



The Journal OF THE House of Representatives

Number 9

Wednesday, February 27, 2002

The House was called to order by the Speaker at 1:30 p.m.

Prayer

The following prayer was offered by Pastor Billy J. Dickerson of First Baptist Church of Mango, upon invitation of Rep. Byrd:

“O God, our help in ages past, our hope for years to come, our shelter from the stormy blast,” look with favor on this august body, the Florida Legislature, with House and Senate and the Governor, and all the agencies of government. Bless our people with renewed faith in God and Your providential concern for us. To God be the glory for all that You have done for the great state of Florida and for our great nation, the United States of America.

May we remember Your laws for our good and prosperity. We praise You for Your greatness and just ways. Bless the Florida Legislature with wisdom and guidance in all they do. We are thankful for these persons who serve You and the people of Florida. Bless the House and their session today. Give them insight and foresight as they seek solutions for government to be more effective in making good laws and decisions that will affect so many people. Bless the United States of America and its mission in the world. Teach us to live well and wisely. May our influence be for good, and may we be sensitive to the needs of others. O God, Your love on life’s journey shows us that there’s light behind every shadow, there’s a star in every scar, there’s a hidden possibility in every painful problem. So God, we are filled with hope today and we believe in tomorrow, for You are in all of our tomorrows, and You are the same yesterday, today, and forever.

In Your exalted and wonderful name we pray. Amen.

Recessed

The House stood in informal recess at 1:35 p.m., to reconvene upon the call of the Chair.

Reconvened

The House was called to order by the Speaker at 1:55 p.m.

The following Members were recorded present:

Session Vote Sequence: 753

| | | | |
|------------|---------------------|------------|----------|
| The Chair | Ausley | Bense | Brutus |
| Alexander | Baker | Benson | Bucher |
| Allen | Ball | Berfield | Bullard |
| Andrews | Barreiro | Betancourt | Byrd |
| Argenziano | Baxley | Bilirakis | Cantens |
| Arza | Bean | Bowen | Carassas |
| Attkisson | Bendross-Mindingall | Brown | Clarke |
| Atwater | Bennett | Brummer | Crow |

| | | | |
|---------------------|-------------|-------------|------------|
| Cusack | Haridopolos | Lee | Romeo |
| Davis | Harper | Lerner | Ross |
| Detert | Harrell | Littlefield | Rubio |
| Diaz de la Portilla | Harrington | Lynn | Russell |
| Diaz-Balart | Hart | Machek | Ryan |
| Dockery | Henriquez | Mack | Seiler |
| Evers | Heyman | Mahon | Simmons |
| Farkas | Hogan | Mayfield | Siplin |
| Fasano | Holloway | Maygarden | Slosberg |
| Fields | Jennings | McGriff | Smith |
| Fiorentino | Johnson | Meadows | Sobel |
| Flanagan | Jordan | Mealor | Sorensen |
| Frankel | Joyner | Melvin | Spratt |
| Gannon | Justice | Murman | Stansel |
| Garcia | Kallinger | Needelman | Trovillion |
| Gardiner | Kendrick | Negron | Wallace |
| Gelber | Kilmer | Paul | Waters |
| Gibson | Kosmas | Peterman | Weissman |
| Goodlette | Kottkamp | Pickens | Wiles |
| Gottlieb | Kravitz | Rich | Wilson |
| Green | Kyle | Richardson | Wishner |
| Greenstein | Lacasa | Ritter | |

(A list of excused Members appears at the end of the *Journal*.)

A quorum was present.

Pledge

The Members, led by Jarvis Barnes of Fort Myers, Matthew Barnette of Brooksville, Brianna Barry of Tallahassee, Christina Anne Bell of Babson Park, Alisha Bowling of Port St. Lucie, Joshua E. Cantrell of Tampa, Kristin A. Coley of Marianna, Brendan Flanagan of Bradenton, Zachary R. Gershkoff of DeFuniak Springs, Adam P. Hulsman of Haines City, Jonah Johnson of Tallahassee, and Kala Kelly of Ocala, pledged allegiance to the Flag. Jarvis Barnes served at the invitation of Rep. Kyle. Matthew Barnette served at the invitation of Rep. Baxley. Brianna Barry served at the invitation of Rep. Russell. Christina Anne Bell served at the invitation of Rep. Bowen. Alisha Bowling served at the invitation of Rep. Harrell. Kristin A. Coley served at the invitation of Rep. Bense. Brendan Flanagan served at the invitation of his father, Rep. Flanagan. Zachary R. Gershkoff served at the invitation of Rep. Brown. Adam P. Hulsman served at the invitation of Rep. Diaz-Balart. Kala Kelly served at the invitation of Rep. Baxley.

House Physician

The Speaker introduced Dr. David McKalip of St. Petersburg, who served in the Clinic today upon invitation of Rep. Carassas.

Correction of the *Journal*

The *Journal* of February 26 was corrected and approved as follows: On page 289, column 1, lines 5 and 6 from the bottom, for HB 1477 delete: "The above bill was referred to the Committee on Fiscal Policy & Resources" and insert: The above bill was referred to the Fiscal Responsibility Council

The *Journal* of February 20 was corrected and approved as follows: On page 257, column 2, line 18 from the bottom, in CS/HB 1069 delete: "So the bill passed, as amended, and was certified to the Senate" and insert: So the bill passed, as amended, and was immediately certified to the Senate

The *Journal* of January 30 was corrected and approved as follows: On page 123, column 2, line 8 from the bottom, in HB 1187 delete: "Proof of publication of the required notice was attached."

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney
Speaker, House of Representatives

February 25, 2002

Mr. Speaker:

Your Procedural & Redistricting Council herewith submits as Special Orders for Wednesday, February 27, 2002. Consideration of the House Bills on Special Orders shall include the Senate Companion Measures on the House Calendar.

- I. Consideration of the following bill(s):
 - HB 805—Kallinger
Human Cloning Prohibition
 - HB 1283—Ausley
Parents' & Children's Day
 - HB 123—Baxley
Excise Tax on Documents
 - CS/HB 135—Bense
Firefighter Employment Safety
 - HB 219—Ball
Open House Parties
 - CS/CS/HB 259—Brummer
DROP/Instructional Personnel/K-12
 - CS/HB 353—Waters
Universities & Community Colleges
 - HB 523—Ball
Community Human Svc. Infrastructure
 - CS/HB 547—Sorensen
Affordable Housing
 - HB 585—Goodlette
Fla. Uniform Principal & Income Act
 - CS/HB 683—Mack
Firefighter & Police Pensions
 - HJR 709—Byrd
Political Advertising
 - HJR 765—Byrd
Legislature/Passage of Bills
 - HB 835—Gardiner
Theft from Age 65 or Older
 - HB 841—Bowen
Sexual Predators & Offenders
 - HB 861—Flanagan
State Attorneys/Reports
 - CS/HB 1085—Baxley
Fish & Wildlife Conservation Comm.
 - HB 1327—Garcia
Bail Bond Agents
 - HB 1675—Brummer
Public Records Exemption
 - HB 1687—Crow
Child Support/Health Care Coverage

- HB 1689—Crow
Paternity/Child Support/Genetic Test
- HB 37—Harper
Relief/James Torrence
- HB 39—Bucher
Relief/Rosemary Falkinburg
- HB 45—Mahon
Relief/A. Jones & R. Ferguson
- HB 61—Seiler
Relief/Mark Schwartz
- HB 85—Betancourt
Relief/Calderon/Miami-Dade Co.
- HB 151—Waters
Relief/Skowroneks/Clearwater
- HB 189—Siplin
Relief/Steven Mitchell/Volusia Co.
- HB 203—Sorensen
Relief/Joshua England/Monroe Co.
- HB 225—Gannon
Relief/Sharon & Victor Dixon, Sr.
- HB 301—Mayfield
Relief/Joseph Arvay/Vero Beach
- HB 349—Atwater
Relief/Margaret B. Helm/Martin Co.
- HB 359—Diaz de la Portilla
Relief/Jesnor Exanor/Delray Beach
- HB 361—Diaz de la Portilla
Relief/Millie Jackson/Miami-Dade Co.
- HB 375—Bullard
Relief/Harley & Dent
- HB 425—Prieguez
Relief/Hilda De Paz/Miami-Dade Co.
- HB 587—Negron
Relief/Lawrence Bigney

A quorum of the Council was present in person, and a majority of those present agreed to the above Report.

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

On motion by Rep. Byrd, the rules were waived and **HR 9055** was added to the Special Order Calendar.

On motion by Rep. Byrd, the above report was adopted, as amended.

