



Journal of the Senate

Number 5—Special Session E

Wednesday, May 8, 2002

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CALL TO ORDER

The Senate was called to order by President McKay at 9:18 a.m. A quorum present—40:

| | | |
|---------------------|------------|-------------------|
| Mr. President | Geller | Pruitt |
| Brown-Waite | Holzendorf | Rossin |
| Burt | Jones | Sanderson |
| Campbell | King | Saunders |
| Carlton | Klein | Sebesta |
| Clary | Latvala | Silver |
| Constantine | Laurent | Smith |
| Cowin | Lawson | Sullivan |
| Crist | Lee | Villalobos |
| Dawson | Meek | Wasserman Schultz |
| Diaz de la Portilla | Miller | Webster |
| Dyer | Mitchell | Wise |
| Futch | Peaden | |
| Garcia | Posey | |

Excused: Senator Carlton periodically from 1:06 p.m.

PRAYER

The following prayer was offered by Senator Mitchell:

Heavenly Father, thank you for this day. Thank you for the many blessings you have given us. Lead us, guide us and help us to do thy will. Create in us the desire and the longing to do what you would have us do so that we come before you in joy and thanksgiving.

Father, we know you hold our hearts in the palm of your hand and may turn them whatever way you wish. We know that you are our creator, our sustainer and we are nothing without you. We humble ourselves before you, Father, and seek your guidance and your grace.

We ask for your loving care of our children. All of our children, Father, especially those little ones who feel a pain not of their own making. We ask that you wrap your loving arms around them, Father, and protect them. Keep them safe. Give us the wisdom to care for them in a way that glorifies you.

Watch over our loved ones, keep them safe and well. Bless this country and the people of this state. We ask that you draw us nearer and nearer to you. Be with us this day as we commit this work to you. Let it be done to your glory. We ask these things in your holy and precious name. Amen.

PLEDGE

Sara Carter, daughter of Sergeant-at-Arms employee, Chris Carter and Senate Secretary's Office employee, Lucy Carter led the Senate in the pledge of allegiance to the flag of the United States of America.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

By Senator Burt—

SB 80-E—A bill to be entitled An act relating to health care; providing for specified licensing boards to adopt rules governing the prescribing of controlled substances; requiring certain health care providers to complete education courses relating to the prescription of controlled substances; providing penalties; providing for the emergency suspension of certain licenses for prescribing violations; requiring the Department of Health, the Department of Law Enforcement, the Statewide Prosecutor, and State Attorneys to share certain information regarding health care practitioners; requiring a report; requiring the Bureau of Pharmacy Services of the Department of Health to establish an electronic system for identifying licensees and patients who engage in certain fraudulent or illegal practices; authorizing the Bureau of Pharmacy Services to contract for the administration of the electronic monitoring system for certain controlled substances; establishing an advisory council and providing for its membership, duties, staff, and compensation; requiring the Bureau of Pharmacy Services of the Department of Health to recommend performance-based measures to the Legislature for the electronic monitoring system; requiring that the Bureau of Pharmacy Services report to the Legislature on implementation of the electronic monitoring system; providing requirements for the report; providing duties of the Bureau of Pharmacy Services with respect to the purposes and use of the electronic monitoring system; prohibiting the use of specified funds for the electronic monitoring system; amending s. 456.033, F.S.; eliminating certain requirements for HIV and AIDS education courses; amending s. 456.072, F.S.; revising disciplinary penalties applicable to health care practitioners; reenacting ss. 456.082(2), 457.109(1) and (2), 458.331(1) and (2), 458.347(7)(g), 459.015(1) and (2), 459.022(7)(f), 460.413(1) and (2), 461.013(1) and (2), 462.14(1) and (2), 463.016(1) and (2), 464.018(1) and (2), 465.016(1) and (2), 466.028(1) and (2), 467.203(1) and (2), 468.1295(1) and (2), 468.1755(1) and (2), 468.217(1) and (2), 468.365(1) and (2), 468.518(1) and (2), 468.719, 468.811, 478.52(1) and (2), 480.046(1) and (2), 483.825(1) and (2), 483.901(6)(g) and (h), 484.014(1) and (2), 484.056(1) and (2)(a), 486.125(1) and (2), 490.009, and 491.009, F.S., relating to grounds for disciplinary action applicable to persons involved in health care practice, including acupuncture, medical practice, osteopathic medicine, chiropractic medicine, podiatric medicine, naturopathy, optometry, nursing, pharmacy, dentistry, midwifery, speech-language pathology and audiology, nursing home administration, occupational therapy, respiratory therapy, dietetics and nutrition practice, athletic trainers, orthotics, prosthetics, and pedorthics, electrolysis, massage practice, clinical laboratory personnel, medical physicists, dispensing of optical devices and hearing aids, physical therapy practice, psychological services, and clinical, counseling, and psychotherapy services, to incorporate the amendment to s. 456.072, F.S., in references thereto; amending s. 458.345, F.S.; requiring certain resident physicians, interns, and fellows to complete an educational course in prescribing controlled substances; amending s. 461.013, F.S.; prohibiting the presigning of blank prescription forms and providing penalties; amending s. 893.04, F.S.; providing additional requirements for pharmacists regarding the identification of persons to whom controlled substances are dispensed; prohibiting certain prescribing practitioners from

possessing, administering, dispensing, or prescribing controlled substances; directing local and regional boards of education to prohibit personnel from recommending use of psychotropic drugs on a child; providing for construction of the act in pari materia with laws enacted during the Regular Session of the Legislature; providing an appropriation; providing an effective date.

—was referred to the Committee on Judiciary.

By Senator Burt—

SB 82-E—A bill to be entitled An act relating to public-records exemptions; creating a public-records exemption for personal identifying information regarding a patient held by the Bureau of Pharmacy Services of the Department of Health; providing exceptions to the exemption; providing a criminal penalty for violating the provisions of the public-records exemption; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

—was referred to the Committee on Judiciary.

ANNOUNCEMENTS

Senator Lee announced that the Joint Legislative Committee on Article V will meet this day at 4:30 p.m. or upon adjournment if session extends beyond 4:30 p.m.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lee, by two-thirds vote **SB 22-E** was withdrawn from the Committee on Rules and Calendar; **SB 80-E** and **SB 82-E** were withdrawn from the Committee on Judiciary; and by two-thirds vote **HB 65-E**, **SB 80-E**, **SB 82-E** and **SB 22-E** were placed on the Special Order Calendar.

On motion by Senator Carlton, by two-thirds vote **SB 66-E** was withdrawn from the Committee on Appropriations.

MOTIONS

On motion by Senator Lee, the rules were waived and the Secretary was directed to transmit to the House all bills passed at the direction of the President.

SPECIAL ORDER CALENDAR

SENATOR BROWN-WAITE PRESIDING

On motion by Senator Villalobos, by two-thirds vote **HB 71-E** was withdrawn from the Committee on Criminal Justice.

On motion by Senator Villalobos by two-thirds vote—

HB 71-E—A bill to be entitled An act relating to falsification of records; amending ss. 839.13, 921.0022, F.S.; prescribing penalties for falsifying records of an individual in the care and custody of a state agency; specifying unlawful acts relating to records of the Department of Children and Family Services; providing for construction of the act in pari materia with laws enacted at the 2001 Regular Session; providing an effective date.

—a companion measure, was substituted for **CS for SB 76-E** and read the second time by title.

Senator Villalobos moved the following amendment:

Amendment 1 (540056)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 839.13, Florida Statutes, is amended to read:

839.13 Falsifying records.—

(1) *Except as provided in subsection (2)*, if any judge, justice, mayor, alderman, clerk, sheriff, coroner, or other public officer, or employee or agent of or contractor with a public agency, or any person whatsoever,

shall steal, embezzle, alter, corruptly withdraw, falsify or avoid any record, process, charter, gift, grant, conveyance, or contract, or any paper filed in any judicial proceeding in any court of this state, or shall knowingly and willfully take off, discharge or conceal any issue, forfeited recognizance, or other forfeiture, or other paper above mentioned, or shall forge, deface, or falsify any document or instrument recorded, or filed in any court, or any registry, acknowledgment, or certificate, or shall fraudulently alter, deface, or falsify any minutes, documents, books, or any proceedings whatever of or belonging to any public office within this state; or if any person shall cause or procure any of the offenses aforesaid to be committed, or be in anywise concerned therein, the person so offending shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) *Any person who knowingly falsifies, alters, destroys, defaces, overwrites, removes, or discards an official record relating to an individual in the care and custody of a state agency, which act has the potential to detrimentally affect the health, safety, or welfare of that individual, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purposes of this paragraph, the term “care and custody” includes, but is not limited to, a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415.*

(b) *Any person who commits a violation of paragraph (a) which contributes to great bodily harm to or the death of an individual in the care and custody of a state agency commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purposes of this paragraph, the term “care and custody” includes, but is not limited to, a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415.*

(c) *Any person who knowingly falsifies, alters, destroys, defaces, overwrites, removes, or discards records of the Department of Children and Family Services or its contract provider with the intent to conceal a fact material to a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Nothing in this paragraph prohibits prosecution for a violation of paragraph (a) or paragraph (b) involving records described in this paragraph.*

(d) *This section does not prohibit the disposing or archiving of records as otherwise provided by law. In addition, this section does not prohibit any person from correcting or updating records.*

(3)(2) In any prosecution under this section, it shall not be necessary to prove the ownership or value of any paper or instrument involved.

