



Journal of the Senate

Number 14—Regular Session

Wednesday, April 24, 1996

CALL TO ORDER

The Senate was called to order by the President at 10:00 a.m. A quorum present—40:

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Excused: Senators Diaz-Balart, Beard, Childers, Bronson, Dantzler, Hargrett, Harris, Casas, Harden, Dudley, Holzendorf, Horne, Kirkpatrick, Sullivan, Bankhead, Jennings, Kurth, Myers, Ostalkiewicz, Thomas, Williams, Gutman, Crist, Burt, Jones and Silver, periodically for the purpose of working on Appropriations

PRAYER

The following prayer was offered by the Rev. R. B. Holmes, Jr., Pastor, Bethel Missionary Baptist Church, Tallahassee:

Our God and our Father, we do thank you for this day. We thank you for your blessings that you have bestowed upon us.

Now we come to pray for this body of Senators and thank you for their leadership, their integrity, their strength and their vision. I pray that you would bless them to continue to guide and lead this state. In the name of our most high Savior, we pray. Amen.

PLEDGE

Senate Pages, Jaclyn Graham and Ashley Montjoy of Tallahassee, led the Senate in the pledge of allegiance to the flag of the United States of America.

CONSIDERATION OF RESOLUTIONS

On motion by Senator Meadows, by two-thirds vote **SCR 2874** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Meadows—

SCR 2874—A concurrent resolution encouraging local governments, including school districts, to permit the use of their public facilities for juvenile programs.

WHEREAS, the state has the responsibility to develop diversified and innovative programs to provide rehabilitative treatment for juvenile offenders, and

WHEREAS, local governments, including school districts, have many existing public facilities that could be used for the operation of juvenile programs, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That the Legislature encourages local governments, including school districts, to permit the use of their public facilities for juvenile programs.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Florida League of Cities, the Florida Association of Counties, the Florida School Boards Association, and the Florida Association of District School Superintendents.

—was taken up out of order and read the second time in full. On motion by Senator Meadows, **SCR 2874** was adopted and certified to the House. The vote on adoption was:

Yeas—40 Nays—None

SPECIAL GUESTS

Senator Meadows introduced the following guests who were present in the gallery: Walter M. Elfers and Tyson T. Jones, Commissioners, City of Lauderhill.

On motion by Senator Thomas, by two-thirds vote **SR 3068** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Thomas—

SR 3068—A resolution commending the Tallahassee Chamber of Commerce, Leadership Tallahassee, and Leadership Tallahassee Class XIII for their commitment to developing and fostering leadership and community involvement in the Tallahassee-Leon County area.

WHEREAS, Leadership Tallahassee is an outstanding program developed by the Tallahassee Chamber of Commerce designed to develop leadership in the Tallahassee community, and

WHEREAS, Leadership Tallahassee is a resource and asset to the citizens of Tallahassee, and

WHEREAS, graduates of previous Leadership Tallahassee classes have successfully used the skills they learned from their Leadership Tallahassee experience to make the Tallahassee community a better place to live and work, and

WHEREAS, the current Leadership Tallahassee class, Class XIII, is composed of 32 individuals who have displayed leadership skills that will benefit the community of Tallahassee, and

WHEREAS, these 32 members of Leadership Tallahassee Class XIII are to graduate from the Leadership Tallahassee program on June 7, 1996, and will continue to serve their community, NOW, THEREFORE,

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

That the Tallahassee Chamber of Commerce, the Leadership Tallahassee program, and the members of Leadership Tallahassee Class XIII are congratulated and commended for promoting leadership and community involvement and for improving the quality of life for the residents of Leon County, Florida.

BE IT FURTHER RESOLVED that a copy of this resolution signed by the President of the Senate, with the Seal of the Senate affixed, be transmitted to Leadership Tallahassee and Leadership Tallahassee Class XIII as a tangible token of the sentiments expressed herein.

—was taken up out of order and read the second time in full. On motion by Senator Thomas, **SR 3068** was adopted.

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

By Senator Forman—

SR 3108—A resolution honoring Rachel Warner and the National Hemophilia Foundation, Inc.

WHEREAS, the Florida Chapter of the National Hemophilia Foundation, Inc., is dedicated to the treatment of hemophilia, related bleeding disorders, and complications of those disorders or their treatment, including HIV infection, and

WHEREAS, this organization exists to promote opportunities for improving the quality of life for all those affected by hemophilia and related bleeding disorders, and is committed to providing and supporting programs for research, education of patients, professionals, and the public, family and community services, and a summer camp for hemophiliac boys, and

WHEREAS, during her lifetime, until her untimely death on May 2, 1995, at the age of 41, Rachel Warner was an advocate for the programs and goals of this admirable organization with a courage, intelligence, and tenacity that has set the standard for dedication to the cause of chronically ill persons, both in Florida and nationally, and

WHEREAS, among her many accomplishments, Rachel Warner was president of the Florida Chapter of the National Hemophilia Foundation, Inc., from 1989-1991, was chair of the chapter's legislative committee from 1991 until her death, served as a member of the Long-range Planning Council, Hemophilia, Region IV South, and created the A.C.C.E.S.S. Program, which first provided representation free of charge to Florida's hemophilia families seeking disability benefits and now serves the chronically ill community throughout the United States, and

WHEREAS, Rachel Warner has been variously described by those who know her and her legacy of outstanding achievements as: a whirlwind, a woman of compassionate convictions, a cherished and loyal friend, a worthy and honest adversary, and an inspiration, and

WHEREAS, Rachel Warner was the beloved wife of Ralph Warner, a person with hemophilia, and was the devoted mother of Rebecca, a carrier daughter who is sixth generation in a family that has been living with hemophilia for over 150 years, and

WHEREAS, it is altogether fitting and appropriate that the Senate take this time to honor the good work of the National Hemophilia Foundation, Inc., and to join Rachel Warner's family, friends, and admirers in mourning the loss of this special individual, NOW, THEREFORE,

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

That the Senate of the State of Florida pause in its deliberations to pay tribute to Rachel Warner, to express its gratitude for her inspirational character and the legacy of her outstanding achievements for the good of persons with hemophilia and other chronic illnesses, and to offer this testimony of esteem and bereavement.

—was introduced out of order and read by title. On motion by Senator Forman, **SR 3108** was read the second time in full and adopted.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Diaz-Balart, by two-thirds vote **SB 122, CS for CS for SB 310, SB 350, CS for SB 446, SB 554, SB 584, SB 608, SB 660, CS for SB's 868 and 2672, SB 896, SB 898, SB 954, SB 1034, SB 1094, SB 1112, SB 1260, CS for SB 1308, CS for SB 1312, SB 2194, CS for CS for SB 2214, CS for SB 2316, SB 2356, SB 2362, SB 2386, CS for SB 2392, CS for SB 2414, CS for SB 2508, SB 2578, SB 2600, SB 2610, SB 2692, CS for SB 2708, CS for SB 2712, SB 2726, CS for SB 2784, SB 2830, CS for SB 2850, CS for SB 2942 and SB 2986** were withdrawn from the Committee on Ways and Means.

On motion by Senator Jennings, by two-thirds vote **SB 2534** was withdrawn from the Committee on Natural Resources; and **SB 2006** and **CS for SB 1028** were withdrawn from the Committee on Community Affairs.

SPECIAL ORDER CALENDAR

Consideration of **SB 118** was deferred.

SB 2334—A bill to be entitled An act relating to the local government infrastructure surtax; amending s. 212.055, F.S.; revising provisions which authorize certain counties and municipalities therein to use surtax proceeds for any public purpose, to include counties designated as an area of critical state concern on the effective date of the act; providing an effective date.

—was read the second time by title.

The Committee on Community Affairs recommended the following amendment which was moved by Senator Jones and failed:

Amendment 1—On page 2, between lines 24 and 25, insert:

3. *Those counties designated as an area of critical state concern which qualify to use the surtax for any public purpose may use only up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes authorized by this section.*

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 2 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a)1. The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

2. If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance, or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of such surtax may be extended only by approval of a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement which includes a brief general description of the projects to be funded by the surtax and which conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for a referendum on the levy of the surtax or in which the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions calling for a referendum on the surtax. The following question shall be placed on the ballot:

... FOR the ... -cent sales tax
... AGAINST the ... -cent sales tax

(c) Pursuant to s. 212.054(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within such county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

Any change in the distribution formula must take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 50,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), may, in addition, use the proceeds to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

2. For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

(e) School districts, counties, and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. In no case may a jurisdiction issue bonds pursuant to this subsection more frequently than once per year. Counties and municipalities may join together for the issuance of bonds authorized by this subsection.

(f) Counties and municipalities shall not use the surtax proceeds to supplant or replace user fees or to reduce ad valorem taxes existing prior to the levy of the surtax authorized by this subsection.

(g) Notwithstanding s. 212.054(5), the surtax must take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph (a), and may not take effect until at least 60 days after the date that the referendum approving the levy is held.

(h)1. Notwithstanding paragraph (d), a county that has a population of 50,000 or less on April 1, 1992, or any county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may use the proceeds and interest of the surtax for any public purpose if:

a. The debt service obligations for any year are met;

b. The county's comprehensive plan has been determined to be in compliance with part II of chapter 163; and

c. The county has adopted an amendment to the surtax ordinance pursuant to the procedure provided in s. 125.66 authorizing additional uses of the surtax proceeds and interest.

2. A municipality located within a county that has a population of 50,000 or less on April 1, 1992, or within a county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may not use the proceeds and interest of the surtax for any purpose other than an infrastructure purpose authorized in paragraph (d) unless the municipality's comprehensive plan has been determined to be in compliance with part II of chapter 163 and the municipality has adopted an amendment to its surtax ordinance or resolution pursuant to the procedure provided in s. 166.041 authorizing additional uses of the surtax proceeds and interest. Such municipality may expend the surtax proceeds and interest for any public purpose authorized in the amendment.

3. Those counties designated as an area of critical state concern which qualify to use the surtax for any public purpose may use only up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes authorized by this section.

(i) Notwithstanding paragraph (d), a county in which 40 percent or more of the just value of real property is exempt or immune from ad valorem taxation, and the municipalities within such a county, may use the proceeds and interest of the surtax for operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax.

(j)(i) Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (3), (4), (5), and (6) in excess of a combined rate of 1 percent.

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 9, following the semicolon (;) insert: authorizing counties meeting specified criteria, and municipalities within those counties, to use the proceeds of the surtax to operate and maintain parks and recreation programs and facilities; restricting the purposes for which certain counties may use the proceeds of the surtax;

On motions by Senator Jones, by two-thirds vote **SB 2334** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Latvala, by two-thirds vote **CS for HB 501** was withdrawn from the Committee on Community Affairs.

On motion by Senator Latvala—

CS for HB 501—A bill to be entitled An act relating to the Fair Housing Act; amending s. 760.29, F.S.; revising provisions relating to qualification as housing for older persons for purposes of exemption from the Fair Housing Act; providing immunity from liability for certain monetary damages; prohibiting county or municipal ordinances contrary to certain provisions; providing an effective date.