Motions Relating to Committee or Council References

On motion by Rep. Joyner, agreed to by two-thirds vote, HB 865 was withdrawn from further consideration of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, the following resolutions, adopted by publication on February 20, were withdrawn from the Committee on Rules, Ethics & Elections: HR 9001, HR 9005, HR 9007, and HR 9009.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 505 was withdrawn from the Committee on Criminal Justice Appropriations and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 853 was withdrawn from the Committee on Child & Family Security, further referred to the Fiscal Responsibility Council, and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1049 was withdrawn from the Committee on Utilities & Telecommunications and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1573 was withdrawn from the Committee on Crime Prevention, Corrections & Safety and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 773 was withdrawn from the Committee on Child & Family Security and remains referred to the Council for Healthy Communities.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 873 was withdrawn from the Committee on Child & Family Security and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 893 was withdrawn from the Committee on Fiscal Policy & Resources and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 1121 was withdrawn from the Committee on State Administration and remains referred to the Council for Competitive Commerce.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1225 was withdrawn from the Committee on Transportation and remains referred to the Council for Healthy Communities.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1271 was withdrawn from the Committee on Transportation and remains referred to the Fiscal Responsibility Council.

Presentation of Guest

The Speaker recognized the presence of Brad Hendrickson, Deputy Secretary of the Senate of the State of Washington, who was observing the Clerk's Office for a week as a participant in an exchange program sponsored by the American Society of Legislative Clerks and Secretaries.

Bills and Joint Resolutions on Third Reading

CS/HB 489—A bill to be entitled An act relating to land surveying and mapping; amending s. 472.003, F.S.; exempting certain subordinate employees from provisions relating to regulation of land surveying and mapping; amending s. 472.005, F.S.; providing definitions; amending s. 472.008, F.S.; providing rulemaking authority to the Board of Professional Surveyors and Mappers relating to the use of professional titles by retirees; amending s. 472.013, F.S.; deleting an obsolete prerequisite to take the licensure examination to practice as a surveyor and mapper; deleting rulemaking authority for the review and approval of military schools and federal training and apprenticeship programs; amending s. 472.015, F.S.; revising requirements for licensure by endorsement; amending s. 472.029, F.S.; revising provisions relating to access to lands of others for surveying or mapping purposes; providing applicability to subordinates; providing for liability and duty of care on agricultural land; amending s. 472.031, F.S.; prohibiting persons who are not registered to practice surveying and mapping from offering to practice such profession or from using certain related professional titles; providing penalties; amending s. 472.033, F.S.; providing grounds for disciplinary action; providing an effective date.

—was read the third time by title.

Representative(s) Henriquez offered the following:

(Amendment Bar Code: 860873)

Amendment 5—On page 9, line 26, through page 10, line 14, remove: all of said lines

and insert: comply with a lawfully issued subpoena of the department; or

(i) Practicing on a revoked, suspended, inactive, or delinquent license.

~~(2) The board shall specify by rule the acts or omissions that constitute a violation of subsection (1).~~

~~(2)(3)~~ When the board finds any surveyor and mapper guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

- (a) Denial of an application for licensure.
- (b) Revocation or suspension of a license.
- (c) Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense.
- (d) Issuance of a reprimand.
- (e) Placement of the surveyor and mapper on probation for a period of time and subject to such conditions as the board may specify.
- (f) Restriction of the authorized scope of practice by the surveyor and mapper.

(3)(4) The department shall reissue the license of a disciplined surveyor and mapper upon certification by the board that he or she has complied with all of the terms and conditions set forth in the final order.

Rep. Henriquez moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 489. The vote was:

Session Vote Sequence: 754

Yeas—117

| | | | |
|---------------------|---------------------|-------------|------------|
| The Chair | Clarke | Heyman | Needelman |
| Alexander | Crow | Hogan | Negron |
| Allen | Cusack | Holloway | Paul |
| Andrews | Davis | Jennings | Peterman |
| Argenziano | Detert | Johnson | Pickens |
| Arza | Diaz de la Portilla | Jordan | Rich |
| Attkisson | Diaz-Balart | Joyner | Richardson |
| Atwater | Dockery | Justice | Romeo |
| Ausley | Evers | Kallinger | Ross |
| Baker | Farkas | Kendrick | Rubio |
| Ball | Fasano | Kilmer | Russell |
| Barreiro | Fields | Kosmas | Ryan |
| Baxley | Fiorentino | Kottkamp | Seiler |
| Bean | Flanagan | Kravitz | Simmons |
| Bendross-Mindingall | Frankel | Kyle | Siplin |
| Bennett | Gannon | Lacasa | Slosberg |
| Bense | Garcia | Lee | Smith |
| Benson | Gardiner | Lerner | Sobel |
| Berfield | Gelber | Littlefield | Sorensen |
| Betancourt | Gibson | Lynn | Spratt |
| Bilirakis | Goodlette | Machek | Stansel |
| Bowen | Gottlieb | Mack | Wallace |
| Brown | Green | Mahon | Waters |
| Brummer | Greenstein | Mayfield | Weissman |
| Brutus | Haridopolos | Maygarden | Wiles |
| Bucher | Harper | McGriff | Wilson |
| Bullard | Harrell | Meadows | Wishner |
| Byrd | Harrington | Mealor | |
| Cantens | Hart | Melvin | |
| Carassas | Henriquez | Murman | |

Nays—None

Votes after roll call:

Yeas—Ritter, Trovillion

So the bill passed, as amended, and was certified to the Senate after engrossment.

HB 497—A bill to be entitled An act relating to solid waste collection; amending s. 165.061, F.S.; clarifying provisions related to the treatment of existing solid waste contracts in areas affected by the merger or incorporation of municipalities; amending s. 316.1975, F.S.; exempting solid-waste or recovered-materials collection vehicles from a prohibition against leaving the engine running when the vehicle is unattended; providing an effective date.

—was read the third time by title.

REPRESENTATIVE FASANO IN THE CHAIR

Representative(s) Bennett offered the following:

(Amendment Bar Code: 812891)

Amendment 1 (with title amendment)—On page 3, between lines 25 and 26,

insert:

Section 3. Paragraph (a) of subsection (3) of section 403.70605, Florida Statutes, is amended to read:

403.70605 Solid waste collection services in competition with private companies.—

(3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.—

(a) As used in this subsection, the term “displacement” means a local government’s provision of a collection service which prohibits a private company from continuing to provide the same service that it was providing when the decision to displace was made. The term does not include:

1. Competition between the public sector and private companies for individual contracts;

2. Actions by which a local government, at the end of a contract with a private company, refuses to renew the contract and either awards the contract to another private company or decides for any reason to provide the collection service itself;

3. Actions taken against a private company because the company has acted in a manner threatening to the public health or safety or resulting in a substantial public nuisance;

4. Actions taken against a private company because the company has materially breached its contract with the local government;

5. Refusal by a private company to continue operations under the terms and conditions of its existing agreement during the 3-year notice period;

6. Entering into a contract with a private company to provide garbage, trash, or refuse collection which contract is not entered into under an ordinance that displaces or authorizes the displacement of another private company providing garbage, trash, or refuse collection;

7. Situations in which a majority of the property owners in the displacement area petition the governing body to take over the collection service;

8. Situations in which the private companies are licensed or permitted to do business within the local government for a limited time and such license or permit expires and is not renewed by the local government. This subparagraph does not apply to licensing or permitting processes enacted after May 1, 1999, or to occupational licenses; or

9. Annexations, *but only* to the extent that the provisions of s. 171.062(4) apply.

And the title is amended as follows:

On page 1, line 10, after the semicolon,

insert: amending s. 403.70605, F.S.; revising language with respect to the definition of the term “displacement”;

Rep. Bennett moved the adoption of the amendment, which was adopted by the required two-thirds vote.

On motion by Rep. Needelman, HB 497 was temporarily postponed under Rule 11.10.

