



# Journal of the Senate

Number 22—Regular Session

Thursday, April 29, 2004

## CONTENTS

Bills on Third Reading . . . . .	1352, 1358, 1376
Call to Order . . . . .	1342, 1358, 1378
Co-Sponsors . . . . .	1396
House Messages, Final Action . . . . .	1396
House Messages, First Reading . . . . .	1392
House Messages, Returning . . . . .	1344, 1391
Motions . . . . .	1392
Motions Relating to Committee Reference . . . . .	1378
Resolutions . . . . .	1342
Special Order Calendar . . . . .	1374, 1378, 1392

## CALL TO ORDER

The Senate was called to order by President King at 10:23 a.m. A quorum present—39:

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Excused: Senator Argenziano until 11:45 a.m.

## PRAYER

The following prayer was offered by the Rev. Walter “Lucky” Arnold III, First Presbyterian Church, North Palm Beach:

Almighty and Eternal God, we bless you this morning and thank you for the gift of this day of life, and this opportunity to serve you and the citizens of the State of Florida. You have made human beings in your image and likeness and have entrusted to us the government and stewardship of your world. Your word tells us that we ought to pray for those called to the high task of government, and that we should ask you for wisdom that those who govern might govern wisely and well for your glory and the blessings of the people.

Grant these lawmakers wisdom beyond their training and learning; grant them the leadership, courage, and moral rectitude to enact laws that make the great State of Florida a better, more just, and more righteous society. Enable these legislators the heart and wise judgment to serve you and the citizens of this state with energy, intelligence, imagination and love.

In these days, as our soldiers serve the cause of freedom and liberty all over the world, we ask you to keep our men and women in the military in safety this day. Grant to these public servants the insight and foresight to make our state a community that reflects the diversity of your creation, the unity of our great republic, and a state that contributes to the peace and prosperity of our country and the world.

As these Senators debate the issues of state this day, may they do it in a way that brings out what is best in our state and each other. May they offer their service as a calling they have received from you through the voice of the citizens, and may they serve in ways that they may receive from you words of approval and blessing at the Last Day.

We are of different faiths and beliefs, and may pray in different ways, but we rejoice that we may begin this day together in prayer and before you, our gracious and glorious God. Amen.

## PLEDGE

Senate Pages Vincent Evans of Middleburg; Josey “Samuel” Crews of Macclenny; Jessica L. Jones of Windermere; Sam Neimeiser and David McGuire of Tallahassee; and Brian Lee, nephew and godson of Senator Lee, of Lithia, led the Senate in the pledge of allegiance to the flag of the United States of America.

## DOCTOR OF THE DAY

The President recognized Dr. Leon “Skip” Beeler of Kennedy Space Center, sponsored by Senator Haridopolos, as doctor of the day. Dr. Beeler specializes in Emergency Medicine.

## ADOPTION OF RESOLUTIONS

On motion by Senator Posey—

By Senator Posey—

**SR 3166**—A resolution honoring Dale Earnhardt and recognizing April 29, 2004, as “Dale Earnhardt Day.”

WHEREAS, NASCAR racing legend Dale Earnhardt was born April 29, 1951, in Kannapolis, North Carolina, and

WHEREAS, Dale Earnhardt won many stock car races at all levels throughout Florida and many other states, and

WHEREAS, known as “The Intimidator,” Dale Earnhardt brought joy and motivation to his many fans throughout Florida and the world through his phenomenal accomplishments as a winner of a NASCAR-record seven Winston Cup championships, and

WHEREAS, Dale Earnhardt amassed 76 Winston Cup victories during his prestigious career, and

WHEREAS, in his racing career spanning over 30 years, Dale Earnhardt established a track record by winning 34 races at Daytona International Speedway, and

WHEREAS, in his twentieth attempt, Dale Earnhardt did win the 40th annual Daytona 500 in Daytona Beach, Florida, and

WHEREAS, as President of Dale Earnhardt Incorporated, Dale Earnhardt claimed the NASCAR Busch Series Owner’s championship at Homestead-Miami Speedway in 1999 in Homestead, Florida, and

WHEREAS, Dale Earnhardt was named “Driver of the Year” on five occasions by the National Motorsports Press Association, and

WHEREAS, not only an amazing sportsman and citizen, Dale Earnhardt was also an exceptional man who inspired young people throughout Florida and the world with his indomitable character and determination, and

WHEREAS, on February 18, 2001, Dale Earnhardt was tragically taken from this earth on the final lap of the Daytona 500 in Daytona Beach, Florida, and

WHEREAS, it is appropriate to pay tribute to the life of this extraordinary individual who meant so much to the people of this state, NOW, THEREFORE,

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

That the Florida Senate welcomes Dale Earnhardt's widow, Teresa Earnhardt, and other delegates of the Dale Earnhardt Incorporated racing team to the Capitol and recognizes April 29, 2004, as "Dale Earnhardt Day."

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Teresa Earnhardt as a tangible token of the sentiments of the Florida Senate.

—was introduced out of order and read by title. On motion by Senator Posey, **SR 3166** was read the second time in full and adopted.

---

At the request of Senator Hill—

By Senator Hill—

**SR 2274**—A resolution recognizing and commending Curtis Miranda.

WHEREAS, Curtis Miranda, a native of Jacksonville, Florida, and a 1957 graduate of Matthew Gilbert Senior High School, enjoyed a football career few have known, attending Florida A & M University and playing for the legendary Jake Gaither from 1957 to 1961, during which the University won three national championship titles, and also playing professional football for the New York Giants and the Hamilton Tiger Cats, and

WHEREAS, a dominant offensive lineman at 6 feet 2 inches in height, weighing 221 pounds, and wearing jersey number 53, Curtis was alternated at tackle and tight end in the 1957 and 1958 football seasons before settling in as the starting center for the 1959 football season, following which he earned All-America recognition from the Associated Press, the National Association of Intercollegiate Athletics, and the Pittsburgh Courier, and

WHEREAS, in 1979, Curtis was among those in the fourth class of former Florida A & M University athletes inducted into the University's Sports Hall of Fame, and on October 25, 2003, at halftime of the football game with Norfolk State at Bragg Memorial Stadium, the University honored Curtis Miranda by retiring his football jersey number 53, marking the first occasion for the University to retire the jersey worn by one of its former student athletes, and

WHEREAS, in the halftime ceremony, former Acting Athletic Director, J.R.E. Lee, III, recognized Curtis for his invaluable contributions to Florida A & M University, as an excellent student, a tremendous football player, a successful businessman, an outstanding citizen, and a faithful alumnus who has led the Jacksonville Chapter of Florida A & M University's Booster organization to raise more than \$300,000 for the University, NOW, THEREFORE,

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

That the Florida Senate recognizes and commends Curtis Miranda for his outstanding achievements as a student athlete while attending Florida A & M University, for his outstanding accomplishments in life since graduating from the University, and for his invaluable support of the University as a faithful alumnus.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Curtis Miranda as a tangible token of the sentiments of the Florida Senate.

—**SR 2274** was introduced, read and adopted by publication.

---

At the request of Senator Smith—

By Senator Smith—

**SR 3140**—A resolution recognizing April 29, 2004, as "Tallahassee Donation Awareness Day" and encouraging Floridians to become part of the Florida Organ and Tissue Donor Registry.

WHEREAS, the Florida Senate recognizes the contributions made every day by families, members, donor organizations, and private citizens in prolonging life and improving the quality of life for fellow human beings through organ and tissue donation, and

WHEREAS, the effectiveness of organ and tissue donation depends upon government and private entities working together to provide educational tools that encourage families and individuals to make conscious choices about their lives, and

WHEREAS, in the United States more than 84,500 individuals are on the National Organ Donor Waiting List, and

WHEREAS, Florida currently has more than 3,000 individuals on the National Organ Donor Waiting List, and

WHEREAS, 18 people die each day due to a lack of donated organs and tissues, and

WHEREAS, the Florida Senate recognizes the dedication, selflessness, and contributions made by donor families who choose to provide the ultimate "Gift of Life" so that others might live, or enjoy an improved quality of life, NOW, THEREFORE,

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

That April 29, 2004, is recognized as "Tallahassee Donation Awareness Day" and all residents of this state are encouraged to become part of the Florida Organ and Tissue Donor Registry and contribute to the Florida Organ and Tissue Donor Trust Fund in order to provide a higher quality of life for others.

—**SR 3140** was introduced, read and adopted by publication.

---

At the request of Senator Garcia—

By Senator Garcia—

**SR 3190**—A resolution recognizing the importance of Florida's bid to become the permanent location for the Secretariat for the Free Trade Area of the Americas; recognizing the importance of promoting safe commerce between the United States and its trading partners in the Caribbean, Central America, and South America.

WHEREAS, negotiations are progressing on development of the Free Trade Area of the Americas, which will unite the economies of the Western Hemisphere by creating a single free trade agreement among 800 million consumers with a combined gross domestic product of \$14 trillion, and

WHEREAS, Florida is competing to become the permanent location for the Secretariat for the Free Trade Area of the Americas, which, together with the trade and investment activity under the agreement, would create new jobs and revenues for the state and local governments, and

WHEREAS, total merchandise trade between Florida and the Western Hemisphere exceeds \$45 billion dollars annually and represents more than 65 percent of Florida's total merchandise trade, and

WHEREAS, the State of Florida recognizes the critical economic contribution of the state's agriculture industry and supports efforts to ensure that the interests of the agriculture industry are incorporated into trade negotiations and agreements, and

WHEREAS, the terrorist events of September 11, 2001, have led to the development of new security requirements on vessels, seaports, and the state's trading partners, and

WHEREAS, the United States Bureau of Customs and Border Protection has created the Container Security Initiative to extend the United

States' zone of security outward in North America, Europe, Asia, and Africa, and

WHEREAS, the United States Congress has financed the development of Operation Safe Commerce in New York, New Jersey, California, and Washington to develop a secure global supply chain among seaports in those states and their international trading partners in Asia, Europe, and Africa, and

WHEREAS, enhancing the security capacity of seaports in the Western Hemisphere will enhance the development of North-South trade and investment flows, and

WHEREAS, hosting the Secretariat for the Free Trade Area of the Americas, together with increased safe and secure international trade and investment activity stemming from the trade agreement, will solidify Florida's role as the "Gateway to the Americas," NOW, THEREFORE,

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

That the Senate recognizes the importance of, and expresses its continued support for, Florida's bid to become the permanent location for the Secretariat for the Free Trade Area of the Americas.

BE IT FURTHER RESOLVED that the Senate recognizes the importance of, and expresses support for, cooperative efforts by the state and the federal government, international trading partners, the maritime industry, and other business interests to develop and share best practices to enhance security at foreign seaports and thereby promote the safe, secure, and expeditious movement of goods throughout the Caribbean, Central America, South America, and the United States.

—SR 3190 was introduced, read and adopted by publication.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable James E. "Jim" King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 222, with amendment(s), and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for SB 222**—A bill to be entitled An act relating to service of process; amending s. 48.031, F.S.; deleting the requirement to use certified mail in service of a subpoena on a witness in specified cases; prohibiting a finding of contempt for failure to appear in response to a subpoena that is not certified; allowing the posting of a criminal witness subpoena under specified conditions; requiring the placement of certain information on the copy of the process served; providing for alternative methods of service under certain circumstances; amending s. 48.081, F.S.; providing alternative methods of service on a corporation; amending s. 48.21, F.S.; requiring servers of process to provide certain information on the return of service; amending s. 83.13, F.S.; authorizing the party who had a distress writ issued to deliver the writ to a sheriff in another county; amending s. 624.307, F.S.; allowing the Chief Financial Officer, when serving as the attorney to receive service of all legal process for certain regulated persons, to send the process by any verifiable means to the person last designated by the regulated person to receive the process, instead of requiring the process to be sent by registered or certified mail; providing an effective date.

### House Amendment 1 (530419)(with title amendment)—

On page 5, line 19, remove: all of said line and insert:

Section 7. Subsection (1) of section 832.07, Florida Statutes, is amended to read:

832.07 Prima facie evidence of intent; identity.—

(1) INTENT.—

(a) In any prosecution or action under this chapter, the making, drawing, uttering, or delivery of a check, draft, or order, payment of which is refused by the drawee because of lack of funds or credit, shall

be prima facie evidence of intent to defraud or knowledge of insufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, unless such maker or drawer, or someone for him or her, shall have paid the holder thereof the amount due thereon, together with a service charge not to exceed the service fees authorized under s. 832.08(5) or an amount of up to 5 percent of the face amount of the check, whichever is greater, within 15 7 days after receiving written notice *has been sent to the address printed on the check or given at the time of issuance* that such check, draft, or order has not been paid to the holder thereof, and bank fees incurred by the holder. In the event of legal action for recovery, the maker or drawer may be additionally liable for court costs and reasonable attorney's fees. Notice mailed by certified or registered mail, evidenced by return receipt, or by first-class mail, evidenced by an affidavit of service of mail, to the address printed on the check or given at the time of issuance shall be deemed sufficient and equivalent to notice having been received by the maker or drawer, whether such notice shall be returned undelivered or not. The form of such notice shall be substantially as follows:

"You are hereby notified that a check, numbered \_\_\_\_\_, in the face amount of \$\_\_\_\_\_, issued by you on ... (date) ..., drawn upon ... (name of bank) ..., and payable to \_\_\_\_\_, has been dishonored. Pursuant to Florida law, you have 15 7 days from the date receipt of this notice to tender payment of the full amount of such check plus a service charge of \$25, if the face value does not exceed \$50, \$30, if the face value exceeds \$50 but does not exceed \$300, \$40, if the face value exceeds \$300, or an amount of up to 5 percent of the face amount of the check, whichever is greater, the total amount due being \$\_\_\_\_\_ and \_\_\_\_\_ cents. Unless this amount is paid in full within the time specified above, the holder of such check may turn over the dishonored check and all other available information relating to this incident to the state attorney for criminal prosecution. You may be additionally liable in a civil action for triple the amount of the check, but in no case less than \$50, together with the amount of the check, a service charge, court costs, reasonable attorney fees, and incurred bank fees, as provided in s. 68.065."

Subsequent persons receiving a check, draft, or order from the original payee or a successor endorsee have the same rights that the original payee has against the maker of the instrument, provided such subsequent persons give notice in a substantially similar form to that provided above. Subsequent persons providing such notice shall be immune from civil liability for the giving of such notice and for proceeding under the forms of such notice, so long as the maker of the instrument has the same defenses against these subsequent persons as against the original payee. However, the remedies available under this section may be exercised only by one party in interest.

(b) When a check is drawn on a bank in which the maker or drawer has no account or a closed account, it shall be presumed that such check was issued with intent to defraud, and the notice requirement set forth in this section shall be waived.

Section 8. Section 409.257, Florida Statutes, is amended to read:

409.257 Service of process.—The service of initial process and orders in lawsuits filed by the department, under this act, shall be served by the sheriff in the county where the person to be served may be found. The sheriff shall be reimbursed at the prevailing rate of federal financial participation for service of process and orders as allowed by law. The sheriff shall bill the department monthly as provided for in s. 30.51(2). In addition, process and orders may be served or executed by authorized agents of the department at the department's discretion; provided that the agent of the department does not take any action against personal property, real property, or persons. Notices and other intermediate process, except witness subpoenas, shall be served by the department as provided for in the Florida Rules of Civil Procedure. Witness subpoenas shall be served by the department by *United States certified* mail as provided for in s. 48.031(3).

Section 9. This act shall take effect July 1, 2004.

And the title is amended as follows:

On page 1, lines 2-29, remove: all of said lines and insert: An act relating to delivery of written legal notice; amending s. 48.031, F.S.; deleting the requirement to use certified mail in service of a subpoena on a witness in specified cases; prohibiting a finding of contempt for failure to appear in response to a subpoena that is not delivered by certified mail; allowing the posting of a criminal witness subpoena under

specified conditions; requiring the placement of certain information on the copy of the process served; providing for alternative methods of service under certain circumstances; amending s. 48.081, F.S.; providing alternative methods of service on a corporation; amending s. 48.21, F.S.; requiring servers of process to provide certain information on the return of service; amending s. 48.29, F.S.; revising the requirement that certified process servers provide certain information on the face of the process served; amending s. 83.13, F.S.; authorizing the party who had a distress writ issued to deliver the writ to a sheriff in another county; amending s. 624.307, F.S.; allowing the Chief Financial Officer, when serving as the attorney to receive service of all legal process for certain regulated persons, to send the process by any verifiable means to the person last designated by the regulated person to receive the process, instead of requiring the process to be sent by registered or certified mail; amending s. 832.07, F.S.; providing for alternative method of notice sent by the holder to the maker or drawer of a check, draft, or order, payment of which is refused because of lack of funds or credit; amending s. 409.257, F.S.; revising a provision for service of witness subpoenas, to conform; providing an effective date.

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

**CS for SB 222** 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—37

Mr. President	Diaz de la Portilla	Posey
Alexander	Dockery	Pruitt
Aronberg	Fasano	Saunders
Atwater	Garcia	Sebesta
Bennett	Geller	Siplin
Bullard	Haridopolos	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lynn	Wilson
Cowin	Margolis	Wise
Crist	Miller	
Dawson	Peaden	

Nays—1

Hill

Vote after roll call:

Yea—Argenziano

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1088, with amendment(s), and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for SB 1088**—A bill to be entitled An act relating to provider contracts for health care services; amending s. 641.315, F.S.; requiring that a health maintenance organization disclose to the provider the schedule of fees for which the health maintenance organization and the provider of health care services have contracted, including any additional deviations; providing for application; providing an effective date.

**House Amendment 1 (453443)(with title amendment)—**

Remove everything after the enacting clause and insert:

Section 1. Subsections (16) through (20) of section 641.19, Florida Statutes, are renumbered as subsections (17) through (21), respectively, and a new subsection (16) is added to said section to read:

641.19 Definitions.—As used in this part, the term:

(16) “Schedule of reimbursements” means a schedule of fees to be paid by a health maintenance organization to a physician provider for reimbursement for specific services pursuant to the terms of a contract. The

physician provider’s net reimbursement may vary after consideration of other factors, including, but not limited to, bundling codes together into another code and member cost-sharing responsibility, as long as these factors are disclosed and included in the terms of the contract between the health maintenance organization and provider. The reimbursement schedule may be stated as:

- (a) A percentage of the Medicare fee schedule for specific relative-value services;
- (b) A listing of the reimbursements to be paid by Current Procedural Terminology codes for physicians that pertain to each physician’s practice; or
- (c) Any other method agreed upon by the parties.

Specific non-relative-value services shall be stated separately from relative-value services, and reimbursement for unclassified services shall be on a reasonable basis.

Section 2. Subsection (4) of section 641.315, Florida Statutes, is amended to read:

641.315 Provider contracts.—

(4) Whenever a contract exists between a health maintenance organization and a provider, the health maintenance organization shall disclose to the provider:

- (a) The mailing address or electronic address where claims should be sent for processing;
- (b) The telephone number that a provider may call to have questions and concerns regarding claims addressed; and
- (c) The address of any separate claims-processing centers for specific types of services.

(d)1. The complete schedule of reimbursements for all the services for which a health maintenance organization and a provider have contracted and any changes in or deviations from the contracted schedule of reimbursements. The health maintenance organization may satisfy this requirement by:

- a. Providing the schedule of reimbursements or changes in or deviations from the schedule by electronic means to the provider; or
- b. Providing a written copy of the schedule of reimbursements or changes or deviations from the schedule if requested by the provider.

2. The schedule of reimbursements is subject to the nondisclosure provisions of the contract, and the provider shall maintain the confidentiality of the schedule. For purposes of this paragraph, the term “provider” means a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466.

A health maintenance organization shall provide to its contracted providers no less than 30 calendar days’ prior written notice of any changes in the information required in this subsection.

Section 3. This act shall take effect January 1, 2005.

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to health maintenance organization provider contracts; amending s. 641.19, F.S.; defining the term “schedule of reimbursements”; amending s. 641.315, F.S.; requiring a contract between a health maintenance organization and a provider to disclose a complete schedule of reimbursements for contracted services, including changes and deviations; providing criteria, requirements, and limitations; providing a definition; providing an effective date.

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

**CS for SB 1088** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise
Dawson	Miller	

Nays—None

Vote after roll call:

Yea—Argenziano

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed SB 1776, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

**SB 1776**—A bill to be entitled An act relating to the practice of law; amending s. 454.23, F.S.; increasing the criminal penalty for the unauthorized practice of law and for licensed attorneys violating ch. 454, F.S., from a misdemeanor of the first degree to a felony of the third degree; providing an effective date.

**House Amendment 1 (775491)(with title amendment)—**

Remove everything after the enacting clause and insert:

Section 1. Section 454.23, Florida Statutes, is amended to read:

454.23 Penalties.—Any person not licensed or otherwise authorized to practice law in this state ~~by the Supreme Court of Florida who practices shall practice law in this state or holds assume or hold himself or herself out to the public as qualified to practice law in this state, or who willfully pretends to be, or willfully takes or uses any name, title, addition, or description implying that he or she is qualified, or recognized by law as qualified, to practice law act as a lawyer in this state, commits and any person entitled to practice who shall violate any provisions of this chapter, shall be guilty of a felony misdemeanor of the third first degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.~~

Section 2. Section 454.31, Florida Statutes, is amended to read:

454.31 Practice while disbarred or suspended prohibited.—Any person who has been knowingly disbarred and who has not been lawfully reinstated or is knowingly under suspension from the practice of law by any circuit court of the state or by the Supreme Court of the state who practices ~~shall either directly or indirectly practice law in this state any manner or holds hold himself or herself out as an attorney at law or qualified to practice law in this state commits shall be guilty of a felony misdemeanor of the third first degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.~~

Section 3. Section 454.32, Florida Statutes, is amended to read:

454.32 Aiding or assisting disbarred or suspended attorney prohibited.—~~A person Any attorney at law licensed to practice in the courts of the state who knowingly either directly or indirectly aids or assists any person in carrying on the unauthorized practice of law, knowing that such person either directly or indirectly in any manner whatsoever who has been disbarred and has not been lawfully reinstated or is under the suspension from the practice of law by any circuit court of the state or by the Supreme Court of the state, commits, as provided in s. 454.31, from the practice of law, shall be guilty of a felony misdemeanor of the third second degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084, and shall also be subject to disbarment.~~

Section 4. This act shall take effect October 1, 2004.

And the title is amended as follows:

Remove the entire title and insert: A bill to be entitled An act relating to the unauthorized practice of law; amending ss. 454.23, 454.31, and 454.32, F.S.; increasing the criminal penalties for offenses related to the unauthorized practice of law; specifying that such offenses are punishable as felonies of the third degree; clarifying the elements of such offenses; providing an effective date.

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

**SB 1776** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Dockery	Peadar
Alexander	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise
Dawson	Miller	

Nays—None

Vote after roll call:

Yea—Argenziano

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2588, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

**CS for SB 2588**—A bill to be entitled An act relating to insurance; amending s. 624.425, F.S.; deleting a resident agent requirement for certain property, casualty, and surety insurers; amending s. 624.426, F.S.; conforming provisions; amending s. 624.428, F.S.; providing that an insurer must deliver certain policies through a resident or nonresident agent; amending s. 626.025, F.S.; requiring surplus lines agents to comply with consumer protection laws; deleting provisions prohibiting certain actions by nonresident agents, to conform; amending s. 626.741, F.S.; deleting a prohibition against nonresident general lines agents having offices in this state; conforming provisions; amending s. 626.752, F.S.; conforming provisions; amending s. 626.753, F.S.; conforming provisions; repealing s. 626.792(3), F.S.; deleting a prohibition against nonresident life insurance agents having offices in this state; repealing s. 626.835(3), F.S.; deleting a prohibition against nonresident health insurance agents having offices in this state; creating s. 626.9272, F.S.; providing requirements for the licensure of nonresident surplus lines agents; amending s. 626.929, F.S.; conforming provisions; amending s. 626.933, F.S.; allowing the department to authorize the Florida Surplus Lines Service Office to file suit on its behalf; amending s. 626.930, F.S.; conforming provisions; amending s. 626.935, F.S.; providing additional grounds for discipline of licensees; providing an effective date.

**House Amendment 1 (467323)(with title amendment)—**

On page 16, between lines 3 and 4, insert:

Section 15. Paragraph (a) of subsection (3) of section 626.2815, Florida Statutes, is amended to read:

626.2815 Continuing education required; application; exceptions; requirements; penalties.—

(3)(a) Each person subject to the provisions of this section must, except as set forth in paragraphs (b) and (c), complete a minimum of 24 hours of continuing education courses every 2 years in basic or higher-level courses prescribed by this section or in other courses approved by the department. Each person subject to the provisions of this section must complete, as part of his or her required number of continuing education hours, 3 hours of continuing education, approved by the department, every 2 years on the subject matter of ethics and a minimum of 2 hours of continuing education, approved by the department, every 2 years on the subject matter of unauthorized entities engaging in the business of insurance. The scope of the topic of unauthorized entities shall include the Florida Nonprofit Multiple Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. ss. 1001 et seq., as it relates to the provision of health insurance by employers to their employees and the regulation thereof.

Section 16. Present subsections (15) through (17) of section 626.015, Florida Statutes, are redesignated as subsections (16) through (18), respectively, and a new subsection (15) is added to that section to read:

626.015 Definitions.—As used in this part:

(15) “Personal lines agent” means a general lines agent who is limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.

Section 17. Subsection (3) is added to section 626.022, Florida Statutes, to read:

626.022 Scope of part.—

(3) Provisions of this part that apply to general lines agents and applicants also apply to personal lines agents and applicants, except where otherwise provided.

Section 18. Subsection (8) is added to section 626.241, Florida Statutes, to read:

626.241 Scope of examination.—

(8) An examination for licensure as a personal lines agent shall consist of 100 questions and shall be limited in scope to the kinds of business transacted under such license.

Section 19. Subsection (1) of section 626.311, Florida Statutes, is amended to read:

626.311 Scope of license.—

(1) Except as to *personal lines agents* and limited licenses, the applicant for licensure as a general lines agent or customer representative shall qualify for all property, marine, casualty, and surety lines except bail bonds which require a separate license under chapter 648. The license of a general lines agent may also cover health insurance if health insurance is included in the agent’s appointment by an insurer as to which the licensee is also appointed as agent for property or casualty or surety insurance. The license of a customer representative shall provide, in substance, that it covers all of such classes of insurance that his or her appointing general lines agent or agency is currently so authorized to transact under the general lines agent’s license and appointments. No such license shall be issued limited to particular classes of insurance except for bail bonds which require a separate license under chapter 648 or for *personal lines agents*. *Personal lines agents* are limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.

Section 20. Section 626.727, Florida Statutes, is amended to read:

626.727 Scope of this part.—This part applies only to general lines agents, customer representatives, service representatives, and managing general agents, all as defined in s. 626.015. *Provisions of this part which apply to general lines agents and applicants also apply to personal lines agents and applicants, except where otherwise provided.*

Section 21. Subsection (1) of section 626.732, Florida Statutes, is amended to read:

626.732 Requirement as to knowledge, experience, or instruction.—

(1) Except as provided in subsection (3), no applicant for a license as a general lines agent or *personal lines agent*, except for a chartered property and casualty underwriter (CPCU), other than as to a limited license as to baggage and motor vehicle excess liability insurance, credit property insurance, credit insurance, in-transit and storage personal property insurance, or communications equipment property insurance or communication equipment inland marine insurance, shall be qualified or licensed unless within the 4 years immediately preceding the date the application for license is filed with the department the applicant has:

(a) Taught or successfully completed classroom courses in insurance, 3 hours of which shall be on the subject matter of ethics, satisfactory to the department at a school, college, or extension division thereof, approved by the department. *To qualify for licensure as a personal lines agent, the applicant must complete a total of 52 hours of classroom courses in insurance;*

(b) Completed a correspondence course in insurance, 3 hours of which shall be on the subject matter of ethics, satisfactory to the department and regularly offered by accredited institutions of higher learning in this state and, except if he or she is applying for a limited license under s. 626.321, for licensure as a general lines agent, has had at least 6 months of responsible insurance duties as a substantially full-time bona fide employee in all lines of property and casualty insurance set forth in the definition of general lines agent under s. 626.015 or, for licensure as a personal lines agent, has completed at least 3 months in responsible insurance duties as a substantially full-time employee in property and casualty insurance sold to individuals and families for noncommercial purposes;

(c) For licensure as a general lines agent, completed at least 1 year in responsible insurance duties as a substantially full-time bona fide employee in all lines of property and casualty insurance, exclusive of aviation and wet marine and transportation insurances but not exclusive of boats of less than 36 feet in length or aircraft not held out for hire, as set forth in the definition of a general lines agent under s. 626.015, without the education requirement mentioned in paragraph (a) or paragraph (b) or, for licensure as a personal lines agent, has completed at least 6 months in responsible insurance duties as a substantially full-time employee in property and casualty insurance sold to individuals and families for noncommercial purposes without the education requirement in paragraph (a) or paragraph (b); or

(d1) For licensure as a general lines agent, completed at least 1 year of responsible insurance duties as a licensed and appointed customer representative or limited customer representative in commercial or personal lines of property and casualty insurance and 40 hours of classroom courses approved by the department covering the areas of property, casualty, surety, health, and marine insurance; or

2. For licensure as a personal lines agent, completed at least 6 months of responsible duties as a licensed and appointed customer representative or limited customer representative in property and casualty insurance sold to individuals and families for noncommercial purposes and 20 hours of classroom courses approved by the department which are related to property and casualty insurance sold to individuals and families for noncommercial purposes;

(e)1.2. For licensure as a general lines agent, completed at least 1 year of responsible insurance duties as a licensed and appointed service representative in either commercial or personal lines of property and casualty insurance and 80 hours of classroom courses approved by the department covering the areas of property, casualty, surety, health, and marine insurance; or

2. For licensure as a personal lines agent, completed at least 6 months of responsible insurance duties as a licensed and appointed service representative in property and casualty insurance sold to individuals and families for noncommercial purposes and 40 hours of classroom courses approved by the department related to property and casualty insurance sold to individuals and families for noncommercial purposes; or

(f) For licensure as a personal lines agent, completed at least 3 years of responsible duties as a licensed and appointed customer representative in property and casualty insurance sold to individuals and families for noncommercial purposes.

Section 22. *The Department of Financial Services does not have to begin issuing licenses to personal lines agents on the effective date of this*

act if the department has not completed the process of incorporating necessary procedures for issuing personal lines licenses into its licensing systems.

Section 23. Subsection (1) of section 626.747, Florida Statutes, is amended to read:

626.747 Branch agencies.—

(1) Each branch place of business established by an agent or agency, firm, corporation, or association shall be in the active full-time charge of a licensed general lines agent who is appointed to represent one or more insurers. Any agent or agency, firm, corporation, or association which has established one or more branch places of business shall be required to have at least one licensed general lines agent who is appointed to represent one or more insurers at each location of the agency including its headquarters location.

Section 24. Paragraph (r) is added to subsection (6) of section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(r) A salaried employee of the corporation who performs policy administration services subsequent to the effectuation of a corporation policy is not required to be licensed as an agent under the provisions of s. 626.112.

Section 25. Paragraphs (c) and (d) of subsection (1) of section 626.321, Florida Statutes, are amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (c), (d), (e), and (i), a license as agent authorized to transact a limited class of business in any of the following categories:

(c) Personal accident insurance.—License covering only policies of personal accident insurance covering the risks of travel, except as provided in subparagraph 2. The license may be issued only:

1. To a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency and may authorize the sale of such ticket policies only in connection with the sale of transportation tickets, or to the full-time salaried employee of such an agent. No such policy shall be for a duration of more than 48 hours or for the duration of a specified one-way trip or round trip.

2. To a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business entity office of a business which offers motor vehicles for rent or lease if insurance sales activities authorized by the license are limited to full-time salaried employees. A business office licensed or a person licensed pursuant to this subparagraph may, as an agent of an insurer, transact insurance that provides coverage for accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the rental motor vehicle if the lease or rental agreement is for not more than 30 days, or if the lessee is not provided coverage for more than 30 consecutive days per lease period; however, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days.

(d) Baggage and motor vehicle excess liability insurance.—

1. License covering only insurance of personal effects except as provided in subparagraph 2. The license may be issued only:

a. To a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency, which person is engaged in the sale or handling of transportation of baggage and personal effects of travelers, and may authorize the sale of such insurance only in connection with such transportation; or

b. To the full-time salaried employee of a licensed general lines agent, a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business office of a business entity that which offers motor vehicles for rent or lease if insurance sales activities

authorized by the license are in connection with and incidental to the rental of a motor vehicle limited to full-time salaried employees. An entity applying for a license under this sub-subparagraph:

(I) Is required to submit only one application for a license under s. 626.171. The requirements of s. 626.171(5) shall apply only to the officers and directors of the entity submitting the application.

(II) Is required to obtain a license for each office, branch office, or place of business making use of the entity's business name by applying to the department for the license on a simplified application form developed by rule of the department for this purpose.

(III) Is required to pay the applicable fees for a license as prescribed in s. 624.501, be appointed under s. 626.112, and pay the prescribed appointment fee under s. 624.501. A licensed and appointed entity shall be directly responsible and accountable for all acts of the licensee's employees.

The purchaser of baggage insurance shall be provided written information disclosing that the insured's homeowner's policy may provide coverage for loss of personal effects and that the purchase of such insurance is not required in connection with the purchase of tickets or in connection with the lease or rental of a motor vehicle.

2. A business entity that office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee of a business which offers motor vehicles for rent or lease, may include lessees under a master contract providing coverage to the lessor or may transact excess motor vehicle liability insurance providing coverage in excess of the standard liability limits provided by the lessor in its lease to a person renting or leasing a motor vehicle from the licensee's employer for liability arising in connection with the negligent operation of the leased or rented motor vehicle, provided that the lease or rental agreement is for not more than 30 days; that the lessee is not provided coverage for more than 30 consecutive days per lease period, and, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days; that the lessee is given written notice that his or her personal insurance policy providing coverage on an owned motor vehicle may provide additional excess coverage; and that the purchase of the insurance is not required in connection with the lease or rental of a motor vehicle. The excess liability insurance may be provided to the lessee as an additional insured on a policy issued to the licensee's employer.

3. A business entity that office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee of a business which offers motor vehicles for rent or lease, may, as an agent of an insurer, transact insurance that provides coverage for the liability of the lessee to the lessor for damage to the leased or rented motor vehicle if:

a. The lease or rental agreement is for not more than 30 days; or the lessee is not provided coverage for more than 30 consecutive days per lease period, but, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days;

b. The lessee is given written notice that his or her personal insurance policy that provides coverage on an owned motor vehicle may provide such coverage with or without a deductible; and

c. The purchase of the insurance is not required in connection with the lease or rental of a motor vehicle.

Section 26. Section 627.0915, Florida Statutes, is amended to read:

627.0915 Rate filings; workers' compensation, drug-free workplace, and safe employers.—

(1) The office shall approve rating plans for workers' compensation and employer's liability insurance that give specific identifiable consideration in the setting of rates to employers that either implement a drug-free workplace program pursuant to s. 440.102 and rules adopted under such section by the commission or implement a safety program pursuant to provisions of the rating plan or implement both a drug-free workplace program and a safety program. The plans must be actuarially sound and must state the savings anticipated to result from such drug-testing and safety programs.

(2) An insurer offering a rate plan approved under this section shall notify the employer at the time of the initial quote for the policy and at the time of each renewal of the policy of the availability of the premium discount where a drug fee workplace plan is used by the employer pursuant to s. 440.102 and rules adopted under such section. The Financial Services Commission may adopt rules to implement the provisions of this subsection.

Section 27. Subsection (2) of section 628.709, Florida Statutes, is amended to read:

628.709 Formation of a mutual insurance holding company.—

(2) All of the initial shares of the capital stock of the insurance company which reorganized as a subsidiary insurance company shall be issued either to the mutual insurance holding company, or to an intermediate holding company which is wholly owned by the mutual insurance holding company. This restriction does not preclude the subsequent issuance of additional shares of stock by the subsidiary insurance company so long as the mutual insurance holding company at all times owns directly or through one or more intermediate holding companies, a majority of the voting shares of the capital stock of the subsidiary insurance company. The membership interests of the policyholders of the subsidiary insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the subsidiary insurance company which was formerly the mutual insurer shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. At the time of formation, policyholders of any other subsidiary insurance company of the mutual insurance holding company shall not be members of the mutual insurance holding company unless:

(a) They are policyholders of a subsidiary which was a mutual insurer which merged with the holding company pursuant to s. 628.715; or

(b) They are policyholders of an affiliated stock insurance company, provided such policyholders were members of the mutual insurance company at the time the mutual insurance company policies were assumed by the affiliated stock insurance company and the assumption occurred in connection with the conversion.