—a companion measure, was substituted for **SB 1254** and read the second time by title. On motions by Senator Latvala, by two-thirds vote **CS for HB 501** was read the third time by title, passed and immediately certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 1718—A bill to be entitled An act relating to guardianship; amending s. 744.309, F.S.; providing that certain persons are disqualified from being appointed as a guardian; amending s. 744.454, F.S., providing that a court may authorize the guardian to purchase property or borrow money from his ward; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendment which was adopted:

Amendment 1—On page 2, lines 13-19, delete those lines and insert:

744.454 Guardian forbidden to borrow or purchase; *exceptions*.—A guardian may not purchase property or borrow money from his ward unless:

(1) A court by written order authorizes the sale or loan after a hearing of which interested persons had notice; or

(2) The property is sold at public sale and ~~then only if~~ the guardian is a spouse, parent, child, brother, or sister of the ward or a cotenant of the ward in the property to be sold.

On motions by Senator Harris, by two-thirds vote **CS for SB 1718** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—39 Nays—None

SENATOR BURT PRESIDING

SB 1316—A bill to be entitled An act relating to criminal justice; creating s. 939.155, F.S.; providing for defendant's liability for certain costs in a criminal proceeding, under specified circumstances when the defendant retains private counsel prior to filing of an affidavit with respect to indigency; providing exceptions; providing an effective date.

—was read the second time by title. On motions by Senator Gutman, by two-thirds vote **SB 1316** was read the third time by title, passed and immediately certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 1682—A bill to be entitled An act relating to juvenile proceedings; amending s. 39.052, F.S., relating to delinquency hearings; requiring the state attorney to file an information for criminal prosecution of a child as an adult under specified circumstances when the child allegedly has caused personal injury or death while in possession of a stolen motor vehicle; providing for prosecution of the driver and passengers of the stolen vehicle, under specified circumstances; reenacting s. 39.047(4)(e), F.S., relating to intake and case management for delinquency cases, to incorporate said amendment in a reference; specifying applicability; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 7, lines 9-17, delete those lines and insert: *or s. 812.014(2)(c)6., relating to grand theft of a motor vehicle, and while the child was in possession of the stolen motor vehicle the child caused serious bodily injury to or the death of a person who was not involved in the underlying offense. For purposes of this section, the driver and all willing passengers in the stolen motor vehicle at the time such serious bodily injury or death is inflicted shall also be subject to mandatory transfer to adult court. "Stolen motor vehicle," for the purposes of this section, means a motor vehicle that has been the subject of any criminal wrongful taking. For purposes of this section, "willing passengers" means all willing passengers who have participated in the underlying offense.*

On motions by Senator Hargrett, by two-thirds vote **SB 1682** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **SB 688** was deferred.

CS for SB 1210—A bill to be entitled An act relating to theft; amending s. 812.015, F.S., relating to retail and farm theft; revising retail theft offenses and providing penalties; redefining the term "merchant," with respect to retail theft offenses; adding new definitions; adding the offense of transit-fare evasion; providing penalties for the new offenses; providing for the merchant, as redefined, or a transit security guard, to

take into custody and detain a person believed to have committed retail theft or transit-fare evasion, under specified circumstances; reenacting s. 538.09(5), F.S., relating to registration of secondhand dealers, and s. 538.23(2), F.S., relating to violations committed by and penalties imposed upon secondary metals recyclers, to incorporate the amendment in references; providing an effective date.

—was read the second time by title.

Senator Williams moved the following amendment:

Amendment 1—On page 8, between lines 25 and 26, insert:

Section 4. A vehicle title loan task force is created to conduct a review of the practices of the industry in order to make recommendations to the Legislature as to the necessity of changing current regulations of the industry from a consumer protection perspective. As part of the review, the task force will identify the extent of consumer abuses, if any, and any other unfair trade practices. The task force shall conduct a minimum of four meetings to hear public testimony. The Department of Agriculture and Consumer Services, the Department of Banking and Finance, and the Department of Legal Affairs shall appoint two representatives each to serve on the task force. The Department of Agriculture and Consumer Services shall designate one of the representatives to serve as the chairperson of the task force. One private sector member, serving as the consumer advocate, shall be appointed by the chairperson. At a minimum, the consumer advocate shall be a licensed, practicing attorney who has experience in litigating consumer issues. The private sector member is not eligible for travel or per diem expenses. The task force shall submit a report to the Legislature containing their findings and recommendations by January 15, 1997.

(Renumber subsequent section.)

On motion by Senator Wexler, further consideration of **CS for SB 1210** with pending **Amendment 1** was deferred.

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

CS for HB's 543 and 1317—A bill to be entitled An act relating to sexual offenses; amending s. 794.05, F.S.; creating the offense of "unlawful sexual activity with certain minors"; providing penalties; providing a definition; providing an exception; providing that the victim's prior sexual conduct is not a relevant issue in a prosecution; providing that the perpetrator's ignorance of the victim's age or the victim's misrepresentation of his or her age cannot be raised as a defense in a prosecution; requiring an offender to pay child support if the unlawful sexual activity resulted in the victim giving birth and it is determined that the offender is the child's father; deleting provisions relating to "unlawful carnal intercourse"; creating s. 90.4025, F.S.; providing for admissibility of paternity results in certain criminal prosecutions; amending s. 921.0011, F.S., relating to the definition of "victim injury points"; providing that victim injury points for sexual contact or sexual penetration shall not be assessed in cases involving "unlawful sexual intercourse" unless the difference between the age of the offender and the age of the victim is 10 years or greater; clarifying the term "victim injury" for purposes of sentencing; amending s. 921.0012, F.S.; ranking the offense created in the act in the sentencing guidelines offense severity ranking chart and making technical corrections; amending s. 775.15, F.S., relating to time limitations, to conform to the act; amending s. 921.0016, F.S., relating to aggravating circumstances for purposes of sentencing, to provide that it is an aggravating circumstance if the victim of a sexual offense contracted a sexually transmissible disease as a result of the offense; amending s. 948.03, F.S., relating to terms and conditions of probation or community control, to clarify that sexual offenders must make victim restitution; amending s. 796.08, F.S., relating to criminal transmission of HIV, to clarify language; providing effective dates.

—a companion measure, was substituted for **CS for SB 244** and by two-thirds vote read the second time by title.

On motion by Senator Kurth, further consideration of **CS for HB's 543 and 1317** was deferred.

Consideration of **SB 128** was deferred.

CS for SB 360—A bill to be entitled An act relating to the State Board of Administration; amending s. 18.10, F.S.; deleting certain duties of the State Board of Administration relating to the selection of qualified public depositories and investments; amending s. 18.101, F.S.; deleting certain duties of the State Board of Administration relating to the selection of qualified public depositories and investments and providing for the assumption of such duties by the Treasurer; amending s. 18.15, F.S.; deleting duties of the State Board of Administration regarding the timing of interest on state moneys deposited in qualified public depositories; amending s. 215.44, F.S.; authorizing the State Board of Administration to enter into certain indemnification agreements; limiting liability; amending s. 215.47, F.S.; permitting the State Board of Administration to invest in private equity through participation in limited partnerships and limited liability companies; authorizing the board to invest in domestic and foreign group trusts; amending s. 215.84, F.S.; redefining the maximum interest rate payable on bonds; providing an effective date.

—was read the second time by title.

Senator Rossin moved the following amendment which was adopted:

Amendment 1—On page 6, line 3, before “liability” insert: *limited*

On motions by Senator Rossin, by two-thirds vote **CS for SB 360** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—39 Nays—None

CS for SB's 386, 732 and 1208—A bill to be entitled An act relating to community associations; amending s. 718.112, F.S.; revising notice requirements for budget meetings of condominium associations; providing requirements with respect to meetings of board of administration committees; amending s. 718.115, F.S.; providing that standards relating to common expenses and common surplus are applicable to certain mixed-use condominiums; amending s. 718.404, F.S.; revising provisions with respect to the ownership share in the common elements assigned to each unit in a mixed-use condominium; amending s. 719.1055, F.S.; requiring the approval of unit owners before a mobile home cooperative association makes certain changes to a unit or to common areas or appurtenances; providing an effective date.

—was read the second time by title.

Senator Dudley moved the following amendment which was adopted:

Amendment 1—Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the “Isabelle Greenwald Memorial Condominium Act of 1996.”

Section 2. Paragraphs (c) and (e) of subsection (2) of section 718.112, Florida Statutes, are amended to read:

718.112 Bylaws.—

(2) **REQUIRED PROVISIONS.**—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(c) **Board of administration meetings.**—Meetings of the board of administration ~~and any committee thereof~~ at which a quorum of the members of that committee is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt reasonable rules governing the frequency, duration, and manner of unit owner statements. Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property at least 48 continuous hours preceding the meeting except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. However, written notice of any meeting at which nonemergency special assessments, or at

which amendment to rules regarding unit use, will be considered shall be mailed or delivered to the unit owners and posted conspicuously on the condominium property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of board meetings shall be posted. If there is no condominium property or association property upon which notices can be posted, notices of board meetings shall be mailed or delivered at least 14 days before the meeting to the owner of each unit. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. *Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the association.*

(e) **Budget meeting.**—The board of administration shall mail or hand deliver to each unit owner at the address last furnished to the association a meeting notice and copies of the proposed annual budget of common expenses ~~to the unit owners~~ not less than 14 days prior to the meeting of the unit owners or the board of administration at which the budget will be considered. *Evidence of compliance with this 14-day notice must be made by an affidavit executed by an officer of the association or the manager or other person providing notice of the meeting and filed among the official records of the association. If the bylaws or declaration provides that the budget may be adopted by the board of administration, the unit owners shall be given written notice of the time and place of the meeting of the board of administration which will consider the budget.* The meeting ~~shall~~ be open to the unit owners. If an adopted budget requires assessments against the unit owners in any fiscal or calendar year which exceed 115 percent of the assessments for the preceding year, the board, upon written application of 10 percent of the voting interests to the board, shall call a special meeting of the unit owners within 30 days upon not less than 10 days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget. Unless the bylaws require a larger vote, the adoption of the budget ~~requires shall require~~ a vote of not less than a majority vote of all the voting interests. The board of administration may propose a budget to the unit owners at a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all the voting interests in writing, the budget ~~is shall be~~ adopted. If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the unit owners, the budget adopted by the board of directors ~~goes shall go~~ into effect as scheduled. In determining whether assessments exceed 115 percent of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the condominium property ~~must shall~~ be excluded from the computation. However, as long as the developer is in control of the board of administration, the board ~~may shall~~ not impose an assessment for any year greater than 115 percent of the prior fiscal or calendar year's assessment without approval of a majority of all the voting interests.