CS/HB 499—A bill to be entitled An act relating to real estate professionals; amending s. 475.17, F.S.; requiring educational courses

that are prerequisites to licensure as a broker, broker-salesperson, or salesperson or the maintenance or renewal of such licensure to be made available by means of distance learning; providing requirements for the provision and satisfactory completion of such distance learning courses; amending s. 475.182, F.S., relating to continuing education requirements, to conform; amending s. 475.451, F.S., relating to schools teaching real estate practice, to conform; reenacting s. 475.05, F.S., to provide the Florida Real Estate Commission rulemaking authority with respect to implementation of the distance learning courses required by this act; amending s. 475.618, F.S., relating to real estate appraisers; requiring distance learning to be made available for continuing education courses; placing restrictions on examination requirements; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 755

Yeas—116

| | | | |
|---------------------|---------------------|-------------|------------|
| Alexander | Clarke | Heyman | Murman |
| Allen | Crow | Hogan | Needelman |
| Andrews | Cusack | Holloway | Negron |
| Argenziano | Davis | Jennings | Paul |
| Arza | Detert | Johnson | Peterman |
| Attkisson | Diaz de la Portilla | Jordan | Pickens |
| Atwater | Diaz-Balart | Joyner | Rich |
| Ausley | Dockery | Justice | Richardson |
| Baker | Evers | Kallinger | Ritter |
| Ball | Farkas | Kendrick | Romeo |
| Barreiro | Fields | Kilmer | Ross |
| Baxley | Fiorentino | Kosmas | Rubio |
| Bean | Flanagan | Kottkamp | Russell |
| Bendross-Mindingall | Frankel | Kravitz | Ryan |
| Bennett | Gannon | Kyle | Seiler |
| Bense | Garcia | Lacasa | Simmons |
| Benson | Gardiner | Lee | Siplin |
| Berfield | Gelber | Lerner | Slosberg |
| Betancourt | Gibson | Littlefield | Smith |
| Bilirakis | Goodlette | Lynn | Sobel |
| Bowen | Gottlieb | Machek | Sorensen |
| Brown | Green | Mack | Spratt |
| Brummer | Greenstein | Mahon | Stansel |
| Brutus | Haridopolos | Mayfield | Trovillion |
| Bucher | Harper | Maygarden | Wallace |
| Bullard | Harrell | McGriff | Waters |
| Byrd | Harrington | Meadows | Weissman |
| Cantens | Hart | Mealor | Wiles |
| Carassas | Henriquez | Melvin | Wilson |

Nays—None

Votes after roll call:

Yeas—Feeney, Wishner

So the bill passed. On motion by Rep. Mahon, the rules were waived and the bill was immediately certified to the Senate.

HB 439—A bill to be entitled An act relating to educational benefits for dependent children of military personnel; creating s. 295.0185, F.S.; providing educational opportunity at state expense for dependent children of military personnel who died or suffered a service-connected 100-percent total and permanent disability in Operation Enduring Freedom; specifying documentation which constitutes proof of eligibility for such benefits; amending s. 295.02, F.S.; revising the eligibility age for dependent children of certain military personnel to receive educational benefits; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 756

Yeas—117

| | | | |
|---------------------|---------------------|-------------|------------|
| The Chair | Clarke | Hogan | Negron |
| Alexander | Crow | Holloway | Paul |
| Allen | Cusack | Jennings | Peterman |
| Andrews | Davis | Johnson | Pickens |
| Argenziano | Detert | Jordan | Rich |
| Arza | Diaz de la Portilla | Joyner | Richardson |
| Attkisson | Diaz-Balart | Justice | Ritter |
| Atwater | Dockery | Kallinger | Romeo |
| Ausley | Evers | Kendrick | Ross |
| Baker | Farkas | Kilmer | Rubio |
| Ball | Fields | Kosmas | Russell |
| Barreiro | Fiorentino | Kottkamp | Seiler |
| Baxley | Flanagan | Kravitz | Simmons |
| Bean | Frankel | Kyle | Siplin |
| Bendross-Mindingall | Gannon | Lacasa | Slosberg |
| Bennett | Garcia | Lee | Smith |
| Bense | Gardiner | Lerner | Sobel |
| Benson | Gelber | Littlefield | Sorensen |
| Berfield | Gibson | Lynn | Spratt |
| Betancourt | Goodlette | Machek | Stansel |
| Bilirakis | Gottlieb | Mack | Trovillion |
| Bowen | Green | Mahon | Wallace |
| Brown | Greenstein | Mayfield | Waters |
| Brummer | Haridopolos | Maygarden | Weissman |
| Brutus | Harper | McGriff | Wiles |
| Bucher | Harrell | Meadows | Wilson |
| Bullard | Harrington | Mealor | Wishner |
| Byrd | Hart | Melvin | |
| Cantens | Henriquez | Murman | |
| Carassas | Heyman | Needelman | |

Nays—None

Votes after roll call:

Yeas—Feeney, Ryan

So the bill passed, as amended, and was certified to the Senate.

CS/HB 459—A bill to be entitled An act relating to the Florida Bright Futures Scholarship Program; amending ss. 240.40201 and 240.40202, F.S.; providing eligibility requirements for students who enter the military service; providing for reinstatement of awards; creating s. 240.40215, F.S.; providing for Florida Bright Futures Scholarship awards for students attending United States military service academies; providing for the issuance of warrants; providing an effective date.

—was read the third time by title.

On motion by Rep. Greenstein, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Greenstein and Kilmer offered the following:

(Amendment Bar Code: 513935)

Amendment 5—On page 2, lines 5 through 7, remove: all of said lines

and insert:

(2) *Except as otherwise provided in s. 240.40201(1), a student is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 7 years following high school graduation. A*

Rep. Greenstein moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Rep. Richardson moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

THE SPEAKER IN THE CHAIR

The question recurred on the passage of CS/HB 459. The vote was:

Session Vote Sequence: 757

Yeas—73

| | | | |
|------------|---------------------|-------------|------------|
| The Chair | Byrd | Greenstein | Mayfield |
| Alexander | Cantens | Haridopolos | Mealor |
| Andrews | Carassas | Harrell | Melvin |
| Argenziano | Clarke | Harrington | Murman |
| Arza | Davis | Hart | Needelman |
| Attkisson | Diaz de la Portilla | Henriquez | Negron |
| Atwater | Diaz-Balart | Johnson | Paul |
| Ausley | Dockery | Justice | Pickens |
| Baker | Evers | Kallinger | Ross |
| Barreiro | Farkas | Kendrick | Rubio |
| Baxley | Fasano | Kilmer | Russell |
| Bean | Fiorentino | Kottkamp | Simmons |
| Bense | Flanagan | Kravitz | Sorensen |
| Benson | Frankel | Kyle | Stansel |
| Berfield | Garcia | Lacasa | Trovillion |
| Bilirakis | Gardiner | Littlefield | Wallace |
| Bowen | Gibson | Lynn | |
| Brown | Goodlette | Mack | |
| Brummer | Green | Mahon | |

Nays—44

| | | | |
|---------------------|----------|------------|----------|
| Allen | Fields | Kosmas | Romeo |
| Ball | Gannon | Lee | Ryan |
| Bendross-Mindingall | Gelber | Lerner | Seiler |
| Bennett | Gottlieb | Machek | Siplin |
| Betancourt | Harper | Maygarden | Slosberg |
| Brutus | Heyman | McGriff | Smith |
| Bucher | Hogan | Meadows | Sobel |
| Bullard | Holloway | Peterman | Weissman |
| Crow | Jennings | Rich | Wiles |
| Cusack | Jordan | Richardson | Wilson |
| Detert | Joyner | Ritter | Wishner |

Votes after roll call:

Nays to Yeas—Allen

So the bill passed, as amended, and was certified to the Senate after engrossment.

On motion by Rep. Garcia, consideration of **CS/CS/HB 463** was temporarily postponed under Rule 11.10.

HB 465—A bill to be entitled An act relating to determination of resident status for tuition purposes; amending s. 240.1201, F.S.; providing for classification as residents of dependent children of certain active duty members of the Armed Services; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 758

Yeas—118

| | | | |
|------------|---------------------|---------------------|------------|
| The Chair | Bean | Bullard | Farkas |
| Alexander | Bendross-Mindingall | Byrd | Fasano |
| Allen | Bennett | Cantens | Fields |
| Andrews | Bense | Carassas | Fiorentino |
| Argenziano | Benson | Clarke | Flanagan |
| Arza | Berfield | Crow | Frankel |
| Attkisson | Betancourt | Cusack | Gannon |
| Atwater | Bilirakis | Davis | Garcia |
| Ausley | Bowen | Detert | Gardiner |
| Baker | Brown | Diaz de la Portilla | Gelber |
| Ball | Brummer | Diaz-Balart | Gibson |
| Barreiro | Brutus | Dockery | Goodlette |
| Baxley | Bucher | Evers | Gottlieb |

| | | | |
|-------------|-------------|------------|------------|
| Green | Kendrick | Meadows | Seiler |
| Greenstein | Kilmer | Mealor | Simmons |
| Haridopolos | Kosmas | Melvin | Siplin |
| Harper | Kottkamp | Murman | Slosberg |
| Harrell | Kravitz | Needelman | Smith |
| Harrington | Kyle | Negron | Sobel |
| Hart | Lacasa | Paul | Sorensen |
| Henriquez | Lee | Peterman | Spratt |
| Heyman | Lerner | Pickens | Stansel |
| Hogan | Littlefield | Rich | Trovillion |
| Holloway | Lynn | Richardson | Wallace |
| Jennings | Machek | Ritter | Weissman |
| Johnson | Mack | Romeo | Wiles |
| Jordan | Mahon | Ross | Wilson |
| Joyner | Mayfield | Rubio | Wishner |
| Justice | Maygarden | Russell | |
| Kallinger | McGriff | Ryan | |

Nays—None

So the bill passed and was certified to the Senate.