Subsequent to formation, membership shall be governed by s. 628.727.

Section 28. Subsection (6) is added to section 631.021, Florida Statutes, to read:

631.021 Jurisdiction of delinquency proceeding; venue; change of venue; exclusiveness of remedy; appeal.—

(6) The domiciliary court acquiring jurisdiction over persons subject to this chapter may exercise exclusive jurisdiction to the exclusion of all other courts, except as limited by the provisions of this chapter. Upon the issuance of an order of conservation, rehabilitation, or liquidation, the Circuit Court of Leon County shall have exclusive jurisdiction with respect to assets or property of any insurer subject to such proceedings and claims against said insurer's assets or property.

Section 29. Subsection (6) is added to section 631.041, Florida Statutes, to read:

631.041 Automatic stay; relief from stay; injunctions.—

(6) The estate of an insurer in rehabilitation or liquidation which is injured by any willful violation of an applicable stay or injunction shall be entitled to actual damages, including costs and attorney's fees, and, in appropriate circumstances, the receivership court may impose additional sanctions.

Section 30. Section 631.0515, Florida Statutes, is amended to read:

631.0515 Appointment of receiver; insurance holding company.—A delinquency proceeding pursuant to this chapter constitutes the sole and exclusive method of dissolving, liquidating, rehabilitating, reorganizing, conserving, or appointing a receiver of a Florida corporation which is not insolvent as defined by s. 607.01401(16); which through its shareholders, board of directors, or governing body is deadlocked in the management of its affairs; and which directly or indirectly owns all of the stock of a Florida domestic insurer. The department may petition for an order

directing it to rehabilitate such corporation if the interests of policyholders or the public will be harmed as a result of the deadlock. The department shall use due diligence to resolve the deadlock. Whether or not the department petitions for an order, the circuit court shall not have jurisdiction pursuant to s. 607.271, s. 607.274, or s. 607.277 to dissolve, liquidate, or appoint receivers with respect to, a Florida corporation which directly or indirectly owns all of the stock of a Florida domestic insurer and which is not insolvent as defined by s. 607.01401(16). However, a managing general agent or holding company with a controlling interest in a domestic insurer in this state is subject to jurisdiction of the court under the provisions of s. 631.025.

Section 31. Paragraph (a) of subsection (7) of section 631.141, Florida Statutes, is amended to read:

631.141 Conduct of delinquency proceeding; domestic and alien insurers.—

(7)(a) In connection with a delinquency proceeding, the department may appoint one or more special agents to act for it, and it may employ such counsel, clerks, and assistants as it deems necessary. The compensation of the special agents, counsel, clerks, or assistants and all expenses of taking possession of the insurer and of conducting the proceeding shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Such expenses are administrative expenses and are recoverable by the receiver in any actions in which the receiver is authorized or entitled to recover its administrative expenses. Within the limits of duties imposed upon them, special agents shall possess all the powers given to and, in the exercise of those powers, shall be subject to all duties imposed upon the receiver with respect to such proceeding.

Section 32. Section 631.205, Florida Statutes, is amended to read:

631.205 Reinsurance proceeds.—All reinsurance proceeds payable under a contract of reinsurance to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets of the receivership estate unless the reinsurance contract contains a clause which specifically names the insolvent insurer's insured as a direct beneficiary of the reinsurance contract. The entry of an order of conservation, rehabilitation, or liquidation shall not be deemed an anticipatory breach of any reinsurance contract, nor shall insolvency or notice of insolvency be grounds for retroactive revocation or retroactive cancellation of any reinsurance contracts by the reinsurer.

Section 33. Section 631.206, Florida Statutes, is created to read:

631.206 Arbitration.—If an insurer in receivership has entered into an agreement containing an arbitration provision for resolution of disputes, that provision is void and shall be replaced by operation of law with the following provision:

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration pursuant to the American Arbitration Association Commercial Arbitration Rules and chapter 682, Florida Statutes, and judgment on the award rendered by the arbitrators shall be entered by the receivership court. Venue shall be in Leon County, Florida. Disputes shall be submitted to a panel of three arbitrators, one to be chosen by each party and the third by the two so chosen. Arbitrators shall be selected from a list of potential qualified arbitrators with 10 years' experience involving the insurance industry. If the parties do not agree upon the qualifications of a mediator, each party shall select its mediator from a list of potential mediators approved by the receivership court.

Section 34. Subsection (1) of section 631.261, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

631.261 Voidable transfers.—

(1)(a) Any transfer of, or lien upon, the property of an insurer or affiliate which is made or created within 4 months prior to the commencement of any delinquency proceeding under this chapter which gives with the intent of giving to any creditor of the insurer a preference or enables or enables the creditor to obtain a greater percentage of her or his debt than any other creditor of the same class, and which is accepted by such creditor having reasonable cause to believe that such preference will occur, shall be voidable.

(b) Any transfer of, or lien upon, the property of an insurer or affiliate which is made or created between 4 months and 1 year prior to the commencement of any delinquency proceeding under this chapter is void if such transfer or lien inured to the benefit of a director, officer, employee, stockholder, member, subscriber, affiliate, managing general agent, or insider or any relative of any director, officer, employee, stockholder, member, subscriber, affiliate, managing general agent, or insider.

(4) For purposes of this section, a transfer is not made or created until the insurer or affiliate has acquired rights in the property transferred.

Section 35. Subsection (2) of section 631.262, Florida Statutes, is amended to read:

631.262 Transfers prior to petition.—

(2) Transfers shall be deemed to have been made or suffered, or obligations incurred, when perfected according to the following criteria:

(a) A transfer of property other than real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee.;

(b) A transfer of real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent bona fide purchaser from the insurer could obtain rights superior to the rights of the transferee.;

(c) A transfer which creates an equitable lien shall not be deemed to be perfected if there are available means by which a legal lien could be created.;

(d) Any transfer not perfected prior to the filing of a petition in a delinquency proceeding shall be deemed to be made immediately before the filing of a successful petition.;

(e) For the purposes of this section, a transfer is not made until the insurer or affiliate has acquired rights in the property transferred.

(f)(e) Paragraphs (a)-(e) ~~(a)-(d)~~ apply whether or not there are or were creditors who might have obtained any liens or persons who might have become bona fide purchasers.

Section 36. Subsection (6) is added to section 631.263, Florida Statutes, to read:

631.263 Transfers after petition.—

(6) For the purposes of this section, a transfer is not made until the insurer or affiliate has acquired rights in the property transferred.

Section 37. Subsection (3) of section 631.54, Florida Statutes, is amended to read:

631.54 Definitions.—As used in this part:

(3) “Covered claim” means an unpaid claim, including one of unearned premiums, which arises out of, and is within the coverage, and not in excess of, the applicable limits of an insurance policy to which this part applies, issued by an insurer, if such insurer becomes an insolvent insurer after October 1, 1970, and the claimant or insured is a resident of this state at the time of the insured event or the property from which the claim arises is permanently located in this state. “Covered claim” shall not include:

(a) Any amount due any reinsurer, insurer, insurance pool, or underwriting association, sought directly or indirectly through a third party, as subrogation, contribution, indemnification, or otherwise; or

(b) Any claim that would otherwise be a covered claim under this part that has been rejected by any other state guaranty fund on the grounds that an insured’s net worth is greater than that allowed under that state’s guaranty law. Member insurers shall have no right of subrogation, contribution, indemnification, or otherwise, sought directly or indirectly through a third party, against the insured of any insolvent member.

Section 38. Subsection (2) of section 631.904, Florida Statutes, is amended to read:

631.904 Definitions.—As used in this part, the term:

(2) “Covered claim” means an unpaid claim, including a claim for return of unearned premiums, which arises out of, is within the coverage of, and is not in excess of the applicable limits of, an insurance policy to which this part applies, which policy was issued by an insurer and which claim is made on behalf of a claimant or insured who was a resident of this state at the time of the injury. The term “covered claim” does not include any amount sought as a return of premium under any retrospective rating plan; any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; any claim that would otherwise be a covered claim that has been rejected by any other state guaranty fund on the grounds that the insured’s net worth is greater than that allowed under that state’s guaranty fund or liquidation law, except this exclusion from the definition of covered claim shall not apply to employers who, prior to April 30, 2004, entered into an agreement with the corporation preserving the employer’s right to seek coverage of claims rejected by another state’s guaranty fund; or any return of premium resulting from a policy that was not in force on the date of the final order of liquidation. Member insurers have no right of subrogation against the insured of any insolvent insurer. This provision shall be applied retroactively to cover claims of an insolvent self-insurance fund resulting from accidents or losses incurred prior to January 1, 1994, regardless of the date the petition in circuit court was filed alleging insolvency and the date the court entered an order appointing a receiver.

Section 39. Section 634.1815, Florida Statutes, is created to read:

634.1815 Rebating; when allowed.—

(1) No salesperson shall rebate any portion of his or her commission except as follows:

(a) The rebate shall be available to all consumers in the same actuarial class.

(b) The rebate shall be in accordance with a rebating schedule filed by the salesperson with the service agreement company issuing the service agreement to which the rebate applies. The service agreement company shall maintain a copy of all rebating schedules for a period of 3 years.

(c) The rebating schedule shall be uniformly applied so all consumers who purchase the same service agreement through the salesperson for the same coverage shall receive the same percentage rebate.

(d) The rebate schedule shall be prominently displayed in public view in the salesperson’s place of business, and a copy shall be made available to consumers on request at no charge.

(e) The age, sex, place of residence, race, nationality, ethnic origin, marital status, or occupation of the consumer shall not be used in determining the percentage of the rebate or whether a rebate is available.

(2) No rebate shall be withheld or limited in amount based on factors which are unfairly discriminatory.

(3) No rebate shall be given which is not reflected on the rebate schedule.

(4) No rebate shall be refused or granted based upon the purchase of or failure to purchase collateral business.

Section 40. Section 634.3205, Florida Statutes, is created to read:

634.3205 Rebating; when allowed.—

(1) No sales representative shall rebate any portion of his or her commission except as follows:

(a) The rebate shall be available to all consumers in the same actuarial class.

(b) The rebate shall be in accordance with a rebating schedule filed by the sales representative with the home warranty association issuing the home warranty to which the rebate applies. The home warranty association shall maintain a copy of all rebating schedules for a period of 3 years.

(c) The rebating schedule shall be uniformly applied so all consumers who purchase the same home warranty through the sales representative for the same coverage shall receive the same percentage rebate.

(d) *The rebate schedule shall be prominently displayed in public view in the sales representative's place of business, and a copy shall be made available to consumers on request at no charge.*

(e) *The age, sex, place of residence, race, nationality, ethnic origin, marital status, or occupation of the consumer shall not be used in determining the percentage of the rebate or whether a rebate is available.*

(2) *No rebate shall be withheld or limited in amount based on factors which are unfairly discriminatory.*

(3) *No rebate shall be given which is not reflected on the rebate schedule.*

(4) *No rebate shall be refused or granted based upon the purchase of or failure to purchase collateral business.*

Section 41. Subsection (8) is added to section 634.406, Florida Statutes, to read:

634.406 Financial requirements.—

(8) *An association licensed under this part and holding no other license under part I or part II of this chapter is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:*

(a) *The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least \$100 million and provides the office with the following:*

1. *A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be \$100 million and a quarterly written certification to the office that such entity continues to maintain the net worth required under this paragraph.*

2. *The association's, or its parent corporation's, Form 10K, Form 10Q, or Form 20F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.*

*Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part. An association or parent corporation demonstrating compliance with subparagraph 1. and subparagraph 2. must maintain outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service.*

(b) *If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following provisions must be met:*

1. *The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the office. No cancellation, termination, or modification of the guarantee shall become effective unless the parent corporation provides the office written notice at least 90 days before the effective date of the cancellation, termination, or modification and the office approves the request in writing. Prior to the effective date of cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, including whether the association will meet the requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section. If the association or parent corporation does not demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, it shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.*

2. *The association must maintain at all times net assets of at least \$750,000.*

Section 42. Section 634.4225, Florida Statutes, is created to read:

634.4225 Rebating; when allowed.—

(1) *No sales representative shall rebate any portion of his or her commission except as follows:*

(a) *The rebate shall be available to all consumers in the same actuarial class.*

(b) *The rebate shall be in accordance with a rebating schedule filed by the sales representative with the association issuing the service warranty to which the rebate applies. The association shall maintain a copy of all rebating schedules for a period of 3 years.*

(c) *The rebating schedule shall be uniformly applied so all consumers who purchase the same service warranty through the sales representative for the same coverage shall receive the same percentage rebate.*

(d) *The rebate schedule shall be prominently displayed in public view in the sales representative's place of business, and a copy shall be made available to consumers on request at no charge.*

(e) *The age, sex, place of residence, race, nationality, ethnic origin, marital status, or occupation of the consumer shall not be used in determining the percentage of the rebate or whether a rebate is available.*

(2) *No rebate shall be withheld or limited in amount based on factors which are unfairly discriminatory.*

(3) *No rebate shall be given which is not reflected on the rebate schedule.*

(4) *No rebate shall be refused or granted based upon the purchase of or failure to purchase collateral business.*

Section 43. Subsection (4) is added to section 627.4133, Florida Statutes, to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(4) *Notwithstanding the provisions of s. 440.42(3), if cancellation of a policy providing coverage for workers' compensation and employer's liability insurance is requested by the insured, such cancellation shall be effective on the date the carrier sends the notice of cancellation to the insured.*

And the title is amended as follows:

On page 2, line(s) 3, after the semicolon: insert: amending s. 626.2815, F.S.; deleting certain minimum continuing education requirements; amending s. 626.015, F.S.; defining the term "personal lines agent"; amending s. 626.022, F.S.; providing for application; amending s. 626.241, F.S.; limiting the scope of personal lines agent examinations; amending s. 626.311, F.S.; limiting the types of business that may be transacted by personal lines agents; amending s. 626.727, F.S.; providing that certain provisions apply to personal lines agents; amending s. 626.732, F.S.; revising certain education and experience requirements for personal lines agents; amending s. 626.747, F.S.; requiring branch agencies to have certain licensed agents at each location; amending s. 627.351, F.S.; providing that certain employees of the Citizens' Property Insurance Corporation need not be licensed as agents; providing that the act does not require the Department of Financial Services to begin issuing certain licenses by the effective date of the act, under specified conditions; amending s. 626.321, F.S.; limiting the types of business that may be transacted by personal lines agents; amending s. 627.0915, F.S.; providing for notice by insurers to employers of the availability of premium discounts where drug free workplace programs are used; authorizing the Financial Services Commission to adopt rules; amending s. 628.709, F.S.; revising membership criteria for mutual insurance holding companies relating to policyholders of subsidiary insurance companies; amending s. 631.021, F.S.; authorizing certain domiciliary courts to exercise exclusive jurisdiction over certain persons under certain circumstances; specifying the Circuit Court of Leon County as having exclusive jurisdiction over certain proceedings and claims; amending s. 631.041, F.S.; entitling the estates of certain injured insurers to actual damages; authorizing a receivership court to impose additional sanctions; amending s. 631.0515, F.S.; subjecting certain managing general agents or holding companies to court jurisdiction under certain circum-

stances; amending s. 631.141, F.S.; specifying certain expenses as administrative and recoverable by a receiver in certain proceedings; amending s. 631.205, F.S.; specifying that entry of certain orders does not constitute anticipatory breach of certain contracts or serve as grounds for certain adverse contract actions by a reinsurer; creating s. 631.206, F.S.; voiding certain contractual arbitration provisions by insurers in receivership; specifying a replacement arbitration provision; amending s. 631.261, F.S.; voiding certain transfers or liens made by certain persons prior to certain delinquency proceedings; specifying a criterion for making certain transfers; amending ss. 631.262 and 631.263, F.S.; specifying a criterion for making certain transfers; amending ss. 631.54 and 631.904, F.S.; revising the definition of covered claim; excluding certain claims rejected by another state's guaranty fund under certain circumstances; providing an exception; denying member insurers any right to indemnification or contribution sought through third parties; creating s. 634.1815, F.S.; providing conditions under which a salesperson of a motor vehicle service agreement company may rebate his or her commission; creating s. 634.3205, F.S.; providing conditions under which a sales representative of a home warranty association may rebate his or her commission; amending s. 634.406, F.S.; providing conditions under which a service warranty association is exempt from certain premium reserve and liability insurance requirements and may allow premiums to exceed certain limits; creating s. 634.4225, F.S.; providing conditions under which a sales representative of a service warranty association may rebate his or her commission; amending s. 627.4133, F.S.; providing for an effective date of certain policy cancellations by insureds;

**House Amendment 2 (880001)(with title amendment)—**

On page 16, between line(s) 3 and 4, insert:

Section 15. Subsection (1) of section 626.641, Florida Statutes, is amended to read:

**626.641 Duration of suspension or revocation.—**

(1) The department or office shall, in its order suspending a license or appointment or in its order suspending the eligibility of a person to hold or apply for such license or appointment, specify the period during which the suspension is to be in effect; but such period shall not exceed 2 years. The license, appointment, or eligibility shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department or office, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license, appointment, or eligibility which has been suspended shall not be reinstated except upon request for such reinstatement *and, in the case of a second suspension, completion of continuing education courses prescribed and approved by the department or office*; but the department or office shall not grant such reinstatement if it finds that the circumstance or circumstances for which the license, appointment, or eligibility was suspended still exist or are likely to recur.

Section 16. For the purpose of incorporating the amendment to section 626.641, Florida Statutes, in a reference thereto, paragraph (a) of subsection (4) of section 626.935, Florida Statutes, is reenacted to read:

**626.935 Suspension, revocation, or refusal of surplus lines agent's license.—**

(4) The following sections also apply, to the extent so applicable, as to surplus lines agents:

(a) Section 626.641.

And the title is amended as follows:

On page 2, line(s) 3, insert after the semicolon: amending s. 626.641, F.S.; requiring continuing education courses for reinstatement of a license, appointment, or eligibility after a second suspension; providing duties of the Department of Financial Services or the Office of Insurance Regulation of the Financial Services Commission; reenacting s. 626.935(4)(a), F.S., relating to the suspension, revocation, or refusal of a surplus lines agent's license, to incorporate the amendment to s. 626.641, F.S., in a reference thereto;

On motion by Senator Diaz de la Portilla, the Senate concurred in the House amendments.

**CS for SB 2588** 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—39**

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

**Nays—None**

Vote after roll call:

Yea—Argenziano

**BILLS ON THIRD READING**

Consideration of **CS for SB 2412** was deferred.

The Senate resumed consideration of—

**CS for CS for CS for SB 1174**—A bill to be entitled An act relating to the 2005 Planning and Development Study Commission; creating the commission; providing for its membership and requirements for voting; providing for appointments by the Governor, the President of the Senate, and the Speaker of the House of Representatives; requiring the Secretary of Transportation, the Secretary of Community Affairs, the Secretary of Environmental Protection, the Commissioner of Agriculture, and the executive director of the Fish and Wildlife Conservation Commission, or their designees, to serve as ex officio nonvoting members; requiring the commission to review the state's growth management programs and laws and make recommendations; requiring public hearings; requiring the Department of Community Affairs to provide staff support; providing for expiration of the commission; providing an effective date.

—which was previously considered April 27.

Senator Bennett moved the following amendment which was adopted by two-thirds vote:

**Amendment 1 (412454)**—On page 1, line 23 through page 2, line 25, delete those lines and insert:

Section 1. (1) *The 2005 Planning and Development Study Commission may be created. The commission shall be composed*

Senators Geller and Constantine offered the following amendment which was moved by Senator Geller and adopted by two-thirds vote:

**Amendment 2 (644804)(with title amendment)**—On page 2, between lines 23 and 24, insert:

Section 1. Part II of chapter 171, Florida Statutes, consisting of sections 171.20, 171.201, 171.202, 171.203, 171.204, 171.205, 171.206, 171.207, 171.208, 171.209, 171.21, 171.211, 171.212, and 171.213, is created to read:

**171.20 Popular name.**—*This part may be cited as the "Interlocal Service Boundary Agreement Act."*

**171.201 Legislative intent.**—*The Legislature intends to provide an alternative to part I of this chapter for local governments regarding the annexation of territory into a municipality and the subtraction of territory from the unincorporated area of the county. The principal goal of this part is to encourage local governments to jointly determine how to provide*

services to residents and property in the most efficient and effective manner while balancing the needs and desires of the community. This part is intended to establish a more flexible process for adjusting municipal boundaries and to address a wider range of annexation impacts. This part is intended to encourage intergovernmental coordination in planning, service delivery, and boundary adjustments and to reduce intergovernmental conflicts and litigation between local governments. It is the intent of this part to promote sensible boundaries that reduce the costs of local governments, avoid local service duplication, and increase political transparency and accountability. This part is intended to prevent inefficient service delivery and an insufficient tax base to support the delivery of those services.

171.202 Definitions.—As used in this part, the term:

(1) “Chief administrative officer” means the municipal administrator, municipal manager, county manager, county administrator, or other officer of the municipality, county, or independent special district who reports directly to the governing body of the local government.

(2) “Enclave” has the same meaning as provided in s. 171.031(13).

(3) “Independent special district” means an independent special district, as defined in s. 189.403, which provides fire, emergency medical, water, wastewater, or stormwater services.

(4) “Initiating county” means a county that commences the process for negotiation of an interlocal service boundary agreement through the adoption of an initiating resolution.

(5) “Initiating local government” means a county, municipality, or independent special district that commences the process for negotiation of an interlocal service boundary agreement through the adoption of an initiating resolution.

(6) “Initiating municipality” means a municipality that commences the process for negotiation of an interlocal service boundary agreement through the adoption of an initiating resolution.

(7) “Initiating resolution” means a resolution adopted by a county, municipality, or independent special district which commences the process for negotiation of an interlocal service boundary agreement and which identifies the unincorporated area and other issues for discussion.

(8) “Interlocal service boundary agreement” means an agreement adopted under this part, between a county and one or more municipalities, which may include one or more independent special districts as parties to the agreement.

(9) “Invited municipality” means an initiating municipality and any other municipality designated as such in an initiating resolution or a responding resolution that invites the municipality to participate in the negotiation of an interlocal service boundary agreement.

(10) “Municipal service area” means one or more of the following as designated in an interlocal service boundary agreement:

(a) An unincorporated area that has been identified in an interlocal service boundary agreement for municipal annexation by a municipality that is a party to the agreement.

(b) An unincorporated area that has been identified in an interlocal service boundary agreement to receive municipal services from a municipality that is a party to the agreement or from the municipality’s designee.

(11) “Notified local government” means the county or a municipality, other than an invited municipality, that receives an initiating resolution.

(12) “Participating resolution” means the resolution adopted by the initiating local government and the invited local government.

(13) “Requesting resolution” means the resolution adopted by a municipality seeking to participate in the negotiation of an interlocal service boundary agreement.

(14) “Responding resolution” means the resolution adopted by the county or an invited municipality which responds to the initiating resolution and which may identify an additional unincorporated area or another issue for discussion, or both, and may designate an additional invited municipality.

(15) “Unincorporated service area” means one or more of the following as designated in an interlocal service boundary agreement:

(a) An unincorporated area that has been identified in an interlocal service boundary agreement and that may not be annexed without the consent of the county.

(b) An unincorporated area or incorporated area, or both, which have been identified in an interlocal service boundary agreement to receive municipal services from a county or its designee or an independent special district.

171.203 Interlocal service boundary agreement.—The governing body of a county and one or more municipalities or independent special districts within the county may enter into an interlocal service boundary agreement under this part. The governing bodies of a county, municipality, or an independent special district may develop a process for reaching an interlocal service boundary agreement which provides for public participation in a manner that meets or exceeds the requirements of subsection (11), or the governing bodies may use the process established in this section.

(1) A county, municipality, or an independent special district desiring to enter into an interlocal service boundary agreement shall commence the negotiation process by adopting an initiating resolution. The initiating resolution shall identify an unincorporated area or incorporated area, or both, to be discussed and the issues to be negotiated. The identified area shall be specified in the initiating resolution by a descriptive exhibit that includes, but need not be limited to, a map or legal description of the designated area. The issues for negotiation shall be listed in the initiating resolution and may include, but need not be limited to, the issues listed in subsection (6). An independent special district may initiate the interlocal service boundary agreement for the sole purpose of dissolving an independent special district.

(a) The initiating resolution of an initiating county must designate one or more invited municipalities. The initiating resolution of an initiating municipality may designate an invited municipality. The initiating resolution of an independent special district shall designate one or more invited municipalities and invite the county.

(b) An initiating county shall send the initiating resolution by United States certified mail to the chief administrative officer of every invited municipality and each other municipality within the county. An initiating municipality shall send the initiating resolution by United States certified mail to the chief administrative officer of the county, the invited municipality, if any, and each other municipality within the county.

(c) The initiating local government shall also send the initiating resolution to the chief administrative officer of each independent special district in the unincorporated area designated in the initiating resolution.

(2) Within 60 days after the receipt of an initiating resolution, the county or the invited municipality, as appropriate, shall adopt a responding resolution. The responding resolution may identify an additional unincorporated area or incorporated area, or both, for discussion and may designate additional issues for negotiation. The additional identified area, if any, shall be specified in the responding resolution by a descriptive exhibit that includes, but need not be limited to, a map or legal description of the designated area. The additional issues designated for negotiation, if any, shall be listed in the responding resolution and may include, but need not be limited to, the issues listed in subsection (6). The responding resolution may also invite an additional municipality to negotiate the interlocal service boundary agreement.

(a) Within 7 days after the adoption of a responding resolution, the responding county shall send the responding resolution by United States certified mail to the chief administrative officer of the initiating municipality, each invited municipality, if any, and the independent special district that received an initiating resolution.

(b) Within 7 days after the adoption of a responding resolution, an invited municipality shall send the responding resolution by United States certified mail to the chief administrative officer of the initiating county, each invited municipality, if any, and each independent special district that received an initiating resolution.

(c) An invited municipality that was invited by a responding resolution shall adopt a responding resolution in accordance with paragraph (b).

(d) Within 60 days after receipt of the initiating resolution, any independent special district that received an initiating resolution and that desires to participate in the negotiations shall adopt a resolution indicating that it intends to participate in the negotiation process for the interlocal service boundary agreement. Within 7 days after the adoption of the resolution, the independent special district shall send the resolution by United States certified mail to the chief administrative officer of the county, the initiating municipality, each invited municipality, if any, and each notified local government.

(3) A municipality within the county that is not an invited municipality may request participation in the negotiations for the interlocal service boundary agreement. Such a request shall be accomplished by adopting a requesting resolution within 60 days after receipt of the initiating resolution or within 10 days after receipt of the responding resolution. Within 7 days after adoption of the requesting resolution, the requesting municipality shall send the resolution by United States certified mail to the chief administrative officer of the initiating local government and each invited municipality. The county and the invited municipality shall consider whether to allow a requesting municipality to participate in the negotiations, and, if they agree, the county and the municipality shall adopt a participating resolution allowing the requesting municipality to participate in the negotiations.

(4) The county, the invited municipalities, the participating municipalities, if any, and the independent special districts, if any have adopted a resolution to participate, shall begin negotiations within 60 days after receipt of the responding resolution or a participating resolution, whichever occurs later.

(5) An invited municipality that fails to adopt a responding resolution shall be deemed to waive its right to participate in the negotiation process and shall be bound by an interlocal agreement resulting from such negotiation process, if any is reached.

(6) An interlocal service boundary agreement may address any issue concerning service delivery, fiscal responsibilities, or boundary adjustment. The agreement may include, but need not be limited to, provisions that:

- (a) Identify a municipal service area.
- (b) Identify an unincorporated service area.
- (c) Identify the local government responsible for the delivery or funding of the following services within the municipal service area or the unincorporated service area:
  1. Public safety.
  2. Fire, emergency rescue, and medical.
  3. Water and wastewater.
  4. Road ownership, construction, and maintenance.
  5. Conservation, parks, and recreation.
  6. Stormwater management and drainage.
- (d) Address other services and infrastructure not currently provided by an electric utility as defined by s. 366.02(2) or a natural gas transmission company as defined by s. 368.103(4).
- (e) Establish a process and schedule for annexation of an area within the designated municipal service area consistent with s. 171.205.

(f) Establish a process for land-use decisions consistent with part II of chapter 163, including those made jointly by the governing bodies of the county and the municipality, or allow a municipality to adopt land-use changes consistent with part II of chapter 163 for areas that are scheduled to be annexed within the term of the interlocal agreement, and allow an exemption from the twice-per-year limitation applicable to changes to the comprehensive plan under s. 163.3187.

(g) Address other issues concerning service delivery, including the transfer of services and infrastructure and the fiscal compensation to one county, municipality, or independent special district from another county, municipality, or independent special district.

(h) Provide for the joint use of facilities and the colocation of services.

(i) Include a requirement for a report to the county of the municipality's planned service delivery, as provided in s. 171.042, or as otherwise determined by agreement.

(7) If the interlocal service boundary agreement addresses land use planning responsibilities, the agreement must also establish the procedures for the preparation and adoption of comprehensive plan amendments, for the administration of land development regulations, and for the issuance of development orders.

(8) Each local government that is a party to the interlocal service boundary agreement shall amend the intergovernmental coordination element of its comprehensive plan, as defined in s. 163.3177(6)(h)1., no later than 6 months following entry of the interlocal service boundary agreement consistent with s. 163.3177(6)(h)1. Plan amendments required by this subsection are exempt from the twice-per-year limitation under s. 163.3187.

(9) An affected person for the purpose of challenging a comprehensive plan amendment required by paragraph (6)(f) includes persons owning real property, residing, or owning or operating a business within the boundaries of the municipal service area and owners of real property abutting real property within the municipal service area that is the subject of the comprehensive plan amendment in addition to those affected persons who would have standing under s. 163.3184.

(10)(a) A municipality that is a party to an interlocal service boundary agreement that identifies an unincorporated area for municipal annexation under s. 171.202(10)(a) shall adopt a municipal service area as an amendment to its comprehensive plan to address future possible municipal annexation. The state land planning agency shall review the amendment for compliance with part II of chapter 163.

1. A municipal service area must contain:
  - a. A boundary map of the municipal service area.
  - b. Population projections for the area.
  - c. Data and analysis supporting the provision of public facilities for the area.
- (b) This part shall not authorize the state land planning agency to review, evaluate, determine, approve or disapprove a municipal ordinance relating to municipal annexation or contraction.

A municipality or county may consider the adoption of any comprehensive plan amendment required by this subsection without regard to the provisions of s. 163.3187(1) regarding the frequency of adoption of amendments to the comprehensive plan.

(10) An interlocal service boundary agreement may be for a term of 20 years or less. The interlocal service boundary agreement shall also include a provision requiring periodic review. The interlocal service boundary agreement shall require renegotiations to begin at least 18 months before its termination date.

(11) No earlier than 6 months after the commencement of negotiations, either of the initiating local governments or both, the county, or the invited municipality may declare an impasse in the negotiations and seek a resolution of the issues under ss. 164.1053-164.1057. If the local governments fail to agree at the conclusion of the process under chapter 164, the local governments shall hold a joint public hearing on the issues raised in the negotiations.

(12) When the local governments have reached an interlocal service boundary agreement, the county and the municipality shall adopt the agreement by ordinance under s. 166.041 or s. 125.66, respectively. An independent special district, if it consents to the agreement, shall adopt the agreement by final order, resolution, or other method consistent with its charter. The interlocal service boundary agreement shall take effect on the day specified in the agreement or, if there is no date, upon adoption by the county or the invited municipality, whichever occurs later. Nothing

in this part shall prohibit a county or municipality from adopting an interlocal service boundary agreement without the consent of an independent special district.

(13) For a period of 6 months following the failure of the local governments to consent to an interlocal service boundary agreement, the initiating local government may not initiate the negotiation process established in this section to require the responding local government to negotiate an agreement concerning the same identified unincorporated area and the same issues that were specified in the failed initiating resolution.

(14) This part does not authorize one local government to require another local government to enter into an interlocal service boundary agreement. However, when the process for negotiating an interlocal service boundary agreement is initiated, the local governments shall negotiate in good faith to the conclusion of the process established in this section.

(15) This section authorizes local governments to simultaneously engage in negotiating more than one interlocal service boundary agreement, notwithstanding that separate negotiations concern similar or identical unincorporated areas and issues.

(16) Elected local government officials are encouraged to participate actively and directly in the negotiation process for developing an interlocal service boundary agreement.

(17) This part does not impair any existing franchise agreement without the consent of the franchisee. A municipality or county shall retain all existing authority, if any, to negotiate a franchise agreement with any private service provider for use of public rights-of-way or the privilege of providing a service.

(18) This part does not impair any existing contract without the consent of the parties.

171.204 Prerequisites to annexation under this part.—The interlocal service boundary agreement may describe the character of land that may be annexed and may provide that the restrictions on the character of land that may be annexed pursuant to part I are not restrictions on land that may be annexed pursuant to this part. As determined in the interlocal service boundary agreement, any character of land may be annexed, including, but not limited to, an annexation of land not contiguous to the boundaries of the annexing municipality, an annexation that creates an enclave, an annexation where the annexed area is not reasonably compact; provided, however, such area shall meet the definition of urban in character as defined in s. 171.031(8). The interlocal service boundary agreement may not allow for annexation of land within a municipality that is not a party to the agreement or of land that is within another county.

171.205 Consent requirements for annexation of land under this part.—Notwithstanding part I, an interlocal service boundary agreement may provide a process for annexation consistent with this section or with part I.

(1) For all or a portion of the area within a designated municipal service area, the interlocal service boundary agreement may provide a flexible process for securing the consent of the registered voters who reside in the area proposed to be annexed, or property owners, or both, for annexation of property within a municipal service area, with notice to the registered voters who reside in the area proposed to be annexed, or property owners, or both, as required in the interlocal service boundary agreement. The interlocal service boundary agreement may not authorize annexation unless the consent requirements of part I are met or the annexation is consented to by one or more of the following:

(a) The municipality has received a petition for annexation from more than 50 percent of the registered voters who reside in the area proposed to be annexed.

(b) The annexation is approved by a majority of the registered voters who reside in the area proposed to be annexed voting in a referendum on the annexation.

(c) The municipality has received a petition for annexation from more than 50 percent of the property owners within the area proposed to be annexed.

171.206 Effect of interlocal service boundary area agreement on annexations.—

(1) An interlocal service boundary agreement is binding on the parties to the agreement, and a party may not take any action that violates the interlocal service boundary agreement.

(2) Notwithstanding part I, without consent of the county and the affected municipality by resolution, a county or an invited municipality may not take any action that violates the interlocal service boundary agreement.

(3) If the independent special district that participated in the negotiation process pursuant to s. 171.203(2)(d) does not consent to the interlocal service boundary agreement and a municipality annexes an area within the independent special district, the municipality may consent to allowing the independent special district to receive ad valorem tax revenue or the independent special district may seek compensation pursuant to s. 171.093.

171.207 Transfer of powers.—This part is an alternative provision otherwise provided by law, as authorized in s. 4, Art. VIII of the State Constitution, for any transfer of power resulting from an interlocal service boundary agreement for the provision of services or the acquisition of public facilities entered into by a county, municipality, independent special district, or other entity created pursuant to law.

171.208 Municipal extraterritorial power.—This part authorizes a municipality to exercise extraterritorial powers that include, but are not limited to, the authority to provide services and facilities within the unincorporated area or within the territory of another municipality as provided within an interlocal service boundary agreement. This power is in addition to other municipal powers that otherwise exist.

171.209 County incorporated area power.—As provided in an interlocal service boundary agreement, this part authorizes a county to exercise powers within a municipality that include, but are not limited to, the authority to provide services and facilities within the territory of a municipality. This power is in addition to other county powers that otherwise exist.

171.21 Effect of part on interlocal agreement and county charter.—A joint planning agreement, a charter provision adopted under s. 171.044(4), or any other interlocal agreement between local governments including a county, municipality, or independent special district is not affected by this part; however, the county, municipality or independent special district may avail themselves of this part, which may result in the repeal or modification of a joint planning agreement or other interlocal agreement.

171.211 Interlocal service boundary agreement presumed valid and binding.—

(1) If there is litigation over the terms, conditions, construction, or enforcement of an interlocal service boundary agreement, the agreement shall be presumed valid, and the challenger has the burden of proving its invalidity.

(2) Notwithstanding part I, it is the intent of this part to authorize a municipality to enter into an interlocal service boundary agreement that enhances, restricts, or precludes annexations during the term of the agreement.

171.212 Disputes regarding construction and effect of an interlocal service boundary agreement.—If there is a question or dispute about the construction or effect of an interlocal service boundary agreement, a local government shall initiate and proceed through the conflict resolution procedures established in chapter 164. If there is a failure to resolve the conflict, no later than 30 days following the conclusion of the procedures established in chapter 164, the local government may file an action in circuit court. For purposes of this section, the term "local government" means a party to the interlocal service boundary agreement.