Section 2. Paragraphs (d) and (e) of subsection (3) of section 921.0022, Florida Statutes, as amended by section 2 of chapter 2001-358, Laws of Florida, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|---|
| | | (d) LEVEL 4 |
| 316.1935(3) | 2nd | Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a marked patrol vehicle with siren and lights activated. |
| 784.07(2)(b) | 3rd | Battery of law enforcement officer, firefighter, intake officer, etc. |
| 784.074(1)(c) | 3rd | Battery of sexually violent predators facility staff. |
| 784.075 | 3rd | Battery on detention or commitment facility staff. |

| Florida Statute | Felony Degree | Description | Florida Statute | Felony Degree | Description |
|---------------------|---------------|--|-----------------|---------------|---|
| 784.078 | 3rd | Battery of facility employee by throwing, tossing, or expelling certain fluids or materials. | 843.021 | 3rd | Possession of a concealed handcuff key by a person in custody. |
| 784.08(2)(c) | 3rd | Battery on a person 65 years of age or older. | 843.025 | 3rd | Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication. |
| 784.081(3) | 3rd | Battery on specified official or employee. | 843.15(1)(a) | 3rd | Failure to appear while on bail for felony (bond estreatment or bond jumping). |
| 784.082(3) | 3rd | Battery by detained person on visitor or other detainee. | 874.05(1) | 3rd | Encouraging or recruiting another to join a criminal street gang. |
| 784.083(3) | 3rd | Battery on code inspector. | 893.13(2)(a)1. | 2nd | Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs). |
| 784.085 | 3rd | Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials. | 914.14(2) | 3rd | Witnesses accepting bribes. |
| 787.03(1) | 3rd | Interference with custody; wrongly takes child from appointed guardian. | 914.22(1) | 3rd | Force, threaten, etc., witness, victim, or informant. |
| 787.04(2) | 3rd | Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings. | 914.23(2) | 3rd | Retaliation against a witness, victim, or informant, no bodily injury. |
| 787.04(3) | 3rd | Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person. | 918.12 | 3rd | Tampering with jurors. |
| 790.115(1) | 3rd | Exhibiting firearm or weapon within 1,000 feet of a school. | 934.215 | 3rd | Use of two-way communications device to facilitate commission of a crime. (e) LEVEL 5 |
| 790.115(2)(b) | 3rd | Possessing electric weapon or device, destructive device, or other weapon on school property. | 316.027(1)(a) | 3rd | Accidents involving personal injuries, failure to stop; leaving scene. |
| 790.115(2)(c) | 3rd | Possessing firearm on school property. | 316.1935(4) | 2nd | Aggravated fleeing or eluding. |
| 800.04(7)(d) | 3rd | Lewd or lascivious exhibition; offender less than 18 years. | 322.34(6) | 3rd | Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury. |
| 810.02(4)(a) | 3rd | Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery. | 327.30(5) | 3rd | Vessel accidents involving personal injury; leaving scene. |
| 810.02(4)(b) | 3rd | Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery. | 381.0041(11)(b) | 3rd | Donate blood, plasma, or organs knowing HIV positive. |
| 810.06 | 3rd | Burglary; possession of tools. | 790.01(2) | 3rd | Carrying a concealed firearm. |
| 810.08(2)(c) | 3rd | Trespass on property, armed with firearm or dangerous weapon. | 790.162 | 2nd | Threat to throw or discharge destructive device. |
| 812.014(2)(c)3. | 3rd | Grand theft, 3rd degree \$10,000 or more but less than \$20,000. | 790.163 | 2nd | False report of deadly explosive. |
| 812.014(2)(c)4.-10. | 3rd | Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc. | 790.165(2) | 3rd | Manufacture, sell, possess, or deliver hoax bomb. |
| 812.0195(2) | 3rd | Dealing in stolen property by use of the Internet; property stolen \$300 or more. | 790.221(1) | 2nd | Possession of short-barreled shotgun or machine gun. |
| 817.563(1) | 3rd | Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs. | 790.23 | 2nd | Felons in possession of firearms or electronic weapons or devices. |
| 817.568(2)(a) | 3rd | Fraudulent use of personal identification information. | 800.04(6)(c) | 3rd | Lewd or lascivious conduct; offender less than 18 years. |
| 817.625(2)(a) | 3rd | Fraudulent use of scanning device or re-encoder. | 800.04(7)(c) | 2nd | Lewd or lascivious exhibition; offender 18 years or older. |
| 828.125(1) | 2nd | Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle. | 806.111(1) | 3rd | Possess, manufacture, or dispense fire bomb with intent to damage any structure or property. |
| 837.02(1) | 3rd | Perjury in official proceedings. | 812.015(8) | 3rd | Retail theft; property stolen is valued at \$300 or more and one or more specified acts. |
| 837.021(1) | 3rd | Make contradictory statements in official proceedings. | 812.019(1) | 2nd | Stolen property; dealing in or trafficking in. |
| 839.13(2)(a) | 3rd | <i>Falsifying records of an individual in the care and custody of a state agency.</i> | 812.131(2)(b) | 3rd | Robbery by sudden snatching. |
| 839.13(2)(c) | 3rd | <i>Falsifying records of the Department of Children and Family Services.</i> | 812.16(2) | 3rd | Owning, operating, or conducting a chop shop. |
| | | | 817.034(4)(a)2. | 2nd | Communications fraud, value \$20,000 to \$50,000. |
| | | | 817.234(11)(b) | 2nd | Insurance fraud; property value \$20,000 or more but less than \$100,000. |

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|--|
| 817.568(2)(b) | 2nd | Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$75,000 or more. |
| 817.625(2)(b) | 2nd | Second or subsequent fraudulent use of scanning device or reencoder. |
| 825.1025(4) | 3rd | Lewd or lascivious exhibition in the presence of an elderly person or disabled adult. |
| 827.071(4) | 2nd | Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child. |
| 839.13(2)(b) | 2nd | Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death. |
| 843.01 | 3rd | Resist officer with violence to person; resist arrest with violence. |
| 874.05(2) | 2nd | Encouraging or recruiting another to join a criminal street gang; second or subsequent offense. |
| 893.13(1)(a)1. | 2nd | Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs). |
| 893.13(1)(c)2. | 2nd | Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility or school. |
| 893.13(1)(d)1. | 1st | Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of university or public park. |
| 893.13(1)(e)2. | 2nd | Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site. |
| 893.13(1)(f)1. | 1st | Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of public housing facility. |
| 893.13(4)(b) | 2nd | Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs). |

Section 3. *If any law that is amended by this act was also amended by a law enacted at the 2002 Regular Session of the Legislature, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect should be given to each if that is possible.*

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to falsification of records; amending ss. 839.13, 921.0022, F.S.; prescribing penalties for falsifying records of an individual in the care and custody of a state agency; specifying unlawful acts relating to the Department of Children and Family Services; providing for construction of the act in pari materia with laws enacted at the Regular Session; providing an effective date.

Senators Smith, Jones, Campbell and Villalobos offered the following amendment to **Amendment 1** which was moved by Senator Villalobos and adopted:

Amendment 1A (290642)(with title amendment)—On page 2, line 8 through page 3, line 2, delete those lines and insert:

(2)(a) *Any person who knowingly falsifies by altering, destroying, defacing, overwriting, removing, or discarding an official record relating to an individual in the care and custody of a state agency, which act has the potential to detrimentally affect the health, safety, or welfare of that individual, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purposes of this paragraph, the term “care and custody” includes, but is not limited to, a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415.*

(b) *Any person who commits a violation of paragraph (a) which contributes to great bodily harm to or the death of an individual in the care and custody of a state agency commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purposes of this paragraph, the term “care and custody” includes, but is not limited to, a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415.*

(c) *Any person who knowingly falsifies by altering, destroying, defacing, overwriting, removing, or discarding records of*

And the title is amended as follows:

On page 11, delete line 23 and insert: prescribing penalties for knowingly falsifying records of

Amendment 1 as amended was adopted.

On motion by Senator Villalobos, by two-thirds vote **HB 71-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

| | | |
|---------------------|------------|-------------------|
| Brown-Waite | Holzendorf | Pruitt |
| Burt | Jones | Rossin |
| Campbell | King | Sanderson |
| Clary | Klein | Saunders |
| Constantine | Latvala | Sebesta |
| Cowin | Laurent | Silver |
| Crist | Lawson | Smith |
| Dawson | Lee | Sullivan |
| Diaz de la Portilla | Meek | Villalobos |
| Dyer | Miller | Wasserman Schultz |
| Futch | Mitchell | Webster |
| Garcia | Peaden | Wise |
| Geller | Posey | |

Nays—None

On motion by Senator Lee, by two-thirds vote **HB 43-E** was withdrawn from the Committee on Governmental Oversight and Productivity.

On motion by Senator Lee—

HB 43-E—A bill to be entitled An act relating to the confidentiality of certain information held by the Florida Alzheimer’s Center and Research Institute and others, creating an exemption from the public records provisions of the Florida Constitution and Florida law for certain information relating to clients and patients and donors as well as medical and health records, and certain proprietary and trade secret information; providing a statement of public necessity for such exemptions; providing for future repeal; providing a contingent effective date.

—a companion measure, was substituted for **CS for SB 78-E** and by two-thirds vote read the second time by title.