HB 481 was taken up. On motion by Rep. Argenziano, the rules were waived and—

SB 292—A bill to be entitled An act relating to high school graduation requirements; amending s. 232.246, F.S.; providing for the award of a standard high school diploma to certain Korean War Veterans; providing an effective date.

—was substituted for HB 481 and read the second time by title. Under Rule 5.15, the House bill was laid on the table and the Senate bill was referred to the Engrossing Clerk.

HB 165—A bill to be entitled An act relating to ad valorem tax exemption; amending s. 196.24, F.S.; increasing the amount of the exemption provided under s. 3(b), Art. VII of the State Constitution for certain disabled ex-service members; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 759

Yeas—118

| | | | |
|---------------------|---------------------|-------------|------------|
| The Chair | Cantens | Harrell | Maygarden |
| Alexander | Carassas | Harrington | McGriff |
| Allen | Clarke | Hart | Meadows |
| Andrews | Crow | Henriquez | Mealor |
| Argenziano | Cusack | Heyman | Melvin |
| Arza | Davis | Hogan | Murman |
| Attkisson | Detert | Holloway | Needelman |
| Atwater | Diaz de la Portilla | Jennings | Negron |
| Ausley | Diaz-Balart | Johnson | Paul |
| Baker | Dockery | Jordan | Peterman |
| Ball | Evers | Joyner | Pickens |
| Barreiro | Farkas | Justice | Rich |
| Baxley | Fasano | Kallinger | Richardson |
| Bean | Fields | Kendrick | Ritter |
| Bendross-Mindingall | Fiorentino | Kilmer | Romeo |
| Bennett | Flanagan | Kosmas | Ross |
| Bense | Frankel | Kottkamp | Rubio |
| Benson | Gannon | Kravitz | Russell |
| Berfield | Garcia | Kyle | Ryan |
| Betancourt | Gardiner | Lacasa | Seiler |
| Bilirakis | Gelber | Lee | Simmons |
| Bowen | Gibson | Lerner | Siplin |
| Brown | Goodlette | Littlefield | Slosberg |
| Brummer | Gottlieb | Lynn | Smith |
| Brutus | Green | Machek | Sobel |
| Bucher | Greenstein | Mack | Sorensen |
| Bullard | Haridopolos | Mahon | Spratt |
| Byrd | Harper | Mayfield | Stansel |

| | | | |
|------------|----------|--------|---------|
| Trovillion | Weissman | Wilson | Wishner |
| Wallace | Wiles | | |

Nays—None

So the bill passed and was certified to the Senate.

HB 477—A bill to be entitled An act relating to road designations; designating a portion of State Road 19 in Lake County as the “Private Robert M. McTureous, Jr., U.S.M.C., Medal of Honor Memorial Highway”; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the third time by title.

REPRESENTATIVE BALL IN THE CHAIR

On passage, the vote was:

Session Vote Sequence: 760

Yeas—116

| | | | |
|---------------------|---------------------|-------------|------------|
| The Chair | Clarke | Heyman | Murman |
| Alexander | Crow | Hogan | Needelman |
| Allen | Cusack | Holloway | Negron |
| Andrews | Davis | Jennings | Paul |
| Argenziano | Detert | Johnson | Peterman |
| Arza | Diaz de la Portilla | Jordan | Pickens |
| Attkisson | Diaz-Balart | Joyner | Rich |
| Atwater | Dockery | Justice | Richardson |
| Ausley | Evers | Kallinger | Ritter |
| Baker | Farkas | Kendrick | Romeo |
| Barreiro | Fasano | Kilmer | Ross |
| Baxley | Fields | Kosmas | Rubio |
| Bean | Flanagan | Kottkamp | Russell |
| Bendross-Mindingall | Frankel | Kravitz | Ryan |
| Bennett | Gannon | Kyle | Seiler |
| Bense | Garcia | Lacasa | Simmons |
| Benson | Gardiner | Lee | Siplin |
| Berfield | Gelber | Lerner | Slosberg |
| Betancourt | Gibson | Littlefield | Smith |
| Bilirakis | Goodlette | Lynn | Sobel |
| Bowen | Gottlieb | Machek | Sorensen |
| Brown | Green | Mack | Spratt |
| Brummer | Greenstein | Mahon | Stansel |
| Brutus | Haridopolos | Mayfield | Trovillion |
| Bucher | Harper | Maygarden | Wallace |
| Bullard | Harrell | McGriff | Weissman |
| Byrd | Harrington | Meadows | Wiles |
| Cantens | Hart | Mealor | Wilson |
| Carassas | Henriquez | Melvin | Wishner |

Nays—None

Votes after roll call:

Yeas—Feeney, Fiorentino

So the bill passed, as amended, and was certified to the Senate.

Special Orders

Special Order Calendar

HB 805—A bill to be entitled An act relating to human cloning; creating s. 877.27, F.S., the “Human Cloning Prohibition and Responsibility Act of 2002”; providing definitions; providing that it is unlawful to perform or attempt to perform human cloning, to participate or assist in an attempt to perform human cloning, or to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo; providing a penalty; providing civil penalties; providing construction with respect to scientific research; providing for enforcement of the act; providing civil remedies; providing limitations on commencement of actions; amending ss. 95.11 and 775.15, F.S.;

providing periods of limitations on actions and prosecutions for violations of the act; providing an effective date.

—was read the second time by title.

THE SPEAKER IN THE CHAIR

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 491465)

Amendment 1—On page 2, lines 11 and 12, remove: all of said lines

Rep. Kallinger moved the adoption of the amendment, which was adopted.

Representative(s) Gannon offered the following:

(Amendment Bar Code: 423531)

Amendment 2 (with title amendment)—Remove everything after the enacting clause

and insert: Section 877.27, Florida Statutes, is created to read:

877.27 Reproductive Human Cloning Prohibition and Responsibility Act.—

(1) *SHORT TITLE.*—This section may be cited as the “Reproductive Human Cloning Prohibition and Responsibility Act of 2002.”

(2) *DEFINITIONS.*—As used in this section:

(a) “Reproductive Human cloning” means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism, at any state of development, that is genetically virtually identical to an existing or previously existing human organism.

(b) “Asexual reproduction” means reproduction not initiated by the union of oocyte and sperm.

(c) “Somatic cell” means a diploid cell having a complete set of chromosomes obtained or derived from a living or deceased human body at any stage of development.

(3) *REPRODUCTIVE HUMAN CLONING PROHIBITED.*—It is unlawful for any person to knowingly:

(a) Perform or attempt to perform reproductive human cloning.

(b) Participate or assist in an attempt to perform reproductive human cloning.

(c) Ship or receive for any purpose an embryo produced by reproductive human cloning or any product derived from such embryo.

(4) *PENALTIES.*—

(a) Any person who violates any provision of subsection (3) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be sentenced to a minimum term of imprisonment of 10 years.

(b) Any person who violates any provision of subsection (3) and derives pecuniary gain from such violation shall be subject to a civil penalty of not less than \$1 million and not more than an amount equal to the amount of the gross pecuniary gain derived from the violation multiplied by 2, if that amount is greater than \$1 million.

(5) *CONSTRUCTION.*—Nothing in this section shall be construed to restrict areas of scientific research not specifically prohibited by this section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos or animals.

(6) *CIVIL REMEDIES; ENFORCEMENT.*—With respect to any individual residing in the state who was produced, at any time and in

any jurisdiction, by reproductive human cloning which would have been prohibited under this section if performed in this state after the effective date of this section:

(a) Any person participating in the production by reproductive human cloning of such individual shall be jointly and severally liable to the individual, the individual’s spouse, dependents, and blood relatives, and to any woman impregnated with the individual, her spouse, and dependents, for damages for all physical, emotional, economic, or other injuries suffered by such persons at any time as a result of the use of reproductive human cloning to produce the individual. This section shall not give rise to a cause of action for wrongful life, but shall not exclude any injuries or damages associated with the continuation of life by the individual who is a product of reproductive human cloning.

(b) Any person participating in the production by reproductive human cloning of an individual shall be jointly and severally liable to the individual and the individual’s legal guardian for support and the costs of guardianship during the individual’s minority, as well as for the costs of any guardian ad litem to represent the interests of the individual in the courts of this state in any matter related to the production or legal status of the individual. The liability created by this paragraph shall not cease at the age of majority if the individual suffers thereafter from any congenital defect or other disability related to the production of the individual by reproductive human cloning.