171.213 Citizen petition initiative process for enclaves.—

(1) If an interlocal service boundary agreement is not approved by the participating local governments, the registered voters or the property owners within an enclave that was identified in the requesting resolution by the initiating local government or in a responding resolution by a

participating local government may petition a municipality for annexation or to initiate the interlocal service boundary agreement process for their specific area.

(2) This section does not apply to any municipality having a population of 7,500 or fewer as of January 1, 2003, unless approved by a majority of the governing board of the municipality. This section does not apply to any municipality having a population greater than 7,500 as of January 1, 2003, if the proposed area to be annexed will increase the municipal population by more than 10 percent, unless approved by a majority of the governing board of the municipality. In the event that a municipality is petitioned under this section on two or more occasions, the total of the proposed area to be annexed may not increase the municipal population by more than 20 percent in any given year or 50 percent in a 5-year period, unless approved by a majority of the governing body of the municipality.

(a) The registered voters or the property owners within the area may initiate the petition no sooner than 270 days after the joint public hearing required in s. 171.203(11). The registered voters or the property owners of the area may initiate the interlocal service boundary agreement process by notifying a municipality of one of the following:

1. They have obtained the consent of 50 percent or more of the registered voters who reside in the enclave;
2. They have obtained the consent of 50 percent of the property owners within the enclave;
3. The board of directors of a condominium association as defined in s. 718.103(2) has approved a resolution and the resolution has been approved by a majority of the members of the condominium association located within the enclave; or
4. The board of directors of a homeowners' association as defined in s. 720.301(7) has approved a resolution and the resolution has been approved by a majority of the members of the homeowners' association located within the enclave.

(b) Each registered voter or property owner signing a petition shall sign in ink or indelible pencil his or her name as registered in the office of the supervisor of elections or the property appraiser. Each petition shall contain appropriate lines for the signature, printed name, and street address of the signee and an oath, to be executed by a witness thereof, verifying the fact that the witness saw each person sign the petition, that each signature appearing thereon is the genuine signature of the person it purports to be, and that the petition was signed in the presence of the witness on the date indicated.

(c) Copies of the petition or resolution shall be submitted to the clerk of the municipality. If it is determined that the petition does not meet the requirements in this subsection, the clerk shall so certify to the governing body of the municipality and file the petition without taking further action, and the matter shall be at an end. No additional names may be added to the petition, and the petition may not be used in any other proceeding.

(d) If it is determined that the petition has met the requirements of this subsection, the clerk shall so certify to the governing body of the municipality. Upon certification, a municipality must notify the registered voters, property owners, condominium association, or homeowners' association within 30 days after the certification of the petition.

(e) Not later than 60 days after the certification of the petition initiated from the proposed area, a municipality shall notify the county of its intent to initiate annexation procedures established in s. 171.205(1). If it elects not to annex, a municipality shall notify and invite the county and any independent special district pursuant to the interlocal service boundary agreement process established in s. 171.203 to address issues related to the annexation of the enclave. If the municipality fails to initiate annexation or the interlocal service boundary agreement process within 60 days, the registered voters, property owners, condominium association, or homeowners' association may petition the county to initiate the interlocal agreement process for the enclave.

(f) If the participating local governments fail to reach an agreement, the board of directors of a condominium association or homeowners' association within the proposed area may request a dispute resolution process that provides for an orderly, speedy, and final resolution of the dispute.

(3) The local governments may adopt an interlocal dispute resolution agreement that provides a dispute resolution process. If the local governments do not adopt an interlocal dispute resolution agreement, they must use the following dispute resolution process:

(a) A county, municipality, condominium association, or homeowners' association may file a petition seeking arbitration that states with particularity the issue in dispute, suggests a proposed resolution, and states the reasons supporting the resolution.

(b) Notwithstanding s. 120.569, the petition shall be filed with the Division of Administrative Hearings, which shall, immediately upon filing, forward copies to the other local government that is a party. Within 10 days after receiving a complete petition, the division director shall assign an administrative law judge as arbitrator, who shall conduct an arbitration hearing within 90 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties or for good cause shown.

(c) Within 90 days after the arbitration hearing, the arbitrator shall issue a written decision and state the reasons for the decision in writing. The division shall immediately transmit a copy of the decision to the county, the municipality, and any independent special district.

(d) The evidentiary standards shall be as provided in ss. 120.569(2)(g) and 120.57(1)(c).

(e) This subsection does not preclude settlement by mutual agreement of the parties at any time.

(f) The arbitrator shall consider the following factors:

1. The preference of the residents and property owners in the enclave proposed for annexation.
2. The fiscal effects of boundary adjustments, including the effect of the annexation of the enclave on the ability of the county, the municipality, and any independent special district to provide services and facilities to the area proposed to be annexed, the remainder of the unincorporated area, and the incorporated area of the municipality.
3. The current level-of-service standards of the infrastructure and the potential fiscal impact on the municipality which may result from annexation of the enclave.
4. The reduction in the value or use of infrastructure owned by the county or an independent special district that may result from annexation of the enclave.
5. The commonality of interests among the residents and property owners of the enclave proposed for annexation and the adjacent incorporated area.
6. The effects of the proposed annexation on the efficiency and effectiveness of urban service delivery.

7. Whether the area proposed for annexation meets the criteria in s. 171.031(13).

8. The intent of the Legislature as expressed in this part.

(g) The arbitrator shall:

1. Determine whether the enclave should remain unincorporated or be annexed. If the arbitrator finds that the enclave should be annexed, the annexation must be approved by a majority of the registered voters who reside in the enclave.
2. Determine service delivery responsibilities of the county, municipality, and any independent special district.
3. Determine fiscal compensation issues, including requiring a single payment or payment over a term of years by one of the parties to ensure that fiscal responsibilities for providing urban services can be met.

(h) Arbitration hearings shall be conducted as provided by ss. 120.569 and 120.57, except that the arbitrator's order shall be transmitted to the governmental entities, which have 45 days to:

- 1. Accept the findings and enter into an agreement based upon the award;
- 2. Negotiate and enter into an agreement that differs from the award; or
- 3. File an action rejecting the award under s. 684.22 to set aside the award or enforce it.

All subsequent proceedings shall be governed by part III of chapter 684.

(i) The Division of Administrative Hearings may adopt rules for arbitration proceedings under this section.

Section 2. Subsection (2) of section 171.042, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

171.042 Prerequisites to annexation.—

(2) Not fewer than 15 days prior to commencing the annexation procedures under s. 171.0413, the governing body of the municipality shall file a copy of the report required by this section with the board of county commissioners of the county wherein the municipality is located. The notice provision provided in this subsection may be the basis for a cause of action invalidating the annexation.

(3) Notice shall be provided by the municipality to the affected residents within the proposed area to be annexed.

Section 3. Subsection (6) of section 171.044, Florida Statutes, is amended to read:

171.044 Voluntary annexation.—

(6) Not fewer than 10 days prior to ~~upon~~ publishing or posting the ordinance notice required under subsection (2), the governing body of the municipality must provide a copy of the notice, via certified mail, to the board of the county commissioners of the county wherein the municipality is located. The notice provision provided in this subsection ~~shall not be the basis for a~~ cause of action ~~invalidating~~ challenging the annexation.

Section 4. Section 171.094, Florida Statutes, is created to read:

171.094 Effect of interlocal service boundary agreements adopted under part II on annexations under this part.

(1) An interlocal service boundary agreement entered into pursuant to part II is binding on the parties to the agreement and a party may not take any action that violates the interlocal service boundary agreement.

(2) Notwithstanding any other provision of this part, without the consent of the county, the affected municipality or affected independent special district by resolution, a county, an invited municipality or independent special district may not take any action that violates an interlocal service boundary agreement.

Section 5. Section 171.081, Florida Statutes, is amended to read:

171.081 Appeal on annexation or contraction.—

(1) ~~No later than 30 days following the passage of an annexation or contraction ordinance,~~ Any party affected who believes that he or she will suffer material injury by reason of the failure of the municipal governing body to comply with the procedures set forth in this chapter for annexation or contraction or to meet the requirements established for annexation or contraction as they apply to his or her property may file a petition in the circuit court for the county in which the municipality or municipalities are located seeking review by certiorari. *The action may be initiated at the party's option either within 30 days following the passage of the annexation or contraction ordinance or within 30 days following the completion of the dispute resolution process in subsection (2).* In any action instituted pursuant to this section, the complainant, should he or she prevail, shall be entitled to reasonable costs and attorney's fees.

(2) If the affected party is a governmental entity, no later than 30 days following the passage of an annexation or contraction ordinance, the governmental entity must initiate and proceed through the conflict resolution procedures established in chapter 164. If there is a failure to

resolve the conflict, no later than 30 days following the conclusion of the procedures established in chapter 164, the governmental entity that initiated the conflict resolution procedures may file a petition in the circuit court for the county in which the municipality or municipalities are located seeking review by certiorari.

Section 6. Section 164.1058, Florida Statutes, is amended to read:

164.1058 Penalty.—If a primary conflicting governmental entity ~~which has received notice of intent to initiate the conflict resolution procedure pursuant to this act~~ fails to participate in good faith in the conflict assessment meeting, mediation, or other remedies provided for in this act, ~~and the initiating governmental entity files suit and is the prevailing party in such suit,~~ the primary disputing governmental entity ~~that which failed to participate in good faith~~ shall be required to pay the attorney's fees and costs in that proceeding of the *prevailing primary conflicting* governmental entity ~~which initiated the conflict resolution procedure.~~

Section 7. *The Division of Statutory Revision is requested to designate sections 171.011-171.094, Florida Statutes, as part I of chapter 171, Florida Statutes, and sections 171.20-171.213, Florida Statutes, as created by this act, as part II of chapter 171, Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2-4, delete those lines and insert: An act relating to growth management; creating part II of ch. 171, F.S.; providing a popular name; providing legislative intent with respect to annexation and the coordination of services by local governments; providing definitions; providing for the creation of interlocal service boundary agreements by a county and one or more municipalities or independent special districts; specifying the procedures for initiating an agreement and responding to a proposal for agreements; identifying issues the agreement may address; requiring local governments that are a party to the agreement to amend their comprehensive plans; providing limitations on the review of certain ordinances; providing exception to the limitation on plan amendments; specifying those persons who may challenge a plan amendment required by the agreement; requiring that an agreement be adopted by resolution; providing prerequisites to annexation; providing a process for annexation; providing for the effect of an interlocal service boundary area agreement on the parties to the agreement; providing for a transfer of powers; authorizing a municipality to provide services within an unincorporated area or territory of another municipality; authorizing a county to exercise certain powers within a municipality; providing for the effect on interlocal agreements and county charters; providing a presumption of validity; providing a procedure to settle a dispute regarding an interlocal service boundary agreement; providing for a citizen petition initiative process; providing for application; providing procedures for annexation of enclaves; providing for dispute resolution agreements; providing responsibilities of an arbitrator; providing rulemaking authority to the Division of Administrative Hearings; amending s. 171.042, F.S.; revising the time period for filing of a report; providing for a cause of action to invalidate an annexation; requiring municipalities to provide notice of proposed annexation to certain persons; amending s. 171.044, F.S.; revising the time period for providing a copy of a notice; providing for a cause of action to invalidate an annexation; creating s. 171.094, F.S.; providing for the effect of interlocal service boundary agreements adopted under the act; amending s. 171.081, F.S.; requiring a governmental entity affected by annexation or contraction to initiate conflict resolution procedures under certain circumstances; amending s. 164.1058, F.S.; providing that a governmental entity that fails to participate in conflict resolution procedures shall be required to pay attorney's fees and costs under certain conditions; requesting the Division of Statutory Revision to designate parts I and II of ch. 171, F.S.; providing a commission may be created; providing for its membership and

On motion by Senator Bennett, **CS for CS for CS for SB 1174** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Mr. President	Aronberg	Bullard
Alexander	Atwater	Campbell
Argenziano	Bennett	Carlton

Clary	Haridopolos	Pruitt
Constantine	Hill	Saunders
Cowin	Klein	Sebesta
Crist	Lawson	Siplin
Dawson	Lee	Smith
Diaz de la Portilla	Lynn	Villalobos
Dockery	Margolis	Wasserman Schultz
Fasano	Miller	Webster
Garcia	Peaden	Wilson
Geller	Posey	Wise
Nays—1		
Jones		

Consideration of **CS for CS for SB 2842, CS for SB 244 and 1566, CS for SB 2302 and SB 2922** was deferred.

**HB 1751**—A bill to be entitled An act relating to International Certificate of Education programs; amending s. 1002.20, F.S.; adding programs to list of public school choice options; amending s. 1002.23, F.S.; adding programs to list of rigorous academic programs included in parent guide; amending s. 1007.22, F.S.; adding Advanced International Certificate of Education programs to acceleration mechanisms requiring postsecondary institution collaboration; amending s. 1007.261, F.S.; revising list of courses designated as advanced level fine arts courses; amending s. 1007.27, F.S.; providing an exemption from examination fees for students enrolled in the International General Certificate of Secondary Education Program; amending s. 1009.531, F.S.; providing additional course weights for Florida Bright Futures Scholarship Program eligibility determination; amending s. 1009.534, F.S.; revising Florida Academic Scholars award eligibility requirements to include students completing or receiving an Advanced International Certificate of Education curriculum or diploma; amending s. 1009.535, F.S.; revising Florida Medallion Scholars award eligibility requirements to include students completing an Advanced International Certificate of Education curriculum; amending s. 1011.62, F.S.; revising test score requirements necessary to generate funding to match current test scoring scale; providing formula for calculating additional full-time equivalent membership based on International General Certificate of Secondary Education examination scores and program completion; reenacting s. 1011.69(2), F.S., relating to equity in school-level funding, to incorporate the amendment to s. 1011.62, F.S., in a reference thereto; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Clary, **HB 1751** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

## RECESS

The President declared the Senate in recess at 11:55 a.m. to reconvene at 1:30 p.m.

## AFTERNOON SESSION

The Senate was called to order by the President at 2:11 p.m. A quorum present—40:

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

## BILLS ON THIRD READING, continued

On motion by Senator Bennett, by unanimous consent—

**CS for CS for SB 162**—A bill to be entitled An act relating to local government; amending s. 163.3167, F.S.; limiting the effect of judicial determinations concerning certain development orders pursuant to adopted land development regulations under the Local Government Comprehensive Planning and Land Development Regulation Act; providing an exception; providing for retroactive application; amending s. 163.3174, F.S.; allowing municipalities in highly populated urban charter counties with a population greater than a specified number to have the option to exercise exclusive land use planning authority, including over the unincorporated area of the county; providing that the land use authority includes platting, zoning, and the adoption and amendment of comprehensive plan; requiring the municipality to adopt a resolution approving the exercise of exclusive land use planning authority and to submit to a ballot question to the electorate; providing an effective date.

—as amended April 28 was taken up out of order and read the third time by title.

## MOTION

On motion by Senator Geller, the rules were waived to allow the following amendment to be considered:

Senator Geller moved the following amendment which was adopted by two-thirds vote:

**Amendment 1 (390240)(with title amendment)**—On page 2, line 15 through page 6, line 7, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 10-22, delete those lines and insert: application; providing an

On motion by Senator Bennett, **CS for CS for SB 162** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Mr. President	Crist	Lee
Alexander	Dawson	Lynn
Argenziano	Diaz de la Portilla	Margolis
Aronberg	Dockery	Miller
Atwater	Fasano	Peaden
Bennett	Garcia	Posey
Bullard	Geller	Pruitt
Campbell	Haridopolos	Saunders
Carlton	Hill	Sebesta
Clary	Jones	Siplin
Constantine	Klein	Smith
Cowin	Lawson	Villalobos

Wasserman Schultz Wilson Wise
Webster
Nays—None

On motion by Senator Fasano, by unanimous consent—

HB 1757—A bill to be entitled An act relating to display of flags in educational institutions; providing a popular name; amending s. 1000.06, F.S.; requiring the flag of the United States to be displayed in each classroom in public K-20 educational institutions; providing for procurement of flags; providing an effective date.

—was taken up out of order and read the third time by title.

On motion by Senator Fasano, HB 1757 was passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President Dawson Margolis
Alexander Diaz de la Portilla Miller
Argenziano Dockery Peaden
Aronberg Fasano Posey
Atwater Garcia Pruitt
Bennett Geller Saunders
Bullard Haridopolos Sebesta
Campbell Hill Siplin
Carlton Jones Wasserman Schultz
Clary Klein Webster
Constantine Lawson Wilson
Cowin Lee Wise
Crist Lynn

Nays—None

Votes Recorded:

April 30, 2004: Yea—Villalobos

On motion by Senator Miller, by unanimous consent—

HB 679—A bill to be entitled An act relating to sales representative contracts involving commissions; amending s. 686.201, F.S.; revising definitions; providing for application to certain persons as well as businesses; including services as well as products; providing for application to retail as well as wholesale transactions; increasing damages under certain actions for compliance; specifying nonapplication to certain licensed persons performing services within the scope of their license; providing an effective date.

—was taken up out of order and read the third time by title.

On motion by Senator Miller, HB 679 was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President Diaz de la Portilla Peaden
Alexander Dockery Posey
Argenziano Fasano Pruitt
Aronberg Garcia Saunders
Atwater Geller Sebesta
Bennett Haridopolos Siplin
Bullard Hill Smith
Campbell Jones Villalobos
Carlton Klein Wasserman Schultz
Clary Lawson Webster
Constantine Lee Wilson
Cowin Lynn Wise
Crist Margolis
Dawson Miller

Nays—None

On motion by Senator Saunders, by unanimous consent—

HB 1121—A bill to be entitled An act relating to health care providers; amending s. 766.1115, F.S.; revising definitions; providing qualifications for volunteer, uncompensated services; extending protection of sovereign immunity to free clinics as health care providers; requiring the Department of Health to adopt certain rules to specify methods for determination and approval of patient eligibility; providing requirements for such rules; defining the term “health care practitioner”; providing for waiver of biennial license renewal fees and fulfillment of a portion of continuing education hours for specified health care practitioners who provide services, without compensation, to low-income recipients as agents of governmental contractors; amending s. 381.00593, F.S.; providing that for purposes of the public school volunteer health care practitioner program, a licensed dietitian/nutritionist is a health care practitioner; providing an effective date.

—was taken up out of order and read the third time by title.

On motion by Senator Saunders, HB 1121 was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President Diaz de la Portilla Peaden
Alexander Dockery Posey
Argenziano Fasano Pruitt
Aronberg Garcia Saunders
Atwater Geller Sebesta
Bennett Haridopolos Siplin
Bullard Hill Smith
Campbell Jones Villalobos
Carlton Klein Wasserman Schultz
Clary Lawson Webster
Constantine Lee Wilson
Cowin Lynn Wise
Crist Margolis
Dawson Miller

Nays—None

On motion by Senator Lynn, by two-thirds vote HB 723 was withdrawn from the Committees on Banking and Insurance; Children and Families; Governmental Oversight and Productivity; Appropriations Subcommittee on Health and Human Services; and Appropriations.

On motion by Senator Lynn, the rules were waived and by two-thirds vote—

HB 723—A bill to be entitled An act relating to foster care services; amending s. 20.19, F.S.; prohibiting certain members of a community alliance from receiving funds from the Department of Children and Family Services or a community-based care lead agency; amending s. 409.1671, F.S.; providing additional requirements for an eligible lead community-based provider to compete for a privatization project; requiring contracts with eligible lead community-based providers to include certain standards; revising requirements for the department’s quality assurance program for privatized services; directing the Florida Coalition for Children, Inc., in consultation with the department, to develop a plan for a statewide risk pool for eligible lead community-based providers, their subcontractors, and certain providers that provide foster care and related services under contract with the department; deleting a requirement that the department develop a proposal; specifying the requirements of the plan; extending a plan submission deadline; revising the process for plan approval; directing the department to issue an interest-free loan upon approval of the plan; modifying the purposes of the community-based care risk pool; revising the purposes for which funding may be recommended to the Legislature; authorizing the risk pool to invest funds and retain interest; providing for payments upon a determination of insolvency; prohibiting payment of dividends to the risk pool members until repayment of the loan issued by the department and until the risk pool is actuarially sound and solvent; deleting a requirement for a performance bond; providing for the risk pool to be managed by the Florida Coalition for Children, Inc., or its designated contractor; specifying the manner in which nonmember entities may be authorized to contract with the department; authorizing the department

to require a bond; providing an exemption from state travel policies for lead community-based providers and their subcontractors; providing an effective date.

—a companion measure, was substituted for **CS for CS for CS for SB 1698** as amended and by two-thirds vote read the second time by title.

#### MOTION

On motion by Senator Lynn, the rules were waived to allow the following amendment to be considered:

Senator Lynn moved the following amendment which was adopted:

**Amendment 1 (801288)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (6) of section 20.19, Florida Statutes, is amended to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

#### (6) COMMUNITY ALLIANCES.—

(a) The department shall, in consultation with local communities, establish a community alliance of the stakeholders, community leaders, client representatives and funders of human services in each county to provide a focal point for community participation and governance of community-based services. An alliance may cover more than one county when such arrangement is determined to provide for more effective representation. The community alliance shall represent the diversity of the community.

(b) The duties of the community alliance shall include, but not necessarily be limited to:

1. Joint planning for resource utilization in the community, including resources appropriated to the department and any funds that local funding sources choose to provide.
2. Needs assessment and establishment of community priorities for service delivery.
3. Determining community outcome goals to supplement state-required outcomes.
4. Serving as a catalyst for community resource development.
5. Providing for community education and advocacy on issues related to delivery of services.
6. Promoting prevention and early intervention services.

(c) The department shall ensure, to the greatest extent possible, that the formation of each community alliance builds on the strengths of the existing community human services infrastructure.

(d) The initial membership of the community alliance in a county shall be composed of the following:

1. The district administrator.
2. A representative from county government.
3. A representative from the school district.
4. A representative from the county United Way.
5. A representative from the county sheriff's office.
6. A representative from the circuit court corresponding to the county.
7. A representative from the county children's board, if one exists.

(e) At any time after the initial meeting of the community alliance, the community alliance shall adopt bylaws and may increase the membership of the alliance to include the state attorney for the judicial circuit

in which the community alliance is located, or his or her designee, the public defender for the judicial circuit in which the community alliance is located, or his or her designee, and other individuals and organizations who represent funding organizations, are community leaders, have knowledge of community-based service issues, or otherwise represent perspectives that will enable them to accomplish the duties listed in paragraph (b), if, in the judgment of the alliance, such change is necessary to adequately represent the diversity of the population within the community alliance service districts.

(f) *A member of the community alliance, other than a member specified in paragraph (d), may not receive payment for contractual services from the department or a community-based care lead agency.*

(g) Members of the community alliances shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses, as provided in s. 112.061. Payment may also be authorized for preapproved child care expenses or lost wages for members who are consumers of the department's services and for preapproved child care expenses for other members who demonstrate hardship.

(h) Members of a community alliance are subject to the provisions of part III of chapter 112, the Code of Ethics for Public Officers and Employees.

(i) Actions taken by a community alliance must be consistent with department policy and state and federal laws, rules, and regulations.

(j) Alliance members shall annually submit a disclosure statement of services interests to the department's inspector general. Any member who has an interest in a matter under consideration by the alliance must abstain from voting on that matter.

(k) All alliance meetings are open to the public pursuant to s. 286.011 and the public records provision of s. 119.07(1).

Section 2. Paragraph (e) of subsection (1) and subsections (4), (7), and (8) of section 409.1671, Florida Statutes, as amended by section 27 of chapter 2003-399, Laws of Florida, are amended, paragraph (e) is added to subsection (3) of that section, and subsection (10) is added to that section, to read:

#### 409.1671 Foster care and related services; privatization.—

##### (1)

(e) As used in this section, the term "eligible lead community-based provider" means a single agency with which the department shall contract for the provision of child protective services in a community that is no smaller than a county. The secretary of the department may authorize more than one eligible lead community-based provider within a single county when to do so will result in more effective delivery of foster care and related services. To compete for a privatization project, such agency must have:

1. The ability to coordinate, integrate, and manage all child protective services in the designated community in cooperation with child protective investigations.

2. The ability to ensure continuity of care from entry to exit for all children referred from the protective investigation and court systems.

3. The ability to provide directly, or contract for through a local network of providers, all necessary child protective services. *Such agencies should directly provide no more than 35 percent of all child protective services provided.*

4. The willingness to accept accountability for meeting the outcomes and performance standards related to child protective services established by the Legislature and the Federal Government.

5. The capability and the willingness to serve all children referred to it from the protective investigation and court systems, regardless of the level of funding allocated to the community by the state, provided all related funding is transferred.

6. The willingness to ensure that each individual who provides child protective services completes the training required of child protective service workers by the Department of Children and Family Services.

7. The ability to maintain eligibility to receive all federal child welfare funds, including Title IV-E and IV-A funds, currently being used by the Department of Children and Family Services.

8. Written agreements with Healthy Families Florida lead entities in their community, pursuant to s. 409.153, to promote cooperative planning for the provision of prevention and intervention services.

9. A board of directors, of which at least 51 percent of the membership is comprised of persons residing in this state. Of the state residents, at least 51 percent must also reside within the service area of the lead community-based provider.

(3)

(e) Each contract with an eligible lead community-based provider must include all performance outcome measures established by the Legislature and that are under the control of the lead agency. The standards must be adjusted annually by contract amendment to enable the department to meet the legislatively-established statewide standards.

(4)(a) The department, in consultation with the community-based agencies that are undertaking the privatized projects, shall establish a quality assurance program for privatized services. The quality assurance program shall be based on standards established by the *Adoption and Safe Families Act* as well as by a national accrediting organization such as the Council on Accreditation of Services for Families and Children, Inc. (COA) or CARF—the Rehabilitation Accreditation Commission. The department may develop a request for proposal for such oversight. This program must be developed and administered at a statewide level. The Legislature intends that the department be permitted to have limited flexibility to use funds for improving quality assurance. To this end, the department may transfer up to 0.125 percent of the total funds from categories used to pay for these contractually provided services, but the total amount of such transferred funds may not exceed \$300,000 in any fiscal year. When necessary, the department may establish, in accordance with s. 216.177, additional positions that will be exclusively devoted to these functions. Any positions required under this paragraph may be established, notwithstanding ss. 216.262(1)(a) and 216.351. The department, in consultation with the community-based agencies that are undertaking the privatized projects, shall establish minimum thresholds for each component of service, consistent with standards established by the Legislature and the Federal Government. Each program operated under contract with a community-based agency must be evaluated annually by the department. The department shall, to the extent possible, use independent financial audits provided by the community-based care agency to eliminate or reduce the ongoing contract and administrative reviews conducted by the department. The department may suggest additional items to be included in such independent financial audits to meet the department's needs. Should the department determine that such independent financial audits are inadequate, then other audits, as necessary, may be conducted by the department. Nothing herein shall abrogate the requirements of s. 215.97. The department shall submit an annual report regarding quality performance, outcome measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, the minority leader of each house of the Legislature, and the Governor no later than January 31 of each year for each project in operation during the preceding fiscal year.

(b) The department shall use these findings in making recommendations to the Governor and the Legislature for future program and funding priorities in the child welfare system.

(7) The Florida Coalition for Children, Inc., in consultation with the department, shall develop a plan based on an independent actuarial study regarding the long-term use and structure of a statewide community-based care risk pool for the protection of eligible lead community-based providers, their subcontractors, and providers of other social services who contract directly with the department. The plan must also outline strategies to maximize federal earnings as they relate to the community-based care risk pool. At a minimum, the plan must allow for the use of federal earnings received from child welfare programs to be allocated to the community-based care risk pool by the department, which earnings are determined by the department to be in excess of the amount appropriated in the General Appropriations Act. The plan must specify the necessary steps to ensure the financial integrity and industry-standard risk management practices of the community-based care risk pool and the continued availability of funding from federal, state, and local sources. The

plan must also include recommendations that permit the program to be available to entities of the department providing child welfare services until full conversion to community-based care takes place. The final plan shall be submitted to the department and then to the Executive Office of the Governor and the Legislative Budget Commission for formal adoption before January 1, 2005. Upon approval of the plan by all parties, the department shall issue an interest-free loan that is secured by the cumulative contractual revenue of the community-based care risk pool membership, and the amount of the loan shall equal the amount appropriated by the Legislature for this purpose. The plan shall provide for a governance structure that assures the department the ability to oversee the operation of the community-based care risk pool at least until this loan is repaid in full.

(a) The purposes for which the community-based care risk pool shall be used include, but are not limited to:

1. Significant changes in the number or composition of clients eligible to receive services.
2. Significant changes in the services that are eligible for reimbursement.
3. Scheduled or unanticipated, but necessary, advances to providers or other cash-flow issues.
4. Proposals to participate in optional Medicaid services or other federal grant opportunities.
5. Appropriate incentive structures.
6. Continuity of care in the event of failure, discontinuance of service, or financial misconduct by a lead agency.
7. Payment for time-limited technical assistance and consultation to lead agencies in the event of serious performance or management problems.
8. Payment for meeting all traditional and nontraditional insurance needs of eligible members.
9. Significant changes in the mix of available funds.

(b) After approval of the plan in the 2004-2005 fiscal year and annually thereafter, the department may also request in its annual legislative budget request, and the Governor may recommend, that the funding necessary to carry out paragraph (a) be appropriated to the department. Subsequent funding of the community-based care risk pool shall be supported by premiums assessed to members of the community-based care risk pool on a recurring basis. The community-based care risk pool may invest and retain interest earned on these funds. In addition, the department may transfer funds to the community-based care risk pool as available in order to ensure an adequate funding level if the fund is declared to be insolvent and approval is granted by the Legislative Budget Commission. Such payments for insolvency shall be made only after a determination is made by the department or its actuary that all participants in the community-based care risk pool are current in their payments of premiums and that assessments have been made at an actuarially sound level. Such payments by participants in the community-based care risk pool may not exceed reasonable industry standards, as determined by the actuary. Money from this fund may be used to match available federal dollars. Dividends or other payments, with the exception of legitimate claims, may not be paid to members of the community-based care risk pool until the loan issued by the department is repaid in full. Dividends or other payments, with the exception of legitimate claims and other purposes contained in the approved plan, may not be paid to members of the community-based care risk pool unless, at the time of distribution, the community-based care risk pool is deemed actuarially sound and solvent. Solvency shall be determined by an independent actuary contracted by the department. The plan shall be developed in consultation with the Office of Insurance Regulation.

1. Such funds shall constitute partial security for contract performance by lead agencies and shall be used to offset the need for a performance bond. Subject to the approval of the plan, the community-based care risk pool shall be managed by the Florida Coalition for Children, Inc., or the designated contractors of the Florida Coalition for Children, Inc. Nonmembers of the community-based care risk pool may continue to contract with the department, but must provide a letter of credit equal to

one-twelfth of the annual contract amount in lieu of membership in the community-based care risk pool.

2. The department may separately require a bond to mitigate the financial consequences of potential acts of malfeasance, misfeasance, or criminal violations by the provider.

(7) The department, in consultation with existing lead agencies, shall develop a proposal regarding the long-term use and structure of a statewide shared earnings program which addresses the financial risk to eligible lead community-based providers resulting from unanticipated caseload growth or from significant changes in client mixes or services eligible for federal reimbursement. The recommendations in the statewide proposal must also be available to entities of the department until the conversion to community-based care takes place. At a minimum, the proposal must allow for use of federal earnings received from child welfare programs, which earnings are determined by the department to be in excess of the amount appropriated in the General Appropriations Act, to be used for specific purposes. These purposes include, but are not limited to:

- (a) Significant changes in the number or composition of clients eligible to receive services.
- (b) Significant changes in the services that are eligible for reimbursement.
- (c) Significant changes in the availability of federal funds.
- (d) Shortfalls in state funds available for eligible or ineligible services.
- (e) Significant changes in the mix of available funds.
- (f) Scheduled or unanticipated, but necessary, advances to providers or other cash flow issues.
- (g) Proposals to participate in optional Medicaid services or other federal grant opportunities.
- (h) Appropriate incentive structures.
- (i) Continuity of care in the event of lead agency failure, discontinuance of service, or financial misconduct.

The department shall further specify the necessary steps to ensure the financial integrity of these dollars and their continued availability on an ongoing basis. The final proposal shall be submitted to the Legislative Budget Commission for formal adoption before December 31, 2002. If the Legislative Budget Commission refuses to concur with the adoption of the proposal, the department shall present its proposal in the form of recommended legislation to the President of the Senate and the Speaker of the House of Representatives before the commencement of the next legislative session. For fiscal year 2003-2004 and annually thereafter, the Department of Children and Family Services may request in its legislative budget request, and the Governor may recommend, the funding necessary to carry out paragraph (i) from excess federal earnings. The General Appropriations Act shall include any funds appropriated for this purpose in a lump sum in the Administered Funds Program, which funds constitute partial security for lead agency contract performance. The department shall use this appropriation to offset the need for a performance bond for that year after a comparison of risk to the funds available. In no event shall this performance bond exceed 2.5 percent of the annual contract value. The department may separately require a bond to mitigate the financial consequences of potential acts of malfeasance, misfeasance, or criminal violations by the provider. Prior to the release of any funds in the lump sum, the department shall submit a detailed operational plan, which must identify the sources of specific trust funds to be used. The release of the trust fund shall be subject to the notice and review provisions of s. 216.177. However, the release shall not require approval of the Legislative Budget Commission.

(8) Notwithstanding the provisions of s. 215.425, all documented federal funds earned for the current fiscal year by the department and community-based agencies which exceed the amount appropriated by the Legislature shall be distributed to all entities that contributed to the excess earnings based on a schedule and methodology developed by the department and approved by the Executive Office of the Governor. Distribution shall be pro rata based on total earnings and shall be made only to those entities that contributed to excess earnings. Excess earnings of community-based agencies shall be used only in the service district in which they were earned. Additional state funds appropriated by

the Legislature for community-based agencies or made available pursuant to the budgetary amendment process described in s. 216.177 shall be transferred to the community-based agencies. The department shall amend a community-based agency's contract to permit expenditure of the funds. ~~The distribution program applies only to entities that were under privatization contracts as of July 1, 2002.~~

(10) The lead community-based providers and their subcontractors shall be exempt from state travel policies as set forth in s. 112.061(3)(a) for their travel expenses incurred in order to comply with the requirements of this section.

Section 3. Section 39.0016, Florida Statutes, is created to read:

39.0016 Education of abused, neglected, and abandoned children.—

(1) As used in this section, the term:

(a) "Children known to the department" means children who are found to be dependent or children in shelter care.

(b) "Department" means the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.

(2) The provisions of this section establish goals and not rights. This section does not require the delivery of any particular service or level of service in excess of existing appropriations. A person may not maintain a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents based upon this section becoming law or failure by the Legislature to provide adequate funding for the achievement of these goals. This section does not require the expenditure of funds to meet the goals established in this section except funds specifically appropriated for such purpose.

(3) The department shall enter into an agreement with the Department of Education regarding the education and related care of children known to the department. Such agreement shall be designed to provide educational access to children known to the department for the purpose of facilitating the delivery of services or programs to children known to the department. The agreement shall avoid duplication of services or programs and shall provide for combining resources to maximize the availability or delivery of services or programs.

(4) The department shall enter into agreements with district school boards or other local educational entities regarding education and related services for children known to the department who are of school age and children known to the department who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements shall include, but are not limited to:

(a) A requirement that the department shall:

1. Enroll children known to the department in school. The agreement shall provide for continuing the enrollment of a child known to the department at the same school, if possible, with the goal of avoiding disruption of education.

2. Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for child safety purposes.

3. Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child.

