Professional Regulation, *except that:*

(1)(2) The revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s. 561.342(1) and (2); *and:*

(2)(3) Ten percent of the revenues derived from retail tobacco products dealer permit fees collected under s. 569.003 shall be transferred to the Department of Education to provide for teacher training and for research and evaluation to reduce and prevent the use of tobacco products by children, pursuant to s. 233.067(4).

(4) ~~Nine and eight-tenths percent of the surcharge on the sale of alcoholic beverages for consumption on premises as provided in s. 561.501 shall be transferred to the Children and Adolescents Substance Abuse Trust Fund, which shall remain with the Department of Health and Rehabilitative Services for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents.~~

(5) ~~The balance of receipts into the trust fund shall be transferred to the General Revenue Fund. The Department of Business Regulation shall cause such transfers to occur on or about the 5th, 20th, and last day of each month. In determining the amount to be transferred to the General Revenue Fund, the department is allowed to withhold only those funds necessary for the effective and efficient administration and enforcement of this chapter and chapters 210, 562, 563, 564, 565, 567, 568, and 569 and that are within the department's approved budget as defined in chapter 216.~~

Section 22. Effective July 1, 1994, section 561.121, Florida Statutes, is created to read:

561.121 Deposit of Revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of collection shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not exceed \$2,000,000. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than \$2,000,000, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and \$2,000,000 from July's collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12. Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

(3) Funds deposited into the Alcoholic Beverage and Tobacco Trust Fund pursuant to subsection (1) shall be used for administration and enforcement of chapters 210, 561, 562, 563, 564, 565, 567, 568, and 569.

(4) State funds collected pursuant to s. 561.501 shall be paid into the State Treasury and credited to the following accounts:

(a) Nine and eight-tenths of the surcharge on the sale of alcoholic beverages for consumption on premises shall be transferred to the Children and Adolescents Substance Abuse Trust Fund, which shall remain with the Department of Health and Rehabilitative Services for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents.

(b) The remainder of collections shall be credited to the General Revenue Fund.

Section 23. Effective July 1, 1994, and applicable retroactive to January 1, 1992, subsection (11) is added to section 196.011, Florida Statutes, to read:

196.011 Annual application required for exemption.—

(11) *Notwithstanding subsection (1), when the owner of property otherwise entitled to a religious exemption from ad valorem taxation fails to timely file an application for exemption, and because of a misidentification of property ownership on the property tax roll the owner is not properly notified of the tax obligation by the property appraiser and the tax collector, the owner of the property may file an application for exemption with the property appraiser. The property appraiser shall consider the application, and if he determines the owner applied timely, the property appraiser shall grant the exemption. Any taxes levied on such property shall be cancelled and if already paid, refunded. Any tax certificates outstanding on such property shall be cancelled and refund made pursuant to s. 197.432(1).*

Section 24. Effective October 1, 1994, paragraph (a) of subsection (1) and subsection (2) of section 72.011, Florida Statutes, are amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(1)(a) A taxpayer may contest the legality of any assessment or denial of refund of tax, fee, surcharge, permit, interest, or penalty provided for under s. 125.0104, s. 125.0108, chapter 198, chapter 199, chapter 201, chapter 203, chapter 206, chapter 207, *chapter 210*, chapter 211, chapter 212, chapter 213, chapter 220, chapter 221, s. 336.021, s. 336.025, s. 336.026, s. 370.07(3), chapter 376, s. 403.717, s. 403.718, s. 403.7185, s. 403.7195, s. 403.7197, s. 538.09, s. 538.25, *chapter 550, chapter 561, chapter 562, chapter 563, chapter 564, chapter 565*, chapter 624, or s. 681.117 by filing an action in circuit court; or, alternatively, the taxpayer may file a petition under the applicable provisions of chapter 120. However, once an action has been initiated under s. 120.56, s. 120.565, s. 120.57, or s. 120.575, no action relating to the same subject matter may be filed by the taxpayer in circuit court, and judicial review shall be exclusively limited to appellate review pursuant to s. 120.68; and once an action has been initiated in circuit court, no action may be brought under chapter 120.

(b) A taxpayer may not file an action under paragraph (a) to contest an assessment or a denial of refund of any tax, fee, surcharge, permit, interest, or penalty relating to the statutes listed in paragraph (a) until the taxpayer complies with the applicable registration requirements contained in those statutes which apply to the tax for which the action is filed.

(2) No action may be brought to contest an assessment of any tax, interest, or penalty assessed under a section or chapter specified in subsection (1) after 60 days from the date the assessment becomes final. No action may be brought to contest a denial of refund of any tax, interest, or penalty paid under a section or chapter specified in subsection (1) after 60 days from the date the denial becomes final. The Department of Revenue or, with respect to assessments or refund denials under chapter 207, the Department of Highway Safety and Motor Vehicles or, *with respect to assessments or refund denials under chapters 210, 550, 561, 562, 563, 564, and 565, the Department of Business and Professional Regulation*, shall establish by rule when an assessment or refund denial becomes final for purposes of this section and a procedure by which a taxpayer shall be notified of the assessment or refund denial. It is not necessary for the applicable department to file or docket any assessment or refund denial with the agency clerk in order for such assessment or refund denial to become final for purposes of an action initiated pursuant to this chapter or chapter 120.

Section 25. Effective October 1, 1994, subsection (1) of section 72.031, Florida Statutes, is amended to read:

72.031 Actions under s. 72.011(1); parties; service of process.—

(1) In any action brought in circuit court pursuant to s. 72.011(1), the person initiating the action shall be the plaintiff and the Department of Revenue shall be the defendant, except that for actions contesting an assessment or denial of refund under chapter 207 the Department of Highway Safety and Motor Vehicles shall be the *defendant*, and *except that for actions contesting an assessment or denial of refund under chapters 210, 550, 561, 562, 563, 564, and 565 the Department of Busi-*

ness and Professional Regulation shall be the defendant. It shall not be necessary for the Governor and Cabinet, constituting the Department of Revenue, to be named as party defendants or named separately as individual parties; nor shall it be necessary for the executive director of the department to be named as an individual party.

Section 26. Effective October 1, 1994, for the purpose of incorporating the amendment to section 72.011, Florida Statutes, section 95.091, Florida Statutes, is reenacted, and subsection (3) of said section is amended, to read:

95.091 Limitation on actions to collect taxes.—

(1)(a) Except in the case of taxes for which certificates have been sold or of taxes enumerated in s. 72.011, any tax lien granted by law to the state or any of its political subdivisions, any municipality, any public corporation or body politic, or any other entity having authority to levy and collect taxes shall expire 5 years after the date the tax is assessed or becomes delinquent, whichever is later. No action may be begun to collect any tax after the expiration of the lien securing the payment of the tax.

(b) Any tax lien granted by law to the state or any of its political subdivisions for any tax enumerated in s. 72.011 shall expire 20 years after the last date the tax may be assessed, after the tax becomes delinquent, or after the filing of a tax warrant, whichever is later. An action to collect any tax enumerated in s. 72.011 may not be commenced after the expiration of the lien securing the payment of the tax.

(2) If no lien to secure the payment of a tax is provided by law, no action may be begun to collect the tax after 5 years from the date the tax is assessed or becomes delinquent, whichever is later.

(3)(a)1. With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to s. 220.23, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 *which it has authority to administer and the Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer:*

a. Within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

b. Within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return;

c. At any time while the right to a refund or credit of the tax is available to the taxpayer;

d. At any time after the taxpayer has failed to make any required payment of the tax, has failed to file a required return, or has filed a grossly false or fraudulent return; or

e. In any case in which there has been a refund of tax erroneously made for any reason, within 5 years after making such refund, or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

2. For the purpose of this paragraph, a tax return filed before the last day prescribed by law, including any extension thereof, shall be deemed to have been filed on such last day, and payments made prior to the last day prescribed by law shall be deemed to have been paid on such last day.

(b) The limitations in this subsection shall be tolled for a period of 2 years if the Department of Revenue has issued a notice of intent to conduct an audit or investigation of the taxpayer's account within the applicable period of time as specified in this subsection. The department shall commence an audit within 120 days after it issues a notice of intent to conduct an audit, unless the taxpayer requests a delay. If the taxpayer does not request a delay and the department does not begin the audit within 120 days after issuing the notice, the tolling period shall terminate.

(4) If administrative or judicial proceedings for review of the tax assessment or collection are begun within a period of limitation prescribed in this section, the running of the period shall be tolled during the pendency of the proceeding. Administrative proceedings shall include taxpayer protest proceedings initiated under s. 213.21 and department rules.

Section 27. Effective October 1, 1994, for the purpose of incorporating the amendment to section 72.011, Florida Statutes, subsection (6) of section 215.26, Florida Statutes, is reenacted to read:

215.26 Repayment of funds paid into State Treasury through error.—

(6) A taxpayer may contest a denial of refund of tax, interest, or penalty paid under a section or chapter specified in s. 72.011(1) pursuant to the provisions of s. 72.011.

Section 28. Effective October 1, 1994, for the purpose of incorporating the amendment to section 72.011, Florida Statutes, subsection (2) of section 26.012, Florida Statutes, is reenacted to read:

26.012 Jurisdiction of circuit court.—

(2) They shall have exclusive original jurisdiction:

(a) In all actions at law not cognizable by the county courts;

(b) Of proceedings relating to the settlement of the estates of decedents and minors, the granting of letters testamentary, guardianship, involuntary hospitalization, the determination of incompetency, and other jurisdiction usually pertaining to courts of probate;

(c) In all cases in equity including all cases relating to juveniles except traffic offenses as provided in chapters 39 and 316;

(d) Of all felonies and of all misdemeanors arising out of the same circumstances as a felony which is also charged;

(e) In all cases involving legality of any tax assessment or toll or denial of refund, except as provided in s. 72.011;

(f) In actions of ejectment; and

(g) In all actions involving the title and boundaries of real property.

Section 29. Effective October 1, 1994, subsection (1) and paragraph (b) of subsection (3) of section 120.575, Florida Statutes, are amended to read:

120.575 Taxpayer contest proceedings.—

(1) In any administrative proceeding brought pursuant to chapter 120 as authorized in s. 72.011(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and the Department of Revenue shall be designated the "respondent," except that for actions contesting an assessment or denial of refund under chapter 207 the Department of Highway Safety and Motor Vehicles shall be designated the "respondent" and for actions contesting an assessment or denial of refund under chapters 210, 550, 561, 562, 563, 564, and 565 the Department of Business and Professional Regulation shall be designated the "respondent."

(3)

(b) The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment or denial of refund by the Department of Revenue, ~~or by the Department of Highway Safety and Motor Vehicles, or the Department of Business and Professional Regulation.~~

Section 30. (1) Effective July 1, 1994, subsection (3) of section 72.011, Florida Statutes, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; depositions.—

(3) In any action filed in circuit court contesting the legality of any tax, interest, or penalty assessed under a section or chapter specified in subsection (1), the plaintiff must:

(a) Pay to the applicable department the amount of the tax, penalty, and accrued interest assessed by such department which is not being contested by the taxpayer; and either

(b)1. Tender into the registry of the court with the complaint the amount of the contested assessment complained of, including penalties and accrued interest, unless this requirement is waived in writing by the executive director of the applicable department; or

2. File with the complaint a cash bond or a surety bond for the amount of the contested assessment endorsed by a surety company authorized to do business in this state, or by any other security arrange-

ment as may be approved by the court, and conditioned upon payment in full of the judgment, including the taxes, costs, penalties, and interest, unless this requirement is waived in writing by the executive director of the applicable department.

Failure to pay the uncontested amount as required in paragraph (a) shall result in the dismissal of the action and imposition of an additional penalty in the amount of 25 percent of the tax assessed. *Provided, however, that if, at any point in the action, it is determined or discovered that a plaintiff, due to a good faith de minimus error, failed to comply with any of the requirements of paragraph (a) or paragraph (b), the plaintiff shall be given a reasonable time within which to comply before the action is dismissed. For purposes of this subsection, there shall be a rebuttable presumption that if the error involves an amount equal to or less than 5 percent of the total assessment the error is de minimus and that if the error is more than 5 percent of the total assessment the error is not de minimus.*

(2) It is the intent of the Legislature that the amendment to subsection (3) of section 72.011, Florida Statutes, as set forth in this section, be applied in all pending and future actions.

Section 31. Effective July 1, 1994, subsection (1) of section 193.075, Florida Statutes, is amended to read:

193.075 Mobile homes.—

(1) A mobile home shall be taxed as real property if the owner of the mobile home is also the owner of the land on which the mobile home is permanently affixed. A mobile home shall be considered permanently affixed if it is tied down and connected to the normal and usual utilities. However, ~~this provision does not apply to a mobile home that is permanently affixed shall not be taxed as real property if it is~~ being held for display by a licensed mobile home dealer or a licensed mobile home manufacturer and ~~that is not rented or, occupied, or located on property used for mobile home occupancy.~~ A mobile home that is taxed as real property shall be issued an "RP" series sticker as provided in s. 320.0815.

Section 32. Effective July 1, 1994, paragraph (c) of subsection (4) of section 193.085, Florida Statutes, is amended, and paragraphs (d) and (e) are added to that subsection, to read:

193.085 Listing all property.—

(4) The department shall promulgate such rules as are necessary to ensure that all railroad property of all types is properly listed in the appropriate county and shall submit the county railroad property assessments to the respective county property appraisers not later than June 1 in each year. However, in those counties in which railroad assessments are not completed by the department by June 1, for millage certification purposes, the property appraiser may utilize the prior year's values for such property.

(c) The values determined by the department pursuant to ~~this subsection (4) and (5)~~ shall be certified to the property appraisers when such values have been finalized by the department. Prior to finalizing the values to be certified to the property appraisers, the department shall provide an affected taxpayer a notice of a proposed assessment and an opportunity for informal conference before the executive director's designee. A property appraiser shall certify to the tax collector for collection the value as certified by the Department of Revenue.

(d) *Returns and information from returns required to be made pursuant to this subsection may be shared pursuant to any formal agreement for the mutual exchange of information with another state.*

(e) *In any action challenging final assessed values certified by the department under this subsection, venue is in Leon County.*

Section 33. Effective July 1, 1994, subsections (1) and (3) of section 194.171, Florida Statutes, are amended to read:

194.171 Circuit court to have original jurisdiction in tax cases.—

(1) The circuit courts have original jurisdiction at law of all matters relating to property taxation. Venue is in the county where the property is located, ~~except that venue shall be in Leon County when the property is assessed pursuant to s. 193.085(4).~~

(3) Before an action to contest a tax assessment may be brought, the taxpayer shall pay to the collector not less than the amount of the tax which he admits in good faith to be owing. The collector shall issue a

receipt for the payment, and the receipt shall be filed with the complaint. *Notwithstanding the provisions of chapter 197, payment of the taxes the taxpayer admits to be due and owing and the timely filing of an action pursuant to this section shall suspend all procedures for the collection of taxes prior to final disposition of the action.*

Section 34. Effective July 1, 1994, and applicable retroactively to January 1, 1994, subsection (1) of section 196.031, Florida Statutes, is amended to read:

196.031 Exemption of homesteads.—

(1) Every person who, on January 1, has the legal title or beneficial title in equity to real property in this state, ~~as recorded in the official records of the county in which the property is located,~~ and who resides thereon and in good faith makes the same his permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person, is entitled to an exemption from all taxation, except for assessments for special benefits, up to the assessed valuation of \$5,000 on the residence and contiguous real property, as defined in s. 6, Art. VII of the State Constitution. Such title may be held by the entireties, jointly, or in common with others, and the exemption may be apportioned among such of the owners as shall reside thereon, as their respective interests shall appear. If only one of the owners of an estate held by the entireties or held jointly with the right of survivorship resides on the property, that owner is allowed an exemption of up to the assessed valuation of \$5,000 on the residence and contiguous real property. However, no such exemption of more than \$5,000 is allowed to any one person or on any one dwelling house, except that an exemption up to the assessed valuation of \$5,000 may be allowed on each apartment or mobile home occupied by a tenant-stockholder or member of a cooperative corporation and on each condominium parcel occupied by its owner. Except for owners of an estate held by the entireties or held jointly with the right of survivorship, the amount of the exemption may not exceed the proportionate assessed valuation of all owners who reside on the property.

Section 35. Effective January 1, 1995, subsection (1) of section 196.031, Florida Statutes, as amended by this act, is amended to read:

196.031 Exemption of homesteads.—

(1) Every person who, on January 1, has the legal title or beneficial title in equity to real property in this state, ~~as recorded in the official records of the county in which the property is located,~~ and who resides thereon and in good faith makes the same his permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person, is entitled to an exemption from all taxation, except for assessments for special benefits, up to the assessed valuation of \$5,000 on the residence and contiguous real property, as defined in s. 6, Art. VII of the State Constitution. Such title may be held by the entireties, jointly, or in common with others, and the exemption may be apportioned among such of the owners as shall reside thereon, as their respective interests shall appear. If only one of the owners of an estate held by the entireties or held jointly with the right of survivorship resides on the property, that owner is allowed an exemption of up to the assessed valuation of \$5,000 on the residence and contiguous real property. However, no such exemption of more than \$5,000 is allowed to any one person or on any one dwelling house, except that an exemption up to the assessed valuation of \$5,000 may be allowed on each apartment or mobile home occupied by a tenant-stockholder or member of a cooperative corporation and on each condominium parcel occupied by its owner. Except for owners of an estate held by the entireties or held jointly with the right of survivorship, the amount of the exemption may not exceed the proportionate assessed valuation of all owners who reside on the property. *Before such exemption may be granted, the deed or instrument shall be recorded in the official records of the county in which the property is located. The property appraiser may request the applicant to provide additional ownership documents to establish title.*

Section 36. Effective July 1, 1994, subsection (1) of section 196.041, Florida Statutes, is amended to read:

196.041 Extent of homestead exemptions.—

(1) Vendees in possession of real estate under bona fide contracts to purchase when such instruments, under which they claim title, are recorded in the office of the clerk of the circuit court where said properties lie, and who reside thereon in good faith and make the same their permanent residence; persons residing on real estate by virtue of dower or other estates therein limited in time by deed, will, jointure, or settlement; and

lessees owning the leasehold interest in a bona fide lease having an original term of 98 years or more in a residential parcel or in a condominium parcel as defined in chapter 718, or persons holding leases of 50 years or more, existing prior to June 19, 1973, for the purpose of homestead exemptions from ad valorem taxes and no other purpose, shall be deemed to have legal or beneficial and equitable title to said property. In addition, a tenant-stockholder or member of a cooperative apartment corporation who is entitled solely by reason of his ownership of stock or membership in the corporation to occupy for dwelling purposes an apartment in a building owned by the corporation, for the purpose of homestead exemption from ad valorem taxes and for no other purpose, is deemed to have beneficial title in equity to said apartment and a proportionate share of the land on which the building is situated.

Section 37. Effective July 1, 1994, subsections (3) and (5) of section 196.101, Florida Statutes, are amended to read:

196.101 Exemption for totally and permanently disabled persons.—

(3) The production by any totally and permanently disabled person entitled to the exemption in subsection (1) or subsection (2) of a certificate of such disability from two licensed doctors of this state or from the United States Department of Veterans Affairs or its predecessor, ~~or an award letter from the Social Security Administration~~ to the property appraiser of the county wherein the property lies, is prima facie evidence of the fact that he is entitled to such exemption.

(5) The physician's certification shall read as follows:

PHYSICIAN'S CERTIFICATION
OF
TOTAL AND PERMANENT DISABILITY

I, . . . (name of physician) . . . , a physician licensed pursuant to chapter 458 or chapter 459, Florida Statutes, hereby certify Mr. . . . Mrs. . . . Miss . . . Ms. . . . (name of totally and permanently disabled person) . . . , social security number . . . , is totally and permanently disabled as of January 1, . . . (year) . . . , due to the following mental or physical condition(s):

- Quadriplegia
- Paraplegia
- Hemiplegia
- Other total and permanent disability requiring use of a wheelchair for mobility
- Legal Blindness

It is my professional belief that the above-named condition(s) render Mr. . . . Mrs. . . . Miss . . . Ms. . . . totally and permanently disabled, and that the foregoing statements are true, correct, and complete to the best of my knowledge and professional belief.

Signature.....
Address (print).....
Date.....
Florida Board of Medicine license number.....
Issued on.....

NOTICE TO TAXPAYER: Each Florida resident applying for a total and permanent disability exemption must present to the county property appraiser, on or before March 1 of each year, a copy of this form or, a letter from the United States Department of Veterans Affairs or its predecessor, ~~or an award letter from the Social Security Administration.~~ Each form is to be completed by a licensed Florida physician.

NOTICE TO TAXPAYER AND PHYSICIAN: Section 196.131(2), Florida Statutes, provides that any person who shall knowingly and willfully give false information for the purpose of claiming homestead exemption shall be guilty of a misdemeanor of the first degree, punishable by a term of imprisonment not exceeding 1 year or a fine not exceeding \$5,000 \$2,500, or both.

Section 38. The amendment to section 196.101(3) and (5), Florida Statutes, made by this act applies to claims for homestead exemption filed for the 1995 tax roll and thereafter.

Section 39. Effective July 1, 1994, subsection (2) of section 196.131, Florida Statutes, is amended to read:

196.131 Homestead exemptions; claims.—

(2) Any person who knowingly *and willfully* gives false information for the purpose of claiming homestead exemption as provided for in this chapter is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by fine not exceeding \$5,000 ~~\$2,500~~, or both.

Section 40. The amendment to section 196.131(2), Florida Statutes, made by this act applies to claims for homestead exemption filed for the 1995 tax roll and thereafter.

Section 41. Effective July 1, 1994, subsection (1) of section 196.161, Florida Statutes, is amended to read:

196.161 Homestead exemptions; lien imposed on property of person claiming exemption although not a permanent resident.—

(1)(a) When the estate of any person is being probated or administered in another state under an allegation that such person was a resident of that state and the estate of such person contains real property situate in this state upon which homestead exemption has been allowed pursuant to s. 196.031 for any year or years within 10 years immediately prior to the death of the deceased, then within 3 years after the death of such person the property appraiser of the county where the real property is located shall, upon knowledge of such fact, record a notice of tax lien against the property among the public records of that county, and the property shall be subject to the payment of all taxes exempt thereunder, a penalty of 50 percent of the unpaid taxes for each year, plus 15 percent interest per year, unless the circuit court having jurisdiction over the ancillary administration in this state determines that the decedent was a permanent resident of this state during the year or years an exemption was allowed, whereupon the lien shall not be filed or, if filed, shall be canceled of record by the property appraiser of the county where the real estate is located.

(b) In addition, upon determination by the property appraiser that for any year or years within the prior 10 years a person who was not entitled to a homestead exemption was granted a homestead exemption from ad valorem taxes, it shall be the duty of the property appraiser making such determination *to serve upon the owner a notice of intent* to record in the public records of the county a notice of tax lien against ~~that person's property which was improperly receiving the exemption and any other property owned by that person in the county, and such property shall be identified in the notice of tax lien. Such property which is situated in this state shall be subject to the taxes exempted thereby, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. Before any such lien may be filed, the owner so notified must be given 30 days to pay the taxes, penalties, and interest.~~

Section 42. Effective July 1, 1994, subsection (4) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(4) The resolution or ordinance approved in the manner provided for in this section shall be forwarded to the property appraiser *and*, the tax collector, ~~and the Department of Revenue~~ within 3 days after the adoption of such resolution or ordinance. No millage other than that approved by referendum may be levied until the resolution or ordinance to levy required in subsection (2) is approved by the governing board of the taxing authority and submitted to the property appraiser *and*, the tax collector, ~~and the Department of Revenue~~. The receipt of the resolution or ordinance by the property appraiser shall be considered official notice of the millage rate approved by the taxing authority, and that millage rate shall be the rate applied by the property appraiser in extending the rolls pursuant to s. 193.122, subject to the provisions of subsection (5). These submissions shall be made within 101 days of certification of value pursuant to subsection (1).

Section 43. The amendment to section 200.065(4), Florida Statutes, made by this act applies beginning with the 1994 property tax rolls.

Section 44. Effective July 1, 1994, subsection (1) of section 193.1142, Florida Statutes, is amended to read:

193.1142 Approval of assessment rolls.—

(1) Each assessment roll shall be submitted to the executive director of the Department of Revenue for review in the manner and form prescribed by the department on or before July 1. *The department shall require the assessment roll submitted under this section to include the social security numbers required under s. 196.011.* The roll submitted to the department need not include ~~central~~ centrally assessed properties

prior to approval under this subsection and subsection (2). Such review by the executive director shall be made to determine if the rolls meet all the appropriate requirements of law relating to form and just value. Upon approval of the rolls by the executive director or his designee, the hearings required in s. 194.032 may be held.

Section 45. The amendment to section 193.1142(1), Florida Statutes, made by this act shall take effect on the effective date of SB 670 or similar legislation amending section 193.1142(1), Florida Statutes, to provide a public records exemption for such social security numbers, and the amendment made to that section shall apply to information included in claims for exemption filed for the 1995 tax roll or thereafter.

Section 46. Effective July 1, 1994, subsection (1) and paragraph (a) of subsection (9) of section 196.011, Florida Statutes, are amended, and subsections (11) and (12) are added to that section, to read:

196.011 Annual application required for exemption.—

(1)(a) Every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

(b) *The form to apply for an exemption under s. 196.031, s. 196.081, s. 196.091, s. 196.101, or s. 196.202 must include a space for the applicant to list the social security number of the applicant and of the applicant's spouse, if any. If an applicant files a timely and otherwise complete application, and omits the required social security numbers, the application is incomplete. In that event, the property appraiser shall contact the applicant, who may refile a complete application by April 1. Failure to file a complete application by that date constitutes a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8)*

(9)(a) A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for exemption of property within the county after an initial application is made and the exemption granted. The waiver under this subsection of the annual application or statement requirement applies to all exemptions under this chapter except the exemption under s. 196.1995. Notwithstanding such waiver, refile of an application or statement shall be required when any property granted an exemption is sold or otherwise disposed of, when the ownership changes in any manner, when the applicant for homestead exemption ceases to use the property as his or her homestead, or when the status of the owner changes so as to change the exempt status of the property. In its deliberations on whether to waive the annual application or statement requirement, the governing body shall consider the possibility of fraudulent exemption claims which may occur due to the waiver of the annual application requirement. It is the duty of the owner of any property granted an exemption who is not required to file an annual application or statement to notify the property appraiser promptly whenever the use of the property or the status or condition of the owner changes so as to change the exempt status of the property. If any property owner fails to so notify the property appraiser and the property appraiser determines that for any year within the prior 10 years the owner was not entitled to receive such exemption, *the owner of the property is shall be* subject to the taxes exempted as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes exempted. *Except for homestead exemptions controlled by s. 196.161, it is shall be* the duty of the property appraiser making such determination to record in the public records of the county a notice of tax lien against ~~that person's property which was improperly receiving the exemption, except for property receiving homestead exemption which is controlled by s. 196.161, and any other property owned by that person or entity in the county, and such property must shall be identified in the notice of tax lien. Such property is or properties shall be~~ subject to the payment of all taxes and penalties. Such lien when filed shall attach to any property, identified in the notice of tax lien, owned by the person who illegally or improperly received the exemption. Should such person no longer own property in that county, but own property in some other county or counties in the state, it shall be the duty of the property

appraiser to record a notice of tax lien in such other county or counties, identifying the property owned by such person or entity in such county or counties, and it shall become a lien against such property in such county or counties.

(11) For exemptions enumerated in paragraph (1)(b), granted for the 2000 tax year and thereafter, social security numbers of the applicant and the applicant's spouse, if any, are required and must be submitted to the department. Applications filed pursuant to subsection (5) or subsection (6) may be required to include social security numbers of the applicant and the applicant's spouse, if any, and shall include such information if filed for the 2000 tax year or thereafter. For counties where the annual application requirement has been waived, property appraisers may require refiling of an application to obtain such information.

(12) Notwithstanding subsection (1), when the owner of property otherwise entitled to a religious exemption from ad valorem taxation fails to timely file an application for exemption, and because of a misidentification of property ownership on the property tax roll the owner is not properly notified of the tax obligation by the property appraiser and the tax collector, the owner of the property may file an application for exemption with the property appraiser. The property appraiser must consider the application, and if he determines the owner of the property would have been entitled to the exemption had the property owner timely applied, the property appraiser must grant the exemption. Any taxes assessed on such property shall be cancelled, and if paid, refunded. Any tax certificates outstanding on such property shall be cancelled and refund made pursuant to s. 197.432(10).

Section 47. The amendment to section 196.011(1), Florida Statutes, and the addition of subsection (11) to that section, made by this act shall take effect on the effective date of SB 670 or similar legislation amending section 193.114(6), Florida Statutes, to provide a public records exemption for such social security numbers, and the amendments made to that section shall apply to claims for exemption filed for the 1995 tax roll and thereafter. The new subsection (12) of section 196.011, Florida Statutes, added by this act shall apply to the 1992 property tax year and thereafter.

Section 48. Effective January 1, 1995, section 197.332, Florida Statutes, is amended to read:

197.332 Duties of tax collectors.—The tax collector has the authority and obligation to collect all taxes as shown on the tax roll by the date of delinquency or to collect delinquent taxes by sale of tax certificates on real property and by seizure and sale of personal property. *The tax collector shall be allowed to collect reasonable attorney's fees and court costs in performing his duties.*

Section 49. Effective January 1, 1995, subsection (3) of section 197.402, Florida Statutes, is amended to read:

197.402 Advertisement of real or personal property with delinquent taxes.—

(3) Except as provided in s. 197.432(4), on or before June 1 or the 60th day after the date of delinquency, whichever is later, the tax collector shall advertise once ~~each week for 4 weeks~~ and shall sell tax certificates on all real property with delinquent taxes. He shall make a list of such properties in the same order in which the lands were assessed, specifying the amount due on each parcel, including interest at the rate of 18 percent per year from the date of delinquency to the date of sale; the cost of advertising; and the expense of sale.

Section 50. Effective January 1, 1995, subsections (1) and (10) of section 197.413, Florida Statutes, are amended to read:

197.413 Delinquent personal property taxes; warrants; court order for levy and seizure of personal property; seizure; fees of tax collectors.—

(1) Prior to May 1 of each year immediately following the year of assessment, the tax collector shall prepare a list of the unpaid personal property taxes containing the names and addresses of the taxpayers and the property subject to the tax as the same appear on the tax roll. Prior to April 30 of the next year, the tax collector shall prepare warrants against the delinquent taxpayers providing for the levy upon, and seizure of, tangible personal property. *The tax collector is not required to issue warrants if delinquent taxes are less than \$50. However, such taxes shall remain due and payable.*

(10) The tax collector is entitled to a fee of \$2 from each delinquent taxpayer at the time delinquent taxes are collected. *The tax collector is entitled to receive an additional \$8 for each warrant issued.*

Section 51. Effective January 1, 1995, subsection (4) of section 197.462, Florida Statutes, is amended to read:

197.462 Transfer of tax certificates held by individuals.—

(4) The tax collector shall receive \$2.25 \$1 as a service charge for each endorsement.