Section 3. Subsection (2) of section 718.115, Florida Statutes, is amended to read:

718.115 Common expenses and common surplus.—

(2) Except as otherwise provided by this chapter, funds for the payment of common expenses shall be collected by assessments against unit owners in the proportions or percentages provided in the declaration. In a residential condominium, or mixed-use condominium created after January 1, 1996, unit owners' shares of common expenses and common surplus shall be in the same proportions as their ownership interest in the common elements.

Section 4. Subsection (3) of section 718.404, Florida Statutes, is amended to read:

718.404 Mixed-use condominiums. — When a condominium consists of both residential and commercial units, the following provisions shall apply:

(3) *In the declaration of condominium for mixed-use condominiums created after January 1, 1996, the ownership share of the common elements assigned to each unit shall be based either on the total square footage of each unit in uniform relationship to the total square footage of each other unit in the condominium or on an equal fractional basis. Where the number of commercial units in the condominium is less than 50 percent of the total number of units operated by the association, the documents shall not provide that the owners of the residential units shall pay more than 50 percent of the total common expenses of the association, including limited common element expenses.*

Section 5. Subsection (4) of section 718.616, Florida Statutes, is amended to read:

718.616 Disclosure of condition of building and estimated replacement costs and notification of municipalities compliance with municipal ordinances. —

(4) If the proposed condominium is situated within a municipality, the disclosure shall include a letter from the municipality acknowledging that the municipality has been notified of the proposed creation of a residential condominium by conversion of existing, previously occupied improvements authorized by the chief administrative official of the municipality acknowledging that the proposed condominium complies with the municipality's code, zoning ordinances, and all other local regulations.

Section 6. Subsection (3) of section 719.1055, Florida Statutes, is amended to read:

719.1055 Amendment of cooperative documents; alteration and acquisition of property. —

(3)(a) Unless other procedures are provided in the cooperative documents or such action is expressly prohibited by the articles of incorporation or bylaws of the cooperative, the association may change the configuration or size of any unit in a mobile home cooperative in a material fashion, or materially alter, convert, lease, or modify the common areas of the mobile home cooperative or appurtenances of such unit if the action is approved by 75 percent of the total voting interests of the cooperative.

(b) *The association may change the configuration or size of a unit only if the action is approved by the affected unit owners and by 75 percent of the total voting interests of the cooperative.*

Section 7. Paragraphs (c) and (e) of subsection (1) of section 719.106, Florida Statutes, are amended to read:

719.106 Bylaws; cooperative ownership. —

(1) MANDATORY PROVISIONS. — The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(c) Board of administration meetings. — Meetings of the board of administration and any committee thereof at which a quorum of the members of that committee are present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt reasonable rules governing the frequency, duration, and manner of unit owner statements. Adequate notice of all meetings shall be posted in a conspicuous place upon the cooperative property at least 48 continuous hours preceding the meeting, except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered shall be mailed or delivered to the unit owners and posted conspicuously on the cooperative property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the

official records of the association. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the cooperative property upon which all notices of board meetings shall be posted. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Meetings of a committee to take final action on behalf of the board or to make recommendations to the board regarding the association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the association.

(e) Budget procedures. —

1. The board of administration shall mail, or hand deliver to each unit owner at the address last furnished to the association, a meeting notice and copies of the proposed annual budget of common expenses to the unit owners not less than 14 30 days prior to the meeting at which the budget will be considered. Evidence of compliance with this 14-day notice must be made by an affidavit executed by an officer of the association or the manager or other person providing notice of the meeting and filed among the official records of the association. If the bylaws or other cooperative documents provide that the budget may be adopted by the board of administration, then the unit owners shall be given written notice of the time and place at which the meeting of the board of administration to consider the budget will be held. The meeting must shall be open to the unit owners.

2. If an adopted budget which requires assessment against the unit owners in any fiscal or calendar year exceeds 115 percent of the assessments for the preceding year, the board upon written application of 10 percent of the voting interests to the board, shall call a special meeting of the unit owners within 30 days, upon not less than 10 days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget. Unless the bylaws require a larger vote, the adoption of the budget requires shall require a vote of not less than a majority of all the voting interests.

3. The board of administration may, in any event, propose a budget to the unit owners at a meeting of members or by writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all voting interests in writing, the budget is shall be adopted. If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the unit owners, the budget adopted by the board of directors goes shall go into effect as scheduled.

4. In determining whether assessments exceed 115 percent of similar assessments for prior years, any authorized provisions for reasonable reserves for repair or replacement of cooperative property, anticipated expenses by the association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the cooperative property must shall be excluded from computation. However, as long as the developer is in control of the board of administration, the board may shall not impose an assessment for any year greater than 115 percent of the prior fiscal or calendar year's assessment without approval of a majority of all voting interests.

Section 8. Section 723.073, Florida Statutes, is amended to read:

723.073 Conveyance by the association. —

(1) In the event that an association acquires a mobile home park and intends to reconvey a portion or portions of the property acquired to members of the association, the association shall record copies of its articles and bylaws and any additional covenants, restrictions, or declarations of servitude affecting the property with the clerk of the circuit court prior to the conveyance of any portion of the property to an individual member of the association. The effective date of any condominium or cooperative created after acquisition of the property shall be the date of the recording of the articles of incorporation and bylaws and any additional covenants, restrictions, or declarations of servitude affecting the property with the clerk of the circuit court.

(2) An association that which acquires a mobile home park pursuant to s. 723.071 is exempt from s. 719.1035 and the requirements of part VI of chapter 718 and part VI of chapter 719.

Section 9. Paragraph (c) of subsection (5) of section 723.031, Florida Statutes, is amended to read:

723.031 Mobile home lot rental agreements.—

(5) The rental agreement shall contain the lot rental amount and services included. An increase in lot rental amount upon expiration of the term of the lot rental agreement shall be in accordance with ss. 723.033 and 723.037 or s. 723.059(4), whichever is applicable, provided that, pursuant to s. 723.059(4), the amount of the lot rental increase is disclosed and agreed to by the purchaser, in writing. An increase in lot rental amount shall not be arbitrary or discriminatory between similarly situated tenants in the park. No lot rental amount may be increased during the term of the lot rental agreement, except:

(c) That no charge may be collected that results in payment of money for sums previously collected as part of the lot rental amount. The provisions hereof notwithstanding, the mobile home park owner may pass on, at any time during the term of the lot rental agreement, ad valorem property taxes and utility charges, or increases of either, provided that the ad valorem property taxes and the utility charges are not otherwise being collected in the remainder of the lot rental amount and provided further that the passing on of such ad valorem taxes or utility charges, or increases of either, was disclosed prior to tenancy, was being passed on as a matter of custom between the mobile home park owner and the mobile home owner, or such passing on was authorized by law. Such ad valorem taxes and utility charges shall be a part of the lot rental amount as defined by this chapter. *Other provisions of this chapter notwithstanding, pass-on charges may be passed on only within 1 calendar year of the date a mobile home park owner remits payment of the charge. A mobile home park owner is prohibited from passing on any fine, fee, or increase in a charge resulting from a park owner's late payment of the charge.*

Section 10. This act shall take effect upon becoming a law.

Senator Dudley moved the following amendment:

Amendment 2—Delete everything before the enacting clause and insert: A bill to be entitled An act relating to community associations; creating the "Isabelle Greenwald Memorial Condominium Act"; amending s. 718.112, F.S.; revising notice requirements for budget meetings of condominium associations; providing requirements with respect to meetings of board of administration committees; amending s. 718.115, F.S.; providing that standards relating to common expenses and common surplus are applicable to certain mixed-use condominiums; amending s. 718.404, F.S.; revising provisions with respect to the ownership share in the common elements assigned to each unit in a mixed-use condominium; amending s. 718.616, F.S.; revising requirements with respect to a disclosure letter from the municipality for the creation of a residential condominium; amending s. 719.1055, F.S.; requiring the approval of unit owners before a mobile home cooperative association makes certain changes to a unit or to common areas or appurtenances; amending s. 719.106, F.S.; providing requirements with respect to meeting of board of administration committees; providing notice of annual budget meetings; amending s. 723.073, F.S.; exempting an association that acquires a mobile home park from certain requirements with respect to recording cooperative documents and subordinating the record interest in land subject to cooperative ownership; providing the effective date of documents; amending s. 723.031, F.S.; providing limitations on pass-on charges that may be passed from a mobile home park owner to a mobile home owner; providing an effective date.

On motion by Senator Dudley, further consideration of **CS for SB's 386, 732 and 1208** with pending **Amendment 2** was deferred.

SB 412—A bill to be entitled An act relating to psychotherapeutic services; amending ss. 627.6471 and 627.6472, F.S.; requiring insurers to provide eligibility criteria for providers of psychotherapeutic services under certain circumstances; providing an effective date.

—was read the second time by title.

Senator Holzendorf moved the following amendment which was adopted:

Amendment 1—On page 1, lines 24-27, and on page 2, lines 13-16, delete those lines and insert: *shall be established by the insurer to be*

included in the insurer's criteria for selection of network providers. The insurer may not

On motions by Senator Holzendorf, by two-thirds vote **SB 412** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 742—A bill to be entitled An act relating to mental health insurance; providing for privacy and confidentiality for certain insured's rights for certain purposes; authorizing certain health care providers or organizations to request information relating to a claim for payment for psychotherapy services from a psychotherapist under certain circumstances; limiting review of such claims to certain persons; providing requirements; authorizing a psychotherapist to submit a report under certain circumstances; imposing certain confidentiality requirements; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Childers:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. A health maintenance organization or prepaid health clinic, as defined in chapter 641, Florida Statutes, must maintain strict confidentiality against unauthorized or inadvertent disclosure of confidential information to persons inside and outside the health maintenance organization or prepaid health clinic regarding claims for payment of psychiatric or psychotherapeutic services and psychiatric and psychotherapeutic records and reports related to the claims. These records submitted to a health maintenance organization or prepaid health clinic are subject to the limitations of section 455.241, Florida Statutes, relating to the furnishing of patient records.

Section 2. An insurer must maintain strict confidentiality against unauthorized or inadvertent disclosure of confidential information to persons inside and outside the insurer's organization regarding claims for payment of psychiatric and psychotherapeutic services and psychiatric and psychotherapeutic records and reports related to the claims. These records submitted to an insurer are subject to the limitations of section 455.241, Florida Statutes, relating to the furnishing of patient records. As used herein, "insurer" means an insurer issuing an individual health policy subject to chapter 627, Florida Statutes, an insurer issuing a group health insurance policy or certificate pursuant to section 627.651, Florida Statutes, a plan of self-insurance providing health coverage benefits to residents of this state pursuant to section 627.651, Florida Statutes, an insurer delivering a group health policy issued or delivered outside of this state under which a resident of this state is provided coverage pursuant to section 627.6515, Florida Statutes, a preferred provider organization as defined in section 627.6471, Florida Statutes, an exclusive provider organization as defined in section 627.6472, Florida Statutes, or a prepaid health service organization providing mental health services pursuant to chapter 636, Florida Statutes.