4. Notify the school district of the department's case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.

(b) A requirement that the district school board shall:

1. Provide the department with a general listing of the services and information available from the district school board, including, but not limited to, the current Sunshine State Standards, the Surrogate Parent

*Training Manual, and other resources accessible through the Department of Education or local school districts to facilitate educational access for a child known to the department.*

2. *Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department.*

3. *Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation.*

4. *Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.*

(c) *A requirement that the department and the district school board shall cooperate in accessing the services and supports needed for a child known to the department who has or is suspected of having a disability to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and assurances. Coordination of services for a child known to the department who has or is suspected of having a disability may include:*

1. *Referral for screening.*
2. *Sharing of evaluations between the school district and the department where appropriate.*
3. *Provision of education and related services appropriate for the needs and abilities of the child known to the department.*
4. *Coordination of services and plans between the school and the residential setting to avoid duplication or conflicting service plans.*
5. *Appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act, for educational purposes for a child known to the department who qualifies as soon as the child is determined to be dependent and without a parent to act for the child. The surrogate parent shall be appointed by the school district without regard to where the child known to the department is placed so that one surrogate parent can follow the education of the child known to the department during his or her entire time in state custody.*
6. *For each child known to the department 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff, to meet the requirements of the local school district for educational purposes.*

(5) *The department shall incorporate an education component into all training programs of the department regarding children known to the department. Such training shall be coordinated with the Department of Education and the local school districts. The department shall offer opportunities for education personnel to participate in such training. Such coordination shall include, but not be limited to, notice of training sessions, opportunities to purchase training materials, proposals to avoid duplication of services by offering joint training, and incorporation of materials available from the Department of Education and local school districts into the department training when appropriate. The department training components shall include:*

(a) *Training for surrogate parents to include how an ability to learn of a child known to the department is affected by abuse, abandonment, neglect, and removal from the home.*

(b) *Training for parents in cases in which reunification is the goal, or for preadoptive parents when adoption is the goal, so that such parents learn how to access the services the child known to the department needs and the importance of their involvement in the education of the child known to the department.*

(c) *Training for caseworkers and foster parents to include information on the right of the child known to the department to an education, the role of an education in the development and adjustment of a child known to the department, the proper ways to access education and related services for the child known to the department, and the importance and strategies for parental involvement in education for the success of the child known to the department.*

(d) *Training of caseworkers regarding the services and information available through the Department of Education and local school districts, including, but not limited to, the current Sunshine State Standards, the Surrogate Parent Training Manual, and other resources accessible through the Department of Education or local school districts to facilitate educational access for a child known to the department.*

Section 4. Paragraph (d) of subsection (3) of section 1002.22, Florida Statutes, is amended to read:

1002.22 Student records and reports; rights of parents and students; notification; penalty.—

(3) RIGHTS OF PARENT OR STUDENT.—The parent of any student who attends or has attended any public school, area technical center, or public postsecondary educational institution shall have the following rights with respect to any records or reports created, maintained, and used by any public educational institution in the state. However, whenever a student has attained 18 years of age, or is attending a postsecondary educational institution, the permission or consent required of, and the rights accorded to, the parents of the student shall thereafter be required of and accorded to the student only, unless the student is a dependent student of such parents as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954). The State Board of Education shall adopt rules whereby parents or students may exercise these rights:

(d) Right of privacy.—Every student shall have a right of privacy with respect to the educational records kept on him or her. Personally identifiable records or reports of a student, and any personal information contained therein, are confidential and exempt from the provisions of s. 119.07(1). A state or local educational agency, board, public school, technical center, or public postsecondary educational institution may not shall permit the release of such records, reports, or information without the written consent of the student's parent, or of the student himself or herself if he or she is qualified as provided in this subsection, to any individual, agency, or organization. However, personally identifiable records or reports of a student may be released to the following persons or organizations without the consent of the student or the student's parent:

1. *Officials of schools, school systems, technical centers, or public postsecondary educational institutions in which the student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent or student upon request.*
2. *Other school officials, including teachers within the educational institution or agency, who have legitimate educational interests in the information contained in the records.*
3. *The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or state or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable federal statutes and regulations of the United States Department of Education, or in applicable state statutes and rules of the State Board of Education.*

4. *Other school officials, in connection with a student's application for or receipt of financial aid.*

5. *Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and if such information will be destroyed when no longer needed for the purpose of conducting such studies.*

6. Accrediting organizations, in order to carry out their accrediting functions.

7. School readiness coalitions and the Florida Partnership for School Readiness in order to carry out their assigned duties.

8. For use as evidence in student expulsion hearings conducted by a district school board pursuant to the provisions of chapter 120.

9. Appropriate parties in connection with an emergency, if knowledge of the information in the student's educational records is necessary to protect the health or safety of the student or other individuals.

10. The Auditor General and the Office of Program Policy Analysis and Government Accountability in connection with their official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General and the Office of Program Policy Analysis and Government Accountability is confidential and exempt from the provisions of s. 119.07(1) and shall be protected in such a way as will not permit the personal identification of students and their parents by other than the Auditor General, the Office of Program Policy Analysis and Government Accountability, and their staff, and such personally identifiable data shall be destroyed when no longer needed for the Auditor General's and the Office of Program Policy Analysis and Government Accountability's official use.

11.a. A court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, upon the condition that the student and the student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

b. A person or entity pursuant to a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, upon the condition that the student, or his or her parent if the student is either a minor and not attending a postsecondary educational institution or a dependent of such parent as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

12. Credit bureaus, in connection with an agreement for financial aid that the student has executed, provided that such information may be disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained pursuant to this paragraph to any person.

13. Parties to an interagency agreement among the Department of Juvenile Justice, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and that support students in successfully completing their education. Information provided in furtherance of such interagency agreements is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of such programs and services, and as such is inadmissible in any court proceedings prior to a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.

14. *Consistent with the Family Educational Rights and Privacy Act, the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.*

This paragraph does not prohibit any educational institution from publishing and releasing to the general public directory information relating to a student if the institution elects to do so. However, no educational institution shall release, to any individual, agency, or organization that is not listed in subparagraphs 1.-14. ~~1.-13.~~, directory information relating to the student body in general or a portion thereof unless it is normally published for the purpose of release to the public in general.

Any educational institution making directory information public shall give public notice of the categories of information that it has designated as directory information with respect to all students attending the institution and shall allow a reasonable period of time after such notice has been given for a parent or student to inform the institution in writing that any or all of the information designated should not be released.

Section 5. This act shall take effect July 1, 2004.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to foster care services; amending s. 20.19, F.S.; prohibiting certain members of a community alliance from receiving funds from the Department of Children and Family Services or a community-based lead agency; amending s. 409.1671, F.S.; providing additional requirements for an eligible lead community-based provider to compete for a privatization project; requiring contracts with lead community-based providers to include certain standards; revising requirements for the department's quality assurance program for privatized services; directing the Florida Coalition for Children, Inc., to develop a plan for a statewide risk pool for community-based providers that provide foster care and related services under contract with the department or a lead community-based provider; deleting a requirement that the department develop a proposal; specifying the requirements of the plan; extending a submission deadline; revising the process for plan approval; directing the department to issue a loan upon approval of the plan; modifying the purposes of the risk pool; revising the purposes for which funding may be recommended to the Legislature; deleting provisions requiring the creation of a risk pool within the State Treasury; revising the requirements for operating the risk pool; authorizing the risk pool to invest funds and retain interest; providing for payments upon a determination of insolvency; prohibiting payment of dividends until repayment of the loan by the department and until the risk pool is actuarially sound; deleting a requirement for a performance bond; providing for the risk pool to be managed by the Florida Coalition for Children, Inc., or its designated contractor; specifying the manner by which nonmember entities may be authorized to contract with the department; providing an exemption from state travel policies for community-based providers and subcontractors; creating s. 39.0016, F.S., relating to the education of abused, neglected, and abandoned children; creating definitions; providing for interpretation of the act; requiring an agreement between the Department of Children and Family Services and the Department of Education; requiring agreements between the Department of Children and Family Services and district school boards or other local educational entities; specifying provisions of such agreements; requiring access to certain information; requiring education training components; amending s. 1002.22, F.S., relating to access to student records; authorizing the release of records to the Department of Children and Family Services or a community-based care lead agency; providing effective dates.

On motion by Senator Lynn, by two-thirds vote **HB 723** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Vote after roll call:

Yea—Campbell

**CS for SB 2448**—A bill to be entitled An act relating to public health; amending s. 17.41, F.S.; authorizing funds from the Tobacco Settlement Clearing Trust Fund to be disbursed to the Biomedical Research Trust Fund in the Department of Health; amending s. 20.43, F.S.; establishing the Officer of Women's Health Strategy in the Department of Health; establishing the Office of Minority Health in the Department of Health; designating the Division of Emergency Medical Services and Community Health Resources as the "Division of Emergency Medical Operations"; designating the Division of Information Resource Management as the "Division of Information Technology"; designating the Division of Health Awareness and Tobacco as the "Division of Health Access and Tobacco"; creating the Division of Disability Determinations; creating s. 381.04015, F.S.; providing legislative intent; providing the duties of the Officer of Women's Health Strategy; requiring an annual report to the Governor and Legislature with policy recommendations for implementing the Women's Health Strategy; requiring consideration of women's health issues and gender in state policy, planning, and budgeting; providing for responsibility and coordination; transferring and amending s. 216.341, F.S.; providing that certain positions within the Department of Health are exempt from a limitation on the number of authorized positions; amending s. 381.0011, F.S.; revising duties of the Department of Health; providing for a statewide injury prevention program; amending s. 381.006, F.S.; including within the department's environmental health program the function of investigating elevated levels of lead in blood; amending s. 381.0065, F.S., relating to onsite sewage treatment and disposal systems; revising a definition; deleting a requirement that the department make certain biennial reports to the Legislature; authorizing the department to require the submission of certain construction plans pursuant to adopted rule; continuing a requirement imposing a permit fee on new construction; amending s. 381.0072, F.S.; exempting certain schools, bars, and lounges from certification requirements for food service managers; creating s. 381.86, F.S.; establishing the Institutional Review Board within the Department of Health to review certain biomedical and behavioral research; providing for the membership of the board; authorizing board members to be reimbursed for per diem and travel expenses; authorizing the department to charge fees for the research oversight performed by the board; authorizing the department to adopt rules; amending s. 381.89, F.S.; authorizing the Department of Health to impose certain licensure fees on tanning facilities; amending s. 381.90, F.S.; revising the membership and reporting requirements of the Health Information Systems Council; amending s. 383.14, F.S.; authorizing the State Public Health Laboratory to release certain test results to a newborn's primary care physician; revising certain testing requirements for newborns; increasing the membership of the Genetics and Newborn Screening Advisory Council; amending s. 383.402, F.S.; revising the criteria under which the state and local child abuse death review committees are required to review the death of a child; amending s. 391.021, F.S.; redefining the term "children with special health care needs" for purposes of the Children's Medical Services Act; amending ss. 391.025, 391.029, 391.035, and 391.055, F.S., relating to the Children's Medical Services program; revising the application requirements for the program; revising requirements for eligibility for services under the program; authorizing the department to contract with out-of-state health care providers to provide services to program participants; authorizing the department to adopt rules; requiring that certain newborns with abnormal screening results be referred to the program; amending s. 391.302, F.S.; revising certain definitions relating to developmental evaluation and intervention services; amending s. 391.303, F.S.; revising certain requirements for providing those services; amending s. 391.308, F.S.; creating the Infants and Toddlers Early Intervention Program within the Department of Health; requiring the department, jointly with the Department of Education, to prepare grant applications and to include certain services under the program; amending s. 395.003, F.S.; requiring a report by the Agency for Health Care Administration regarding the licensure of emergency departments located off the premises of hospitals; prohibiting the issuance of licenses for such departments before July 1, 2005; amending s. 395.1027, F.S.; authorizing certain licensed facilities to release patient information to regional poison control centers; amending s. 395.404, F.S.; revising reporting requirements to the trauma registry data system maintained by the Department of Health; providing that hospitals, pediatric trauma referral centers, and trauma centers subject to reporting trauma registry data to the department are required to comply with other duties concerning the moderate-to-severe brain or spinal cord injury registry maintained by the department; correcting references to the term "trauma center"; amending s. 400.9905, F.S.; revising the definitions of "clinic" and "medical director" and defining "chief financial officer," "mobile clinic," and "portable equipment provider" for purposes of the Health Care Clinic Act; providing that

certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 400.991, F.S.; requiring each mobile clinic to obtain a health care clinic license; requiring a portable equipment provider to obtain a health care clinic license for a single office and exempting such a provider from submitting certain information to the Agency for Health Care Administration; revising the date by which an initial application for a health care clinic license must be filed with the agency; revising the definition of "applicant"; amending s. 400.9935, F.S.; assigning responsibilities for ensuring billing; providing that an exemption from licensure is not transferable; providing that the agency may charge a fee of applicants for certificates of exemption; providing that the agency may deny an application or revoke a license under certain circumstances; amending s. 400.995, F.S.; providing that the agency may deny, revoke, or suspend specified licenses and impose fines for certain violations; providing that a temporary license expires after a notice of intent to deny an application is issued by the agency; providing that persons or entities made exempt under the act and which have paid the clinic licensure fee to the agency are entitled to a partial refund from the agency; providing that certain persons or entities are not in violation of part XIII of ch. 400, F.S., due to failure to apply for a clinic license by a specified date; providing that certain payments may not be denied to such persons or entities for failure to apply for or obtain a clinic license before a specified date; amending s. 400.9905, F.S.; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 401.211, F.S.; providing legislative intent with respect to a statewide injury-prevention program; creating s. 401.243, F.S.; providing duties of the department for establishing such a program; authorizing the department to adopt rules; creating s. 401.27001, F.S.; providing requirements for background screening for applicants for initial certification as an emergency medical technician or paramedic and for renewal of certification; requiring an applicant to pay the costs of screening; requiring that fingerprints be submitted to the Department of Law Enforcement and forwarded to the Federal Bureau of Investigation; specifying the offenses that are grounds for denial of certification; authorizing the department to grant an exemption to an applicant, notwithstanding certain convictions; requiring the department to adopt rules; amending s. 404.056, F.S.; revising the radon testing requirements for schools and certain state-operated or state-licensed facilities; amending s. 468.302, F.S.; revising certain requirements for administering radiation and performing certain other procedures; amending s. 468.304, F.S.; revising requirements for obtaining certification from the department as an X-ray machine operator, a radiographer, or a nuclear medicine technologist; amending s. 468.306, F.S.; requiring remedial education for certain applicants for certification; amending s. 468.3065, F.S.; providing that the application fee is nonrefundable; amending s. 468.307, F.S.; revising the expiration date of a certificate; amending s. 468.309, F.S.; revising requirements for certification as a radiologic technologist; providing for a certificateholder to resign a certification; amending s. 468.3095, F.S.; revising requirements for reactivating an expired certificate; amending s. 468.3101, F.S.; authorizing the department to conduct investigations and inspections; clarifying certain grounds for disciplinary actions; amending s. 489.553, F.S.; providing requirements for registration as a master septic tank contractor; amending s. 489.554, F.S.; authorizing inactive registration as a septic tank contractor; providing for renewing a certification of registration following a period of inactive status; amending s. 784.081, F.S.; increasing certain penalties for an assault or battery that is committed against an employee of the Department of Health or against a direct service provider of the department; repealing ss. 381.0098(9), 385.103(2)(f), 385.205, 385.209, 391.301(3), 391.305(2), 393.064(5), and 445.033(7), F.S., relating to obsolete provisions governing the handling of biomedical waste, rulemaking authority with respect to community intervention programs, programs covering chronic renal disease, information on cholesterol, intervention programs for certain hearing-impaired infants, contract authority over the Raymond C. Philips Research and Education Unit, and an exemption from the Florida Biomedical and Social Research Act for certain evaluations; requiring a report relating to a disciplinary board for the onsite sewage industry; amending s. 381.7355, F.S.; providing an additional priority area; amending s. 381.005, F.S.; requiring hospitals licensed under ch. 395, F.S., to implement a program offering immunizations against the influenza virus and pneumococcal bacteria to all patients who have attained a specified age; amending s. 409.907, F.S.; providing criteria for establishing the effective date of approval of certain applications to be a Medicaid provider; preempting

the regulation, identification, and packaging of meat, poultry, and fish to the state and the Department of Agriculture and Consumer Services; providing an effective date.

—as amended April 28 was read the third time by title.

MOTION

On motion by Senator Saunders, the rules were waived to allow the following amendment to be considered:

Senator Saunders moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (532036)(with title amendment)—On page 55, line 12 through page 61, line 2, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 6, line 21 through page 7, line 3, delete those lines and insert: amending s.

On motion by Senator Saunders, CS for SB 2448 as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Table with 3 columns: Name, Name, Name. Lists names of senators who voted 'Yeas'.

Nays—None

SENATOR DIAZ DE LA PORTILLA PRESIDING

CS for CS for SB 1456—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; authorizing the secretary of the department to appoint an additional assistant secretary and deputy assistant secretaries or directors; revising the organization of the department to specify areas of program responsibility; authorizing the secretary to reorganize offices within the department in consultation with the Executive Office of the Governor; amending s. 110.205, F.S., relating to career service; conforming provisions to changes made by the act; amending 177.031, F.S.; providing that encasement in concrete is optional for survey markers made of certain materials; amending s. 339.175, F.S.; revising planning procedures of metropolitan planning organizations; requiring development of plans and programs that identify transportation facilities that should function as an integrated metropolitan planning system; requiring that the approved list of project priorities include projects on the Strategic Intermodal System; amending s. 338.251, F.S.; authorizing the Emerald Coast Bridge Authority to revise the repayment schedule of any previous advances for funds from the Toll Facilities Revolving Trust Fund within the department; providing that such repayment schedule is not a failure to repay under certain conditions; amending s. 334.30, F.S.; revising provisions for public-private construction of transportation facilities; providing procedures for requests for proposals and receipt of unsolicited proposals by the department; providing for use of certain funds under described conditions; amending s. 338.001, F.S., relating to the Florida Intrastate Highway System Plan; establishing a minimum annual allocation; amending s. 339.08, F.S.; revising provisions for use of moneys in the State Transportation Trust Fund; providing for use of such funds for projects on the Strategic Intermodal System; amending s. 339.135, F.S.; revising provisions for use of new discretionary highway capacity funds; providing for

allocation of such funds to the Strategic Intermodal System; repealing s. 339.137, F.S., relating to the Transportation Outreach Program; amending s. 339.1371, F.S.; removing provisions to fund the Transportation Outreach Program; adding provisions to fund the Florida Strategic Intermodal System; amending s. 339.61, F.S., relating to the Florida Strategic Intermodal System; establishing a minimum annual allocation; amending s. 337.401, F.S.; providing that a permit-delegation agreement between the Department of Transportation and a governmental entity does not apply to facilities of electric utilities; amending s. 95.361, F.S.; providing that provisions governing the circumstances under which a road is deemed to be dedicated to the public do not apply to a electric utility facility located on property otherwise subject to those provisions; amending s. 341.8203, F.S.; redefining the terms "authority" and "high-speed rail system"; amending s. 341.840, F.S.; revising the tax exemption of the authority and its agents and contractors; providing for annual redetermination of eligibility for exemption; providing for recapture of taxes when an exemption is used inappropriately; providing for rules; amending ss. 343.71, 343.72, 343.73, and 343.74, F.S., relating to the Tampa Bay Commuter Rail Authority Act; redesignating the authority as the "Tampa Bay Commuter Transit Authority"; adding representatives of Manatee and Sarasota Counties to the board of authority; including Manatee and Sarasota Counties within the jurisdiction of the authority; amending s. 3 of chapter 88-474, Laws of Florida, as amended, relating to the Greater Orlando Aviation Authority; providing the mayor of Orlando, and chair of the Orange County Commission shall be members of the authority; amending s. 337.408, F.S.; providing for placement of certain modular news racks, including advertising thereon, within the right-of-way limits of any municipal, county, or state road; providing requirements, restrictions, and limitations; authorizing removal under certain circumstances; authorizing the department to adopt rules; amending s. 348.754, F.S.; requiring the consent of Orange County in order for the authority to exercise certain powers; repealing s. 348.0004(2)(m), F.S., relating to an obsolete provision authorizing expressway authorities to enter into public-private transportation partnerships; amending s. 348.0004, F.S.; creating a new process for expressway authorities to enter into public-private partnerships with private entities; directing the expressway authorities to adopt rules related to the public-private partnerships; specifying public notice requirements; specifying that public-private entities may impose tolls on the new facilities, but the expressway authority may regulate the amount and use of such tolls; providing that the Department of Transportation may loan funds from the Toll Facilities Revolving Loan Trust Fund for eligible projects; specifying project requirements; authorizing an expressway authority to exercise certain powers to facilitate the partnership projects; providing that intent of the act is not to amend or impact other existing laws; amending s. 2 of chapter 88-418, Laws of Florida, as amended, relating to Crandon Boulevard; allowing expenditure of public funds for certain modifications to enhance life safety vehicular or pedestrian use under certain circumstances; providing an effective date.

—as amended April 28 was read the third time by title.

MOTION

On motion by Senator Webster, the rules were waived to allow the following amendment to be considered:

Senator Webster moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (620372)(with title amendment)—On page 61, line 28 through page 62, line 14, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 4, lines 2-4, delete those lines and insert: adopt rules;

On motion by Senator Sebesta, CS for CS for SB 1456 as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Table with 3 columns: Name, Name, Name. Lists names of senators who voted 'Yeas'.

Garcia	Lynn	Siplin
Geller	Margolis	Smith
Haridopolos	Miller	Villalobos
Hill	Peaden	Wasserman Schultz
Jones	Posey	Webster
Klein	Pruitt	Wilson
Lawson	Saunders	Wise
Lee	Sebesta	

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

**CS for SB 1226**—A bill to be entitled An act relating to the long-term-care service delivery system; requiring the Department of Elderly Affairs to report to the Governor and the Legislature the results of the department’s monitoring of the activities of the area agencies on aging; amending s. 400.441, F.S.; requiring the Department of Children and Family Services and the Department of Health, in consultation with the agency, to adopt rules, policies, and procedures that include standards regarding elopement of residents; amending s. 409.912, F.S.; requiring the Department of Elderly Affairs to assess certain nursing home residents to facilitate their transition to a community-based setting; amending s. 430.04, F.S.; providing that the department may take intermediate measures against an area agency on aging if it exceeds its authority or fails to adhere to the terms of its contract with the department, adhere to the statutory provisions or departmental rules, properly determine client eligibility, or manage program budgets; amending s. 430.041, F.S.; locating the Office of Long-Term-Care Policy within the Department of Elderly Affairs for administrative purposes only; providing that the office and its director shall not be subject to control, supervision, or direction by the department; revising the purpose of the office; replacing the advisory council with an interagency coordinating team; specifying the composition of the interagency coordinating team; revising reporting requirements; amending s. 430.203, F.S.; redefining the terms “community care service system” and “lead agency”; amending s. 430.205, F.S.; requiring the Department of Elderly Affairs and the Agency for Health Care Administration to develop an integrated long-term-care service-delivery system; requiring the Department of Elderly Affairs and the agency to phase in implementation of the integrated long-term-care system; specifying timeframes and activities for each implementation phase; authorizing the agency to seek federal waivers to implement the changes; requiring the department to integrate certain database systems; requiring development of pilot projects; requiring the agency and the department to develop capitation rates for certain services; providing rulemaking authority to the agency and the department; requiring reports to the Governor and the Legislature; creating s. 430.2053, F.S.; requiring pilot projects for aging resource centers; requiring an implementation plan; requiring that area agencies on aging submit proposals for transition to aging resource centers; requiring a review of the department’s process for determining readiness; specifying purposes and duties of an aging resource center; requiring integration of certain functions of other state agencies; specifying criteria for selection of entities to become aging resource centers; specifying the duties and responsibilities of community-care-for-the-elderly providers in an area served by an aging resource center; specifying programs administered by an aging resource center; requiring rules; allowing capitated payments; requiring reports; amending s. 430.502, F.S.; establishing a memory disorder clinic at a hospital in Pinellas County; amending s. 430.7031, F.S.; requiring the department and the agency to review the case files of a specified percentage of Medicaid nursing home residents annually for the purpose of determining whether the residents are able to move to community placements; amending s. 430.705, F.S.; providing additional eligibility requirements for entities that provide services under the long-term-care community diversion pilot projects; requiring the annual evaluation and certification of capitation rates; providing additional requirements to be used in developing capitation rates for the pilot projects; amending s. 430.701, F.S.; prescribing duties of the agency with respect to limiting the diversion provider network; providing an effective date.

—as amended April 28 was read the third time by title.

**MOTION**

On motion by Senator Klein, the rules were waived to allow the following amendment to be considered:

Senator Klein moved the following amendment which was adopted by two-thirds vote:

**Amendment 1 (580450)(with title amendment)**—On page 38, between lines 9 and 10, insert:

Section 10. Subsection (7) of section 430.703, Florida Statutes, is amended to read:

430.703 Definitions.—As used in this act, the term:

(7) “Other qualified provider” means an entity licensed under chapter 400 that demonstrates a long-term care continuum, ~~posts a \$500,000 performance bond, and meets all the financial and quality assurance requirements for a provider service network as specified in s. 409.912 and all requirements pursuant to an interagency agreement between the agency and the department.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 12, after the first semicolon (;) insert: amending s. 430.703, F.S.; revising a definition;

On motion by Senator Saunders, **CS for SB 1226** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

**CS for SB 1588**—A bill to be entitled An act relating to specialty license plates; amending s. 320.08053, F.S.; revising requirements for establishing a specialty license plate; requiring submission of a sample plate; increasing the number of motor vehicle owners who must indicate, according to a scientific sample survey, that they intend to purchase a proposed specialty plate; defining the term “scientific sample survey”; requiring the Department of Highway Safety and Motor Vehicles to adopt rules relating to design specification for specialty license plates; amending s. 320.08056, F.S.; revising design requirements; revising conditions and procedures for the discontinuation of specialty license plates; requiring the department, in cooperation with local tax collectors and the Prison Rehabilitative Industries and Diversified Enterprises, Inc., to study the possibility of using direct-to-customer distribution; requiring an analysis of the impact of certain technologies; requiring the department to report its findings to the Legislature; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Constantine, **CS for SB 1588** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Aronberg	Bullard
Argenziano	Atwater	Campbell

Carlton	Haridopolos	Pruitt
Clary	Hill	Saunders
Constantine	Jones	Sebesta
Cowin	Klein	Siplin
Crist	Lawson	Smith
Dawson	Lee	Villalobos
Diaz de la Portilla	Lynn	Wasserman Schultz
Dockery	Margolis	Webster
Fasano	Miller	Wilson
Garcia	Peaden	Wise
Geller	Posey	
Nays—1		
Bennett		

Smith	Webster	Wise
Villalobos		
Nays—None		

Consideration of **CS for CS for SB 1280** was deferred.

**CS for SB 1782**—A bill to be entitled An act relating to guardianship; creating s. 744.7101, F.S.; providing a short title; creating s. 744.711, F.S.; providing legislative findings and intent relating to the Joining Forces for Public Guardianship program; creating s. 744.712, F.S.; establishing the grant program; providing for the program's purposes; creating s. 744.713, F.S.; providing for the administration of the program by the Statewide Public Guardianship Office; providing the duties and responsibilities of the office relating to the grant program; creating s. 744.714, F.S.; providing eligibility for grant awards; creating s. 744.715, F.S.; providing application requirements, an application process, and review criteria; amending s. 393.063, F.S.; redefining the term “guardian advocate” for purposes of provisions governing services for the developmentally disabled; amending s. 393.12, F.S.; exempting a guardian advocate from a requirement to file an annual accounting in certain situations; amending s. 744.102, F.S.; defining the term “guardian advocate” for purposes of the Florida Guardianship Law; amending s. 744.1083, F.S.; requiring that additional information be reviewed by the Statewide Public Guardianship Office prior to registering a professional guardian; creating s. 744.3085, F.S.; recommending that courts consider appointing a guardian advocate for persons with developmental disabilities as a less restrictive form of guardianship; amending s. 744.3135, F.S.; requiring the clerks of court to forward certain information to the Statewide Public Guardianship Office; amending s. 744.3678, F.S.; exempting a guardian from a requirement to file an annual accounting in certain situations; amending s. 744.7082, F.S.; defining the term “direct-support organization”; requiring the Secretary of Elderly Affairs to appoint a board of directors for the direct-support organization; authorizing such an organization to use property and facilities of the Department of Elderly Affairs and the Statewide Public Guardianship Office; requiring an annual audit of the organization; providing for the dissolution of entities improperly using the direct-support organization designation; amending ss. 121.091, 709.08, and 744.1085, F.S., relating to the designation of beneficiaries, the durable power of attorney, and the regulation of professional guardians; conforming cross-references; providing effective dates.

—as amended April 28 was read the third time by title.

On motion by Senator Saunders, **CS for SB 1782** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Alexander	Crist	Lawson
Argenziano	Dawson	Lee
Aronberg	Diaz de la Portilla	Lynn
Atwater	Dockery	Margolis
Bennett	Fasano	Miller
Bullard	Garcia	Peaden
Campbell	Geller	Posey
Carlton	Haridopolos	Pruitt
Clary	Hill	Saunders
Constantine	Jones	Sebesta
Cowin	Klein	Siplin

**CS for SB 1820**—A bill to be entitled An act relating to domestic security; amending s. 311.12, F.S.; providing for legislative review of seaports not in substantial compliance with statewide minimum security standards by November 2005; requiring the Legislature to review certain security costs; prohibiting the expenditure of state funds without certification of need by the Office of Ports Administrator within the Department of Law Enforcement; creating s. 1004.63, F.S.; creating the Florida Institute for Nuclear Detection and Security at the Department of Nuclear Engineering and Radiological Sciences at the University of Florida; specifying the purpose of the institute; authorizing the institute to accept funds and grant allocations; providing for the appointment of a board of advisors; providing for members; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Dockery, **CS for SB 1820** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Margolis	
Diaz de la Portilla	Miller	
Nays—None		

**CS for CS for SB 1982**—A bill to be entitled An act relating to electric transmission line siting; amending s. 403.52, F.S.; changing the short title to the “Florida Electric Transmission Line Siting Act”; amending s. 403.521, F.S.; revising legislative intent; amending s. 403.522, F.S.; revising definitions; defining “licensee”; amending s. 403.523, F.S.; revising powers and duties of the Department of Environmental Protection; requiring the department to collect and process fees, to prepare a project impact analysis, to act as clerk for the siting board, and to administer and manage the terms and conditions of the certification order and supporting documents and records; amending s. 403.524, F.S.; revising provisions for applicability, certification, and exemptions under the act; requiring that the application contain the starting point and ending point of a transmission line specifically defined by the applicant and verified by the commission; revising provisions for notice by an electric utility of its intent to construct an exempted transmission line; amending s. 403.525, F.S.; providing for powers and duties of the administrative law judge designated by the Division of Administrative Hearings to conduct the required hearings; amending s. 403.5251, F.S.; revising application procedures and schedules; providing for the formal date of certification application filing and commencement of the certification review process; requiring the department to prepare a proposed schedule of dates for determination of completeness and other significant dates to be followed during the certification process; providing for the formal date of application distribution; requiring the applicant to file notice of distribution and notice of filing of the application; amending s. 403.5252, F.S.; revising timeframes and procedures for determination of completeness of the application; requiring the department to consult with affected agencies; revising requirements for the department to file a statement of its determination of completeness with the Division of Administrative Hearings, the applicant, and all parties within a certain time after distribution of the application; revising requirements for the applicant to file a statement with the department, the division, and all parties, if the department determines the application is not complete; providing for that statement to notify the department that the informa-

tion will not be provided; revising timeframes and procedures for contests of the determination by the department; providing for parties to a hearing on the issue of completeness; repealing s. 403.5253, F.S., relating to determination of sufficiency of application or amendment to the application; amending s. 403.526, F.S.; revising criteria and procedures for preliminary statements of issues, reports, and studies; revising timeframes; requiring that the preliminary statement of issues from each affected agency be submitted to all parties; revising criteria for the Department of Community Affairs' report; requiring the Department of Transportation to prepare an impact report; providing for project impact reports from other agencies; revising required content of the reports; providing for notice of any agency nonprocedural requirements not listed in the application; providing for failure to provide such notification; providing for a recommendation for approval or denial of the application; providing that receipt of an affirmative determination of need be a condition precedent to further processing of the application; requiring the department to prepare a project impact analysis to be filed with the administrative law judge and served on all parties within a certain timeframe; amending s. 403.527, F.S.; revising procedures and timeframes for the certification hearing conducted by the administrative law judge; revising provisions for notices and publication of notices, public hearings held by local governments, testimony at the public hearing portion of the certification hearing, the order of presentations at the hearing, consideration of certain communications by the administrative law judge, requiring the applicant to pay certain expenses and costs, and requiring the administrative law judge to issue a recommended order disposing of the application; requiring that certain notices be made in accordance with specified requirements and within a certain timeframe; specifying the Department of Transportation as a party to the proceedings; providing for the administrative law judge to cancel the certification hearing and relinquish jurisdiction to the department upon request by the applicant or the department; requiring the department and the applicant to publish notice of such cancellation; providing for parties to submit proposed recommended orders to the department when the certification hearing has been canceled; providing that the department prepare a recommended order for final action by the siting board when the hearing has been canceled; amending s. 403.5271, F.S.; revising procedures and timeframes for consideration of proposed alternate corridors; revising notice requirements; providing for notice of the filing of the alternate corridor and revised time schedules; providing for notice to agencies newly affected by the proposed alternate corridor; requiring the person proposing the alternate corridor to provide all data to the agencies within a certain timeframe; providing for determination by the department that the data is not complete; providing for withdrawal of the proposed alternate corridor upon such determination; providing that agencies file reports with the applicant and department which address the proposed alternate corridor; providing that the department file with the administrative law judge, the applicant, and all parties a project impact analysis of the proposed alternate corridor; providing that the party proposing an alternate corridor shall have the burden of proof on the certifiability of the alternate corridor; amending s. 403.5272, F.S.; revising procedures for informational public meetings; providing for informational public meetings held by regional planning councils; revising timeframes; amending s. 403.5275, F.S.; revising provisions for amendment to the application prior to certification; amending s. 403.529, F.S.; revising provisions for final disposition of the application by the siting board; providing for the administrative law judge's or department's recommended order; amending s. 403.531, F.S.; revising provisions for conditions of certification; amending s. 403.5312, F.S.; requiring the applicant to file notice of a certified corridor route with the department; creating s. 403.5317, F.S.; providing procedures for changes proposed by the licensee after certification; requiring the department to determine within a certain time if the proposed change requires modification of the conditions of certification; requiring notice to the licensee, all agencies, and all parties of changes that are approved as not requiring modification of the conditions of certification; creating s. 403.5363, F.S.; requiring publication of certain notices by the applicant, the proponent of an alternate corridor, and the department; requiring the department to adopt rules specifying the content of such notices; amending s. 403.5365, F.S.; revising application fees and the distribution of fees collected; revising procedures for reimbursement of local governments and regional planning organizations; repealing s. 403.5369, F.S., relating to application of the act to applications prior to a certain date; amending s. 403.537, F.S.; revising the schedule for notice of a public hearing by the Public Service Commission to determine the need for a transmission line; amending ss. 373.441, 403.061, 403.0876, and 403.809, F.S.; conforming terminology; amending s. 633.022, F.S.; subjecting hydrogen fueling stations to fire safety regulations; providing an effective date.

—was read the third time by title.

On motion by Senator Posey, **CS for CS for SB 1982** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

**CS for CS for SB 2042**—A bill to be entitled An act relating to suicide prevention; creating s. 397.3335, F.S.; creating the Statewide Office for Suicide Prevention in the Office of Drug Control; providing the goals and objectives of the office; creating the position of statewide coordinator for the statewide office; specifying the education and experience requirements for the position of coordinator; detailing the duties and responsibilities of the coordinator; creating s. 397.3336, F.S.; creating the Suicide Prevention Coordinating Council within the Office of Drug Control; providing the scope of activities for the coordinating council; creating an interagency workgroup for state agencies within the coordinating council in order to coordinate state agency plans for suicide prevention; authorizing the coordinating council to assemble an ad hoc committee to advise the coordinating council; providing for membership on the coordinating council; authorizing the coordinating council to seek and accept grants or funds from any source to support its operation; providing an effective date.

—was read the third time by title.

On motion by Senator Lynn, **CS for CS for SB 2042** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

**HB 585**—A bill to be entitled An act relating to the Florida Building Code; requiring the Florida Building Commission to expedite the adoption and implementation of the Florida Building Code; requiring such adoption pursuant to certain requirements of law; waiving application of certain update and amendment requirements and administrative rule provisions; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Constantine, **HB 585** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Margolis	

Nays—None

Consideration of **CS for CS for SB 2704** was deferred.

**CS for CS for SB 354**—A bill to be entitled An act relating to public school educational instruction; creating s. 1003.415, F.S.; providing the popular name the “Middle Grades Reform Act”; providing purpose and intent; defining the term “middle grades”; requiring a review and recommendations relating to curricula and courses; requiring implementation of new or revised reading and language arts courses; providing for implementation of a rigorous reading requirement in certain schools; requiring the Department of Education to provide technical assistance; requiring a study of the academic performance of middle grade students and schools with recommendations for an increase in performance; requiring a personalized middle school success plan for certain students; providing authority for State Board of Education rulemaking and enforcement; amending s. 1001.42, F.S.; requiring a school improvement plan to include the rigorous reading requirement if applicable; amending s. 1008.25, F.S.; requiring a personalized middle school success plan to be incorporated in a student’s academic improvement plan if applicable; amending s. 1012.34, F.S.; revising assessment criteria for instructional personnel; providing an effective date.

—was read the third time by title.