Section 52. Effective January 1, 1995, subsection (3) of section 197.472, Florida Statutes, is amended to read:

197.472 Redemption of tax certificates.—

(3) The tax collector shall receive a fee of \$6.25 \$5 for each tax certificate purchased or redeemed.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of line 2 and insert: An act relating to tax administration; amending s. 45.031, F.S., which provides procedures for judicial sales of real or personal property; providing for filing a copy of the report of disbursements with the Department of Revenue; amending s. 69.041, F.S., which provides requirements relating to certain civil actions in which the state is named a party; providing requirements relating to the right of the department to participate in the disbursement of surplus funds in mortgage foreclosure actions; providing applicability; amending s. 125.0104, F.S.; authorizing counties levying the areas of critical state concern tourist impact tax to collect and administer the tax on a local basis; amending s. 199.185, F.S., exempting certain taxpayers from intangible personal property tax on accounts receivable derived from certain sales of alcoholic beverages; amending s. 199.232, F.S.; requiring the department to refund overpayments of intangible personal property tax without written claim; amending s. 206.028, F.S.; authorizing the Department of Revenue to contract with private companies to investigate applicants for a motor fuel refiner, importer, or wholesaler license; amending ss. 212.03, 212.06, and 212.18, F.S.; providing that persons who rent or grant a license to use accommodations in apartment houses, rooming-houses, and tourist or trailer camps for periods longer than 6 months are not exercising a taxable privilege and are not considered sales tax dealers; amending s. 212.05, F.S.; providing an exemption from the sales and use tax for out-of-state sales of detective, burglar protection, and other protection services; providing for record keeping; amending s. 212.08, F.S.; exempting certain leases of or licenses to use taxicabs or taxicab related equipment and services from the sales and use tax; amending s. 212.11, F.S.; revising conditions under which the department may authorize quarterly or semiannual sales tax returns; amending s. 212.67, F.S., which authorizes refunds of the tax on sales of fuels; authorizing transit systems, municipalities, counties, and school districts that are licensed as special fuel dealers to take a credit in lieu of refund; amending s. 213.053, F.S.; authorizing the department to provide certain information relating to part I of chapter 212, F.S., to the Office of Agriculture Law Enforcement of the Department of Agriculture and Consumer Services; amending s. 213.21, F.S.; authorizing the department to settle or compromise a taxpayer's liability for the service fee imposed on a dishonored check or draft under certain conditions; amending s. 403.7197, F.S., relating to the advance disposal fee; requiring distributors to disclose previously paid ADF and sales tax registration numbers on invoices to bars and restaurants; providing relief from penalties under certain circumstances; revising certain record-keeping requirements; authorizing the department to assess a penalty for failure to provide required information on returns; amending ss. 538.09 and 538.25, F.S.; revising the fee required for fingerprint processing of applicants for registration as a secondhand dealer or secondary metals recycler; authorizing the department to modify reporting or filing periods to facilitate calculation of penalty and interest due under certain conditions; amending s. 624.5092, F.S.; clarifying that the retaliatory tax does not apply to sales and use taxes; providing legislative intent; amending s. 561.025, F.S., relating to the distribution of funds deposited into the Alcoholic Beverage and Tobacco Trust Fund; creating s. 561.12, F.S., relating to deposit of revenues; amending s. 196.011, F.S.; providing for granting late filed application for property tax exemption; providing retroactive application; amending ss. 72.011 and 120.575, F.S.; providing that provisions relating to the contesting of certain tax matters are applicable to chapters relating to tax on tobacco products, pari-mutuel wagering, and the Beverage Law; amending s. 72.031, F.S.; pro-

viding that the Department of Business and Professional Regulation is the defendant in such actions; reenacting and amending s. 95.091, F.S.; specifying the time limits for the department to determine and assess taxes; reenacting ss. 215.26(6) and 26.012(2), F.S., for the purpose of incorporating changes to s. 72.011, F.S.; amending s. 72.011, F.S.; granting a plaintiff additional time to comply with jurisdictional requirements in certain instances; providing a rebuttable presumption relating to de minimus errors; providing legislative intent; amending s. 193.075, F.S.; exempting certain mobile homes from ad valorem taxation; amending ss. 193.085, 194.171, F.S.; revising provisions relating to assessment of railroad property; authorizing the sharing of information; providing for venue in actions relating to such property; providing for suspension of collection of taxes in certain circumstances; amending s. 196.031, F.S.; prescribing requirements to be eligible for a homestead exemption; amending s. 196.101, F.S.; removing an award letter from the Social Security Administration to certify total and permanent disability for receiving an ad valorem tax exemption; permitting osteopathic physicians, in addition to physicians, to certify total and permanent disability; requiring the address of the physician on the physician's certificate certifying disability; amending ss. 196.101, 196.131, F.S.; requiring willfulness, in addition to knowledge, to be guilty of a misdemeanor and revising the penalty for giving false information to claim disability; amending s. 200.065, F.S.; deleting a requirement that the resolution or ordinance adopted by a taxing authority stating its millage rate be sent to the Department of Revenue; amending ss. 193.1142 and 196.011, F.S.; requiring the inclusion of the social security numbers of an applicant for specified ad valorem tax exemptions, and of the applicant's spouse, if any, in exemption applications and assessment rolls; providing procedures for refiling of applications that omit the social security numbers; providing for implementation; providing a contingent effective date; providing that only property owned by persons not entitled to an exemption is subject to a tax lien; providing that under certain conditions religious organizations may refile for a tax exemption; amending s. 196.041, F.S.; allowing lessees owning the leasehold interest in a bona fide lease having an original term of 98 years or more in a parcel in a residential subdivision to be deemed to have legal or beneficial and equitable title to property, thus qualifying them for a homestead exemption; amending s. 196.161, F.S.; requiring the property appraiser to serve a notice of intent to record a notice of tax lien against property that improperly received homestead exemption and allow the owner 30 days to pay taxes, penalties, and interest; clarifying that only property owned by the person improperly receiving the homestead exemption is subject to tax lien; amending s. 197.332, F.S.; amending s. 197.332, F.S.; providing that tax collectors shall be allowed to collect attorney's fees and court costs in performing their duties; amending s. 197.402, F.S.; revising the number of advertisements required for real property with delinquent taxes; amending s. 197.413, F.S.; providing that the tax collector is not required to issue a warrant for delinquent personal property taxes of less than \$50; providing an additional fee for each warrant issued; amending ss. 197.462 and 197.472, F.S.; increasing the fees collected by tax collectors for administering the transfer or redemption of tax certificates;

Amendment 2—On page 10, strike all of lines 24 and 25 and insert:

Section 8. Except as otherwise provided herein, this act shall take effect upon becoming a law.

Amendment 3 (with Title Amendment)—On page 2, line 1, insert:

Section 1. Subsection (2) of section 193.1142, Florida Statutes, is amended to read:

193.1142 Approval of assessment rolls.—

(2)(a) The executive director or his or her designee shall disapprove all or part of any assessment roll of any county not in full compliance with the administrative order of the executive director issued pursuant to the notice called for in s. 195.097 and shall otherwise disapprove all or any part of any roll not assessed in substantial compliance with law, as disclosed during the investigation by the department, including, but not limited to, audits by the Department of Revenue and Auditor General establishing noncompliance.

(b)1. If an assessment roll is disapproved under paragraph (a) and the reason for the disapproval is noncompliance due to material mistakes of fact relating to physical characteristics of property, the executive director or his or her designee may issue an administrative order as provided in s. 195.097. In such event, the millage adoption process, extension of tax rolls, and tax collection shall proceed and the interim roll procedures of s. 193.1145 shall not be invoked.

2. For the 1993 and 1994 assessment rolls, the executive director or his or her designee may invoke subparagraph 1. without disapproving an assessment roll or portion of an assessment roll. This subparagraph shall not be applied to a county more than once. This subparagraph expires December 31, 1994.

(c) For purposes of this subsection, "material mistakes of fact" means any and all mistakes of fact relating to physical characteristics of property that if included in the assessment of property would result in a deviation or change in assessed value of the property.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: amending s. 193.1142, F.S.; defining "material mistakes of fact" for purposes of s. 193.1142(2), F.S.;

Amendment 4—On page 4, line 26, insert:

(d) Changes, additions, or improvements do not include those changes, additions, or improvements commonly considered as routine maintenance and repair necessary to maintain the property in good condition.

Senators Grogan and Gutman offered the following amendment which was moved by Senator Grogan and adopted:

Amendment 5 (with Title Amendment)—On page 2, line 1, insert:

Section 1. Effective upon this act becoming law, and applying retroactively to January 1, 1994, section 196.1994, Florida Statutes, is created to read:

196.1994 Space laboratories exemption.—

(1) Notwithstanding other provisions of this chapter, modules, racks, lockers and their necessary subsystems owned by any person and intended for use as space laboratories launched into space aboard the space shuttle for the primary purpose of conducting scientific research in space are deemed to carry out a scientific purpose and are exempt from ad valorem taxation.

(2) This section is repealed July 1, 2004.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: creating s. 196.1994, F.S.; providing an exemption from ad valorem taxes for certain space laboratories; amending

Senator Grant moved the following amendment:

Amendment 6 (with Title Amendment)—On page 10, line 23, insert:

Section 8. Effective January 1, 1995, subsection (3) is added to section 196.041, Florida Statutes, to read:

196.041 Extent of homestead exemptions.—

(3) A member of a continuing care retirement community who, as a result of executing a continuing care agreement has the right to occupy a living unit in a continuing care facility for the rest of the member's life (sometimes identified as a possessory right or beneficial interest), even though subject to certain other conditions set forth in the agreement, including a monthly charge, for the purpose of homestead exemption from ad valorem taxes and for no other purpose, is deemed to have beneficial title in equity to said living unit and a proportionate share of the land on which the building is situated. It is hereby declared that having legal, or beneficial and equitable title, or beneficial title in equity, as used in this subsection, is "equitable title to real estate" as that term is employed in s. 6, Art. VII of the State Constitution, and a person having such an interest is entitled to the homestead tax exemption irrespective of whether such interest was created prior or subsequent to the effective date of this subsection. If the real estate taxes are paid by the owner of the facility, the person entitled to the homestead tax exemption must receive the total benefit of the reduction in real estate taxes which occurred by reason of the homestead tax exemption.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 28, after the semicolon (;) insert: amending s. 196.041, F.S.; providing that a member of a continuing care retirement community who has the right to occupy a living unit in a continuing care facility for the rest of his life is deemed to have beneficial title in equity to such unit and is entitled to homestead exemption;

Senator Grant moved the following amendments to **Amendment 6** which were adopted:

Amendment 6A—On page 1, strike all of lines 17 and 18 and insert:

(3) *A member of a continuing care retirement community, as defined in chapter 651, who as a result of executing a continuing care agreement has*

Amendment 6B—On page 1, line 27, after “situated” insert: , unless the person’s living unit qualifies and is used as a basis for an exemption from ad valorem taxation in accordance with s. 196.1975(9)(a)

Amendment 6 as amended was adopted.

Senator Wexler moved the following amendments which were adopted:

Amendment 7 (with Title Amendment)—On page 1, after the enacting clause insert:

Section 1. (1) Effective July 1, 1994, notwithstanding the provisions of section 201.02, Florida Statutes, the tax imposed pursuant to that section shall not apply to any deed, instrument, writing or other document executed after April 1, 1994 by which a corporation grants, assigns, transfers, or otherwise conveys to a qualifying corporation, as defined below, any lands, tenements, or other real property, or any interest therein, including without limitation buildings and improvements thereon. As used herein, a “qualifying corporation” shall mean a corporation which meets all of the following requirements:

(a) it is a member of the same affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code of 1986, as the corporation which grants, assigns, transfers or otherwise conveys the subject real property interest;

(b) it receives the subject real property interest in exchange for the issuance of shares of its stock to the affiliate corporation in a transaction described in s. 351 of the Internal Revenue Code of 1986; and

(c) there is assigned to such corporation one or more contracts between the transferring affiliate corporation and the U.S. Government or agencies thereof relating to the development of aircraft engines or engine parts or to space propulsion related products.

The qualifying corporation shall, at the time such document is presented for recording, furnish to the clerk a written statement certifying that it meets the foregoing requirements.

(2) This section is repealed on December 31, 1995.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: providing an exemption from the documentary stamp tax imposed by s. 201.02, F.S., for real property transfers by certain corporations; providing for the repeal of the exemption; amending

Amendment 8—On page 10, strike all of lines 24 and 25 and insert:

Section 8. Except as otherwise provided herein, this act shall take effect upon becoming a law.

Senator Gutman moved the following amendments which were adopted:

Amendment 9 (with Title Amendment)—On page 8, strike all of lines 4-8 and insert:

Section 6. Effective January 1, 1995, and applying to the 1994 and subsequent assessment rolls, subsections (6) and (13) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. *The use by a lessee of real property as a recreational facility is deemed a use that serves a governmental, municipal, or public purpose or function when such property is used by a nonprofit lessee, holding a current exemption from federal income tax under s. 501(c)(7) of the Internal Revenue Code, when such property under the terms of the lease is available for regular use by local governments and community groups, and when such property is listed in a local historic register as a contributing structure within an historic district.* The term “governmental purpose” also includes a direct use of property on federal lands in connection with the Federal Government’s Space Exploration Program. Real property and tangible personal property owned by the Federal Government and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. “Owned by the lessee” as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of “ownership,” buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed “owned” by the governmental unit and not the lessee.

Section 7. If any provision of this act amending section 196.012(6), Florida Statutes, is held to be invalid or inoperative for any reason, it is the legislative intent that the invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 22, after the semicolon (;) insert: providing that property required to be maintained for historical preservation, park, or recreational purposes is deemed to serve a municipal or public purpose; providing for severability;

Amendment 10—On page 10, strike all of lines 24 and 25 and insert:

Section 8. Except as otherwise provided herein, this act shall take effect upon becoming a law.

Senators Meadows and Kiser offered the following amendments which were moved by Senator Meadows and adopted:

Amendment 11 (with Title Amendment)—On page 1, after the enacting clause, insert:

Section 1. Effective January 1, 1995, and applying to the 1994 and subsequent assessment rolls, subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its

political subdivisions, or any municipality, agency, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. *The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historical preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose.* The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program. Real property and tangible personal property owned by the Federal Government and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee.

Section 2. If any provision of this act amending section 196.012(6), Florida Statutes, is held to be invalid or inoperative for any reason, it is the legislative intent that the invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: s. 196.012, F.S.; revising the definition of "governmental, municipal, or public purpose or function" to provide that use of property by a lessee, licensee, or management company as a convention center, concert hall, arena, stadium, park, or beach which is open to the public is deemed to serve such purpose or function; providing that property deeded to a municipality by the United States which is required to be maintained for historical preservation, park, or recreational purposes is deemed to serve a municipal or public purpose; providing for severability;

Amendment 12—On page 10, strike all of lines 24 and 25 and insert:

Section 8. Except as otherwise provided herein, this act shall take effect upon becoming a law.

On motion by Senator Wexler, by two-thirds vote **CS for SB 1448** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40 Nays—None

SENATOR DYER PRESIDING

Consideration of **CS for SB 1930** and **SB 2584** was deferred.

On motions by Senator Gutman, by two-thirds vote **CS for HB 1873** was withdrawn from the Committees on Health and Rehabilitative Services; and Appropriations.

On motion by Senator Gutman—

CS for HB 1873—A bill to be entitled An act relating to developmental disabilities; amending s. 393.001, F.S.; renaming the Florida Developmental Disabilities Planning Council; deleting obsolete language; amending ss. 320.0896 and 411.221, F.S., to conform; amending s. 393.063, F.S.; revising definitions; replacing the term "caretaker" with "direct service provider"; replacing "diagnosis and evaluation" with "comprehensive assessment"; defining "personal services" and "support coordinator"; amending s. 393.064, F.S.; revising provisions relating to prevention services; providing for interface with certain responsibilities of the children's medical service program; amending s. 393.065, F.S.; clarifying procedures and timeframes for eligibility determinations; amending s. 393.0651, F.S.; providing for family or individual support plans in place of habilitation plans; providing responsibilities of the support planning team and support coordinator; amending s. 393.0655, F.S.; providing for screening of direct service providers; revising requirements; providing penalties for failure of a direct service provider of employer to comply; amending s. 393.067, F.S.; providing for training of facility staff in the detection and prevention of sexual abuse of facility residents and clients; amending s. 393.13, F.S.; providing the right of residents to be free from sexual abuse; amending s. 393.11, F.S.; providing responsibilities of the developmental services program with respect to involuntary admission to residential services; amending ss. 393.0657, 393.066, 393.0674, 393.0675, 393.068, 393.12, and 916.11, F.S.; conforming language and references to changes made in the act; amending ss. 943.0585 and 943.059, F.S.; correcting cross references; providing an effective date.

—a companion measure, was substituted for **SB 2238** and read the second time by title.

Senator Gutman moved the following amendments which were adopted:

Amendment 1—On page 5, strike all of lines 20-26 and insert: *with developmental disabilities and is unrelated to the individuals with developmental disabilities.* ~~"Diagnosis and evaluation"~~

Amendment 2—On page 7, strike all of lines 29 and 30 and insert: *background of direct service providers and independent support coordinators, who are not related to clients for whom they provide services* ~~caretakers unrelated to developmentally disabled clients~~ and includes, but is not

Amendment 3—On page 23, between lines 20 and 21, insert:

(11) *An alternative living center and an independent living education center, as defined in s. 393.063(7), shall be subject to the provisions of s. 419.001.*

On motion by Senator Silver, further consideration of **CS for HB 1873** as amended was deferred.

SB 284—A bill to be entitled An act relating to unemployment compensation; amending s. 443.101, F.S.; providing that a person who is rejected from offered employment because of a positive, confirmed drug test is disqualified for unemployment benefits; providing that the chain-of-custody form adopted by the Department of Health and Rehabilitative Services for purposes of establishing the validity of a drug test is admissible as evidence in an unemployment compensation proceeding; providing an effective date.

—was read the second time by title.

Senator Bankhead moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 1, line 16, insert:

Section 1. Subsection (26) of section 443.036, Florida Statutes, is amended to read:

443.036 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(26) MISCONDUCT.—“Misconduct” includes, but is not limited to, the following, which shall not be construed in pari materia with each other:

(a) Conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer; or

(c) *Positive confirmation of drug use in a company that is in compliance with s. 440.102.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 443.036, F.S.; revising the definition of the term “misconduct” for the purposes of unemployment compensation;

On motion by Senator Silver, by two-thirds vote **SB 284** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 2584—A bill to be entitled An act relating to marine turtles; amending s. 370.12, F.S.; providing for a specified percentage of the amount appropriated annually to the Department of Environmental Protection for controlling beach erosion to be transferred to the Marine Turtle Protection Trust Fund and used by the Division of Marine Resources for marine turtle protection, research, and recovery; providing an effective date.

—was read the second time by title.

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

Amendment 1 (with Title Amendment)—On page 2, strike all of lines 19-31 and insert:

2. *There shall be appropriated to the Marine Turtle Protection Trust Fund annually an amount equivalent to 10 percent of the amount appropriated to the department annually for beach restoration, nourishment, and inlet sand bypassing fixed capital outlay projects. The amount appropriated to the trust fund under this subparagraph shall be completely separate from and in addition to those funds appropriated for specific beach erosion control projects and other beach-related needs and shall be committed to marine turtle protection, research, and recovery efforts that facilitate beach and habitat restoration and enhancement. The amount appropriated to the trust fund each year under this subparagraph may not be less than \$400,000 nor greater than \$600,000. The provisions of this subparagraph shall not preclude other deposits into or appropriations from the trust fund.*

And the title is amended as follows:

In title, on page 1, strike all of lines 3-10 and insert: 370.12, F.S.; providing for an annual appropriation for marine turtle protection, research, and recovery efforts; providing a basis for that appropriation and the minimum and maximum amounts authorized; providing uses for the funds appropriated; providing applicability to other appropriations and deposits; providing an effective date.

On motion by Senator Dantzler, by two-thirds vote **SB 2584** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **CS for SB 2256** and **CS for CS for SB 1422** was deferred.

SB 1376—A bill to be entitled An act relating to the disclosure of juvenile records; amending s. 39.037, F.S., relating to taking a child into custody; requiring notification of district school superintendents of commission of certain acts; providing an exemption from public records requirements for information concerning such acts; providing for review and repeal; providing a statement of public necessity; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services recommended the following amendment which was moved by Senator Myers and adopted:

Amendment 1—On page 1, strike all of lines 22-24 and insert: *violence or a crime in which a deadly weapon was used, or a violation of section 893.13 involving illegal drugs or an act involving lewd and lascivious behavior, the arresting authority shall immediately*

On motion by Senator Crist, by two-thirds vote **SB 1376** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40 Nays—None

On motions by Senator Jenne, by two-thirds vote **CS for HB 739** was withdrawn from the Committees on Natural Resources and Conservation; Commerce; and Appropriations.

On motion by Senator Jenne—

CS for HB 739—A bill to be entitled An act relating to the regulation of oil and gas resources; amending s. 377.19, F.S.; defining the terms “oil and gas administrator” and “operator”; amending s. 377.2411, F.S.; revising language with respect to the lawful right to drill, develop, and explore; creating s. 377.247, F.S.; providing for the designation and distribution of earnings owed to owners of mineral rights who are unknown or unlocated; amending s. 717.113, F.S.; providing that certain funds are presumed abandoned under certain circumstances; amending s. 376.40, F.S.; providing for the deposit into the Petroleum Exploration and Production Bond Trust Fund of certain funds required to be deposited under provision of law; amending s. 377.22, F.S.; providing for an additional purpose for which rules may be adopted by the Department of Environmental Protection; providing an effective date.

—a companion measure, was substituted for **CS for SB 2256** and read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for HB 739** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for CS for SB 1318—A bill to be entitled An act relating to highway safety and motor vehicles; amending s. 207.003, F.S.; clarifying a cross-reference with respect to the privilege tax; amending s. 207.004, F.S.; providing for temporary fuel-use permits and driveway permits; amending s. 207.005, F.S.; revising provisions with respect to taxes; amending s. 207.007, F.S.; revising provisions with respect to offenses, penalties, and interest; amending s. 207.011, F.S.; deleting provisions with respect to an agreement between the Department of Revenue and the Department of Highway Safety and Motor Vehicles; amending s. 207.026, F.S.; providing a cross-reference; amending s. 207.0281, F.S.; revising provisions with respect to cooperative reciprocal agreements; repealing s. 207.029, F.S., relating to proof of liability insurance; amending s. 316.003, F.S.; redefining the terms “school bus” and “commercial motor vehicle”; amending s. 316.027, F.S., relating to accidents involving death or personal injuries; amending s. 316.192, F.S., relating to reckless driving; amending s. 316.655, F.S., relating to penalties; amending s. 318.13, F.S.; defining the term “infraction”; amending s. 318.14, F.S., relating to noncriminal traffic infractions; amending s. 318.18, F.S., relating to civil penalties; amending ss. 316.064, 316.066, F.S.; providing for a

10-day accident-reporting period; amending s. 316.183, F.S.; revising provisions with respect to the maximum allowable speed for school buses; amending s. 316.1937, F.S.; revising provisions with respect to ignition interlock devices; amending s. 316.1951, F.S.; providing for the removal of certain motor vehicles; amending s. 316.1967, F.S.; providing for the transmission of traffic-violation information by electronic means; amending s. 316.2065, F.S.; providing for the attachment of bicycle trailers; amending s. 316.217, F.S.; revising provisions with respect to when lighted lamps are required; amending s. 316.2397, F.S.; authorizing law enforcement and emergency vehicles to flash headlights; amending s. 316.2955, F.S.; directing the Department of Highway Safety and Motor Vehicles to make certain rules with respect to window sunscreening material; amending s. 316.302, F.S.; revising the rules to which commercial motor vehicles are subject; amending s. 316.545, F.S.; authorizing the issuance of temporary fuel-use permits; amending s. 316.613, F.S.; providing for vehicle manufacturers' integrated child seats; revising exemptions to the term "motor vehicle" with respect to child restraint laws; amending s. 316.615, F.S.; revising provisions with respect to the inspection of school buses; requiring certain insurance coverage; amending s. 316.640, F.S.; providing for enforcement of traffic laws; amending s. 316.650, F.S.; revising provisions with respect to traffic citations; repealing s. 316.71, F.S., relating to the suspension or delay of specified functions and requirements, and the imposition of specified fees relating to highway safety and motor vehicles; amending s. 318.14, F.S.; revising provisions with respect to noncriminal traffic infractions; amending s. 318.1451, F.S.; providing for an additional assessment to be collected by driver improvement schools; amending s. 319.231, F.S.; revising provisions with respect to exceptions to an additional fee imposed on certain motor vehicle title or registration-only transactions; amending s. 319.25, F.S.; deleting provisions with respect to lists and searches and fees with respect to cancellation of certificates of title; amending s. 320.01, F.S.; providing a definition with respect to fifth-wheel trailers; amending ss. 320.08, 320.081, F.S.; conform references; amending s. 320.822, F.S.; revising license fees and standards for trailers; amending s. 320.02, F.S.; authorizing licensed inspectors to issue notice of violations; providing penalties; providing for voluntary contributions, while registering certain motor vehicles, for deposit into the Transportation Disadvantaged Trust Fund; amending s. 320.03, F.S.; providing an exemption for the transfer of a registration by a motor vehicle dealer; amending s. 322.058, F.S.; providing an exemption for the transfer of a registration by a motor vehicle dealer; amending s. 320.05, F.S.; providing for lists and searches and fees with respect to certain documents; amending s. 320.06, F.S.; revising provisions with respect to the form of certain registration license plates and revising a fee schedule; amending s. 320.0605, F.S., relating to certificate of registration; revising the period of applicability; amending s. 320.0607, F.S.; providing for a reduced fee to replace stolen plates, stickers, or decals; creating s. 320.0657, F.S.; providing for permanent registration and for fleet license plates; amending s. 320.08, F.S.; revising provisions with respect to license taxes on heavy trucks and truck tractors; creating s. 320.08035, F.S.; providing for reduced-dimension license plates for certain vehicles owned or leased by disabled persons; amending s. 320.0805, F.S.; providing for personalized prestige license plates for lessees of motor vehicles; amending s. 320.08065, F.S.; revising provisions with respect to Florida panther license plates; amending s. 320.08066, F.S.; revising provisions with respect to manatee license plates; amending s. 320.0808, F.S.; providing for the issuance of Challenger license plates to lessees; amending s. 320.0809, F.S.; providing for the issuance of collegiate license plates to lessees; amending s. 320.083, F.S.; providing that certain license plates available to amateur radio operators shall be available for lessees of motor vehicles; amending s. 320.089, F.S.; authorizing lessees to receive certain license plates; amending s. 320.0895, F.S.; revising provisions with respect to Florida Salutes Veterans license plates; amending s. 320.0896, F.S.; providing for Florida Special Olympics license plates to motor vehicle lessees; amending s. 320.1325, F.S.; prohibiting the issuance of temporarily employed registration plates to any commercial motor vehicle; providing for the issuance to lessees; amending s. 320.18, F.S.; providing for the canceling of registration; amending s. 320.27, F.S.; redefining the term "motor vehicle dealer"; amending s. 320.8231, F.S.; conforming a cross-reference; amending s. 320.824, F.S.; conforming a cross-reference; amending s. 320.8285, F.S.; revising provisions with respect to onsite inspection of mobile homes; repealing s. 320.866, F.S., relating to fees for certain documents; amending s. 322.01, F.S.; revising definitions; amending s. 322.02, F.S.; providing for reciprocal agreements with other political entities; amending s. 322.0261, F.S.; revising provisions with respect to mandatory driver-improvement courses; providing for a fee; amending s. 322.03, F.S.; providing requirements with respect to the operation of a motorcycle; amending s. 322.055, F.S.; providing for petition for restora-

tion of driving privilege for certain violations; amending s. 322.12, F.S.; providing for a hazardous-materials endorsement on a person's driver's license; amending s. 322.121, F.S.; revising provisions with respect to the periodic reexamination of all drivers; amending s. 322.126, F.S.; requiring certain reports to describe a driver's alleged disability; amending s. 322.221, F.S.; prescribing matters that constitute good cause for the department to examine the competency of a driver; amending s. 322.14, F.S.; requiring certain persons seeking a driver's license to appear in person; amending s. 322.21, F.S.; revising provisions with respect to certain persons who are exempt from delinquent fees for license expiration; amending s. 322.22, F.S.; revising provisions with respect to license cancellation; amending s. 322.24, F.S.; providing reference to foreign countries with respect to license suspension; amending s. 322.27, F.S.; revising provisions with respect to the point system for out-of-state convictions; amending s. 322.271, F.S.; prohibiting the issuance of commercial driver's licenses under certain circumstances; amending s. 322.34, F.S.; revising provisions with respect to driving without a driver's license or while the driver's license or driving privilege is suspended, revoked, canceled, or disqualified; amending s. 322.53, F.S.; providing an additional exemption from the requirement of having to obtain a commercial driver's license; amending s. 322.57, F.S.; providing for requirements with respect to tests for hazardous-materials endorsements; amending s. 322.66, F.S.; revising provisions with respect to vehicles permitted to be driven during a skills test; amending s. 324.031, F.S.; revising amounts with respect to proving financial responsibility; amending s. 324.051, F.S.; revising the accident-reporting requirements for law enforcement officers for purposes of the motor-vehicle-owner-or-operator financial-responsibility laws; amending s. 324.071, F.S.; increasing a reinstatement fee; amending s. 324.161, F.S.; increasing amounts with respect to proof of financial responsibility; amending s. 325.202, F.S.; redefining the term "program area"; repealing s. 3(7) of ch. 89-168, Laws of Florida, which provides for the repeal of s. 320.08066, F.S., on January 1, 1995; providing an effective date.

—was read the second time by title.

Senator Myers moved the following amendments which were adopted:

Amendment 1 (with Title Amendment)—On page 7, lines 29 and 30 and on page 8, lines 1-10, strike all of said lines and renumber subsection sections.

And the title is amended as follows:

In title, on page 1, strike all of lines 3-5 and insert: vehicles; amending s. 207.004, F.S.; providing for

Amendment 2—On page 13, strike all of lines 15-20 and insert: this state shall be multiplied by the rates provided in chapter 206, part II of chapter 212, the minimum tax rates provided in ss. 336.021 and 336.025, and the tax rate provided in s. 336.026. From the sum determined by this calculation, there shall be allowed a credit equal to the amount of the tax per gallon under

Amendment 3 (with Title Amendment)—On page 25, strike all of lines 9-14 and insert:

Section 24. Subsections (5) and (8) of section 316.2397, Florida Statutes, are amended to read:

316.2397 Certain lights prohibited; exceptions.—

(5) Road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists. Additionally, school buses and vehicles that are used to transport farm workers may display flashing white strobe lights.

(8) Subsections (1) and (7) do ~~Subsection (1)~~ does not apply to police, fire, or authorized emergency vehicles while in the performance of their necessary duties.

And the title is amended as follows:

In title, on page 2, line 14, after the second semicolon (;) insert: authorizing flashing white strobe lights on vehicles that transport farm workers;

Amendment 4 (with Title Amendment)—On page 32, line 20, strike "\$3 \$2.50" and insert: \$2.50

And the title is amended as follows:

In title, on page 3, strike all of lines 11 and 12 and insert: F.S.; providing a cross-reference;

Amendment 5 (with Title Amendment)—On page 40, strike all of lines 1-3 and insert: *vehicle is exempt from such registration, the*

And the title is amended as follows:

In title, on page 3, strike all of lines 26 and 27 and insert: to issue notice of violations; providing for voluntary

Amendment 6—On page 45, line 28, strike "\$61.50" and insert: \$25

Amendment 7 (with Title Amendment)—On page 67, lines 11-31 and on page 68, lines 1 and 2, strike all of said lines and insert:

Section 69. Subsection (2) of section 322.0261, Florida Statutes, is amended to read:

322.0261 Mandatory driver improvement course; certain accidents.—

(2) With respect to an operator convicted of, or who pleaded nolo contendere to, a traffic offense giving rise to an accident identified pursuant to subsection (1), the department shall require that the operator, in addition to other applicable penalties, attend a departmentally approved driver improvement course in order to maintain driving privileges. *If the operator fails to complete the course within 90 days of receiving notice from the department, the operator's driver's license shall be canceled by the department until the course is successfully completed.*

And the title is amended as follows:

In title, on page 5, strike all of lines 30 and 31 and insert: mandatory driver improvement; amending s. 322.03, F.S.; providing

Amendment 8 (with Title Amendment)—On page 82, lines 27-31 and on page 83, lines 1-16, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 7, strike all of lines 17 and 18 and insert: 324.161, F.S.; increasing amounts

Senator Forman moved the following amendments which were adopted:

Amendment 9—On page 18, strike all of lines 5-11 and insert: *causes or results in the death of another person may, in addition to any other civil, criminal, or administrative penalty imposed, be required by the court to serve 120 community-service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community-service program operated by the trauma center or hospital.*

Amendment 10—On page 18, line 24; on page 19, lines 7 and 31; and on page 20, line 11, strike "must" and insert: *may*

Amendment 11—On page 18, line 25; on page 19, lines 8 and 17; and on page 20, lines 1 and 11, strike "mandatory"

Amendment 12—On page 61, line 9, after "transaction" insert: *A motor vehicle dealer may, at wholesale, sell a recreational vehicle as described in s. 320.77, acquired in exchange for the sale of a motor vehicle, provided such acquisition is incidental to the principal business of being a motor vehicle dealer. However, a motor vehicle dealer may not buy a recreational vehicle for the purpose of resale unless licensed as a recreational vehicle dealer pursuant to s. 320.77*

Amendment 13—On page 62, line 20, after "vehicles" insert: *or recreational vehicles*

Amendment 14—On page 63, between lines 24 and 25, insert:

Section 25. Subsection (1) of section 320.77, Florida Statutes, is amended to read:

320.77 License required of mobile home and recreational vehicle dealers.—

(1) DEFINITIONS.—As used in this section:

(a) "Dealer" means any person engaged in the business of buying, selling, or dealing in mobile homes or recreational vehicles or offering or dis-

playing mobile homes or recreational vehicles for sale. The term "dealer" includes a mobile home or recreational vehicle broker. Any person who buys, sells, deals in, or offers or displays for sale, or who acts as the agent for the sale of, one or more mobile homes or recreational vehicles in any 12-month period shall be prima facie presumed to be a dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "dealer" does not include banks, credit unions, and finance companies that acquire mobile homes or recreational vehicles as an incident to their regular business and does not include mobile home rental and leasing companies that sell mobile homes or recreational vehicles to dealers licensed under this section. *A licensed dealer may transact business in recreational vehicles with a motor vehicle auction as defined in s. 320.27(1)(c)4.* Any licensed dealer dealing exclusively in mobile homes shall not have benefit of the privilege of using dealer license plates.

(Renumber subsequent sections.)

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

Amendment 15 (with Title Amendment)—On page 57, lines 13-30 and on page 58, lines 1-8, strike all of said lines and insert:

(2) Each owner or lessee of an automobile for private use, truck weighing not more than 5,000 pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and who is a former prisoner of war, or their unremarried surviving spouse, shall, upon application therefor to the department, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Ex-POW" followed by the serial number. Each application shall be accompanied by proof that the applicant meets the qualifications specified in paragraph (a) or paragraph (b).

(a) A citizen of the United States who served as a member of the Armed Forces of the United States or the armed forces of a nation allied with the United States who was held as a prisoner of war at such time as the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection without payment of the license tax imposed by s. 320.08.