Section 3. This act shall take effect October 1, 1996.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to mental health insurance; requiring health maintenance organizations, prepaid health clinics, insurers, and similar entities to maintain the confidentiality of psychiatric and psychotherapeutic claims and related records and reports; providing an effective date.

Senator Holzendorf moved the following substitute amendment which was adopted:

Amendment 2 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. A health maintenance organization or prepaid health clinic, as defined in chapter 641, Florida Statutes, must maintain strict

confidentiality against unauthorized or inadvertent disclosure of confidential information to persons inside or outside the health maintenance organization or prepaid health clinic regarding psychotherapeutic services provided to subscribers by psychotherapists licensed under chapter 490 or 491, Florida Statutes, and psychotherapeutic records and reports related to the services. A report, in lieu of records, may be submitted by a psychotherapist in support of the services. Such report must include clear statements summarizing the subscriber's presenting symptoms, what transpired in any provided therapy, what progress, if any, was made by the subscriber and results obtained. However, the health maintenance organization or prepaid health clinic may require the records upon which the report is based, if the report does not contain sufficient information supporting the services. A psychotherapist submitting records in support of services may obscure portions to conceal the names, identities or identifying information of people other than the subscriber if this information is unnecessary to utilization review, quality management, discharge planning, case management, or claims processing conducted by the health maintenance organization or prepaid health clinic. A health maintenance organization or prepaid health clinic may provide aggregate data which does not disclose subscriber identities or identities of other persons to entities such as payors, sponsors, researchers, and accreditation bodies.

Section 2. An insurer must maintain strict confidentiality against unauthorized or inadvertent disclosure of confidential information to persons inside or outside the insurer's organization regarding claims for payment of psychotherapeutic services provided by psychotherapists licensed under chapter 490 or 491, Florida Statutes, and psychotherapeutic records and reports related to the claims. A report, in lieu of records, may be submitted by a psychotherapist in support of a claim. Such report must include clear statements summarizing the insured's presenting symptoms, what transpired in any provided therapy, what progress, if any, was made by the insured and results obtained. However, the insurer may require the records upon which the report is based, if the report does not contain sufficient information for properly processing the claim. A psychotherapist submitting records in support of a claim may obscure portions to conceal the names, identities, or identifying information of people other than the insured if this information is unnecessary to utilization review, quality management, discharge planning, case management, or claims processing conducted by the insurer. An insurer may provide aggregate data which does not disclose subscriber identities or identities of other persons to entities such as payors, sponsors, researchers and accreditation bodies. As used in this section, "insurer" means an individual health insurance policy subject to chapter 627, Florida Statutes, an insurer issuing a group health insurance policy or certificate pursuant to section 627.651, Florida Statutes, a plan of self-insurance providing the health coverage benefits to residents of this state pursuant to section 627.651, Florida Statutes, an insurer delivering a group health policy issued or delivered outside this state under which a resident of this state is provided coverage pursuant to section 627.6515, Florida Statutes, a preferred provider organization as defined in section 627.6471, Florida Statutes, an exclusive provider organization as defined in section 627.6472, Florida Statutes, and prepaid health service organizations providing mental health services pursuant to chapter 636, Florida Statutes.

Section 3. This act shall take effect October 1, 1996.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to mental health insurance; requiring health maintenance organizations, prepaid health clinics, insurers, and similar entities to maintain the confidentiality of psychotherapeutic claims provided by psychotherapists licensed under chapter 490 or 491, Florida Statutes, and related records and reports; providing an effective date.

On motions by Senator Childers, by two-thirds vote **SB 742** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Dantzler, by two-thirds vote **HB 473** was withdrawn from the Committee on Natural Resources.

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

HB 473—A bill to be entitled An act relating to hunter safety; amending s. 372.5717, F.S.; requiring a hunter safety course as a prerequisite to issuance of a hunting license; eliminating a criminal penalty; creating a noncriminal penalty; directing the Game and Fresh Water Fish Commission to develop a voluntary hunter safety course for juveniles; providing an effective date.

—a companion measure, was substituted for **SB 128** and read the second time by title. On motions by Senator Dantzler, by two-thirds vote **HB 473** was read the third time by title, passed and immediately certified to the House. The vote on passage was:

Yeas—39 Nays—None

CS for SB 690—A bill to be entitled An act relating to the regulation of health care facilities; amending s. 20.42, F.S.; deleting the responsibility of the Division of Health Policy and Cost Control within the Agency for Health Care Administration for reviewing hospital budgets; abolishing the Health Care Board; amending s. 112.153, F.S., relating to local governmental group insurance plans; updating provisions to reflect the assumption by the Agency for Health Care Administration of duties formerly performed by the Health Care Cost Containment Board; amending s. 154.304, F.S., relating to health care for indigent persons; revising definitions; amending ss. 212.055, 394.4788, F.S., relating to discretionary sales surtaxes and mental health services; updating provisions to reflect the assumption by the agency of duties formerly performed by the Health Care Cost Containment Board; amending s. 395.401, F.S.; providing for certain reports formerly made to the Health Care Board to be made to the agency; amending s. 395.701, F.S., relating to the Public Medical Assistance Trust Fund; revising definitions; amending s. 395.806, F.S.; providing for the agency to assume the board's duties in reviewing family practice teaching hospitals; amending s. 408.033, F.S.; revising membership on the Statewide Health Council to reflect the abolishment of the Health Care Board; amending ss. 408.05, 408.061, 408.062, 408.063, F.S., relating to the State Center for Health Statistics and the collection and dissemination of health care information; updating provisions to reflect the assumption by the Agency for Health Care Administration of duties formerly performed by the Health Care Board and the Department of Health and Rehabilitative Services; deleting obsolete provisions; amending s. 408.07, F.S.; deleting definitions made obsolete by the repeal of requirements with respect to hospital budget reviews; amending s. 408.08, F.S.; deleting provisions requiring the Health Care Board to review the budgets of certain hospitals; deleting requirements that a hospital file budget letters; deleting certain administrative penalties; amending s. 408.40, F.S.; removing a reference to the duties of the Public Counsel with respect to hospital budget review proceedings; amending ss. 409.2673, 409.9113, F.S., relating to health care programs for low-income persons and the disproportionate share program for teaching hospitals; updating provisions to reflect the abolishment of the Health Care Cost Containment Board and the assumption of its duties by the agency; amending s. 440.13, F.S., relating to reimbursements for medical services under the Workers' Compensation Law; deleting a reference to reviews of hospital budgets made obsolete by the act; amending s. 240.4076, F.S.; conforming a cross-reference to changes made by the act; repealing ss. 407.61, 408.003, 408.072, 408.085, F.S., relating to studies by the Health Care Board, appointment of members to the Health Care Board, review of hospital budgets, and budget reviews of comprehensive inpatient rehabilitation hospitals; providing for retroactive application of the act; providing an effective date.

—was read the second time by title.

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 50, between lines 11 and 12, insert:

Section 21. Subsection (1) of section 395.0163, Florida Statutes, is amended to read:

395.0163 Construction inspections; plan submission and approval; fees.—

(1) The agency shall make, or cause to be made, such construction inspections and investigations as it deems necessary. The agency may

prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agency for preliminary inspection and approval or recommendation with respect to compliance with agency rules and standards. The agency shall approve or disapprove the plans and specifications within 60 days after receipt of the fee for review of plans as required in subsection (2). The agency may be granted one 15-day extension for the review period if the director of the agency approves the extension. If the agency fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the agency disapproves plans and specifications, it shall set forth in writing the reasons for its disapproval. Conferences and consultations may be provided as necessary. *All outpatient facilities that are physically separated by fire walls and distinct electrical and mechanical systems and that comply with the State Minimum Building Codes under s. 553.73, as determined by local governments, and with uniform firesafety standards under s. 633.022, except ambulatory surgical centers, cardiac catheterization facilities, and mobile units, are exempt from review under this section.*

Section 22. Paragraph (b) of subsection (1) of section 395.0197, Florida Statutes, is amended to read:

395.0197 Internal risk management program.—

(1) Every licensed facility shall, as a part of its administrative functions, establish an internal risk management program that includes all of the following components:

(b) The development of appropriate measures to minimize the risk of injuries and adverse incidents to patients, including, but not limited to:

1. Risk management and risk prevention education and training of all nonphysician personnel as follows:

a. Such education and training of all nonphysician personnel as part of their initial orientation; and

b. At least 1 hour of such education and training annually for all nonphysician personnel of the licensed facility working in clinical areas and providing patient care.

2. A prohibition, except when emergency circumstances require otherwise, against a staff member of the licensed facility attending a patient in the recovery room, unless the staff member is authorized to attend the patient in the recovery room and is in the company of at least one other person. However, a *licensed facility hospital* is exempt from the two-person requirement if it has:

- a. Live visual observation;
- b. Electronic observation; or
- c. Any other reasonable measure taken to ensure patient protection and privacy.

Section 23. Paragraph (d) of subsection (1) of section 395.1055, Florida Statutes, is amended to read:

395.1055 Rules and enforcement.—

(1) The agency shall adopt, amend, promulgate, and enforce rules to implement the provisions of this part, which shall include reasonable and fair minimum standards for ensuring that:

(d) *New facilities and a new wing or floor added to an existing facility after July 1, 1996, are structurally capable of serving as shelters only for patients, staff, and families of staff, and equipped to be self-supporting during and immediately following disasters.*

Section 24. The Agency for Health Care Administration shall work with persons affected by section 23 and report to the Governor and Legislature by March 1, 1997, its recommendations for cost-effective renovation standards to be applied to existing facilities.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 3, line 2, following the semicolon (;) insert: amending s. 395.0163, F.S.; providing exemptions from construction inspections and investigations by the Agency for Health Care Administration for certain facilities; providing exceptions; amending s. 395.0197, F.S.; exempting ambulatory surgical centers and hospitals from certain staffing requirements in surgical recovery rooms; amending s. 395.1055, F.S.; requiring the Agency for Health Care Administration to adopt rules to assure that, following a disaster, licensed facilities are capable of serving as shelters only for patients, staff, and the families of staff; providing for applicability; providing for a report by the agency to the Governor and Legislature;

On motions by Senator Brown-Waite, by two-thirds vote **CS for SB 690** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Senate resumed consideration of—

CS for SB 1210—A bill to be entitled An act relating to theft; amending s. 812.015, F.S., relating to retail and farm theft; revising retail theft offenses and providing penalties; redefining the term “merchant,” with respect to retail theft offenses; adding new definitions; adding the offense of transit-fare evasion; providing penalties for the new offenses; providing for the merchant, as redefined, or a transit security guard, to take into custody and detain a person believed to have committed retail theft or transit-fare evasion, under specified circumstances; reenacting s. 538.09(5), F.S., relating to registration of secondhand dealers, and s. 538.23(2), F.S., relating to violations committed by and penalties imposed upon secondary metals recyclers, to incorporate the amendment in references; providing an effective date.

—with pending **Amendment 1** by Senator Williams.

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

Amendment 1A—On page 1, line 28, after the period (.) insert: The Governor shall appoint one member who is a representative of the industry.