Senator Lee moved the following amendment which was adopted:

Amendment 1 (051742)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *The following information is confidential and exempt from the provisions of section 119.07(1), Florida Statutes, and Section 24, Article I of the State Constitution:*

(1) *Personal identifying information relating to clients of programs created or funded through the Florida Alzheimer's Center and Research Institute which is held by the institute, University of South Florida, or State Board of Education or by persons who provide services to clients of programs created or funded through contracts with the Florida Alzheimer's Center and Research Institute;*

(2) *Any medical or health records relating to patients which may be created or received by the institute;*

(3) *Materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets as defined in section 688.002, Florida Statutes, or proprietary information received, generated, ascertained, or discovered during the course of research conducted by or through the institute and business transactions resulting from such research;*

(4) *The identity of a donor or prospective donor to the Florida Alzheimer's Center and Research Institute who wishes to remain anonymous, and all information identifying such donor or prospective donor;*

(5) *Any information received by the institute in the performance of its duties and responsibilities which is otherwise confidential and exempt by law; and*

(6) *Any information received by the institute from a person from another state or nation or the Federal Government which is otherwise confidential or exempt pursuant to that state's or nation's laws or pursuant to federal law.*

Any governmental entity that demonstrates a need to access such confidential and exempt information in order to perform its duties and responsibilities shall have access to such information and shall otherwise keep such information confidential and exempt. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. *The Legislature finds that it is a public necessity that personal, medical, or health information concerning clients or patients which is held by the Florida Alzheimer's Center and Research Institute, the University of South Florida, or the State Board of Education or by persons who provide services to clients of programs created or funded through the institute be made confidential and exempt from public disclosure because access to such personal, medical, or health information concerning clients or patients of the Florida Alzheimer's Center and Research Institute would be an unwarranted invasion of a client's or patient's right to privacy and because the misuse of such sensitive personal, medical, or health information could be detrimental to the health, safety, or welfare of the client or patient. The Legislature finds that it is a public necessity that information relating to methods of manufacture or production, potential trade secrets, potential patentable material, actual trade secrets, business transactions, or proprietary information received, generated, ascertained, or discovered during the course of research conducted through the Florida Alzheimer's Center and Research Institute be made confidential and exempt from public disclosure, because the disclosure of such information would impede the effective and efficient operation of the Florida Alzheimer's Center and Research Institute and would create an unfair competitive advantage for persons or entities receiving such information. The Legislature further finds that it is a public necessity that information relating to donors or prospective donors to the Florida Alzheimer's Center and Research Institute who wish to remain anonymous remain confidential and exempt from public disclosure, because the disclosure of such information would have a chilling effect on the efforts of the Florida Alzheimer's Center and Research Institute to solicit such donations when the donors or prospective donors would be publicly identified against their wishes. Any information shared with the institute by others not subject to this state's laws which is otherwise confidential or exempt must also not be disclosed, because to do otherwise would discourage others from sharing needed information with the institute and would impede the effective and efficient performance of the institute.*

Section 3. This act shall take effect July 1, 2002, if Senate Bill 20-E or similar legislation is adopted in the same legislative session or an extension thereof and becomes a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to public records; providing for the confidentiality of certain information held by the Florida Alzheimer's Center and Research Institute and others; creating an exemption from the public-records provisions of the State Constitution and Florida law for certain information relating to clients, patients, and donors, as well as medical and health records and certain proprietary and trade-secret information; providing a statement of public necessity for such exemptions; providing for future repeal; providing a contingent effective date.

On motion by Senator Lee, by two-thirds vote **HB 43-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

| | | |
|---------------------|------------|-------------------|
| Brown-Waite | Geller | Peaden |
| Burt | Holzendorf | Posey |
| Carlton | Jones | Pruitt |
| Clary | King | Sanderson |
| Constantine | Klein | Sebesta |
| Cowin | Latvala | Silver |
| Crist | Laurent | Smith |
| Dawson | Lawson | Sullivan |
| Diaz de la Portilla | Lee | Villalobos |
| Dyer | Meek | Wasserman Schultz |
| Futch | Miller | Webster |
| Garcia | Mitchell | Wise |

Nays—3

| | | |
|----------|--------|----------|
| Campbell | Rossin | Saunders |
|----------|--------|----------|

SB 66-E—A bill to be entitled An act relating to cigarette taxes; amending s. 210.20, F.S.; providing for a portion of the revenues from the cigarette tax to be paid monthly to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, to finance a cancer research facility at the University of South Florida; amending s. 210.201, F.S.; providing for the use of the transferred moneys; providing for construction of the act in pari material with laws enacted at the 2002 Regular Session; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 66-E** to **HB 41-E**.

Pending further consideration of **SB 66-E** as amended, on motion by Senator Sullivan, by two-thirds vote **HB 41-E** was withdrawn from the Committee on Finance and Taxation.

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

HB 41-E—A bill to be entitled An act relating to cigarette taxes; providing a short title; amending s. 210.20, F.S.; increasing that portion of the revenues from the cigarette tax to be paid monthly to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute to finance a cancer research facility at the University of South Florida; amending s. 210.201, F.S.; providing for the use of the transferred moneys; authorizing, rather than requiring, replacement of such moneys by tobacco settlement proceeds; providing an effective date.

—a companion measure, was substituted for **SB 66-E** as amended and by two-thirds vote read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 41-E** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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|-------------|---------------------|------------|
| Brown-Waite | Cowin | Garcia |
| Burt | Crist | Geller |
| Campbell | Dawson | Holzendorf |
| Carlton | Diaz de la Portilla | Jones |
| Clary | Dyer | King |
| Constantine | Futch | Klein |

| | | |
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| Latvala | Peaden | Silver |
| Laurent | Posey | Smith |
| Lawson | Pruitt | Sullivan |
| Lee | Rossin | Villalobos |
| Meek | Sanderson | Wasserman Schultz |
| Miller | Saunders | Webster |
| Mitchell | Sebesta | Wise |

Nays—None

SB 70-E—A bill to be entitled An act relating to the Transportation Disadvantaged Program; amending s. 343.64, F.S.; prohibiting the Central Florida Regional Transportation Authority from serving as a community transportation coordinator; requiring the Commission for the Transportation Disadvantaged to evaluate performance of the authority as a community transportation coordinator; requiring a report to the Legislature; repealing section 1, SB 100, 2002 Regular Session, relating to the authority acting as a community transportation authority; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **SB 70-E** to **HB 69-E**.

Pending further consideration of **SB 70-E** as amended, on motion by Senator Dyer, by two-thirds vote **HB 69-E** was withdrawn from the Committee on Finance and Taxation.

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

HB 69-E—A bill to be entitled An act relating to the Transportation Disadvantaged Program; amending s. 343.64, F.S.; prohibiting the Central Florida Regional Transportation Authority from serving as a community transportation coordinator; requiring the Commission for the Transportation Disadvantaged to evaluate performance of the authority as a community transportation coordinator; requiring a report to the Legislature; providing for the authority to continue as a community transportation coordinator upon certain findings by the Legislature; repealing section 1, SB 100, 2002 Regular Session, relating to the authority acting as a community transportation coordinator; providing an effective date.

—a companion measure, was substituted for **SB 70-E** as amended and by two-thirds vote read the second time by title.

Senator Sebesta moved the following amendment which was adopted:

Amendment 1 (512288)(with title amendment)—On page 2, between lines 8 and 9, insert:

Section 4. Subsection (3) of section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.—

(3) Notwithstanding any other law to the contrary, pursuant to s. 11, Art. VII of the State Constitution, and subject to the requirements of subsection (2), the Department of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, *Sunshine Skyway Bridge*, *Beeline East Expressway*, and *Pinellas Bayway* to fund transportation projects located within the county or counties in which the facility is located and contained in the 1993–1994 Adopted Work Program or in any subsequent adopted work program of the department.

Section 5. Paragraph (c) of subsection (4) of section 339.12, Florida Statutes, is amended to read:

339.12 Aid and contributions by governmental entities for department projects; federal aid.—

(4)

(c) The department may enter into agreements under this subsection for a project or project phase not included in the adopted work program. As used in this paragraph, the term “project phase” means acquisition

of rights-of-way, construction, construction inspection, and related support phases. The project or project phase must be a high priority of the governmental entity. Reimbursement for a project or project phase must be made from funds appropriated by the Legislature pursuant to s. 339.135(5). All other provisions of this subsection apply to agreements entered into under this paragraph. The total amount of project agreements for projects or project phases not included in the adopted work program may not at any time exceed \$150 \$100 million.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete those lines and insert: An act relating to transportation; amending s. 338.165, F.S.; allowing toll revenues of certain facilities to be used as security for bonds issued to finance transportation projects in the county or counties in which the revenue-producing facility is located; amending s. 339.12, F.S.; revising the maximum amount of money local governments may advance to the Department of Transportation for road projects; amending s. 343.64,

On motion by Senator Dyer, by two-thirds vote **HB 69-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

| | | |
|---------------------|------------|-------------------|
| Brown-Waite | Geller | Posey |
| Burt | Holzendorf | Pruitt |
| Campbell | Jones | Rossin |
| Carlton | King | Sanderson |
| Clary | Klein | Saunders |
| Constantine | Latvala | Sebesta |
| Cowin | Laurent | Silver |
| Crist | Lawson | Smith |
| Dawson | Lee | Villalobos |
| Diaz de la Portilla | Meek | Wasserman Schultz |
| Dyer | Miller | Webster |
| Futch | Mitchell | Wise |
| Garcia | Peaden | |

Nays—None

SB 72-E—A bill to be entitled An act relating to state university boards of trustees; amending s. 766.112, F.S.; prescribing applicability of provisions relating to comparative fault to boards of trustees; amending s. 768.28, F.S.; providing venue in actions brought against boards of trustees; providing applicability of provisions relating to waiver of sovereign immunity to boards of trustees; amending s. 626.852, F.S.; providing inapplicability of provisions relating to insurance adjusters to employees and agents of a board of trustees; providing for construction of laws enacted at the 2002 Regular Session in relation to this act; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **SB 72-E** to **HB 67-E**.

Pending further consideration of **SB 72-E** as amended, on motion by Senator Smith, by two-thirds vote **HB 67-E** was withdrawn from the Committee on Judiciary.

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

HB 67-E—A bill to be entitled An act relating to boards of trustees of state universities; amending s. 766.112, F.S.; prescribing applicability of provisions relating to comparative fault with respect to medical malpractice to boards of trustees; amending s. 768.28, F.S.; providing for venue of actions brought against boards of trustees; providing for applicability of provisions relating to waiver of sovereign immunity to boards of trustees; amending s. 626.852, F.S.; providing for the inapplicability of certain provisions relating to insurance adjusters to employees and agents of boards of trustees; providing an effective date.

—a companion measure, was substituted for **SB 72-E** as amended and by two-thirds vote read the second time by title.