(b) A person who was serving as a civilian with the consent of the United States Government, or a person who was a member of the Armed Forces of the United States who was not a United States citizen and was held as a prisoner of war when the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection upon payment of the license tax imposed by s. 320.08.

And the title is amended as follows:

In title, on page 5, line 6, after "lessees" insert: and the unremarried surviving spouse of an owner or lessee

Senator Kurth moved the following amendment which was adopted:

Amendment 16 (with Title Amendment)—On page 26, between lines 15 and 16, insert:

Section 27. Subsection (3) is added to section 316.303, Florida Statutes, to read:

316.303 Television receivers.—

(3) *This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 24, after the semicolon (;) insert: amending s. 316.303, F.S.; authorizing the use of electronic displays used in conjunction with vehicle navigation systems;

THE PRESIDENT PRESIDING

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 17 (with Title Amendment)—On page 31, line 22 through page 32, line 4, strike all of said lines and insert:

(9) Any person *who is* cited for an infraction under this section other than a violation of s. 320.0605(1), s. 320.07(3)(a), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his choice *within this state* a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such case, adjudication shall be withheld; points, as provided by s. 322.27, shall not be assessed; and the civil penalty that is imposed by s. 318.18(3) shall be reduced by 18 percent; however, an election may not be made under this subsection if such person has made an election under this subsection in the 12 months preceding election hereunder. A person may ~~not~~ make no more than five ~~three~~ elections under this subsection.

And the title is amended as follows:

In title, on page 1, line 29, following the semicolon (;) insert: increasing the maximum number of times that a person who is cited for certain infractions may elect to attend a basic driver-improvement course in lieu of a court appearance;

The vote was:

Yeas—24 Nays—12

Senator Dudley moved the following amendment which was adopted:

Amendment 18—On page 31, between lines 2 and 3, insert:

Section 32. Paragraph (b) of subsection (2) of section 316.006, Florida Statutes, is amended to read:

316.006 Jurisdiction.—Jurisdiction to control traffic is vested as follows:

(2) Municipalities.—

(b) A municipality may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located within its boundaries if the municipality and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the municipality, for municipal traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. The exercise of jurisdiction provided herein shall be in addition to jurisdictional authority presently exercised by municipalities under the law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority. *Such jurisdiction includes regulation of access to such road or roads by security devices or personnel.*

This subsection shall not limit those counties which have the charter powers to provide and regulate arterial, toll, or other roads, bridges, tunnels, and related facilities from the proper exercise of those powers by the placement and maintenance of traffic control devices which conforms to the manual and specifications of the Department of Transportation on streets and highways located within municipal boundaries.

Section 33. Paragraph (w) is added to subsection (1) of section 316.008, Florida Statutes, to read:

316.008 Powers of local authorities.—

(1) The provisions of this chapter shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from:

(w) *Regulating, restricting or monitoring traffic by security devices or personnel on public streets and highways, whether by public or private parties and providing for the construction and maintenance of such streets and highways.*

(Renumber subsequent sections.)

Senator Forman moved the following amendment:

Amendment 19 (with Title Amendment)—On page 31, between lines 2 and 3, insert:

Section 32. Paragraph (b) of subsection (4) of section 316.660, Florida Statutes, is amended to read:

316.660 Disposition of fines and forfeitures collected for violations.—

(4)

(b) This surcharge shall be placed in a trust fund established by the governing body of the county ~~or municipality~~ called the School Crossing Guard Trust Fund. *Only one such fund may be established in each county.* Funds collected from this surcharge shall be distributed quarterly to fund the school crossing guard programs provided in s. 318.21(3). *The funds shall be distributed to the county, if the county imposes the surcharge, and to each municipality that imposes the surcharge, based on the proportion of crossing guards in that governmental entity to the total number of crossing guards in governmental entities in the school district which impose the surcharge.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 3, line 4, following the semicolon (;) insert: amending s. 316.660, F.S.; providing that only one School Crossing Guard Trust Fund may be created in each county; providing for distributing moneys in the fund;

Senator Forman moved the following substitute amendment which was adopted:

Amendment 20—On page 31, between lines 2 and 3, insert:

Section 32. Paragraph (c) is added to subsection (4) of section 316.660, Florida Statutes, to read:

316.660 Disposition of fines and forfeitures collected for violations.—

(4)

(c) *Where the county government is operating a school crossing guard program in the exercise of its municipal responsibilities, the county may, by majority vote of the governing board of such county impose a countywide surcharge on parking fines for the sole purpose of funding school crossing guard programs throughout the county; however the governing body may set aside funds from this surcharge to pay for startup costs and recurring administrative costs related to printing new tickets or other means of implementing the program. The surcharge shall be authorized by ordinance requiring public hearings. This surcharge, established by the governing body of the county, shall be placed in a trust fund called the School Crossing Guard Trust Fund. Funds collected from this surcharge shall be distributed quarterly to jurisdictions to fund school crossing guard programs based on each jurisdiction's percent of crossing guards to the total in the county school district.*

On motion by Senator Myers, by two-thirds vote **CS for CS for SB 1318** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

MOTION

On motion by Senator Kirkpatrick, the rules were waived and time of recess was extended until final action on **SB 2274**.

Pursuant to the motion by Senator Kirkpatrick on April 4, the hour of 3:38 p.m. having arrived, the Senate proceeded to consideration of—

CS for CS for SB 1824—A bill to be entitled An act relating to governmental performance and accountability; providing legislative intent; amending s. 11.40, F.S.; renaming the Legislative Auditing Committee as the Legislative Auditing and Accountability Committee; prescribing its membership and duties; creating s. 216.0313, F.S.; providing for review of performance-based programs; creating s. 11.507, F.S.; providing for policy evaluation and review; creating s. 14.271, F.S.; creating the Commission on Government Accountability to the People; prescribing its membership and duties; amending s. 216.011, F.S.; defining the terms "baseline data," "outcome," "output," "performance-based program budget," "performance measure," "program," and "standard" for purposes of fiscal affairs of the state and budgeting; creating s. 216.0166, F.S.; prescribing guidelines for state agencies and the judicial branch to use in submitting performance-based program budget requests; creating s. 216.0172, F.S.; requiring establishment of performance-based program budgets for each program that can be properly administered under such a budget; creating s.

216.0235, F.S.; requiring state agencies to furnish legislative program budget requests; providing for review of such budgets by the Executive Office of the Governor; amending s. 216.031, F.S.; requiring certain information relating to performance-based program budgets to be submitted with agencies' and the judicial branch's legislative budget requests; amending s. 216.163, F.S.; providing for the Executive Office of the Governor to recommend budgetary incentives or disincentives after reviewing evaluations of state agency performance; requiring legislative ratification of such incentives or disincentives; amending s. 216.292, F.S.; providing for distribution by agency heads or by the Chief Justice of lump-sum appropriations for performance-based programs; authorizing transfer of funds and providing for legislative oversight of transfers; transferring certain positions and fund balances from the Auditor General to the Legislative Auditing and Accountability Committee; amending s. 20.055, F.S.; abolishing the position of agency chief internal auditor and creating the position of inspector general in each state agency; prescribing the duties of that office with respect to ensuring accountability, integrity, and efficiency in agency performance; creating s. 14.32, F.S.; creating the position of Chief Inspector General in the Executive Office of the Governor and prescribing duties of that position; providing for agency inspectors general to assume other statutory duties of agency chief internal auditors not specifically addressed in this act; providing for a reviser's bill; amending ss. 11.13, 11.149, 11.401, 11.42, 11.43, 11.44, 11.45, 11.46, 11.50, 11.51, 11.511, 11.513, 20.055, 20.23, 24.123, 112.3189, 189.409, 215.95, 216.0165, 216.052, 216.251, 218.32, 218.38, 218.503, 286.036, 287.114, 288.906, 288.9517, 299.9616, 339.149, 350.061, 350.0614, 400.335, 570.903, 766.105, 766.315, 946.516, F.S.; conforming those sections to the renaming of the Legislative Auditing Committee; repealing, at a future date, s. 11.40, F.S., relating to the Legislative Auditing and Accountability Committee, and providing for legislative review of the committee before that date; providing an effective date.

—which was read the second time by title.

SENATOR SILVER PRESIDING

Senator Williams moved the following amendment:

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

Section 1. Legislative Intent.—It is the intent of the Legislature to change the manner in which state government provides its services to the people of this state in order that such services can be provided in a more efficient and effective manner. While governmental reform cannot occur overnight, it must start now and continue steadfastly into the future. State agencies must begin to better understand their mission and define their outputs and to be held accountable for the quality of services provided to the public. The Legislature must also be provided sufficient information about state programs to determine not only whether the programs are meeting their objectives, but whether those programs, no matter how well-managed, address the needs of this state and should be continued. It is the intent of the Legislature that this effort be given the highest priority in order to ensure the future of our state.

Section 2. Section 11.40, Florida Statutes, is amended to read:

11.40 Legislative Auditing and Accountability Committee.—

(1) There is created a standing joint committee of the Legislature designated the Legislative Auditing and Accountability Committee, composed of 10 members as follows: 5 members of the Senate, to be appointed by the President of the Senate, and 5 members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. Vacancies occurring during the interim period shall be filled in the same manner as the original appointment. The members of the committee shall elect a chairman and vice chairman. During the 2-year term, a member of each house shall serve as chairman for 1 year.

(2) There is created within the committee the Office of Program Policy Analysis and Government Accountability. The committee may employ a staff director, subject to confirmation by a majority vote of the Senate and the House of Representatives, to supervise and manage the staff of this office. The committee shall review the performance of the staff director every 4 years and shall submit a report to the Legislature recommending whether the staff director should be reappointed. The appointment of the staff director may be terminated at any time by a majority vote of the Senate and the House of Representatives. The

reappointment of a staff director is subject to confirmation by a majority vote of the Senate and the House of Representatives. A vacancy in the office must be filled in the same manner as the original appointment.

(a) The general duties of the office are to:

1. Maintain a continuous review of state government in order to address ways of making state agencies and programs more effective, efficient, and accountable;
2. Develop and recommend to the Legislature performance measures and standards for the assessment of program performance;
3. Review the performance of programs pursuant to the measures approved by the Legislature;
4. Coordinate legislative accountability and reform efforts in, and among, state agencies; and
5. Perform policy analysis of programs pursuant to standards adopted by the committee.

(b) The office shall prepare for the committee's introduction bills, resolutions, or joint resolutions as it determines to be necessary to effectuate its recommendations pursuant to the purposes and directives of this section.

(c) The office may inspect and investigate the books, records, and physical plant of any state agency, and each agency shall compile and furnish to the office such testimony, information, books, and records as the office requests. The office may compel by subpoena duces tecum the production of any books, records, or any other documentary evidence that the committee wishes to examine with respect to its duties, and the committee chairman shall issue such subpoenas duces tecum on behalf of the office.

Section 3. Section 216.0313, Florida Statutes, is created to read:

216.0313 Review of performance-based programs.—

(1) No later than July 1 of the year in which a program begins operation under a performance-based program budget, the Legislative Auditing and Accountability Committee shall develop, in consultation with the agency, a plan for monitoring and reviewing that program to ensure that performance data are maintained and supported by agency records.

(2) The performance-based review shall be comprehensive and shall specifically determine the following, and consider what changes, if any, are needed with respect to:

- (a) The identifiable cost of each program.
- (b) The specific purpose of each program as well as the specific public benefit derived therefrom.
- (c) The progress toward achieving the outputs and outcomes associated with each program.
- (d) An explanation of circumstances contributing to the ability to achieve, not achieve, or exceed projected outputs and outcomes associated with each program.

(e) Alternate courses of action that would result in administration of the same program in a more efficient or effective manner, including having the program performed by a private entity.

(f) The consequences of discontinuing the program, including a description of alternatives and a schedule to implement such recommendation.

(g) Whether the management has established control systems sufficient to ensure that performance data are maintained and supported by records and accurately presented in performance reports.

(h) The progress toward achieving the performance measures approved by the Legislature for each program and an explanation of the circumstances contributing to the ability to achieve, not achieve, or exceed such performance measures.

(3) No later than January 1 of the second year in which an agency begins operating a program under a performance-based program budget, the Legislative Auditing and Accountability Committee shall submit a report of its findings and recommendations to the President of the

Senate, the Speaker of the House of Representatives, the chairpersons of the appropriate substantive committees, the chairpersons of the appropriations committees, the Governor, and the head of each state agency that was a subject of the review.

Section 4. Section 11.507, Florida Statutes, is created to read:

11.507 Policy evaluation and review for non-performance-based programs.—

(1) Each state agency is subject to a program and justification review by the Legislative Auditing and Accountability Committee. No later than October 1 of the year in which an agency has been scheduled for review, the committee shall initiate a policy evaluation and justification review of the agency's programs as determined by the committee.

(2) The scheduled evaluation and justification review must be comprehensive and, at a minimum, must be conducted in such a manner as to specifically determine the following, and to consider and determine what changes, if any, are needed with respect thereto:

(a) The identifiable cost of each program.

(b) The specific purpose of each program, as well as the specific public benefit derived therefrom.

(c) Alternate courses of action that would result in administration of the same program in a more efficient or effective manner. The courses of action to be considered must include, but are not limited to:

1. Whether the implementing agency or judicial branch could be organized in a more efficient and cost-effective manner or should be reduced in size or eliminated.

2. Whether a program that is implemented by more than one agency could be administered more efficiently or effectively to avoid duplication of activities and ensure that activities are adequately coordinated.

3. Whether the program could be performed more efficiently or effectively by a level of government other than the state, by another state agency, or by a private entity.

4. Whether procedures should be modified to ensure that each program efficiently and effectively meets the needs of the public.

(3) The extent to which the duties and functions of the program are required by the State Constitution or justify the cost to the taxpayer for the accomplishment of those duties and functions.

(4) The consequences of discontinuing such program. If any discontinuation is recommended, such recommendation must be accompanied by a description of the methods suggested for implementing such recommendation, including an implementation schedule for discontinuing the program and procedures for assisting employees affected by the discontinuation.

(5) Whether it would be desirable public policy to continue funding the program, either in whole or in part, in the existing manner. In making such a determination, the committee shall evaluate whether programs funded by taxes paid by the general population of the state serve broad-based or limited interests. If a program is found to serve a limited interest, the review must contain recommendations as to whether it would be sound public policy to continue funding the program, either in whole or in part, in the existing manner.

(6) Whether the implementation of the program, including the agency's or court's implementation through its rules, is cost-effective and consistent with the policies of the Legislature as expressed or recognized in law, including the state comprehensive plan, and whether such policies remain sound policies and whether the policies, programs, and activities are sufficient to serve the identified needs of the state or should be changed.

(7) No later than July 1 after the initiation of a policy evaluation and review, the committee shall submit a report of the policy evaluation and justification review findings to the President of the Senate, the Speaker of the House of Representatives, the Auditor General, the Governor, the Chief Justice, or the head of each agency that was the subject of the policy evaluation and justification review, the head of any state agency that is substantially affected by the findings and recommendations, and the Commission on Governmental Accountability to the People. The report of findings shall also be presented to the appropriations committee and appropriate substantive committees in each house of the Legislature.

(8) The Governor, for the executive branch, and Chief Justice for the judicial branch, shall present to the committee, at least annually by November 30, their recommendations relating to any transfer, reduction, abolition, consolidation, coordination, authorization, change in policy or practice, change in funding source, or reduction of personnel or funds of any executive branch state agency or any judicial branch entity, respectively.

Section 5. Section 14.271, Florida Statutes, is created to read:

14.271 Commission on Government Accountability to the People.—

(1) There is created the Commission on Government Accountability to the People.

(2) The commission shall consist of 15 members appointed by the Governor, subject to confirmation by the Senate, with nine members from the private sector and six members from the public sector. The members shall serve 4-year terms. Of the initial appointees, terms shall be staggered as follows: three members shall hold 1-year terms; four members shall hold 2-year terms; four members shall hold 3-year terms; and four members shall hold 4-year terms. The Governor shall fill all vacancies. Upon the request of the chair of the commission or upon the chair's own initiative, the Governor may replace members who are absent from two commission meetings within any calendar year.

(3) The Governor shall appoint the initial chair. Subsequent chairs shall be elected by a majority vote of the commission, shall serve 1-year terms, and shall be eligible for reelection. The commission shall elect the vice chair from its membership.

(4) The commission shall hold a minimum of four regular meetings during the calendar year. Additional meetings may be called by the chair or upon written request of a majority of the members of the commission. All meetings of the commission are public in accordance with the provisions of s. 286.011.

(5) The commission may establish such committees as it deems necessary to execute its powers and duties.

(6) Members of the commission shall not receive compensation for their service; however, they shall be entitled to per diem and travel expenses pursuant to s. 112.061. Public-sector members shall perform their commission duties in addition to fulfilling their regular public duties.

(7) The commission shall be assigned to the Executive Office of the Governor for administrative and fiscal accountability purposes, and the Executive Office of the Governor shall provide administrative support and services to the commission; otherwise, the commission shall function independently of the control and direction of the Governor.

(8) The commission shall, by majority vote, employ and set the compensation of an executive director, who shall serve at the pleasure of the commission.

(9) The commission may adopt and enforce reasonable procedures necessary to facilitate the studies and reviews it is authorized to perform.

(10) The commission shall track the impact of state agency actions upon the well-being of the people of this state by:

(a) Serving as a citizen board to review state agency performance, using agency strategic plans: reports from the Auditor General, the Executive Office of the Governor, and state agency internal auditors and inspectors general: and other sources as needed.

(b) Holding public hearings to allow state agencies that are operating under a performance-based program budget pursuant to s. 216.0172 the opportunity to explain factors which contributed to their success or failure in meeting performance measures.

(c) Receiving testimony from the public as to state agency performance.

(d) Assessing the progress of state agencies in meeting their missions, goals, and objectives.

(e) Making recommendations that could enhance the productivity of agencies, encourage continued agency improvement, ensure achievement of adopted performance standards, and assist state government in improving the efficiency and effectiveness of the services and products it provides.

(f) Preparing and submitting, by July 1 of each year, a report to the Governor and Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Analysis and Agency Review a report summarizing the activities and findings of all assessments made by the commission.

State agencies shall cooperate with the commission and shall provide data and information available to enable the commission to perform its functions. The Executive Office of the Governor and the Auditor General may provide assistance, within available resources, to the commission as necessary.

Section 6. Paragraphs (oo), (pp), (qq), (rr), (ss), (tt), and (uu) are added to subsection (1) of section 216.011, Florida Statutes, to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, each of the following terms has the meaning indicated:

(oo) *"Baseline data" means indicators of a state agency's or a judicial branch entity's current performance level, pursuant to guidelines established by the Executive Office of the Governor or by the Chief Justice, respectively, in conjunction with the Legislative Auditing and Accountability Committee and other appropriate legislative committees.*

(pp) *"Outcome" means an indicator of the actual impact or public benefit of a program.*

(qq) *"Output" means the actual service or product delivered by a state agency.*

(rr) *"Performance-based program budget" means a budget that incorporates approved programs, and performance measures.*

(ss) *"Performance measure" means a quantitative or qualitative indicator used to assess state agency performance.*

(tt) *"Program" means a set of activities undertaken in accordance with a plan of action organized to realize identifiable goals and objectives based on legislative authorization.*

(uu) *"Standard" means the level of performance of an outcome or output.*

Section 7. Section 216.0166, Florida Statutes, is created to read:

216.0166 Submission by state agencies of performance-based budget requests.—

(1) By October 15 prior to the year in which a state agency is required to submit a performance-based program budget request pursuant to s. 216.0172, such state agency shall identify and provide a list of its programs for which it intends to develop performance measures to the Executive Office of the Governor. In developing such program list, the agency shall consult with the appropriate legislative committees and the Legislative Auditing and Accountability Committee. The Executive Office of the Governor shall review, provide direction for, require changes in, and approve or disapprove the list within 30 days after the list has been submitted. Upon approval, the Executive Office of the Governor shall provide the list to the Legislature.

(2) By October 15 prior to the year in which the judicial branch is required to submit a performance-based program budget request, the office of the State Courts Administrator, in consultation with the various courts, shall identify and provide a list of programs for which it intends to develop performance measures to the Chief Justice of the Supreme Court. In developing the program list, a representative appointed by the Chief Justice shall consult with the appropriate legislative committees and the Legislative Auditing and Accountability Committee. The Chief Justice shall review, provide direction for, require changes in, and approve or disapprove the list within 30 days after the list has been submitted. Upon approval, the Chief Justice shall provide the list to the Legislature.

(3) The following documentation must accompany the list developed pursuant to subsection (1) or subsection (2):

(a) The constitutional or statutory direction and authority for each program.

(b) Identification of the customers, clients, and users of the program.

(c) The purpose of the program or the benefit derived by the customers, clients, and users of the program.

(d) Direct and indirect costs of the program.

(e) Information on fees collected and the adequacy of those fees in funding programs for which they are collected.

(4) The Executive Office of the Governor and the Legislative Auditing and Accountability Committee, in consultation with the appropriate legislative committees, shall jointly develop instructions for the development of performance measures for each program recommended pursuant to this section and shall submit such instructions to the agencies prior to February 15.

(5) Upon approval of the lists required pursuant to subsection (1), each state agency is required to submit to the Executive Office of the Governor prior to June 1 preliminary performance measures for each program. In developing such preliminary performance measures, the agency shall consult with the appropriate legislative committees and the Legislative Auditing and Accountability Committee. State agencies shall also identify the outputs produced by the approved program, the outcomes resulting from the approved program, and baseline data associated with each performance measure. Each state agency shall submit documentation as required by the Executive Office of the Governor regarding the validity, reliability, and appropriateness of each performance measure. Performance measures shall be reviewed and approved or disapproved by the Executive Office of the Governor within 30 days after receipt. Upon approval, the Executive Office of the Governor shall provide the recommended performance measures to the Legislative Auditing and Accountability Committee.

(6) Upon approval of the list required pursuant to subsection (2), each approved program is required to submit to the Chief Justice of the Supreme Court prior to June 1 preliminary performance measures for such program. In developing such preliminary performance measures, the judicial branch shall consult with the appropriate legislative committees and the Legislative Auditing and Accountability Committee. The judicial branch shall also identify the outputs produced by each program, the outcomes resulting from the program, and baseline data associated with each performance measure. Documentation shall be submitted for each program as required by the Chief Justice regarding the validity, reliability, and appropriateness of each performance measure. Performance measures shall be reviewed and approved or disapproved by the Chief Justice within 30 days after receipt. Upon approval, the Chief Justice shall provide the recommended performance measures to the Legislative Auditing and Accountability Committee.

(7) The Legislative Auditing and Accountability Committee shall recommend to the Legislature performance measures to be used in the assessment of program performance. Such measures to be recommended shall be developed in consultation with the substantive legislative committees charged with oversight responsibilities of the program and after consideration of the performance measures recommended by the Executive Office of the Governor or the Chief Justice. The measures shall be developed under the general policies established by the Legislative Auditing and Accountability Committee. The Legislature shall have final approval, through the General Appropriations Act or legislation implementing the General Appropriations Act, of all programs and performance measures.

(8) Annually, no later than 45 days after the General Appropriations Act becomes law, state agencies may submit to the Executive Office of the Governor any adjustments to their performance measures or standards based on the amounts appropriated for each program by the Legislature. When such adjustment is made, all performance measures or standards, including any adjustments made, shall be submitted to and reviewed and revised as necessary by the Executive Office of the Governor and, upon approval, submitted to the Legislature subject to the review and approval process provided in s. 216.177. The Legislative Auditing and Accountability Committee shall maintain the official record of adjustments to the performance measures and standards.

(9) A state agency or the judicial branch operating a program under a performance-based program budget may not amend or change the program or any performance measures approved by the Legislature. A state agency or the judicial branch may propose a revision to an approved program or performance measure in the same manner and in accordance

with the same time requirements as described in this section. A state agency or the judicial branch may propose an emergency revision to an approved program or performance measure if such program or performance measure prohibits that agency or the judicial branch from fulfilling its constitutional or statutory duties. Such request, along with sufficient information to document the emergency, must be submitted to the Executive Office of the Governor or the Chief Justice and, upon approval, must be provided to the Legislature. The Legislature shall review the request and supporting documentation and may approve the request in the next General Appropriations Act, or legislation implementing the General Appropriations Act.

Section 8. Section 216.0172, Florida Statutes, is created to read:

216.0172 Performance-based program budgets required.—It is the intent of the Legislature that performance-based program budgets be established for all programs in state agencies and the judicial branch which can be properly administered under such a budget approach. As soon as practicable, but no later than 10 years after the effective date of this act, performance-based program budgets shall be established for all such programs. In order to meet this deadline, performance-based program budgets shall be submitted to the Executive Office of the Governor and the Legislature based on the following schedule:

- (1) By September 1, 1995, for the 1996-1997 fiscal year, by the following:
 - (a) Department of Revenue; and
 - (b) Department of Law Enforcement.
- (2) By September 1, 1996, for the 1997-1998 fiscal year, by the following:
 - (a) Department of Management Services; and
 - (b) Department of Highway Safety and Motor Vehicles.

The Legislative Auditing and Accountability Committee, prior to September 1, 1995, shall establish a schedule for the submission of performance-based program budgets for state agencies not previously scheduled, and the judicial branch.

Section 9. Section 216.0235, Florida Statutes, is created to read:

216.0235 Performance-based legislative program budget requests to be furnished by agencies.—

(1) The head of each state agency shall submit a final legislative program budget request to the Legislature and to the Governor, as chief budget officer of the state, in the form and manner prescribed in the program budget instructions and at such time as specified by the Executive Office of the Governor, based on the agency's independent judgment of its needs. However, a state agency may not submit its final legislative program budget request later than September 1 of each year. Agencies submitting a final legislative performance-based program budget requests, are not subject to the requirements of s. 216.023.

(2) The judicial branch and the Division of Administrative Hearings shall submit their final legislative program budget requests directly to the Legislature with a copy to the Governor, as chief budget officer of the state, in the form and manner prescribed in the program budget instructions. However, the final legislative program budget requests shall be submitted no later than September 1 of each year.

(3) The Executive Office of the Governor and the appropriations committees of the Legislature shall jointly develop legislative program budget instructions from which each agency that has an approved program and the judicial branch, pursuant to ss. 216.0166 and 216.043, shall prepare its legislative program budget request. The program budget instructions must be consistent with s. 216.141 and must be transmitted to each agency and to the judicial branch no later than June 15 of each year. In the event that agreement cannot be reached between the Executive Office of the Governor and the appropriations committees of the Legislature regarding legislative program budget instructions, the issue shall be resolved by the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(4) Each agency that has an approved program and the judicial branch shall submit for review a preliminary legislative program budget request to the Executive Office of the Governor, in the form and manner prescribed in ss. 216.0166 and 216.043, in accordance with the legislative program budget instructions, and at such time as is prescribed by the Executive Office of the Governor.

(5) The Executive Office of the Governor shall review the preliminary legislative program budget request for technical compliance with the budget format provided for in the program budget instructions. The Executive Office of the Governor shall notify the agency or the judicial branch of any adjustment required. The agency or judicial branch shall make the appropriate corrections in preparing its final legislative program budget request. If the appropriate technical corrections are not made in the final legislative program budget requests, the Executive Office of the Governor may adjust the program budget request to incorporate the appropriate technical corrections in the format of the request.

(6) At any time after the Governor and the Chief Justice submit their recommended program budgets to the Legislature, the head of the agency or judicial branch may amend his request by transmitting to the Governor and the Legislature an amended request in the form and manner prescribed in the legislative program budget instructions.

Section 10. Subsections (10) and (11) are added to section 216.031, Florida Statutes, to read:

216.031 Budgets for operational expenditures.—A legislative budget request, reflecting the independent judgment of the head of the state agency, and of the Chief Justice of the Supreme Court, with respect to the needs of the agency and the judicial branch for operational expenditures during the next fiscal year, shall be submitted by each head of a state agency and by the Chief Justice of the Supreme Court and shall contain the following:

(10) *For those agencies or the judicial branch operating programs under a performance-based program budget, an evaluation of the program's progress in meeting the performance measures and standards approved pursuant to s. 216.0166. Such evaluation shall be developed as prescribed by the program budget instructions and shall include any responses by the agency or the Chief Justice to the findings of the Legislative Auditing and Accountability Committee.*

(11) *For those agencies or the judicial branch requesting programs under a performance-based program budget, the baseline data, outcomes, and performance measures for current programs, including justification for those programs.*

Either chairman of a legislative appropriations committee, or the Executive Office of the Governor for state agencies, may require the agency or the Chief Justice to address major issues separate from those outlined in s. 216.023, this section, and s. 216.043 for inclusion in the requests of the agency or of the judicial branch. The issues shall be submitted to the agency no later than July 30 of each year and shall be displayed in its requests as provided in the budget instructions. The Executive Office of the Governor may request an agency, or the chairman of the appropriations committees of the Senate or House of Representatives may request any agency or the judicial branch, to submit no later than September 15 of each year a budget plan with respect to targets established by the Governor or either chairman. The target budget shall require each entity to establish an order of priorities for its budget issues and may include requests for multiple options for the budget issues. The target budget may also require each entity to submit a program budget or a performance-based budget in the format prescribed by the Executive Office of the Governor or either chairman; provided, however, the target budget format shall be compatible with the planning and budgeting system requirements set out in s. 216.141. Such a request shall not influence the agencies' or judicial branch's independent judgment in making legislative budget requests, as required by law.

Section 11. Subsection (5) is added to section 216.163, Florida Statutes, to read:

216.163 Governor's recommended budget; form and content; declaration of collective bargaining impasses.—

(5) *The Executive Office of the Governor shall review the evaluation report required by s. 216.031(10) and the findings of the Legislative Auditing and Accountability Committee, to the extent that they are available, request any reports or additional analyses as necessary, and submit a recommendation pursuant to paragraph (2)(g) which may include a recommendation regarding incentives or disincentives for program performance. Incentives or disincentives may apply to all or part of a state agency.*

(a) *Incentives may include, but are not limited to:*

1. *Additional flexibility in budget management.*

2. *Additional flexibility in salary rate and position management.*

3. *Retention of up to 50 percent of unexpended and unencumbered balances of appropriations, excluding special categories and grants in aid, which may be used for nonrecurring purposes, including, but is not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technological and other improvements.*

4. *Additional funds to be used for, but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technological and other improvements.*

(b) *Disincentives may include, but are not limited to:*

1. *Mandatory quarterly reports to the Executive Office of the Governor and the Legislature on the agency's progress in meeting performance standards.*

2. *Mandatory quarterly appearances before the Legislature, the Governor, or the Governor and Cabinet to report on the program's progress in meeting performance standards.*

3. *Elimination or restructuring of the program, which may include, but is not limited to, transfer of the program between divisions, transfer of the program between departments, or outsourcing all or a portion of the program.*

4. *Reduction of total positions for a program.*

5. *Restriction on or reduction of spending authority provided in s. 216.292(2)(c).*

6. *Reduction of managerial salaries.*

(c) *The Legislature shall approve, through the General Appropriations Act or legislation implementing the General Appropriations Act, all incentives and disincentives for each program within a state agency after consideration of the recommendation from the Executive Office of the Governor, after consultation with the appropriate substantive committees and after consideration of the past performance of that program in achieving its performance measures. All incentives or disincentives shall be approved on the basis of past demonstrated program performance.*

Section 12. Section 216.183, Florida Statutes, is created to read:

216.183 Entities using performance-based program budgets; chart of accounts.—State agencies and the judicial branch for which a performance-based program budget has been appropriated shall use the chart of accounts used by the State Automated Management Accounting Subsystem in the manner described in s. 215.93(3). The chart of accounts for state agencies and the judicial branch for which a performance-based program budget has been appropriated shall be developed and amended, if necessary, in consultation with the Department of Banking and Finance and the Executive Office of the Governor.

Section 13. Present subsections (2), (3), (4), (5), (6), (7), (8), and (9) of section 216.292, Florida Statutes, are renumbered as subsections (3), (4), (5), (6), (7), (8), (9), and (10), respectively, and a new subsection (2) is added to that section to read:

216.292 Appropriations nontransferable; exceptions.—

(2) *Lump sums appropriated for performance-based programs must be distributed by the agency head or the Chief Justice for the judicial branch into the traditional expenditure categories in accordance with s. 216.181(4)(b). At any time during the year, the agency head or Chief Justice may transfer funds between those categories with no limit on the amount of the transfer. Such transfers are not subject to the review requirements of this subsection and subsection (3), but such authorized revisions, together with related changes, if any, in the plan for release of appropriations must be transmitted by the state agency or by the judicial branch to the Comptroller for entry in his records in the manner and format prescribed by the Executive Office of the Governor in consultation with the Comptroller. A copy of such revision must be furnished to the Executive Office of the Governor or the Chief Justice, the chairmen of the legislative appropriations committees, and the Auditor General. Such authorized revisions must be consistent with the intent of the approved operating budget, must be consistent with legislative policy and intent, and must not conflict with specific spending policies specified in the General Appropriations Act. However, no transfer from any other budget entity, except pursuant to s. 216.181, may be*

made into the performance-based program, nor may any funds be transferred from the performance-based program to another budget entity. If the chairmen of the legislative appropriations committees or the President of the Senate and the Speaker of the House of Representatives timely advise the Executive Office of the Governor, the Chief Justice of the Supreme Court, or the Administration Commission, in writing, why an action or a proposed action subject to the notice and review requirements of this chapter exceeds the delegated authority of the Executive Office of the Governor for the executive branch, the Chief Justice for the judicial branch, or the Administration Commission, respectively, or is contrary to legislative policy and intent, the Governor, the Chief Justice of the Supreme Court, or the Administration Commission shall void such action and instruct the affected state agency or entity of the judicial branch to change immediately its spending action or spending proposal until the Legislature addresses the issue. The written documentation must indicate the specific reasons why an action or proposed action exceeds the delegated authority or is contrary to legislative policy and intent.