Amendment 1 as amended was adopted.

Senator Williams moved the following title amendment which was adopted:

Amendment 2—In title, on page 1, line 19, after the semicolon (;) insert: creating a vehicle title loan task force; providing membership and duties for the task force; requiring a report;

On motions by Senator Wexler, by two-thirds vote **CS for SB 1210** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—39 Nays—None

CS for SB 474—A bill to be entitled An act relating to human immunodeficiency virus; amending s. 381.004, F.S.; requiring county public health units to maintain and disseminate a list of anonymous testing sites; amending s. 384.25, F.S.; revising requirements for physician and laboratory reporting of human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS); amending s. 384.31, F.S.; requiring certain offering of HIV testing to pregnant women; providing for the patient's objection; providing for records; limiting liability of the attending practitioner for birth of an HIV-infected child to a patient who objected to testing; providing an effective date.

—was read the second time by title.

Senator Bankhead moved the following amendment:

Amendment 1 (with title amendment)—On page 1, line 20, through page 6, line 15, delete those lines and insert:

Section 1. Paragraph (c) of subsection (4) and paragraph (b) of subsection (6) of section 381.004, Florida Statutes, are amended to read:

381.004 Testing for human immunodeficiency virus.—

(4) PUBLIC HEALTH UNIT NETWORK OF VOLUNTARY HUMAN IMMUNODEFICIENCY VIRUS TESTING PROGRAMS.—

(c) Each county public health unit shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. The Department of Health and Rehabilitative Services or its designated agent shall continue to provide for anonymous testing through an alternative testing site program with sites throughout all areas of the state. *Each county public health unit shall maintain a list of anonymous testing sites. The list shall include the locations, phone numbers, and hours of operation of the sites and shall be disseminated to all persons and programs offering human immunodeficiency virus testing within the service area of the public health unit, including physicians licensed under chapter 458 or chapter 459.* Except as provided in this section, the identity of a person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). ~~This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

(6) PENALTIES.—

(b) Any person who intentionally violates the confidentiality provisions of this section and s. 951.27 ~~commits is guilty of a misdemeanor of the first second degree, punishable as provided in s. 775.082 or s. 775.083. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

Section 2. Section 384.25, Florida Statutes, is amended to read:

384.25 Reporting required.—

(1) Each person who makes a diagnosis of or treats a person with a sexually transmissible disease and each laboratory that performs a test for a sexually transmissible disease which concludes with a positive result shall report such facts as may be required by the department by rule, within a time period as specified by rule of the department, but in no case to exceed 2 weeks.

(2) The department shall adopt rules specifying the information required in and a minimum time period for reporting a sexually transmissible disease. In adopting such rules, the department shall consider the need for information, protections for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. *To ensure the confidentiality of persons infected with the human immunodeficiency virus (HIV), reporting of HIV infection and acquired immune deficiency syndrome (AIDS) must be conducted using the HIV/AIDS Reporting System (HARS) developed by the Centers for Disease Control and Prevention of the United States Public Health Service.*

(3) The department shall require reporting of physician diagnosed cases of ~~AIDS acquired immune deficiency syndrome (AIDS) and AIDS related complex based upon diagnostic criteria from the Centers for Disease Control and Prevention. of the United States Public Health Service. The department may authorize county public health units to accept reports of cases of human immunodeficiency virus infection by October 1, 1989. However, in the case of human immunodeficiency virus reports, the department is prohibited from requiring the reporting of or collection of any information which would identify individual persons, including name, address, identifying numbers or symbols, or any other identifying information except as authorized in subsection (4).~~

(4) The department may require physician *and laboratory reporting of HIV infection human immunodeficiency virus infection with information sufficient to identify the test subject in those instances in which the test subject has authorized the physician to disclose such information to the county public health unit for the purposes of partner notification and contact investigation pursuant to s. 384.26.* However, only reports of ~~HIV human immunodeficiency virus infection identified on or after the effective date of the rule developed by the department pursuant to this subsection shall be accepted. Such rule shall only be adopted by the department when federal funds are made available for the purposes of partner notification and contact investigation. The reporting may not affect or relate to anonymous HIV human immunodeficiency virus testing programs conducted pursuant to s. 381.004(4) or to university-based~~

~~medical research protocols which include partner notification and contact investigation as determined by the department. Human immunodeficiency virus reports shall include patient names and name identifiers, shall be maintained in the form of individual client records, and shall not be maintained in the form of a roster of names. The department shall require county public health units to submit periodically to the State Health Officer or his or her designee demographic information compiled from reports of human immunodeficiency virus infection.~~

(5) After notification of the test subject pursuant to subsection (4), the department may, with the consent of the test subject, notify school superintendents of students and school personnel whose ~~HIV human immunodeficiency virus tests are positive.~~ School superintendents shall maintain the confidentiality of the report information, and the information shall be released only in an emergency situation which results in a significant exposure by students or school personnel to the blood or body fluids of the person for whom a positive test result has been obtained. Such information shall be released only to persons who have experienced a significant exposure, and such persons shall comply with the confidentiality provisions of s. 384.29.

(6) The department shall by February 1 of each year submit to the Legislature an annual report relating to all information obtained pursuant to this section.

(7) The rules ~~adopted promulgated~~ by the department pursuant to this section shall specify the protocols for the reporting required by or permitted by ~~subsection subsections~~ (3) or subsection (4). The protocol developed for implementation of subsection (4) shall include, but need not be limited to, information to be given to a test subject during pretest counseling, including:

(a) *The fact that a positive HIV test result may be reported to the county public health unit with sufficient information to identify the test subject and the availability and location of anonymous testing sites; and*

(b) ~~setting forth~~ *The partner notification and contact investigation services available through the county public health units, the benefits of such services, and the confidentiality protections available as part of such services.*

(8) Each person who violates the provisions of this section or the rules adopted hereunder may be fined by the department up to \$500 for each offense. The department shall report each violation of this section to the regulatory agency responsible for licensing each health care professional and each laboratory to which these provisions apply.

Section 3. Section 384.31, Florida Statutes, is amended to read:

384.31 Serological testing of pregnant women; duty of the attendant.—

(1) Every person, including every physician licensed under chapter 458 or chapter 459 or midwife licensed under chapter 464 or chapter 467, attending a pregnant woman for conditions relating to pregnancy during the period of gestation and delivery shall take or cause to be taken a sample of venous blood at a time or times specified by the department. Each sample of blood shall be tested by a laboratory approved for such purposes under part I of chapter 483 for sexually transmissible diseases as required by rule of the department.

(2) *At the time the venous blood sample is taken, testing for human immunodeficiency virus (HIV) infection shall be offered to each pregnant woman as a standard of practice. If a pregnant woman objects to HIV testing, reasonable steps shall be taken to obtain a written statement of such objection, signed by the patient, which shall be placed in the patient's medical record. Every person, including every physician licensed under chapter 458 or chapter 459 or midwife licensed under chapter 464 or chapter 467, who attends a pregnant woman who has been offered and objects to HIV testing shall be immune from liability arising out of or related to the contracting of HIV infection or acquired immune deficiency syndrome (AIDS) by the child from the mother.*

Section 4. Subsection (2) of section 384.34, Florida Statutes, is amended to read:

384.34 Penalties.—

(2) Any person who violates the provisions of s. 384.26 or s. 384.29 ~~commits is guilty of a misdemeanor of the first second degree, punishable~~

as provided in s. 775.082 or s. 775.083.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, lines 5-16, delete those lines and insert: disseminate a list of anonymous testing sites; increasing the penalty imposed for violating confidentiality provisions; amending s. 384.25, F.S.; revising requirements for physician and laboratory reporting of human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS); amending s. 384.31, F.S.; requiring certain offering of HIV testing to pregnant women; providing for the patient's objection; providing for records; limiting liability of the attending practitioner for birth of an HIV-infected child to a patient who objected to testing; amending s. 384.34, F.S.; increasing the penalty imposed for violating confidentiality provisions; providing an effective date.

Senator Bankhead moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A (with title amendment)—On page 1, lines 26 and 27, delete those lines and insert: virus infection, on both an anonymous and ~~or~~ confidential basis, ~~dependent on the patient's desire~~. *Counseling provided to a patient tested on both an anonymous and confidential basis shall include informing the patient of the availability of partner-notification services, the benefits of such services, and the confidentiality protections available as part of such services.* The Department of Health

And the title is amended as follows:

On page 1, line 4, delete that line and insert: county public health units to provide both anonymous and confidential testing, counsel patients about partner-notification services, and maintain and

Amendment 1B—On page 6, line 11, delete that line and insert: *be offered to each pregnant woman. The prevailing professional standard of care in this state requires each health care provider and midwife who attends a pregnant woman to counsel the woman to be tested for human immunodeficiency virus (HIV).*

Senator Bankhead moved the following amendment to **Amendment 1** which failed:

Amendment 1C (with title amendment)—On page 4, line 10, after the period (.) insert: *A board-eligible specialist in infectious diseases or oncology is not required to report instances of HIV infection and may submit a blood sample to a laboratory for the performance of an HIV test without a patient's name or other identifying information if the specialist or oncologist believes that the patient will avoid medical care if the patient's identity is revealed to the department. A laboratory that performs an HIV test that indicates HIV infection on a blood sample submitted without a patient's name or other identifying information shall report only the test result, and not the patient's identity, to the department.*

And the title is amended as follows:

On page 1, line 9, after the semicolon (;) insert: providing an exception;

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

Amendment 1D—On page 6, line 12, before "If" insert: *Counseling shall include a discussion of the availability of treatment if the pregnant woman tests HIV positive.*

Amendment 1 as amended was adopted.

On motions by Senator Bankhead, by two-thirds vote **CS for SB 474** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—37 Nays—2

SB 688—A bill to be entitled An act relating to education; amending ss. 230.23 and 232.26, F.S.; authorizing denial of admission to or expulsion of a student who commits a criminal offense on district school property; providing an effective date.

—was read the second time by title.

Senator Burt offered the following amendment which was moved by Senator Dudley and adopted:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (6) of section 230.23, Florida Statutes, is amended to read:

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

(6) **CHILD WELFARE.**—Provide for the proper accounting for all children of school age, for the attendance and control of pupils at school, and for proper attention to health, safety, and other matters relating to the welfare of children in the following fields, as prescribed in chapter 232.