Senator Smith moved the following amendment which was adopted:

Amendment 1 (642506)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 766.112, Florida Statutes, is amended to read:

766.112 Comparative fault.—

(2) In an action for damages for personal injury or wrongful death arising out of medical malpractice, whether in contract or tort, when an apportionment of damages pursuant to s. 768.81 is attributed to a the board of trustees of a state university ~~Regents~~, the court shall enter judgment against the board of trustees ~~Regents~~ on the basis of the board's ~~such party's~~ percentage of fault and not on the basis of the doctrine of joint and several liability. The sole remedy available to a claimant to collect a judgment or settlement against a board of trustees ~~damages~~, subject to the provisions of this subsection, ~~against the Board of Regents~~ shall be pursuant to s. 768.28.

Section 2. Subsections (1) and (2) of section 768.28, Florida Statutes, are amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(1) In accordance with s. 13, Art. X of the State Constitution, the state, for itself and for its agencies or subdivisions, hereby waives sovereign immunity for liability for torts, but only to the extent specified in this act. Actions at law against the state or any of its agencies or subdivisions to recover damages in tort for money damages against the state or its agencies or subdivisions for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant, in accordance with the general laws of this state, may be prosecuted subject to the limitations specified in this act. Any such action may be brought in the county where the property in litigation is located or, if the affected agency or subdivision has an office in such county for the transaction of its customary business, where the cause of action accrued. *However, any such action against a state university board of trustees shall be brought in the county in which that university's main campus is located or in the county in which the cause of action accrued if the university maintains therein a substantial presence for the transaction of its customary business.*

(2) As used in this act, "state agencies or subdivisions" include the executive departments, the Legislature, the judicial branch (including public defenders), and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities, including the Spaceport Florida Authority.

Section 3. Subsection (5) of section 626.852, Florida Statutes, is amended to read:

626.852 Scope of this part.—

(5) This part does not apply to any employee or agent of a state university ~~the board of trustees Regents~~ providing services in support of any self-insurance program *created under s. 240.213 or s. 1004.24 adopted by such Board of Regents.*

Section 4. *The amendments to sections 766.112(2) and 768.28(1) and (2) shall apply to causes of action arising on or after January 7, 2003.*

Section 5. Subsections (9) and (10) are added to section 766.302, Florida Statutes, to read:

766.302 Definitions; ss. 766.301-766.316.—As used in ss. 766.301-766.316, the term:

(9) "Family member" means a father, mother, or legal guardian.

(10) "Family residential or custodial care" means care normally rendered by trained professional attendants which is beyond the scope of

child care duties, but which is provided by family members. Family members who provide nonprofessional residential or custodial care may not be compensated under this act for care that falls within the scope of child care duties and other services normally and gratuitously provided by family members. Family residential or custodial care shall be performed only at the direction and control of a physician when such care is medically necessary. Reasonable charges for expenses for family residential or custodial care provided by a family member shall be determined as follows:

(a) *If the family member is not employed, the per-hour value equals the federal minimum hourly wage.*

(b) *If the family member is employed and elects to leave that employment to provide such care, the per-hour value of that care shall equal the rates established by Medicaid for private-duty services provided by a home health aide. A family member or a combination of family members providing care in accordance with this definition may not be compensated for more than a total of 10 hours per day. Family care is in lieu of professional residential or custodial care, and no professional residential or custodial care may be awarded for the period of time during the day that family care is being provided.*

(c) *The award of family residential or custodial care as defined in this section shall not be included in the current estimates for purposes of s. 766.314(9)(c).*

Section 6. Paragraph (a) of subsection (1) of section 766.31, Florida Statutes, is amended to read:

766.31 Administrative law judge awards for birth-related neurological injuries; notice of award.—

(1) Upon determining that an infant has sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at the birth, the administrative law judge shall make an award providing compensation for the following items relative to such injury:

(a) Actual expenses for medically necessary and reasonable medical and hospital, habilitative and training, *family residential or custodial care*, professional residential, and custodial care and service, for medically necessary drugs, special equipment, and facilities, and for related travel. However, such expenses shall not include:

1. Expenses for items or services that the infant has received, or is entitled to receive, under the laws of any state or the Federal Government, except to the extent such exclusion may be prohibited by federal law.

2. Expenses for items or services that the infant has received, or is contractually entitled to receive, from any prepaid health plan, health maintenance organization, or other private insuring entity.

3. Expenses for which the infant has received reimbursement, or for which the infant is entitled to receive reimbursement, under the laws of any state or the Federal Government, except to the extent such exclusion may be prohibited by federal law.

4. Expenses for which the infant has received reimbursement, or for which the infant is contractually entitled to receive reimbursement, pursuant to the provisions of any health or sickness insurance policy or other private insurance program.

Expenses included under this paragraph shall be limited to reasonable charges prevailing in the same community for similar treatment of injured persons when such treatment is paid for by the injured person.

Section 7. Paragraph (c) of subsection (4) of section 766.314, Florida Statutes, is amended to read:

766.314 Assessments; plan of operation.—

(4) The following persons and entities shall pay into the association an initial assessment in accordance with the plan of operation:

(c) On or before December 1, 1988, each physician licensed pursuant to chapter 458 or chapter 459 who wishes to participate in the Florida Birth-Related Neurological Injury Compensation Plan and who otherwise qualifies as a participating physician under ss. 766.301-766.316

shall pay an initial assessment of \$5,000. However, if the physician is either a resident physician, assistant resident physician, or intern in an approved postgraduate training program, as defined by the Board of Medicine or the Board of Osteopathic Medicine by rule, and is supervised in accordance with program requirements established by the Accreditation Council for Graduate Medical Education by a physician who is participating in the plan, such resident physician, assistant resident physician, or intern is deemed to be a participating physician without the payment of the assessment. Participating physicians also include any employee of the Board of Regents who has paid the assessment required by this paragraph and paragraph (5)(a), and any certified nurse midwife supervised by such employee. Participating physicians include any certified nurse midwife who has paid 50 percent of the physician assessment required by this paragraph and paragraph (5)(a) and who is supervised by a participating physician who has paid the assessment required by this paragraph and paragraph (5)(a). Supervision for nurse midwives shall require that the supervising physician will be easily available and have a prearranged plan of treatment for specified patient problems which the supervised certified nurse midwife or physician may carry out in the absence of any complicating features. Any physician who elects to participate in such plan on or after January 1, 1989, who was not a participating physician at the time of such election to participate and who otherwise qualifies as a participating physician under ss. 766.301-766.316 shall pay an additional initial assessment equal to the most recent assessment made pursuant to this paragraph, paragraph (5)(a), or paragraph (7)(b).

Section 8. *If any law that is amended by this act was also amended by a law enacted at the 2002 Regular Session of the Legislature, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect should be given to each if that is possible.*

Section 9. This act, except for this section and sections 5, 6, 7, and 8, which shall take effect upon becoming a law, shall take effect January 7, 2003.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to liability; amending s. 762.112, F.S.; prescribing applicability of provisions relating to comparative fault to boards of trustees; amending s. 768.28, F.S.; providing venue in actions brought against boards of trustees; providing applicability of provisions relating to waiver of sovereign immunity to boards of trustees; amending s. 626.852, F.S.; providing inapplicability of provisions relating to insurance adjusters to employees and agents of a board of trustees; amending s. 766.302, F.S.; defining the terms "family member" and "family residential or custodial care"; amending s. 766.31, F.S.; authorizing compensation awards for professional or family residential or custodial care; amending s. 766.314, F.S.; revising requirements for assessments used for certain supervised personnel; providing for construction of laws enacted at the 2002 Regular Session in relation to this act; providing effective dates.

On motion by Senator Smith, further consideration of **HB 67-E** as amended was deferred.

THE PRESIDENT PRESIDING

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

CS for SB 68-E—A bill to be entitled An act relating to constitutional amendments; amending s. 15.21, F.S.; requiring the Secretary of State to submit certain initiative petitions to the Revenue Estimating Conference; amending s. 16.061, F.S.; requiring that the Attorney General petition the Supreme Court to review the estimated-fiscal-impact summary; requiring the court to remand defective fiscal-impact statements to the Revenue Estimating Conference; amending ss. 100.371, 101.161, F.S., and creating s. 100.381, F.S.; requiring that the Revenue Estimating Conference provide an analysis of the fiscal impact resulting to state or local governments from any constitutional amendment; authorizing the Revenue Estimating Conference to solicit information regarding a proposed amendment; providing procedures for drafting and voting on a fiscal-impact statement by the Revenue Estimating Conference; requiring that a fiscal-impact statement be included on the ballot after the ballot summary of the amendment; amending s. 216.136, F.S.; prescribing additional duties of the Revenue Estimating Conference, to conform;

providing for construction of the act in pari materia with laws enacted during the Regular Session of the Legislature; providing exemptions from the fiscal-impact-statement requirement for certain proposed amendments; providing effective dates.

—was read the second time by title.

Senators Smith and Pruitt offered the following amendments which were moved by Senator Smith and adopted:

Amendment 1 (095092)—On page 2, line 23 through page 3, line 4, delete those lines and insert:

16.061 *Proposed constitutional revisions or amendments Initiative petitions.*—

(1) The Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and substance with s. 101.161 and the compliance of the fiscal-impact statement with ss. 100.371 and 101.161. For all other proposed revisions or amendments to the State Constitution, the Attorney General shall, upon the Revenue Estimating Conference finalizing the fiscal-impact statement, petition the Supreme Court requesting an advisory opinion regarding compliance of the text of the fiscal-impact statement with ss. 100.371, 100.381, and 101.161. The petition may enumerate any specific factual issues which the Attorney General believes would require a judicial determination.