Section 14. Sixty-five full-time equivalent positions and all associated unexpended balances of appropriations, allocations, or other funds are transferred from the Office of the Auditor General, Program Audit Division, to the Office of Program Policy Analysis and Accountability of the Legislative Auditing and Accountability Committee. Five full-time equivalent positions and all associated unexpended balances of appropriations, allocations, or other funds are transferred from the Office of the Auditor General, Program Audit Division, to the Legislative Auditing and Accountability Committee.

Section 15. Section 20.055, Florida Statutes, is amended to read:

20.055 Agency inspector general ~~chief internal auditors~~.—

(1) For the purposes of this section:

(a) "State agency" means each department created pursuant to chapter 20, and also includes the Executive Office of the Governor, the Department of Military Affairs, the Parole Commission, *each water management district*, the Board of Regents, the Game and Fresh Water Fish Commission, the Public Service Commission, and the state courts system.

(b) "Agency head" means the Governor, a Cabinet officer, a secretary as defined in s. 20.03(5), or an executive director as defined in s. 20.03(6). It also includes the chairman of the Public Service Commission, *the governing board of each water management district*, and the Chief Justice of the State Supreme Court.

~~(c) "Chief internal auditor" means the person appointed by the agency head to direct the internal audit function for the state agency.~~

(2) *The office of inspector general is established in each state agency to provide a central point for coordination and responsibility for activities that promote accountability, integrity, and efficiency in government. It is the duty and responsibility of each inspector general, with respect to the state agency in which the office is established, to:*

(a) *Advise in the development of performance measures, standards, and procedures for the evaluation of state agency programs.*

(b) *Assess the reliability and validity of the information provided by the state agency on performance measures and standards and make recommendations for improvement, if necessary.*

(c) *Review the actions taken by the state agency to improve program performance and meet program standards and make recommendations for improvement, if necessary.*

(d) *Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations of the state agency, except that when the inspector general does not possess the qualifications described in subsection (4), the director of auditing shall conduct such audits.*

(e) *Conduct, supervise, or coordinate other activities carried out or financed by that state agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations.*

(f) *Keep the agency head informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the state agency; recommend corrective action concerning fraud, abuses, and deficiencies; and report on the progress made in implementing corrective action.*

(g) *Ensure effective coordination and cooperation between the Auditor General, federal auditors, and other governmental bodies to avoid duplication.*

(h) *Review, as appropriate, rules relating to the programs and operations of the state agency and make recommendations concerning their impact.*

(i) *Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.*

(3)(2) *The inspector general ~~Each state agency shall employ a chief internal auditor who shall be appointed by and directly responsible to the agency head. For the agencies under the direction of the Governor, the appointment shall be made after notifying the Governor in writing, at least 7 days before an offer of employment, of the agency head's intention to hire the inspector general.~~*

(a) *Each inspector general shall report to and be under the general supervision of the agency head and shall not be subject to supervision by any other employee of the state agency. The inspector general shall be appointed without regard to political affiliation.*

(b) *An inspector general may be removed from office by the agency head. For the agencies under the direction of the Governor, the agency head shall notify the Governor, in writing, of the intention to terminate the inspector general at least 7 days before the removal. For the state agencies under the direction of the Governor and Cabinet, the agency head shall notify the Governor and Cabinet in writing of the intention to terminate the inspector general at least 7 days before the removal. The Chief Justice of the Supreme Court may remove from the office the inspector general for the state courts system.*

(c) *The agency head shall not prevent or prohibit the inspector general or director of auditing from initiating, carrying out, or completing any audit or investigation.*

(4)(3) *To ensure that state agency audits are performed in accordance with applicable auditing standards, the inspector general or the director of auditing within the inspector general's office must possess the following qualifications ~~The chief internal auditor shall possess the following qualifications:~~*

(a) *A bachelor's degree from an accredited college or university with a major in accounting, or with a major in business which includes five courses in accounting, and 5 years of experience as an internal auditor or independent postauditor, electronic data processing auditor, accountant, or any combination thereof. The experience shall at a minimum consist of audits of units of government or private business enterprises, operating for profit or not for profit; or*

(b) *A master's degree in accounting, business administration, or public administration from an accredited college or university and 4 years of experience as required in paragraph (a); or*

(c) *A certified public accountant license issued pursuant to chapter 473 or a certified internal audit certificate issued by the Institute of Internal Auditors or earned by examination, and 4 years of experience as required in paragraph (a).*

(5)(4) *In carrying out the auditing duties and responsibilities under this section, each inspector general ~~The chief internal auditor~~ shall review and evaluate internal controls necessary to ensure the fiscal accountability of the state agency. The inspector general ~~chief internal auditor~~ shall conduct financial, compliance, electronic data processing, and performance audits of the agency and prepare audit reports of his findings. The scope and assignment of the audits shall be determined by the inspector general ~~chief internal auditor~~; however, the agency head of the agency may at any time direct the inspector general ~~chief internal auditor~~ to perform an audit of a special program, function, or organizational unit. The performance of the audit shall be under the direction of the inspector general, except that, if the inspector general does not possess the qualifications described in subsection (4), the director of auditing shall perform the functions listed in this subsection ~~chief internal auditor~~.*

(a) *Such audits shall be conducted in accordance with the current Standards for the Professional Practice of Internal Auditing and subsequent Internal Auditing Standards or Statements on Internal Auditing Standards published by the Institute of Internal Auditors, Inc., or, where appropriate, in accordance with generally accepted governmental audit-*

ing standards. All audit reports issued by internal audit staff shall include a statement that the audit was conducted pursuant to the appropriate standards.

(b) *Audit workpapers and reports shall be public records to the extent that they do not include information which has been made confidential and exempt from the provisions of s. 119.07(1) pursuant to law. However, when the inspector general ~~chief internal auditor~~ or a member of the ~~his~~ staff receives from an individual a complaint or information that falls within the definition provided in s. 112.3187(5), the name or identity of the individual shall not be disclosed to anyone else ~~other than the chief internal auditor~~ without the written consent of the individual, unless the inspector general ~~chief internal auditor~~ determines that such disclosure is unavoidable during the course of the audit or investigation. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(c) *The inspector general ~~chief internal auditor~~ and his staff shall have access to any records, data, and other information of the state agency he deems necessary to carry out his duties. The inspector general is also authorized to request such information or assistance as is necessary from the state agency or from any federal, state, or local governmental entity.*

(d)(5) *At the conclusion of each audit, the inspector general ~~chief internal auditor~~ shall submit his preliminary findings and recommendations to the person responsible for supervision of the program function or operational unit who shall respond to any adverse findings of the ~~chief internal auditor~~ within 20 working days after receipt of the tentative findings. Such response and the inspector general's ~~chief internal auditor's~~ rebuttal to the response shall be included in the final audit report.*

(e)(6) *The inspector general ~~chief internal auditor~~ shall submit the final report to the agency head ~~of the agency~~ and to the Auditor General.*

(f)(7) *The Auditor General, in connection with his independent post-audit of the same agency pursuant to s. 11.45, shall give appropriate consideration to internal audit reports and the resolution of findings therein. The Legislative Auditing and Accountability Committee may inquire into the reasons or justifications for failure of the agency head to correct the deficiencies reported in internal audits that are also reported by the Auditor General and shall take appropriate action. The Auditor General shall also review a sample of each agency's internal audit reports at least once every 3 years to determine compliance with current Standards for the Professional Practice of Internal Auditing or, if appropriate, generally accepted governmental auditing standards. If the Auditor General finds that these standards have not been complied with, the Auditor General shall include a statement of this fact in his audit report of the agency.*

(g)(8) *The inspector general ~~chief internal auditor~~ shall monitor the implementation of the state agency's response to any audit of the state agency conducted by the Auditor General pursuant to s. 11.45. No later than 6 months after the Auditor General publishes a report of his audit of the agency, the inspector general ~~chief internal auditor~~ shall report to the agency head on the status of corrective actions taken. A copy of such report shall be filed with the ~~Joint~~ Legislative Auditing Committee.*

(h) *The inspector general shall develop long-term and annual audit plans based on the findings of periodic risk assessments. The plan must show the individual audits to be conducted during each year and related resources to be devoted to the respective audits. For state agencies under the Governor, the audit plans shall be submitted to the Governor's Chief Inspector General. The plan shall be submitted to the agency head for approval. A copy of the approved plan shall be submitted to the Auditor General.*

(6) *In carrying out the investigative duties and responsibilities specified in this section, each inspector general shall initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. For these purposes, each state agency shall:*

(a) *Receive complaints and coordinate all activities of the agency as required by the Whistle Blower's Act pursuant to ss. 112.3187-112.31895.*

(b) *Receive and consider the complaints that do not meet the criteria for an investigation under the Whistle Blower's Act and conduct, supervise, or coordinate such inquiries, investigations, or reviews as the inspector general deems appropriate.*

(c) Report expeditiously to the Department of Law Enforcement or other law enforcement agencies, as appropriate, whenever the inspector general has reasonable grounds to believe there has been a violation of criminal law.

(d) Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the inspector general or the inspector general's office. This shall include freedom from any interference with investigations and timely access to records and other sources of information.

(e) Submit timely final reports on investigations conducted by the inspector general to the agency head, except for Whistle Blower's Act investigations, which shall be conducted and reported pursuant to s. 112.3189.

(7) Each inspector general shall, not later than September 30 of each year, prepare a report summarizing the activities of the office during the immediately preceding state fiscal year. The final report shall be furnished to the agency head. Such reports must include, but is not limited to:

(a) A description of activities relating to the development, assessment, and validation of performance measures.

(b) A description of significant abuses, and deficiencies relating to the administration of programs and operations of the agency disclosed by investigations, audits, reviews, or other activities during the reporting period.

(c) A description of the recommendations for corrective action made by the inspector general during the reporting period with respect to significant problems, abuses, or deficiencies identified.

(d) The identification of each significant recommendation described in previous annual reports on which corrective action has not been completed.

(e) A summary of each audit and investigation completed during the reporting period.

Section 16. Section 14.32, Florida Statutes, is created to read:

14.32 Office of Chief Inspector General.—

(1) There is created in the Executive Office of the Governor the Office of the Chief Inspector General. The Chief Inspector General is responsible for promoting accountability, integrity, and efficiency in the agencies under the jurisdiction of the Governor. The Chief Inspector General shall be appointed by and serve at the pleasure of the Governor.

(2) The Chief Inspector General shall:

(a) Initiate, supervise, and coordinate investigations, recommend policies, and carry out other activities designed to deter, detect, prevent, and eradicate fraud, waste, abuse, mismanagement, and misconduct in government.

(b) Investigate, upon receipt of a complaint or for cause, any administrative action of any agency, the administration of which is under the direct supervision of the Governor, regardless of the finality of the administrative action.

(c) Request such assistance and information as may be necessary for the performance of the duties of the Chief Inspector General.

(d) Examine the records and reports of any agency, the administration of which is under the direct supervision of the Governor.

(e) Coordinate complaint-handling activities with agencies.

(f) Coordinate the activities of the Whistle Blower's Act pursuant to ss. 112.3187-112.31895 and maintain a "Whistle Blower's Hotline" to receive complaints and information concerning the possible violation of law or administrative rules, mismanagement, fraud, waste, abuse of authority, malfeasance, or a substantial or specific danger to the health, welfare, or safety of the public.

(g) Report expeditiously to and cooperate fully with the Department of Law Enforcement, the Department of Legal Affairs, and other law enforcement agencies when there are grounds for believing that there has been a violation of criminal law or that a civil action should be initiated.

(h) Act as liaison with outside agencies and the Federal Government to promote accountability, integrity, and efficiency in state government.

(i) Act as liaison with and monitor the activities of the inspectors general in the agencies under the Governor's jurisdiction.

(j) Review, evaluate, and monitor the policies, practices, and operations of the Executive Office of the Governor.

(k) Conduct special investigations and management reviews at the request of the Governor.

(3) The Chief Inspector General shall serve as the inspector general for the Executive Office of the Governor.

Section 17. Any other power, duty, function, or activity of a chief internal auditor described in any other provision of law shall become the power, duty, function, or activity of the inspector general as defined in section 13 of this act. This act is not intended to diminish other powers and duties of chief internal auditors or inspectors general as provided by law.

Section 18. The Division of Statutory Revision of the Joint Legislative Management Committee is requested to prepare a reviser's bill to change the term "chief internal auditor" to "inspector general."

Section 19. Paragraph (a) of subsection (5) of section 11.13, Florida Statutes, is amended to read:

11.13 Compensation of members.—

(5)(a) All expenditures of the Senate, House of Representatives, and offices, committees, and divisions of the Legislature shall be made pursuant to and, unless changed as provided below, within the limits of budgetary estimates of expenditure for each fiscal year prepared and submitted prior to June 15 by the administrative head of each such house, office, committee, or division and approved by the Committee on Rules and Calendar of the Senate and the President of the Senate as to Senate budgets, by the Committee on Administration of the House of Representatives and the Speaker of the House of Representatives as to House budgets, and by the Joint Legislative Management Committee as to joint committees and the divisions of the Legislature other than the Legislative Auditing and Accountability Committee and the Auditor General's office. Amounts in the approved estimates of expenditure may be transferred between budgetary units within the Senate, House of Representatives, and joint activities by the original approving authority. Funds may be transferred between items of appropriation to the Legislature when approved by the President of the Senate, the Speaker of the House of Representatives and the Joint Legislative Management Committee, provided the total amount appropriated to the legislative branch shall not be altered. The Joint Legislative Management Committee shall formulate and present to each house and office thereof recommendations concerning the form and preparation of such budgets and procedures for their adoption and transmission.

Section 20. Subsection (7) is added to section 11.143, Florida Statutes, to read:

11.143 Standing or select committees; powers.—

(7) The chairman of any standing committee may designate up to two members, pursuant to the provisions of s. 11.144, to participate in the development, review, and evaluation of performance measures and standards, as defined in s. 216.011, developed by the state agency or agencies that are under the standing committee's jurisdiction and that are operating under a performance-based program budget pursuant to s. 216.0172.

Section 21. Section 11.149, Florida Statutes, is amended to read:

11.149 Inapplicability of certain sections of ch. 68-35 to the Legislative Auditing and Accountability Committee.—The amendments to ss. 11.141-11.148, 11.23(1), 11.241, 11.242(6)(a), 11.243(3), 11.246(2)(a), 11.25(1), and 11.26 enacted by chapter 68-35, Laws of Florida, shall not apply to the Legislative Auditing and Accountability Committee or the Auditor General.

Section 22. Section 11.401, Florida Statutes, is amended to read:

11.401 Legislative Auditing and Accountability Committee; annual audit of financial records and reports.—The Legislative Auditing and Accountability Committee shall contract with a certified public account-

ant licensed under chapter 473 for an annual audit of the financial records of the Legislative Auditing Committee and the Auditor General. Copies of the audit shall be delivered to the President of the Senate, the Speaker of the House of Representatives, the Auditor General, and the members of the Legislative Auditing and Accountability Committee. The committee shall not contract with the same certified public accountant or the firm of which he is a member for the purposes of the audit required by this section for more than 2 consecutive years.

Section 23. Subsection (1), paragraph (a) of subsection (2), and subsections (4) and (5) of section 11.42, Florida Statutes, are amended to read:

11.42 The Auditor General.—

(1) The Auditor General shall be appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Legislative Auditing and Accountability Committee, subject to confirmation by both houses of the Legislature. At the time of his appointment, the Auditor General shall have been certified under the Public Accountancy Law in this state for a period of at least 10 years and shall have had not less than 10 years' experience in a governmental agency or 10 years' experience in the private sector or a combination of 10 years' experience in government and the private sector. On or before December 31 of the year following each decennial census, the Legislative Auditing and Accountability Committee shall review the performance of the Auditor General and shall submit a report to the Legislature which recommends whether the Auditor General should continue to serve in office. Vacancies in the office shall be filled in the same manner as the original appointment.

(2)(a) To carry out his duties the Auditor General shall employ qualified persons necessary for the efficient operation of his office and shall fix their duties and compensation and, with the approval of the Legislative Auditing and Accountability Committee, shall adopt and administer a uniform personnel, job classification, and pay plan for such employees.

(4) The Auditor General, before entering upon the duties of his office, shall give bond, with some surety company authorized to do business in Florida as surety, in the amount of \$10,000 payable to the President of the Senate and the Speaker of the House of Representatives and their successors in office and conditioned that he will well and faithfully discharge the duties of his office, promptly report any delinquency or shortage discovered in any accounts and records audited by him, and promptly pay over and account for any and all funds that shall come into his hands as such auditor. If the Auditor General, within 30 days after receiving notice of his appointment, fails to file with the Legislative Auditing and Accountability Committee the required oath and bond, such appointment shall be of no effect and another appointment shall be made.

(5) All auditors employed by the Auditor General shall be covered by individual bonds or by a blanket position bond. Said bonds or bond shall meet and contain the same conditions as are required in the bond of the Auditor General. All bonds shall be filed with the Legislative Auditing and Accountability Committee. If an auditor is not covered in the blanket position bond, an individual bond shall be filed within 30 days after such employee receives notice of his employment. The amount of any such bond shall be determined by the Auditor General. Failure thus to file such individual bond or to be covered in the blanket position bond shall terminate his employment.

Section 24. Section 11.43, Florida Statutes, is amended to read:

11.43 Mandatory duties; termination of appointment.—The duties of the Legislative Auditing and Accountability Committee and of the Auditor General under law or concurrent resolution are mandatory unless the context clearly indicates otherwise, and failure on the part of the Auditor General to perform such mandatory duties under the direction of the committee shall constitute cause for termination of appointment. The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the Legislature.

Section 25. Section 11.44, Florida Statutes, is amended to read:

11.44 Salaries and expenses.—

(1)(a) The expenses of the members of the Legislative Auditing and Accountability Committee shall be approved by the chairman of the committee and paid from the appropriation for legislative expense.

(b) The Auditor General shall prepare and submit annually to the Legislative Auditing and Accountability Committee a proposed budget

for the ensuing fiscal year. The committee shall review the budget request and may amend or change the budget request as it deems necessary. The budget request, as amended or changed by the committee, shall become the operating budget of the Auditor General for the ensuing fiscal year; provided that the budget so adopted may subsequently be amended under the same procedure.

(c) Within the limitations of the approved operating budget, the salaries and expenses of the Auditor General and his staff shall be paid from the appropriation for legislative expense or any other moneys appropriated by the Legislature for that purpose. The Auditor General shall approve all bills for salaries and expenses, except expenses of members of the Legislative Auditing and Accountability Committee, before the same shall be paid.

(d) All payrolls and vouchers prepared by the Auditor General for the operations of his office shall be submitted directly to the Comptroller for preaudit and, if found to be correct, state warrants shall be issued therefor. The Auditor General shall submit a quarterly report of such expenditures, including expenditures of the committee, to the Legislative Auditing and Accountability Committee, the President of the Senate, the Speaker of the House of Representatives, the Secretary of the Senate, the Clerk of the House of Representatives, and the Joint Legislative Management Committee.

(2) The Legislature hereby declares and determines that the Legislative Auditing and Accountability Committee is a standing committee of the Legislature with interim powers and that the Auditor General is an office under the legislative branch of government; they are not agencies of government within the intention of the Legislature as expressed in chapter 216, and no power shall rest in the Executive Office of the Governor or its successor to release or withhold funds appropriated to them, but the same shall be available for expenditure as provided by law and the rules or decisions of the committee. Agencies of the executive branch shall have no power to determine the number or fix the compensation of the employees of the committee or of the Auditor General or to exercise any manner of control over them. The Legislative Auditing and Accountability Committee shall submit to the Joint Legislative Management Committee, for planning purposes only, an estimate of the financial needs of the committee and the Auditor General.

Section 26. Section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; audits; reports.—

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

(a) "County agency," for the exclusive purposes of this section, means a board of county commissioners or other legislative and governing body of a county, however styled, including that of a consolidated or metropolitan government, a clerk of the circuit court, a separate or ex officio clerk of the county court, a sheriff, a property appraiser, a tax collector, a supervisor of elections, or any other officer in whom any portion of the fiscal duties of the above are under law separately placed. Each county agency is a local governmental entity for purposes of subparagraph (3)(a)4.

(b) "Financial audit" means an examination of financial statements in order to express an opinion on the fairness with which they present financial position, results of operations, and changes in financial position in conformity with generally accepted governmental accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements.

(c) "Governmental entity" means a state agency, a county agency, or any other entity, however styled, that independently exercises any type of state or local governmental function.

(d) "Local governmental entity" means a county agency, municipality, or special district as defined by s. 218.31(5), but does not include any housing authority created pursuant to chapter 421.

(e) "Management letter" means a statement of the auditor's comments and recommendations.

(f) "Performance audit" means an examination of the effectiveness of administration and the efficiency and adequacy of the program of the state agency authorized by law to be performed.

(g) "Political subdivision" means a separate agency or unit of local government created or established by law and includes, but is not limited

to, the following and the officers thereof: authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(h) "State agency" means a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government.

(2) The Auditor General shall make financial audits and performance audits of public records and perform related duties as prescribed by law or concurrent resolution of the Legislature. He shall perform his duties independently but under the general policies established by the Legislative Auditing and Accountability Committee.

(3)(a)1. The Auditor General shall annually make financial audits of the accounts and records of all state agencies, as defined in this section, of all district school boards, and of all district boards of trustees of community colleges. Nothing herein shall limit the Auditor General's discretionary authority to conduct performance audits of these governmental entities as authorized in subparagraph 2. Nothing in this section shall be construed as prohibiting a district school board from selecting an independent auditor to perform a financial audit as defined in paragraph (1)(b) notwithstanding the notification provisions of this section.

2. The Auditor General may at any time make financial audits and performance audits of the accounts and records of all governmental entities created pursuant to law. The audits referred to in this subparagraph shall be made whenever determined by the Auditor General, whenever directed by the Legislative Auditing and Accountability Committee, or whenever otherwise required by law or concurrent resolution. *In order to allow the Office of Program Policy Analysis and Governmental Accountability to carry out its responsibilities and to reduce duplicative auditing requirements, the Legislative Auditing and Accountability Committee may waive the requirements of any law existing as the effective date of this act to conduct a performance audit.* District school boards and expressway and bridge authorities may require that the annual financial audit of its accounts and records be completed within 12 months after the end of its fiscal year. In the event that the Auditor General may not be able to meet that requirement, the Auditor General shall notify the school board or the expressway and bridge authority pursuant to subparagraph 4.

3.a. The Auditor General shall complete a performance audit of each new major program and each major modification to an existing program specifically identified in the General Appropriations Act, and any new major program or major modification to an existing program which becomes law but which is not specifically identified in the General Appropriations Act, within 3 years after the date when such program or modification becomes law, unless such program or modification has been subject during the 3-year period to an evaluation and review pursuant to ss. 11.513 and 216.0165. The chairmen of the appropriations committees and the appropriate substantive committees of the Senate and the House of Representatives shall provide the Legislative Auditing and Accountability Committee with a list of the new major programs and major modifications to existing programs provided for in the General Appropriations Act or any other act within 10 days after the General Appropriations Act or the other act becomes law. The Legislative Auditing and Accountability Committee shall arrange the lists of programs and modifications in order of priority before directing the Auditor General to conduct the performance audits. If the Auditor General conducts a preliminary review of a program or modification and determines that a performance audit is unnecessary, the Auditor General shall submit a letter stating the reasons why such audit is unnecessary to the Legislative Auditing and Accountability Committee for its review and approval.

b. In addition to any other audits performed under subparagraph 2. and this subparagraph, the Auditor General shall perform an evaluation of the implementation of the recommendations prepared for each agency that has been reviewed under the provisions of s. 216.0165. Such evaluation must begin no later than 2 years after the beginning of the fiscal year that next follows the submission of the budget requests submitted pursuant to s. 216.023(7). The Auditor General shall maintain a schedule of performance audits of state programs sufficient to audit all major state programs within a 10-year period, taking into consideration the schedule established according to s. 216.0165(2) or the schedule determined by the

Legislative Auditing and Accountability Committee pursuant to s. 216.0165(3), unless directed otherwise by the Legislative Auditing and Accountability Committee. In conducting a performance audit of a state program, the Auditor General, when appropriate, shall identify and comment upon alternatives for accomplishing the goals of the program being audited. Such alternatives may include funding techniques and, if appropriate, shall describe how other states or governmental units accomplish similar goals.

4. If by July 1 in any fiscal year a district school board or local governmental entity has not been notified that a financial audit for that fiscal year will be performed by the Auditor General pursuant to subparagraph 2., each municipality with either revenues or expenditures of more than \$100,000, each special district with either revenues or expenditures of more than \$25,000, each special district issuing, or which has outstanding, bonds with face value greater than \$500,000 with an original maturity date in excess of 1 year from the time of issuance, and each county agency shall, and each district school board may, require that an annual financial audit of its accounts and records be completed, within 12 months after the end of its respective fiscal year, by an independent certified public accountant retained by it and paid from its public funds. A management letter shall be prepared and included as a part of each financial audit report. The county audit shall be one document that includes a separate audit of each county agency. The county audit shall be a single report. The governing body of a county shall be responsible for selecting an independent certified public accountant to audit the county agencies of the county according to the following procedure:

a. In each noncharter county, an auditor selection committee shall be established, consisting of the county officers elected pursuant to s. 1(d), Art. VIII, State Constitution, and one member of the board of county commissioners or its designee.

b. The committee shall publicly announce, in a uniform and consistent manner, each occasion when auditing services are required to be purchased. Public notice must include a general description of the audit and must indicate how interested certified public accountants can apply for consideration.

c. The committee shall encourage firms engaged in the lawful practice of public accounting who desire to provide professional services to submit annually a statement of qualifications and performance data.

d. Any certified public accountant desiring to provide auditing services must first be qualified pursuant to law. The committee shall make a finding that the firm or individual to be employed is fully qualified to render the required services. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

e. The committee shall adopt procedures for the evaluation of professional services, including, but not limited to, capabilities, adequacy of personnel, past record, experience, and such other factors as may be determined by the committee to be applicable to its particular requirements.

f. The public shall not be excluded from the proceedings under this subparagraph.

g. The committee shall evaluate current statements of qualifications and performance data on file with the committee, together with those that may be submitted by other firms regarding the proposed audit, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the audit, and ability to furnish the required services.

h. The committee shall select no fewer than three firms deemed to be the most highly qualified to perform the required services after considering such factors as the ability of professional personnel; past performance; willingness to meet time requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to the firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. If fewer than three firms desire to perform the services, the committee shall recommend such firms as it determines to be qualified.

i. Nothing in this subparagraph shall be construed to prohibit a contract for a period in excess of 1 year.

j. If the board of county commissioners receives more than one proposal for the same engagement, the board may rank, in order of preference, the firms to perform the engagement. The firm ranked first may then negotiate a contract with the board giving, among other things, a basis of its fee for that engagement. If the board is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the board shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The board, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. The board shall also negotiate on the scope and quality of services. In making such determination, the board shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For contracts over \$50,000, the board shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that the rates of compensation and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Such certificate shall also contain a description and disclosure of any understanding that places a limit on current or future years' audit contract fees, including any arrangements under which fixed limits on fees will not be subject to reconsideration if unexpected accounting or auditing issues are encountered. Such certificate shall also contain a description of any services rendered by the certified public accountant or firm of certified public accountants at rates or terms that are not customary. Any auditing service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the board determines the contract price was increased due to inaccurate or incomplete factual unit costs. All such contract adjustments shall be made within 1 year following the end of the contract. This sub-subparagraph shall apply to audits covering the 1982-1983 fiscal year, and the procedure in this sub-subparagraph may be used by any county for subsequent audits. If there is a conflict between this sub-subparagraph and s. 473.317, this sub-subparagraph shall prevail.

k. If the board is unable to negotiate a satisfactory contract with any of the selected firms, the committee shall select additional firms, and the board shall continue negotiations in accordance with this subsection until an agreement is reached.

l. At the conclusion of the audit field work, the independent certified public accountant shall discuss with the head of each county agency and the chairman of the board of county commissioners or his designee or with the chairman of the district school board or his designee, as appropriate, all of the auditor's comments pertaining to that agency which will be included in the audit report containing the auditor's comments for the areas within their responsibility. If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to his office.

m. The officer's written statement of explanation or rebuttal concerning the auditor's comments, including corrective action to be taken, shall be filed with the governing body of the county and with the Auditor General within 30 days after the delivery of the financial audit report.

n. Each district school board or expressway and bridge authority that elects to utilize an independent audit shall select an auditor by using the same selection procedure as outlined under sub-subparagraphs b.-k. The district school board or expressway and bridge authority selection committee shall be set by policy of that respective district school board or expressway and bridge authority. The district school board reports shall be presented to the superintendent of schools and the chairman of the school board in that district and filed with the district school board and the Auditor General in conformity with sub-subparagraphs l. and m., and expressway and bridge authority reports shall be presented to the chairman of the expressway and bridge authority and the Auditor General.

o. The Auditor General, in consultation with the Board of Accountancy, shall adopt rules for the form and conduct of all local governmental entity audits. Such rules must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Government Financial Emergency and Accountability Act, chapter 79-183, Laws of Florida.

The procedures under sub-subparagraphs a.-k. do not apply to audit agreements or contracts entered into before July 1, 1983.

5. Any financial audit report required under subparagraph 4. shall be submitted to the Auditor General within 30 days after completion of the audit but no later than 12 months after the end of the fiscal year of the governmental entity and district school board. If the Auditor General does not receive the financial audit within such period, he shall notify the Legislative Auditing and Accountability Committee that such governmental entity has not complied with this subparagraph. Following notification of failure to submit the required audit, a hearing shall be scheduled by the committee for the purpose of receiving testimony addressing the failure of local governmental entities to comply with the reporting requirements of this section. After the hearing, the committee shall determine which local governmental entities will be subjected to further state action. If it finds that one or more local governmental entities should be subjected to further state action, the committee shall:

a. In the case of a local governmental entity, request the Department of Revenue and the Department of Banking and Finance to withhold any funds payable to such governmental entity until the required financial audit is received by the Auditor General.

b. In the case of a special district, notify the Department of Community Affairs that the special district has failed to provide the required audits. Upon receipt of notification, the Department of Community Affairs shall proceed pursuant to ss. 189.421 and 189.422.

6. The Auditor General, in consultation with the Board of Accountancy, shall review all audits made pursuant to this paragraph by an independent certified public accountant.

7. In conducting a performance audit of any agency, the Auditor General shall use the Agency Strategic Plan of the agency in evaluating the performance of the agency.

(b) The Legislative Auditing and Accountability Committee may authorize and direct the Auditor General to make a financial audit of any municipality or independent agency or authority of any municipality within the state, and the committee shall direct him to make such audit whenever petitioned to do so by at least 20 percent of the electors of any municipality. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the electors of the municipality. The expenses of such audit shall be paid by the municipality and, in the event the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the Auditor General, withhold from that portion of the municipal financial assistance trust fund for municipalities which is derived from the cigarette tax imposed under chapter 210, and which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

(c) The Auditor General shall exercise any power and duty which by any law, general or otherwise, is now vested in the state auditor or the legislative auditor. The Auditor General shall make an annual financial audit of accounts and records of any other public body or political subdivision when required by law or concurrent resolution to do so.

(d) The Auditor General shall at least every 2 years make a performance audit of the local government financial reporting system required by this subsection; ss. 189.416-189.422; and part VII of chapter 112 and part III of chapter 218. The performance audit shall analyze each component of the reporting system separately and analyze the reporting system as a whole. The purpose of such an audit is to determine the efficiency and effectiveness of the reporting system in monitoring and evaluating the financial conditions of local governments and to make recommendations to the local governments, the Governor, and the Legislature as to how the reporting system can be improved and how program costs can be reduced.

(e) Whenever a unit of local government requests the Auditor General to conduct an audit of all or part of its operations and the Auditor General under his own authority or at the direction of the Legislative Auditing and Accountability Committee conducts the audit, the expenses of the audit shall be paid for by the unit of local government.

(4) If the Auditor General conducts an audit of a special district which indicates in its findings problems related to debt policy or practice, including failure to meet debt service payments, failure to comply with significant bond covenants, failure to meet bond reserve requirements, and significant erosion of a special district's revenue-producing capacity, a copy of the audit shall be submitted to the Division of Bond Finance of the State Board of Administration for review and comment. Upon

receipt of this notification from the Auditor General, the Division of Bond Finance shall prepare a brief report describing the previous debt issued by the special district and submit the report to the Legislative Auditing and Accountability Committee for their review and consideration.

(5) Each audit required or authorized by this section, when practicable, shall be made and completed within not more than 12 months following the end of each fiscal year of the state agency or political subdivision, if an annual audit, or at such lesser time which may be provided by law or concurrent resolution or directed by the Legislative Auditing and Accountability Committee. When the Auditor General is required by law to make a financial audit of the whole or a portion of a fiscal year of a political subdivision and his current workload of audits of state agencies and political subdivisions is so great that it is not practicable within the required time to perform such audit and also to make financial audits of that political subdivision as to any other period not previously audited by him, then in his discretion he may temporarily or indefinitely postpone his audits of such other period or any portion thereof unless otherwise directed by the committee.