## MOTION

On motion by Senator Constantine, the rules were waived to allow the following amendment to be considered:

Senator Constantine moved the following amendment which was adopted by two-thirds vote:

**Amendment 1 (025868)(with title amendment)**—On page 7, line 24 through page 8, line 26, delete those lines and insert:

Section 2. (1) *The Department of Education shall conduct a study to determine the status of physical education instruction in the public schools and shall develop detailed recommendations for changes to physical education programs. As a part of the study, the Department of Education shall:*

(a) *Determine the number of public schools in the state which have eliminated or reduced physical education instruction;*

(b) *Assess current issues concerning personnel who teach physical education and determine appropriate roles for all personnel in expanding both physical education and other physical activity for students;*

(c) *Determine the average length and frequency of physical education classes in elementary, middle, and high school, respectively, by school district;*

(d) *Determine the percent of physical education classes taught by certified physical education instructors;*

(e) *Assess the degree to which individual schools within a school district are allowed to add to or modify district requirements for physical education;*

(f) *Assess the availability of fitness assessment programs, such as the President’s Challenge Physical Fitness Program, which could be adopted by schools or an entire school district in order to provide information regarding and encourage student fitness;*

(g) *Determine the methods of providing feedback to a parent through a student assessment report that would summarize a student’s results and the school’s results as set forth in an assessment tool, such as the Fitnessgram or the School Health Index of the Centers for Disease Control and Prevention; and*

(h) *Develop recommendations for the most efficient ways to substantially increase the level of physical education and physical activity for students in grades prekindergarten through grade 5, grades 6 through 8, and grades 9 through 12, by group.*

*The study results must also contain an assessment developed by the Department of Education of the fiscal impact of any recommended changes. The Department of Education shall submit a report on the study to the Governor and the Legislature by February 1, 2005.*

(2) *The Department of Education shall select or develop by March 1, 2005, a physical fitness assessment instrument that school districts may use in assessing and reporting individual student fitness and a standard report form for this information which may be provided to parents.*

(3) *By December 1, 2004, the Department of Education shall develop support materials and distribute the materials to each school district to enable implementation of fitness assessment programs recommended pursuant to subsection (2). The support materials must include the necessary instructions, procedures, and forms to implement and successfully administer the programs or reports. The department may develop and distribute other support or informational materials it determines may assist schools or school districts in improving student health and fitness through local action.*

Section 3. Paragraph (a) of subsection (16) and paragraph (a) of subsection (17) of section 1001.42, Florida Statutes, are amended to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(16) **IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.**—Maintain a system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district’s continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall include, but is not limited to, the following:

(a) **School improvement plans.**—Annually approve and require implementation of a new, amended, or continuation school improvement plan for each school in the district, except that a district school board may establish a district school improvement plan that includes all schools in the district operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. Such plan shall be designed to achieve the state education priorities pursuant to s. 1000.03(5) and student performance standards. *In addition, any school required to implement a rigorous reading requirement pursuant to s. 1003.415 must include such component in its school improvement plan. Each plan shall also address issues relative to budget, training, instructional materials, technology, staffing, student support services, specific school safety and discipline strategies, student health and fitness, including physical fitness, parental information on student health and fitness, and indoor environmental air quality, and other matters of resource allocation, as determined by district school board policy, and shall be based on an analysis of student achievement and other school performance data.*

(17) **LOCAL-LEVEL DECISIONMAKING.**—

(a) **Adopt policies that clearly encourage and enhance maximum decisionmaking appropriate to the school site.** Such policies must include guidelines for schools in the adoption and purchase of district and school site instructional materials and technology, *the implementation of student health and fitness standards, staff training, school advisory council*

member training, student support services, budgeting, and the allocation of staff resources.

Section 4. Section 1003.455, Florida Statutes, is created to read:

1003.455 *Physical education; assessment.*—

(1) *It is the responsibility of each district school board to develop a physical education program that stresses physical fitness and encourages healthy, active lifestyles and to encourage all students in prekindergarten through grade 12 to participate in physical education. Physical education shall consist of physical activities of at least a moderate intensity level and for a duration sufficient to provide a significant health benefit to students, subject to the differing capabilities of students.*

(2) *Each district school board shall, no later than December 1, 2004, adopt a written physical education policy that details the school district's physical education program and expected program outcomes. Each district school board shall provide a copy of its written policy to the Department of Education by December 15, 2004.*

(3) *Any district that does not adopt a physical education policy by December 1, 2004, shall, at a minimum, implement a mandatory physical education program for kindergarten through grade 5 which provides students with 30 minutes of physical education each day, 3 days a week.*

Section 5. Paragraph (d) is added to subsection (4) of section 1012.98, Florida Statutes, to read:

1012.98 School Community Professional Development Act.—

(4) The Department of Education, school districts, schools, community colleges, and state universities share the responsibilities described in this section. These responsibilities include the following:

(d) *The Department of Education shall approve a public state university having an approved physical education teacher preparation program within its college of education to develop and implement an Internet-based clearinghouse for physical education professional development programs that may be accessed and used by all instructional personnel. The development of these programs shall be financed primarily by private funds and shall be available for use no later than August 1, 2005.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 20-22, delete those lines and insert: requiring the Department of Education to conduct a study on physical education in public schools; requiring a report to the Governor and the Legislature; requiring the Department of Education to develop a physical fitness assessment instrument and support materials for fitness assessment programs; amending s. 1001.42, F.S.; requiring a school improvement plan to include the rigorous reading requirement if applicable; requiring district school boards to address student health and fitness in school improvement plans; requiring district school boards to adopt policies for implementing student health and fitness standards; creating s. 1003.455, F.S.; requiring district school boards to develop physical education programs; requiring district school boards to adopt written physical education policies; requiring that the policies be provided to the Department of Education; requiring school districts to implement mandatory physical education under certain circumstances; amending s. 1012.98, F.S.; providing for the development of an Internet-based clearinghouse at a public state university for professional development programs concerning physical education; amending s.

**MOTION**

On motion by Senator Wasserman Schultz, the rules were waived to allow the following amendment to be considered:

Senator Wasserman Schultz moved the following amendment which was adopted by two-thirds vote:

**Amendment 2 (434968)(with title amendment)**—On page 10, between lines 28 and 29, insert:

Section 5. *There is hereby appropriated \$445,000 from the General Revenue Fund to the Florida State University Charter Lab Elementary School in Broward County for the purpose delineated in section 1002.32(9)(e), Florida Statutes.*

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: providing an appropriation;

On motion by Senator Constantine, **CS for CS for SB 354** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise
Dawson	Miller	

Nays—None

Votes Recorded:

April 30, 2004: Yea—Garcia

**HB 1127**—A bill to be entitled An act relating to preserving Florida's history; amending s. 267.031, F.S.; providing additional responsibilities of the Division of Historical Resources of the Department of State relating to preserving archaeological sites and artifacts; authorizing the division to enter into a memorandum of agreement with the University of West Florida for purposes of a network of regional public archaeology centers; amending s. 267.14, F.S.; providing additional legislative intent relating to local archaeology; creating s. 267.145, F.S.; requiring the Department of State to create a network of public archaeology centers for certain purposes; requiring administration of the network through a center at the University of West Florida; providing for establishing additional centers; creating s. 267.174, F.S.; providing a popular name; creating the Discovery of Florida Quincentennial Commemoration Commission within the Department of State for certain purposes; providing for commission membership; providing for terms of members; providing for successor appointment; providing for election of officers; requiring the commission to adopt bylaws; providing for commission meetings; specifying serving without compensation; providing for per diem and travel expenses; requiring the commission to develop a master plan for certain purposes; requiring a timetable and budget for the plan; requiring a report to the Governor and Legislature; providing responsibilities of the department; authorizing the appointment of subcommittees; requiring the Secretary of State to appoint an advisory committee composed of all former living governors of the state; requiring the commission to provide advice and assistance to the Department of State regarding master plan implementation and activities of a citizen support organization; specifying the appointment of two subcommittees; providing compensation only for per diem and travel expenses; requiring the Department of State to provide administrative support and consulting services subject to an appropriation; authorizing the Department of State to enter into contracts or accept loans or grants for money, property, or personal services to implement requirements; providing for assumption of other functions to carry out provisions; providing for the establishment of a citizen support organization for certain purposes; authorizing the organization to receive moneys for certain purposes; authorizing the Secretary of State to adopt a master plan; providing for legislative budget requests; providing for a term of existence of the commission and the citizen support organization; providing for transfer of documents and remaining assets of the commission and citizen support organization upon termination; providing an effective date.

—was read the third time by title.

On motion by Senator Fasano, **HB 1127** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

**CS for SB 1578**—A bill to be entitled An act relating to the prescription of medications to minors; creating s. 1006.0625, F.S.; requiring district school boards to prohibit school district personnel from requiring a student to take certain medication as a condition of attending school or receiving educational services; requiring the State Board of Education to adopt rules; amending s. 743.0645, F.S.; defining the term “psychotropic medication”; creating the Center for Juvenile Psychotropic Studies within the Department of Psychiatry of the College of Medicine of the University of Florida; providing the purpose of the center; providing for the appointment of a director; creating an advisory board; providing for board membership; requiring the center to work with the Department of Children and Family Services, the Department of Juvenile Justice, the Agency for Health Care Administration, and the Department of Health; requiring certain data relating to dependent minors for whom psychotropic medications have been prescribed to be made available to the center, as legally allowed; requiring the center to report to legislative leaders by a specified date; providing for future repeal; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Dawson, **CS for SB 1578** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise
Diaz de la Portilla	Miller	

Nays—None

Vote after roll call:

Yea—Carlton

**CS for CS for SB 3006**—A bill to be entitled An act relating to public records; creating s. 106.0706, F.S.; creating an exemption from public-records requirements for user identification and passwords held by the Department of State pursuant to s. 106.0705, F.S.; creating an exemption from public records requirements for records, reports, and files stored in the electronic filing system pursuant to s. 106.0705, F.S.; providing for expiration of the exemption; providing for future legislative review and repeal; providing findings of public necessity; providing an effective date.

—was read the third time by title.

On motion by Senator Cowin, **CS for CS for SB 3006** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

**HB 599**—A bill to be entitled An act relating to dealing in stolen property; amending s. 812.022, F.S.; creating an inference that certain persons accepting used property knew or should have known that the property was stolen if the property conspicuously displays specified information; specifying actions such persons may take to avoid the inference; providing exceptions providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Argenziano, **HB 599** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **CS for SB 2322** and **CS for CS for SB 3000** was deferred.

**CS for CS for SB 2682**—A bill to be entitled An act relating to credit counseling services; creating pt. IV, ch. 817, F.S.; providing definitions; prohibiting certain persons from accepting certain fees or costs from debtors under certain circumstances; providing exceptions; providing disclosure and financial reporting requirements for debt management or credit counseling services; providing disbursement of funds requirements; providing civil penalties; providing for awards of attorney’s fees and costs; providing for criminal penalties; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Aronberg, **CS for CS for SB 2682** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Aronberg	Bennett
Argenziano	Atwater	Bullard

Campbell	Geller	Posey
Carlton	Haridopolos	Pruitt
Clary	Hill	Saunders
Constantine	Jones	Sebesta
Cowin	Klein	Siplin
Crist	Lawson	Smith
Dawson	Lee	Villalobos
Diaz de la Portilla	Lynn	Wasserman Schultz
Dockery	Margolis	Webster
Fasano	Miller	Wilson
Garcia	Peaden	Wise

Nays—None

Consideration of **CS for CS for SB 546, HB 349, SB 534, CS for SB 552 and CS for SB 630** was deferred.

On motion by Senator Peaden, by two-thirds vote **HB 1823** was withdrawn from the Committees on Appropriations; and Rules and Calendar.

On motion by Senator Peaden, the rules were waived and by two-thirds vote—

**HB 1823**—A bill to be entitled An act relating to developmental services and mental health; creating ss. 393.135, 394.4593, and 916.1075, F.S.; defining the terms “employee,” “sexual activity,” and “sexual misconduct”; providing that it is a second degree felony for an employee to engage in sexual misconduct with certain developmentally disabled clients, certain mental health patients, or certain forensic clients; providing certain exceptions; requiring certain employees to report sexual misconduct to the central abuse hotline of the Department of Children and Family Services and to the appropriate local law enforcement agency; providing for notification to the inspector general of the Department of Children and Family Services; providing that it is a first degree misdemeanor to knowingly and willfully fail to make a report as required, or to prevent another from doing so, or to submit inaccurate or untruthful information; providing that it is a third degree felony to coerce or threaten another person to alter testimony or a report with respect to an incident of sexual misconduct; providing criminal penalties; amending s. 435.03, F.S.; expanding level 1 screening standards to include criminal offenses related to sexual misconduct with certain developmentally disabled clients, mental health patients, or forensic clients and the reporting of such sexual misconduct; amending s. 435.04, F.S.; expanding level 2 screening standards to include the offenses related to sexual misconduct with certain developmentally disabled clients, mental health patients, or forensic clients and the reporting of such sexual misconduct; reenacting s. 393.067(6)(a), (b), (c), (d), (f), and (g), F.S., relating to background screening and licensure of personnel of intermediate care facilities for the developmentally disabled, for the purpose of incorporating the amendment to s. 435.04, F.S., in references thereto; amending s. 394.4572, F.S.; requiring the employment screening of mental health personnel to include screening as provided under ch. 435, F.S.; amending s. 943.0585, F.S., relating to court-ordered expunction of criminal history records, for the purpose of incorporating the amendment to s. 943.059, F.S., in a reference thereto; providing that certain criminal history records relating to sexual misconduct with developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct, shall not be expunged; providing that the application for eligibility for expunction certify that the criminal history record does not relate to an offense involving sexual misconduct with certain developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct; amending s. 943.059, F.S., relating to court-ordered sealing of criminal history records, for the purpose of incorporating the amendment to s. 943.0585, F.S., in a reference thereto; providing that certain criminal history records relating to sexual misconduct with developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct, shall not be sealed; providing that the application for eligibility for sealing certify that the criminal history record does not relate to an offense involving sexual misconduct with certain developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct; amending s. 400.215, F.S., and reenacting paragraphs (b) and (c) of subsection (2) and subsection (3),

relating to background screening requirements for certain nursing home personnel, for the purpose of incorporating the amendments to ss. 435.03 and 435.04, F.S., in references thereto; correcting a cross reference; amending s. 400.964, F.S., and reenacting subsections (1), (2), and (7), relating to background screening requirements for certain personnel employed by intermediate care facilities for the developmentally disabled, for the purpose of incorporating the amendments to ss. 435.03 and 435.04, F.S., in references thereto; correcting a cross reference; amending s. 435.045, F.S., and reenacting paragraph (a) of subsection (1), relating to requirements for the placement of dependent children, for the purpose of incorporating the amendment to s. 435.04, F.S., in a reference thereto; correcting a cross reference; reenacting ss. 400.414(1)(f) and (g), 400.4174, 400.509(4)(a), (b), (c), (d), (f), and (g), 400.556(2)(c), 400.6065(1), (2), and (4), 400.980(4)(a), (b), (c), (d), (f), and (g), 409.175(2)(k), 409.907(8)(d), 435.05(1) and (3), 744.3135, and 985.04(2), F.S., relating to denial, revocation, or suspension of license to operate an assisted living facility; background screening requirements for certain personnel employed by assisted living facilities; registration of particular home health care service providers; denial, suspension, or revocation of license to operate adult day care centers; background screening requirements for certain hospice personnel; background screening requirements for registrants of the health care service pools; the definition of “screening” in connection with the licensure of family foster homes, residential child-caring agencies, and child-placing agencies; background screening requirements of Medicaid providers; employment of persons in positions requiring background screening; credit and criminal investigations of guardians; oaths, records, and confidential information pertaining to juvenile offenders, respectively, for the purpose of incorporating the amendments to ss. 435.03 and 435.04, F.S., in references thereto; reenacting ss. 400.512, 400.619(4), 400.6194(1), 400.953, 409.912(32), 435.07(4), 464.018(1)(e), 744.309(3), 744.474(12), and 985.407(4), F.S., relating to background screening of home health agency personnel, nurse registry personnel, companions, and homemakers; application and renewal of adult family-care home provider licenses; relating to denial, revocation, or suspension of adult family-care home provider license; background screening of home medical equipment provider personnel, background screening requirements for certain persons responsible for managed care plans; exemptions from disqualification from employment; denial of nursing license and disciplinary actions against such licensees; disqualification of guardians; removal of guardians; background screening requirements for certain Department of Juvenile Justice personnel, respectively, for the purpose of incorporating the amendment to s. 435.03, F.S., in references thereto; reenacting ss. 39.001(2)(b), 39.821(1), 110.1127(3)(a) and (c), 112.0455(12)(a), 381.0059(1), (2), and (4), 381.60225(1)(a), (b), (c), (d), (f), and (g), 383.305(7)(a), (b), (c), (d), (f), and (g), 390.015(3)(a), (b), (c), (d), (f), and (g), 394.875(13)(a), (b), (c), (d), (f), and (g), 395.0055(1), (2), (3), (4), (6), and (8), 395.0199(4)(a), (b), (c), (d), (f), and (g), 397.451(1)(a), 400.071(4)(a), (b), (c), (d), and (f), 400.471(4)(a), (b), (c), (d), (f), and (g), 400.506(2)(a), (b), (c), (d), (f), and (g), 400.5572, 400.607(3)(a), 400.801(4)(a), (b), (c), (d), (f), and (g), 400.805(3)(a), (b), (c), (d), (f), and (g), 400.906(5)(a), (b), (c), (d), (f), and (g), 400.931(5)(a), (b), (c), (e), and (f), 400.962(10)(a), (b), (c), (d), and (f), 400.991(7)(b) and (d), 402.302(2)(e), 402.305(2)(a), 402.3054(3), 483.30(2)(a), (b), (c), (d), (f), and (g), 483.101(2)(a), (b), (c), (d), (f), and (g), 744.1085(5), 984.01(2)(b), 985.01(2)(b), 1002.36(7)(a) and (b), F.S., relating to background screening requirements for certain Department of Children and Family Services personnel; qualifications of guardians ad litem; security checks of certain public officers and employees; background screening requirements of certain laboratory personnel in connection with the Drug-Free Workplace Act; background screening requirements for school health services personnel; background screening of certain personnel of the public health system; background screening and licensure of birth center personnel; background screening and licensure of abortion clinic personnel; background screening of mental health personnel; background screening and licensure of personnel of crisis stabilization units, residential treatment facilities, and residential treatment centers for children and adolescents; background screening and licensure of personnel of hospitals, ambulatory surgical centers, and mobile surgical facilities; background screening of certain personnel in connection with registration for private utilization reviews; background screening of certain service provider personnel; background screening and licensure of certain long-term care facility personnel; background screening and licensure of certain home health agency personnel; background screening and licensure of nurse registry applicants; background screening of certain adult day care center personnel; denial or revocation of hospice license; background screening and licensure of certain transitional living facility personnel; background screening and licensure of certain prescribed

pediatric extended care center personnel; background screening and licensure of certain home medical equipment provider personnel; background screening and licensure of certain personnel of intermediate care facilities for the developmentally disabled; background screening and licensure of health care clinic personnel; the definition of "child care facility" in connection with background screening of operators; background screening requirements for personnel of child care facilities; background screening requirements for child enrichment service providers; background screening and licensure of certain personnel of multiphasic health testing centers; background screening and licensure of certain clinical laboratory personnel; regulation of professional guardians; background screening of certain Department of Juvenile Justice and Department of Children and Family Services personnel in connection with programs for children and families in need of services; background screening of certain Department of Juvenile Justice and Department of Children and Family Services personnel in connection with juvenile justice programs, background screening of personnel of the Florida School for the Deaf and the Blind, respectively, for the purposes of incorporating the amendment to s. 435.04, F.S., in references thereto; reenacting s. 943.0582(2)(a) and (6), F.S., relating to prearrest, postarrest, or teen court diversion program expunction for the purpose of incorporating the amendments to ss. 943.0585 and 943.059, F.S., in references thereto; reenacting s. 943.053(7), (8), and (9), F.S., relating to dissemination of criminal justice information, for the purpose of incorporating the amendment to s. 943.059, F.S., in references thereto; providing applicability; amending s. 20.19, F.S.; removing the developmental disabilities program from the Department of Children and Family Services; creating s. 20.197, F.S.; establishing the Agency for Persons with Disabilities for the purpose of providing services to persons with developmental disabilities, including institutional services; directing the agency to execute interagency agreements with the Agency for Health Care Administration for the financial management of the Medicaid waivers and the Department of Children and Family Services for administrative support; amending s. 393.063, F.S.; updating definitions and deleting obsolete definitions; amending s. 393.064, F.S.; deleting requirements that the agency's legislative budget request include funding for prevention; amending s. 393.0655, F.S.; requiring Level 2 screening for specified persons and service providers; providing a limitation on the screening requirement in certain circumstances involving children between 12 and 18 years of age; amending s. 393.066, F.S.; removing requirement that services be administered and approved by the districts; modifying a requirement to provide certain services; deleting a requirement for a 5-year plan relating to community-based services; adding a requirement to assist clients in gaining employment; repealing obsolete requirement authorizing the state to lease or construct residential facilities; deleting authorization to adopt rules ensuring compliance with federal rules; amending s. 393.0661, F.S.; authorizing the Agency for Disabled Persons to enter into certain contracts; providing for reimbursement to certain providers of services to the developmentally disabled pursuant a methodology; requiring the Agency for Health Care Administration, in consultation with the Agency for Disabled Persons, to adopt rules related to such methodology; authorizing the Agency for Health Care Administration to adopt emergency rules in certain circumstances; limiting the applicability of such emergency rules; authorizing the Agency for Health Care Administration, in consultation with the Agency for Disabled Persons, to make certain adjustments necessary to comply with the availability of appropriations; deleting an obsolete provision; modifying provisions relating to an assessment instrument; adding requirements for adoption of rate methodologies; amending s. 393.068, F.S.; making service provision subject to available resources; updating list of services to be provided; deleting provision referring to 5-year plans; amending s. 393.0695, F.S.; requiring in-home subsidy amounts to be reassessed annually; amending s. 393.11, F.S.; deleting provisions referring to districts, department programs, and the nonexistent Department of Labor and Employment Security; amending s. 393.13, F.S.; deleting obsolete provisions; adding legislative intent relating to reducing the use of sheltered workshops; amending s. 393.17, F.S.; authorizing the agency to contract for the certification of behavioral analysts; deleting provisions relating to a certification program and provisions allowing fees; amending s. 393.22, F.S.; deleting prohibition preventing transfer of funds and ensuring financial commitment for specified developmental conditions; amending s. 393.502, F.S.; removing reference to districts; deleting a provision permitting appointment of family care council members if the Governor does not act; amending ss. 408.301 and 408.302, F.S.; amending legislative intent to add the Agency for Persons with Disabilities and the Department of Elderly Affairs as agencies that the Agency for Health Care Administration must enter into interagency agreement with regarding persons with

special needs; amending s. 409.906, F.S.; clarifying powers of the Agency for Health Care Administration with respect to limiting coverage for certain services; repealing s. 393.14, F.S.; requiring a multiyear plan; repealing s. 393.165, F.S., relating to ICF/DDs; repealing s. 393.166, F.S., relating to homes for special services; repealing s. 393.505, F.S., relating to comprehensive day treatment service projects; transferring programs and institutions relating to developmental disabilities from the Department of Children and Family Services to the Agency for Persons with Disabilities; providing duties of those agencies as well as the Department of Management Services; providing for substitution of parties in administrative and judicial proceedings; providing duties of the Office of Program Policy Analysis and Government Accountability; providing for a report; amending ss. 92.53, 397.405, 400.464, 419.001, 914.16, 914.17, 918.16, 943.0585, and 943.059, F.S.; conforming cross references; amending ss. 393.0641, 393.065, 393.0651, 393.067, 393.0673, 393.0675, 393.0678, 393.071, 393.075, 393.115, 393.12, 393.125, 393.15, 393.501, 393.503, and 393.506, F.S.; conforming to the changes made by the act; providing applicability; providing for contracts for eligibility determination functions; providing for review of eligibility contracts by the Legislative Budget Commission in certain instances; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 1280** as amended and by two-thirds vote read the second time by title. On motion by Senator Peaden, by two-thirds vote **HB 1823** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

**SPECIAL ORDER CALENDAR**

**CS for SB 2664**—A bill to be entitled An act relating to vessel safety; amending s. 316.217, F.S.; providing exception for purposes of law enforcement to provisions requiring the display of lighted lamps; amending s. 327.301, F.S.; revising requirements for reports to the Division of Law Enforcement of the Fish and Wildlife Conservation Commission of certain accidents involving vessels; providing that a person who offers a vessel for lease, rental, or charter is responsible for compliance; amending s. 327.35215, F.S.; revising disposition of moneys collected for certain civil penalties; amending s. 327.731, F.S.; revising requirements to complete a boating safety course for certain violations; creating s. 327.461, F.S.; providing legislative intent to authorize state and local law enforcement agencies to operate in federally designated safety zones, security zones, regulated navigation areas, and naval vessel protection zones; prohibiting the operation, or the authorization for the operation, of a vessel in violation of a safety zone, security zone, regulated navigation area, or naval vessel protection zone; providing penalties; prohibiting continuation of such operation, or authorization to operate, after a warning or an order to cease by law enforcement or military personnel; providing penalties; prohibiting entrance to such a zone by swimming, diving, wading, or similar means; providing penalties; prohibiting remaining in or reentering such a zone following a warning or order to leave by law enforcement or military personnel; providing penalties; providing that each incursion is a separate offense; providing that an entry authorized by the captain of the port or the captain's designee is not a violation; amending s. 901.15, F.S.; providing that a law enforcement officer may arrest a person without a warrant if there is probable cause to believe that the person has violated s. 327.461, F.S.; providing an effective date.

—was read the second time by title.

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

**Amendment 1 (541372)**—On page 7, line 17 through page 8, line 18, delete those lines and insert:

(1)(a) *A person may not knowingly operate a vessel, or authorize the operation of a vessel, in violation of the restrictions of a safety zone, security zone, regulated navigation area, or naval vessel protection zone as defined in and established pursuant to 33 C.F.R. part 165.*

(b) *The intent of this section is to provide for state and local law enforcement agencies to operate in federally designated exclusion zones specified in paragraph (a). State and local law enforcement personnel may enforce these zones at the request of a federal authority if necessary to augment federal law enforcement efforts and if there is a compelling need to protect the residents and infrastructure of this state. Requests for state and local law enforcement personnel to enforce these zones must be made to the Department of Law Enforcement through the Florida Mutual Aid Plan described in s. 23.1231.*

(2) *A person who knowingly operates a vessel, or authorizes the operation of a vessel, in violation of the restrictions of such a safety zone, security zone, regulated navigation area, or naval vessel protection zone commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

(3) *A person who continues to operate, or authorize the operation of, a vessel in violation of the restrictions of such a safety zone, security zone, regulated navigation area, or naval vessel protection zone after being warned against doing so, or who refuses to leave or otherwise cease violating such a safety zone, security zone, regulated navigation area, or naval vessel protection zone after having been ordered to do so by a law enforcement officer or by competent military authority, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(4) *A person who knowingly enters a safety zone, security zone,*

On motion by Senator Smith, further consideration of **CS for SB 2664** as amended was deferred.

---

Consideration of **CS for CS for SB 2722, CS for SB's 2346 and 516, CS for CS for SB 3004 and SM 2818** was deferred.

---

The Senate resumed consideration of—

**CS for SB 2664**—A bill to be entitled An act relating to vessel safety; amending s. 316.217, F.S.; providing exception for purposes of law enforcement to provisions requiring the display of lighted lamps; amending s. 327.301, F.S.; revising requirements for reports to the Division of Law Enforcement of the Fish and Wildlife Conservation Commission of certain accidents involving vessels; providing that a person who offers a vessel for lease, rental, or charter is responsible for compliance; amending s. 327.35215, F.S.; revising disposition of moneys collected for certain civil penalties; amending s. 327.731, F.S.; revising requirements to complete a boating safety course for certain violations; creating s. 327.461, F.S.; providing legislative intent to authorize state and local law enforcement agencies to operate in federally designated safety zones, security zones, regulated navigation areas, and naval vessel protection zones; prohibiting the operation, or the authorization for the operation, of a vessel in violation of a safety zone, security zone, regulated navigation area, or naval vessel protection zone; providing penalties; prohibiting continuation of such operation, or authorization to operate, after a warning or an order to cease by law enforcement or military personnel; providing penalties; prohibiting entrance to such a zone by swimming, diving, wading, or similar means; providing penalties; prohibiting remaining in or reentering such a zone following a warning or order to leave by law enforcement or military personnel; providing penalties; providing that each incursion is a separate offense; providing that an entry authorized by the captain of the port or the captain's designee is not a violation; amending s. 901.15, F.S.; providing that a law enforcement officer may arrest a person without a warrant if there is probable cause to believe that the person has violated s. 327.461, F.S.; providing an effective date.

—which was previously considered and amended this day.

Senator Smith moved the following amendments which were adopted:

**Amendment 2 (333316)(with title amendment)**—On page 6, line 6, before the period (.) insert: *and used to directly enhance the ability of law enforcement officers to perform law enforcement functions on state waters*

And the title is amended as follows:

On page 1, delete line 14 and insert: *civil penalties; providing for use of moneys collected; amending s. 327.731, F.S.;*

**Amendment 3 (620644)(with title amendment)**—On page 7, between lines 11 and 12, insert:

Section 5. For the purpose of incorporating the amendment made by this act to section 327.731, Florida Statutes, in a reference thereto, paragraph (a) of subsection (11) of section 327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—

(11)(a) Court costs that are to be in addition to the stated civil penalty shall be imposed by the court in an amount not less than the following:

1. For swimming or diving infractions, \$3.
2. For nonmoving boating infractions, \$6.
3. For boating infractions listed in s. 327.731(1), \$10.

Court costs imposed under this subsection may not exceed \$30. A criminal justice selection center or both local criminal justice access and assessment centers may be funded from these court costs.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 16, after the semicolon (;) insert: *reenacting s. 327.73(11)(a), F.S.; relating to noncriminal infractions, to incorporate changes made by the act;*

Pending further consideration of **CS for SB 2664** as amended, on motion by Senator Smith, by two-thirds vote **HB 1613** was withdrawn from the Committees on Natural Resources; Home Defense, Public Security, and Ports; Criminal Justice; Appropriations Subcommittee on General Government; and Appropriations.

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

**HB 1613**—A bill to be entitled An act relating to vessel safety; amending s. 316.217, F.S.; providing exception for purposes of law enforcement to provisions requiring the display of lighted lamps; amending s. 327.301, F.S.; revising requirements for reports to the Division of Law Enforcement of the Fish and Wildlife Conservation Commission of certain accidents involving vessels; providing that a person who offers a vessel for lease, rental, or charter is responsible for compliance; amending s. 327.35215, F.S.; revising disposition of moneys collected for certain civil penalties; providing for use of moneys collected; creating s. 327.461, F.S.; providing legislative intent to authorize state and local law enforcement agencies to operate in federally designated safety zones, security zones, regulated navigation areas, and naval vessel protection zones; prohibiting the operation, or the authorization for the operation, of a vessel in violation of a safety zone, security zone, regulated navigation area, or naval vessel protection zone; providing penalties; prohibiting continuation of such operation, or authorization to operate, after a warning or an order to cease by law enforcement or military personnel; providing penalties; prohibiting entrance to such a zone by swimming, diving, wading, or similar means; providing penalties; prohibiting remaining in or reentering such a zone following a warning or order to leave by law enforcement or military personnel; providing penalties; providing that each incursion is a separate offense; providing that an entry authorized by the captain of the port or the captain's designee is not a violation; amending s. 327.731, F.S.; revising requirements to complete a boating safety course for certain violations; reenacting s. 327.73(11)(a), F.S., relating to noncriminal infractions, to incorporate changes made by the act; amending s. 901.15, F.S.; authorizing a law enforcement officer to

make an arrest without warrant under certain conditions for violation of specified navigation area restrictions; providing an effective date.

—a companion measure, was substituted for **CS for SB 2664** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 1613** was placed on the calendar of Bills on Third Reading.

On motion by President King, the rules were waived and the Senate reverted to—

### BILLS ON THIRD READING

**CS for SB 3000**—A bill to be entitled An act relating to charter schools; amending s. 1002.33, F.S.; revising authorized purposes of charter schools; providing for appeals under certain circumstances; providing for reversion of capital outlay funds to the Department of Education under certain circumstances; providing for designation as one charter school of schools in a charter school feeder pattern under certain circumstances; revising provisions relating to facility compliance with building construction standards; clarifying Florida Building Code and Florida Fire Prevention Code compliance requirements for charter schools; clarifying jurisdiction for inspections; providing an exemption from assessment of certain fees; providing for use of educational impact fees; requiring an agreement relating to allocation and use of impact fees; requiring a charter school sponsor to provide additional services; prohibiting certain fees or surcharges for certain services; revising provisions relating to contracts for goods and services; requiring a study of transportation issues by the department; amending s. 1002.32, F.S.; correcting the name of a charter lab school; revising provisions relating to the allocation of lab school funds from the Florida Education Finance Program; providing for severability; providing an effective date.

—as amended April 28 was read the third time by title.

### THE PRESIDENT PRESIDING

#### MOTION

On motion by Senator Bullard, the rules were waived to allow the following amendment to be considered:

Senator Bullard moved the following amendment which failed to receive the required two-thirds vote:

**Amendment 1 (742844)**—On page 2, line 17 through page 8, line 16, delete those lines and insert:

4. *Mitigate the educational impact created by the development of new residential dwelling units in critically sensitive areas, especially rural schools and specialty schools.*

(6) APPLICATION PROCESS AND REVIEW.—Beginning September 1, 2003, applications are subject to the following requirements:

(e)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose *charter applications* ~~charters~~ have been denied, or whose charter contracts have not been renewed or have been terminated by their sponsors, or whose disputes over contract negotiations have not been resolved through mediation.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint the members of the Charter School Appeal Commission. Members shall serve without compensation

but may be reimbursed for travel and per diem expenses in conjunction with their service. One-half of the members must represent currently operating charter schools, and one-half of the members must represent school districts. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

#### (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

(e) When a charter is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized, and any unencumbered public funds, *except for capital outlay funds*, from the charter school shall revert to the district school board. *Capital outlay funds provided pursuant to s. 1013.62 that are unencumbered shall revert to the department to be redistributed among eligible charter schools.* In the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances. Any unencumbered public funds from the charter school, district school board property and improvements, furnishings, and equipment purchased with public funds, or financial or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the district school board's request, until any appeal status is resolved.

#### (15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-A-MUNICIPALITY.—

(c) A charter school-in-a-municipality designation may be granted to a municipality that possesses a charter; enrolls students based upon a random lottery that involves all of the children of the residents of that municipality who are seeking enrollment, as provided for in subsection (10); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (7)(a)8. *When a municipality has submitted charter applications for the establishment of a charter school feeder pattern, consisting of elementary, middle, and senior high schools, and each individual charter application is approved by the district school board, such schools shall then be designated as one charter school for all purposes listed pursuant to this section.* Any portion of the land and facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

#### (18) FACILITIES.—

(a) A charter school shall utilize facilities which comply with the ~~Florida State Uniform Building Code pursuant to chapter 553~~ *Florida State Uniform Building Code pursuant to chapter 553 except for the State Requirements for Educational Facilities. Charter schools are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code adopted pursuant to s. 1013.37. The local governing authority shall not adopt or impose local building requirements or restrictions that are more stringent than those found in the Florida Building Code. The agency having jurisdiction for inspection of a facility and issuance of a certificate of occu-*

pancy shall be the local municipality or, if in an unincorporated area, the county governing authority for Public Educational Facilities Construction adopted pursuant to s. 1013.37 or with applicable state minimum building codes pursuant to chapter 553 and state minimum fire protection codes pursuant to s. 633.025, as adopted by the authority in whose jurisdiction the facility is located.

(b) A charter school shall utilize facilities that comply with the Florida Fire Prevention Code, pursuant to s. 633.025, as adopted by the authority in whose jurisdiction the facility is located as provided in paragraph (a).

(c)(b) Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board, pursuant to subsection (7), shall be exempt from ad valorem taxes pursuant to s. 196.1983.

~~(c) Charter school facilities shall utilize facilities which comply with the Florida Building Code, pursuant to chapter 553, and the Florida Fire Prevention Code, pursuant to chapter 633.~~

(d) Charter school facilities are exempt from assessments of fees for building permits, except as provided in s. 553.80, and for building licenses and from assessments of impact fees or service availability fees.