Amendment 2 (435920)(with title amendment)—On page 3, lines 23 and 24, delete "summary analysis" and insert: *fiscal impact statement to be placed on the ballot*

And the title is amended as follows:

On page 1, line 8, delete "summary" and insert: *statement*

Senator Sanderson moved the following amendment which was adopted:

Amendment 3 (033390)—On page 4, line 29, delete "60" and insert: *80*

Senators Smith and Pruitt offered the following amendment which was moved by Senator Smith:

Amendment 4 (282290)(with title amendment)—On page 4, lines 1-9, delete those lines and insert:

(b)1. *Members of the Revenue Estimating Conference shall reach a consensus or majority concurrence on a clear and unambiguous fiscal-impact statement, no more than 50 words in length. Nothing in this subsection prohibits the Revenue Estimating Conference from setting forth a range of potential impacts in the fiscal-impact statement. Any fiscal-impact statement that a court finds not to be in accordance with this section, s. 100.381, or s. 101.161 shall be remanded solely to the Revenue Estimating Conference for redrafting.*

And the title is amended as follows:

On page 1, line 24, after the first semicolon (;) insert: *requiring a court to remand defective fiscal-impact statements to the Revenue Estimating Conference;*

Senator Wasserman Schultz moved the following amendment to **Amendment 4** which was adopted:

Amendment 4A (763224)—On page 1, line 25, after the period (.) insert: *The Revenue Estimating Conference shall redraft the fiscal-impact statement within 15 days.*

Senator Klein moved the following amendment to **Amendment 4**:

Amendment 4B (840980)(with title amendment)—On page 1, line 26, insert:

2. *This act does not apply to any ballot initiative for which the language has been approved by the Florida Supreme Court on or before the effective date of this act.*

(Renumber subsequent subparagraph.)

And the title is amended as follows:

On page 2, line 4, after the semicolon (;) insert: providing for application of the act;

On motion by Senator Pruitt, further consideration of **CS for SB 68-E** with pending **Amendment 4 (282290)** as amended and **Amendment 4B (840980)** was deferred.

RECESS

On motion by Senator Lee, the Senate recessed at 12:00 noon to reconvene at 1:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:06 p.m. A quorum present—39:

| | | |
|---------------------|------------|-------------------|
| Mr. President | Geller | Posey |
| Brown-Waite | Holzendorf | Pruitt |
| Burt | Jones | Rossin |
| Campbell | King | Sanderson |
| Clary | Klein | Saunders |
| Constantine | Latvala | Sebesta |
| Cowin | Laurent | Silver |
| Crist | Lawson | Smith |
| Dawson | Lee | Sullivan |
| Diaz de la Portilla | Meek | Villalobos |
| Dyer | Miller | Wasserman Schultz |
| Futch | Mitchell | Webster |
| Garcia | Peaden | Wise |

SPECIAL ORDER CALENDAR, continued

The Senate resumed consideration of—

CS for SB 68-E—A bill to be entitled An act relating to constitutional amendments; amending s. 15.21, F.S.; requiring the Secretary of State to submit certain initiative petitions to the Revenue Estimating Conference; amending s. 16.061, F.S.; requiring that the Attorney General petition the Supreme Court to review the estimated-fiscal-impact summary; requiring the court to remand defective fiscal-impact statements to the Revenue Estimating Conference; amending ss. 100.371, 101.161, F.S., and creating s. 100.381, F.S.; requiring that the Revenue Estimating Conference provide an analysis of the fiscal impact resulting to state or local governments from any constitutional amendment; authorizing the Revenue Estimating Conference to solicit information regarding a proposed amendment; providing procedures for drafting and voting on a fiscal-impact statement by the Revenue Estimating Conference; requiring that a fiscal-impact statement be included on the ballot after the ballot summary of the amendment; amending s. 216.136, F.S.; prescribing additional duties of the Revenue Estimating Conference, to conform; providing for construction of the act in pari materia with laws enacted during the Regular Session of the Legislature; providing exemptions from the fiscal-impact-statement requirement for certain proposed amendments; providing effective dates.

—which was previously considered and amended this day with pending **Amendment 4 (282290)** by Senators Smith and Pruitt as amended and **Amendment 4B (840980)** by Senator Klein.

SENATOR KING PRESIDING

THE PRESIDENT PRESIDING

Amendment 4B failed. The vote was:

Yeas—15

| | | |
|------------|---------|-------------------|
| Campbell | Jones | Miller |
| Dawson | Klein | Mitchell |
| Dyer | Latvala | Rossin |
| Geller | Lawson | Silver |
| Holzendorf | Meek | Wasserman Schultz |

Nays—25

| | | |
|---------------------|-----------|------------|
| Mr. President | Futch | Saunders |
| Brown-Waite | Garcia | Sebesta |
| Burt | King | Smith |
| Carlton | Laurent | Sullivan |
| Clary | Lee | Villalobos |
| Constantine | Peaden | Webster |
| Cowin | Posey | Wise |
| Crist | Pruitt | |
| Diaz de la Portilla | Sanderson | |

The question recurred on **Amendment 4 (282290)** as amended.

SENATOR KING PRESIDING

REMARKS

On motion by Senator Geller, the following remarks were ordered spread upon the Journal:

Senator Geller: Senator, as I have been listening to the debate, another question occurred to me. When the revenueurs are using the 50-word description to describe what they are going to do, are they limited under your wording to saying, “It will cost between \$10 and \$20 billion over eight years or whatever the numbers are over whatever period” or could they also say as part of this, if again the revenueurs have a particular view one way or the other, could they add language that would say, for example, “which would be the equivalent of raising the state sales tax from 6 percent to 10 percent” or could they say, “and it would be \$7 billion” and then add in, “out of a \$50 billion budget?” I am less concerned that if they still have problems, if they are limited to only stating numbers, if they, in my opinion, editorialize by saying, “which would be the equivalent of raising the state sales tax by 4 percent.” That would give me even more concern than the *agita* that I already have. Could you respond to that, please?

Senator Smith: Thank you, Mr. President. The language reads, “the Revenue Estimating Conference shall complete an analysis and summary analysis of the estimated increase or decrease in any revenues or costs to state or local governments resulting from the proposed initiative.” I do not believe that language could be read to allow them to comment on methodology to raise that money. It says, “of the estimated increase or decrease in any revenues or costs to the state or local governments resulting from the proposed initiative.” My answer to you is that I do not believe that language permits people to make what I would have to say is an editorial statement about how you would come up with the money. It is an estimate of the nature that I read to you before. These are the numbers of what it was projected to cost.

THE PRESIDENT PRESIDING

Amendment 4 as amended was adopted.

On motion by Senator Smith, by two-thirds vote **CS for SB 68-E** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—26

| | | |
|---------------|---------------------|------------|
| Mr. President | Diaz de la Portilla | Pruitt |
| Brown-Waite | Futch | Sanderson |
| Burt | Garcia | Saunders |
| Campbell | King | Sebesta |
| Carlton | Laurent | Sullivan |
| Clary | Lawson | Villalobos |
| Constantine | Lee | Webster |
| Cowin | Peaden | Wise |
| Crist | Posey | |

Nays—12

| | | |
|------------|--------|-------------------|
| Dawson | Jones | Mitchell |
| Dyer | Klein | Rossin |
| Geller | Meek | Silver |
| Holzendorf | Miller | Wasserman Schultz |

Vote after roll call:

Yea—Smith

HB 65-E—A bill to be entitled An act relating to constitutional amendments proposed by initiative; amending ss. 100.371 and 101.161, F.S.; requiring the Revenue Estimating Conference to provide an analysis of the estimated fiscal impact to state or local governments resulting from any constitutional amendment proposed by initiative; authorizing the Revenue Estimating Conference to solicit information regarding a proposed initiative amendment; providing for a decision in the event of a tie vote among members of the Revenue Estimating Conference; requiring that a summary analysis of the estimated fiscal impact be included on the ballot following the ballot title and substance of the initiative; providing for construction of the act in pari materia with laws enacted during the Regular Session of the Legislature; providing an effective date.

—was read the second time by title.

The Committee on Ethics and Elections recommended the following amendment which was moved by Senator Pruitt:

Amendment 1 (225618)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 15.21, Florida Statutes, is amended to read:

15.21 Initiative petitions; s. 3, Art. XI, State Constitution.—The Secretary of State shall immediately submit an initiative petition to the Attorney General *and to the Revenue Estimating Conference* if the sponsor has:

- (1) Registered as a political committee pursuant to s. 106.03;
- (2) Submitted the ballot title, substance, and text of the proposed revision or amendment to the Secretary of State pursuant to ss. 100.371 and 101.161; and
- (3) Obtained a letter from the Division of Elections confirming that the sponsor has submitted to the appropriate supervisors for verification, and the supervisors have verified, forms signed and dated equal to 10 percent of the number of electors statewide and in at least one-fourth of the congressional districts required by s. 3, Art. XI of the State Constitution.

Section 2. Effective July 1, 2003, section 16.061, Florida Statutes, is amended to read:

16.061 Initiative petitions.—

(1) The Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and substance with s. 101.161 *and the compliance of the fiscal-impact statement with ss. 100.371, 100.381, and 101.161*. The petition may enumerate any specific factual issues which the Attorney General believes would require a judicial determination.

(2) A copy of the petition shall be provided to the Secretary of State and the principal officer of the sponsor.

(3) *Any fiscal-impact statement that the court finds not to be in accordance with s. 100.371, s. 100.381, or s. 101.161 shall be remanded solely to the Revenue Estimating Conference for redrafting.*

Section 3. Present subsection (6) of section 100.371, Florida Statutes, is redesignated as subsection (7) and amended, and a new subsection (6) is added to that section, to read:

100.371 Initiatives; procedure for placement on ballot.—

(6)(a) *Within 45 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State or, for any initiative approved by the Florida Supreme Court for the*

general election ballot for 2002, within 45 days after the effective date of this subsection, whichever occurs later, the Revenue Estimating Conference shall complete an analysis and summary analysis of the estimated increase or decrease in any revenues or costs to state or local governments resulting from the proposed initiative. The Revenue Estimating Conference shall provide an opportunity for any proponents or opponents of the initiative to submit information and may solicit information or analysis from any other entities or agencies, including the Office of Economic and Demographic Research.