(c) Control of pupils.—

1. Adopt rules and regulations for the control, discipline, in-school suspension, suspension, and expulsion of pupils and decide all cases recommended for expulsion. Such rules shall clearly specify disciplinary action that shall be imposed if a student possesses alcoholic beverages or electronic telephone pagers or is involved in the illegal use, sale, or possession of controlled substances, as defined in chapter 893, on school property or while attending a school function. School boards are encouraged to include in these provisions alternatives to expulsion and suspension such as in-school suspension, assignment to second chance schools, and guidelines on identification and referral of students to alcohol and substance abuse treatment agencies. To the extent that funding is available, it is the intent of the Legislature that all persons of compulsory school age who have not received a high school diploma be placed in an appropriate program which may include, but not be limited to, traditional schools, second chance schools jointly provided by the district school board and the Department of Juvenile Justice, disciplinary schools, and other alternatives to expulsion programs. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by s. 120.57(2) and are exempt from s. 286.011. However, the pupil's parent or legal guardian must be given notice of the provisions of s. 286.011 and may elect to have the hearing held in compliance with that section. The school board shall have the authority to prohibit the use of corporal punishment, provided that the school board adopts or has adopted a written program of alternative control or discipline, which may include, but is not limited to, timeout rooms, in-school suspension, student peer review, parental involvement, and other forms of positive reinforcement, such as classes on appropriate classroom behavior.

2. Have the authority as the school board of a receiving school district to honor the final order of expulsion of a student by another school board in accordance with the following procedures:

a. A final order of expulsion shall be recorded in the records of the receiving school district.

b. The expelled student applying for admission to the receiving school district shall be advised of the final order of expulsion.

c. The superintendent of schools of the receiving school district may recommend to the school board that the final order of expulsion be waived and the student be admitted to the school district, or that the final order of expulsion be honored and the student not be admitted to the school district. If the student is admitted by the school board, with or without the recommendation of the superintendent, the student may be placed in an appropriate educational program at the direction of the school board.

3. *Nothing shall prohibit a school board from having the right to expel, or take disciplinary action against, a student who is found to have committed any offense on school property at any time as follows:*

a. *A student who is found to have committed a delinquent act that would be a felony if committed by an adult;*

b. *A student who has had adjudication withheld for a delinquent act that, if committed by an adult, would be a felony; or*

c. *A student who has been found guilty of a felony.*

Section 2. This act shall take effect July 1, 1996.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to education; amending s. 230.23, F.S.; authorizing a school board to expel or take disciplinary action against students who have committed certain offenses on district school property; providing an effective date.

On motions by Senator Sullivan, by two-thirds vote **SB 688** as amended was read the third time by title, passed, ordered engrossed and then immediately certified to the House. The vote on passage was:

Yeas—39 Nays—None

The Senate resumed consideration of—

SB 118—A bill to be entitled An act relating to Medicaid program integrity; amending ss. 409.901, 409.907, 409.913, F.S.; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; providing definitions; modifying provisions relating to provider agreements; incorporating technical revisions; requiring providers to submit certain application information; authorizing the agency to review applications for the purpose of determining an applicant's participation in the Medicaid program; providing the criteria upon which the agency may deny enrollment in the Medicaid program to a provider; expanding agency duties relating to recovery of overpayments and imposition of sanctions; providing definitions; authorizing agency investigation of possible violations identified by agency reviews; providing for a memorandum of understanding between the agency and the Department of Legal Affairs' fraud-control unit; authorizing the use of applicable peer review organization findings as evidence; providing notice procedures and requirements; providing additional requirements for claims; authorizing the agency to review records and conduct other investigations; limiting certain payments to billing agents; specifying conditions, limitations, and procedures for withholding provider Medicaid payments; providing for notice; providing for in-camera inspection of evidence; providing additional grounds for imposition of administrative sanctions; providing for suspension or termination of providers; providing civil remedies and fines; requiring notice under described circumstances; authorizing certain use of statistical evidence; amending recovery amount for investigative and expert costs; providing agency authority to collect moneys owed, including certain interest; providing an effective date.

— which was previously considered April 19. Pending **Amendment 1** by the Committee on Health Care was adopted.

The Committee on Health Care recommended the following amendments which were moved by Senator Forman and adopted:

Amendment 2—On page 19, lines 3 and 4, delete "*the Office of the Inspector General of*"

Amendment 3—On page 20, line 19, delete "*may not be based on a percentage of amounts*" and insert: *shall not be based on amounts*

Amendment 4—On page 27, lines 4 and 5, delete those lines

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 5 (with title amendment)—On page 2, between lines 17 and 18, insert:

Section 1. Subsection (32) is added to section 395.002, Florida Statutes, to read:

395.002 Definitions.—As used in this chapter:

(32) "*Mobile Ambulatory Surgical Center*" means a mobile facility transported to a specific site for the purpose of providing elective surgical care in which a patient is admitted to and discharged from the facility on the same day. Notwithstanding the provisions of chapter 395, the

Agency for Health Care Administration shall promulgate rules to allow the use of Mobile Ambulatory Surgical Units by Health Care Providers in contract with the Department of Corrections.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 2, delete that line and insert: An act relating to health care; amending s. 395.002, F.S.; providing a definition of mobile ambulatory surgical center;

Senator Silver moved the following amendment which was adopted:

Amendment 6 (with title amendment)—On page 16, between lines 8 and 9, insert:

Section 3. Subsection (14) is added to section 409.912, Florida Statutes, to read:

409.912 Cost-effective purchasing of health care.—The department shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The department shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies designed to facilitate the cost-effective purchase of a case-managed continuum of care. The department shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(14) *The Agency for Health Care Administration may provide cost-effective purchasing of chiropractic services on a fee-for-service basis to Medicaid recipients through arrangements with a statewide chiropractic preferred provider organization incorporated in this state as a not-for-profit corporation.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 2, line 13, after the semicolon (;) insert: amending s. 409.912, F.S.; authorizing the agency to purchase chiropractic services for Medicaid recipients on a fee-for-service basis;

Senator Forman moved the following amendments which were adopted:

Amendment 7—On page 17, line 4, after "necessary" insert: *to palliate the effects of a terminal condition, or*

Amendment 8—On page 17, line 11, after "necessity" insert: *must be made by a licensed physician employed by or under contract with the agency and*

Amendment 9 (with title amendment)—On page 20, line 27 through page 22, line 15, delete those lines and renumber subsequent subsections.

And the title is amended as follows:

On page 1, line 31 through page 2, line 5, delete those lines and insert: providing for

Amendment 10—On page 24, line 6, delete "(13) and (16)" and insert: (12) and (15)

Amendment 11—On page 25, line 23, before "erroneous" insert: *a pattern of*

Amendment 12—On page 27, line 8, delete "(15)" and insert: (14)

Amendment 13—On page 28, line 10, delete "(15)(i)" and insert: (14)(i)

Senator Hargrett moved the following amendment which was adopted:

Amendment 14 (with title amendment)—On page 33, between lines 9 and 10, insert:

Section 4. Subsection (6) is added to section 409.9081, Florida Statutes, to read:

409.9081 Copayments.—

(6) *This section does not require a provider to bill or collect from the Medicaid recipient any copayment authorized by subsection (1). Regardless of whether the provider bills or collects the copayment, the agency shall deduct the amount of the copayment from the Medicaid reimbursement to the provider.*

Section 5. Section 409.920, Florida Statutes, is amended to read:

409.920 Medicaid provider fraud.—

(1) For the purposes of this section, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b)(a) "Fiscal agent" means any individual, firm, corporation, partnership, organization, or other legal entity that has contracted with the agency department to receive, process, and adjudicate claims under the Medicaid program.

(c)(b) "Item or service" includes:

1. Any particular item, device, medical supply, or service claimed to have been provided to a recipient and listed in an itemized claim for payment; or

2. In the case of a claim based on costs, any entry in the cost report, books of account, or other documents supporting such claim.

(d)(e) "Knowingly" means done by a person who is aware or should be aware of the nature of his conduct and that his conduct is substantially certain to cause the intended result.

(2) ~~It is unlawful to Any person who:~~

(a) ~~Knowingly make makes, cause causes to be made, or aid and abet aids and abets in the making of any false statement or false representation of a material fact, by commission or omission, in any claim submitted to the agency department or its fiscal agent for payment is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(b) ~~Knowingly make makes, cause causes to be made, or aid and abet aids and abets in the making of a claim for items or services that are not authorized to be reimbursed by the Medicaid program is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(c) ~~Knowingly charge charges, solicit solicits, accept accepts, or receive receives anything of value, other than an authorized copayment from a Medicaid recipient, from any source in addition to the amount legally payable for an item or service provided to a Medicaid recipient under the Medicaid program or knowingly fail fails to credit the agency department or its fiscal agent for any payment received from a third-party source is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(d) ~~Knowingly make makes or in any way cause causes to be made any false statement or false representation of a material fact, by commission or omission, in any document containing items of income and expense that is or may be used by the agency department to determine a general or specific rate of payment for an item or service provided by a provider is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(e) ~~Knowingly solicit solicits, offer offers, pay pays, or receive receives any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under the Medicaid program, or in return for obtaining, purchasing, leasing, ordering, or arranging for or recommending, obtaining, purchasing, leasing, or ordering any goods, facility, item, or service, for which payment may be made, in whole or in part, under the Medicaid program is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(f) Knowingly fails to bill, or attempt to collect from a Medicaid recipient an authorized copayment for a Medicaid service that requires a copayment in return for specific Medicaid reimbursement is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(3)(g) ~~A person who knowingly submits false or misleading information or statements to the Medicaid program for the purpose of being accepted as a Medicaid provider commits is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

(4)(3) ~~The repayment of Medicaid payments wrongfully obtained, or the offer or endeavor to repay Medicaid funds wrongfully obtained, does not constitute a defense to, or a ground for dismissal of, criminal charges brought under this section.~~

(5)(4) ~~All records in the custody of the agency department or its fiscal agent which relate to Medicaid provider fraud are business records within the meaning of s. 90.803(6).~~

(6)(6) ~~Proof that a claim was submitted to the department or its fiscal agent which contained a false statement or a false representation of a material fact, by commission or omission, unless satisfactorily explained, gives rise to an inference that the person whose signature appears as the provider's authorizing signature on the claim form, or whose signature appears on a department electronic claim submission agreement submitted for claims made to the fiscal agent by electronic means, had knowledge of the false statement or false representation. This subsection applies whether the signature appears on the claim form or the electronic claim submission agreement by means of handwriting, typewriting, facsimile signature stamp, computer impulse, initials, or otherwise.~~

(7)(6) ~~Proof of submission to the department or its fiscal agent of a document containing items of income and expense, which document is used or that may be used by the department or its fiscal agent to determine a general or specific rate of payment and which document contains a false statement or a false representation of a material fact, by commission or omission, unless satisfactorily explained, gives rise to the inference that the person who signed the certification of the document had knowledge of the false statement or representation. This subsection applies whether the signature appears on the document by means of handwriting, typewriting, facsimile signature stamp, electronic transmission, initials, or otherwise.~~

(8)(7) ~~Any person who agrees, conspires, combines, or confederates with another person to commit any act prohibited by subsection (2) is guilty of a misdemeanor of the first degree and is punishable as if he had actually committed such prohibited act. This subsection does not prohibit separate convictions and sentences for a violation of this subsection and a violation of any other provision of this section.~~

(9)(9) ~~A criminal action or proceeding under this section may be commenced at any time within 5 years after the cause of action accrues.~~

(10)(9) ~~The Attorney General shall conduct a statewide program of Medicaid fraud control. To accomplish this purpose, the Attorney General shall:~~

(a) ~~Investigate the possible criminal violation of any applicable state law pertaining to fraud in the administration of the Medicaid program, in the provision of medical assistance, or in the activities of providers of health care under the Medicaid program.~~

(b) ~~Investigate the alleged abuse or neglect of patients in health care facilities receiving payments under the Medicaid program, in coordination with the agency department.~~

(c) ~~Investigate the alleged misappropriation of patients' private funds in health care facilities receiving payments under the Medicaid program.~~

(d) ~~Refer to the Office of Statewide Prosecution or the appropriate state attorney all violations indicating a substantial potential for criminal prosecution.~~

(e) Refer to the *agency department* all suspected abusive activities not of a criminal nature.