(c) All liabilities created under this section shall survive the death of an individual produced by reproductive human cloning. All persons and entities participating in the production by reproductive human cloning of an individual shall be jointly and severally liable to the estate of the individual for damages for injuries resulting from the death of the individual if the cause of death is related to the production of the individual by reproductive human cloning or any congenital defect in the individual. If the individual dies intestate leaving no descendants or other dependents, the cause of action created by this paragraph shall accrue to the State of Florida. In every such action for the death of the individual, exemplary damages in an amount of at least \$100,000 shall be awarded.

(d) The rights of recovery created by this section shall be cumulative to all other legal rights. No liability created by this section shall be reduced by the payment of any other liability or by the recovery of damages from any other source or under any other legal theory.

(e) The liabilities created by this section shall be strictly enforced without regard to negligence or fault. The status of a person as plaintiff or injured party upon any cause of action or legal theory shall not negate the status of such person as defendant or reduce their liability to other claimants under any cause of action created by this section. The liabilities created by this section may not be waived by any individual, nor compromised except as may be implemented through an enforceable judgment of a court of this state. No affirmative defenses other than lack of jurisdiction, res judicata, satisfaction of the liability, or expiration of the statute of limitations period provided in paragraph (i) shall be allowed in any action brought pursuant to this section.

(f) The domicile in the State of Florida of any injured person having a cause of action under this section, or the incurring within this state of any damages recoverable under this section, shall be sufficient to establish the jurisdiction of the law of this state and its courts for all related claims arising under this section.

(g) Any state agency providing services to any person entitled to recovery under this section, and any private insurance company legally obligated to pay medical costs or other compensation related to conditions associated with injuries for which recovery is authorized under this act, shall be subrogated to the rights to recover under this section of any person receiving such services or benefiting from such insurance. Such subrogation shall not exceed the full cost of such services or insurance payments.

(h) The Attorney General is hereby empowered to bring civil actions in this or any appropriate jurisdiction to enforce the rights and obligations created under this section on behalf of the state or any resident of the state.

(i) *An action under this section must be commenced before the expiration of 5 years after the death of the individual produced by reproductive human cloning, provided that an action for support and other damages under paragraph (b) must be commenced within 5 years after the end of the period for which liability is imposed under paragraph (b).*

Section 1. Subsection (9) is added to section 95.11, Florida Statutes, to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(9) *FOR ACTIONS RELATED TO REPRODUCTIVE HUMAN CLONING.—An action founded upon a violation of s. 877.27(3) must be commenced as provided in s. 877.27(6).*

Section 2. Paragraph (i) is added to subsection (2) of section 775.15, Florida Statutes, to read:

775.15 Time limitations.—

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(i) *A prosecution for a felony violation of s. 877.27(3) must be commenced within 4 years after the violation is reported to law enforcement, or within 21 years after the birth or destruction of an individual produced by reproductive human cloning, whichever occurs first.*

Section 3. This act shall take effect upon becoming a law

And the title is amended as follows:
remove: all of said lines

and insert: An act relating to reproductive human cloning; creating s. 877.27, F.S., the “Reproductive Human Cloning Prohibition and Responsibility Act of 2002”; providing definitions; providing that it is unlawful to perform or attempt to perform reproductive human cloning, to participate or assist in an attempt to perform reproductive human cloning, or to ship or receive for any purpose an embryo produced by reproductive human cloning or any product derived from such embryo; providing a penalty; providing civil penalties; providing construction with respect to scientific research; providing for enforcement of the act; providing civil remedies; providing limitations on commencement of actions; amending ss. 95.11 and 775.15, F.S.; providing periods of limitations on actions and prosecutions for violations of the act; providing an effective date.

Rep. Gannon moved the adoption of the amendment.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

On motion by Rep. Kallinger, further consideration of **Amendment 2** was temporarily postponed under Rule 11.10.

THE SPEAKER IN THE CHAIR

Further consideration of **HB 805**, with pending amendment, was temporarily postponed under Rule 11.10.

Recognition Ceremony

On motion by Rep. Arza, the privilege of the floor was granted to Miami Hurricane Coach Larry Coker; Paul Dee, Athletic Director; and Joaquin Gonzalez and Daryl Jones, players.

A video was shown highlighting the performance of the University of Miami Hurricane football team.

On motion by Rep. Arza, the House agreed to take up HR 9055 for consideration.

HR 9055—A resolution honoring the University of Miami Hurricane football team.

WHEREAS, the University of Miami is a premier educational institution, offering excellence in academic, as well as athletic, pursuits, and

WHEREAS, the Hurricanes had a perfect 2001 season with 12 wins and no losses, and

WHEREAS, the University of Miami Hurricane football team boasts an impressive history with five National Football Championships, including this season, and

WHEREAS, the Hurricane football team defeated the University of Nebraska 37-14 at the 2002 Rose Bowl to become National Champions, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives recognizes the University of Miami Hurricane football team as the college national football champions for the 2001 football season.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the House of Representatives affixed, be presented to the University of Miami as a tangible token of the sentiments and esteem of the Florida House of Representatives.

—was read the second time by title. On motion by Rep. Arza, the resolution was adopted.

The Speaker recognized Coach Coker to approach the well, where he gave brief remarks.

HB 805—A bill to be entitled An act relating to human cloning; creating s. 877.27, F.S., the “Human Cloning Prohibition and Responsibility Act of 2002”; providing definitions; providing that it is unlawful to perform or attempt to perform human cloning, to participate or assist in an attempt to perform human cloning, or to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo; providing a penalty; providing civil penalties; providing construction with respect to scientific research; providing for enforcement of the act; providing civil remedies; providing limitations on commencement of actions; amending ss. 95.11 and 775.15, F.S.; providing periods of limitations on actions and prosecutions for violations of the act; providing an effective date.

—was taken up, having been read the second time, and amended, earlier today; now pending on motion by Rep. Gannon to adopt Amendment 2.

The question recurred on the adoption of **Amendment 2**.

Further consideration of **HB 805**, with pending amendment, was temporarily postponed under Rule 11.10.

HB 1283—A bill to be entitled An act relating to Parents’ and Children’s Day; amending s. 683.17, F.S.; renaming “Children’s Day” as “Parents’ and Children’s Day”; changing the designated day for the celebration of Parents’ and Children’s Day; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 123—A bill to be entitled An act relating to the excise tax on documents; amending s. 201.08, F.S.; providing a limit on the amount of the tax on promissory or nonnegotiable notes, written obligations to pay money, and assignments of wages or other compensation and on certain promissory or nonnegotiable notes, written obligations to pay money, or other compensation made in connection with sales made under retail charge account services; providing an effective date.

—was read the second time by title.

The Fiscal Responsibility Council offered the following:

(Amendment Bar Code: 113311)

Amendment 1—On page 2, line 10 of the bill, after the period

insert: *Where a mortgage, trust deed, security agreement, or other evidence of indebtedness is subsequently filed or recorded in Florida to evidence an indebtedness or obligation upon which tax was paid pursuant to paragraph (1)(a) or (2)(a) of this section, tax shall be paid on the mortgage, trust deed, security agreement, or other evidence of indebtedness on the amount of the indebtedness or obligation evidenced which exceeds the aggregate amount upon which tax was previously paid pursuant to this paragraph and paragraph (1)(a) or (2)(a) of this section.*

Rep. Baxley moved the adoption of the amendment, which was adopted.

The Fiscal Responsibility Council offered the following:

(Amendment Bar Code: 723007)

Amendment 2 (with directory language amendment)—On page 3, between lines 14 and 15 of the bill

insert:

(4) Notwithstanding ~~paragraph subsection~~ (1)(b), a supplement or an amendment to a mortgage, deed of trust, indenture, or security agreement, which supplement or amendment is filed or recorded in this state in connection with a new issue of bonds, shall be subject to the tax imposed by ~~paragraph subsection~~ (1)(b) only to the extent of the aggregate amount of the new issue of bonds or other evidence of indebtedness and not to the extent of the aggregate amount of bonds or other evidence of indebtedness previously issued under the instrument being supplemented or amended. In order to qualify for the tax treatment provided for in this subsection, the document which evidences the increase in indebtedness must show the official records book and page number in which, and the county in which, the original obligation and any prior increase in that obligation were recorded.

(5) For purposes of this section, a renewal shall only include modifications of an original document which change the terms of the indebtedness evidenced by the original document by adding one or more obligors, increasing the principal balance, or changing the interest rate, maturity date, or payment terms. Modifications to documents which do not modify the terms of the indebtedness evidenced such as those given or recorded to correct error; modify covenants, conditions, or terms unrelated to the debt; sever a lien into separate liens; provide for additional, substitute, or further security for the indebtedness; consolidate indebtedness or collateral; add, change, or delete guarantors; or which substitute a new mortgagee or payee are not renewals and are not subject to tax pursuant to this section. If the taxable amount of a mortgage is limited by language contained in the mortgage or by the application of rules limiting the tax base when there is collateral in more than one state, then a modification which changes such limitation or tax base shall be taxable only to the extent of any increase in the limitation or tax base attributable to such modification. This subsection shall not be interpreted to exempt from taxation an original mortgage which would otherwise be subject to tax pursuant to ~~paragraph subsection~~ (1)(b).