(b)1. *Members of the Revenue Estimating Conference shall reach a consensus or majority concurrence on a clear, unambiguous, accurate, and impartial fiscal-impact statement, no more than 50 words in length, containing such language that the statement shall be neither an argument, nor be likely to create prejudice, for or against the proposed measure. Nothing in this subsection prohibits the Revenue Estimating Conference from setting forth a range of potential impacts in the fiscal-impact statement.*

2. *If the members of the Revenue Estimating Conference are unable to agree on the statement required by this subsection, the following statement shall appear on the ballot pursuant to 101.161(1): “The fiscal impact of this measure, if any, cannot be reasonably determined at this time.”*

(c) *The fiscal-impact statement must be separately contained and be set forth after the ballot summary as required in s. 101.161(1).*

(7)(6) ~~The Department of State may adopt shall have the authority to promulgate rules in accordance with s. 120.54 to carry out the provisions of subsections (1)-(5) of this section.~~

Section 4. Section 100.381, Florida Statutes, is created to read:

100.381 Constitutional amendments or revisions other than initiatives; fiscal-impact statement.—For any amendment or revision proposed pursuant to Art. XI of the State Constitution other than an initiative, the Revenue Estimating Conference shall prepare a fiscal-impact statement as provided in s. 100.371(6) no later than 60 days before the election on the proposed amendment or revision. The fiscal-impact statement must be separately contained and be set forth after the ballot summary as required in s. 101.161(1).

Section 5. Subsection (1) of section 101.161, Florida Statutes, is amended to read:

101.161 Referenda; ballots.—

(1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word “yes” and also by the word “no,” and shall be styled in such a manner that a “yes” vote will indicate approval of the proposal and a “no” vote will indicate rejection. The wording of the substance of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the joint resolution, constitutional revision commission proposal, constitutional convention proposal, taxation and budget reform commission proposal, or enabling resolution or ordinance. Except for amendments and ballot language proposed by joint resolution, the substance of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. *In addition, the ballot shall include a separate fiscal-impact statement concerning the measure prepared by the Revenue Estimating Conference in accordance with s. 100.371(6) or s. 100.381.* The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

Section 6. Paragraph (a) of subsection (3) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(3) REVENUE ESTIMATING CONFERENCE.—

(a) Duties.—The Revenue Estimating Conference shall develop such official information with respect to anticipated state and local government revenues as the conference determines is needed for the state planning and budgeting system. Any principal may request the confer-

ence to review and estimate revenues for any trust fund. *Also, the conference shall prepare fiscal-impact statements for constitutional amendments pursuant to s. 100.371(6).*

Section 7. *If any law that is amended by this act was also amended by a law enacted at the 2002 Regular Session of the Legislature, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect should be given to each if that is possible.*

Section 8. *This act does not apply to any constitutional amendment proposed by initiative which has been certified for ballot position by the Secretary of State or to any joint resolution filed with the Secretary of State prior to the effective date of this act.*

Section 9. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to constitutional amendments; amending s. 15.21, F.S.; requiring the Secretary of State to submit certain initiative petitions to the Revenue Estimating Conference; amending s. 16.061, F.S.; requiring that the Attorney General petition the Supreme Court to review the estimated-fiscal-impact summary; requiring the court to remand defective fiscal-impact statements to the Revenue Estimating Conference; amending ss. 100.371, 101.161, F.S., and creating s. 100.381, F.S.; requiring that the Revenue Estimating Conference provide an analysis of the fiscal impact resulting to state or local governments from any constitutional amendment; authorizing the Revenue Estimating Conference to solicit information regarding a proposed amendment; providing procedures for drafting and voting on a fiscal-impact statement by the Revenue Estimating Conference; requiring that a fiscal-impact statement be included on the ballot after the ballot summary of the amendment; amending s. 216.136, F.S.; prescribing additional duties of the Revenue Estimating Conference, to conform; providing for construction of the act in pari materia with laws enacted during the Regular Session of the Legislature; providing exemptions from the fiscal-impact-statement requirement for certain proposed amendments; providing effective dates.

Senator Smith offered the following amendment to **Amendment 1** which was moved by Senator Pruitt and adopted:

Amendment 1A (265160)—On page 2, lines 6-18, delete those lines and insert:

16.061 *Proposed constitutional revisions or amendments Initiative petitions.*—

(1) The Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and substance with s. 101.161 and the compliance of the fiscal-impact statement with ss. 100.371 and 101.161. *For all other proposed revisions or amendments to the State Constitution, the Attorney General shall, upon the Revenue Estimating Conference finalizing the fiscal-impact statement, petition the Supreme Court requesting an advisory opinion regarding compliance of the text of the fiscal-impact statement with ss. 100.371, 100.381, and 101.161.* The petition may enumerate any specific factual issues which the Attorney General believes would require a judicial determination.

Senators Smith and Pruitt offered the following amendment to **Amendment 1** which was moved by Senator Pruitt and adopted:

Amendment 1B (260176)(with title amendment)—On page 3, lines 6 and 7, delete “summary analysis” and insert: *fiscal impact statement to be placed on the ballot*

And the title is amended as follows:

On page 6, line 18, delete “summary” and insert: statement

Senator Wasserman Schultz offered the following amendment to **Amendment 1** which was moved by Senator Pruitt and adopted:

Amendment 1C (754204)(with title amendment)—On page 3, lines 14-22, delete those lines and insert:

(b)1. *Members of the Revenue Estimating Conference shall reach a consensus or majority concurrence on a clear and unambiguous fiscal-impact statement, no more than 50 words in length. Nothing in this subsection prohibits the Revenue Estimating Conference from setting forth a range of potential impacts in the fiscal-impact statement. Any fiscal-impact statement that a court finds not to be in accordance with this section, s. 100.381, or s. 101.161 shall be remanded solely to the Revenue Estimating Conference for redrafting. The Revenue Estimating Conference shall redraft the fiscal-impact statement within 15 days.*

And the title is amended as follows:

On page 7, line 3, after the first semicolon (;) insert: requiring a court to remand defective fiscal-impact statements to the Revenue Estimating Conference;

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

Amendment 1D (445764)—On page 4, line 11, delete “60” and insert: 80

Amendment 1 as amended was adopted.

On motion by Senator Pruitt, by two-thirds vote **HB 65-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

| | | |
|---------------|---------|------------|
| Mr. President | Futch | Sanderson |
| Brown-Waite | Garcia | Saunders |
| Burt | King | Sebesta |
| Campbell | Laurent | Smith |
| Carlton | Lawson | Sullivan |
| Clary | Lee | Villalobos |
| Constantine | Peaden | Webster |
| Cowin | Posey | Wise |
| Crist | Pruitt | |

Nays—12

| | | |
|------------|--------|-------------------|
| Dawson | Jones | Mitchell |
| Dyer | Klein | Rossin |
| Geller | Meek | Silver |
| Holzendorf | Miller | Wasserman Schultz |

Vote after roll call:

Nay—Latvala

The Senate resumed consideration of—

HB 67-E—A bill to be entitled An act relating to boards of trustees of state universities; amending s. 766.112, F.S.; prescribing applicability of provisions relating to comparative fault with respect to medical malpractice to boards of trustees; amending s. 768.28, F.S.; providing for venue of actions brought against boards of trustees; providing for applicability of provisions relating to waiver of sovereign immunity to boards of trustees; amending s. 626.852, F.S.; providing for the inapplicability of certain provisions relating to insurance adjusters to employees and agents of boards of trustees; providing an effective date.

—which was previously considered and amended this day.

RECONSIDERATION OF AMENDMENT

On motion by Senator Smith, the Senate reconsidered the vote by which **Amendment 1 (642506)** was adopted.

Senator Silver offered the following amendment to **Amendment 1** which was moved by Senator Smith and adopted:

Amendment 1A (745854)—On page 6, line 16, after “Education” insert: *or the American Osteopathic Association*

Amendment 1 as amended was adopted.

On motion by Senator Smith, by two-thirds vote **HB 67-E** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

| | | |
|---------------|----------|-------------------|
| Mr. President | Geller | Pruitt |
| Brown-Waite | Jones | Rossin |
| Burt | King | Sanderson |
| Campbell | Klein | Saunders |
| Clary | Latvala | Sebesta |
| Constantine | Laurent | Silver |
| Cowin | Lawson | Smith |
| Crist | Lee | Sullivan |
| Dawson | Miller | Villalobos |
| Dyer | Mitchell | Wasserman Schultz |
| Futch | Peaden | Webster |
| Garcia | Posey | Wise |