(e) If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the school district may not sell or dispose of such property without written permission of the school district. Similarly, for an existing public school converting to charter status, no rental or leasing fee for the existing facility or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter organizers shall agree to reasonable maintenance provisions in order to maintain the facility in a manner similar to district school board standards. The Public Education Capital Outlay maintenance funds or any other maintenance funds generated by the facility operated as a conversion school shall remain with the conversion school.

(f) To the extent that charter school facilities are specifically created to mitigate the educational impact created by the development of new residential dwelling units in critically sensitive areas, especially rural schools and specialty schools, pursuant to subparagraph (2)(c)4., some of or all of the educational impact fees required to be paid in connection with the new residential dwelling units in a critically sensitive area may be designated instead for the construction of the charter school facilities that will mitigate the student station impact. Such facilities shall be built to the State Requirements for Educational Facilities and shall be owned by a public or nonprofit entity. The local school district retains the right to monitor and inspect such facilities to ensure compliance with the State Requirements for Educational Facilities. If a facility ceases to be used for public educational purposes, either the facility shall revert to the school district subject to any debt owed on the facility, or the owner of the facility shall have the option to refund all educational impact fees utilized for the facility to the school district. The district and the owner of the facility may contractually agree to another arrangement for the facilities if the facilities cease to be used for educational purposes. The owner of property planned or approved for new residential dwelling units in a critically sensitive area and the entity levying educational impact fees shall enter into an agreement that designates the educational impact fees that will be allocated for the charter school student stations and that ensures the timely construction of the charter school student stations concurrent with the expected occupancy of the residential units. The application for use of educational impact fees shall include an approved charter school application. To assist the school district in forecasting student station needs, the entity levying the impact fees shall notify the affected district of any agreements it has approved for the purpose of mitigating student station impact from the new residential dwelling units.

On motion by Senator Diaz de la Portilla, **CS for SB 3000** as amended was passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Argenziano	Atwater
Alexander	Aronberg	Bennett

Carlton	Haridopolos	Pruitt
Clary	Hill	Sebesta
Constantine	Jones	Siplin
Diaz de la Portilla	Lee	Smith
Dockery	Margolis	Villalobos
Fasano	Peaden	Webster
Garcia	Posey	Wise

Nays—12

Bullard	Dawson	Miller
Campbell	Geller	Saunders
Cowin	Klein	Wasserman Schultz
Crist	Lynn	Wilson

**RECONSIDERATION OF BILL**

On motion by Senator Bennett, the Senate reconsidered the vote by which—

**CS for CS for CS for SB 1174**—A bill to be entitled An act relating to the 2005 Planning and Development Study Commission; creating the commission; providing for its membership and requirements for voting; providing for appointments by the Governor, the President of the Senate, and the Speaker of the House of Representatives; requiring the Secretary of Transportation, the Secretary of Community Affairs, the Secretary of Environmental Protection, the Commissioner of Agriculture, and the executive director of the Fish and Wildlife Conservation Commission, or their designees, to serve as ex officio nonvoting members; requiring the commission to review the state's growth management programs and laws and make recommendations; requiring public hearings; requiring the Department of Community Affairs to provide staff support; providing for expiration of the commission; providing an effective date.

—as amended passed this day.

On motion by Senator Bennett, the Senate reconsidered the vote by which **Amendment 1** was adopted. **Amendment 1** failed.

Senator Bennett moved the following amendment which was adopted by two-thirds vote:

**Amendment 3 (270378)**—On page 1, line 23 through page 2, line 20, delete those lines; and on page 2, lines 24 and 25, delete those lines and insert:

Section 1. (1) *The 2005 Planning and Development Study Commission may be created. The commission shall be composed*

On motion by Senator Bennett, **CS for CS for CS for SB 1174** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise

Nays—None

Vote after roll call:

Yea to Nay—Jones

## RECESS

The President declared the Senate in recess at 3:46 p.m. to reconvene upon his call.

## EVENING SESSION

The Senate was called to order by the President at 5:56 p.m. A quorum present—40:

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lee, by two-thirds vote **CS for SB 1452** was withdrawn from the Committees on Governmental Oversight and Productivity; Appropriations Subcommittee on Education; and Appropriations; and by two-thirds vote placed on the Special Order Calendar; **CS for SB 2326** was withdrawn from the Committees on Appropriations Subcommittee on Education; and Appropriations; and by two-thirds vote placed on the Special Order Calendar; **SB 2732** was withdrawn from the Committees on Appropriations Subcommittee on Criminal Justice; and Appropriations; and by two-thirds vote placed on the Special Order Calendar; and **CS for CS for SB 2894** by two-thirds vote was placed on the Special Order Calendar.

## SPECIAL ORDER CALENDAR, continued

**CS for SB's 2346 and 516**—A bill to be entitled An act relating to elections; providing a short title; amending s. 106.011, F.S.; redefining the terms “political committee,” “contribution,” “expenditure,” “independent expenditure,” “communications media,” and “political advertisement”; defining the term “electioneering communication”; amending s. 106.04, F.S.; modifying contribution reporting requirements for committees of continuous existence; amending s. 106.07, F.S.; modifying campaign finance reporting requirements for certain groups in special elections, to conform; amending s. 106.071, F.S.; establishing reporting requirements for certain individuals making electioneering communications; modifying sponsorship disclaimer requirements for independent expenditures; creating an exemption; deleting a limitation on contributions to fund independent expenditures; amending s. 106.143, F.S.; modifying sponsorship disclaimer requirements for political advertisements; repealing s. 106.148, F.S., relating to sponsorship disclaimer requirements for certain computer messages; providing an effective date.

—was read the second time by title.

Senator Lee moved the following amendment which was adopted:

**Amendment 1 (821820)(with title amendment)**—On page 2, line 1 through page 18, line 15, delete those lines and insert:

Section 2. Section 106.011, Florida Statutes, is amended to read:

106.011 Definitions.—As used in this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

(1)(a) “Political committee” means:

1. A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:

a. Accepts contributions for the purpose of making contributions to any candidate, political committee, committee of continuous existence, or political party;

b. Accepts contributions for the purpose of expressly advocating the election or defeat of a candidate or the passage or defeat of an issue;

c. Makes expenditures that expressly advocate the election or defeat of a candidate or the passage or defeat of an issue; or

d. Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, committee of continuous existence, or political party;—

2. The sponsor of a proposed constitutional amendment by initiative who intends to seek the signatures of registered electors.

(b) Notwithstanding paragraph (a), the following entities are not considered political committees for purposes of this chapter:

1. Organizations which are certified by the Department of State as committees of continuous existence pursuant to s. 106.04, national political parties, and the state and county executive committees of political parties regulated by chapter 103.

2. Corporations regulated by chapter 607 or chapter 617 or other business entities formed for purposes other than to support or oppose issues or candidates, if their political activities are limited to contributions in support of or opposition to an issue from corporate or business funds and if no contributions are received by such corporations or business entities.

3. *Organizations whose activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications; however, such organizations shall be required to register and report contributions, including those received from committees of continuous existence, and expenditures in the same manner, at the same time, subject to the same penalties, and with the same filing officer as a political committee supporting or opposing a candidate or issue contained in the electioneering communication. If any such organization would be required to register and report with more than one filing officer, the organization shall register and report solely with the Division of Elections.*

(2) “Committee of continuous existence” means any group, organization, association, or other such entity which is certified pursuant to the provisions of s. 106.04.

(3) “Contribution” means:

(a) A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election or making an electioneering communication.

(b) A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence.

(c) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.

(d) The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.

Notwithstanding the foregoing meanings of “contribution,” the word shall not be construed to include services, including, but not limited to, legal and accounting services, provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee. This definition shall not be construed to include editorial endorsements.

(4)(a) "Expenditure" means a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election or *making an electioneering communication*. However, "expenditure" does not include a purchase, payment, distribution, loan, advance, or gift of money or anything of value made for the purpose of influencing the results of an election when made by an organization, in existence prior to the time during which a candidate qualifies or an issue is placed on the ballot for that election, for the purpose of printing or distributing such organization's newsletter, containing a statement by such organization in support of or opposition to a candidate or issue, which newsletter is distributed only to members of such organization.

(b) *As used in this chapter, an "expenditure" for an electioneering communication is made when the earliest of the following occurs:*

1. *A person executes a contract for applicable goods or services;*
2. *A person makes payment, in whole or in part, for applicable goods or services; or*
3. *The electioneering communication is publicly disseminated.*

(5)(a) "Independent expenditure" means an expenditure by a person for the purpose of *expressly* advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee. An expenditure for such purpose by a person having a contract with the candidate, political committee, or agent of such candidate or committee in a given election period shall not be deemed an independent expenditure.

(b) An expenditure for the purpose of *expressly* advocating the election or defeat of a candidate which is made by the national, state, or county executive committee of a political party, including any subordinate committee of a national, state, or county committee of a political party, or by any political committee or committee of continuous existence, or any other person, shall not be considered an independent expenditure if the committee or person:

1. Communicates with the candidate, the candidate's campaign, or an agent of the candidate acting on behalf of the candidate, including any pollster, media consultant, advertising agency, vendor, advisor, or staff member, concerning the preparation of, use of, or payment for, the specific expenditure or advertising campaign at issue; or
2. Makes a payment in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with the candidate, the candidate's campaign, a political committee supporting the candidate, or an agent of the candidate relating to the specific expenditure or advertising campaign at issue; or
3. Makes a payment for the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by the candidate, the candidate's campaign, or an agent of the candidate, including any pollster, media consultant, advertising agency, vendor, advisor, or staff member; or
4. Makes a payment based on information about the candidate's plans, projects, or needs communicated to a member of the committee or person by the candidate or an agent of the candidate, provided the committee or person uses the information in any way, in whole or in part, either directly or indirectly, to design, prepare, or pay for the specific expenditure or advertising campaign at issue; or
5. After the last day of qualifying for statewide or legislative office, consults about the candidate's plans, projects, or needs in connection with the candidate's pursuit of election to office and the information is used in any way to plan, create, design, or prepare an independent expenditure or advertising campaign, with:

a. Any officer, director, employee, or agent of a national, state, or county executive committee of a political party that has made or intends to make expenditures in connection with or contributions to the candidate; or

b. Any person whose professional services have been retained by a national, state, or county executive committee of a political party that has made or intends to make expenditures in connection with or contributions to the candidate; or

6. After the last day of qualifying for statewide or legislative office, retains the professional services of any person also providing those services to the candidate in connection with the candidate's pursuit of election to office; or

7. Arranges, coordinates, or directs the expenditure, in any way, with the candidate or an agent of the candidate.

(6) "Election" means any primary election, special primary election, general election, special election, or municipal election held in this state for the purpose of nominating or electing candidates to public office, choosing delegates to the national nominating conventions of political parties, or submitting an issue to the electors for their approval or rejection.

(7) "Issue" means any proposition which is required by the State Constitution, by law or resolution of the Legislature, or by the charter, ordinance, or resolution of any political subdivision of this state to be submitted to the electors for their approval or rejection at an election, or any proposition for which a petition is circulated in order to have such proposition placed on the ballot at any election.

(8) "Person" means an individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term includes a political party, political committee, or committee of continuous existence.

(9) "Campaign treasurer" means an individual appointed by a candidate or political committee as provided in this chapter.

(10) "Public office" means any state, county, municipal, or school or other district office or position which is filled by vote of the electors.

(11) "Campaign fund raiser" means any affair held to raise funds to be used in a campaign for public office.

(12) "Division" means the Division of Elections of the Department of State.

(13) "Communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mailing companies, advertising agencies, *the Internet*, and telephone companies; but with respect to telephones, an expenditure shall be deemed to be an expenditure for the use of communications media only if made for the costs of telephones, paid telephonists, or automatic telephone equipment to be used by a candidate or a political committee to communicate with potential voters but excluding any costs of telephones incurred by a volunteer for use of telephones by such volunteer; *however, with respect to the Internet, an expenditure shall be deemed an expenditure for use of communications media only if made for the cost of creating or disseminating a message on a computer information system accessible by more than one person but excluding internal communications of a campaign or of any group.*

(14) "Filing officer" means the person before whom a candidate qualifies, the agency or officer with whom a political committee registers, or the agency by whom a committee of continuous existence is certified.

(15) "Unopposed candidate" means a candidate for nomination or election to an office who, after the last day on which any person, including a write-in candidate, may qualify, is without opposition in the election at which the office is to be filled or who is without such opposition after such date as a result of any primary election or of withdrawal by other candidates seeking the same office. A candidate is not an unopposed candidate if there is a vacancy to be filled under s. 100.111(4), if there is a legal proceeding pending regarding the right to a ballot position for the office sought by the candidate, or if the candidate is seeking retention as a justice or judge.

(16) "Candidate" means any person to whom any one or more of the following apply:

(a) Any person who seeks to qualify for nomination or election by means of the petitioning process.

(b) Any person who seeks to qualify for election as a write-in candidate.

(c) Any person who receives contributions or makes expenditures, or consents for any other person to receive contributions or make expenditures, with a view to bring about his or her nomination or election to, or retention in, public office.

(d) Any person who appoints a treasurer and designates a primary depository.

(e) Any person who files qualification papers and subscribes to a candidate's oath as required by law.

However, this definition does not include any candidate for a political party executive committee.

(17) "Political advertisement" means a paid expression in any communications media prescribed in subsection (13), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue ~~shall support or oppose any candidate, elected public official, or issue.~~ However, political advertisement does not include:

(a) A statement by an organization, in existence prior to the time during which a candidate qualifies or an issue is placed on the ballot for that election, in support of or opposition to a candidate or issue, in that organization's newsletter, which newsletter is distributed only to the members of that organization.

(b) Editorial endorsements by any newspaper, radio or television station, or other recognized news medium.

(18)(a) "Electioneering communication" means a paid expression in any communications media prescribed in subsection (13) by means other than the spoken word in direct conversation that:

1. Refers to or depicts a clearly identified candidate for office or contains a clear reference indicating that an issue is to be voted on at an election, without expressly advocating the election or defeat of a candidate or the passage or defeat of an issue.

2. For communications referring to or depicting a clearly identified candidate for office, is targeted to the relevant electorate. A communication is considered targeted if 1,000 or more persons in the geographic area the candidate would represent if elected will receive the communication.

3. For communications referring to or depicting a clearly identified candidate for office, is published after the end of the candidate qualifying period for the office sought by the candidate.

4. For communications containing a clear reference indicating that an issue is to be voted on at an election, is published after the issue is designated a ballot position or 120 days before the date of the election on the issue, whichever occurs first.

(b) The term "electioneering communication" does not include:

1. A statement or depiction by an organization, in existence prior to the time during which a candidate named or depicted qualifies or an issue identified is placed on the ballot for that election, made in that organization's newsletter, which newsletter is distributed only to members of that organization.

2. An editorial endorsement, news story, commentary, or editorial by any newspaper, radio, television station, or other recognized news medium.

3. A communication that constitutes a public debate or forum that includes at least two opposing candidates for an office or one advocate and one opponent of an issue, or that solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum, provided that:

a. The staging organization is either:

(I) A charitable organization that does not make other electioneering communications and does not otherwise support or oppose any political candidate or political party; or

(II) A newspaper, radio station, television station, or other recognized news medium; and

b. The staging organization does not structure the debate to promote or advance one candidate or issue position over another.

(c) For purposes of this chapter, an expenditure made for, or in furtherance of, an electioneering communication shall not be considered a contribution to or on behalf of any candidate.

(d) For purposes of this chapter, an electioneering communication shall not constitute an independent expenditure nor be subject to the limitations applicable to independent expenditures.

Section 3. Subsections (4) and (5) of section 106.04, Florida Statutes, are amended to read:

106.04 Committees of continuous existence.—

(4)(a) Each committee of continuous existence shall file an annual report with the Division of Elections during the month of January. Such annual reports shall contain the same information and shall be accompanied by the same materials as original applications filed pursuant to subsection (2). However, the charter or bylaws need not be filed if the annual report is accompanied by a sworn statement by the chair that no changes have been made to such charter or bylaws since the last filing.

(b)1. Each committee of continuous existence shall file regular reports with the Division of Elections at the same times and subject to the same filing conditions as are established by s. 106.07(1) and (2) for candidates' reports.

2. Any committee of continuous existence failing to so file a report with the Division of Elections pursuant to this paragraph on the designated due date shall be subject to a fine for late filing as provided by this section.

(c) All committees of continuous existence shall file the original and one copy of their reports with the Division of Elections. In addition, a duplicate copy of each report shall be filed with the supervisor of elections in the county in which the committee maintains its books and records, except that if the filing officer to whom the committee is required to report is located in the same county as the supervisor no such duplicate report is required to be filed with the supervisor. Reports shall be on forms provided by the division and shall contain the following information:

1. The full name, address, and occupation of each person who has made one or more contributions, including contributions that represent the payment of membership dues, to the committee during the reporting period, together with the amounts and dates of such contributions. For corporations, the report must provide as clear a description as practicable of the principal type of business conducted by the corporation. However, if the contribution is \$100 or less, the occupation of the contributor or principal type of business need not be listed. However, for any contributions that which represent the payment of dues by members in a fixed amount aggregating no more than \$250 per calendar year, pursuant to the schedule on file with the Division of Elections, only the aggregate amount of such contributions need be listed, together with the number of members paying such dues and the amount of the membership dues.

2. The name and address of each political committee or committee of continuous existence from which the reporting committee received, or the name and address of each political committee, committee of continuous existence, or political party to which it made, any transfer of funds, together with the amounts and dates of all transfers.

3. Any other receipt of funds not listed pursuant to subparagraph 1. or subparagraph 2., including the sources and amounts of all such funds.

4. The name and address of, and office sought by, each candidate to whom the committee has made a contribution during the reporting period, together with the amount and date of each contribution.

5. The full name and address of each person to whom expenditures have been made by or on behalf of the committee within the reporting period; the amount, date, and purpose of each such expenditure; and the name and address, and office sought by, each candidate on whose behalf such expenditure was made.

6. *The total sum of expenditures made by the committee during the reporting period.*

(d) The treasurer of each committee shall certify as to the correctness of each report and shall bear the responsibility for its accuracy and veracity. Any treasurer who willfully certifies to the correctness of a report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) No committee of continuous existence shall *make an electioneering communication*, contribute to any candidate or political committee an amount in excess of the limits contained in s. 106.08(1), or participate in any ~~other~~ activity which is prohibited by this chapter. If any violation occurs, it shall be punishable as provided in this chapter for the given offense. No funds of a committee of continuous existence shall be expended on behalf of a candidate, except by means of a contribution made through the duly appointed campaign treasurer of a candidate. No such committee shall make expenditures in support of, or in opposition to, an issue unless such committee first registers as a political committee pursuant to this chapter and undertakes all the practices and procedures required thereof; provided such committee may make contributions in a total amount not to exceed 25 percent of its aggregate income, as reflected in the annual report filed for the previous year, to one or more political committees registered pursuant to s. 106.03 and formed to support or oppose issues.

Section 4. Section 106.071, Florida Statutes, is amended to read:

106.071 Independent expenditures; *electioneering communications*; reports; disclaimers.—

(1) Each person who makes an independent expenditure with respect to any candidate or issue, *and each individual who makes an expenditure for an electioneering communication which is not otherwise reported pursuant to this chapter*, which expenditure, in the aggregate, is in the amount of \$100 or more, shall file periodic reports of such expenditures in the same manner, at the same time, *subject to the same penalties*, and with the same officer as a political committee supporting or opposing such candidate or issue. The report shall contain the *full name and address of the person making the expenditure; the full name and address of each person to whom and for whom each such expenditure has been made; the amount, date, and purpose of each such expenditure; a description of the services or goods obtained by each such expenditure; the issue to which the expenditure relates; and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.*

(2) Any political advertisement paid for by an independent expenditure shall prominently state “Paid political advertisement paid for by . . . (Name and address of person ~~or committee~~ paying for advertisement) . . . independently of any . . . (candidate or committee) . . . ;” ~~and shall contain the name and address of the person paying for the political advertisement.~~

(3) *Subsection (2) does not apply to novelty items having a retail value of \$10 or less which support, but do not oppose, a candidate or issue.*

(4)~~(2)~~ Any person who fails to include the disclaimer prescribed in subsection (2) ~~(4)~~ in any political advertisement *that which* is required to contain such disclaimer *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

~~(3) No person may make a contribution in excess of \$1,000 to any other person, to be used by such other person to make an independent expenditure.~~

Section 5. Subsection (1) of section 106.143, Florida Statutes, is amended to read:

106.143 Political advertisements circulated prior to election; requirements.—

(1)(a) *Any political advertisement that is paid for by a candidate and that is published, displayed, or circulated prior to, or on the day of, any election must prominently state: “Political advertisement paid for and approved by . . . (name of candidate) . . . , . . . (party affiliation) . . . , for . . . (office sought) . . . .”*

~~(b) Any other political advertisement and any campaign literature published, displayed, or circulated prior to, or on the day of, any election must prominently shall:~~

1.~~(a)~~ Be marked “paid political advertisement” or with the abbreviation “pd. pol. adv.”

2. *State the name and address of the persons sponsoring the advertisement.*

~~(b) Identify the persons or organizations sponsoring the advertisement.~~

3.a.~~(I)(e)~~1.a. State whether the advertisement and the cost of production is paid for or provided in kind by or at the expense of the entity publishing, displaying, broadcasting, or circulating the political advertisement; or

~~(II)b.~~ State who provided or paid for the advertisement and cost of production, if different from the source of sponsorship.

b.2. ~~This subparagraph does paragraph shall~~ not apply if the source of the sponsorship is patently clear from the content or format of the political advertisement ~~or campaign literature.~~

This subsection does not apply to campaign messages used by a candidate and the candidate’s supporters if those messages are designed to be worn by a person.

Section 6. Section 106.1437, Florida Statutes, is amended to read:

106.1437 Miscellaneous advertisements.—Any advertisement, other than a political advertisement, *independent expenditure, or electioneering communication*, on billboards, bumper stickers, radio, or television, or in a newspaper, a magazine, or a periodical, intended to influence public policy or the vote of a public official, shall clearly designate the sponsor of such advertisement by including a clearly readable statement of sponsorship. If the advertisement is broadcast on television, the advertisement shall also contain a verbal statement of sponsorship. This section shall not apply to an editorial endorsement.

Section 7. Section 106.1439, Florida Statutes, is created to read:

106.1439 *Electioneering communications; disclaimers.—*

(1) *Any electioneering communication shall prominently state, “Paid electioneering communication paid for by . . . (Name and address of person paying for the communication) . . . .”*

(2) *Any person who fails to include the disclaimer prescribed in this section in any electioneering communication that is required to contain such disclaimer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 11-23, delete those lines and insert: existence; modifying prohibitions on activities of committees of continuous existence; amending s. 106.071, F.S.; establishing reporting requirements for certain individuals making electioneering communications; modifying sponsorship disclaimer requirements for independent expenditures; creating an exemption; deleting a limitation on contributions to fund independent expenditures; amending s. 106.143, F.S.; modifying sponsorship disclaimer requirements for political advertisements; amending s. 106.1437, F.S.; creating exemptions to disclaimer requirements for certain public policy advertisements; creating s. 106.1439, F.S.; creating disclaimer requirements for electioneering communications; providing penalties; repealing s.

Senator Lee moved the following amendment:

**Amendment 2 (625488)(with title amendment)**—On page 18, delete line 18 and insert:

Section 8. Subsections (7) through (38) are renumbered as subsections (8) through (39), respectively, and a new subsection (8) is added to said section to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(7) "Early voting" means casting a ballot prior to election day at a location designated by the supervisor of elections and depositing the voted ballot in the tabulation system.

Section 9. Paragraphs (b) and (c) of subsection (4) of section 101.015, Florida Statutes, are amended to read:

101.015 Standards for voting systems.—

(4)

(b) Each supervisor of elections shall establish written procedures to assure accuracy and security in his or her county, including procedures related to early voting pursuant to s. 101.657. and Such procedures shall be reviewed in each odd-numbered year by the Department of State.

(c) Each supervisor of elections shall submit any revisions to the security procedures to the Department of State at least 45 days before early voting commences pursuant to s. 101.657 in an the first election in which they are to take effect.

Section 10. Subsection (2) of section 101.5612, Florida Statutes, is amended to read:

101.5612 Testing of tabulating equipment.—

(2) On any day not more than 10 days prior to the commencement of early voting as provided in s. 101.657 election day, the supervisor of elections shall have the automatic tabulating equipment publicly tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting the such notice in at least four conspicuous places in the county. The supervisor or the municipal elections official may, at the time of qualifying, give written notice of the time and location of the such public preelection test to each candidate qualifying with that office and obtain a signed receipt that the such notice has been given. The Department of State shall give written notice to each statewide candidate at the time of qualifying, or immediately at the end of qualifying, that the voting equipment will be tested and advise each such candidate to contact the county supervisor of elections as to the time and location of the public preelection test. The supervisor or the municipal elections official shall, at least 15 days prior to the commencement of early voting as provided in s. 101.657 an election, send written notice by certified mail to the county party chair of each political party and to all candidates for other than statewide office whose names appear on the ballot in the county and who did not receive written notification from the supervisor or municipal elections official at the time of qualifying, stating the time and location of the public preelection test of the automatic tabulating equipment. The canvassing board shall convene, and each member of the canvassing board shall certify to the accuracy of the test. For the test, the canvassing board may designate one member to represent it. The test shall be open to representatives of the political parties, the press, and the public. Each political party may designate one person with expertise in the computer field who shall be allowed in the central counting room when all tests are being conducted and when the official votes are being counted. The Such designee shall not interfere with the normal operation of the canvassing board.

Section 11. Section 101.5613, Florida Statutes, is amended to read:

101.5613 Examination of equipment during voting.—A member of the election board or, for purposes of early voting pursuant to s. 101.657, a representative of the supervisor of elections, shall occasionally examine the face of the voting device and the ballot information to determine that the device and the ballot information have not been damaged or tampered with.

Section 12. Section 101.657, Florida Statutes, is amended to read:

101.657 Early voting absentee ballots in person.—

(1) Any qualified and registered elector may pick up and vote an absentee ballot in person at the office of, and under the supervision of,

the supervisor of elections. Before receiving the ballot, the elector must present a current and valid picture identification as provided in s. 97.0535(3)(a). If the elector fails to furnish the required identification, or if the supervisor is in doubt as to the identity of the elector, the supervisor must follow the procedure prescribed in s. 101.49. If the elector who fails to furnish the required identification is a first-time voter who registered by mail and has not provided the required identification to the supervisor of elections prior to voting, the elector shall be allowed to vote a provisional ballot. The canvassing board shall compare the signature on the provisional ballot envelope with the signature on the voter's registration and, if the signatures match, shall count the ballot.

(1)(a)(2) As an alternative to the provisions of ss. 101.64 and 101.65, The supervisor of elections shall may allow an elector to vote early east an absentee ballot in the main or branch office of the supervisor by depositing the voted ballot in a voting device used by the supervisor to collect or tabulate ballots. In order for a branch office to be used for early voting, it shall be a full-service facility of the supervisor and shall have been designated as such at least 1 year prior to the election. The supervisor may designate any city hall or public library as an early voting site; however, if so designated, the site must be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable. The results or tabulation may not be made before the close of the polls on election day.

(b) Early voting shall begin on the 15th day before an election and end on the day before an election. For purposes of a special election held pursuant to s. 100.101, early voting shall begin on the 8th day before an election and end on the day before an election. Early voting shall be provided for at least 8 hours per weekday during the applicable periods. Early voting shall also be provided for 8 hours in the aggregate for each weekend during the applicable periods.

(2)(a) The elector must provide identification as required in subsection (1) and must complete an Early Voting In-Office Voter Certificate in substantially the following form:

EARLY VOTING IN-OFFICE VOTER CERTIFICATE

I, \_\_\_\_\_, am a qualified elector in this election and registered voter of \_\_\_\_\_ County, Florida. I do solemnly swear or affirm that I am the person so listed on the voter registration rolls of \_\_\_\_\_ County and that I reside at the listed address. I understand that if I commit or attempt to commit fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election I could be convicted of a felony of the third degree and both fined up to \$5,000 and imprisoned for up to 5 years. I understand that my failure to sign this certificate and have my signature witnessed invalidates my ballot.

... (Voter's Signature) ...  
... (Address) ...  
... (City/State) ...  
... (Name of Witness) ...  
... (Signature of Witness) ...  
... (Type of identification provided) ...

(b) Any elector may challenge an elector seeking to vote early east an absentee ballot under the provisions of s. 101.111. Any challenged voter ballot must vote be placed in a provisional regular absentee ballot envelope. The canvassing board shall review the ballot and decide the validity of the ballot by majority vote.

(c) The canvass of returns for ballots cast under this subsection shall be substantially the same as votes cast by electors in precincts, as provided in s. 101.5614.

Section 13. Effective July 1, 2004, and operating retroactively to January 1, 2002, subsection (3) of section 106.021, Florida Statutes, is amended to read:

106.021 Campaign treasurers; deputies; primary and secondary depositories.—

(3) Except for independent expenditures, No contribution or expenditure, including contributions or expenditures of a candidate or of the

candidate's family, shall be directly or indirectly made or received in furtherance of the candidacy of any person for nomination or election to political office in the state or on behalf of any political committee except through the duly appointed campaign treasurer of the candidate or political committee, *subject to the following exceptions; however,*

- (a) *Independent expenditures;*
- (b) ~~Reimbursements to a candidate or any other individual may be reimbursed for expenses incurred in connection with the campaign or activities of the political committee for travel, food and beverage, office supplies, and mementos expressing gratitude to campaign supporters~~ by a check drawn upon the campaign account and reported pursuant to s. 106.07(4). *After July 1, 2004, the full name and address of each person to whom the candidate or other individual made payment for which reimbursement was made by check drawn upon the campaign account shall be reported pursuant to s. 106.07(4), together with the purpose of such payment;*
- (c) *Expenditures made indirectly through a treasurer for goods or services, such as communications media placement or procurement services, campaign signs, insurance, or other expenditures that include multiple integral components as part of the expenditure and reported pursuant to s. 106.07(4)(a)13.; or*
- (d) ~~In addition,~~ Expenditures may be made directly by any political committee or political party regulated by chapter 103 for obtaining time, space, or services in or by any communications medium for the purpose of jointly endorsing three or more candidates, and any such expenditure shall not be considered a contribution or expenditure to or on behalf of any such candidates for the purposes of this chapter.

Section 14. Section 106.023, Florida Statutes, is amended to read:

106.023 Statement of candidate.—

(1) Each candidate must file a statement with the qualifying officer within 10 days after filing the appointment of campaign treasurer and designation of campaign depository, stating that the candidate has read and understands the requirements of this chapter. Such statement shall be provided by the filing officer and shall be in substantially the following form:

STATEMENT OF CANDIDATE

I, \_\_\_\_\_, candidate for the office of \_\_\_\_\_, have received, read, and understand the requirements of Chapter 106, Florida Statutes.

... (Signature of candidate) ... (Date) ...

Willful failure to file this form is a violation of ss. 106.19(1)(c) and 106.25(3), F.S.

(2) *The execution and filing of the statement of candidate does not in and of itself create a presumption that any violation of this chapter or chapter 104 is a willful violation as defined in s. 106.37.*

Section 15. Paragraph (a) of subsection (8) of section 106.04, Florida Statutes, is amended to read:

106.04 Committees of continuous existence.—

(8)(a) Any committee of continuous existence failing to file a report on the designated due date shall be subject to a fine. The fine shall be \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited in the ~~General Revenue Elections Commission Trust~~ Fund. No separate fine shall be assessed for failure to file a copy of any report required by this section.

Section 16. Paragraph (a) of subsection (2), paragraph (a) of subsection (4), and paragraphs (a), (c), and (d) of subsection (8) of section 106.07, Florida Statutes, are amended to read:

106.07 Reports; certification and filing.—

(2)(a) All reports required of a candidate by this section shall be filed with the officer before whom the candidate is required by law to qualify.

All candidates who file with the Department of State shall file the original and one copy of their reports. In addition, a copy of each report for candidates for other than statewide office who qualify with the Department of State shall be filed with the supervisor of elections in the county where the candidate resides. Reports shall be filed not later than 5 p.m. of the day designated; however, any report postmarked by the United States Postal Service no later than midnight of the day designated shall be deemed to have been filed in a timely manner. *Any report received by the filing officer within 5 days after the designated due date that was delivered by the United States Postal Service shall be deemed timely filed unless it has a postmark that indicates that the report was mailed after the designated due date.* A certificate of mailing obtained from and dated by the United States Postal Service at the time of mailing, or a receipt from an established courier company, which bears a date on or before the date on which the report is due, shall be proof of mailing in a timely manner. Reports shall contain information of all previously unreported contributions received and expenditures made as of the preceding Friday, except that the report filed on the Friday immediately preceding the election shall contain information of all previously unreported contributions received and expenditures made as of the day preceding that designated due date. All such reports shall be open to public inspection.

(4)(a) Each report required by this section shall contain:

1. The full name, address, and occupation, if any of each person who has made one or more contributions to or for such committee or candidate within the reporting period, together with the amount and date of such contributions. For corporations, the report must provide as clear a description as practicable of the principal type of business conducted by the corporation. However, if the contribution is \$100 or less or is from a relative, as defined in s. 112.312, provided that the relationship is reported, the occupation of the contributor or the principal type of business need not be listed.
2. The name and address of each political committee from which the reporting committee or the candidate received, or to which the reporting committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers.
3. Each loan for campaign purposes to or from any person or political committee within the reporting period, together with the full names, addresses, and occupations, and principal places of business, if any, of the lender and endorsers, if any, and the date and amount of such loans.
4. A statement of each contribution, rebate, refund, or other receipt not otherwise listed under subparagraphs 1. through 3.
5. The total sums of all loans, in-kind contributions, and other receipts by or for such committee or candidate during the reporting period. The reporting forms shall be designed to elicit separate totals for in-kind contributions, loans, and other receipts.
6. The full name and address of each person to whom expenditures have been made by or on behalf of the committee or candidate within the reporting period; the amount, date, and purpose of each such expenditure; and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made. However, expenditures made from the petty cash fund provided by s. 106.12 need not be reported individually.
7. The full name and address of each person to whom an expenditure for personal services, salary, or reimbursement for authorized expenses as provided in s. 106.021(3) has been made and which is not otherwise reported, including the amount, date, and purpose of such expenditure. However, expenditures made from the petty cash fund provided for in s. 106.12 need not be reported individually.
8. The total amount withdrawn and the total amount spent for petty cash purposes pursuant to this chapter during the reporting period.
9. The total sum of expenditures made by such committee or candidate during the reporting period.
10. The amount and nature of debts and obligations owed by or to the committee or candidate, which relate to the conduct of any political campaign.
11. A copy of each credit card statement which shall be included in the next report following receipt thereof by the candidate or political

committee. Receipts for each credit card purchase shall be retained by the treasurer with the records for the campaign account.

12. The amount and nature of any separate interest-bearing accounts or certificates of deposit and identification of the financial institution in which such accounts or certificates of deposit are located.

13. *The primary purposes of an expenditure made indirectly through a campaign treasurer pursuant to s. 106.021(3) for goods and services as communications media placement or procurement services, campaign signs, insurance, and other expenditures that include multiple components as part of the expenditure. The primary purpose of an expenditure shall be that purpose, including integral and directly related components, that comprises 80 percent of such expenditure.*

(8)(a) Any candidate or political committee failing to file a report on the designated due date shall be subject to a fine as provided in paragraph (b) for each late day, and, in the case of a candidate, such fine shall be paid only from personal funds of the candidate. The fine shall be assessed by the filing officer and the moneys collected shall be deposited:

1. In the ~~General Revenue Elections Commission Trust~~ Fund, in the case of a candidate for state office or a political committee that registers with the Division of Elections; or

2. In the general revenue fund of the political subdivision, in the case of a candidate for an office of a political subdivision or a political committee that registers with an officer of a political subdivision.

No separate fine shall be assessed for failure to file a copy of any report required by this section.

(c) Any candidate or chair of a political committee may appeal or dispute the fine, based upon, *but not limited to*, unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. *The Florida Elections Commission must consider the mitigating and aggravating circumstances contained in s. 106.265(1) when determining the amount of a fine, if any, to be waived.* Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the candidate or chair of the political committee shall, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the commission.