(6) The Legislative Auditing and Accountability Committee may at any time, without regard to whether the Legislature is then in session or out of session, take under investigation any matter within the scope of an audit either completed or then being conducted by the Auditor General, and in connection with such investigation may exercise the powers of subpoena by law vested in a standing committee of the Legislature.

(7)(a) The Auditor General may, when in his judgment it is necessary, designate and direct any auditor employed by him to audit any accounts or records within the power of the Auditor General to audit. The auditor shall report his findings for review by the Auditor General, who shall prepare the audit report.

(b) The audit report when final shall be a public record. The audit workpapers and notes are not a public record; however, those workpapers necessary to support the computations in the final audit report may be made available by a majority vote of the Legislative Auditing and Accountability Committee after a public hearing showing proper cause. The audit workpapers and notes shall be retained by the Auditor General until no longer useful in his proper functions, after which time they may be destroyed.

(c) The audit report must make special mention of:

1. Any violation of the laws within the scope of the audit; and
2. Any illegal or improper expenditure, any improper accounting procedures, all failures to properly record financial transactions, and all other inaccuracies, irregularities, shortages, and defalcations.

(d) At the conclusion of the audit, the Auditor General or his designated representative shall discuss the audit with the official whose office is subject to audit and submit to him a list of his adverse findings which may be included in the audit report. If the official is not available for receipt of the list of adverse audit findings, clearly designated as such, then delivery thereof is presumed to be made when it is delivered to his office. The official shall submit to the Auditor General or his designated representative, within 30 days after the receipt of the list of findings, his written statement of explanation or rebuttal concerning all of the findings, including therein corrective action to be taken to preclude a recurrence of all adverse findings.

(e) Each agency head shall provide to the Legislative Auditing and Accountability Committee, within 6 months after the published date of an audit report, a written explanation of the status of recommendations contained in the report.

(f) No later than 18 months after the Auditor General has released a performance audit report, the agencies which are the subject of that report shall provide the Auditor General with data and other information that describes with specificity what the agencies have done to respond to the Auditor General's recommendations. The Auditor General may verify the data and information provided by the agencies. After the Auditor General is satisfied with the sufficiency and accuracy of the data and information provided by the agencies, the Auditor General shall report to the Joint Legislative Auditing and Accountability Committee and to the legislative standing committees concerned with the subject areas of the audit. The Auditor General's report shall include a summary of the agencies' responses, the Auditor General's evaluation of those responses, and any recommendations the Auditor General may deem to be appropriate.

(8) A copy of the audit report shall be submitted to each member of the Legislative Auditing and Accountability Committee, to the Governor, to the Comptroller, and to the officer or person in charge of the state agency or political subdivision audited. One copy shall be filed as a permanent public record in the office of the Auditor General. In the case of county reports, one copy of the report of each county office, school district, or other district audited shall be submitted to the board of county commissioners of the county in which the audit was made and shall be filed in the office of the clerk of the circuit court of that county as a public record; when an audit is made of the records of the district school board, a copy of the audit report shall also be filed with the district school board, and thereupon such report shall become a part of the public records of such board. Copies of such reports may also be furnished such other persons as in the opinion of the Auditor General may be directly interested in the audit or who may have some duty to perform in connection therewith.

(9) If the Auditor General discovers any errors, unusual practices, or any other discrepancies in connection with his audits of a state agency or state officer, the Auditor General shall, as soon as practicable, notify in writing the President of the Senate and the Speaker of the House of Representatives, respectively, who, in turn, shall promptly thereafter forward a copy thereof to the chairmen of the respective legislative committees, which in the judgment of the President of the Senate and the Speaker of the House of Representatives, respectively, are substantially concerned with the functions of the state agency or state officer involved. Thereafter, and in no event later than the 10th day of the next succeeding legislative session, the person in charge of the state agency involved, or the state officer involved, as the case may be, shall explain in writing to the chairmen of the respective legislative committees and to the Legislative Auditing and Accountability Committee the reasons or justifications for such errors, unusual practices, or discrepancies and the corrective measures, if any, taken by the agency.

(10) All agencies, other than state agencies as defined herein, and all district school boards and district boards of trustees of community colleges shall have the power to have a performance audit or financial audit of their accounts and records by an independent certified public accountant retained by them and paid from their public funds.

(11) The Auditor General shall provide annually a list of those special districts which are in compliance with this section and a list of those special districts which are not in compliance with this section for the Special District Information Program of the Department of Community Affairs.

Section 27. Subsections (4) and (5) of section 11.46, Florida Statutes, are amended to read:

11.46 Accounting procedures.—

(4) In addition to the postauditing functions of the Auditor General he shall have the following duties with respect to accounting systems and procedures:

(a) To develop and promulgate an overall plan for management accounting and reporting designed to provide an economical and efficient management accounting system for state officers and agencies consistent with generally accepted governmental accounting principles, practices, and internal control, within the requirements and spirit of the laws of Florida;

(b) Consistent with such overall plan, to expedite, guide, and assist in the installation of modern accounting and data processing systems and procedures in the offices administered by state officers and agencies;

(c) To stimulate the building of competent and efficient accounting and internal audit organizations in the offices administered by state officers and agencies;

(d) To provide to state officers and agencies consultation services on their financial and accounting systems and procedures and related problems;

(e) To conduct field studies of fiscal and accounting problems of state officers and agencies;

(f) Whenever in his judgment it is practicable, to develop and recommend uniform accounting systems and procedures for state officers and agencies insofar as their accounting and procedural requirements are similar; and

(g) To report annually to the Legislative Auditing and Accountability Committee concerning accounting systems and procedures employed by state officers and agencies.

(5) If the Auditor General finds that any state officers and agencies have failed to install an adequate management accounting system he shall immediately report his findings in detail to the Legislative Auditing and Accountability Committee, together with his recommendations for corrective action.

Section 28. Paragraph (a) of subsection (1) and subsections (3) and (5) of section 11.50, Florida Statutes, are amended to read:

11.50 Division of Public Assistance Fraud.—

(1)(a) The Auditor General shall investigate, on his own initiative or when required by the Legislative Auditing and Accountability Committee, public assistance made under the provisions of chapter 409. In the course of such investigation the Auditor General shall examine all records, including electronic benefits transfer records and make inquiry of all persons who may have knowledge as to any irregularity incidental to the disbursement of public moneys, food stamps, or other items or benefits authorizations to recipients.

(3) The results of such investigation shall be reported by the Auditor General to the Legislative Auditing and Accountability Committee and the Department of Health and Rehabilitative Services and to such others as that committee or the Auditor General may determine.

(5) All lawful fees and expenses of officers and witnesses, expenses incident to taking testimony and transcripts of testimony and proceedings requested by the Legislative Auditing and Accountability Committee or the Auditor General shall be a proper charge to the appropriation of the Auditor General. All payments for these purposes shall be on vouchers approved by the Auditor General.

Section 29. Subsection (3) of section 11.51, Florida Statutes, is amended to read:

11.51 Office of Policy Analysis and Agency Review.—

(3) The Auditor General shall provide administrative support and services to the Office of Policy Analysis and Agency Review to the extent required by the Legislative Auditing and Accountability Committee.

Section 30. Paragraph (a) of subsection (1), paragraph (a) of subsection (3), and subsections (4), (6), and (7) of section 11.511, Florida Statutes, are amended to read:

11.511 Director of the Office of Policy Analysis and Agency Review; appointment; employment of staff; powers and duties.—

(1)(a) The Legislative Auditing and Accountability Committee shall appoint a director of the Office of Policy Analysis and Agency Review by majority vote of the committee, subject to confirmation by a majority vote of the Senate and the House of Representatives. At the time of his appointment, the director must have had 10 years' experience in policy analysis and program evaluation. The Legislative Auditing and Accountability Committee shall review the performance of the director every 4 years and shall submit a report to the Legislature recommending whether the director should be reappointed. The reappointment of a director is subject to confirmation by a majority vote of the Senate and the House of Representatives. A vacancy in the office must be filled in the same manner as the original appointment.

(3)(a) Within available funds, the director shall employ and set the compensation of such professional, technical, legal, and clerical staff as may be necessary to perform all the requirements of ss. 11.511 and 11.513, in accordance with the policies and procedures of the Legislative Auditing and Accountability Committee, and may remove these personnel. The staff must be chosen to provide a broad background of experience and expertise and, to the maximum extent possible, to represent a range of disciplines that includes law, engineering, public administration, environmental science, policy science, economics, sociology, and philosophy.

(4) The director shall conduct policy analyses and other related duties as prescribed by law. As part of these analyses, the director shall perform or contract for the performance of agency evaluation and justification reviews. He shall perform his duties independently but under general policies established by the Legislative Auditing and Accountability Committee.

(6) The director, with the consent of the Legislative Auditing and Accountability Committee, may enter into contracts on behalf of the Office of Policy Analysis and Agency Review.

(7) The director shall prepare and submit annually to the Legislative Auditing and Accountability Committee a proposed budget for the ensuing fiscal year. The committee shall review the budget request and may amend or change the budget request as it deems necessary. The budget request shall become the operating budget of the Office of Policy Analysis and Agency Review for the ensuing fiscal year; provided that the budget so adopted may subsequently be amended under the same procedure.

Section 31. Subsections (3), (6), and (7) of section 11.513, Florida Statutes, are amended to read:

11.513 Agency evaluation and justification review.—

(3) The director, in consultation with the Legislative Auditing and Accountability Committee, shall develop specific measures of performance and criteria for each agency evaluation and justification review.

(6) No later than 1 year after the initiation of an agency evaluation and review or no later than the time established by the Legislative Auditing and Accountability Committee for submittal, the director shall submit a report of the agency evaluation and justification review findings to the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing and Accountability Committee, the Auditor General, the Governor, the head of each agency that was the subject of the evaluation and justification review, and the head of any state agency that is substantially affected by the findings and recommendations.

(7) Within 90 days after receipt by the director of the agency evaluation and justification review findings, the director shall recommend in writing any changes in the programs or activities, including the funding for such programs or activities, which he has determined advisable based upon the findings. These recommendations must be forwarded to the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing and Accountability Committee, the Governor, the head of each agency that was the subject of the evaluation and justification review, and the head of any state agency that is substantially affected by the recommendations of the director.

Section 32. Subsections (7) and (8) of section 20.055, Florida Statutes, are amended to read:

20.055 Agency chief internal auditors.—

(7) The Auditor General, in connection with his independent postaudit of the same agency pursuant to s. 11.45, shall give appropriate consideration to internal audit reports and the resolution of findings therein. The Legislative Auditing and Accountability Committee may inquire into the reasons or justifications for failure of the agency head to correct the deficiencies reported in internal audits that are also reported by the Auditor General and shall take appropriate action. The Auditor General shall also review a sample of each agency's internal audit reports at least once every 3 years to determine compliance with current Standards for the Professional Practice of Internal Auditing or, if appropriate, generally accepted governmental auditing standards. If the Auditor General finds that these standards have not been complied with, he shall include a statement of this fact in his audit report of the agency.

(8) The chief internal auditor shall monitor the implementation of the agency's response to any audit of the agency conducted by the Auditor General pursuant to s. 11.45. No later than 6 months after the Auditor General publishes a report of his audit of the agency, the chief internal auditor shall report to the agency head on the status of corrective actions taken. A copy of such report shall be filed with the Joint Legislative Auditing and Accountability Committee.

Section 33. Subsection (6) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(6) To facilitate the efficient and effective management of the department in a businesslike manner, the department shall develop a system for the submission of monthly management reports to the Florida Transportation Commission and secretary from the district secretaries. The com-

mission and the secretary shall determine which reports are required to fulfill their respective responsibilities under this section. A copy of each such report shall be submitted monthly to the appropriations and transportation committees of the Senate and the House of Representatives. Recommendations made by the Auditor General in his audits of the department that relate to management practices, systems, or reports shall be implemented in a timely manner. However, if the department determines that one or more of the recommendations should be altered or should not be implemented, it shall provide a written explanation of such determination to the Legislative Auditing and Accountability Committee within 6 months after the date the recommendations were published.

Section 34. Subsections (1) and (3) of section 24.123, Florida Statutes, are amended to read:

24.123 Annual audit of financial records and reports.—

(1) The Legislative Auditing and Accountability Committee shall contract with a certified public accountant licensed pursuant to chapter 473 for an annual financial audit of the department. The certified public accountant shall have no financial interest in any vendor with whom the department is under contract. The certified public accountant shall present an audit report no later than 7 months after the end of the fiscal year and shall make recommendations to enhance the earning capability of the state lottery and to improve the efficiency of department operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on those controls in effect during the audit period. The cost of the annual financial audit shall be paid by the department.

(3) A copy of any audit performed pursuant to this section shall be submitted to the secretary, the commission, the Governor, the President of the Senate, the Speaker of the House of Representatives, and members of the Legislative Auditing and Accountability Committee.

Section 35. Paragraphs (c) and (d) of subsection (9) of section 112.3189, Florida Statutes, are amended to read:

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(9)

(c) The Chief Inspector General shall transmit any final report under this section, any comments provided by the complainant, and any appropriate comments or recommendations by the Chief Inspector General to the Governor, to the Joint Legislative Auditing and Accountability Committee, to the investigating agency, and to the Comptroller.

(d) If the Chief Inspector General does not receive the report of the agency head within the time prescribed in paragraph (a), the Chief Inspector General may conduct the investigation in accordance with paragraph (7)(b) or request that another agency inspector general conduct the investigation in accordance with subsection (6) and shall report the complaint to the Governor, to the Joint Legislative Auditing and Accountability Committee, and to the investigating agency, together with a statement noting the failure of the agency head to file the required report.

Section 36. Section 189.409, Florida Statutes, is amended to read:

189.409 Determination of financial emergency.—A special district shall notify the Governor and Legislative Auditing and Accountability Committee when the health, safety, and welfare of the citizens of the state are affected by the occurrence of one or more of the conditions described in s. 218.503, or if said condition or conditions will occur if action is not taken to assist the special district. The Governor may adopt rules to implement the provisions of this section.

Section 37. Paragraph (d) of subsection (2) of section 215.95, Florida Statutes, is amended to read:

215.95 Fiscal Accounting Information Board.—

(2) To carry out its duties and responsibilities, the board shall by majority vote:

(d) Submit to the Joint Legislative Auditing and Accountability Committee an annual report containing, but not limited to, the following:

1. Current status of all information subsystems.

2. Detailed plans related to all information subsystems provided for in s. 215.96(3)(a).

Section 38. Paragraphs (a) and (d) of subsection (1) and subsections (2) and (3) of section 216.0165, Florida Statutes, are amended to read:

216.0165 Agency and judicial branch evaluation and justification.—

(1)(a) Each agency or entity identified in subsection (2) is periodically subject to the agency evaluation and justification review provided for in s. 11.513, in accordance with subsection (2) or as determined by the Legislative Auditing and Accountability Committee pursuant to subsection (3).

(d) Upon receipt of the consultant's report and the recommendations of the director as provided in s. 11.513(6) and (7), any agency or entity to which recommendations contained in the director's recommendations specifically apply shall provide its point-by-point responses to the director's recommendations as a separate document that must be submitted at the same time as the agency's budget request for the fiscal year commencing on July 1 of the second calendar year following the submission of the consultant's report. An agency or entity to which any of the director's recommendations specifically apply also shall submit its responses to the recommendations to the director, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, the House Minority Leader, the Legislative Auditing and Accountability Committee, and the chairmen of the appropriate substantive committees of the Senate and the House of Representatives.

(2) Each agency or entity subject to the provisions of this section shall be subject to periodic evaluation and review no more often than once every 7 years or less often than once every 15 years. The evaluation and justification review of an agency or entity shall include all adjunct authorities, boards, committees, offices, and commissions within or connected to the agency or entity, and all adjunct agencies or entities which are by law contained in or responsible to the agency which is the subject of the evaluation and review. The evaluation and review may include consideration of programs provided by other agencies which are integrally related to the programs administered by the agency or entity which is scheduled for evaluation and review. The evaluations and reviews shall be initiated in the following order, subject to revision by the Legislative Auditing and Accountability Committee as provided in subsection (3):

- (a) The Department of Revenue.
- (b) The Department of Environmental Regulation.
- (c) The Department of Natural Resources.
- (d) The Game and Fresh Water Fish Commission.
- (e) The Department of the Lottery.
- (f) The Department of Corrections.
- (g) The Florida Parole Commission.
- (h) The Department of Health and Rehabilitative Services.
- (i) The Department of Education.
- (j) The Department of Professional Regulation.
- (k) The Department of Transportation.
- (l) The Department of Community Affairs.
- (m) The Department of Legal Affairs.
- (n) The Department of Law Enforcement.
- (o) The Judicial Branch.
- (p) State attorneys, public defenders, the Capital Collateral Representative, and the Justice Administration Commission.
- (q) The Department of Banking and Finance.
- (r) The Department of Business Regulation.
- (s) The Department of Agriculture and Consumer Services.
- (t) The Department of Commerce.
- (u) The Department of State.
- (v) The Department of Veterans' Affairs.

- (w) The Department of Military Affairs.
- (x) The Executive Office of the Governor.
- (y) The Legislative Branch.
- (z) The Public Service Commission.
- (aa) The Department of Labor and Employment Security.
- (bb) The Department of Insurance.
- (cc) The Department of Management Services.
- (dd) The Department of Highway Safety and Motor Vehicles.
- (ee) The Department of Citrus.

(3) The Legislative Auditing and Accountability Committee may from time to time revise the order of evaluations and reviews or provide either for acceleration or deceleration of the total review cycle, provided that:

(a) No agency or entity shall be the subject of a periodic evaluation and review for a second time until each agency or entity on the schedule has been the subject of a periodic evaluation and review, except upon a two-thirds vote of the members appointed to the Legislative Auditing and Accountability Committee. However, the programs of an agency or entity may be reviewed as part of the review of another agency or entity even if the agency or entity has previously been reviewed.

(b) The total period for the evaluations and reviews may not be reduced to a period of less than 7 years nor extended to a period of more than 15 years.

(c) Funds sufficient to permit an acceleration of the evaluations and reviews have been appropriated.

(d) The revision is approved by a two-thirds vote of the members appointed to the Legislative Auditing and Accountability Committee.

Section 39. Subsection (8) of section 216.052, Florida Statutes, is amended to read:

216.052 Legislative budget requests; appropriations; grants.—

(8) In addition to any other provision of law granting access to records and accounts, the Auditor General may, pursuant to his own authority hereby granted in this subsection or at the direction of the Legislative Auditing and Accountability Committee, conduct audits of any direct-support organization or citizen support organization authorized by law. Independent audits of direct-support organizations and citizen support organizations conducted by certified public accountants shall be performed in accordance with rules promulgated by the Auditor General.

Section 40. Paragraph (a) of subsection (2) of section 216.251, Florida Statutes, is amended to read:

216.251 Salary appropriations; limitations.—

(2)(a) The salary for each position not specifically indicated in the appropriations acts shall be as provided in one of the following subparagraphs:

1. Within the classification and pay plans provided for in chapter 110.
2. Within the classification and pay plans established by the Board of Trustees for the Florida School for the Deaf and the Blind of the Department of Education and approved by the State Board of Education for academic and academic administrative personnel.
3. Within the classification and pay plan approved and administered by the Board of Regents for those positions in the State University System.
4. Within the classification and pay plan approved by the Senate, the House of Representatives, the Joint Legislative Management Committee, or the Legislative Auditing and Accountability Committee, as the case may be, for employees of the Legislature.
5. Within the approved classification and pay plan for the judicial branch.
6. The salary of all positions not specifically included in this subsection shall be set by the commission or by the Chief Justice for the judicial branch.

Section 41. Paragraph (c) of subsection (1) of section 218.32, Florida Statutes, is amended to read:

218.32 Financial reporting; units of local government.—

(1)

(c) If the department fails to receive the financial report within such period, it shall notify the Legislative Auditing and Accountability Committee of the failure to report. Following receipt of notification of failure to report, a hearing shall be scheduled by the committee for the purpose of receiving additional testimony addressing the failure of units of local government to comply with the reporting requirements of this section. After the hearing, the committee shall determine which units of local government will be subjected to further state action. If it finds that one or more units of local government should be subjected to further state action, the committee shall:

1. In the case of a unit of local government, request the Department of Revenue and the Department of Banking and Finance to withhold any funds payable to such governmental entity until the required report is received by the department.

2. In the case of a special district, notify the Department of Community Affairs that the special district has failed to provide the required financial report. Upon notification, the Department of Community Affairs shall proceed pursuant to ss. 189.421 and 189.422.

Section 42. Subsection (3) of section 218.38, Florida Statutes, is amended to read:

218.38 Notice of bond issues required; verification.—

(3) If a unit of local government fails to verify pursuant to subsection (2) the information held by the division, or fails to provide the information required by subsection (1), the division shall notify the Legislative Auditing and Accountability Committee of such failure to comply. Following receipt of such notification of failure to comply with these provisions, a hearing shall be scheduled by the committee for the purpose of receiving testimony addressing the failure of units of local government to comply with the requirements of this section. After the hearing, the committee shall determine which units of local government will be subjected to further state action. If it finds that one or more units of local government should be subjected to further state action, the committee shall:

(a) In the case of a unit of local government, request the Department of Revenue and the Department of Banking and Finance to withhold any funds not pledged for bond debt service satisfaction which are payable to such governmental entity.

(b) In the case of a special district, notify the Department of Community Affairs that the special district has failed to comply. Upon notification, the Department of Community Affairs shall proceed pursuant to ss. 189.421 and 189.422.

Section 43. Subsection (2) of section 218.503, Florida Statutes, is amended to read:

218.503 Determination of financial emergency.—

(2) A unit of local government shall notify the Governor and the Legislative Auditing and Accountability Committee when one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist the unit of local government. In addition, any state agency may notify the Governor and the Legislative Auditing and Accountability Committee when one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist a unit of local government.

Section 44. Subsection (6) of section 286.036, Florida Statutes, is amended to read:

286.036 Taxation and Budget Reform Commission; powers.—

(6) The Legislative Auditing and Accountability Committee may at any time, without regard to whether the Legislature is then in session or out of session, take under consideration any matter within the scope of the duties of the Taxation and Budget Reform Commission, and in connection therewith may exercise the powers of subpoena by law vested in a standing committee of the Legislature.

Section 45. Section 287.114, Florida Statutes, is amended to read:

287.114 Duties of the Auditor General.—The Auditor General shall make an annual performance audit of and report on the Division of Purchasing and submit such report to the Legislative Auditing and Accountability Committee within 60 days after the affected agency has responded to the findings of the audit.

Section 46. Paragraph (a) of subsection (2) of section 288.906, Florida Statutes, is amended to read:

288.906 Annual report of Enterprise Florida, Inc.; audits; confidentiality.—

(2)(a) The Auditor General may, pursuant to his own authority or at the direction of the Joint Legislative Auditing and Accountability Committee, conduct an audit of Enterprise Florida, Inc. The audit or report may not reveal the identity of any person who has anonymously made a donation to Enterprise Florida, Inc., pursuant to paragraph (b).

Section 47. Subsection (3) of section 288.9517, Florida Statutes, is amended to read:

288.9517 Audits; confidentiality.—

(3) The Auditor General may, pursuant to his own authority or at the direction of the Joint Legislative Auditing and Accountability Committee, conduct an audit of Enterprise Florida Innovation Partnership or the programs or entities created by the partnership. The audit or report may not reveal the identity of any person who has anonymously made a donation to Enterprise Florida Innovation Partnership pursuant to subsection (4).

Section 48. Subsection (3) of section 288.9616, Florida Statutes, is amended to read:

288.9616 Audits; confidentiality.—

(3) The Auditor General may, pursuant to his own authority or at the direction of the Joint Legislative Auditing and Accountability Committee, conduct an audit of the Florida Development Finance Corporation or the Enterprise Florida Capital Partnership or the programs or entities created by the partnership. The audit or report may not reveal the identity of any person who has anonymously made a donation to Enterprise Florida Capital Partnership pursuant to subsection (4).

Section 49. Subsection (12) of section 339.149, Florida Statutes, is amended to read:

339.149 Periodic audits.—The Auditor General shall conduct periodic audits, as defined in s. 11.45, of the following functions and processes of the department, which audits shall include, at a minimum, a review of:

(12) AUDIT PERIODS.—The Auditor General has the discretion to schedule the audits required by this section. However, such audits must be performed by July 1, 1996, and must be performed during each subsequent 6-year period thereafter. The Auditor General must make audits of department functions or programs identified in this section or of other department functions or programs whenever directed to do so by the Legislature or the Joint Legislative Auditing and Accountability Committee. The Auditor General shall annually report to the Legislature on the efforts made by the department to rectify problems noted in prior audits.

Section 50. Subsection (1) of section 350.061, Florida Statutes, is amended to read:

350.061 Public Counsel; appointment; oath; restrictions on Public Counsel and his employees.—

(1) The Joint Legislative Auditing and Accountability Committee shall appoint a Public Counsel by majority vote of the members of the committee to represent the general public of Florida before the Florida Public Service Commission. The Public Counsel shall be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the Joint Legislative Auditing and Accountability Committee, subject to annual reconfirmation by the committee. Vacancies in the office shall be filled in the same manner as the original appointment.

Section 51. Subsection (2) of section 350.0614, Florida Statutes, is amended to read:

350.0614 Public Counsel; compensation and expenses.—

(2) The Legislature hereby declares and determines that the Public Counsel is under the legislative branch of government within the inten-

tion of the legislation as expressed in chapter 216, and no power shall be in the Executive Office of the Governor or its successor to release or withhold funds appropriated to it, but the same shall be available for expenditure as provided by law and the rules or decisions of the Joint Auditing and Accountability Committee.

Section 52. Section 400.335, Florida Statutes, is amended to read:

400.335 Audit of trust funds.—The Auditor General shall conduct an audit of the trust funds and related accounts established under this part for fiscal year 1992-1993 and fiscal year 1993-1994 and, for subsequent years, shall conduct such audits as are directed by the Legislative Auditing and Accountability Committee. The Auditor General shall submit audit reports to the Legislature by December 31 after each year audited.

Section 53. Paragraph (b) of subsection (3) of section 570.903, Florida Statutes, is amended to read:

570.903 Direct-support organization.—

(3)

(b) If the direct-support organization fails to submit the audit report at the appropriate time, the Auditor General may, pursuant to his own authority, conduct the audit, or the Auditor General shall conduct the audit at the direction of the Joint Legislative Auditing and Accountability Committee, or the department shall engage an independent certified public accountant to conduct the audit. The direct-support organization shall pay for the entire costs of the audit.

Section 54. Paragraph (e) of subsection (3) of section 766.105, Florida Statutes, is amended to read:

766.105 Florida Patient's Compensation Fund.—

(3) THE FUND.—

(e) Fund accounting and audit.—

1. Money shall be withdrawn from the fund only upon a voucher as authorized by the board of governors.

2. All books, records, and audits of the fund shall be open for reasonable inspection to the general public, except that a claim file in possession of the fund, fund members, and their insurers shall not be available for review during processing of that claim. Any book, record, document, audit, or asset acquired by, prepared for, or paid for by the fund is subject to the authority of the board of governors, which shall be responsible therefor.

3. Persons authorized to receive deposits, issue vouchers, or withdraw or otherwise disburse any fund moneys shall post a blanket fidelity bond in an amount reasonably sufficient to protect fund assets. The cost of such bond shall be paid from the fund.

4. Annually, the fund shall furnish, upon request, audited financial reports to any fund participant and to the Department of Insurance and the Joint Legislative Auditing and Accountability Committee. The reports shall be prepared in accordance with accepted accounting procedures and shall include income and such other information as may be required by the Department of Insurance or the Joint Legislative Auditing and Accountability Committee.

5. Any money held in the fund shall be invested in interest-bearing investments by the board of governors of the fund as administrator. However, in no case may any such money be invested in the stock of any insurer participating in the Joint Underwriting Association authorized by s. 627.351(4) or in the parent company of, or company owning a controlling interest in, such insurer. All income derived from such investments shall be credited to the fund.

6. Any health care provider participating in the fund may withdraw from such participation only at the end of a fiscal year; however, such health care provider shall remain subject to any assessment or any refund pertaining to any year in which such member participated in the fund.

Section 55. Paragraph (d) of subsection (5) of section 766.315, Florida Statutes, is amended to read:

766.315 Florida Birth-Related Neurological Injury Compensation Association; board of directors.—

(5)

(d) Annually, the association shall furnish audited financial reports to any plan participant upon request, to the Department of Insurance, and to the ~~Joint~~ Legislative Auditing and Accountability Committee. The reports must be prepared in accordance with accepted accounting procedures and must include such information as may be required by the Department of Insurance or the ~~Joint~~ Legislative Auditing and Accountability Committee. At any time determined to be necessary, the Department of Insurance or the ~~Joint~~ Legislative Auditing and Accountability Committee may conduct an audit of the plan.

Section 56. Subsection (3) of section 946.516, Florida Statutes, is amended to read:

946.516 Report to Governor and Legislature by the corporation; Department of Corrections report; report to Governor and Legislature by Auditor General.—

(3) Beginning January 1, 1984, the Auditor General shall conduct an annual financial audit of the corporation in conjunction with an independent audit conducted by the auditors of the corporation. The Auditor General shall also conduct a biennial performance audit of the corporation for the period beginning January 1, 1983, through January 1, 1985, and, thereafter, upon the request of the ~~Joint~~ Legislative Auditing and Accountability Committee.

Section 57. Section 11.40, Florida Statutes, creating the Legislative Auditing and Accountability Committee is repealed effective October 1, 1995, and the committee shall cease to exist and shall cease to perform its duties as of that date. Prior to October 1, 1995, the Legislature, in considering the re-creation of the committee, shall review the jurisdiction and duties of the committee to determine whether those duties, or a portion thereof, should remain the responsibility of that committee or could be more properly performed by another existing or proposed legislative committee.

Section 58. Section 110.1231, Florida Statutes, is amended to read:

110.1231 Health care insurance for persons retired under state-administered retirement systems before January 1, 1976, and their surviving spouses.—The Division of Retirement of the ~~Department of Management Services~~ may contract with a private health insurance carrier or the Social Security Administration or any other federal agency to provide health care coverage for persons who retired before January 1, 1976, under any of the state-administered retirement systems and for the surviving spouses of such persons not covered by social security.

Section 59. Paragraph (d) of subsection (4) of section 112.3173, Florida Statutes, is amended to read:

112.3173 Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.—

(4) NOTICE.—

(d) The Commission on Ethics shall forward any notice and any other document received by it pursuant to this subsection to the governing body of the public retirement system of which the public officer or employee is a member or from which the public officer or employee may be entitled to receive a benefit. When called on by the Commission on Ethics, the Division of Retirement of the ~~Department of Management Services~~ shall assist the commission in identifying the appropriate public retirement system.

Section 60. Subsection (2) of section 112.63, Florida Statutes, is amended to read:

112.63 Actuarial reports and statements of actuarial impact; review.—

(2) The frequency of actuarial reports shall be at least every 3 years commencing from the last actuarial report of the plan or system or October 1, 1980, if no actuarial report has been issued within the 3-year period prior to October 1, 1979. The results of each actuarial report shall be filed with the plan administrator within 60 days of certification. Thereafter, the results of each actuarial report shall be made available for inspection upon request. Additionally, each retirement system or plan covered by this act which is not administered directly by the ~~Department of Management Services~~ through the Division of Retirement shall furnish a copy of each actuarial report to the Division of Retirement within 60 days of receipt from the actuary.

Section 61. Subsection (1) of section 112.665, Florida Statutes, is amended to read:

112.665 Duties of Division of Retirement.—

(1) The Division of Retirement of the ~~Department of Management Services~~ shall:

(a) Gather, catalog, and maintain complete, computerized data information on all public employee retirement systems or plans in the state, based upon a review of audits, reports, and other data pertaining to the systems or plans;

(b) Receive and comment upon all actuarial reviews of retirement systems or plans maintained by units of local government;

(c) Cooperate with local retirement systems or plans on matters of mutual concern and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans;

(d) Issue, by January 1 annually, a report to the President of the Senate and the Speaker of the House of Representatives, which report details division activities, findings, and recommendations concerning all governmental retirement systems. The report may include legislation proposed to carry out such recommendations;

(e) Issue, by January 1 annually, a report to the Special District Information Program of the Department of Community Affairs that includes the participation in and compliance of special districts with the local government retirement system provisions in s. 112.63 and the state-administered retirement system provisions as specified in chapter 121; and

(f) Adopt reasonable rules to administer the provisions of this part.

Section 62. Section 121.025, Florida Statutes, is amended to read:

121.025 Administrator; powers and duties.—The director of the Division of Retirement shall be the administrator of the retirement and pension systems assigned or transferred to the Division of Retirement by law and, ~~upon delegation of such authority by the Secretary of Management Services~~, shall have the authority to sign the contracts necessary to carry out the duties and responsibilities assigned by law to the Division of Retirement.