(f) Refer to the *agency department* for collection each instance of overpayment to a provider of health care under the Medicaid program which is discovered he discovers during the course of an investigation.

(g) Safeguard the privacy rights of all individuals and provide safeguards to prevent the use of patient medical records for any reason beyond the scope of a specific investigation for fraud or abuse, or both, without the patient's written consent.

(11)(10) In carrying out *the his* duties and responsibilities under this subsection *section*, the Attorney General may:

(a) Enter upon the premises of any health care provider, excluding a physician, participating in the Medicaid program to examine all accounts and records that may, in any manner, be relevant in determining the existence of fraud in the Medicaid program, to investigate alleged abuse or neglect of patients, or to investigate alleged misappropriation of patients' private funds. A participating physician is required to make available any accounts or records that may, in any manner, be relevant in determining the existence of fraud in the Medicaid program. The accounts or records of a non-Medicaid patient may not be reviewed by, or turned over to, the Attorney General without the patient's written consent.

(b) Subpoena witnesses or materials within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings.

(c) Request and receive the assistance of any state attorney or law enforcement agency in the investigation and prosecution of any violation of this section.

Section 6. For the purpose of incorporating the amendment to s. 409.920, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 895.02, Florida Statutes, is reenacted to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 403.727(3)(b), relating to environmental control.
3. Section 409.325, relating to public assistance fraud.
4. Section 409.920, relating to Medicaid provider fraud.
5. Section 440.105 or s. 440.106, relating to workers' compensation.
6. Chapter 517, relating to sale of securities and investor protection.
7. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
8. Chapter 550, relating to jai alai frontons.
9. Chapter 552, relating to the manufacture, distribution, and use of explosives.
10. Chapter 562, relating to beverage law enforcement.
11. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.
12. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.
13. Chapter 687, relating to interest and usurious practices.

14. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

15. Chapter 782, relating to homicide.

16. Chapter 784, relating to assault and battery.

17. Chapter 787, relating to kidnapping.

18. Chapter 790, relating to weapons and firearms.

19. Section 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

20. Chapter 806, relating to arson.

21. Chapter 812, relating to theft, robbery, and related crimes.

22. Chapter 815, relating to computer-related crimes.

23. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

24. Section 827.071, relating to commercial sexual exploitation of children.

25. Chapter 831, relating to forgery and counterfeiting.

26. Chapter 832, relating to issuance of worthless checks and drafts.

27. Section 836.05, relating to extortion.

28. Chapter 837, relating to perjury.

29. Chapter 838, relating to bribery and misuse of public office.

30. Chapter 843, relating to obstruction of justice.

31. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

32. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

33. Chapter 874, relating to criminal street gangs.

34. Chapter 893, relating to drug abuse prevention and control.

35. Chapter 896, relating to offenses related to financial transactions.

36. Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.

37. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

Section 7. Paragraph (g) of subsection (3) of section 921.0012, Florida Statutes, is amended to read:

921.0012 Sentencing guidelines offense levels; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
782.07	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).

Florida Statute	Felony Degree	Description
782.072(1)	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(c)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(2)	3rd	Abusing or neglecting an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
827.04(1)	3rd	Deprive child of necessities causing great bodily harm or disfigurement.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 100 lbs., less than 2,000 lbs.
893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.

(Renumber subsequent section.)

And the title is amended as follows:

On page 2, line 13, after the semicolon (;) insert: amending s. 409.9081, F.S.; providing that a Medicaid provider is not required to bill or collect any copayment; providing that the Agency for Health Care Administration shall deduct the amount of the copayment from the Medicaid reimbursement to the provider, regardless of whether the provider bills or collects the copayment; amending s. 409.920, F.S.; providing a definition of the term "agency"; deleting the fraud offense of failure to bill or attempt to collect a Medicaid copayment; amending s. 921.0012, F.S.; modifying the sentencing guidelines offense severity ranking chart to include Medicaid provider fraud;

On motion by Senator Forman, by two-thirds vote **SB 118** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Senate resumed consideration of—

CS for HB's 543 and 1317—A bill to be entitled An act relating to sexual offenses; amending s. 794.05, F.S.; creating the offense of "unlawful sexual activity with certain minors"; providing penalties; providing a definition; providing an exception; providing that the victim's prior sexual conduct is not a relevant issue in a prosecution; providing that the perpetrator's ignorance of the victim's age or the victim's misrepresentation of his or her age cannot be raised as a defense in a prosecution; requiring an offender to pay child support if the unlawful sexual activity resulted in the victim giving birth and it is determined that the offender is the child's father; deleting provisions relating to "unlawful carnal intercourse"; creating s. 90.4025, F.S.; providing for admissibility of paternity results in certain criminal prosecutions; amending s. 921.0011, F.S., relating to the definition of "victim injury points"; providing that victim injury points for sexual contact or sexual penetration shall not be assessed in cases involving "unlawful sexual intercourse" unless the difference between the age of the offender and the age of the victim is 10 years or greater; clarifying the term "victim injury" for purposes of sentencing; amending s. 921.0012, F.S.; ranking the offense created in the act in the sentencing guidelines offense severity ranking chart and making technical corrections; amending s. 775.15, F.S., relating to time limitations, to conform to the act; amending s. 921.0016, F.S., relating to aggravating circumstances for purposes of sentencing, to provide that it is an aggravating circumstance if the victim of a sexual offense contracted a sexually transmissible disease as a result of the offense; amending s. 948.03, F.S., relating to terms and conditions of probation or community control, to clarify that sexual offenders must make victim restitution; amending s. 796.08, F.S., relating to criminal transmission of HIV, to clarify language; providing effective dates.

— which was previously considered this day.

Senator Kurth moved the following amendment which was adopted:

Amendment 1—On page 2, lines 27 and 28, delete both lines and insert: *or union with, the sexual organ of another; however,*

Senator Holzendorf moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 5, line 7, delete "10" and insert: 7

And the title is amended as follows:

On page 1, line 26, delete "10" and insert: 7

On motion by Senator Kurth, by two-thirds vote **CS for HB's 543 and 1317** as amended 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**MOTIONS**

On motion by Senator Jennings, the rules were waived and time of recess was extended until completion of motions and announcements.

On motion by Senator Jennings, the rules were waived and by two-thirds vote all bills remaining on the Special Order Calendar this day were placed first on the Special Order Calendar for Thursday, April 25.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, April 24, 1996: SB 118, SB 2334, SB 1254, CS for SB 1718, SB 1316, SB 1682, SB 688, CS for SB 1210, CS for SB 244, SB 128, CS for SB 360, CS for SB's 386, 732 and 1208, SB 412, SB 742, CS for SB 690, CS for SB 474, SB 1868, SB 324, SB 996, SB 1050, CS for SB 1272, SB 2370, SB 1278

Respectfully submitted,
Toni Jennings, Chairman

The Committee on Higher Education recommends the following pass: CS for HB 303

The bill was referred to the Committee on Banking and Insurance under the original reference.

The Committee on Community Affairs recommends the following pass: SB 2630 with 1 amendment

The bill was referred to the Committee on Commerce and Economic Opportunities under the original reference.

The Committee on Banking and Insurance recommends the following pass: SB 2706

The Committee on Transportation recommends the following pass: SB 2950 with 1 amendment

The bills contained in the foregoing reports were referred to the Committee on Governmental Reform and Oversight under the original reference.

The Committee on Commerce and Economic Opportunities recommends the following pass: SB 1982 with 2 amendments, SB 2836 with 1 amendment

The Committee on Criminal Justice recommends the following pass: CS for HB 229 with 3 amendments

The Committee on Governmental Reform and Oversight recommends the following pass: SB 2848

The bills contained in the foregoing reports were referred to the Committee on Health and Rehabilitative Services under the original reference.

The Committee on Banking and Insurance recommends the following pass: SB 2240 with 1 amendment

The Committee on Commerce and Economic Opportunities recommends the following pass: SB 856 with 2 amendments

The bills contained in the foregoing reports were referred to the Committee on Health Care under the original reference.

The Committee on Banking and Insurance recommends the following pass: SB 2748 with 1 amendment

The Committee on Commerce and Economic Opportunities recommends the following pass: SB 2382 with 1 amendment

The Committee on Community Affairs recommends the following pass: SB 2586 with 2 amendments

The bills contained in the foregoing reports were referred to the Committee on Judiciary under the original reference.

The Committee on Commerce and Economic Opportunities recommends the following pass: SB 576

The Committee on Community Affairs recommends the following pass: SB 1122, SJR 2346 with 1 amendment, SB 3022

The Committee on Governmental Reform and Oversight recommends the following pass: SB 92

The bills contained in the foregoing reports were referred to the Committee on Rules and Calendar under the original reference.

The Committee on Banking and Insurance recommends the following pass: SB 818 with 1 amendment

The Committee on Commerce and Economic Opportunities recommends the following pass: SB 68 with 5 amendments, SB 1830 with 1 amendment, SB 2262 with 2 amendments, SB 2678, SB 2948 with 7 amendments

The Committee on Community Affairs recommends the following pass: SB 170, SB 196, SB 302, CS for SB 600 with 4 amendments, SB 624 with 1 amendment, SB 628 with 1 amendment, SB 1694, SB 1758, SB 2212 with 1 amendment, SB 2690

The Committee on Criminal Justice recommends the following pass: HB 49 with 1 amendment, SB 948, CS for SB 2378, SB 2830

The Committee on Governmental Reform and Oversight recommends the following pass: SB 546, SB 720 with 1 amendment, SB 1062, SB 2220, SB 2786, CS for SB 2846 with 2 amendments

The Committee on Health Care recommends the following pass: CS for SB 796, CS for SB 866 with 2 amendments, SB 2756

The Committee on Higher Education recommends the following pass: HB 2263 with 2 amendments

The bills contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

The Committee on Commerce and Economic Opportunities recommends the following pass: SB 1928 with 3 amendments

The bill was placed on the calendar.

The Committee on Banking and Insurance recommends the following not pass: SB 1646

The Committee on Commerce and Economic Opportunities recommends the following not pass: SB 1778

The bills contained in the foregoing reports were laid on the table.

The Committee on Community Affairs recommends a committee substitute for the following: SB 652

The bill with committee substitute attached was referred to the Committee on Commerce and Economic Opportunities under the original reference.