And the directory language is amended as follows:

On page 1, lines 15 through 17 of the bill
remove: all of said lines

and insert: Section 1. Subsection (1), paragraph (a) of subsection (2), and subsections (4) and (5) of section 201.08, Florida Statutes, are amended to read:

Rep. Baxley moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Consideration of **CS/HB 135** was temporarily postponed under Rule 11.10.

HB 219—A bill to be entitled An act relating to open house parties; amending s. 856.015, F.S.; revising definitions; prohibiting persons age 18 or older from allowing open house parties at any residence if alcoholic

beverages or drugs are possessed or consumed by a minor; providing a penalty; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 135—A bill to be entitled An act relating to firefighter employment safety; creating ss. 633.801, 633.802, 633.803, 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810, 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817, 633.818, 633.819, 633.820, and 633.821, F.S.; providing a short title; providing definitions; providing legislative intent; authorizing the Division of State Fire Marshal of the Department of Insurance to adopt rules related to firefighter safety inspections; requiring the division to conduct a study of firefighter occupational diseases; authorizing representatives of the division to enter and inspect any place of firefighter employment; requiring firefighter employers to provide safe employment conditions; authorizing the division to adopt rules that prescribe means for preventing accidents in places of firefighter employment and establish standards for construction, repair, and maintenance; requiring the division to inspect places of firefighter employment and to develop safety and health programs for those firefighter employers whose employees have a high frequency or severity of work-related injuries; requiring certain firefighter employers to establish workplace safety committees and to maintain certain records; providing penalties for firefighter employers who violate provisions of the act; providing exemptions; providing a penalty for the failure to implement a safety and health program and cancellations; providing for expenses of administration; providing penalties for refusal to admit division; specifying firefighter employee rights and responsibilities; providing division remedies for failure to comply; providing penalties for firefighter employers who make false statements to the division or to an insurer; providing criminal penalties for false, malicious, or fraudulent statements and representatives; specifying applicability to volunteer firefighters and fire departments; providing for workplace safety and to authorize the division to adopt rules including federal standards for assuring safe working conditions for all firefighter employees; amending s. 633.31, F.S.; changing the name of and expanding and diversifying the Firefighters Standards and Training Council; amending s. 633.33, F.S.; providing additional duties of the council; amending ss. 383.3362, 633.330, and 633.32, F.S.; conforming language; providing a declaration of important state interest; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/CS/HB 259—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.091, F.S.; increasing the period of time which members of the system who are employed as instructional personnel in grades K-12 may participate in the DROP; providing a statement of proper and legitimate state purpose; requiring the Division of Retirement to request a determination letter and a private letter ruling from the Internal Revenue Service; providing a contingent effective date.

—was read the second time by title.

Representative(s) Brummer offered the following:

(Amendment Bar Code: 391917)

Amendment 1 (with title amendment)—On page 14, line 26 through page 15, line 19
remove: all of said lines

and insert:

Section 3. This act shall take effect July 1, 2003.

And the title is amended as follows:

On page 1, line 8 through 11
remove: all of said lines

and insert: state purpose; providing an

Rep. Brummer moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 353—A bill to be entitled An act relating to postsecondary education; amending ss. 229.003 and 229.008, F.S.; revising the membership of state university boards of trustees; creating s. 240.236, F.S.; providing requirements for university student governments; providing requirements with respect to the adoption of internal procedures; providing for review of an internal procedure disapproved by a university president; providing procedures for suspension and removal of student government officers; amending s. 240.5277, F.S.; revising the membership of the Board of Trustees of New College of Florida; repealing s. 240.136, F.S., relating to suspension and removal of elected student government officials at state universities and community colleges; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 523—A bill to be entitled An act relating to relating to community human services infrastructure; amending s. 20.19, F.S.; including the state attorney and public defender among those persons who may be added to the membership of a local community alliance for human services; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 547—A bill to be entitled An act relating to affordable housing; amending s. 373.4141, F.S.; providing that processing of permit applications for affordable housing projects under pt. IV of ch. 373, F.S., relating to management and storage of surface waters, shall be expedited; amending s. 380.0552, F.S.; providing for carryover of unused residential permit units from one year to a subsequent year in the Florida Keys Area; amending s. 420.507, F.S.; authorizing all State Apartment Incentive Loans to be subject to contingent interest based upon available cash flow; providing that projects for occupancy by commercial fishing workers and the homeless are eligible for the lowest interest rate mortgage loans under the State Apartment Incentive Loan Program; authorizing the Florida Housing Finance Corporation to establish subsidiary corporations for certain purposes and to conduct and fund certain demonstration programs and projects; amending s. 420.508, F.S.; authorizing the corporation to establish a procedure for evaluating and ranking applications for private activity bond allocation in connection with multifamily projects and to establish terms of mortgage loans; amending s. 420.5087, F.S.; providing that a project located in a county that includes or has included an area of critical state concern for which the Legislature intends to provide affordable housing and that meets certain income criteria is eligible under the State Apartment Incentive Loan Program; amending s. 420.526, F.S.; revising requirements relating to funding priorities under the Predevelopment Loan Program; amending s. 420.527, F.S.; revising requirements relating to the application procedure under the program and to evaluation of applicants; amending s. 420.9075, F.S.; revising requirements for monitoring and determining tenant eligibility in connection with a local housing assistance plan under the State Housing Initiatives Partnership Program; revising requirements for determining the average area purchase price under such plans; exempting a county or municipality that includes or has included an area of critical state concern for which the Legislature intends to provide affordable housing from certain tenant income requirements under such plans; revising requirements for the annual report to the corporation required under the program; providing an effective date.

—was read the second time by title.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 092771)

Amendment 1 (with title amendment)—On page 3, lines 4 through 14,
remove: all of said lines

And the title is amended as follows:

On page 1, lines 7 through 10 ,
remove: all of said lines

and insert: waters, shall be expedited;

Rep. Sorensen moved the adoption of the amendment, which was adopted.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 470463)

Amendment 2—On page 4, line 22 of the bill, after the period
insert:

Any subsidiary created by the corporation shall be subject to chapters 119, 120, and 286 to the same extent as the corporation.

Rep. Sorensen moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 585—A bill to be entitled An act relating to the Florida Uniform Principal and Income Act; creating ss. 738.101, 738.102, 738.103, 738.104, 738.1041, 738.105, 738.201, 738.202, 738.301, 738.302, 738.303, 738.401, 738.402, 738.403, 738.501, 738.502, 738.503, 738.504, 738.601, 738.602, 738.603, 738.604, 738.605, 738.606, 738.607, 738.608, 738.701, 738.702, 738.703, 738.704, 738.705, 738.706, 738.801, 738.802, 738.803, and 738.804, F.S.; providing a short title; providing definitions; specifying a fiduciary's duties; providing general principles; providing a trustee's power to adjust between principal and income; providing for a unitrust alternative to certain trusts where the power to adjust is unavailable or not exercised; providing requirements, criteria, and procedures; providing for judicial control of certain discretionary powers; providing limitations; providing for determinations and distributions of net income; providing requirements; providing for distributions to residuary and remainder beneficiaries; providing for apportionment at beginning and end of an income interest; providing for entitlement to a right to income; providing for apportionment of receipts and disbursements under certain circumstances; providing for allocation of trust receipts during administration; specifying character of receipts; providing for distributions from trust or estate; providing for separate accounting by trustee of certain businesses or activities; providing for allocation of certain receipts not normally apportioned; providing for allocation of certain normally apportioned receipts; providing for allocation of disbursements from income and principal during administration of a trust; providing for certain transfers from income under certain circumstances; providing for payment of certain taxes; providing for adjustments between principal and income due to taxes; providing for uniform application and construction; providing severability; providing for application with respect to apportionment of expenses and improvements; providing for application; repealing ss. 738.01, 738.02, 738.03, 738.04, 738.05, 738.06, 738.07, 738.08, 738.09, 738.10, 738.11, 738.12, 738.13, 738.14, and 738.15, F.S., relating to principal and income of trusts; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 111801)

Amendment 1—On page 17, line 21,
remove: 2053

and insert: 2056 and 2523

Rep. Goodlette moved the adoption of the amendment, which failed of adoption.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 045123)

Amendment 2 (with title amendment)—
remove: everything after the enacting clause,

and insert:

Section 1. Sections 738.101, 738.102, 738.103, 738.104, 738.1041, 738.105, 738.201, 738.202, 738.301, 738.302, 738.303, 738.401, 738.402, 738.403, 738.501, 738.502, 738.503, 738.504, 738.601, 738.602, 738.603, 738.604, 738.605, 738.606, 738.607, 738.608, 738.701, 738.702, 738.703, 738.704, 738.705, 738.706, 738.801, 738.802, 738.803, and 738.804, Florida Statutes, are created to read:

738.101 *Short title.*—*This chapter may be cited as the “Florida Uniform Principal and Income Act.”*

738.102 *Definitions.*—*As used in this chapter, the term:*

(1) *“Accounting period” means a calendar year unless another 12-month period is selected by a fiduciary. The term includes a portion of a calendar year or other 12-month period that begins when an income interest begins or ends when an income interest ends.*

(2) *“Beneficiary” means, in the case of a decedent’s estate, an heir or devisee and, in the case of a trust, an income beneficiary or a remainder beneficiary.*

(3) *“Fiduciary” means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, or a person performing substantially the same function.*

(4) *“Income” means money or property that a fiduciary receives as current return from a principal asset. The term includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in ss. 738.401-738.403 and s. 738.503.*

(5) *“Income beneficiary” means a person to whom net income of a trust is or may be payable.*

(6) *“Income interest” means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require the net income to be distributed or authorize the net income to be distributed in the trustee’s discretion.*

(7) *“Mandatory income interest” means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.*

(8) *“Net income” means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under this chapter to or from income during the period.*

(9) *“Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, or any other legal or commercial entity or a government or governmental subdivision, agency, or instrumentality.*

(10) *“Principal” means property held in trust for distribution to a remainder beneficiary when the trust terminates.*

(11) *“Remainder beneficiary” means a person entitled to receive principal when an income interest ends.*

(12) *“Terms of a trust” means the manifestation of the intent of a grantor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.*

(13) *“Trustee” includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.*

738.103 *Fiduciary duties; general principles.*—

(1) *In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of ss. 738.201 and 738.202 and ss. 738.301-738.303, a fiduciary:*

(a) *Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this chapter.*

(b) *May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this chapter.*

(c) *Shall administer a trust or estate in accordance with this chapter if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration.*

(d) *Shall add a receipt or charge a disbursement to principal to the extent the terms of the trust and this chapter do not provide a rule for allocating the receipt or disbursement to or between principal and income.*

(2) *In exercising the power to adjust under s. 738.104(1) or a discretionary power of administration regarding a matter within the scope of this chapter, whether granted by the terms of a trust, a will, or this chapter, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with this chapter is presumed to be fair and reasonable to all of the beneficiaries.*

738.104 *Trustee’s power to adjust.*—

(1) *A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or shall be distributed to a beneficiary by referring to the trust’s income, and the trustee determines, after applying the rules in s. 738.103(1), that the trustee is unable to comply with s. 738.103(2).*

(2) *In deciding whether and to what extent to exercise the power conferred by subsection (1), a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:*

(a) *The nature, purpose, and expected duration of the trust.*

(b) *The intent of the grantor.*

(c) *The identity and circumstances of the beneficiaries.*

(d) *The needs for liquidity, regularity of income, and preservation and appreciation of capital.*

(e) *The assets held in the trust; the extent to which the assets consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the grantor.*

(f) *The net amount allocated to income under the other sections of this chapter and the increases or decreases in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available.*

(g) *Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income.*

(h) *The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation.*

(i) *The anticipated tax consequences of an adjustment.*

(3) *A trustee may not make an adjustment:*

(a) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to adjust;

(b) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;

(c) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;

(d) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;

(e) If possessing or exercising the power to adjust causes an individual to be treated as the owner of all or part of the trust for income tax purposes and the individual would not be treated as the owner if the trustee did not possess the power to adjust;

(f) If possessing or exercising the power to adjust causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to adjust;

(g) If the trustee is a beneficiary of the trust; or

(h) If the trustee is not a beneficiary of the trust but the adjustment would benefit the trustee directly or indirectly.

(4) If paragraph (3)(e), paragraph (3)(f), paragraph (3)(g), or paragraph (3)(h) applies to a trustee and there is more than one trustee, a cotrustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee is not permitted by the terms of the trust.

(5) A trustee may release the entire power to adjust conferred by subsection (1) or may release only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in paragraphs (3)(a)-(f) or paragraph (3)(h) or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (3). The release may be permanent or for a specified period, including a period measured by the life of an individual.

(6) Terms of a trust that limit a trustee's power to adjust between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power to adjust conferred by subsection (1).

(7) Nothing in this chapter is intended to create or imply a duty to make an adjustment and no inference of impropriety shall be made as a result of a trustee not exercising the power to adjust conferred by subsection (1).

(8) With respect to a trust in existence on January 1, 2003:

(a) A trustee shall not have the power to adjust under this section if, within 60 days after the date of the statement required in subsection (9), a super majority of the trust beneficiaries deliver to the trustee a written objection to the application of this section to such trust. An objection shall be deemed to be delivered to the trustee on the date the objection is mailed to the mailing address listed in the notice provided in subsection (9).

(b) An objection under this section may be executed by a legal representative or natural guardian of a beneficiary without the filing of any proceeding or approval of any court.

(c) If an objection is delivered to the trustee, then the trustee may petition the circuit court for an order quashing the objection and vesting in such trustee the power to adjust under this section. The burden will be on the objecting beneficiaries to prove that the power to adjust would be inequitable, illegal, or otherwise in contravention of the grantor's intent. The court may award costs and attorney's fees relating to the trustee's

petition in the same manner as in chancery actions. When costs and attorney's fees are to be paid out of the trust, the court may, in its discretion, direct from which part of the trust they shall be paid.

(d) If no timely objection is made or if the trustee is vested with the power to adjust by court order, the trustee may thereafter exercise the power to adjust without providing notice of its intent to do so unless, in vesting the trustee with the power to adjust, the court determines that unusual circumstances require otherwise.

(e)1. If a trustee makes a good faith effort to comply with the notice provisions of subsection (9), but fails to deliver notice to one or more beneficiaries entitled to such notice, neither the validity of the notice required under this subsection nor the trustee's power to adjust under this section shall be affected until the trustee has actual notice that one or more beneficiaries entitled to notice were not notified. Until the trustee has actual notice of the notice deficiency, the trustee shall have all of the powers and protections granted a trustee with the power to adjust under this chapter.

2. When the trustee has actual notice that one or more beneficiaries entitled to notice under subsection (9) were not notified, the trustee's power to adjust under this section shall cease until all beneficiaries who are entitled to such notice, including those who were previously provided with such notice, are notified and given the opportunity to object as provided for under this subsection.

(f) The objection of a super majority of beneficiaries under this subsection shall be valid for a period of 1 year after the date of the notice set forth in subsection (9). Upon expiration of the objection, the trustee may thereafter give a new notice under subsection (9).

(g) Nothing in this section is intended to create or imply a duty of the trustee of a trust existing on January 1, 2003, to seek a power to adjust pursuant to this subsection or to give the notice described in subsection (9) if the trustee does not desire to have a power to adjust under this section, and no inference of impropriety shall be made as the result of a trustee not seeking a power to adjust pursuant to this subsection.

(9)(a) A trustee of a trust in existence on January 1, 2003, that is not prohibited under subsection (3) from exercising the power to adjust shall, any time prior to initially exercising the power, provide to all reasonably ascertainable current beneficiaries described in s. 737.303(4)(b)1. and all reasonably ascertainable remainder beneficiaries described in s. 737.303(4)(b)2. a statement containing the following:

1. The name, telephone number, street address, and mailing address of the trustee and of any individuals who may be contacted for further information;

2. A statement that unless a super majority of the beneficiaries objects to the application of this section to the trust within 60 days after the date the statement pursuant to this subsection was served, s. 738.104, shall apply to the trust; and

3. A statement that, if s. 738.104, applies to the trust, the trustee will have the power to adjust between income and principal and that such a power may have an effect on the distributions to such beneficiary from the trust.

(b) The statement may contain information regarding a trustee's fiduciary obligations with respect to the power to adjust between income and principal under this section.

(c) The statement referred to in this subsection shall be served informally, in the manner provided in the Florida Rules of Civil Procedure relating to service of pleadings subsequent to the initial pleading.

(d) For purposes of subsection (8) and this subsection, a "super majority of the trust beneficiaries" means at least two-thirds in interest of the reasonably ascertainable current beneficiaries described in s. 737.303(4)(b)1. or two-thirds in interest of the reasonably ascertainable remainder beneficiaries described in s. 737.303(4)(b)2., if the interests of the beneficiaries are reasonably ascertainable; otherwise, it means two-thirds in number of either such class.