(d) The appropriate filing officer shall notify the Florida Elections Commission of the repeated late filing by a candidate or political committee, the failure of a candidate or political committee to file a report after notice, or the failure to pay the fine imposed. *The commission shall investigate only those alleged late filing violations specifically identified by the filing officer and as set forth in the notification. Any other alleged violations must be separately stated and reported by the division to the commission under s. 106.25(2).*

Section 17. Effective January 1, 2005, paragraph (a) of subsection (2) of section 106.07, Florida Statutes, as amended by this act, and paragraph (b) of subsection (2), subsection (3), and paragraph (b) of subsection (8) of said section, are amended to read:

#### 106.07 Reports; certification and filing.—

(2)(a) All reports required of a candidate by this section shall be filed with the officer before whom the candidate is required by law to qualify. All candidates who file with the Department of State shall file ~~the original and one copy of their reports pursuant to s. 106.0705.~~ In addition, a copy of each report for candidates for other than statewide office who qualify with the Department of State shall be filed with the supervisor of elections in the county where the candidate resides. *Except as provided in s. 106.0705, reports shall be filed not later than 5 p.m. of the day designated; however, any report postmarked by the United States Postal Service no later than midnight of the day designated shall be deemed to have been filed in a timely manner. Any report received by the filing officer within 5 days after the designated due date that was delivered by the United States Postal Service shall be deemed timely filed unless it has a postmark that indicates that the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the United States Postal Service at the time of mailing, or a receipt from an established courier company, which bears a date on or before the date on which the report is due, shall be proof of mailing in a timely manner.*

Reports shall contain information of all previously unreported contributions received and expenditures made as of the preceding Friday, except that the report filed on the Friday immediately preceding the election shall contain information of all previously unreported contributions received and expenditures made as of the day preceding that designated due date. All such reports shall be open to public inspection.

(b)1. Any report which is deemed to be incomplete by the officer with whom the candidate qualifies shall be accepted on a conditional basis, and the campaign treasurer shall be notified by registered mail as to why the report is incomplete and be given 3 days from receipt of such notice to file an addendum to the report providing all information necessary to complete the report in compliance with this section. Failure to file a complete report after such notice constitutes a violation of this chapter.

2. In lieu of the notice by registered mail as required in subparagraph 1., the qualifying officer may notify the campaign treasurer by telephone that the report is incomplete and request the information necessary to complete the report. If, however, such information is not received by the qualifying officer within 3 days ~~after~~ of the telephone request therefor, notice shall be sent by registered mail as provided in subparagraph 1.

(3) Reports required of a political committee shall be filed with the agency or officer before whom such committee registers pursuant to s. 106.03(3) and shall be subject to the same filing conditions as established for candidates' reports. ~~Only committees that file with the Department of State shall file the original and one copy of their reports.~~ Incomplete reports by political committees shall be treated in the manner provided for incomplete reports by candidates in subsection (2).

(8)

(b) Upon determining that a report is late, the filing officer shall immediately notify the candidate or chair of the political committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the reports immediately preceding each primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. For reports required under s. 106.141(7), the fine is \$50 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the candidate or chair. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.
5. *When the electronic receipt issued pursuant to s. 106.0705 is dated.*

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). In the case of a candidate, such fine shall not be an allowable campaign expenditure and shall be paid only from personal funds of the candidate. An officer or member of a political committee shall not be personally liable for such fine.

Section 18. Effective January 1, 2005, section 106.0705, Florida Statutes, is created to read:

#### 106.0705 Electronic filing of campaign treasurer's reports.—

(1) *As used in this section, "electronic filing system" means an Internet system for recording and reporting campaign finance activity by reporting period.*

(2)(a) *Each candidate who is required to file reports pursuant to s. 106.07 with the division must file such reports with the division by means of the division's electronic filing system.*

(b) Each political committee, committee of continuous existence, or state executive committee that is required to file reports with the division under s. 106.04, s. 106.07, or s. 106.29, as applicable, must file such reports with the division by means of the division's electronic filing system.

(c) Each person or organization that is required to file reports with the division under s. 106.071 must file such reports with the division by means of the division's electronic filing system.

(3) Reports filed pursuant to this section shall be completed and filed through the electronic filing system not later than midnight of the day designated. Reports not filed by midnight of the day designated are late filed and are subject to the penalties under s. 106.04(8), s. 106.07(8), or s. 106.29(3), as applicable.

(4) Each report filed pursuant to this section is considered to be under oath by the candidate and treasurer or the chair and treasurer, whichever is applicable, and such persons are subject to the provisions of s. 106.04(4)(d), s. 106.07(5), or s. 106.29(2), as applicable. Persons given a secure sign-on to the electronic filing system are responsible for protecting such from disclosure and are responsible for all filings using such credentials, unless they have notified the division that their credentials have been compromised.

(5) The electronic filing system developed by the division must:

- (a) Be based on access by means of the Internet.
- (b) Be accessible by anyone with Internet access using standard web-browsing software.
- (c) Provide for direct entry of campaign finance information as well as upload of such information from campaign finance software certified by the division.
- (d) Provide a method that prevents unauthorized access to electronic filing system functions.

(6) The division shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section and provide for the reports required to be filed pursuant to this section. Such rules shall, at a minimum, provide:

- (a) Alternate filing procedures in case the division's electronic filing system is not operable.
- (b) For the issuance of an electronic receipt to the person submitting the report indicating and verifying that the report has been filed.

Section 19. Paragraph (a) of subsection (4) and subsection (6) of section 106.141, Florida Statutes, are amended to read:

106.141 Disposition of surplus funds by candidates.—

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
3. Give not more than \$10,000 of the funds that have not been spent or obligated to the political party of which such candidate is a member, except that a candidate for the Florida Senate may give not more than \$30,000 of such funds to the political party of which the candidate is a member.
4. Give the funds that have not been spent or obligated:
  - a. In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or
  - b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(6) Prior to disposing of funds pursuant to subsection (4) or transferring funds into an office account pursuant to subsection (5), any candidate who filed an oath stating that he or she was unable to pay the election assessment or fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her, or who filed both such oaths, or who qualified by the alternative method and was not required to pay an election assessment, shall reimburse the state or local governmental entity, whichever is applicable, for such waived assessment or fee or both. Such reimbursement shall be made first for the cost of petition verification and then, if funds are remaining, for the amount of the election assessment. If there are insufficient funds in the account to pay the full amount of either the assessment or the fee or both, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund. All reimbursements for the amount of the election assessment shall be forwarded by the qualifying officer to the Department of State for deposit in the General Revenue Elections Commission Trust Fund.

Section 20. Subsections (2) and (4) of section 106.25, Florida Statutes, are amended to read:

106.25 Reports of alleged violations to Florida Elections Commission; disposition of findings.—

(2) The commission shall investigate all violations of this chapter and chapter 104, but only after having received either a sworn complaint or information reported to it under this subsection by the Division of Elections. Any person, other than the division, having information of any violation of this chapter or chapter 104 shall file a sworn complaint with the commission. The commission shall investigate only those alleged violations specifically contained within the sworn complaint. If any complainant fails to allege all violations that arise from the facts or allegations alleged in a complaint, the commission shall be barred from investigating a subsequent complaint from such complainant that is based upon such facts or allegations that were raised or could have been raised in the first complaint. Such sworn complaint shall state whether a complaint of the same violation has been made to any state attorney. Within 5 days after receipt of a sworn complaint, the commission shall transmit a copy of the complaint to the alleged violator. All sworn complaints alleging violations of the Florida Election Code over which the commission has jurisdiction shall be filed with the commission within 2 years after of the alleged violations. The period of limitations is tolled on the day a sworn complaint is filed with the commission.

(4) The commission shall undertake a preliminary investigation to determine if the facts alleged in a sworn complaint or a matter initiated by the division constitute probable cause to believe that a violation has occurred. The respondent, the complainant, and their respective counsels shall be permitted to attend the hearing at which the probable cause determination is made. Notice of the hearing shall be sent to the respondent and the complainant at least 14 days prior to the date of the hearing. The respondent and his or her counsel shall be permitted to make a brief oral statement in the nature of oral argument to the commission before the probable cause determination. The commission's determination shall be based upon the investigator's report, the complaint, and staff recommendations, as well as any written statements submitted by the respondent and any oral statements made at the hearing. No testimony or other evidence shall be accepted at the hearing. Upon completion of the preliminary investigation, the commission shall, by written report, find probable cause or no probable cause to believe that this chapter or chapter 104 has been violated.

(a) If no probable cause is found, the commission shall dismiss the case and the case shall become a matter of public record, except as otherwise provided in this section, together with a written statement of the findings of the preliminary investigation and a summary of the facts which the commission shall send to the complainant and the alleged violator.

(b) If probable cause is found, the commission shall so notify the complainant and the alleged violator in writing. All documents made or received in the disposition of the complaint shall become public records upon a finding by the commission.

In a case where probable cause is found, the commission shall make a preliminary determination to consider the matter or to refer the matter to the state attorney for the judicial circuit in which the alleged violation occurred.

Section 21. Subsection (5) is added to section 106.265, Florida Statutes, to read:

106.265 Civil penalties.—

(5) *In any case in which the commission determines that a person has filed a complaint against another person with a malicious intent to injure the reputation of the person complained against by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this chapter or chapter 104, the complainant shall be liable for costs and reasonable attorney's fees incurred in the defense of the person complained against, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission.*

Section 22. Paragraph (a) of subsection (3) of section 106.29, Florida Statutes, is amended to read:

106.29 Reports by political parties; restrictions on contributions and expenditures; penalties.—

(3)(a) Any state or county executive committee failing to file a report on the designated due date shall be subject to a fine as provided in paragraph (b) for each late day. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited in the *General Revenue Elections Commission Trust Fund*.

Section 23. Effective January 1, 2005, paragraph (b) of subsection (3) of section 106.29, Florida Statutes, is amended to read:

106.29 Reports by political parties; restrictions on contributions and expenditures; penalties.—

(3)

(b) Upon determining that a report is late, the filing officer shall immediately notify the chair of the executive committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$1,000 for a state executive committee, and \$50 for a county executive committee, per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, if an executive committee fails to file a report on the Friday immediately preceding the general election, the fine shall be \$10,000 per day for each day a state executive committee is late and \$500 per day for each day a county executive committee is late. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the chair. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.
5. *When the electronic receipt issued pursuant to s. 106.0705 is dated.*

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). An officer or member of an executive committee shall not be personally liable for such fine.

Section 24. *If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does 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 severable.*

Section 25. Except as otherwise provided herein, this act shall take effect July 1, 2004.

And the title is amended as follows:

On page 1, delete line 26 and insert: messages; amending s. 97.021, F.S.; defining the term "early voting"; amending s. 101.015, F.S.; requiring supervisors of elections to include written procedures for early voting in their accuracy and security procedures and to submit any revisions to those security procedures within a specified period before early voting commences; amending s. 101.5612, F.S.; providing for testing of tabulating equipment prior to commencement of early voting and notice thereof; amending s. 101.5613, F.S.; specifying the person responsible for examination of equipment for purposes of early voting; amending s. 101.657, F.S.; authorizing and providing requirements for early voting; providing for designation of certain facilities as early voting sites; amending s. 106.021, F.S.; providing exceptions to a prohibition against making certain contributions or expenditures in connection with a campaign or activities of a political committee; authorizing reimbursement of expenses incurred in connection with a campaign or activities of a political committee; requiring disclosure of the names and addresses of persons reimbursed from a campaign account; providing for retroactive operation; amending s. 106.023, F.S.; providing that the execution and filing of the statement of candidate does not in and of itself create a presumption that a violation of ch. 106 or ch. 104, F.S., is a willful violation; amending s. 106.04, F.S.; reducing the fine for late filing of campaign finance reports by committees of continuous existence for the first 3 days; providing for deposit of fine proceeds into the General Revenue Fund; amending s. 106.07, F.S.; revising requirements for filing campaign reports; revising requirements with respect to timely filing of mailed reports; requiring the reporting of the primary purposes of certain expenditures made indirectly through a campaign treasurer for certain goods and services; expanding grounds for appealing or disputing a fine; requiring the Florida Elections Commission to consider mitigating and aggravating circumstances in determining the amount of a fine, if any, to be waived for late-filed reports; providing for deposit of certain fine proceeds into the General Revenue Fund; limiting investigation of alleged late filing violations; providing for electronic filing of reports; allowing electronic receipts to be used as proof of filing; creating s. 106.0705, F.S.; providing for electronic filing of campaign finance reports; providing standards and guidelines; providing penalties; providing for adoption of rules; amending s. 106.141, F.S.; increasing the amount of surplus funds a candidate for the Florida Senate can turn back to a political party; providing for deposit into the General Revenue Fund of reimbursed election assessments; amending s. 106.25, F.S.; restricting the alleged violations the commission may investigate to those specifically contained within a sworn complaint; providing restrictions on subsequent complaints based on the same facts or allegations as a prior complaint; authorizing respondents and complainants and their counsels to attend hearings at which probable cause is determined; requiring prior notice; permitting a brief oral statement; specifying bases for determining probable cause; amending s. 106.265, F.S.; providing liability of complainants for costs and reasonable attorney's fees under certain circumstances; providing for civil actions to collect such costs and fees; amending s. 106.29, F.S.; providing that the proceeds of funds assessed against political parties for the late filing of reports shall be deposited into the General Revenue Fund; providing for determination of fine for electronically filed campaign finance reports; providing for severability; providing effective dates.

On motion by Senator Lee, further consideration of **CS for SB's 2346 and 516** with pending **Amendment 2 (625488)** was deferred.

On motion by Senator Bennett, by two-thirds vote **HB 769** was withdrawn from the Committees on Education; Governmental Oversight and Productivity; Appropriations Subcommittee on Education; and Appropriations.

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

**HB 769**—A bill to be entitled An act relating to career education; revising terminology relating to career, technical, vocational, and workforce education; amending s. 1002.34, F.S.; allowing charter technical career center sponsors to submit full-time enrollment membership data

as defined in the charter agreement; deleting requirements relating to the number of days of instruction; creating s. 1003.431, F.S.; providing for a career education certification on a high school diploma; providing academic requirements for students enrolled in comprehensive career education programs; requiring the State Board of Education to define and specify by rule courses and experiences consistent with a comprehensive career education program; authorizing the State Board of Education to adopt by rule a standard format for career education certification; allowing incentive funding to school districts for students receiving the certification; amending s. 1003.491, F.S.; providing certain responsibilities for district school boards and superintendents relating to career education certification; creating s. 1003.492, F.S.; providing for coordination of career education programs with industry; requiring the State Board of Education to adopt rules for implementing an industry certification process; requiring the Department of Education to study student performance in industry-certified career education programs; requiring a study by the Department of Education to determine the need for cost factors or startup funding for industry-certified career education programs; creating s. 1006.025, F.S.; requiring district school boards to submit guidance reports to the Commissioner of Education and providing requirements thereof; amending s. 1012.01, F.S.; revising a personnel classification title; amending s. 1011.80, F.S.; repealing the Florida Workforce Development Education Fund; redesignating adult technical education programs as workforce education programs; revising requirements for funding; requiring reporting and cost analysis; amending ss. 1009.22 and 1011.83, F.S.; deleting references to the Florida Workforce Development Education Fund; requiring the Agency for Workforce Innovation and the Council for Education Policy Research and Improvement to study the need for new and expanded apprenticeship and other workforce education programs; requiring a report of findings and recommendations; requiring the Commissioner of Education to convene a study group to investigate workforce education issues; requiring the study group to submit a report with recommendations for modifications to the workforce education system; amending ss. 20.18, 110.1099, 112.19, 112.191, 112.1915, 238.01, 250.10, 250.482, 288.047, 288.9511, 292.05, 292.10, 295.02, 295.125, 339.0805, 364.508, 376.0705, 380.0651, 402.305, 402.3051, 403.716, 414.0252, 420.0004, 420.524, 420.602, 440.16, 443.171, 445.003, 445.004, 445.009, 445.012, 445.0123, 445.024, 445.049, 446.011, 446.052, 446.22, 475.17, 475.451, 475.617, 475.6175, 475.618, 475.627, 494.0029, 509.302, 553.841, 790.06, 790.115, 810.095, 943.14, 948.015, 948.09, 958.12, 985.03, 985.315, 1000.04, 1000.05, 1001.42, 1001.44, 1001.452, 1001.453, 1001.64, 1002.01, 1002.20, 1002.22, 1002.38, 1002.42, 1003.01, 1003.02, 1003.43, 1003.47, 1003.51, 1003.52, 1004.02, 1004.04, 1004.07, 1004.54, 1004.65, 1004.73, 1004.91, 1004.92, 1004.93, 1004.98, 1005.02, 1005.06, 1005.21, 1006.035, 1006.051, 1006.21, 1006.31, 1007.21, 1007.23, 1007.24, 1007.25, 1007.27, 1007.271, 1008.37, 1008.385, 1008.405, 1008.41, 1008.42, 1008.43, 1008.45, 1009.23, 1009.25, 1009.40, 1009.532, 1009.533, 1009.536, 1009.55, 1009.61, 1009.64, 1009.98, 1010.20, 1010.58, 1011.62, 1011.68, 1012.01, 1012.39, 1012.41, 1012.43, 1013.03, 1013.31, 1013.64, and 1013.75, F.S., to conform; providing an effective date.

—a companion measure, was substituted for **CS for SB 1452** and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 769** was placed on the calendar of Bills on Third Reading.

On motion by Senator Bennett—

**CS for SB 2326**—A bill to be entitled An act relating to juvenile justice education; amending s. 1003.51, F.S.; increasing the percentage of Florida Education Finance Program funding generated by students in juvenile justice programs which must be spent on instructional costs; providing that all formula-based categorical program funds must be spent on juvenile justice students; amending s. 1003.52, F.S.; requiring each school district to make the GED exit-option available to students in a juvenile justice program; requiring the Department of Education, by a specified date, to select an assessment instrument for use in juvenile justice education programs; requiring the instrument and protocol to be implemented statewide by a specified date; requiring that students in juvenile justice education programs have access to Florida Virtual School courses; requiring the department and the school districts to adopt policies ensuring such access; providing that juvenile justice teachers are eligible for all teacher recruitment and retention programs; directing district school boards to provide juvenile justice education programs an equitable allocation of federal funds; deleting a reference to

second chance schools; amending requirements for the plan for career and technical education; amending s. 1010.20, F.S.; increasing the percentage of the funds generated by juvenile justice programs which the school district must expend on those programs; requiring a workgroup to suggest strategies for meeting the requirements of the No Child Left Behind Act and for rewarding juvenile justice education programs for high performance; requiring the department to report the findings of the workgroup to legislative leaders by a specified date; amending ss. 985.412 and 1001.42, F.S., to conform; providing an effective date.

—was read the second time by title.

Senator Bennett offered the following amendment which was moved by Senator Smith and adopted:

**Amendment 1 (793496)(with title amendment)**—On page 2, line 14, insert:

Section 1. Subsection (1) of section 985.02, Florida Statutes, is amended, and subsection (8) is added to said section, to read:

985.02 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

- (a) Protection from abuse, neglect, and exploitation.
- (b) A permanent and stable home.
- (c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.
- (d) Adequate nutrition, shelter, and clothing.
- (e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.
- (f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.
- (g) Access to preventive services.
- (h) An independent, trained advocate when intervention is necessary, and a skilled guardian or caretaker in a safe environment when alternative placement is necessary.

(i) *Gender-specific programming and gender-specific program models and services that comprehensively address the needs of a targeted gender group.*

(8) GENDER-SPECIFIC PROGRAMMING.—

(a) *The Legislature finds that the prevention, treatment, and rehabilitation needs of youth served by the juvenile justice system are gender-specific.*

(b) *Gender-specific programming refers to unique program models and services that comprehensively address the needs of a targeted gender group. Gender-specific services require the adherence to the principle of equity to ensure that the different interests of young women and men are recognized and varying needs are met, with equality as the desired outcome. Gender-specific programming focuses on the differences between young females' and young males' roles and responsibilities, positions in society, access to and use of resources, and social codes governing behavior. Gender-specific programs increase the effectiveness of programs by making interventions more appropriate to the specific needs of young women and men and ensuring that these programs do not unknowingly create, maintain, or reinforce gender roles or relations that may be damaging.*

(c) *The Office of Program Policy Analysis and Government Accountability shall conduct an analysis of programs for young females within the Department of Juvenile Justice. The analysis shall address the nature of young female offenders in this state, the percentage of young females who are incarcerated in the juvenile justice system for status offenses and violations of probation, and whether these young females*

could be better served in less costly community-based programs. In addition, the review shall analyze whether existing juvenile justice programs are designed to meet the gender-specific needs of young females and an analysis of the true cost of providing gender-specific services to young females.

Section 2. For the purpose of incorporating the amendment to section 985.02, Florida Statutes, in references thereto, subsections (1) and (3) of section 985.3045, Florida Statutes, are reenacted to read:

985.3045 Prevention service program; monitoring; report; uniform performance measures.—

(1) The department's prevention service program shall monitor all state-funded programs, grants, appropriations, or activities that are designed to prevent juvenile crime, delinquency, gang membership, or status offense behaviors and all state-funded programs, grants, appropriations, or activities that are designed to prevent a child from becoming a "child in need of services," as defined in chapter 984, in order to inform the Governor and the Legislature concerning efforts designed to further the policy of the state concerning juvenile justice and delinquency prevention, consistent with ss. 984.02 and 985.02.

(3) The department shall expend funds related to the prevention of juvenile delinquency in a manner consistent with the policies expressed in ss. 984.02 and 985.02. The department shall expend said funds in a manner that maximizes public accountability and ensures the documentation of outcomes.

(a) All entities that receive or use state moneys to fund juvenile delinquency prevention services through contracts or grants with the department shall design the programs providing such services to further one or more of the strategies specified in paragraphs (2)(a)-(d).

(b) The department shall develop an outcome measure for each program strategy specified in paragraphs (2)(a)-(d) that logically relates to the risk factor addressed by the strategy.

(c) All entities that receive or use state moneys to fund the juvenile delinquency prevention services through contracts or grants with the department shall, as a condition of receipt of state funds, provide the department with personal demographic information concerning all participants in the service sufficient to allow the department to verify criminal or delinquent history information, school attendance or academic information, employment information, or other requested performance information.

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: amending s. 985.02, F.S.; requiring gender-specific programming within the Department of Juvenile Justice for children in this state; requiring the Office of Program Policy Analysis and Government Accountability to conduct an analysis of gender-specific programs in the Department of Juvenile Justice; providing certain gender-specific information to be included in the analysis; reenacting s. 985.3045(1) and (3), F.S., relating to prevention service programs, for the purpose of incorporating the amendment to s. 985.02, F.S., in references thereto;

Senator Bennett moved the following amendment which was adopted:

**Amendment 2 (333852)(with title amendment)**—On page 2, line 30 through page 3, line 4, delete those lines and insert: One hundred percent of the formula-based categorical funds generated by students in Department of Juvenile Justice programs must be spent on appropriate categorical such as instructional materials and public school technology for those students.

And the title is amended as follows:

On page 1, lines 7-9, delete those lines and insert: instructional costs; amending s.

Pursuant to Rule 4.19, **CS for SB 2326** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **SB 2732** was deferred.

On motion by Senator Webster—

**CS for CS for SB 2894**—A bill to be entitled An act relating to mental health services; amending s. 394.9084, F.S.; providing for a client-directed and choice-based pilot program; authorizing the expansion of the project; authorizing the development and implementation of a pilot project for children; requiring the Department of Children and Family Services to develop procedures for operating these pilot projects; requiring an independent evaluation of the projects; specifying areas that must be addressed as a part of the evaluation; requiring reports to the Legislature; providing an effective date.

—was read the second time by title.

Senator Webster moved the following amendment which was adopted:

**Amendment 1 (761078)(with title amendment)**—On page 1, line 18 through page 5, line 6, delete those lines and insert:

Section 1. Section 394.9084, Florida Statutes, is amended to read:

394.9084 *Florida Self-Directed Care* ~~Pilot project; client-directed and choice-based adult mental health services.~~—

(1) The Department of Children and Family Services, *in cooperation with the Agency for Health Care Administration, may shall* develop a client-directed and choice-based pilot project in district 4 *and three other districts* to provide mental health treatment and support services to adults who have a serious mental illness. *The department may also develop and implement a client-directed and choice-based pilot project in one district to provide mental health treatment and support services for children with a serious emotional disturbance who live at home. If established, any staff who work with children must be screened under s. 435.04.* The projects ~~project~~ shall implement ~~test~~ a payment model in which each client controls the money that is available for that client's mental health treatment and support services. *The department shall establish interagency cooperative agreements and work with the agency, the division, and the Social Security Administration to implement and administer the Florida Self-Directed Care program.*

(2) *To be eligible for enrollment in the Florida Self-Directed Care program, a person must be an adult with a severe and persistent mental illness.*

(3) *The Florida Self-Directed Care program has four subcomponents:*

(a) *Department mental health services, which include community mental health outpatient, community support, and case management services funded through the department. This subcomponent excludes Florida Assertive Community Treatment (FACT) services for adults; residential services; and emergency stabilization services, including crisis stabilization units, short-term residential treatment, and inpatient services.*

(b) *Agency mental health services, which include community mental health services and mental health targeted case management services reimbursed by Medicaid.*

(c) *Vocational rehabilitation, which includes funds available for an eligible participant as provided by the Rehabilitation Act of 1973, 29 U.S.C. chapter 16, as amended.*

(d) *Social Security Administration.*

(4) *The managing entity shall pay for the cost-efficient community-based services the participant selects to meet his or her mental health care and vocational rehabilitation needs and goals as identified on his or her recovery plan.*

(5)(a) *The department shall take all necessary action to ensure state compliance with federal regulations. The agency, in collaboration with the department, shall seek federal Medicaid waivers, and the department shall expeditiously seek any available Supplemental Security Administration waivers under s. 1110(b) of the federal Social Security Act; and the division, in collaboration with the department, shall seek federal approval to participate in the Florida Self Directed Care program. No later than June 30, 2005, the department, agency, and division shall amend and update their strategic and state plans to reflect participation in the projects, including intent to seek federal approval to provide cash-out options for eligible services for participants in the projects.*

(b) *The department may apply for and use any funds from private, state, and federal grants provided for self-directed care, voucher, and self-determination programs, including those providing substance abuse and mental health care.*

(6) *The department, the agency, and the division may transfer funds to the managing entity.*

(7) *The department, the agency, and the division shall have rulemaking authority to implement the provisions of this section. These rules shall be for the purpose of enhancing choice in and control over the purchased mental health and vocational rehabilitative services accessed by Florida Self Directed Care participants.*

(8) *The department and the agency will complete a memorandum of agreement to delineate management roles for operation of the Florida Self Directed Care program.*

(9) *The department, the agency, and the division shall each, on an ongoing basis, review and assess the implementation of the Florida Self Directed Care program.*

(a) *The department will implement an evaluation of the program and will include recommendations for improvements in the program.*

(b) *At a minimum, the evaluation must compare between program participants and nonparticipants:*

1. *Re-hospitalization rates.*
2. *Levels of satisfaction.*
3. *Service utilization rates.*
4. *Residential stability.*
5. *Levels of community integration and interaction.*

(c) *The evaluation must evaluate adherence to the Centers for Medicare and Medicaid self-direction requirements, including:*

1. *Person-centered planning.*
2. *Individual budgets.*
3. *Availability of independently brokered services from recovery coaches and quality advocates.*
4. *Access to the program by all who are eligible to enroll.*
5. *Participant safety and program incident management planning.*
6. *An independently mediated grievance process.*

(d) *The evaluation must assess the economic self-sufficiency of the program participants, including the number of Individual Development Accounts.*

(e) *The evaluation must assess any adverse incidents resulting from the Florida Self Directed Care, including consumer grievances, conflicts of interest, and patterns of self-referral by licensed professions.*

*The department is authorized to spend up to \$100,000 to pay for the evaluation. If the agency and the department obtain a federal waiver, the evaluation will be used to determine effectiveness. ~~The project shall be evaluated by an independent entity whose evaluation must include an assessment of:~~*

~~(a) The criteria for selecting adult mental health clients with serious mental illness eligible for participation in the project.~~

~~(b) The duties and responsibilities of the care coordinator.~~

~~(c) The accessibility and quality of services provided under the project by available community-based providers selected by the client, compared to those services that are available without the project.~~

~~(d) The input by the clients in the development of treatment plans compared to other clients not participating in the project.~~

~~(e) The achievement of individual treatment goals or outcome measures established for each client participating in the project compared to other mental health clients.~~

~~(f) Any demonstrated improvements or cost savings in the delivery of community-based mental health treatment and support services, including an explanation of the analyses used in determining cost savings.~~

~~(g) All monitoring and oversight conducted by the Department of Children and Family Services or the Agency for Health Care Administration.~~

~~(h) Any existing or appointed local advisory group assisting in the design and implementation of the project.~~

~~(2) The Department of Children and Family Services shall submit a report concerning the progress of the project to the appropriate legislative committees by December 1, 2002, and December 1, 2003.~~

~~(10)(3) This section expires July 1, 2008 2004.~~

And the title is amended as follows:

On page 1, lines 2-14, delete those lines and insert: An act relating to mental health and vocational rehabilitation services; amending s. 394.9084, F.S.; providing for implementation and expansion of a program for self-directed mental health and vocational rehabilitation services for adults; authorizing the development and implementation of a pilot project for children; providing eligibility and other program requirements; providing limitations; providing authority to request certain federal waivers and to request and use certain grants; providing for transfer of certain funds; providing for ongoing review and reports; providing rulemaking and overall authority; revising an expiration date; providing an effective date.

Pursuant to Rule 4.19, **CS for CS for SB 2894** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

**RECONSIDERATION OF BILL**

On motion by Senator Alexander, the rules were waived and the Senate reconsidered the vote by which—

**CS for CS for CS for SB 2954**—A bill to be entitled An act relating to migrant labor; amending s. 450.191, F.S.; authorizing the Executive Office of the Governor to advise and consult concerning improvements in the working conditions of migrant workers; authorizing the Executive Office of the Governor to provide coordination for farm labor registration, cooperate with the Department of Business and Professional Regulation on enforcing labor laws, and cooperate with the Agency for Workforce Innovation in recruiting migrant laborers; amending s. 450.201, F.S.; requiring the Legislative Commission on Migrant and Seasonal Labor to make appointments and hold its first meeting; amending s. 450.231, F.S.; specifying when the commission must report to the Legislature; amending s. 450.27, F.S.; renaming part III of ch. 450, F.S.; amending s. 450.271, F.S.; substituting the Department of Business and Professional Regulation for the Department of Labor and Employment Security as the entity authorized to administer the federal Migrant and Seasonal Agricultural Worker Protection Act; amending s. 450.28, F.S.; defining major and minor violations; amending s. 450.30, F.S.; requiring an applicant for renewal of a certificate of registration as a farm labor contractor to retake the competency examination when convicted or penalized for committing a major violation within a specified time; depositing certain fees received from applicants for a certificate of registration into the Professional Regulation Trust Fund; amending s. 450.31, F.S.; increasing the application fee for a certificate of registration; revising payment requirements; requiring an applicant for a certificate of registration to designate an agent to receive service of process and documents; authorizing the department to revoke, suspend, or deny a certificate of registration under certain circumstances; providing that receipt of a certification of registration constitutes permission by the farm labor contractor for department personnel to inspect certain documents; creating s. 450.321, F.S.; authorizing the department to develop and implement a best practices incentive program for farm labor contractors; authorizing the department to enter a partnership agreement with a contractor regarding such designation; authorizing use of the designation to solicit business; authorizing revocation of designation and requir-

ing cessation of use; prohibiting characterization of the designation as an endorsement by the department; exempting the department from civil liability; authorizing the department to establish an incentive program for contractors holding a valid designation; amending s. 450.33, F.S.; revising the powers of the department regarding revocation of a contractor's certificate of registration; adding maintenance of certain employee field records to the duties a contractor must perform; amending s. 450.34, F.S.; prohibiting a contractor from taking retaliatory action and from contracting with or employing certain persons who lack a valid certificate; amending s. 450.35, F.S.; prohibiting a person from contracting with or employing a farm labor contractor without a certificate of registration; providing penalties; amending s. 450.37, F.S.; authorizing the department to cooperate and enter into agreements with other state agencies; amending s. 450.38, F.S.; revising the penalties imposed for violations of part III of ch. 450, F.S.; clarifying applicability of penalties to a firm, association, or corporation; increasing the maximum civil penalty; authorizing civil penalties or the revocation of registration if a contractor commits one or more minor violations; creating s. 450.39, F.S.; prohibiting a farm labor contractor from requiring a farmworker to make certain purchases; prohibiting a contractor from charging a farmworker more than the reasonable cost for a commodity; amending s. 381.0087, F.S.; clarifying that a person who willfully refuses a citation commits a second-degree misdemeanor; requiring the Department of Health to notify the enforcing entity of suspected violations; amending s. 381.008, F.S.; defining the term "residential migrant housing" to include structures rented or reserved for occupancy by seasonal workers; excluding from that definition a single-family residence or mobile home that is occupied only by a single family; amending s. 381.0086, F.S.; requiring the Department of Health to include certain provisions relative to plan review of residential migrant housing in rules; prohibiting a structural variance for the purpose of filing an interstate clearance order with the Agency for Workforce Innovation; amending ss. 487.011, 487.012, 487.021, 487.025, 487.031, 487.041, 487.0435, 487.045, 487.046, 487.047, 487.049, 487.051, 487.0615, 487.071, 487.081, 487.091, 487.101, 487.111, 487.13, 487.156, 487.159, 487.161, 487.163, 487.171, 487.175, 403.088, 482.242, 500.03, and 570.44, F.S.; changing the term "chapter" to "part" to conform to changes made by the act; creating part II of ch. 487, F.S.; providing a short title; providing for administration by the Department of Agriculture and Consumer Services; declaring legislative intent; defining terms; requiring the department to continue to operate under specified federal worker protection regulations; providing for application unless exempted by federal law; requiring an agricultural employer to make pesticide information available to an agricultural worker; authorizing requests by the worker, a designated representative, or medical personnel treating the worker; requiring the manufacturer of an agricultural pesticide to prepare a material safety data sheet; requiring provision of the data sheet to each direct purchaser; requiring the department to produce and make available a general agricultural pesticide safety sheet; prohibiting an agricultural employer from failing to provide required pesticide information or taking retaliatory action; providing penalties for an agricultural employer who violates part II of ch. 487, F.S.; allowing a worker who seeks relief for retaliatory action to file a complaint with the department; requiring that the department monitor complaints of retaliation and report findings to the President of the Senate and the Speaker of the House of Representatives; requesting the Division of Statutory Revision to designate parts I and II of ch. 487, F.S.; providing an appropriation and authorizing positions; providing an effective date.

—as amended passed April 27.