The Committee on Commerce and Economic Opportunities recommends a committee substitute for the following: SB 2324

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

The Committee on Community Affairs recommends a committee substitute for the following: SB 2376

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

The Committee on Commerce and Economic Opportunities recommends committee substitutes for the following: SB 882, SB 2460

The Committee on Community Affairs recommends a committee substitute for the following: SB 844

The Committee on Criminal Justice recommends committee substitutes for the following: SB 544, SB 3024

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: CS for SB 2898

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

The Committee on Community Affairs recommends a committee substitute for the following: SB 2002

The Committee on Criminal Justice recommends committee substitutes for the following: SB 2276, SB 2852

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: SB 2638

The bills with committee substitutes attached contained in the foregoing reports were placed on the calendar.

BILLS REFERRED TO SUBCOMMITTEE

The following have been referred to the Select Subcommittee on Claim Bills which will report to the full committee within 7 days: Senate Bills 1172, 2654, 2730

*Fred R. Dudley, Chairman
Committee on Judiciary*

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Criminal Justice and Senators Wexler and Burt—

CS for SB 544—A bill to be entitled An act relating to criminal sentencing; amending s. 921.001, F.S.; providing that a defendant sentenced for a felony committed on or after a specified date, whose sentence under the guidelines is a nonstate prison sanction, may be sentenced to imprisonment for up to 22 months; providing that such sentence is not subject to appeal, except as an illegal sentence; providing an effective date.

By the Committee on Community Affairs and Senator Meadows—

CS for SB 652—A bill to be entitled An act relating to enterprise zones; amending s. 290.0055, F.S.; providing a method for changing the boundaries of an approved enterprise zone; providing an effective date.

By the Committee on Community Affairs and Senator Bronson—

CS for SB 844—A bill to be entitled An act relating to the local option tourist development tax; amending s. 125.0104, F.S.; providing that certain high tourism impact counties may impose an additional tax by ordinance; providing that certain counties contiguous to a high tourism impact county may impose an additional tax by extraordinary vote; providing for tax revenue use; providing for severability; providing an effective date.

By the Committee on Commerce and Economic Opportunities; and Senator Burt—

CS for SB 882—A bill to be entitled An act relating to employment; creating the "Untried Worker and Employer Protection Act"; providing a definition; authorizing the pilot program; outlining program responsibilities; providing an effective date.

By the Committee on Community Affairs and Senators Kurth, Brown-Waite, Johnson and Dyer—

CS for SB 2002—A bill to be entitled An act relating to local government comprehensive planning; amending s. 163.3187, F.S.; revising conditions under which a local government is authorized to adopt small scale development amendments to its comprehensive plan without regard to statutory limits on frequency of plan amendments; requiring certain information in the notice of such amendments; providing an effective date.

By the Committee on Criminal Justice and Senator Casas—

CS for SB 2276—A bill to be entitled An act relating to inmate education records; amending s. 229.8075, F.S.; requiring the Department of Education to match certain inmate records with specified educational and occupational information with respect to inmates; amending s. 944.801, F.S.; requiring the Correctional Education Program under the Department of Corrections to develop and report certain statistics on inmates; providing an effective date.

By the Committee on Commerce and Economic Opportunities; and Senator Silver—

CS for SB 2324—A bill to be entitled An act relating to registered limited liability partnerships; amending s. 620.78, F.S.; revising registration filing procedures for limited liability partnerships; providing duties of the Department of State; creating s. 620.7801, F.S.; requiring the department to collect certain filing fees; authorizing the department to prescribe forms and adopt rules; amending s. 620.7885, F.S.; clarifying foreign registered limited liability partnership registration requirements; creating s. 620.79, F.S.; providing applicability; amending s. 620.8101, F.S.; revising definitions; amending ss. 620.8103, 620.8105, 620.8303, 620.8304, 620.8702, 620.8703, 620.8704, 620.8805, 620.8806, 620.8807, 620.8903, 620.8906, and 620.8907, F.S.; clarifying and conforming provisions; providing and conforming cross-references; amending s. 620.8106, F.S.; providing exceptions; amending s. 620.8306, F.S.; specifying individual liability of a partner; amending s. 620.8307, F.S.; limiting certain actions against partner assets under certain circumstances; amending s. 620.8401, F.S.; limiting required indemnification payments by a partner under certain circumstances; amending s. 865.09, F.S.; revising an exemption from fictitious name registration requirements; clarifying a prohibition against using certain names; repealing s. 620.784(2), F.S., relating to reservation of an exclusive right to a partnership name; providing an effective date.

By the Committee on Community Affairs and Senator Meadows—

CS for SB 2376—A bill to be entitled An act relating to comprehensive planning and land management; amending s. 163.3171, F.S.; authorizing the state land planning agency and a local government to enter

providing severability; providing an effective date.

CONFEREES ON HOUSE BILLS 2715 AND 2717 APPOINTED (GENERAL APPROPRIATIONS AND IMPLEMENTING BILLS)

The President appointed Senator Diaz-Balart, Chairman; At Large: Senator Beard; Subcommittee A (General Government): Senator Childers, Chair; Senators Bronson, Casas, Dantzler, Harden, Hargrett and Harris; Subcommittee B (Education): Senator Dudley, Chair; Senators Holzendorf, Horne, Kirkpatrick and Sullivan; Subcommittee C (Human Services): Senator Bankhead, Chair; Senators Jennings, Kurth, Myers, Ostalkiewicz, Thomas and Williams and alternate Senator Gutman; Subcommittee D (Criminal Justice): Senator Crist, Chair; Senators Burt, Jones and Silver as conferees on **HB 2715** and **HB 2717**. The action of the Senate was certified to the House.

RETURNING MESSAGES—FINAL ACTION

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 180, SB 250, SB 560, SB 662, CS for SB 724, SB 940, SB 944 and SB 1890.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

ROLL CALLS ON SENATE BILLS

SB 118

Yeas—38

Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for SB 360

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

SB 412

Yeas—38

Bankhead	Casas	Dyer	Hargrett
Beard	Childers	Forman	Harris
Bronson	Crist	Grant	Holzendorf
Brown-Waite	Dantzler	Gutman	Horne
Burt	Diaz-Balart	Harden	Jenne

Jennings	Latvala	Rossin	Weinstein
Johnson	McKay	Silver	Wexler
Jones	Meadows	Sullivan	Williams
Kirkpatrick	Myers	Thomas	
Kurth	Ostalkiewicz	Turner	

Nays—None

CS for SB 474

Yeas—37

Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—2

Forman Weinstein

Vote after roll call:

Yea to Nay—Silver

SB 688

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

CS for SB 690

Yeas—38

Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Harden

SB 742

Yeas—38

Bankhead	Brown-Waite	Crist	Dudley
Beard	Burt	Dantzler	Dyer
Bronson	Childers	Diaz-Balart	Forman

Grant	Jenne	McKay	Thomas	Silver	Thomas	Weinstein	Williams
Gutman	Jennings	Meadows	Turner	Sullivan	Turner	Wexler	
Harden	Johnson	Myers	Weinstein	Nays—None			
Hargrett	Jones	Ostalkiewicz	Wexler	Vote after roll call:			
Harris	Kirkpatrick	Rossin	Williams	Yea—Latvala			
Holzendorf	Kurth	Silver					
Horne	Latvala	Sullivan					
Nays—None							

SB 2334

CS for SB 1210				Yeas—39			
Yeas—39				Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz	Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin	Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver	Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan	Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas	Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner	Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein	Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler	Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams	Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers		Nays—None			
Nays—None							

SCR 2874

SB 1316				Yeas—40			
Yeas—38				Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz	Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin	Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver	Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Thomas	Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kirkpatrick	Turner	Burt	Gutman	Kirkpatrick	Turner
Casas	Harden	Kurth	Weinstein	Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler	Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Williams	Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows		Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers		Nays—None			
Nays—None							

ROLL CALLS ON HOUSE BILLS

SB 1682				HB 473			
Yeas—37				Yeas—39			
Bankhead	Dyer	Jennings	Rossin	Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Forman	Johnson	Silver	Beard	Dyer	Jennings	Rossin
Bronson	Grant	Jones	Thomas	Bronson	Forman	Johnson	Silver
Brown-Waite	Gutman	Kirkpatrick	Turner	Brown-Waite	Grant	Jones	Sullivan
Burt	Harden	Kurth	Weinstein	Burt	Gutman	Kirkpatrick	Thomas
Casas	Hargrett	Latvala	Wexler	Casas	Harden	Kurth	Turner
Crist	Harris	McKay	Williams	Childers	Hargrett	Latvala	Weinstein
Dantzler	Holzendorf	Meadows		Crist	Harris	McKay	Wexler
Diaz-Balart	Horne	Myers		Dantzler	Holzendorf	Meadows	Williams
Dudley	Jenne	Ostalkiewicz		Diaz-Balart	Horne	Myers	
Nays—None							

CS for SB 1718				CS for HB 501			
Yeas—39				Yeas—38			
Mr. President	Crist	Harden	Jones	Mr. President	Dantzler	Harris	Kurth
Bankhead	Dantzler	Hargrett	Kirkpatrick	Bankhead	Diaz-Balart	Holzendorf	Latvala
Beard	Diaz-Balart	Harris	Kurth	Beard	Dudley	Horne	McKay
Bronson	Dudley	Holzendorf	McKay	Bronson	Dyer	Jenne	Meadows
Brown-Waite	Dyer	Horne	Meadows	Burt	Grant	Jennings	Myers
Burt	Forman	Jenne	Myers	Casas	Gutman	Johnson	Ostalkiewicz
Casas	Grant	Jennings	Ostalkiewicz	Childers	Harden	Jones	Rossin
Childers	Gutman	Johnson	Rossin	Crist	Hargrett	Kirkpatrick	Silver

Sullivan Turner Wexler
Thomas Weinstein

Williams

Sullivan Turner Wexler
Thomas Weinstein

Williams

Nays—None

Nays—None

Vote after roll call:

Yea—Brown-Waite

CS for HB's 543 and 1317

Yeas—38

Bankhead	Dantzler	Hargrett	Kurth
Beard	Diaz-Balart	Harris	Latvala
Bronson	Dudley	Horne	McKay
Brown-Waite	Dyer	Jenne	Meadows
Burt	Forman	Jennings	Myers
Casas	Grant	Johnson	Ostalkiewicz
Childers	Gutman	Jones	Rossin
Crist	Harden	Kirkpatrick	Silver

SELECT SUBCOMMITTEE APPOINTED

Senator Dudley announced the appointment of a Select Subcommittee on Claim Bills to hear the equitable claim bills referred to the Judiciary Committee. The select subcommittee members were announced as follows: Senator Dudley, Chairman; Senators Grant and Weinstein. The subcommittee will serve until adjournment sine die of the 1996 Regular Session.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 23 was corrected and approved.

RECESS

On motion by Senator Jennings, the Senate recessed at 12:05 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Thursday, April 25.