Nays—1

Meek

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

SB 80-E—A bill to be entitled An act relating to health care; providing for specified licensing boards to adopt rules governing the prescribing of controlled substances; requiring certain health care providers to complete education courses relating to the prescription of controlled substances; providing penalties; providing for the emergency suspension of certain licenses for prescribing violations; requiring the Department of Health, the Department of Law Enforcement, the Statewide Prosecutor, and State Attorneys to share certain information regarding health care practitioners; requiring a report; requiring the Bureau of Pharmacy Services of the Department of Health to establish an electronic system for identifying licensees and patients who engage in certain fraudulent or illegal practices; authorizing the Bureau of Pharmacy Services to contract for the administration of the electronic monitoring system for certain controlled substances; establishing an advisory council and providing for its membership, duties, staff, and compensation; requiring the Bureau of Pharmacy Services of the Department of Health to recommend performance-based measures to the Legislature for the electronic monitoring system; requiring that the Bureau of Pharmacy Services report to the Legislature on implementation of the electronic monitoring system; providing requirements for the report; providing duties of the Bureau of Pharmacy Services with respect to the purposes and use of the electronic monitoring system; prohibiting the use of specified funds for the electronic monitoring system; amending s. 456.033, F.S.; eliminating certain requirements for HIV and AIDS education courses; amending s. 456.072, F.S.; revising disciplinary penalties applicable to health care practitioners; reenacting ss. 456.082(2), 457.109(1) and (2), 458.331(1) and (2), 458.347(7)(g), 459.015(1) and (2), 459.022(7)(f), 460.413(1) and (2), 461.013(1) and (2), 462.14(1) and (2), 463.016(1) and (2), 464.018(1) and (2), 465.016(1) and (2), 466.028(1) and (2), 467.203(1) and (2), 468.1295(1) and (2), 468.1755(1) and (2), 468.217(1) and (2), 468.365(1) and (2), 468.518(1) and (2), 468.719, 468.811, 478.52(1) and (2), 480.046(1) and (2), 483.825(1) and (2), 483.901(6)(g) and (h), 484.014(1) and (2), 484.056(1) and (2)(a), 486.125(1) and (2), 490.009, and 491.009, F.S., relating to grounds for disciplinary action applicable to persons involved in health care practice, including acupuncture, medical practice, osteopathic medicine, chiropractic medicine, podiatric medicine, naturopathy, optometry, nursing, pharmacy, dentistry, midwifery, speech-language pathology and audiology, nursing home administration, occupational therapy, respiratory therapy, dietetics and nutrition practice, athletic trainers, orthotics, prosthetics, and pedorthics, electrolysis, massage practice, clinical laboratory personnel, medical physicists, dispensing of optical devices and hearing aids, physical therapy practice, psychological services, and clinical, counseling, and psychotherapy services, to incorporate the amendment to s. 456.072, F.S., in references thereto; amending s. 458.345, F.S.; requiring certain resident physicians, interns, and fellows to complete an educational course in prescribing controlled substances; amending s. 461.013, F.S.; prohibiting the presigning of blank prescription forms and providing penalties; amending s. 893.04, F.S.; providing additional requirements for pharmacists regarding the identification of persons to whom controlled sub-

stances are dispensed; prohibiting certain prescribing practitioners from possessing, administering, dispensing, or prescribing controlled substances; directing local and regional boards of education to prohibit personnel from recommending use of psychotropic drugs on a child; providing for construction of the act in pari materia with laws enacted during the Regular Session of the Legislature; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendments which were adopted:

Amendment 1 (805186)(with title amendment)—On page 9, lines 12 and 13, and line 24; on page 10, lines 26 and 27; on page 11, line 31; on page 12, line 13; on page 14, lines 7, 11, and 30; and on page 15, line 16, delete “Bureau of Pharmacy Services of the”

And the title is amended as follows:

On page 1, lines 15 and 16, and 25 and 26, delete “Bureau of Pharmacy Services of the”

Amendment 2 (611394)(with title amendment)—On page 12, line 2; on page 14, line 25; and on page 15, lines 5 and 6, and lines 9 and 10, delete “Bureau of Pharmacy Services” and insert: *Department of Health*

And the title is amended as follows:

On page 1, line 20, and lines 29 and 30; and on page 2, lines 2 and 3, delete “Bureau of Pharmacy Services” and insert: *Department of Health*

Amendment 3 (723968)—On page 14, line 29, after the period (.) insert: *This subsection shall not be construed to require the health care practitioner to check the electronic monitoring system for every patient and shall not be construed to create any obligation or liability on the part of the health care practitioner.*

Amendment 4 (843450)(with title amendment)—On page 16, between lines 21 and 22, insert:

Section 7. *Subsection (4) of section 458.319 and subsection (5) of section 459.008, Florida Statutes, are repealed.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 8, after the semicolon (;) insert: *repealing ss. 458.319(4) and 459.008(5), F.S.; relating to continuing education requirements for renewal of licensure by physicians and osteopathic physicians, to conform;*

Amendment 5 (654766)(with title amendment)—On page 130, between lines 8 and 9, insert:

Section 41. Paragraph (a) of subsection (2) of section 499.007, Florida Statutes, is amended to read:

499.007 Misbranded drug or device.—A drug or device is misbranded:

(2) Unless, if in package form, it bears a label containing:

(a) The name and place of business of the manufacturer or distributor; ~~in addition, for a medicinal drug, as defined in s. 499.003, the label must contain the name and place of business of the manufacturer~~ of the finished dosage form of the drug. For the purpose of this paragraph, the finished dosage form of a medicinal drug is that form of the drug which is, or is intended to be, dispensed or administered to the patient and requires no further manufacturing or processing other than packaging, reconstitution, and labeling; and

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 27, after the semicolon (;) insert: *amending s. 499.007, F.S., relating to misbranded drugs and devices;*

Amendment 6 (731862)—On page 130, delete line 18 and insert:

Section 43. This act shall take effect July 1, 2002, only if SB 82E or similar legislation is enacted during the same legislative session as this act and becomes law.

Amendment 7 (563312)—On page 10, line 22, delete “upon” and insert: *60 days after*

On motion by Senator Burt, by two-thirds vote **SB 80-E** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

| | | |
|---------------|---------|-------------------|
| Mr. President | Klein | Sanderson |
| Burt | Latvala | Saunders |
| Clary | Laurent | Sebesta |
| Constantine | Lawson | Silver |
| Crist | Lee | Smith |
| Dawson | Meek | Sullivan |
| Dyer | Miller | Villalobos |
| Futch | Peaden | Wasserman Schultz |
| Garcia | Posey | Webster |
| Geller | Pruitt | Wise |
| Jones | Rossin | |

Nays—3

| | | |
|----------|-------|----------|
| Campbell | Cowin | Mitchell |
|----------|-------|----------|

Vote after roll call:

Yea to Nay—Wasserman Schultz

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

SB 82-E—A bill to be entitled An act relating to public-records exemptions; creating a public-records exemption for personal identifying information regarding a patient held by the Bureau of Pharmacy Services of the Department of Health; providing exceptions to the exemption; providing a criminal penalty for violating the provisions of the public-records exemption; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendments which were adopted:

Amendment 1 (370422)(with title amendment)—On page 1, lines 20 and 24; and on page 3, lines 6 and 7, delete “Bureau of Pharmacy Services of the”

And the title is amended as follows:

On page 1, lines 5 and 6, delete all of said lines and insert: patient held by the Department of Health; providing

Amendment 2 (174288)—On page 4, line 2, after “Bill” insert: 80-E

On motion by Senator Burt, by two-thirds vote **SB 82-E** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

| | | |
|---------------|---------|------------|
| Mr. President | King | Sanderson |
| Burt | Klein | Saunders |
| Clary | Latvala | Sebesta |
| Constantine | Laurent | Silver |
| Crist | Lawson | Smith |
| Dawson | Lee | Sullivan |
| Dyer | Miller | Villalobos |
| Futch | Peaden | Webster |
| Garcia | Posey | Wise |
| Geller | Pruitt | |
| Jones | Rossin | |

Nays—5

| | | |
|-------------|----------|-------------------|
| Brown-Waite | Cowin | Wasserman Schultz |
| Campbell | Mitchell | |

By direction of the President, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required constitutional two-thirds vote of the membership and passed SB 24-E, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 24-E—A bill to be entitled An act relating to military-separation forms; providing process for removal from official records of armed forces military-separation forms; providing exceptions; providing an effective date.

House Amendment 1 (512087)(with title amendment)—On page 1, between lines 28 and 29 of the bill insert:

Section 2. Paragraph (ff) of subsection (3) of section 119.07, Florida Statutes, is created to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(3)

(ff)1. Until January 1, 2006, if a social security number, made confidential and exempt pursuant to s. 119.072, created pursuant to CS/HB 1673 passed during the 2002 regular legislative session, or a complete bank account, debit, charge, or credit card number made exempt pursuant to s. 119.07(ee), created pursuant to HB 1675 passed during the 2002 regular legislative session, is or has been included in a court file, such number may be included as part of the court record available for public inspection and copying unless redaction is requested by the holder of such number, or by the holder’s attorney or legal guardian, in a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request.

2. Any person who prepares or files a document to be recorded in the official records by the county recorder as provided in chapter 28, Florida Statutes, may not include a person’s social security number or complete bank account, debit, charge, or credit card number in that document unless otherwise expressly required by law. Until January 1, 2006, if a social security number or a complete bank account, debit, charge or credit card number is or has been included in a document presented to the county recorder for recording in the official records of the county, such number may be made available as part of the official record available for public inspection and copying. Any person, or his or her attorney or legal guardian, may request that a county recorder remove from an image or copy of an official record placed on a county recorder’s publicly available Internet website, or a publicly available Internet website used by a county recorder to display public records outside the office or otherwise made electronically available outside the county recorder’s office to the general public, his or her social security number or complete account, debit, charge, or credit card number contained in that official record. Such request must be legibly written, signed by the requestor, and delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the document that contains the number to be redacted. The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for redacting such numbers.

3. Upon the effective date of this act, subsections (3) and (4) of s. 119.072, do not apply to the clerks of the court or the county recorder with respect to court records and official records.

4. On January 1, 2006, and thereafter, the clerk of the court and the county recorder must keep complete bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.07(3)(ee), and must keep social security numbers confidential and exempt as provided for in s. 119.072, without any person having to request redaction.

Section 3. Subsection (5) of s. 119.072, created by CS/HB 1673, passed in the 2002 regular session, is hereby repealed.

And the title is amended as follows:

On page 1, lines 2 through 5, remove: all of said lines and insert: An act relating to court records and official records maintained by the clerk of the court or the county recorder; providing a process for removal from official records certain specified armed forces military separation forms; providing requirements with respect thereto; requiring the county recorder to provide written notice; providing for the redaction of a social security number, and of a complete bank account, debit, charge, or credit card number that is part of a court record or official record; prohibiting a person preparing or filing an official record from including a person's social security number or a complete bank account, debit, charge, or credit card number in that document unless otherwise expressly required by law; providing for the redaction of such information; providing for the nonapplicability of subsections (3) and (4) of s. 119.072, created by CS/HB 1673, passed in the 2002 regular session, to clerks of the court and to county recorders with regard to court records and official records; repealing subsection (5) of s. 119.072; providing an

On motion by Senator Brown-Waite, the Senate concurred in the House amendment.