Senator Alexander moved the following amendments which were adopted by two-thirds vote:

**Amendment 1 (255760)**—On page 15, lines 15-20, delete those lines and insert: ~~violates any provision~~ of this part *and, upon conviction, is guilty of commits* a misdemeanor of the second degree, *is punishable as provided in s. 775.082, or s. 775.083.*

(2) *Any person, firm, association, or corporation which commits a major violation of this part, and upon conviction, is guilty of a felony of the third degree, is punishable as provided in s. 775.082, s.*

**Amendment 2 (685000)(with title amendment)**—On page 53, between lines 3 and 4, insert:

Section 49. Subsection (7) of section 440.16, Florida Statutes, is amended to read:

440.16 Compensation for death.—

~~(7) Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving spouse and child or children, or if there be no surviving spouse or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of 1 year prior to the date of the injury, and except that the judge of compensation claims may, at the option of the judge of compensation claims, or upon the application of the insurance carrier, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one half of the commuted amount of such future installments of compensation as determined by the judge of compensation claims, and provided further that compensation to dependents referred to in this subsection shall in no case exceed \$75,000.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2 through page 5, line 20, delete those lines and insert: An act relating to migrant and alien labor; amending s. 450.191, F.S.; authorizing the Executive Office of the Governor to advise and consult concerning improvements in the working conditions of migrant workers; authorizing the Executive Office of the Governor to provide coordination for farm labor registration, cooperate with the Department of Business and Professional Regulation on enforcing labor laws, and cooperate with the Agency for Workforce Innovation in recruiting migrant laborers; amending s. 450.201, F.S.; requiring the Legislative Commission on Migrant and Seasonal Labor to make appointments and hold its first meeting; amending s. 450.231, F.S.; specifying when the commission must report to the Legislature; amending s. 450.27, F.S.; renaming part III of ch. 450, F.S.; amending s. 450.271, F.S.; substituting the Department of Business and Professional Regulation for the Department of Labor and Employment Security as the entity authorized to administer the federal Migrant and Seasonal Agricultural Worker Protection Act; amending s. 450.28, F.S.; defining major and minor violations; amending s. 450.30, F.S.; requiring an applicant for renewal of a certificate of registration as a farm labor contractor to retake the competency examination when convicted of or penalized for committing a major violation within a specified time; depositing certain fees received from applicants for a certificate of registration into the Professional Regulation Trust Fund; amending s. 450.31, F.S.; increasing the application fee for a certificate of registration; revising payment requirements; requiring an applicant for a certificate of registration to designate an agent to receive service of process and documents; authorizing the department to revoke, suspend, or deny a certificate of registration under certain circumstances; providing that receipt of a certification of registration constitutes permission by the farm labor contractor for department personnel to inspect certain documents; creating s. 450.321, F.S.; authorizing the department to develop and implement a best practices incentive program for farm labor contractors; authorizing the department to enter a partnership agreement with a contractor regarding such designation; authorizing use of the designation to solicit business; authorizing revocation of designation and requiring cessation of use; prohibiting characterization of the designation as an endorsement by the department; exempting the department from civil liability; authorizing the department to establish an incentive program for contractors holding a valid designation; amending s. 450.33, F.S.; revising the powers of the department regarding revocation of a contractor's certificate of registration; adding maintenance of certain employee field records to the duties a contractor must perform; amending s. 450.34, F.S.; prohibiting a contractor from taking retaliatory action and from contracting with or employing certain persons who lack a valid certificate; amending s. 450.35, F.S.; prohibiting a person from contracting with or employing a farm labor contractor without a certificate of registration; providing penalties; amending s. 450.37, F.S.; authorizing the department to cooperate and enter into agreements with other state agencies; amending s. 450.38, F.S.; revising the penalties imposed for violations of part III of ch. 450, F.S.; clarifying applicability of penalties to a firm, association, or corporation; increasing the maximum civil penalty; authorizing civil penalties or the revocation of registration if a contractor commits one or more minor violations; creating s. 450.39, F.S.; prohibiting a farm labor contractor from requiring a farmworker to make certain purchases; prohibiting a contractor from charging a farmworker more than the reasonable cost for a commodity; amending s. 381.0087, F.S.; clarifying that a

person who willfully refuses a citation commits a second-degree misdemeanor; requiring the Department of Health to notify the enforcing entity of suspected violations; amending s. 381.008, F.S.; defining the term “residential migrant housing” to include structures rented or reserved for occupancy by seasonal workers; excluding from that definition a single-family residence or mobile home that is occupied only by a single family; amending s. 381.0086, F.S.; requiring the Department of Health to include certain provisions relative to plan review of residential migrant housing in rules; prohibiting a structural variance for the purpose of filing an interstate clearance order with the Agency for Workforce Innovation; amending ss. 487.011, 487.012, 487.021, 487.025, 487.031, 487.041, 487.0435, 487.045, 487.046, 487.047, 487.049, 487.051, 487.0615, 487.071, 487.081, 487.091, 487.101, 487.111, 487.13, 487.156, 487.159, 487.161, 487.163, 487.171, 487.175, 403.088, 482.242, 500.03, and 570.44, F.S.; changing the term “chapter” to “part” to conform to changes made by the act; creating part II of ch. 487, F.S.; providing a short title; providing for administration by the Department of Agriculture and Consumer Services; declaring legislative intent; defining terms; requiring the department to continue to operate under specified federal worker protection regulations; providing for application unless exempted by federal law; requiring an agricultural employer to make pesticide information available to an agricultural worker; authorizing requests by the worker, a designated representative, or medical personnel treating the worker; requiring the manufacturer of an agricultural pesticide to prepare a material safety data sheet; requiring provision of the data sheet to each direct purchaser; requiring the department to produce and make available a general agricultural pesticide safety sheet; prohibiting an agricultural employer from failing to provide required pesticide information or taking retaliatory action; providing penalties for an agricultural employer who violates part II of ch. 487, F.S.; allowing a worker who seeks relief for retaliatory action to file a complaint with the department; requiring that the department monitor complaints of retaliation and report findings to the President of the Senate and the Speaker of the House of Representatives; amending s. 440.16, F.S.; deleting a provision granting workers’ compensation to certain dependents of a deceased alien;

**Amendment 3 (765274)**—On page 53, lines 11 and 12, delete those lines and insert: *\$300,000 is appropriated from the General Revenue Fund, and four positions are authorized, to the Department of Agriculture*

**Amendment 4 (220636)(with title amendment)**—On page 5, between lines 27 and 28, insert:

Section 1. *This act may be cited as the “Alfredo Bahena Act.”*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: providing a short title;

On motion by Senator Alexander, **CS for CS for CS for SB 2954** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

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

**MESSAGES FROM THE HOUSE OF REPRESENTATIVES**

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 280, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

**CS for SB 280**—A bill to be entitled An act relating to public lodging establishments; creating s. 509.144, F.S.; defining terms; prohibiting the distribution of handbills in a public lodging establishment under certain circumstances; providing criminal penalties; providing requirements for posting a sign that prohibits advertising or solicitation; providing an effective date.

**House Amendment 1 (867565)(with title amendment)**—

Remove everything after the enacting clause and insert:

Section 1. *This act shall be known by the popular name the “Tourist Safety Act of 2004.”*

Section 2. Section 509.144, Florida Statutes, is created to read:

*509.144 Prohibited handbill distribution in a public lodging establishment; penalties.—*

(1) *As used in this section, the term:*

(a) *“Handbill” means a flier, leaflet, pamphlet, or other written material that advertises, promotes, or informs persons about an individual, business, company, or food service establishment, but shall not include employee communications permissible under the National Labor Relations Act.*

(b) *“Without permission” means without the expressed written or oral permission of the owner, manager, or agent of the owner or manager of the public lodging establishment where a sign is posted prohibiting advertising or solicitation in the manner provided in subsection (4).*

(2) *Any individual, agent, contractor, or volunteer who is acting on behalf of an individual, business, company, or food service establishment and who, without permission, delivers, distributes, or places, or attempts to deliver, distribute, or place, a handbill at or in a public lodging establishment commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

(3) *Any person who, without permission, directs another person to deliver, distribute, or place, or attempt to deliver, distribute, or place, a handbill at or in a public lodging establishment commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person sentenced under this subsection shall be ordered to pay a minimum fine of \$500 in addition to any other penalty imposed by the court.*

(4) *For purposes of this section, a public lodging establishment that intends to prohibit advertising or solicitation, as described in this section, at or in such establishment must comply with the following requirements when posting a sign prohibiting such solicitation or advertising:*

(a) *There must appear prominently on any sign referred to in this subsection, in letters of not less than 2 inches in height, the terms “no advertising” or “no solicitation” or terms that indicate the same meaning.*

(b) *The sign must be posted conspicuously.*

(c) *If the main office of the public lodging establishment is immediately accessible by entering the office through a door from a street, parking lot, grounds, or other area outside such establishment, the sign must be placed on a part of the main office, such as a door or window, and the sign must face the street, parking lot, grounds, or other area outside such establishment.*

(d) *If the main office of the public lodging establishment is not immediately accessible by entering the office through a door from a street,*

*parking lot, grounds, or other area outside such establishment, the sign must be placed in the immediate vicinity of the main entrance to such establishment, and the sign must face the street, parking lot, grounds, or other area outside such establishment.*

Section 3. This act shall take effect July 1, 2004.

And the title is amended as follows:

Remove everything before the enacting clause and insert:

A bill to be entitled An act relating to public lodging establishments; providing a popular name; creating s. 509.144, F.S.; providing definitions; prohibiting the distribution, and the direction of such distribution, of handbills in a public lodging establishment in certain circumstances; providing penalties; providing requirements for posting a sign that prohibits advertising or solicitation; providing an effective date.

WHEREAS, the Legislature recognizes that a private property owner has the right to control activity upon such private property and should be able to exercise this right, and

WHEREAS, public lodging establishments are narrowly defined in chapter 509, Florida Statutes, and are privately owned either by individuals or corporations and are open to be patronized by the public for the primary purpose of lodging, and

WHEREAS, persons who are not patrons of a public lodging establishment and have no legitimate business with the public lodging establishment may be lawfully prohibited from such private property, and

WHEREAS, persons who enter private property that is a public lodging establishment, who have not been provided permission to be on the property either expressly or implicitly by being a patron or having business with the public lodging establishment, pose a security risk to the patrons and management of the public lodging establishment, and

WHEREAS, the existing law against trespass poses enforcement problems for law enforcement agencies and does not adequately address the problems associated with unauthorized distribution of handbills at public lodging establishments, and

WHEREAS, public lodging establishments in Florida play an important role in the tourism industry of the state, and the continued health of the tourism industry depends on the safety and security of visitors, NOW, THEREFORE,

Senator Cowin moved the following amendment which was adopted:

**Senate Amendment 1 (495154) to House Amendment 1**—On page 2, lines 29-31, delete those lines and insert:

*(3) Any person who, having been notified by the public lodging establishment that it does not permit the delivery, distribution, or placement of handbills at or in the public lodging establishment, directs another person to deliver, distribute, or place, or attempt to deliver, distribute, or place, a handbill at or in the public lodging*

On motion by Senator Cowin, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

**CS for SB 280** passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Mr. President	Crist	Lee
Alexander	Dawson	Lynn
Argenziano	Diaz de la Portilla	Margolis
Aronberg	Dockery	Miller
Atwater	Fasano	Peadar
Bennett	Garcia	Posey
Bullard	Geller	Pruitt
Campbell	Haridopolos	Saunders
Carlton	Hill	Sebesta
Clary	Jones	Siplin
Constantine	Klein	Smith
Cowin	Lawson	Villalobos

Wasserman Schultz Wilson

Webster

Wise

Nays—None

## SPECIAL ORDER CALENDAR, continued

On motion by Senator Lee, the Senate resumed consideration of—

**CS for SB's 2346 and 516**—A bill to be entitled An act relating to elections; providing a short title; amending s. 106.011, F.S.; redefining the terms “political committee,” “contribution,” “expenditure,” “independent expenditure,” “communications media,” and “political advertisement”; defining the term “electioneering communication”; amending s. 106.04, F.S.; modifying contribution reporting requirements for committees of continuous existence; amending s. 106.07, F.S.; modifying campaign finance reporting requirements for certain groups in special elections, to conform; amending s. 106.071, F.S.; establishing reporting requirements for certain individuals making electioneering communications; modifying sponsorship disclaimer requirements for independent expenditures; creating an exemption; deleting a limitation on contributions to fund independent expenditures; amending s. 106.143, F.S.; modifying sponsorship disclaimer requirements for political advertisements; repealing s. 106.148, F.S., relating to sponsorship disclaimer requirements for certain computer messages; providing an effective date.

—which was previously considered and amended this day with pending **Amendment 2 (625488)** by Senator Lee.

Senator Lee moved the following amendment to **Amendment 2** which was adopted:

**Amendment 2A (614366)**—On page 4, lines 29 and 30, delete those lines and insert: *city hall or public library as early voting sites; however, if so designated, the sites must be geographically located so*

**Amendment 2** as amended was adopted.

Pursuant to Rule 4.19, **CS for SB's 2346 and 516** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

## MOTIONS

On motion by Senator Cowin, the House was requested to return **CS for CS for SB 1700**.

On motion by Senator Lee, by two-thirds vote all bills remaining on the Special Order Calendar this day were established as the Special Order Calendar for Friday, April 30.

On motion by Senator Lee, a deadline of one hour after the availability of engrossed bills was set for filing amendments to Bills on Third Reading to be considered Friday, April, 30.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

### FIRST READING

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed HB 115; has passed as amended HB 237, HB 723, HB 769, HB 967, HB 1139, HB 1269, HB 1613, HB 1823; has passed as amended by the required Constitutional three-fifths vote of the membership HJR 41 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By Representative Fiorentino and others—

**HB 115**—A bill to be entitled An act relating to the Florida School Recognition Program; amending s. 1008.36, F.S.; revising provisions relating to the distribution of financial awards; providing an effective date.

—was referred to the Committees on Education; Appropriations Subcommittee on Education; and Appropriations.

---

By Representative Kilmer and others—

**HB 237**—A bill to be entitled An act relating to taxation; specifying a period during which the sale of books, clothing, and school supplies are exempt from such tax; providing definitions; providing exceptions; authorizing the Department of Revenue to adopt rules; providing a popular name; providing for a reduction in the motor fuel tax for one month; providing dealer requirements; providing legislative intent; providing for a reduction in certain refunds for the same period; authorizing the executive director of the Department of Revenue to adopt emergency rules for certain purpose; making unlawful certain activities of certain entities relating to the tax reduction; providing criminal penalties; amending s. 16.56, F.S.; including offenses specified in this act under the investigation and prosecution authority of the Office of Statewide Prosecution; amending s. 206.026, F.S.; including offenses specified in this act under provisions prohibiting certain persons from holding certain licenses for certain violations; amending s. 206.404, F.S.; providing for revocation of certain licenses for violations of this act; authorizing motor fuel dealers to manage motor fuel inventory to maximize tax reduction benefits; providing criteria; providing appropriations; providing an effective date.

—was referred to the Committees on Finance and Taxation; Appropriations Subcommittee on General Government; and Appropriations.

---

By Representative Murman—

**HB 723**—A bill to be entitled An act relating to foster care services; amending s. 20.19, F.S.; prohibiting certain members of a community alliance from receiving funds from the Department of Children and Family Services or a community-based care lead agency; amending s. 409.1671, F.S.; providing additional requirements for an eligible lead community-based provider to compete for a privatization project; requiring contracts with eligible lead community-based providers to include certain standards; revising requirements for the department's quality assurance program for privatized services; directing the Florida Coalition for Children, Inc., in consultation with the department, to develop a plan for a statewide risk pool for eligible lead community-based providers, their subcontractors, and certain providers that provide foster care and related services under contract with the department; deleting a requirement that the department develop a proposal; specifying the requirements of the plan; extending a plan submission deadline; revising the process for plan approval; directing the department to issue an interest-free loan upon approval of the plan; modifying the purposes of the community-based care risk pool; revising the purposes for which funding may be recommended to the Legislature; authorizing the risk pool to invest funds and retain interest; providing for payments upon a determination of insolvency; prohibiting payment of dividends to the risk pool members until repayment of the loan issued by the department and until the risk pool is actuarially sound and solvent; deleting a requirement for a performance bond; providing for the risk pool to be managed by the Florida Coalition for Children, Inc., or its designated contractor; specifying the manner in which nonmember entities may be authorized to contract with the department; authorizing the department to require a bond; providing an exemption from state travel policies for lead community-based providers and their subcontractors; providing an effective date.

—was referred to the Committees on Banking and Insurance; Children and Families; Governmental Oversight and Productivity; Appropriations Subcommittee on Health and Human Services; and Appropriations.

---

By Representative Jennings and others—

**HB 769**—A bill to be entitled An act relating to career education; revising terminology relating to career, technical, vocational, and workforce education; amending s. 1002.34, F.S.; allowing charter technical career center sponsors to submit full-time enrollment membership data as defined in the charter agreement; deleting requirements relating to

the number of days of instruction; creating s. 1003.431, F.S.; providing for a career education certification on a high school diploma; providing academic requirements for students enrolled in comprehensive career education programs; requiring the State Board of Education to define and specify by rule courses and experiences consistent with a comprehensive career education program; authorizing the State Board of Education to adopt by rule a standard format for career education certification; allowing incentive funding to school districts for students receiving the certification; amending s. 1003.491, F.S.; providing certain responsibilities for district school boards and superintendents relating to career education certification; creating s. 1003.492, F.S.; providing for coordination of career education programs with industry; requiring the State Board of Education to adopt rules for implementing an industry certification process; requiring the Department of Education to study student performance in industry-certified career education programs; requiring a study by the Department of Education to determine the need for cost factors or startup funding for industry-certified career education programs; creating s. 1006.025, F.S.; requiring district school boards to submit guidance reports to the Commissioner of Education and providing requirements thereof; amending s. 1012.01, F.S.; revising a personnel classification title; amending s. 1011.80, F.S.; repealing the Florida Workforce Development Education Fund; redesignating adult technical education programs as workforce education programs; revising requirements for funding; requiring reporting and cost analysis; amending ss. 1009.22 and 1011.83, F.S.; deleting references to the Florida Workforce Development Education Fund; requiring the Agency for Workforce Innovation and the Council for Education Policy Research and Improvement to study the need for new and expanded apprenticeship and other workforce education programs; requiring a report of findings and recommendations; requiring the Commissioner of Education to convene a study group to investigate workforce education issues; requiring the study group to submit a report with recommendations for modifications to the workforce education system; amending ss. 20.18, 110.1099, 112.19, 112.191, 112.1915, 238.01, 250.10, 250.482, 288.047, 288.9511, 292.05, 292.10, 295.02, 295.125, 339.0805, 364.508, 376.0705, 380.0651, 402.305, 402.3051, 403.716, 414.0252, 420.0004, 420.524, 420.602, 440.16, 443.171, 445.003, 445.004, 445.009, 445.012, 445.0123, 445.024, 445.049, 446.011, 446.052, 446.22, 475.17, 475.451, 475.617, 475.6175, 475.618, 475.627, 494.0029, 509.302, 553.841, 790.06, 790.115, 810.095, 943.14, 948.015, 948.09, 958.12, 985.03, 985.315, 1000.04, 1000.05, 1001.42, 1001.44, 1001.452, 1001.453, 1001.64, 1002.01, 1002.20, 1002.22, 1002.38, 1002.42, 1003.01, 1003.02, 1003.43, 1003.47, 1003.51, 1003.52, 1004.02, 1004.04, 1004.07, 1004.54, 1004.65, 1004.73, 1004.91, 1004.92, 1004.93, 1004.98, 1005.02, 1005.06, 1005.21, 1006.035, 1006.051, 1006.21, 1006.31, 1007.21, 1007.23, 1007.24, 1007.25, 1007.27, 1007.271, 1008.37, 1008.385, 1008.405, 1008.41, 1008.42, 1008.43, 1008.45, 1009.23, 1009.25, 1009.40, 1009.532, 1009.533, 1009.536, 1009.55, 1009.61, 1009.64, 1009.98, 1010.20, 1010.58, 1011.62, 1011.68, 1012.01, 1012.39, 1012.41, 1012.43, 1013.03, 1013.31, 1013.64, and 1013.75, F.S., to conform; providing an effective date.

—was referred to the Committees on Education; Governmental Oversight and Productivity; Appropriations Subcommittee on Education; and Appropriations.

---

By Representative Waters and others—

**HB 967**—A bill to be entitled An act relating to moving services; amending s. 507.03, F.S.; revising mover registration requirements; providing for proof of bond or certificate of deposit in lieu of proof of insurance coverage; amending s. 507.04, F.S.; revising a requirement to maintain cargo legal liability coverage; providing for bond or certificate of deposit in lieu of insurance coverage for a mover operating a certain number of vehicles; limiting use of such bond or certificate of deposit to claims adjudicated by the Department of Agriculture and Consumer Services; providing that aggregate payout by the department for all claims shall not exceed the amount of the bond or certificate of deposit; providing for revocation of a mover's license for failure to maintain the required bond or certificate of deposit; providing an effective date.

—was referred to the Committees on Transportation; Commerce, Economic Opportunities, and Consumer Services; Banking and Insurance; and Judiciary.

By Representative Arza and others—

**HB 1139**—A bill to be entitled An act relating to reading deficiencies; amending s. 1002.20, F.S.; providing certain rights to parents of students with reading deficiencies; requiring that parents receive understandable information and are consulted regarding a child's academic progress; amending s. 1008.25, F.S.; removing an obsolete date; providing notification of additional information to parents of students who exhibit a substantial reading deficiency; revising certain good cause exemptions from mandatory retention; requiring school districts to provide certain reading interventions to students who have been retained; providing school district requirements relating to remediation of student reading deficiencies, parental notification, implementation of a mid-year promotion policy, provision of instructional options for students, establishment of a Reading Enhancement and Acceleration Development (READ) Initiative and an Intensive Acceleration Class, and reporting; providing an effective date.

—was referred to the Committees on Education; Appropriations Subcommittee on Education; and Appropriations.

By Representative Gardiner and others—

**HB 1269**—A bill to be entitled An act relating to nursing home fire-safety; amending s. 633.022, F.S.; requiring nursing homes to be protected by certain automatic sprinkler systems; providing a schedule; authorizing the Division of State Fire Marshal to grant certain time extensions; authorizing the division to adopt certain rules; providing for administrative sanctions under certain circumstances; requiring adjustments to certain provider Medicaid rates for reimbursement for Medicaid's portion of costs to meet certain requirements; requiring funding for such adjustments to come from existing nursing home appropriations; creating s. 633.024, F.S.; providing legislative findings and intent; creating s. 633.0245, F.S.; authorizing the State Fire Marshal to enter into an investment agreement with public depositories to establish the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program as a limited loan guarantee program to retrofit nursing homes with fire protection systems; providing investment and agreement limitations; requiring the State Fire Marshal to solicit requests for proposals; providing for application requirements and procedures; providing for review and approval by the State Fire Marshal; providing application requirements and procedures for program loans by public depositories; providing deadlines and limitations; limiting certain claims for loss under certain circumstances; providing a definition; authorizing the State Fire Marshal to adopt rules; providing an effective date.

—was referred to the Committees on Banking and Insurance; Health, Aging, and Long-Term Care; Appropriations Subcommittee on Health and Human Services; and Appropriations.

By Representative M. Davis and others—

**HB 1613**—A bill to be entitled An act relating to vessel safety; amending s. 316.217, F.S.; providing exception for purposes of law enforcement to provisions requiring the display of lighted lamps; amending s. 327.301, F.S.; revising requirements for reports to the Division of Law Enforcement of the Fish and Wildlife Conservation Commission of certain accidents involving vessels; providing that a person who offers a vessel for lease, rental, or charter is responsible for compliance; amending s. 327.35215, F.S.; revising disposition of moneys collected for certain civil penalties; providing for use of moneys collected; creating s. 327.461, F.S.; providing legislative intent to authorize state and local law enforcement agencies to operate in federally designated safety zones, security zones, regulated navigation areas, and naval vessel protection zones; prohibiting the operation, or the authorization for the operation, of a vessel in violation of a safety zone, security zone, regulated navigation area, or naval vessel protection zone; providing penalties; prohibiting continuation of such operation, or authorization to operate, after a warning or an order to cease by law enforcement or military personnel; providing penalties; prohibiting entrance to such a zone by swimming, diving, wading, or similar means; providing penalties; prohibiting remaining in or reentering such a zone following a warning or order to leave by law enforcement or military personnel; providing penalties; providing that each incursion is a separate offense; providing that an entry authorized by the captain of the port or the captain's designee is not a violation;

amending s. 327.731, F.S.; revising requirements to complete a boating safety course for certain violations; reenacting s. 327.73(11)(a), F.S., relating to noncriminal infractions, to incorporate changes made by the act; amending s. 901.15, F.S.; authorizing a law enforcement officer to make an arrest without warrant under certain conditions for violation of specified navigation area restrictions; providing an effective date.

—was referred to the Committees on Natural Resources; Home Defense, Public Security, and Ports; Criminal Justice; Appropriations Subcommittee on General Government; and Appropriations.

By the Committee on The Future of Florida's Families; and Representative Murman and others—

**HB 1823**—A bill to be entitled An act relating to developmental services and mental health; creating ss. 393.135, 394.4593, and 916.1075, F.S.; defining the terms "employee," "sexual activity," and "sexual misconduct"; providing that it is a second degree felony for an employee to engage in sexual misconduct with certain developmentally disabled clients, certain mental health patients, or certain forensic clients; providing certain exceptions; requiring certain employees to report sexual misconduct to the central abuse hotline of the Department of Children and Family Services and to the appropriate local law enforcement agency; providing for notification to the inspector general of the Department of Children and Family Services; providing that it is a first degree misdemeanor to knowingly and willfully fail to make a report as required, or to prevent another from doing so, or to submit inaccurate or untruthful information; providing that it is a third degree felony to coerce or threaten another person to alter testimony or a report with respect to an incident of sexual misconduct; providing criminal penalties; amending s. 435.03, F.S.; expanding level 1 screening standards to include criminal offenses related to sexual misconduct with certain developmentally disabled clients, mental health patients, or forensic clients and the reporting of such sexual misconduct; amending s. 435.04, F.S.; expanding level 2 screening standards to include the offenses related to sexual misconduct with certain developmentally disabled clients, mental health patients, or forensic clients and the reporting of such sexual misconduct; reenacting s. 393.067(6)(a), (b), (c), (d), (f), and (g), F.S., relating to background screening and licensure of personnel of intermediate care facilities for the developmentally disabled, for the purpose of incorporating the amendment to s. 435.04, F.S., in references thereto; amending s. 394.4572, F.S.; requiring the employment screening of mental health personnel to include screening as provided under ch. 435, F.S.; amending s. 943.0585, F.S., relating to court-ordered expunction of criminal history records, for the purpose of incorporating the amendment to s. 943.059, F.S., in a reference thereto; providing that certain criminal history records relating to sexual misconduct with developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct, shall not be expunged; providing that the application for eligibility for expunction certify that the criminal history record does not relate to an offense involving sexual misconduct with certain developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct; amending s. 943.059, F.S., relating to court-ordered sealing of criminal history records, for the purpose of incorporating the amendment to s. 943.0585, F.S., in a reference thereto; providing that certain criminal history records relating to sexual misconduct with developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct, shall not be sealed; providing that the application for eligibility for sealing certify that the criminal history record does not relate to an offense involving sexual misconduct with certain developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct; amending s. 400.215, F.S., and reenacting paragraphs (b) and (c) of subsection (2) and subsection (3), relating to background screening requirements for certain nursing home personnel, for the purpose of incorporating the amendments to ss. 435.03 and 435.04, F.S., in references thereto; correcting a cross reference; amending s. 400.964, F.S., and reenacting subsections (1), (2), and (7), relating to background screening requirements for certain personnel employed by intermediate care facilities for the developmentally disabled, for the purpose of incorporating the amendments to ss. 435.03 and 435.04, F.S., in references thereto; correcting a cross reference; amending s. 435.045, F.S., and reenacting paragraph (a) of subsection (1), relating to requirements for the placement of dependent children, for the purpose of incorporating the amendment to s. 435.04, F.S., in a reference thereto; correcting a cross reference; reenacting ss. 400.414(1)(f) and (g),

400.4174, 400.509(4)(a), (b), (c), (d), (f), and (g), 400.556(2)(c), 400.6065(1), (2), and (4), 400.980(4)(a), (b), (c), (d), (f), and (g), 409.175(2)(k), 409.907(8)(d), 435.05(1) and (3), 744.3135, and 985.04(2), F.S., relating to denial, revocation, or suspension of license to operate an assisted living facility; background screening requirements for certain personnel employed by assisted living facilities; registration of particular home health care service providers; denial, suspension, or revocation of license to operate adult day care centers; background screening requirements for certain hospice personnel; background screening requirements for registrants of the health care service pools; the definition of "screening" in connection with the licensure of family foster homes, residential child-caring agencies, and child-placing agencies; background screening requirements of Medicaid providers; employment of persons in positions requiring background screening; credit and criminal investigations of guardians; oaths, records, and confidential information pertaining to juvenile offenders, respectively, for the purpose of incorporating the amendments to ss. 435.03 and 435.04, F.S., in references thereto; reenacting ss. 400.512, 400.619(4), 400.6194(1), 400.953, 409.912(32), 435.07(4), 464.018(1)(e), 744.309(3), 744.474(12), and 985.407(4), F.S., relating to background screening of home health agency personnel, nurse registry personnel, companions, and homemakers; application and renewal of adult family-care home provider licenses; relating to denial, revocation, or suspension of adult family-care home provider license; background screening of home medical equipment provider personnel, background screening requirements for certain persons responsible for managed care plans; exemptions from disqualification from employment; denial of nursing license and disciplinary actions against such licensees; disqualification of guardians; removal of guardians; background screening requirements for certain Department of Juvenile Justice personnel, respectively, for the purpose of incorporating the amendment to s. 435.03, F.S., in references thereto; reenacting ss. 39.001(2)(b), 39.821(1), 110.1127(3)(a) and (c), 112.0455(12)(a), 381.0059(1), (2), and (4), 381.60225(1)(a), (b), (c), (d), (f), and (g), 383.305(7)(a), (b), (c), (d), (f), and (g), 390.015(3)(a), (b), (c), (d), (f), and (g), 394.875(13)(a), (b), (c), (d), (f), and (g), 395.0055(1), (2), (3), (4), (6), and (8), 395.0199(4)(a), (b), (c), (d), (f), and (g), 397.451(1)(a), 400.071(4)(a), (b), (c), (d), and (f), 400.471(4)(a), (b), (c), (d), (f), and (g), 400.506(2)(a), (b), (c), (d), (f), and (g), 400.5572, 400.607(3)(a), 400.801(4)(a), (b), (c), (d), (f), and (g), 400.805(3)(a), (b), (c), (d), (f), and (g), 400.906(5)(a), (b), (c), (d), (f), and (g), 400.931(5)(a), (b), (c), (e), and (f), 400.962(10)(a), (b), (c), (d), and (f), 400.991(7)(b) and (d), 402.302(2)(e), 402.305(2)(a), 402.3054(3), 483.30(2)(a), (b), (c), (d), (f), and (g), 483.101(2)(a), (b), (c), (d), (f), and (g), 744.1085(5), 984.01(2)(b), 985.01(2)(b), 1002.36(7)(a) and (b), F.S., relating to background screening requirements for certain Department of Children and Family Services personnel; qualifications of guardians ad litem; security checks of certain public officers and employees; background screening requirements of certain laboratory personnel in connection with the Drug-Free Workplace Act; background screening requirements for school health services personnel; background screening of certain personnel of the public health system; background screening and licensure of birth center personnel; background screening and licensure of abortion clinic personnel; background screening of mental health personnel; background screening and licensure of personnel of crisis stabilization units, residential treatment facilities, and residential treatment centers for children and adolescents; background screening and licensure of personnel of hospitals, ambulatory surgical centers, and mobile surgical facilities; background screening of certain personnel in connection with registration for private utilization reviews; background screening of certain service provider personnel; background screening and licensure of certain long-term care facility personnel; background screening and licensure of certain home health agency personnel; background screening and licensure of nurse registry applicants; background screening of certain adult day care center personnel; denial or revocation of hospice license; background screening and licensure of certain transitional living facility personnel; background screening and licensure of certain prescribed pediatric extended care center personnel; background screening and licensure of certain home medical equipment provider personnel; background screening and licensure of certain personnel of intermediate care facilities for the developmentally disabled; background screening and licensure of health care clinic personnel; the definition of "child care facility" in connection with background screening of operators; background screening requirements for personnel of child care facilities; background screening requirements for child enrichment service providers; background screening and licensure of certain personnel of multiphasic health testing centers; background screening and licensure of certain clinical laboratory personnel; regulation of professional guardians; background screening of certain Department of Juvenile Justice

and Department of Children and Family Services personnel in connection with programs for children and families in need of services; background screening of certain Department of Juvenile Justice and Department of Children and Family Services personnel in connection with juvenile justice programs, background screening of personnel of the Florida School for the Deaf and the Blind, respectively, for the purposes of incorporating the amendment to s. 435.04, F.S., in references thereto; reenacting s. 943.0582(2)(a) and (6), F.S., relating to prearrest, postarrest, or teen court diversion program expunction for the purpose of incorporating the amendments to ss. 943.0585 and 943.059, F.S., in references thereto; reenacting s. 943.053(7), (8), and (9), F.S., relating to dissemination of criminal justice information, for the purpose of incorporating the amendment to s. 943.059, F.S., in references thereto; providing applicability; amending s. 20.19, F.S.; removing the developmental disabilities program from the Department of Children and Family Services; creating s. 20.197, F.S.; establishing the Agency for Persons with Disabilities for the purpose of providing services to persons with developmental disabilities, including institutional services; directing the agency to execute interagency agreements with the Agency for Health Care Administration for the financial management of the Medicaid waivers and the Department of Children and Family Services for administrative support; amending s. 393.063, F.S.; updating definitions and deleting obsolete definitions; amending s. 393.064, F.S.; deleting requirements that the agency's legislative budget request include funding for prevention; amending s. 393.0655, F.S.; requiring Level 2 screening for specified persons and service providers; providing a limitation on the screening requirement in certain circumstances involving children between 12 and 18 years of age; amending s. 393.066, F.S.; removing requirement that services be administered and approved by the districts; modifying a requirement to provide certain services; deleting a requirement for a 5-year plan relating to community-based services; adding a requirement to assist clients in gaining employment; repealing obsolete requirement authorizing the state to lease or construct residential facilities; deleting authorization to adopt rules ensuring compliance with federal rules; amending s. 393.0661, F.S.; authorizing the Agency for Disabled Persons to enter into certain contracts; providing for reimbursement to certain providers of services to the developmentally disabled pursuant a methodology; requiring the Agency for Health Care Administration, in consultation with the Agency for Disabled Persons, to adopt rules related to such methodology; authorizing the Agency for Health Care Administration to adopt emergency rules in certain circumstances; limiting the applicability of such emergency rules; authorizing the Agency for Health Care Administration, in consultation with the Agency for Disabled Persons, to make certain adjustments necessary to comply with the availability of appropriations; deleting an obsolete provision; modifying provisions relating to an assessment instrument; adding requirements for adoption of rate methodologies; amending s. 393.068, F.S.; making service provision subject to available resources; updating list of services to be provided; deleting provision referring to 5-year plans; amending s. 393.0695, F.S.; requiring in-home subsidy amounts to be reassessed annually; amending s. 393.11, F.S.; deleting provisions referring to districts, department programs, and the nonexistent Department of Labor and Employment Security; amending s. 393.13, F.S.; deleting obsolete provisions; adding legislative intent relating to reducing the use of sheltered workshops; amending s. 393.17, F.S.; authorizing the agency to contract for the certification of behavioral analysts; deleting provisions relating to a certification program and provisions allowing fees; amending s. 393.22, F.S.; deleting prohibition preventing transfer of funds and ensuring financial commitment for specified developmental conditions; amending s. 393.502, F.S.; removing reference to districts; deleting a provision permitting appointment of family care council members if the Governor does not act; amending ss. 408.301 and 408.302, F.S.; amending legislative intent to add the Agency for Persons with Disabilities and the Department of Elderly Affairs as agencies that the Agency for Health Care Administration must enter into interagency agreement with regarding persons with special needs; amending s. 409.906, F.S.; clarifying powers of the Agency for Health Care Administration with respect to limiting coverage for certain services; repealing s. 393.14, F.S.; requiring a multiyear plan; repealing s. 393.165, F.S., relating to ICF/DDs; repealing s. 393.166, F.S., relating to homes for special services; repealing s. 393.505, F.S., relating to comprehensive day treatment service projects; transferring programs and institutions relating to developmental disabilities from the Department of Children and Family Services to the Agency for Persons with Disabilities; providing duties of those agencies as well as the Department of Management Services; providing for substitution of parties in administrative and judicial proceedings; providing duties of the

Office of Program Policy Analysis and Government Accountability; providing for a report; amending ss. 92.53, 397.405, 400.464, 419.001, 914.16, 914.17, 918.16, 943.0585, and 943.059, F.S.; conforming cross references; amending ss. 393.0641, 393.065, 393.0651, 393.067, 393.0673, 393.0675, 393.0678, 393.071, 393.075, 393.115, 393.12, 393.125, 393.15, 393.501, 393.503, and 393.506, F.S.; conforming to the changes made by the act; providing applicability; providing for contracts for eligibility determination functions; providing for review of eligibility contracts by the Legislative Budget Commission in certain instances; providing effective dates.

—was referred to the Committees on Appropriations; and Rules and Calendar.

---

By Representative Zapata and others—

**HJR 41**—A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution to authorize legislation that would permit counties to enact ordinances which prohibit an increase in the assessed value of homestead property owned by certain persons who are 65 years of age or older.

—was referred to the Committees on Comprehensive Planning; Finance and Taxation; Appropriations Subcommittee on General Government; Appropriations; and Rules and Calendar.

---

#### RETURNING MESSAGES—FINAL ACTION

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) and passed HB 293, as amended.

*John B. Phelps, Clerk*

#### CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 28 was corrected and approved.

#### CO-SPONSORS

Senators Aronberg—CS for SB 1588; Crist—CS for CS for SB 44, SB 120, CS for SB 176, SB 226, CS for SB 244 and SB 1566, CS for CS for SB 284, SB 300, CS for CS for SB 330, CS for SB 332 and SB’s 1912 and 2678, CS for SB 364, SB 398, CS for CS for SB 448, CS for CS for SB 482, CS for CS for SB 528, CS for SB 576, CS for SB 602, CS for SB 636, CS for SB 654, CS for SB 1096, CS for CS for SB 1380, CS for SB 1394, SB 1440, CS for SB 1588, SB 1774, SB 1914, CS for CS for SB 1918, SB 2082, SB 2090, CS for SB 2092, CS for SB 2540, CS for SB 2666, SB 3010; Dockery—CS for CS for SB 546, CS for CS for CS for SB 1174, CS for SB 1588, CS for SB 2246, CS for SB 2664; Fasano—CS for SB 1226 and Margolis—CS for SB 1374

#### RECESS

On motion by Senator Lee, the Senate recessed at 6:55 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Friday, April 30 or upon call of the President.