Section 63. Subsection (1) of section 121.031, Florida Statutes, is amended to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(1) The ~~Department of Management Services~~, through the Division of Retirement, shall make such rules as are necessary for the effective and efficient administration of this system. The funds to pay the expenses for such administration are hereby appropriated from the interest earned on investments made for the retirement and social security trust funds and the assessments allowed under chapter 650.

Section 64. Section 121.135, Florida Statutes, is amended to read:

121.135 Annual report to Legislature concerning state-administered retirement systems.—The ~~Department of Management Services~~, through its Division of Retirement, shall make to each regular session of the Legislature a written report on the operation and condition of the state-administered retirement systems.

Section 65. Section 121.136, Florida Statutes, is amended to read:

121.136 Annual benefit statement to members.—Beginning January 1, 1993, and each January thereafter, the ~~Department of Management Services~~, through its Division of Retirement, shall provide each active member of the Florida Retirement System with 5 or more years of creditable service an annual statement of benefits. Such statement should provide the member with basic data about the member's retirement account. Minimally, it shall include the member's retirement plan, the amount of funds on deposit in his retirement account, and an estimate of retirement benefits.

Section 66. Section 121.1815, Florida Statutes, is amended to read:

121.1815 Special pensions to individuals; administration of laws by ~~Division of Retirement~~ ~~Department of Management Services~~.—All powers, duties, and functions related to the administration of laws pro-

viding special pensions to individuals, including chapter 18054, Laws of Florida, 1937; chapter 26788, Laws of Florida, 1951, as amended by chapter 57-871, Laws of Florida; chapter 26836, Laws of Florida, 1951; and chapter 63-953, Laws of Florida, are vested in the ~~Department of Management Services~~ and shall be assigned to the Division of Retirement. All laws hereinafter enacted by the Legislature pertaining to special pensions for individuals shall be administered by said division, unless contrary provisions are contained in such law. Upon the death of any person receiving a monthly pension under this section, the monthly pension shall be paid through the last day of the month of death and shall terminate on that date, unless contrary provisions are contained in the special pension law.

Section 67. Section 121.1905, Florida Statutes, is created to read:

121.1905 Division of Retirement; creation.—

(1) There is created the Division of Retirement within the Department of Management Services, to be headed by a director who shall be appointed by the Governor and Cabinet and confirmed by the Senate. The division shall be a separate budget entity and the director shall be its agency head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) The mission of the Division of Retirement is to provide quality and cost-effective retirement services as measured by member satisfaction and by comparison with administrative costs of comparable retirement systems.

Section 68. Subsection (1) of section 121.22, Florida Statutes, is amended to read:

121.22 State Retirement Commission; creation; membership; compensation.—

(1) There is created within the ~~Division of Retirement~~ ~~Department of Management Services~~ a State Retirement Commission composed of seven members: One member who is retired under a state-supported retirement system administered by the Division of Retirement; two members from different occupational backgrounds who are active members in a state-supported retirement system which is administered by the Division of Retirement; and four members who are not retirees, beneficiaries, or members of a state-supported retirement system which is administered by the Division of Retirement.

Section 69. Subsection (1) of section 121.23, Florida Statutes, is amended to read:

121.23 Disability retirement and special risk membership applications; Retirement Commission; powers and duties; judicial review.—The provisions of this section apply to all proceedings in which the administrator has made a written final decision on the merits respecting applications for disability retirement, reexamination of retired members receiving disability benefits, applications for special risk membership, and reexamination of special risk members in the Florida Retirement System. The jurisdiction of the State Retirement Commission under this section shall be limited to written final decisions of the administrator on the merits.

(1) In accordance with the rules of procedure adopted by the ~~Department of Management Services~~ through the Division of Retirement, the administrator shall:

(a) Give reasonable notice of his proposed action, or his decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

(b) Give affected members, or their counsel, an opportunity to present to the division written evidence in opposition to the proposed action or refusal to act or a written statement challenging the grounds upon which the administrator has chosen to justify his action or inaction.

(c) If the objections of the member are overruled, provide a written explanation within 21 days.

Section 70. Subsections (2) and (3) of section 121.24, Florida Statutes, are amended to read:

121.24 Conduct of commission business; legal and other assistance; compensation.—

(2) Legal counsel for the commission may be provided by the Department of Legal Affairs or by the ~~Division of Retirement~~ ~~Department of Management Services~~, with the concurrence of the commission, and shall be paid by the ~~Division of Retirement~~ ~~Department of Management Services~~ from the appropriate funds.

(3) The ~~Division of Retirement~~ ~~Department of Management Services~~ shall provide timely and appropriate training for newly appointed members of the commission. Such training shall be designed to acquaint new members of the commission with the duties and responsibilities of the commission.

Section 71. Subsection (1) and paragraph (c) of subsection (2) of section 121.35, Florida Statutes, are amended to read:

121.35 Optional retirement program for the State University System.—

(1) **OPTIONAL RETIREMENT PROGRAM ESTABLISHED.**—The Division of Retirement of the ~~Department of Management Services~~ shall establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for eligible members of the State University System who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through individual contracts or individual certificates issued for group annuity contracts, which may be fixed, variable, or a combination thereof. Any individual contract or certificate shall state the annuity plan on its face page, and shall include, but not be limited to, a statement of ownership, the contract benefits, annuity income options, limitations, expense charges, and surrender charges, if any. The state shall contribute, as provided in this section, toward the purchase of such optional benefits.

(2) **ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.**—

(c) For purposes of this section, the Division of Retirement of the ~~Department of Management Services~~ is referred to as the "division."

Section 72. Subsection (1) of section 123.01, Florida Statutes, is amended to read:

123.01 Supreme Court Justices, District Court of Appeal Judges, and Circuit Judges Retirement System established; divisions.—

(1) A retirement system for Supreme Court justices, district court of appeal judges, and circuit judges of the state is hereby established, which shall be administered by and under the supervision of the Division of Retirement of the ~~Department of Management Services~~.

Section 73. Paragraph (a) of subsection (2) of section 218.32, Florida Statutes, is amended to read:

218.32 Financial reporting; units of local government.—

(2) The department shall annually file a verified report by May 1 with the Governor, the Legislature, and the Special District Information Program of the Department of Community Affairs showing, in detail, the numbers and types of units of local government and the revenues, both locally derived and derived from intergovernmental transfers, and expenditures of such units. The report shall include, but shall not be limited to:

(a) Analyses of retirement information of all local retirement systems as provided by the Division of Retirement of the ~~Department of Management Services~~.

Section 74. Subsection (1) of section 238.03, Florida Statutes, is amended to read:

238.03 Administration.—

(1) The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are vested in the Division of Retirement of the ~~Department of Management Services~~. Subject to the limitation of this chapter, the division shall, from time to time, establish rules and regulations for the administration and transaction of the business of the retirement system and shall perform such other functions as are required for the execution of this chapter.

Section 75. Subsection (6) of section 250.22, Florida Statutes, is amended to read:

250.22 Retirement.—

(6) All powers, duties, and functions related to the administration of this section are vested in the ~~Department of Management Services and shall be assigned to the~~ Division of Retirement.

Section 76. Subsection (2) of section 321.17, Florida Statutes, is amended to read:

321.17 Contributions; leaving patrol; leave of absence; transferees.—

(2) Such members as are eligible for service credit as set forth under s. 321.19(1) may pay to the Treasurer to the credit of the Highway Patrol Pension Trust Fund, the sum of \$5 for each month of such service credit. Satisfactory proof of former service must be furnished the Division of Retirement of the ~~Department of Management Services~~ in the form of a sworn, written statement from the member's former employer or other reliable person, or other documents of proof as may be required by them. Such money as becomes due by reason of this clause shall be paid by said employee in equal monthly payments over a period not to exceed 60 months after October 1, 1945. Employees who fail to take advantage of the benefits offered under s. 321.19(1) within 90 days after October 1, 1945, shall forfeit such service credits forever. New members who may hereafter enter the service of division of the Florida Highway Patrol who fail to take advantage of the benefits offered under s. 321.19(1) within 90 days after time of employment shall forfeit such service credits forever.

Section 77. Paragraph (d) of subsection (1) of section 321.19, Florida Statutes, is amended to read:

321.19 Computing length of service; definitions; examining committee.—

(1)

(d) The surviving spouse or other dependent of any member whose employment is terminated by death shall, upon application to the director of the Division of Retirement of the ~~Department of Management Services~~, be permitted to pay the required contributions for any service performed by the member which could have been claimed by the member at the time of his death. Such service shall be added to the creditable service of the member and used in the calculation of any benefits which may be payable to the surviving spouse or other surviving dependent.

Section 78. Subsection (1) of section 321.191, Florida Statutes, is amended to read:

321.191 Non-service-connected disability retirement.—

(1) A member who becomes totally and permanently disabled after completing 10 years of service shall be entitled to a disability benefit. The disability retirement date for such member shall be the first day of the month following the month during which the Division of Retirement of the ~~Department of Management Services~~ approved payment of disability retirement benefits.

Section 79. Section 321.202, Florida Statutes, is amended to read:

321.202 Termination by death subsequent to normal retirement date but prior to actual retirement.—If the employment of a member is terminated by reason of his death subsequent to his normal retirement date but prior to his actual retirement, it shall be assumed that the member retired as of his date of death and that he had elected the optional form of payment most favorable to his legal spouse as determined by the Division of Retirement of the ~~Department of Management Services~~. The benefits so determined shall be payable monthly to the spouse until the death of the spouse.

Section 80. Subsection (1) of section 321.2205, Florida Statutes, is amended to read:

321.2205 Surviving spouses' benefit options.—Notwithstanding any other provision in this chapter to the contrary, the following provisions shall apply to any member who has accumulated at least 10 years of service and dies:

(1) If the deceased member's surviving spouse has previously received a refund of the member's contributions made to the Highway Patrol Pension Trust Fund, such spouse may pay to the Division of Retirement of the ~~Department of Management Services~~ an amount equal to the sum of the amount of the deceased member's contributions previously refunded and interest at 3 percent compounded annually on the amount of such refunded contributions from the date of refund to the date of payment to the Division of Retirement, and receive the monthly retirement benefit provided in subsection (3).

Section 81. Unless otherwise provided by law, the administrative rules in effect immediately before the effective date of this act which have been adopted on behalf of the Division of Retirement shall remain in effect until specifically changed in the manner provided by law. The provisions of this act do not affect the validity of any judicial or administrative proceeding that involves the Division of Retirement and is pending on the effective date of this act. The Division of Retirement shall remain, or be substituted as, the party in interest for any such proceeding.

Section 82. There is appropriated \$427,411 from the Florida Retirement System Trust Fund to the Division of Retirement to fund eight positions and expenses and equipment to implement the provisions of this act. The positions created shall be a Senior Personnel Manager, Personnel Technician III, Purchasing Agent III, Staff Assistant, Accountant II, Office Operator Supervisor I, and two Senior Clerks, which shall be used to establish personnel, purchasing, mail room, and copy functions. The funds used for this appropriation shall be those which had been transferred to the Department of Management Services Administrative Trust Fund and used for similar services.

Section 83. The Division of Retirement shall not be included in the expenditure reduction requirement provided for in section 338 of chapter 92-279, Laws of Florida.

Section 84. Subsection (5) is added to section 186.021, Florida Statutes, to read:

186.021 State agency strategic plans.—

(5) *The objectives in agency strategic plans shall not be inconsistent with state agency performance measures, as defined in s. 216.011, which have been approved by the Executive Office of the Governor and the Legislature.*

Section 85. The Division of Statutory Revision of the Joint Legislative Management Committee is requested to prepare a reviser's bill to conform the Florida Statutes to the revisions made by this act relating to the Division of Retirement.

Section 86. It is the policy of this state that all state services be performed in the most effective and efficient manner in order to provide the best value to the people of the state. The state also recognizes that competition among service providers may improve the quality of services provided and that competition, innovation, and creativity among service providers should be encouraged.

(1) For the purposes of this section:

(a) "Commercial activity" means an activity that provides a product or service that is available from a private source.

(b) "Identified state service" means a service provided by the state which is under consideration to determine whether the service may be better provided through competition with private sources.

(2) The Governor and Cabinet, sitting as the Administration Commission as defined in section 14.202, Florida Statutes, on their own initiative, the Office of Program Analysis and Agency Review, created pursuant to section 11.51, Florida Statutes, or the Commission on Government Accountability to the People, created pursuant to section 14.271, Florida Statutes, may identify commercial activities currently being performed by state agencies and, if it is determined that such services may be better provided by requiring competition with private sources or other state agency service providers, may recommend that a state agency engage in any process, including competitive bidding, that creates competition with private sources or other state agency service providers.

(3) In performing its duties under this section, the Administration Commission may:

(a) Adopt rules to implement any provision of this section.

(b) Hold public hearings or conduct studies.

(c) Consult with private sources.

(d) Require a state agency to conduct an in-house cost estimate, a management study, or any other hearing, study, review, or cost estimate concerning any aspect of an identified state service.

(e) Develop and require for use by state agencies methods to accurately and fairly estimate and account for the cost of providing an identified state service.

(f) Require that an identified state service be submitted to competitive bidding or another process that creates competition with private sources or other governmental entities. In determining whether an identified state service should be submitted to competitive bidding, the Administration Commission shall consider, at a minimum:

1. Any constitutional and legal implications that may arise as a result of such action.

2. The cost of supervising the work of any private contractor.

3. The total cost to the state agency of such state agency's performance of a service, including all indirect costs related to that state agency and costs of such agencies as the Comptroller, the Treasurer, and the Attorney General and other such support agencies to the extent such costs would not be incurred if a contract is awarded. Costs for the current provision of the service shall be considered only when such costs would actually be saved if the contract were awarded to another entity.

(g) Prescribe, in consultation with affected state agencies, the specifications and conditions of purchase procedures that must be followed by a state agency or a private source engaged in competitive bidding to provide an identified state service.

(h) Pursuant to the review and approval process provided in section 216.177, Florida Statutes, award a contract to a state agency currently providing the service, another state agency, a private source, or any combination of such entities, if the bidder presents the best and most reasonable bid, which is not necessarily the lowest bid. It is intended that bids are to be for a period of at least 5 years and that consideration be given to how to transfer the program back if the bidder is not successful in carrying out the requirements of the contract. The bid shall also include an analysis of health care benefits, retirement, and workers' compensation insurance for employees of the contractor which are reasonably comparable to those provided by the state.

(i) Determine the terms and conditions of a contract for service or interagency contract to provide an identified state service or other commercial activity. Such terms and conditions may include the requirement that a minimum level of health insurance coverage, including optional family coverage, is available to employees.

(j) Require the state agency to encourage state employees to organize and submit a bid for the identified state service.

(4) A state agency shall perform any activities required by the Administration Commission in the performance of its duties or the exercise of its powers under this section.

(5) Contracts entered into by the Administration Commission and decisions regarding whether a state agency shall engage in competitive bidding are exempt from state law regulating or limiting purchasing practices and decisions, including chapter 120, Florida Statutes.

Section 87. Nothing in this act shall be construed to allow use of any funds for any purpose not currently authorized by law.

Section 88. 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 89. This act shall take effect July 1, 1994.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to governmental performance and accountability; providing legislative intent; amending s. 11.40, F.S.; renaming the Legislative Auditing Committee as the Legislative Auditing and Accountability Committee; prescribing its membership and duties; creating s. 216.0313, F.S.; providing for review of performance-based programs; creating s. 11.507, F.S.; providing for policy evaluation and review; creating s. 14.271, F.S.; creating the Commission on Government Accountability to the People; prescribing its membership and duties; amending s. 216.011, F.S.; defining the terms "baseline data," "outcome," "output," "performance-based program budget," "performance measure," "program," and "standard" for purposes of fiscal affairs of the state and budgeting; creating s. 216.0166, F.S.; prescribing guidelines for state agencies and the judicial branch to use in submitting performance-based program budget requests; providing for adjustments to performance measures or

standards; creating s. 216.0172, F.S.; requiring establishment of performance-based program budgets for each program that can be properly administered under such a budget; creating s. 216.0235, F.S.; requiring state agencies to furnish legislative program budget requests; providing for review of such budgets by the Executive Office of the Governor; amending s. 216.031, F.S.; requiring certain information relating to performance-based program budgets to be submitted with agencies' and the judicial branch's legislative budget requests; amending s. 216.163, F.S.; providing for the Executive Office of the Governor to recommend budgetary incentives or disincentives after reviewing evaluations of state agency performance; requiring legislative ratification of such incentives or disincentives; creating s. 216.183, F.S.; requiring entities with performance-based program budgets to use a state chart of accounts; amending s. 216.292, F.S.; providing for distribution by agency heads or by the Chief Justice of lump-sum appropriations for performance-based programs; authorizing transfer of funds and providing for legislative oversight of transfers; transferring certain positions and fund balances from the Auditor General to the Legislative Auditing and Accountability Committee; amending s. 20.055, F.S.; abolishing the position of agency chief internal auditor and creating the position of inspector general in each state agency; prescribing the duties of that office with respect to ensuring accountability, integrity, and efficiency in agency performance; creating s. 14.32, F.S.; creating the position of Chief Inspector General in the Executive Office of the Governor and prescribing duties of that position; providing for agency inspectors general to assume other statutory duties of agency chief internal auditors not specifically addressed in this act; providing for reviser's bills; amending s. 11.143, F.S.; providing for the chairman of a legislative standing committee to designate members to participate in developing agency performance measures and standards; amending ss. 11.13, 11.149, 11.401, 11.42, 11.43, 11.44, 11.45, 11.46, 11.50, 11.51, 11.511, 11.513, 20.055, 20.23, 24.123, 112.3189, 189.409, 215.95, 216.0165, 216.052, 216.251, 218.32, 218.38, 218.503, 286.036, 287.114, 288.906, 288.9517, 299.9616, 339.149, 350.061, 350.0614, 400.335, 570.903, 766.105, 766.315, 946.516, F.S.; conforming those sections to the renaming of the Legislative Auditing Committee; authorizing the committee to waive certain performance-audit requirements; repealing, at a future date, s. 11.40, F.S., relating to the Legislative Auditing and Accountability Committee, and providing for legislative review of the committee before that date; creating s. 121.1905, F.S.; establishing the Division of Retirement as a separate budget entity within, but independent of, the Department of Management Services; amending ss. 110.1231, 112.3173, 112.63, 112.665, 121.025, 121.031, 121.135, 121.136, 121.1815, 121.22, 121.23, 121.24, 121.35, 123.01, 218.32, 238.03, 250.22, 321.17, 321.19, 321.191, 321.202, 321.2205, F.S., to conform; establishing the State Retirement Commission within the division; specifying effect on existing rules and pending judicial or administrative proceedings; providing an appropriation and authorizing positions; exempting the division from certain expenditure reduction requirements; amending s. 186.021, F.S.; providing for consistency of objectives in agency strategic plans; providing policy regarding state services; providing for identification of commercial activities being performed by state agencies and determination whether competition with private sources or other state agencies should be required; providing powers of the Administration Commission; providing for award of contracts; providing intent relating to use of funds; providing for severability; providing an effective date.

WHEREAS, state agencies should be granted appropriate statutory authority and flexibility to use their resources in the best possible way in order to better serve the citizens of the State of Florida through the efficient delivery of services and products and the effective administration of governmental programs, and

WHEREAS, state agencies should be held accountable for the services and products they deliver, and each state agency's mission, goals, and objectives should be clearly defined and performance measures for evaluating performance and assessing progress in achieving goals and objectives should be developed, integrated into the planning and budgeting process, and maintained on an ongoing basis, and

WHEREAS, state agencies should have incentives to deliver services and products in the most efficient and effective manner, and, if appropriate, to recommend the restructuring of ineffective programs or the elimination of unnecessary programs, and

WHEREAS, state agencies should have their performance in achieving desired outcomes and in efficiently operating programs measured and evaluated in an effort to improve program coordination, eliminate duplicative programs or activities, and provide better information to the Governor, the Legislature, and state agencies, and

WHEREAS, state agencies should strive to keep the citizens of this state informed of the public benefits derived from the delivery of state agency services and products and of the progress state agencies are making with regard to improving performance, NOW, THEREFORE,

Senator Williams moved the following amendment to **Amendment 1**:

Amendment 1A (with Title Amendment)—On page 93, line 1, through page 96, line 5, strike all of those lines and renumber subsequent sections.

And the title is amended to read:

In title, on page 100, lines 7-14, strike all of those lines and insert: policy regarding state services;

On motion by Senator Williams, further consideration of **CS for CS for SB 1824** with pending **Amendment 1A** was deferred.

On motions by Senator Burt, by two-thirds vote **CS for HB 1401** was withdrawn from the Committees on Corrections, Probation and Parole; Governmental Operations; and Appropriations.

On motion by Senator Burt—

CS for HB 1401—A bill to be entitled An act relating to private correctional facilities; amending s. 957.03, F.S.; authorizing the Correctional Privatization Commission to adopt rules; amending s. 957.04, F.S.; providing circumstances under which a lease-purchase agreement negotiated by the commission need not be approved by the Board of Trustees of the Internal Improvement Trust Fund; exempting appraisals obtained by the commission from competitive-bid requirements; amending s. 957.06, F.S.; specifying certain powers and duties that are not delegated to the contractor under ch. 957, F.S.; amending s. 944.716, F.S.; revising guidelines and providing responsibilities of the commission with respect to terminations of contracts with private vendors; amending s. 957.07, F.S.; revising provisions relating to cost-saving requirements for specified contracts entered into by the commission; amending s. 957.12, F.S.; revising provisions relating to prohibitions on contacts between commission employees or consultants and bidders regarding proposals for a private correctional facility; creating s. 957.13, F.S.; creating provisions relating to background checks; providing an effective date.

—a companion measure, was substituted for **CS for SB 1164** and read the second time by title.

Senator Burt moved the following amendments which were adopted:

Amendment 1 (with Title Amendment)—On page 5, strike all of lines 7-29 and insert:

Section 4. Section 957.14 is created to read:

957.14 Contract termination and control of a correctional facility by the department.—A detailed plan shall be provided by a private vendor under which the department shall assume temporary control of a private correctional facility upon termination of the contract. The commission may terminate the contract with cause after written notice of material deficiencies and after 60 workdays in order to correct the material deficiencies. If any event occurs that involves the noncompliance with or violation of contract terms and that presents a serious threat to the safety, health, or security of the inmates, employees, or the public, the department may temporarily assume control of the private correctional facility, with the approval of the commission. A plan shall also be provided by a private vendor for the purchase and temporary assumption of operations of a correctional facility by the department in the event of bankruptcy or the financial insolvency of the private vendor. The private vendor shall provide an emergency plan to address inmate disturbances, employee work stoppages, strikes, or other serious events in accordance with standards of the American Correctional Association.

And the title is amended as follows:

In title, on page 1, strike all of lines 14 and 15 and insert: contractor under ch. 957, F.S.; creating s. 957.14, F.S.; revising guidelines and

Amendment 2—On page 6, line 8, strike “at a location within the same Department of Corrections region”

Amendment 3—On page 6, line 30, after the period (.) insert: *In counties where the Department of Corrections pays its employees a*

competitive-area differential, the cost for the public provision of a similar correctional facility may include the competitive-area differential paid by the department

Amendment 4—On page 7, line 27, after “records” insert: of individuals who apply for employment at a private correctional facility.

On motion by Senator Burt, by two-thirds vote **CS for HB 1401** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Senate resumed consideration of—

CS for HB 1873—A bill to be entitled An act relating to developmental disabilities; amending s. 393.001, F.S.; renaming the Florida Developmental Disabilities Planning Council; deleting obsolete language; amending ss. 320.0896 and 411.221, F.S., to conform; amending s. 393.063, F.S.; revising definitions; replacing the term “caretaker” with “direct service provider”; replacing “diagnosis and evaluation” with “comprehensive assessment”; defining “personal services” and “support coordinator”; amending s. 393.064, F.S.; revising provisions relating to prevention services; providing for interface with certain responsibilities of the children’s medical service program; amending s. 393.065, F.S.; clarifying procedures and timeframes for eligibility determinations; amending s. 393.0651, F.S.; providing for family or individual support plans in place of habilitation plans; providing responsibilities of the support planning team and support coordinator; amending s. 393.0655, F.S.; providing for screening of direct service providers; revising requirements; providing penalties for failure of a direct service provider of employer to comply; amending s. 393.067, F.S.; providing for training of facility staff in the detection and prevention of sexual abuse of facility residents and clients; amending s. 393.13, F.S.; providing the right of residents to be free from sexual abuse; amending s. 393.11, F.S.; providing responsibilities of the developmental services program with respect to involuntary admission to residential services; amending ss. 393.0657, 393.066, 393.0674, 393.0675, 393.068, 393.12, and 916.11, F.S.; conforming language and references to changes made in the act; amending ss. 943.0585 and 943.059, F.S.; correcting cross references; providing an effective date.

—which had been previously considered and amended this day.

Senator Gutman moved the following amendment which was adopted:

Amendment 4 (with Title Amendment)—On page 37, between lines 20 and 21, insert:

Section 21. Subsection (1), paragraph (a) of subsection (3), and subsections (4) and (5) of section 92.53, Florida Statutes, are amended to read:

92.53 Videotaping of testimony of victim or witness under age 16 or person with mental retardation.—

(1) On motion and hearing in camera and a finding that there is a substantial likelihood that a victim or witness who is under the age of 16 or who is a person with mental retardation as defined in s. 393.063(41) would suffer at least moderate emotional or mental harm due to the presence of the defendant if the child or person with mental retardation is required to testify in open court, or that such victim or witness is otherwise unavailable as defined in s. 90.804(1), the trial court may order the videotaping of the testimony of the child victim or witness in a case, whether civil or criminal in nature, in which videotaped testimony is to be utilized at trial in lieu of trial testimony in open court.

(3) The judge shall preside, or shall appoint a special master to preside, at the videotaping unless the following conditions are met:

(a) The child or person with mental retardation is represented by a guardian ad litem or counsel;

(4) The defendant and the defendant’s counsel shall be present at the videotaping, unless the defendant has waived this right. The court may require the defendant to view the testimony from outside the presence of the child or person with mental retardation by means of a two-way mirror or another similar method that will ensure that the defendant can observe and hear the testimony of the victim or witness child in person, but that the victim or witness child cannot hear or see the defendant. The defendant and the attorney for the defendant may communicate by any appropriate private method.

(5) Any party, or the court on its own motion, may request the aid of an interpreter, as provided in s. 90.606, to aid the parties in formulating methods of questioning the child or person with mental retardation and in interpreting the answers of the child or person with mental retardation throughout proceedings conducted under this section.

Section 22. Subsections (1), (3), and (4) of section 92.54, Florida Statutes, are amended to read:

92.54 Use of closed circuit television in proceedings involving victims or witnesses under the age of 16 or persons with mental retardation.—

(1) Upon motion and hearing in camera and upon a finding that there is a substantial likelihood that the child or person with mental retardation will suffer at least moderate emotional or mental harm due to the presence of the defendant if the child or person with mental retardation is required to testify in open court, or that such victim or witness is unavailable as defined in s. 90.804(1), the trial court may order that the testimony of a child under the age of 16 or person with mental retardation who is a victim or witness be taken outside of the courtroom and shown by means of closed circuit television.

(3) Only the judge, the prosecutor, the defendant, the attorney for the defendant, the operators of the videotape equipment, an interpreter, and some other person who, in the opinion of the court, contributes to the well-being of the child or person with mental retardation and who will not be a witness in the case may be in the room during the recording of the testimony.

(4) During the child's or person's with mental retardation testimony by closed circuit television, the court may require the defendant to view the testimony from the courtroom. In such a case, the court shall permit the defendant to observe and hear the testimony of the child or person with mental retardation, but shall ensure that the child or person with mental retardation cannot hear or see the defendant. The defendant's right to assistance of counsel, which includes the right to immediate and direct communication with counsel conducting cross-examination, must be protected and, upon the defendant's request, such communication shall be provided by any appropriate electronic method.

Section 23. Section 92.55, Florida Statutes, is amended to read:

92.55 Judicial or other proceedings involving child victim or witness under the age of 16 or person with mental retardation; special protections.—

(1) The Legislature finds that Rule 3.220, Rules of Criminal Procedure, Rule 1.280, Rules of Civil Procedure, and Rule 8.070, Rules of Juvenile Procedure, as such rules pertain to protective orders, are not adequate in protecting the interests of children or persons with mental retardation as witnesses in criminal, civil, or juvenile proceedings. Accordingly, the Legislature requests the Supreme Court, pursuant to the authority vested in the court by s. 2(a), Art. V, State Constitution, to adopt rules amending the Rules of Criminal Procedure, the Rules of Civil Procedure, and the Rules of Juvenile Procedure as necessary to comply with this section.

(2) Upon motion of any party, upon motion of a parent, guardian, attorney, or guardian ad litem for a child under the age of 16 or person with mental retardation, or upon its own motion, the court may enter any order necessary to protect a child under the age of 16 or person with mental retardation who is a victim or witness in any judicial proceeding or other official proceeding from severe emotional or mental harm due to the presence of the defendant if the child or person with mental retardation is required to testify in open court. Such orders shall relate to the taking of testimony and shall include, but not be limited to:

(a) Interviewing or the taking of depositions as part of a civil or criminal proceeding.

(b) Examination and cross-examination for the purpose of qualifying as a witness or testifying in any proceeding.

(c) The use of testimony taken outside of the courtroom, including proceedings under ss. 92.53 and 92.54.

(3) In ruling upon the motion, the court shall take into consideration:

(a) The age of the child, the nature of the offense or act, the relationship of the child to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the child as a consequence of the defendant's presence, and any other fact that the court deems relevant; or

(b) The age of the person with mental retardation, the functional capacity of the person with mental retardation, the nature of the offenses or act, the relationship of the person with mental retardation to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the person with mental retardation as a consequence of the defendant's presence, and any other fact that the court deems relevant.

(4) In addition to such other relief as is provided by law, the court may enter orders limiting the number of times that a child or person with mental retardation may be interviewed, prohibiting depositions of a child or person with mental retardation, requiring the submission of questions prior to examination of a child or person with mental retardation, setting the place and conditions for interviewing a child or person with mental retardation or for conducting any other proceeding, or permitting or prohibiting the attendance of any person at any proceeding. The court shall enter any order necessary to protect the rights of all parties, including the defendant in any criminal action.

Section 24. Section 914.16, Florida Statutes, is amended to read:

914.16 Child abuse and sexual abuse of victims under age 16 or persons with mental retardation; limits on interviews.—The chief judge of each judicial circuit, after consultation with the state attorney and the public defender for the judicial circuit, the appropriate chief law enforcement officer, and any other person deemed appropriate by the chief judge, shall provide by order reasonable limits on the number of interviews that a victim of a violation of s. 794.011, s. 800.04, s. 827.03, or s. 827.04 who is under 16 years of age or a victim of a violation of s. 415.111, s. 794.011, s. 800.02, or s. 800.03 who is a person with mental retardation as defined in s. 393.063(41) must submit to for law enforcement or discovery purposes. The order shall, to the extent possible, protect the victim from the psychological damage of repeated interrogations while preserving the rights of the public, the victim, and the person charged with the violation.

Section 25. Section 914.17, Florida Statutes, is amended to read:

914.17 Appointment of advocate for ~~minor~~ victims or witnesses who are minors or persons with mental retardation.—

(1) A guardian ad litem or other advocate shall be appointed by the court to represent a minor in any criminal proceeding if the minor is a victim of or witness to child abuse or neglect, or if the minor is a victim of a sexual offense or a witness to a sexual offense committed against another minor. The court may appoint a guardian ad litem or other advocate in any other criminal proceeding in which a minor is involved as either a victim or a witness. The guardian ad litem or other advocate shall have full access to all evidence and reports introduced during the proceedings, may interview witnesses, may make recommendations to the court, shall be noticed and have the right to appear on behalf of the minor at all proceedings, and may request additional examinations by medical doctors, psychiatrists, or psychologists. It is the duty of the guardian ad litem or other advocate to perform the following services:

(a) To explain, in language understandable to the minor, all legal proceedings in which the minor shall be involved;

(b) To act, as a friend of the court, to advise the judge, whenever appropriate, of the minor's ability to understand and cooperate with any court proceeding; and

(c) To assist the minor and the minor's family in coping with the emotional effects of the crime and subsequent criminal proceedings in which the minor is involved.

(2) An advocate shall be appointed by the court to represent a person with mental retardation as defined in s. 393.063(41), F.S., in any criminal proceeding if the person with mental retardation is a victim of or witness to abuse or neglect, or if the person with mental retardation is a victim of a sexual offense or a witness to a sexual offense committed against a minor or person with mental retardation. The court may appoint an advocate in any other criminal proceeding in which a person with mental retardation is involved as either a victim or a witness. The advocate shall have full access to all evidence and reports introduced during the proceedings, may interview witnesses, may make recommendations to the court, shall be noticed and have the right to appear on behalf of the person with mental retardation at all proceedings, and may request additional examinations by medical doctors, psychiatrists, or psychologists. It is the duty of the advocate to perform the following services:

(a) To explain, in language understandable to the person with mental retardation, all legal proceedings in which the person shall be involved;

(b) To act, as a friend of the court, to advise the judge, whenever appropriate, of the person with mental retardation's ability to understand and cooperate with any court proceedings; and

(c) To assist the person with mental retardation and the person's family in coping with the emotional effects of the crime and subsequent criminal proceedings in which the person with mental retardation is involved.