SB 24-E passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35

| | | |
|---------------------|----------|-------------------|
| Mr. President | King | Rossin |
| Brown-Waite | Klein | Sanderson |
| Campbell | Latvala | Saunders |
| Constantine | Laurent | Sebesta |
| Cowin | Lawson | Silver |
| Crist | Lee | Smith |
| Dawson | Meek | Sullivan |
| Diaz de la Portilla | Miller | Villalobos |
| Futch | Mitchell | Wasserman Schultz |
| Garcia | Peaden | Webster |
| Geller | Posey | Wise |
| Jones | Pruitt | |

Nays—None

Vote after roll call:

Yea—Burt, Clary

SPECIAL ORDER CALENDAR, continued

On motion by Senator Garcia—

SB 22-E—A bill to be entitled An act relating to the Miami-Dade County Home Rule Charter; amending the Miami-Dade County Home Rule Charter; providing additional powers of the Board of County Commissioners; specifying thirteen County Commission districts; requiring the Board to adopt certain reapportionment plan development procedures; providing for salaries of County Commissioners; providing for an acting County Mayor under certain circumstances; providing requirements; specifying powers and duties of the County Commission; creating the office of County Mayor; providing for election of the County Mayor; specifying powers and responsibilities of the County Mayor; providing for Deputy County Mayors; requiring the County Commission to annually appropriate funds to the Executive Office of the County Mayor for certain purposes; revising provisions for election and terms of County Commissioners; providing for nonpartisan election of a County Supervisor of Elections; providing for powers and duties of the County Supervisor of Elections; providing for disqualification of certain persons to vote

or hold office; specifying term limits for County Mayor and County Commissioners; providing for a County Comptroller; providing for functions, qualifications, powers, and duties of the County Comptroller; specifying restrictions relating to the Office of the County Comptroller; revising the administrative organization and procedures of the county; specifying service offices associated with Deputy County Mayors; specifying departments within such service offices; providing for financial planning by the Executive Office of the County Mayor; providing requirements; providing for county civil service; providing for the Office of County Attorney; providing for demographic, policy, and planning functions; abolishing the office of County Manager and transferring to the County Mayor the powers, duties, functions, and responsibilities of the County Manager; revising certain other provisions to conform; providing a contingent effective date.

—was read the second time by title.

Senators Garcia and Silver offered the following amendment which was moved by Senator Silver and adopted:

Amendment 1 (515754)(with title amendment)—On page 56, line 26 through page 57, line 2, delete those lines and insert:

**ARTICLE - 11
SEVERABILITY**

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

Section 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 3. (1) Contingent upon approval of an amendment to the State Constitution at the general election held in November 2002 authorizing amendments or revisions to the home rule charter of Miami-Dade County by special law approved by a vote of the electors, the revision of the Dade County Home Rule Charter proposed by this act shall be submitted to the voters of Miami-Dade County by the Board of County Commissioners of Dade County in a referendum to be held in November 2003, in the following form, and shall take effect only upon approval by a majority of the electors of Miami-Dade County voting in such referendum:

**PROPOSED REVISION OF THE DADE COUNTY HOME RULE
CHARTER.**

Proposing a revision of the Dade County Home Rule Charter to provide for a County Mayor, County Comptroller, County Attorney, and nonpartisan elected County Supervisor of Elections and for Deputy County Mayors; provide powers, duties, and term limits of the Mayor, Comptroller, and county commissioners; provide for salaries of the Mayor, Comptroller, and county commissioners; revise the administrative organization and procedures of the county; and abolish the County Manager and County Supervisor of Registration offices.

... FOR the proposed revision of the Dade County Home Rule Charter

... AGAINST the proposed revision of the Dade County Home Rule Charter.

(2) This section and section 2 shall take effect upon becoming a law.

And the title is amended as follows:

On page 2, delete line 16 and insert: providing severability for charter provisions; providing severability; providing for a referendum to be called by the Board of County Commissioners of Miami-Dade County; specifying the form of the ballot question on the referendum; providing for effect upon referendum approval; providing an effective date.

Pursuant to Rule 4.19, SB 22-E as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

REPORTS OF COMMITTEES

The Committee on Ethics and Elections recommends the following pass: HB 65-E with 1 amendment

The Committee on Finance and Taxation recommends the following pass: SB 70-E with 2 amendments

The Committee on Judiciary recommends the following pass: SB 72-E with 3 amendments

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

The Committee on Criminal Justice recommends a committee substitute for the following: SB 76-E

The Committee on Ethics and Elections recommends a committee substitute for the following: SB 68-E

The Committee on Governmental Oversight and Productivity recommends a committee substitute for the following: SB 78-E

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

REPORTS OF SUBCOMMITTEES

The Appropriations Subcommittee on Health and Human Services recommends the following pass: SB 66-E with 1 amendment

The bill was referred to the Committee on Appropriations under the original reference.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Ethics and Elections; and Senators Pruitt and Sanderson—

CS for SB 68-E—A bill to be entitled An act relating to constitutional amendments; amending s. 15.21, F.S.; requiring the Secretary of State to submit certain initiative petitions to the Revenue Estimating Conference; amending s. 16.061, F.S.; requiring that the Attorney General petition the Supreme Court to review the estimated-fiscal-impact summary; requiring the court to remand defective fiscal-impact statements to the Revenue Estimating Conference; amending ss. 100.371, 101.161, F.S., and creating s. 100.381, F.S.; requiring that the Revenue Estimating Conference provide an analysis of the fiscal impact resulting to state or local governments from any constitutional amendment; authorizing the Revenue Estimating Conference to solicit information regarding a proposed amendment; providing procedures for drafting and voting on a fiscal-impact statement by the Revenue Estimating Conference; requiring that a fiscal-impact statement be included on the ballot after the ballot summary of the amendment; amending s. 216.136, F.S.; prescribing additional duties of the Revenue Estimating Conference, to conform; providing for construction of the act in pari materia with laws enacted during the Regular Session of the Legislature; providing exemptions from the fiscal-impact-statement requirement for certain proposed amendments; providing effective dates.

By the Committee on Criminal Justice; and Senators Villalobos, Peaden, Campbell and Cowin—

CS for SB 76-E—A bill to be entitled An act relating to falsification of records; amending ss. 839.13, 921.0022, F.S.; prescribing penalties for falsifying records of an individual in the care and custody of a state agency; specifying unlawful acts relating to the Department of Children and Family Services; providing for construction of the act in pari materia with laws enacted at the Regular Session; providing an effective date.

By the Committee on Governmental Oversight and Productivity; and Senator Lee—

CS for SB 78-E—A bill to be entitled An act relating to public records; providing for the confidentiality of certain information held by the Florida Alzheimer's Center and Research Institute and others; creating an exemption from the public-records provisions of the State Constitution and Florida law for certain information relating to clients, patients, and donors, as well as medical and health records and certain proprietary and trade-secret information; providing a statement of public necessity for such exemptions; providing for future repeal; providing a contingent effective date.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

Motion

On motion by Senator Lee, by the required constitutional two-thirds vote of the membership the following bill was admitted for introduction outside the purview of the Governor's call:

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote, passed as amended HB 41-E and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Byrd and others—

HB 41-E—A bill to be entitled An act relating to cigarette taxes; providing a short title; amending s. 210.20, F.S.; increasing that portion of the revenues from the cigarette tax to be paid monthly to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute to finance a cancer research facility at the University of South Florida; amending s. 210.201, F.S.; providing for the use of the transferred moneys; authorizing, rather than requiring, replacement of such moneys by tobacco settlement proceeds; providing an effective date.

—was referred to the Committee on Finance and Taxation.

Motion

On motion by Senator Lee, by the required constitutional two-thirds vote of the membership the following bill was admitted for introduction outside the purview of the Governor's call:

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 43-E and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Byrd—

HB 43-E—A bill to be entitled An act relating to the confidentiality of certain information held by the Florida Alzheimer's Center and Research Institute and others, creating an exemption from the public records provisions of the Florida Constitution and Florida law for certain information relating to clients and patients and donors as well as medical and health records, and certain proprietary and trade secret information; providing a statement of public necessity for such exemptions; providing for future repeal; providing a contingent effective date.

—was referred to the Committee on Governmental Oversight and Productivity.

Motion

On motion by Senator Lee, by the required constitutional two-thirds vote of the membership the following bills were admitted for introduction outside the purview of the Governor's call:

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote, passed HB 67-E and HB 69-E and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Byrd and others—

HB 67-E—A bill to be entitled An act relating to boards of trustees of state universities; amending s. 766.112, F.S.; prescribing applicability of provisions relating to comparative fault with respect to medical malpractice to boards of trustees; amending s. 768.28, F.S.; providing for venue of actions brought against boards of trustees; providing for applicability of provisions relating to waiver of sovereign immunity to boards of trustees; amending s. 626.852, F.S.; providing for the inapplicability of certain provisions relating to insurance adjusters to employees and agents of boards of trustees; providing an effective date.

—was referred to the Committee on Judiciary.

By Representative Brummer and others—

HB 69-E—A bill to be entitled An act relating to the Transportation Disadvantaged Program; amending s. 343.64, F.S.; prohibiting the Central Florida Regional Transportation Authority from serving as a com-

munity transportation coordinator; requiring the Commission for the Transportation Disadvantaged to evaluate performance of the authority as a community transportation coordinator; requiring a report to the Legislature; providing for the authority to continue as a community transportation coordinator upon certain findings by the Legislature; repealing section 1, SB 100, 2002 Regular Session, relating to the authority acting as a community transportation coordinator; providing an effective date.

—was referred to the Committee on Finance and Taxation.

RETURNING MESSAGES—FINAL ACTION

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required constitutional two-thirds vote of the membership and passed SB 40-E.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered enrolled.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 3 was corrected and approved.

RECESS

On motion by Senator Lee, the Senate recessed at 3:56 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 12:00 noon, Monday, May 13 or upon call of the President.