(3) Any person participating in a judicial proceeding as a guardian ad litem or other advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

Section 26. Section 918.16, Florida Statutes, is amended to read:

918.16 Sex offenses; testimony of person under age 16 or person with mental retardation; courtroom cleared; exceptions.—In the trial of any case, civil or criminal, when any person under the age of 16 or any person with mental retardation as defined in s. 393.063(41) is testifying concerning any sex offense, the court shall clear the courtroom of all persons except parties to the cause and their immediate families or guardians, attorneys and their secretaries, officers of the court, jurors, newspaper reporters or broadcasters, court reporters, and at the request of the victim, victim or witness advocates designated by the state attorney's office.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 2, line 10, after the semicolon (;) insert: amending s. 92.53, 92.54, and 92.55, F.S.; extending to persons with mental retardation the same rights enjoyed by children under the age of 16 with respect to the use of videotape and closed circuit television in judicial proceedings; amending s. 914.16, F.S.; extending to persons with mental retardation the same rights enjoyed by children under the age of 16 with respect to limiting the number of interviews; amending s. 914.17, F.S.; appointing an advocate for persons with mental retardation; amending s. 918.16, F.S.; authorizing courts to restrict attendance in sexual offense cases with persons with mental retardation;

On motion by Senator Gutman, by two-thirds vote **CS for HB 1873** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SENATOR BURT PRESIDING

On motion by Senator Foley, by two-thirds vote **CS for HB 749** was withdrawn from the Committee on Agriculture.

On motion by Senator Foley—

CS for HB 749—A bill to be entitled An act relating to pest control; amending s. 482.051, F.S.; requiring additional rules relating to use of pesticides; amending s. 482.061, F.S.; revising provisions relating to the qualifications of inspectors; amending s. 482.071, F.S.; revising the prohibition against unlawful activity relating to a licensee's contractual obligations upon dissolution or transfer of a pest control business; providing penalties; amending s. 482.132, F.S.; revising the provisions relating to qualifications of pest control operators; amending s. 482.155, F.S.; requiring certain recordkeeping; specifying an exemption from regulation under ch. 482, F.S.; amending s. 482.156, F.S., relating to commercial landscape maintenance personnel; clarifying language; amending s. 482.161, F.S.; revising disciplinary actions; amending s. 482.163, F.S., relating to responsibility for pest control activities of employees; strengthening the department's enforcement powers; creating the Subterranean Termite Treatment Study Committee, providing for composition and meeting procedures; requiring a report; providing an effective date.

—a companion measure, was substituted for **CS for SB 1488** and read the second time by title.

Senator Foley moved the following amendments which were adopted:

Amendment 1—On page 4, lines 20 and 21, strike “any the category or categories in which the applicant seeks certification” and after “in” insert: the category or categories in which the applicant seeks certification

Amendment 2—On page 7, lines 14-17, strike “A licensee may not automatically be considered responsible for violations made by an employee. However, the licensee may not knowingly encourage, aid or abet violations of this chapter.” and insert: A licensee may not automatically be considered responsible for violations made by an employee. However, the licensee may not knowingly encourage, aid, or abet violations of this chapter.

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

Yeas—35 Nays—None

SB 1504—A bill to be entitled An act relating to food recovery; amending s. 570.07, F.S.; providing power and duty of the Department of Agriculture and Consumer Services to establish food recovery programs; creating s. 570.0725, F.S.; providing legislative intent and department functions relative to food recovery; providing an appropriation and authorizing positions; providing an effective date.

—was read the second time by title.

The Committee on Agriculture recommended the following amendment which was moved by Senator Foley and failed:

Amendment 1—On page 3, strike all of lines 4 and 5 and insert: Agriculture and Consumer Services the sum of \$332,110 and one career service position are authorized, to carry out the

Senator Foley moved the following amendment:

Amendment 2 (with Title Amendment)—On page 2, line 6, strike everything after the enacting clause and insert:

Section 1. Subsection (35) is added to section 570.07, Florida Statutes, to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(35) To assist local volunteer and nonprofit organizations in soliciting, collecting, packaging, or delivering surplus fresh fruit and vegetables for distribution in accordance with s. 570.0725. The department also may coordinate the development of food-recovery programs in the production areas of the state using local volunteer and nonprofit organizations.

Section 2. Section 570.0725, Florida Statutes, is created to read:

570.0725 Food recovery; legislative intent; department functions.—

(1) The Legislature finds that:

(a) Millions of pounds of surplus and slightly blemished fresh fruits and vegetables are destroyed each year, while many residents of this state go each day without food.

(b) Food-recovery programs can beneficially aid residents of this state who lack the means to purchase fresh fruit and vegetables by providing such surplus food to governmental agencies and local volunteer and nonprofit organizations for distribution to those in need, rather than continuing to see it destroyed.

(c) The state, through the Commissioner of Agriculture, should assist food-recovery programs, when needed, to aid in their establishment and to support their continued and efficient operation.

(2) A food-recovery program is a local, volunteer-based organization near an agricultural production area of the state that is established for the exclusive purpose of soliciting, collecting, packaging, and delivering surplus fresh fruit and vegetables for distribution in communities throughout the state. Distribution of the food to the needy would be accomplished by governmental agencies and volunteer and nonprofit organizations.

(3) In helping to coordinate the establishment of food-recovery programs, the department may:

(a) Identify suppliers, volunteers, and nonprofit organizations in the community to ascertain the level of interest in establishing a food-recovery program.

(b) Provide facilities and other resources for initial organizational meetings.

(c) Provide direct and indirect support for the fledgling program, upon demonstration of serious interest at the local level.

(4) The department may provide direct and indirect support to food-recovery programs that are unable to obtain specific assistance from their communities or other sources by loaning equipment, facilities, and staff for collecting, packaging, storing, and transporting donated food, as needed.

(5) The department shall account for the direct and indirect costs associated with supporting food-recovery programs throughout the state. It shall submit a report to the President of the Senate and the Speaker of the House of Representatives by November 1, for the previous fiscal year, when state funds are spent for this purpose. The report must include, but need not be limited to, the identity of organizations receiving funds, the amount of funds disbursed to these organizations, other uses of food-recovery funds, and estimates of the amount of fresh produce recovered.

Section 3. The sum of \$332,110 is appropriated from the General Revenue Fund to the Bureau of Food Distribution of the Division of Marketing and Development of the Department of Agriculture and Consumer Services, and one career service position is authorized for that bureau, to carry out the provisions of this act.

Section 4. This act shall take effect July 1, 1994.

And the title is amended as follows:

In title, on page 2, line 4, strike everything before the enacting clause and insert: A bill to be entitled An act relating to food recovery; amending s. 570.07, F.S.; providing power and duty of the Department of Agriculture and Consumer Services to assist food-recovery programs; creating s. 570.0725, F.S.; providing legislative intent and departmental functions relating to food recovery; providing an appropriation and authorizing a position; providing an effective date.

Senator Foley moved the following amendment to **Amendment 2** which was adopted:

Amendment 2A—On page 3, strike all of lines 16-21

Amendment 2 as amended was adopted.

On motion by Senator Foley, by two-thirds vote **SB 1504** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 1584—A bill to be entitled An act relating to affordable housing; amending s. 196.192, F.S.; providing a partial exemption from ad valorem taxes for certain property that is used for the provision of affordable housing; amending s. 420.0004, F.S.; defining the term "affordable" as used with respect to laws relating to affordable housing; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Kiser and adopted:

Amendment 1—On page 2, line 14, insert:

(5) Each owner applying for an exemption under subsection (4) must file with the annual application for exemption an affidavit from each person who occupies a unit or apartment for which an exemption under that subsection is claimed stating that the person resides therein and in good faith makes that unit or apartment their permanent residence and meets the income criteria set forth in s. 420.0004(3) and (9).

On motion by Senator Kiser, by two-thirds vote **SB 1584** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Foley, by two-thirds vote **CS for HB 51** was withdrawn from the Committee on Judiciary.

On motion by Senator Foley—

CS for HB 51—A bill to be entitled An act relating to judgments; creating s. 55.601, F.S.; creating the Uniform Foreign Money-Judgment Recognition Act; creating s. 55.602, F.S.; providing definitions; creating s. 55.603, F.S.; providing for applicability; creating s. 55.604, F.S.; providing for recognition and enforcement of foreign judgments; creating s. 55.605, F.S.; providing grounds for nonrecognition; creating s. 55.606, F.S.; providing for personal jurisdiction; creating s. 55.607, F.S.; providing for stay in case of appeal; providing an effective date.

—a companion measure, was substituted for **SB 2274** and read the second time by title.

Senator Dudley moved the following amendments which were adopted:

Amendment 1 (with Title Amendment)—On page 1, line 21, after "Uniform" insert: Out-of-country

And the title is amended as follows:

In title, on page 1, line 3, after "Uniform" insert: Out-of-country

Amendment 2—On page 4, between lines 2 and 3, insert:

(7) A lien on real estate in any county shall be created only when there has been recorded in the Official Records of the county (a) a certified copy of the judgment, and (b) a copy of the clerk's certificate or the order recognizing the foreign judgment. The priority of such lien will be established as of the time the latter of the two recordings have occurred. Such lien may be partially released or satisfied by the person designated pursuant to paragraph (1).

Amendment 3—On page 4, line 31, insert:

(g) The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state.

Amendment 4 (with Title Amendment)—On page 6, between lines 5 and 6, insert:

Section 8. Section 55.03, Florida Statutes, is amended to read:

55.03 Judgments; rate of interest, generally.—

(1) On December 1 of each year beginning December 1, 1994, the Comptroller of the State of Florida shall set the rate of interest that shall be payable on judgments or decrees for the year beginning January 1 by averaging the discount rate of the federal reserve bank of New York for the preceding year, then adding 500 basis points to the averaged federal discount rate. The Comptroller shall inform the clerk of the courts and chief judge for each judicial circuit of the rate that has been established for the upcoming year. The initial interest rate established by the Comptroller shall take effect on January 1, 1995, and the interest rate established by the Comptroller in subsequent years shall take effect on January 1 of each following year. Judgments obtained on or after January 1, 1995, shall use the previous statutory rate for time periods before January 1, 1995, for which interest is due and shall apply the rate set by the Comptroller for time periods after January 1, 1995, for which interest is due. Nothing contained herein shall affect a rate of interest established by written contract or obligation.

(1) ~~A judgment or decree entered on or after October 1, 1981, shall bear interest at the rate of 12 percent a year unless the judgment or decree is rendered on a written contract or obligation providing for interest at a lesser rate, in which case the judgment or decree bears interest at the rate specified in such written contract or obligation.~~

(2) Any process, writ, judgment, or decree which is directed to the sheriffs of the state to be dealt with as execution shall bear, on the face of the process, writ, judgment, or decree, the rate of interest which it shall accrue from the date of the judgment until payment.

Section 9. Subsection (3) of section 215.422, Florida Statutes, is amended to read:

215.422 Warrants, vouchers, and invoices; processing time limits; dispute resolution; agency or judicial branch compliance.—

(3)(a) Each agency of the state or the judicial branch which is required by law to file vouchers with the Comptroller shall keep a record of the date of receipt of the invoice; dates of receipt, inspection, and approval of the goods or services; date of filing of the voucher; and date of issuance of the warrant in payment thereof. If the voucher is not filed or the warrant is not issued within the time required, an explanation in writing by the agency head or the Chief Justice shall be submitted to the Department of Banking and Finance in a manner prescribed by it. Agencies and the judicial branch shall continue to deliver or mail state payments promptly.

(b) If a warrant in payment of an invoice is not issued within 40 days after receipt of the invoice and receipt, inspection, and approval of the goods and services, the agency or judicial branch shall pay to the vendor, in addition to the amount of the invoice, interest at a rate *as established pursuant to s. 55.03(1) of 1 percent per month calculated on a daily basis* on the unpaid balance from the expiration of such 40-day period until such time as the warrant is issued to the vendor. Such interest shall be added to the invoice at the time of submission to the Comptroller for payment whenever possible. If addition of the interest penalty is not possible, the agency or judicial branch shall pay the interest penalty payment within 15 days after issuing the warrant. The provisions of this paragraph apply only to undisputed amounts for which payment has been authorized. Disputes shall be resolved in accordance with rules developed and adopted by the Chief Justice for the judicial branch, and rules adopted by the Department of Banking and Finance or in a formal administrative proceeding before a hearing officer of the Division of Administrative Hearings for state agencies, provided that, for the purposes of s. 120.57(1), no party to a dispute involving less than \$1,000 in interest penalties shall be deemed to be substantially affected by the dispute or to have a substantial interest in the decision resolving the dispute. In the case of an error on the part of the vendor, the 40-day period shall begin to run upon receipt by the agency or the judicial branch of a corrected invoice or other remedy of the error. The provisions of this paragraph do not apply when the filing requirement under subsection (1) or subsection (2) has been waived in whole by the Department of Banking and Finance. The various state agencies and the judicial branch shall be responsible for initiating the penalty payments required by this subsection and shall use this subsection as authority to make such payments. The budget request submitted to the Legislature shall specifically disclose the amount of any interest paid by any agency or the judicial branch pursuant to this subsection. The temporary unavailability of funds to make a timely payment due for goods or services does not relieve an agency or the judicial branch from the obligation to pay interest penalties under this section.

(c) An agency or the judicial branch may make partial payments to a contractor upon partial delivery of goods or services or upon partial completion of construction when a request for such partial payment is made by the contractor and approved by the agency. Provisions of this section and rules of the Department of Banking and Finance shall apply to partial payments in the same manner as they apply to full payments.

Section 10. Section 687.01, Florida Statutes, is amended to read:

687.01 Rate of interest in absence of contract.—In all cases where interest shall accrue without a special contract for the rate thereof, the rate is the rate provided for in s. 55.03 ~~shall be 12 percent per annum, but parties may contract for a lesser or greater rate by contract in writing.~~

Section 11. Subsection (3) of section 337.141, Florida Statutes, is amended to read:

337.141 Payment of construction or maintenance contracts.—

(3) For each day after 75 days, or 30 days after settlement of a claim, the department shall pay to the contractor interest at the rate *set forth in s. 55.03 of 1 percent per month or portion thereof on the unpaid balance.*

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 13, following the semicolon (;) insert: amending s. 55.03, F.S.; revising the rate of interest on certain judgments and decrees; providing a procedure for setting the rate of interest on an annual basis by the Comptroller of the State of Florida; amending s. 215.422, F.S.; revising the rate of interest on vouchers authorizing payment of an invoice submitted to an agency of the state or the judicial branch; amending s. 687.01, F.S.; revising the rate of interest in the absence of a contract provision specifying the rate of interest; amending s. 337.141, F.S.; revising the rate of interest on public contracts;

On motion by Senator Foley, by two-thirds vote **CS for HB 51** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

REPORTS OF COMMITTEES

The Committee on Executive Business, Ethics and Elections recommends the following pass: HB 733 with 3 amendments

The bill was referred to the Committee on Appropriations under the original reference.

The Special Master on Claims recommends the following pass: SB 1774

The bill was referred to the Committee on Finance, Taxation and Claims under the original reference.

The Special Master on Claims recommends the following not pass: SB 3150

The bill was referred to the Committee on Finance, Taxation and Claims under the original reference.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

By Senators Grant, Crist and Hargrett—

SB 3144—A bill to be entitled An act relating to the City of Fort Lauderdale; providing for the relief of Tyler G. Fontaine; requiring the city to compensate him for losses suffered, and other damages sustained, as a result of the negligence of the city; providing an effective date.

Proof of publication of the required notice was attached.

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

By Senator Boczar—

SB 3146—A bill to be entitled An act relating to Sarasota County; amending ch. 71-904, Laws of Florida, the Manasota Key Conservation District Act; providing definitions; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Meadows—

SB 3148—A bill to be entitled An act relating to Broward County and to Port Everglades District and to Port Everglades Authority in Broward County; providing definitions; specifying powers, duties, and obligations of Broward County as to Port Everglades; clarifying powers, duties, and obligations of the Cities of Hollywood, Fort Lauderdale, and Dania as to the Port Everglades jurisdictional area within their respective municipal boundaries; providing for construction and implementation of Broward County's powers, duties, and obligations; incorporating by reference certain large user wastewater and potable water agreements between certain cities and the port authority; providing for compensation; providing for remedies; preserving municipal boundaries and powers to impose ad valorem taxes; providing severability; providing for future repeal; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SB 3150 was introduced out of order and referenced April 4.

SR 3152 was introduced out of order and adopted this day.

SR 3154 was introduced out of order and adopted this day.

SB 3156 was introduced out of order and passed this day.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed HB 285, CS for HB 1161, CS for HB 1541, HB 2385, HB 2499; has passed by the required constitutional three-fifths vote of the membership CS for HB 1095; has passed as amended CS for HB 413, CS for HB 709, CS for HB 1093, CS for HB 1181, CS for HB's 1599 and 633, CS for HB 1987, CS for HB 2063, HB 2087, CS for HB 2103, HB 2133, CS for HB 2135, HB 2217, HB 2301, CS for HB 2587; has passed as amended by the required constitutional three-fifths vote of the membership HB 2199 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Webster and others—

HB 285—A bill to be entitled An act relating to driver licenses; creating s. 322.2616, F.S.; authorizing law enforcement officers to suspend the driver license of a person under the age of 21 who drives a motor vehicle with a certain blood or breath alcohol level or refuses to submit to a blood or breath alcohol test; providing for consent to be tested; providing procedures; providing for review; providing for appeal to the circuit court; providing an effective date.

—was referred to the Committees on Criminal Justice, Commerce and Appropriations.

By the Committee on Finance and Taxation; and Representative Logan and others—

CS for HB 1161—A bill to be entitled An act relating to transportation; amending s. 320.03, F.S.; increasing a fee charged for initial and renewal registration of certain automobiles and trucks, for deposit into the Transportation Disadvantaged Trust Fund; specifying individuals with priority transportation needs; amending s. 320.131, F.S.; increasing a fee charged for temporary tags; providing for distribution of new proceeds to the Impaired Drivers and Speeders Trust Fund; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Judiciary and Representative Geller—

CS for HB 1541—A bill to be entitled An act relating to Broward County; providing for the relief of Nicholas Maracic; providing an appropriation to compensate him for injuries sustained as a result of the negligence of Broward County; providing an effective date.

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

By the Committee on Aging and Human Services; and Representative Gordon and others—

HB 2385—A bill to be entitled An act relating to public records; amending s. 400.211, F.S.; providing an exemption from public records requirements for criminal records, juvenile records, and central abuse registry information collected by the Agency for Health Care Administration concerning certified nursing assistant applying for employment in nursing homes; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

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

By the Committee on Insurance and Representative Cosgrove—

HB 2499—A bill to be entitled An act relating to insurance; amending s. 626.88, F.S.; revising definitions relating to third party administrators; creating s. 626.8804, F.S.; requiring a license fee for a certificate of authority to act as an administrator; amending s. 626.8805, F.S.; revising provisions relating to certificates of authority to act as an administrator; creating s. 626.8806, F.S.; exempting certain administrators from certificate requirements; creating s. 626.8807, F.S.; providing for waiver of application requirements for certification under certain circumstances; creating s. 626.8808, F.S.; exempting certain persons from certification requirements under certain circumstances; amending s. 626.882, F.S.; revising requirements for agreements between administrators and insurers; amending s. 626.883, F.S.; revising provisions providing for administrators to act as intermediaries between insurers and insureds; deleting provisions providing for collection and deposit of charges or premiums and payments from fiduciary accounts; amending s. 626.884, F.S.; revising provisions for maintenance of records by an administrator; renumbering s. 626.887, F.S., as s. 626.8842, F.S.; creating s. 626.8844, F.S.; providing responsibilities of insurers who use administrators; creating s. 626.8846, F.S.; providing requirements for collection and payment of claims by administrators; providing for fiduciary capacity of administrators; providing for establishment of accounts and payment from such accounts; amending s. 626.888, F.S.; prohibiting an administrator from entering into certain financial agreements with insurers under certain circumstances; amending s. 626.885, F.S.; revising provisions requiring notice to covered individuals and disclosure of charges and fees; amending s. 626.886, F.S.; providing for delivery of certain materials to insureds or covered individuals; amending s. 626.89, F.S.; revising provisions requiring an annual report; amending s. 626.891, F.S.; clarifying provisions providing grounds for suspension or revocation of a certificate of authority; amending s. 626.893, F.S.; clarifying provisions providing for a period of suspension and reinstatement; amending s. 626.894, F.S.; clarifying provisions providing for an administrative fine; amending s. 626.898, F.S.; requiring service companies to maintain financial statements; creating s. 626.8991, F.S.; abolishing authority of the department to issue new certificates of authority to service companies or service agents; repealing ss. 626.8809 and 626.8817, F.S., relating to fidelity bonds and responsibilities of insurance companies with respect to administration of coverage; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committee on Natural Resources and Representative D. Saunders—

CS for HB 1095—A bill to be entitled An act relating to trust funds; creating the Minerals Trust Fund within the Department of Revenue; 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 Committee on Appropriations.

By the Committee on Governmental Operations and Representative Rudd and others—

CS for HB 413—A bill to be entitled An act relating to public employees; amending s. 112.061, F.S.; increasing the mileage allowance

for the use of privately owned motor vehicles for state travel; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committee on Commerce and Representative Lippman and others—

CS for HB 709—A bill to be entitled An act relating to moving and storage; creating part XII of ch. 559, F.S.; creating the "Florida Moving and Storage Act"; providing a short title; providing purposes; providing applicability; providing definitions; providing for registration, insurance, and bonding; requiring estimates of certain costs; requiring a contract for service and a disclosure statement for transportation by movers; specifying contents of such contracts; providing criteria and procedures for estimates; making certain activities by movers unlawful under certain circumstances; providing a penalty; providing for payment of charges in excess of an estimate; providing for preparation of an inventory under certain circumstances; specifying acceptable forms of payment; requiring transportation of goods with reasonable dispatch; providing for liability of movers under certain circumstances; providing exceptions; requiring the keeping of certain records; providing procedures for handling inquiries and complaints; providing for a written statement of satisfaction; specifying the contents of such statement; providing procedures for acknowledging claims; providing for investigation of claims; providing for disposition of claims; providing powers and duties of the Department of Agriculture and Consumer Services; authorizing the department to adopt rules; providing an effective date; specifying certain activities as grounds for certain disciplinary action; authorizing the department to take certain disciplinary action; authorizing the department to bring actions to enjoin certain activities under certain circumstances; providing civil penalties; providing for private remedies; providing for penalties; authorizing a Moving and Storage Advisory Council; specifying unfair and deceptive trade practices; providing for construction of provisions of the act; creating s. 205.1975, F.S.; requiring a certificate to receive an occupational license; providing an appropriation; providing an effective date.

—was referred to the Committees on Professional Regulation, Commerce and Appropriations.

By the Committee on Natural Resources and Representative D. Saunders—

CS for HB 1093—A bill to be entitled An act relating to taxes on severance and production of minerals; amending s. 211.06, F.S.; revising the distribution from the Oil and Gas Tax Trust Fund; amending s. 211.31, F.S.; increasing the tax on the severance of certain solid minerals over a specified period; revising the distribution of the proceeds of the tax; providing for use of moneys in the Land Reclamation Trust Fund and abolishing the fund in 1999; providing for use of moneys in a Minerals Trust Fund and for transfers from the fund; amending s. 211.3103, F.S.; revising the distribution of the proceeds of the tax on the severance of phosphate rock; amending s. 253.023, F.S.; correcting a reference; amending s. 211.3106, F.S.; revising the rate of the tax on the severance of heavy minerals; reenacting provisions relating to distribution of tax proceeds to incorporate the amendment to s. 211.31, F.S., in a reference thereto; directing the Department of Environmental Protection to examine the administration of state programs for mineral evaluations and mined land reclamation and to provide recommendations; providing a contingent effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Insurance and Representative Manrique—

CS for HB 1181—A bill to be entitled An act relating to bail bond agents; amending s. 648.25, F.S.; revising definitions; amending s. 648.26, F.S.; deleting reference to the Bail Bond Advisory Council; repealing s. 648.265, F.S.; relating to the Bail Bond Advisory Council; amending s. 648.266, F.S.; deleting reference to the council and providing reference to the Department of Insurance; amending s. 648.27, F.S.; providing that the department shall not issue or renew a license or appointment as a runner on or after July 1, 1994; amending ss. 648.29, 648.315, 648.35, 648.38,

648.382, 648.383, 648.384, 648.39, 648.40, 648.41, 648.42, 648.421, 648.43, 648.441, 648.4425, 648.48, 648.50, and 648.55, F.S.; providing for reference to bail bond agents; providing for gender-neutral language; amending s. 648.30, F.S.; revising language with respect to licensure and appointment; amending s. 648.31, F.S.; providing for the deposit of appointment taxes and fees; amending s. 648.33, F.S.; providing a penalty for violating a provision on bail bond rates; creating s. 648.331, F.S.; providing for a bail bond regulatory surcharge; providing penalties; amending s. 648.34, F.S.; revising language with respect to the qualifications of bail bond agents; amending s. 648.36, F.S.; deleting a requirement with respect to bail bond agent's records; amending s. 648.37, F.S.; revising language with respect to the qualifications of runners; amending s. 648.381, F.S.; revising language with respect to reexamination; creating s. 648.385, F.S.; providing for required continuing education; providing penalties; amending s. 648.44, F.S.; revising language with respect to prohibitions; providing a definition; amending s. 648.442, F.S.; revising language with respect to collateral security; amending s. 648.45, F.S.; providing for reference to bail bond agents; providing for gender-neutral language; providing penalties; amending s. 648.46, F.S.; revising language with respect to procedure for disciplinary action against licensees; amending s. 648.49, F.S.; increasing the number of hours required to be in a course for certification; amending s. 648.571, F.S.; revising language with respect to failure to return collateral; providing an appropriation; providing an effective date.

—was referred to the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

By the Committee on Judiciary and Representative Klein and others—

CS for HB's 1599 and 633—A bill to be entitled An act relating to judgments; amending s. 55.03, F.S.; providing a procedure for setting the rate of interest on judgments or decrees on an annual basis by the Comptroller of the State of Florida; amending s. 215.422, F.S.; prescribing the rate of interest to be paid to vendors by state agencies or the judicial branch on specified warrants; amending s. 337.141, F.S.; prescribing the rate of interest to be paid by the Department of Transportation on specified construction or maintenance contracts; amending s. 687.01, F.S.; providing the rate of interest for all cases in which interest accrues without a special contract for the rate thereof; providing an effective date.

—was referred to the Committees on Judiciary, Commerce and Appropriations.

By the Committee on Agriculture and Consumer Services; and Representative Sindler and others—

CS for HB 1987—A bill to be entitled An act relating to animal control; amending s. 767.01, F.S.; revising a dog owner's liability for damages; amending s. 767.03, F.S.; revising a good defense for killing a dog; amending s. 767.12, F.S.; revising language with respect to the classification of a dog as dangerous; providing for notification to an owner; reducing a time period for getting a certificate when a dog has been classified as dangerous; amending s. 767.13, F.S.; revising language with respect to an attack or bite by a dangerous dog; amending s. 828.12, F.S.; clarifying acts constituting misdemeanor and felony charges, limiting liability for veterinarians who render services dealing with cruelty to animals; amending s. 828.27, F.S.; providing that the commission of a charged infraction at a hearing related to cruelty to animals must be proven by a preponderance of the evidence; increasing a civil penalty surcharge; providing for continuing education requirements for county-employed animal control officers; requiring all dogs and cats to be vaccinated by a licensed veterinarian; providing an exemption; requiring certification; requiring a standardized vaccination certificate form; authorizing a civil penalty; providing an effective date.

—was referred to the Committees on Agriculture, Community Affairs and Appropriations.

By the Committee on Finance and Taxation; and Representative Tedder and others—

CS for HB 2063—A bill to be entitled An act relating to financial matters of local governments; creating s. 125.0171, F.S.; authorizing counties to contract for audits of persons who are required to pay any county tax or fee; prescribing guidelines for such contracts; creating s. 166.271,

F.S.; authorizing municipalities to contract for audits of persons who are required to pay any municipal tax or fee; prescribing guidelines for such contracts; amending s. 125.66, F.S., allowing charter counties by extraordinary vote to alter the time for public hearings on land-use ordinances; providing an effective date.

—was referred to the Committees on Community Affairs; and Finance, Taxation and Claims.

By Representative Crady—

HB 2087—A bill to be entitled An act relating to sheriffs; repealing ch. 71-462, Laws of Florida, relating to the employment and appointment of bailiffs in certain judicial circuits; providing an effective date.

—was referred to the Committee on Judiciary.

By the Committee on Appropriations and Representative Logan and others—

CS for HB 2103—A bill to be entitled An act relating to funding family courts; creating s. 25.388, F.S.; providing for the implementation of family court plans in all judicial courts of the state through a trust fund within the Supreme Court; amending s. 741.01, F.S., to provide for a fee to be collected by the clerk of the circuit court; creating s. 741.011, F.S., to provide for installment payments; providing an effective date.

—was referred to the Committees on Judiciary; Finance, Taxation and Claims; and Appropriations.

By Representative Hanson—

HB 2133—A bill to be entitled An act relating to stalking; creating s. 943.1712, F.S.; prescribing instruction in handling stalking cases as an initial certification requirement for law enforcement officers; amending s. 943.1701, F.S.; providing for basic training and continuing education of officers with respect to stalking cases; amending s. 921.0012, F.S., relating to the offense severity ranking chart; revising the level 7 offense level to include aggravated stalking offenses; providing for applicability to specified offenses; providing an effective date.

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

By the Committee on Governmental Operations and Representative Graber and others—

CS for HB 2135—A bill to be entitled An act relating to Medicaid provider fraud; transferring responsibility for administering the state-wide program of Medicaid fraud control from the Office of the Auditor General to the Department of Legal Affairs; creating s. 16.59, F.S.; establishing a Medicaid Fraud Control Unit in the Department of Legal Affairs; amending ss. 409.907, 409.910, and 409.913, F.S.; incorporating conforming provisions; amending s. 409.920, F.S.; conforming the transfer of duties and providing for assistance from any state attorney or law enforcement agency in investigating and prosecuting Medicaid fraud cases; providing a contingent effective date.

—was referred to the Committees on Health Care; Rules and Calendar; and Appropriations.

By the Committee on Commerce and Representative Lippman and others—

HB 2217—A bill to be entitled An act relating to corporations, amending s. 607.10025, F.S.; providing that a board of directors may increase the number of authorized shares; amending s. 607.0902, F.S.; providing that an acquisition of shares approved by the board of directors does not constitute a control-share acquisition; amending s. 607.1302, F.S.; providing that section does not apply if shares were designated as national market security by the National Association of Securities Dealers, Inc.; amending ss. 607.0720 and 607.1602, F.S.; prohibiting shareholders from selling or distributing specified information under certain circumstances; providing a civil penalty; providing for award of attorney

fees and costs; amending s. 607.0732, F.S.; specifying alternative procedures for executing authorized shareholder agreements; ratifying and confirming actions taken pursuant to the previous versions of said section; amending s. 607.1430, F.S.; providing an additional circumstance for judicial dissolution of a corporation; amending s. 607.1431, F.S.; providing for award of attorney's fees under certain circumstances; creating ss. 607.1434, 607.1435, and 607.1436, F.S.; providing alternative remedies to judicial dissolution; providing for appointment of a provisional director of a corporation under certain circumstances; providing duties of the provisional director; providing for compensation; providing for an election to purchase instead of dissolution; providing procedures; providing for payment; providing for certain fees and expenses; providing an effective date.

—was referred to the Committees on Commerce and Judiciary.

By the Committee on Criminal Justice and Representative Martinez and others—

HB 2301—A bill to be entitled An act relating to conditional release, control release, and conditional medical release; amending s. 947.141, F.S.; requiring that a releasee arrested on a felony charge be detained without bond pending the initial probable cause determination and, upon a determination of probable cause, be detained without bond for a period of up to 72 hours pending issuance of a warrant charging violation of the conditions of release; reenacting ss. 947.1405(1), 947.146(12), and 947.149(5), F.S., relating to conditional release, control release, and conditional medical release, to incorporate said amendment in references thereto; providing an appropriation; providing an effective date.

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

By the Committees on Appropriations; and Tourism and Economic Development; and Representative Reddick and others—

CS for HB 2587—A bill to be entitled An act relating to small and minority business enterprises; amending s. 11.42, F.S.; revising requirements for audit by the Auditor General; amending s. 17.11, F.S.; clarifying certain financial disbursement reporting requirements of the Comptroller; amending s. 240.209, F.S.; requiring certain rules of the Board of Regents to provide for compliance with certain minority business enterprise utilization provisions for certain purposes; amending ss. 255.05, 288.063, 288.701, and 288.803, F.S.; conforming references to the Commission on Minority Economic and Business Development; creating s. 255.101, F.S.; specifying criteria for use of minority business enterprises in certain public construction contracts; creating s. 255.102, F.S.; establishing guidelines for rules for assessing use of minority business enterprises by contractors; amending s. 287.012, F.S.; providing a definition; amending s. 287.042, F.S.; allowing the Minority Business Advocacy and Assistance Office to monitor and consult with agencies for certain purposes; excluding protests filed by the Minority Business Advocacy and Assistance Office from application of provisions providing for award of attorney's fees and costs; providing for monitoring by the Minority Business Advocacy and Assistance Office in certain bid responses; amending s. 287.057, F.S.; imposing new requirements with respect to procurement of commodities or contractual services; requiring agencies to consider use of price preferences under certain circumstances; requiring contractors to report certain information; creating s. 287.0931, F.S.; encouraging government entities issuing bonds through underwriters to offer certain participation to minority firms; specifying requirements for minority firms; amending s. 287.094, F.S.; clarifying provisions relating to penalty for false representation in the minority business enterprise programs; amending s. 287.0943, F.S.; directing the office to convene the "Minority Business Certification Task Force"; providing for membership; providing duties; providing powers; requiring certification of businesses as minority business enterprises eligible to participate in state and local government minority purchasing programs; specifying criteria for certification; providing procedures; providing review and challenge procedures; requiring the office to maintain certain records; requiring the office to establish and administer a computerized data bank for certain purposes; requiring the office to adopt rules; creating s. 287.09431, F.S.; providing for a state-wide and interlocal agreement on certification of business concerns for certain purposes; specifying the form and contents of such agreement; providing for transfer of functions, duties, accounts and other administrative details from the Department of Management Services to the Commission on Minority Economic and Business Development; amending s.

287.0945, F.S.; creating the Commission on Minority Business Economic and Business Development; providing for membership; providing for an executive administrator; providing duties of the commission; establishing the Minority Business Advocacy and Assistance Office within the commission; providing additional authority and duties; providing for authority to contract and to receive and accept gifts; providing requirements of agencies with respect to procurements; providing procedures; providing for guidelines for use of price preferences under certain circumstances; requiring agencies to furnish certain information to the Minority Business Advocacy and Assistance Office; clarifying duties of the Minority Business Advocacy and Assistance Office; amending s. 287.0947, F.S.; creating the Florida Council on Small and Minority Business Development; providing for membership; providing powers and duties of the council; amending ss. 24.113, 287.055, 288.1167 and 325.207, F.S.; correcting a cross reference; amending s. 288.703, F.S.; revising certain definitions; amending s. 288.705, F.S.; requiring the Small Business Development Center to coordinate with Minority Business Development Centers; providing for review and repeal of minority business enterprise provisions; repealing s. 288.704, F.S., relating to the Small and Minority Business Advisory Council; reviving and readopting ss. 288.707-288.714, s. 657.042(4)(b), and s. 658.67(4)(g), F.S., relating to the Black Business Investment Board; providing an effective date.

—was referred to the Committees on International Trade, Economic Development and Tourism; Education; Governmental Operations; and Appropriations.

By Representative Logan and others—

HB 2199—A bill to be entitled An act relating to trust funds; creating the Family Courts Trust Fund within the Supreme Court; 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 Committees on Judiciary and Appropriations.

RETURNING MESSAGES ON SENATE BILLS

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 70 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 70—A bill to be entitled An act relating to emergency management; creating s. 252.361, F.S.; providing a limitation on the use of funds received by a contractor during an emergency; providing requirements for work contracted during the emergency; providing circumstances under which receiving certain moneys infers intent to defraud; providing a penalty; providing for application; providing an effective date.

House Amendment 1— On page 2, line 18, insert: new paragraph (a)

(4)(a) During the term of the executive order or proclamation issued under s. 252.36, a contractor who receives money for repair, restoration, addition, improvement or construction of residential real property damaged in the disaster in excess of the value of the work performed shall not, with intent to defraud the owner, fail or refuse to perform any work for any 90-day period.

(Reletter subsequent paragraphs.)

House Amendment 2—On page 3, line 22, insert:

(6) This section applies in the case of a major or catastrophic disaster that causes damage to a significant number of residential structures.

On motions by Senator Jones, the Senate concurred in the House amendments.

CS for SB 70 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—35 Nays—None

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 114 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 114—A bill to be entitled An act relating to confidentiality of grand jury testimony; reenacting and amending s. 905.27, F.S.; continuing the exemption of grand jury testimony from the public records law; providing for future legislative review of this exemption under the Open Government Sunset Review Act; providing an effective date.

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

Section 1. Notwithstanding the October 1, 1994, repeal which will result from the certification of subsections (1) and (2) of section 905.27, Florida Statutes, pursuant to section 119.14(3)(b), Florida Statutes, said subsections are reenacted and amended to read:

905.27 Testimony not to be disclosed; exceptions.—

(1) A grand juror, state attorney, assistant state attorney, reporter, stenographer, interpreter, or any other person appearing before the grand jury shall not disclose the testimony of a witness examined before the grand jury or other evidence received by it except *when such testimony is the witness's own testimony and the term of the grand jury has ended* or when required by a court to disclose the testimony for the purpose of:

(a) Ascertaining whether it is consistent with the testimony given by the witness before the court;

(b) Determining whether the witness is guilty of perjury; or

(c) Furthering justice.

(2) It is unlawful for any person knowingly to publish, broadcast, disclose, divulge, or communicate to any other person, or knowingly to cause or permit to be published, broadcast, disclosed, divulged, or communicated to any other person, in any manner whatsoever, any testimony of a witness examined before the grand jury, or the content, gist, or import thereof, *except when such testimony is the witness's own testimony and the term of the grand jury has ended* or when such testimony is or has been disclosed in a court proceeding. When a court orders the disclosure of such testimony pursuant to subsection (1) for use in a criminal case, it may be disclosed to the prosecuting attorney of the court in which such criminal case is pending, and by him to his assistants, legal associates, and employees, and to the defendant and his attorney, and by the latter to his legal associates and employees. When such disclosure is ordered by a court pursuant to subsection (1) for use in a civil case, it may be disclosed to all parties to the case and to their attorneys and by the latter to their legal associates and employees. However, the grand jury testimony afforded such persons by the court can only be used in the defense or prosecution of the civil or criminal case and for no other purpose whatsoever.

Section 2. Notwithstanding the October 1, 1994, repeal which will result from the certification of section 905.395, Florida Statutes, pursuant to section 119.14(3)(b), Florida Statutes, said section is reenacted to read:

905.395 Unlawful acts related to disclosure of proceedings; penalty.— Unless pursuant to court order, it is unlawful for any person knowingly to publish, broadcast, disclose, divulge, or communicate to any other person, or knowingly to cause or permit to be published, broadcast, disclosed, divulged, or communicated to any other person outside the statewide grand jury room, any of the proceedings or identity of persons referred to or being investigated by the statewide grand jury. Any person who violates the provisions of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. This act shall take effect October 1, 1994.

And the title is amended as follows:

In title, on page 1, strike lines 2 through 8 and insert: An act relating to grand jury testimony and proceedings; reenacting and amending s. 905.27(1) and (2), F.S., which prohibits disclosure of the testimony of a witness before, or other evidence received by, a grand jury; specifying

that a witness may disclose his or her own testimony after the grand jury term has ended; reenacting s. 905.395, F.S., which prohibits disclosure of statewide grand jury proceedings or the identity of persons referred to or being

Senator Silver moved the following amendment which was adopted:

Senate Amendment 1 (with Title Amendment) to House Amendment 1—On page 1, line 13 through page 3, line 8, strike all of said lines and insert:

Section 1. Notwithstanding the October 1, 1994, repeal which will result from the certification of subsections (1) and (2) of section 905.27, Florida Statutes, pursuant to section 119.14(3)(b), Florida Statutes, said subsections are reenacted to read:

905.27 Testimony not to be disclosed; exceptions.—

(1) A grand juror, state attorney, assistant state attorney, reporter, stenographer, interpreter, or any other person appearing before the grand jury shall not disclose the testimony of a witness examined before the grand jury or other evidence received by it except when required by a court to disclose the testimony for the purpose of:

(a) Ascertaining whether it is consistent with the testimony given by the witness before the court;

(b) Determining whether the witness is guilty of perjury; or

(c) Furthering justice.

(2) It is unlawful for any person knowingly to publish, broadcast, disclose, divulge, or communicate to any other person, or knowingly to cause or permit to be published, broadcast, disclosed, divulged, or communicated to any other person, in any manner whatsoever, any testimony of a witness examined before the grand jury, or the content, gist, or import thereof, except when such testimony is or has been disclosed in a court proceeding. When a court orders the disclosure of such testimony pursuant to subsection (1) for use in a criminal case, it may be disclosed to the prosecuting attorney of the court in which such criminal case is pending, and by him to his assistants, legal associates, and employees, and to the defendant and his attorney, and by the latter to his legal associates and employees. When such disclosure is ordered by a court pursuant to subsection (1) for use in a civil case, it may be disclosed to all parties to the case and to their attorneys and by the latter to their legal associates and employees. However, the grand jury testimony afforded such persons by the court can only be used in the defense or prosecution of the civil or criminal case and for no other purpose whatsoever.

Section 2. Notwithstanding the October 1, 1994, repeal which will result from the certification of section 905.395, Florida Statutes, pursuant to section 119.14(3)(b), Florida Statutes, said section is reenacted to read:

905.395 Unlawful acts related to disclosure of proceedings; penalty.— Unless pursuant to court order, it is unlawful for any person knowingly to publish, broadcast, disclose, divulge, or communicate to any other person, or knowingly to cause or permit to be published, broadcast, disclosed, divulged, or communicated to any other person outside the statewide grand jury room, any of the proceedings or identity of persons referred to or being investigated by the statewide grand jury. Any person who violates the provisions of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

And the title is amended as follows:

In title, on page 3, strike all of lines 17-25 and insert: An act relating to grand jury testimony and proceedings; reenacting s. 905.27(1) and (2), F.S., which prohibits disclosure of the testimony of a witness before, or other evidence received by, a grand jury; reenacting s. 905.395, F.S., which prohibits disclosure of statewide grand jury proceedings or the identity of persons referred to or being investigated; providing an effective date.

On motion by Senator Silver, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

SB 114 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 1326 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1326—A bill to be entitled An act relating to state procurement; amending s. 283.33, F.S.; authorizing a contract for copying publications to be in the form of a blanket contract and providing special requirements with respect to such contracts; amending s. 287.012, F.S.; revising the definition of the term “contractual service,” with respect to procurement of personal property and services by state agencies, to exclude certain contractual services; amending s. 287.058, F.S.; increasing the threshold amount for the procurement of contractual services that must be evidenced by a written agreement; amending s. 287.133, F.S.; increasing the threshold amount for a contract for which a sworn statement must be filed as to whether a person or affiliate has been convicted of a public entity crime; eliminating the requirement that such statement be filed for each calendar year; authorizing state universities to procure contractual services costing more than a specified amount by purchase order rather than by written agreement and providing for expiration and review of that authorization; creating s. 255.0516, F.S.; requiring a contractor’s employees in certain state contracts to have access to a group health benefit plan; amending s. 287.088, F.S.; revising requirements that state contractors provide a group health benefit plan for their eligible employees; eliminating the definition of the term “subcontractor”; defining the terms “access” and “eligible employee”; redefining the term “contractor”; requiring access to a group health plan for eligible employees of state contractors and eliminating the applicability of the requirement to subcontractors; changing the effective date of the requirement; revising threshold amounts; requiring distribution of information on community health purchasing alliances under specified circumstances; revising penalties for failure to comply; revising times for contractor compliance; revising posting requirements; prohibiting the mandating of employer contributions; creating the State Contractor Health Insurance Access Task Force; providing membership and duties; requiring a report; providing for administrative support to the task force by the Department of Management Services and the Agency for Health Care Administration; providing an effective date.

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

Section 1. Subsection (3) of section 283.33, Florida Statutes, is amended to read:

283.33 Printing of publications; lowest bidder awards.—

(3) Contracts for the printing of publications shall be for a definite term and for a definite number of copies. *However, contracts for duplicating publications may be in the form of blanket contracts designed to consolidate an indeterminate number of smaller contracts that may be needed over a fixed period of time, if the total contract price does not exceed the threshold amount provided for in s. 287.017 for Category Two, and individual work orders issued under the contract do not exceed the threshold amount provided in s. 287.017 for Category One.*

Section 2. Subsections (1), (2), and (4) of section 287.058, Florida Statutes, are amended to read:

287.058 Contract document.—

(1) Every procurement of contractual services costing in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO ONE, except for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the provisions of chapter 440, shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall, if where applicable, include, but shall not be limited to:

(a) A provision that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(b) A provision that bills for any travel expenses be submitted in accordance with s. 112.061. A state agency may establish rates lower than the maximum provided in s. 112.061.

(c) A provision allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of chapter 119 and made or received by the contractor in conjunction with the contract.

(d) A provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

(e) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(f) A provision specifying that the contract may be renewed ~~annually on a yearly basis~~ for a period of up to 2 years after the initial contract or for a period no longer than the term of the original contract, whichever period is longer, specifying the terms under which the cost may change as determined in the invitation to bid or request for proposals, and specifying that ~~the renewal renewals shall be~~ contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds.

In lieu of a written agreement, the division may authorize the use of a purchase order for classes of contractual services ~~if~~, provided the provisions of paragraphs (a)-(f) are included in the purchase order, invitation to bid, or request for proposals. The purchase order shall include an adequate description of the services, the contract period, and the method of payment.

(2) The written agreement shall be signed by the agency head and the contractor prior to the rendering of any contractual service the value of which is in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO ONE, except in the case of a valid emergency as certified by the agency head. The certification of an emergency shall be prepared within 30 days after the contractor begins rendering the service and shall state the particular facts and circumstances which precluded the execution of the written agreement prior to the rendering of the service. If the agency fails to have the contract signed by the agency head and the contractor prior to rendering the contractual service, and if an emergency does not exist, the agency head shall, no later than 30 days after the contractor begins rendering the service, certify the specific conditions and circumstances to the division as well as describe actions taken to prevent recurrence of such noncompliance. The agency head may delegate the certification only to other senior management agency personnel. A copy of the certification shall be furnished to the Comptroller with the voucher authorizing payment. The division shall report repeated instances of noncompliance by an agency to the Auditor General. Nothing in this subsection shall be deemed to authorize additional compensation prohibited by s. 215.425. The procurement of contractual services shall not be divided so as to avoid the provisions of this section.

(4) Every procurement of contractual services ~~costing less than of the value of~~ the threshold amount provided in s. 287.017 for CATEGORY TWO ONE or less, except for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the provisions of chapter 440, shall be evidenced by a written agreement or purchase order. The written agreement shall contain sufficient detail for a proper audit, shall be signed by purchasing or contracting personnel acting on behalf of the agency, and may contain the provisions and conditions provided in subsection (1).

Section 3. Subsection (1) of section 287.084, Florida Statutes, is amended to read:

287.084 Preference to Florida businesses.—

(1) When an agency, a county, municipality, school district, or other political subdivision of the state is required to make purchases of personal property through competitive bidding and the lowest responsible bid is by a bidder whose principal place of business is in a state or political subdivision thereof which grants a preference for the purchase of such personal property to a person whose principal place of business is in such state, then the agency, county, municipality, school district, or other political subdivision of this state may award a preference to the lowest responsible bidder having a principal place of business within this state,

which preference is equal to the preference granted by the state or political subdivision thereof in which the lowest responsible bidder has his principal place of business. However, this section shall not apply to transportation projects for which federal aid funds are available.

Section 4. Paragraph (a) of subsection (3) of section 287.133, Florida Statutes, is hereby repealed, and paragraph (c) of subsection (1), paragraph (b) of subsection (2), paragraphs (e) and (f) of subsection (3), and subsection (4) of said section are amended to read:

287.133 Public entity crime; denial or revocation of the right to transact business with public entities.—

(1) As used in this section:

(c) "Convicted vendor list" means the list required to be kept by the department pursuant to paragraph (3)(c)(~~d~~).

(2)

(b) No public entity shall accept any bid from, award any contract to, or transact any business in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO with any person or affiliate on the convicted vendor list for a period of 36 months from the date that person or affiliate was placed on the convicted vendor list unless that person or affiliate has been removed from the list pursuant to paragraph (3)(e)(~~f~~). No public entity which was transacting business with a person at the time of the commission of a public entity crime which resulted in that person being placed on the convicted vendor list shall accept any bid from, award any contract to, or transact any business with any other person who is under the same, or substantially the same, control as the person whose name appears on the convicted vendor list so long as that person's name appears on the convicted vendor list.

(3)

(d)(~~e~~)1. Upon receiving reasonable information from any source that a person has been convicted, the department shall investigate the information and determine whether good cause exists to place that person or an affiliate of that person on the convicted vendor list. If good cause exists, the department shall notify the person or affiliate in writing of its intent to place the name of that person or affiliate on the convicted vendor list, and of the person's or affiliate's right to a hearing, the procedure that must be followed, and the applicable time requirements. If the person or affiliate does not request a hearing, the department shall enter a final order placing the name of the person or affiliate on the convicted vendor list. No person or affiliate may be placed on the convicted vendor list without receiving an individual notice of intent from the department.

2. Within 21 days of receipt of the notice of intent, the person or affiliate may file a petition for a formal hearing pursuant to s. 120.57(1) to determine whether it is in the public interest for that person or affiliate to be placed on the convicted vendor list. A person or affiliate may not file a petition for an informal hearing under s. 120.57(2). The procedures of chapter 120 shall apply to any formal hearing under this section except where they are in conflict with the following provisions:

a. The petition shall be filed with the department. The department shall be a party to the proceeding for all purposes.

b. Within 5 days after the filing of the petition, the department shall notify the Division of Administrative Hearings of the request for a formal hearing. The director of the Division of Administrative Hearings shall, within 5 days after receipt of notice from the department, assign a hearing officer to preside over the proceeding. The hearing officer, upon request by a party, may consolidate related proceedings.

c. The hearing officer shall conduct the formal hearing within 30 days after being assigned, unless otherwise stipulated by the parties.

d. Within 30 days after the formal hearing or receipt of the hearing transcript, whichever is later, the hearing officer shall enter a final order, which shall consist of findings of fact, conclusions of law, interpretation of agency rules, and any other information required by law or rule to be contained in the final order. Such final order shall place or not place the person or affiliate on the convicted vendor list.

e. The final order of the hearing officer shall be final agency action for purposes of s. 120.68.

f. At any time after the filing of the petition, informal disposition may be made pursuant to s. 120.57(3). In that event, the hearing officer shall enter a final order adopting the stipulation, agreed settlement, or consent order.

3. In determining whether it is in the public interest to place a person or affiliate on the convicted vendor list, the hearing officer shall consider the following factors:

- a. Whether the person or affiliate committed a public entity crime.
- b. The nature and details of the public entity crime.
- c. The degree of culpability of the person or affiliate proposed to be placed on the convicted vendor list.
- d. Prompt or voluntary payment of any damages or penalty as a result of the conviction.
- e. Cooperation with state or federal investigation or prosecution of any public entity crime, provided that a good faith exercise of any constitutional, statutory, or other right during any portion of the investigation or prosecution of any public entity crime shall not be considered a lack of cooperation.
- f. Disassociation from any other persons or affiliates convicted of the public entity crime.
- g. Prior or future self-policing by the person or affiliate to prevent public entity crimes.
- h. Reinstatement or clemency in any jurisdiction in relation to the public entity crime at issue in the proceeding.
- i. Compliance by the person or affiliate with the notification provisions of paragraph (a) ~~or paragraph (b)~~.
- j. The needs of public entities for additional competition in the procurement of goods and services in their respective markets.
- k. Mitigation based upon any demonstration of good citizenship by the person or affiliate.

4. In any proceeding under this section, the department shall be required to prove that it is in the public interest for the person to whom it has given notice under this section to be placed on the convicted vendor list. Proof of a conviction of the person or that one is an affiliate of such person shall constitute a prima facie case that it is in the public interest for the person or affiliate to whom the department has given notice to be put on the convicted vendor list. Prompt payment of damages or posting of a bond, cooperation with investigation, and termination of the employment or other relationship with the employee or other natural person responsible for the public entity crime shall create a rebuttable presumption that it is not in the public interest to place a person or affiliate on the convicted vendor list. Status as an affiliate must be proven by clear and convincing evidence. If the hearing officer determines that the person was not convicted or is not an affiliate of such person, that person or affiliate shall not be placed on the convicted vendor list.

5. Any person or affiliate who has been notified by the department of its intent to place his name on the convicted vendor list may offer evidence on any relevant issue. An affidavit alone shall not constitute competent substantial evidence that the person has not been convicted or is not an affiliate of a person so convicted. Upon establishment of a prima facie case that it is in the public interest for the person or affiliate to whom the department has given notice to be put on the convicted vendor list, that person or affiliate may prove by a preponderance of the evidence that it would not be in the public interest to put him on the convicted vendor list, based upon evidence addressing the factors in subparagraph 3.

(e)(f)1. A person on the convicted vendor list may petition for removal from the list no sooner than 6 months from the date a final order is entered disqualifying that person from the public purchasing and contracting process pursuant to this section, but may petition for removal at any time if the petition is based upon a reversal of the conviction on appellate review or pardon. The petition shall be filed with the department, and the proceeding shall be conducted pursuant to the procedures and requirements of this subsection.

2. A person may be removed from the convicted vendor list subject to such terms and conditions as may be prescribed by the hearing officer upon a determination that removal is in the public interest. In determining whether removal would be in the public interest, the hearing officer shall give consideration to any relevant factors, including, but not limited to, the factors identified in subparagraph (d)(e)3. Upon proof that a person's conviction has been reversed on appellate review or that he has

been pardoned, the hearing officer shall determine that removal of the person or an affiliate of that person from the convicted vendor list is in the public interest.

3. If a petition for removal is denied, the person or affiliate may not petition for another hearing on removal for a period of 9 months after the date of denial, unless the petition is based upon a reversal of the conviction on appellate review or a pardon. The department may petition for removal prior to the expiration of such period if, in its discretion, it determines that removal would be in the public interest.

(4) The conviction of a person for a public entity crime, or placement on the convicted vendor list, shall not affect any rights or obligations under any contract, franchise, or other binding agreement which predates such conviction or placement on the convicted vendor list. However, the hearing officer in a proceeding instituted under this section may declare voidable any specific contract, franchise, or other binding agreement entered into after July 1, 1989, by a person placed on the convicted vendor list and a public entity, but only if the presiding officer finds as fact that the person to be placed on the list has not satisfied the criteria set forth in sub-subparagraphs (3)(d)(e)3.d., f., and g.

Section 5. (1) *Notwithstanding the provisions of ss. 287.058(1) and (2), Florida Statutes, the State University System may purchase contractual services costing in excess of the threshold amount provided in s. 287.017, Florida Statutes, for CATEGORY TWO without a written agreement embodying all provisions and conditions for the procurement of such services. However, in determining whether a written agreement is necessary or a purchase order is sufficient, the State University System shall consider the amount of the contract, the duration of the contract, the nature of the contractual service to be rendered, the reputation of the vendor, the past experience in dealing with the vendor, and any other factor relevant to the prudence of the determination. The State University System shall include, as part of the documentation used in the procurement transaction, a brief narrative justifying its determination. Should the State University System determine that a written agreement is not necessary and that a purchase order is sufficient to contract for such services, the purchase order shall include, but shall not be limited to, the provisions required in s. 287.058(1)(a)-(f), Florida Statutes, an adequate description of the service, the contract period, and the method of payment.*

(2) *This section expires June 30, 1996, and shall be reviewed by the Legislature prior to that date.*

Section 6. This act shall take effect upon becoming a law.

And the title is amended as follows:

Strike the entire title and insert: An act relating to state purchasing; amending s. 283.33, F.S.; allowing blanket contracts to be used for certain duplicating; amending s. 287.058, F.S., which provides requirements for contract documents for contractual services; revising the threshold amounts for such requirements; amending s. 287.084, F.S.; allowing state agencies to award a preference to businesses in Florida under certain circumstances; amending s. 287.133, F.S., and repealing paragraph (3)(a) thereof; removing the requirement that public entity crime statements be submitted by persons contracting with public entities; correcting cross references; authorizing the State University System to purchase contractual services without the required written agreement under certain circumstances; providing for review and repeal; providing an effective date.

On motion by Senator McKay, the Senate refused to concur in the House amendment and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1738 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1738—A bill to be entitled An act relating to motor vehicle registration; amending s. 320.025, F.S.; authorizing the Auditor General's Medicaid Fraud Control Unit to register vehicles under fictitious names; providing an effective date.

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

Section 1. Subsections (1), (2) and (3) of section 320.025, Florida Statutes, are amended to read:

320.025 Registration certificate and license plate issued under fictitious name; application.—

(1) A confidential registration certificate and registration license plate shall be issued under a fictitious name only for a motor vehicle owned or operated by a law enforcement agency of state, county, municipal, or federal government, *the Auditor General's Medicaid Fraud Control Unit*, or any state public defender's office. The requesting agency shall file a written application with the department on forms furnished by the department, which *includes application shall include* a statement that the license plate will be used for *the Auditor General's Medicaid Fraud Control Unit*, or law enforcement or any state public defender's office activities requiring concealment of publicly leased or owned motor vehicles and a statement of the position classifications of the individuals who are authorized to use the license plate. The department may modify its records to reflect the fictitious identity of the owner or lessee until such time as the license plate and registration certificate are surrendered to it. This exemption is subject to the Open Government Sunset Review Act in accordance with *the provisions of* s. 119.14.

(2) Except as provided in subsection (1), any motor vehicle owned or exclusively operated by the state or any county, municipality, or other governmental entity *must shall* at all times display a license plate of the type prescribed in s. 320.0655. This exemption is subject to the Open Government Sunset Review Act in accordance with *the provisions of* s. 119.14.

(3) This *section act* constitutes an exception to other statutes relating to falsification of public records, false swearing, and similar matters. All records relating to the registration application of *the Auditor General's Medicaid Fraud Control Unit*, a law enforcement agency, or any state public defender's office, and records necessary to carry out the intended purpose of this section, are exempt from *the provisions of* s. 119.07(1), and s. 24(a), Article I of the State Constitution as long as the *information is retained by the department. This section does act shall* not be ~~construed to implicitly~~ prohibit other personations, fabrications, or creations of false identifications by *the Auditor General's Medicaid Fraud Control Unit*, or law enforcement or any public defender's officers in the official performance of covert operations.

Section 2. The Legislature finds that it is a public necessity to issue motor vehicle registrations and license plates to the Auditor General's Medicaid Fraud Unit under fictitious names because the unit's covert operations may be jeopardized by the registration of motor vehicles under the unit's name or under the names of the unit's investigators in that person's under investigation acquiring such information may seek retaliation against the unit or its investigators.

Section 3. This act shall take effect July 1, 1994.

And the title is amended as follows:

In title, on page 1, line 5, after the semicolon (;) insert: providing a finding of public necessity;

Senator Forman moved the following amendments which were adopted:

Senate Amendment 1 to House Amendment 1—On page 3, strike all of lines 3 and 4 and insert: that persons under investigation acquiring such information may seek retaliation against the unit or its investigators.

Senate Amendment 2 to House Amendment 1—On page 2, line 25, strike "*Fruad*" and insert: *Fraud*

On motion by Senator Forman, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendments to the House amendment.

SB 1738 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

RETURNING MESSAGES—FINAL ACTION

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed SB 3114; and has adopted SM 1818.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendments to SB 12 and passed as further amended.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has concurred in the Senate Amendment and passed CS for HB 137, as amended.

John B. Phelps, Clerk

ROLL CALLS ON SENATE BILLS

CS for SB 70

Yeas—35

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

Nays—None

SB 114

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Childers

SB 284

Yeas—39

Bankhead	Brown-Waite	Childers	Dantzler
Beard	Burt	Crenshaw	Diaz-Balart
Boczar	Casas	Crist	Dudley

Dyer
Foley
Forman
Grant
Grogan
Gutman
Harden

Hargrett
Holzendorf
Jenne
Jennings
Johnson
Jones
Kirkpatrick

Kiser
Kurth
McKay
Meadows
Myers
Scott
Siegel

Silver
Sullivan
Turner
Weinstein
Wexler
Williams

Vote after roll call:
Yea—Dudley

SB 1376

Nays—None

Yeas—40

SB 526

Yeas—33

Bankhead
Beard
Boczar
Burt
Casas
Childers
Crenshaw
Crist
Dantzler

Diaz-Balart
Dudley
Foley
Forman
Grant
Grogan
Gutman
Harden
Hargrett

Jenne
Jennings
Johnson
Jones
Kirkpatrick
Kiser
Kurth
Meadows
Myers

Silver
Sullivan
Turner
Weinstein
Wexler
Williams

Mr. President
Bankhead
Beard
Boczar
Brown-Waite
Burt
Casas
Childers
Crenshaw
Crist

Dantzler
Diaz-Balart
Dudley
Dyer
Foley
Forman
Grant
Grogan
Gutman
Harden

Hargrett
Holzendorf
Jenne
Jennings
Johnson
Jones
Kirkpatrick
Kiser
Kurth
McKay

Meadows
Myers
Scott
Siegel
Sullivan
Turner
Weinstein
Wexler
Williams

Nays—None

Nays—2

CS for SB 1448

Brown-Waite

Holzendorf

Yeas—40

CS for SB 636

Yeas—39

Mr. President
Bankhead
Beard
Boczar
Brown-Waite
Burt
Casas
Childers
Crenshaw
Crist

Dantzler
Diaz-Balart
Dudley
Dyer
Foley
Forman
Grant
Grogan
Gutman
Harden

Hargrett
Holzendorf
Jenne
Jennings
Johnson
Jones
Kirkpatrick
Kiser
Kurth
Meadows

Myers
Scott
Siegel
Silver
Sullivan
Turner
Weinstein
Wexler
Williams

Mr. President
Bankhead
Beard
Boczar
Brown-Waite
Burt
Casas
Childers
Crenshaw
Crist

Dantzler
Diaz-Balart
Dudley
Dyer
Foley
Forman
Grant
Grogan
Gutman
Harden

Hargrett
Holzendorf
Jenne
Jennings
Johnson
Jones
Kirkpatrick
Kiser
Kurth
McKay

Meadows
Myers
Scott
Siegel
Sullivan
Turner
Weinstein
Wexler
Williams

Nays—None

SB 1504

Nays—None

Yeas—38

CS for CS for SB 1318—Amendment 17

Yeas—24

Mr. President
Bankhead
Boczar
Brown-Waite
Casas
Crenshaw

Diaz-Balart
Dudley
Dyer
Foley
Grant
Gutman

Harden
Hargrett
Holzendorf
Jennings
Kiser
McKay

Meadows
Myers
Siegel
Sullivan
Weinstein
Williams

Mr. President
Bankhead
Boczar
Brown-Waite
Casas
Childers
Crenshaw
Crist
Dantzler
Diaz-Balart

Dudley
Dyer
Foley
Forman
Grant
Grogan
Gutman
Harden
Hargrett
Holzendorf

Jenne
Jennings
Johnson
Jones
Kirkpatrick
Kiser
Kurth
McKay
Meadows
Myers

Scott
Siegel
Silver
Sullivan
Turner
Weinstein
Wexler
Williams

Nays—12

Nays—None

Beard
Crist
Dantzler

Forman
Grogan
Jenne

Johnson
Jones
Kurth

Scott
Silver
Turner

CS for CS for SB 1318

SB 1584

Yeas—38

Yeas—39

Mr. President
Bankhead
Beard
Boczar
Brown-Waite
Burt
Casas
Childers
Crenshaw
Crist

Dantzler
Diaz-Balart
Dyer
Foley
Forman
Grant
Grogan
Gutman
Harden
Hargrett

Holzendorf
Jenne
Jennings
Johnson
Jones
Kirkpatrick
Kiser
Kurth
McKay
Meadows

Myers
Scott
Siegel
Silver
Sullivan
Turner
Wexler
Williams

Mr. President
Bankhead
Beard
Boczar
Brown-Waite
Burt
Casas
Childers
Crenshaw
Crist

Dantzler
Diaz-Balart
Dudley
Dyer
Foley
Forman
Grant
Grogan
Gutman
Harden

Hargrett
Holzendorf
Jenne
Jennings
Johnson
Jones
Kirkpatrick
Kiser
Kurth
Meadows

Myers
Scott
Siegel
Silver
Sullivan
Turner
Weinstein
Wexler
Williams

Nays—None

Nays—None

SB 1738

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Childers

CS for SB 1784

Yeas—39

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

Nays—None

CS for SB 2306

Yeas—38

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

Nays—None

SB 2580

Yeas—38

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

Nays—None

SB 2584

Yeas—37

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

Nays—None

SB 3156

Yeas—39

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

Nays—None

ROLL CALLS ON HOUSE BILLS

CS for HB 51

Yeas—39

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
Dantzler	Hargrett	Meadows	

Nays—None

CS for HB 739

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Childers

CS for HB 749

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Childers

CS for HB 1401

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Grant

CS for HB 753

Yeas—39

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	Turner
Casas	Grant	Kirkpatrick	Weinstein
Childers	Grogan	Kiser	Wexler
Crenshaw	Gutman	Kurth	Williams
Crist	Harden	McKay	

Nays—None

HB 1513

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Grant

CS for HB 1227

Yeas—39

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

Nays—None

CS for HB 1585

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Grant, Johnson, Silver

CS for HB 1371

Yeas—38

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

Nays—None

CS for HB 1873

Yeas—38

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

Nays—None

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 4 was corrected and approved.

CO-SPONSORS

Senator Brown-Waite—CS for SB 30, CS for CS for SB 1318; Senator Harden—SB 1440; Senator Dyer—SB 1774, CS for SB 1824; Senator Hargrett—SB 1988; Senator Turner—SB 2580

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 4:33 p.m. to reconvene at 3:00 p.m., Wednesday, April 6.