(10) A trust exists on January 1, 2003, if it is not revocable on January 1, 2003. A trust is revocable if revocable by the grantor alone or in conjunction with any other person. A trust is not revocable for purposes of this section if revocable by the grantor only with the consent of all persons having a beneficial interest in the property.

738.1041 Total return unitrust.—

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

(a) “Disinterested person” means a person who is not a “related or subordinate party” as defined in s. 672(c) of the United States Internal Revenue Code, 26 U.S.C. s. 1 et seq., or any successor provision thereof, with respect to the person then acting as trustee of the trust and excludes the grantor and any interested trustee.

(b) “Income trust” means a trust, created by either an inter vivos or a testamentary instrument, which directs or permits the trustee to distribute the net income of the trust to one or more persons, either in fixed proportions or in amounts or proportions determined by the trustee. Notwithstanding the foregoing, no trust that otherwise is an “income trust” shall qualify hereunder, if it may be subject to taxation under the Internal Revenue Code, 26 U.S.C. s. 2001 or s. 2501, until the expiration of the period for filing the return therefor, including extensions.

(c) “Interested distributee” means a person to whom distributions of income or principal can currently be made who has the power to remove the existing trustee and designate as successor a person who may be a “related or subordinate party,” as defined in the Internal Revenue Code, 26 U.S.C. s. 672(c), with respect to such distributee.

(d) “Interested trustee” means an individual trustee to whom the net income or principal of the trust can currently be distributed or would be distributed if the trust were then to terminate and be distributed, any trustee who may be removed and replaced by an interested distributee, or an individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income and principal of the trust.

(2) A trustee may, without court approval, convert an income trust to a total return unitrust, reconvert a total return unitrust to an income trust, or change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust if:

(a) The trustee adopts a written statement regarding trust distributions that provides:

1. In the case of a trust being administered as an income trust, that future distributions from the trust will be unitrust amounts rather than net income, and indicates the manner in which the unitrust amount will be calculated and the method in which the fair market value of the trust will be determined.

2. In the case of a trust being administered as a total return unitrust, that:

a. Future distributions from the trust will be net income rather than unitrust amounts; or

b. The percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust will be changed, and indicates the manner in which the new unitrust amount will be calculated and the method in which the new fair market value of the trust will be determined;

(b)1. The trustee determines, or if there is no trustee other than an interested trustee, the trustee appoints a disinterested person who, in its sole discretion but acting in a fiduciary capacity, determines for the trustee:

a. The percentage to be used to calculate the unitrust amount, provided the percentage used is not greater than 5 percent nor less than 3 percent;

b. The method to be used in determining the fair market value of the trust; and

c. Which assets, if any, are to be excluded in determining the unitrust amount; or

2. The trustee administers the trust such that:

a. The percentage used to calculate the unitrust amount is 50 percent of the applicable federal rate as defined in the Internal Revenue Code, 26 U.S.C. s. 7520, in effect for the month the conversion under this section becomes effective and for each January thereafter; however, the percentage shall never be greater than 5 percent nor less than 3 percent; and

b. The fair market value of the trust shall be determined at least annually on an asset-by-asset basis, reasonably and in good faith, in accordance with the provisions of s. 738.202(5), except the following property shall not be included in determining the value of the trust:

(I) Any residential property or any tangible personal property that, as of the first business day of the current valuation year, one or more current beneficiaries of the trust have or have had the right to occupy, or have or have had the right to possess or control (other than in his or her capacity as trustee of the trust), and instead the right of occupancy or the right to possession and control shall be deemed to be the unitrust amount with respect to such property; however, the unitrust amount shall be adjusted to take into account partial distributions from or receipt into the trust of such property during the valuation year.

(II) Any asset specifically given to a beneficiary and the return on investment on such property, which return on investment shall be distributable to such beneficiary.

(III) Any asset while held in a testator’s estate;

(c) The trustee sends written notice of its intention to take such action, along with copies of such written statement and this section, and, if applicable, the determinations of either the trustee or the disinterested person to:

1. The grantor of the trust, if living.

2. All living persons who are currently receiving or eligible to receive distributions of income of the trust.

3. All living persons who would receive distributions of principal of the trust if the trust were to terminate at the time of the giving of such notice (without regard to the exercise of any power of appointment) or, if the trust does not provide for its termination, all living persons who would receive or be eligible to receive distributions of income or principal of the trust if the persons identified in subparagraph 2. were deceased.

4. All persons acting as advisers or protectors of the trust.

Notice under this paragraph shall be served informally, in the manner provided in the Florida Rules of Civil Procedure relating to service of pleadings subsequent to the initial pleading;

(d) At least one person receiving notice under each of subparagraphs (c)2. and 3. is legally competent; and

(e) No person receiving such notice objects, by written instrument delivered to the trustee, to the proposed action of the trustee or the determinations of the disinterested person within 60 days after receipt of such notice.

(3) If a trustee desires to convert an income trust to a total return unitrust, reconvert a total return unitrust to an income trust, or change the percentage used to calculate the unitrust amount or the method used to determine a fair market value of the trust but does not have the ability to or elects not to do it under subsection (2), the trustee may petition the circuit court for such order as the trustee deems appropriate. In that event, the court, in its own discretion or on the petition of such trustee or any person having an income or remainder interest in the trust, may appoint a disinterested person who, acting in a fiduciary capacity, shall present such information to the court as shall be necessary for the court to make a determination hereunder.

(4) All determinations made pursuant to sub-subparagraph (2)(b)2.b. shall be conclusive if reasonable and made in good faith. Such determination shall be conclusively presumed to have been made reasonably and in good faith unless proven otherwise in a proceeding

commenced by or on behalf of a person interested in the trust within the time provided in s. 737.307. The burden will be on the objecting interested party to prove that the determinations were not made reasonably and in good faith.

(5) The unitrust amount shall not be less than the net income of the trust, determined without regard to the provisions of subsection (6), for:

(a) A trust for which a marital deduction has been taken for federal tax purposes under the Internal Revenue Code, 26 U.S.C. s. 2056 or s. 2523, during the lifetime of the spouse for whom the trust was created; or

(b) A trust to which the generation-skipping transfer tax due under the Internal Revenue Code, 26 U.S.C. s. 2601 does not apply by reason of any effective date or transition rule.

Paragraph (a) will not apply to any trust to the extent that the use of a total return unitrust is recognized for federal tax purposes under the Internal Revenue Code, 26 U.S.C. s. 2056 or s. 2523. Paragraph (b) will not apply to any trust to the extent that the use of a total return unitrust is recognized for federal tax purposes under the Internal Revenue Code, 26 U.S.C. s. 2601.

(6) Following the conversion of an income trust to a total return unitrust, the trustee:

(a) Shall treat the unitrust amount as if it were net income of the trust for purposes of determining the amount available, from time to time, for distribution from the trust.

(b) May allocate to trust income for each taxable year of the trust, or portion thereof:

1. Net short-term capital gain described in the Internal Revenue Code, 26 U.S.C. s. 1222(5), for such year, or portion thereof, but only to the extent that the amount so allocated together with all other amounts allocated to trust income, as determined under the provisions of this chapter without regard to this section and s. 738.104, for such year, or portion thereof, does not exceed the unitrust amount for such year, or portion thereof.

2. Net long-term capital gain described in the Internal Revenue Code, 26 U.S.C. s. 1222(7), for such year, or portion thereof, but only to the extent that the amount so allocated together with all other amounts, including amounts described in subparagraph 1., allocated to trust income for such year, or portion thereof, does not exceed the unitrust amount for such year, or portion thereof.

(7) In administering a total return unitrust, the trustee may, in its sole discretion but subject to the provisions of the governing instrument, determine:

(a) The effective date of the conversion.

(b) The timing of distributions, including provisions for prorating a distribution for a short year in which a beneficiary's right to payments commences or ceases.

(c) Whether distributions are to be made in cash or in kind or partly in cash and partly in kind.

(d) If the trust is reconverted to an income trust, the effective date of such reconversion.

(e) Such other administrative issues as may be necessary or appropriate to carry out the purposes of this section.

(8) Conversion to a total return unitrust under the provisions of this section shall not affect any other provision of the governing instrument, if any, regarding distributions of principal.

(9) In the case of a trust for which a marital deduction has been taken for federal tax purposes under the Internal Revenue Code, 26 U.S.C. s. 2056 or s. 2523, the spouse otherwise entitled to receive the net income of the trust shall have the right, by written instrument delivered to the trustee, to compel the reconversion during his or her lifetime of the trust

from a total return unitrust to an income trust, notwithstanding anything in this section to the contrary, unless the use of a total return unitrust is recognized for federal tax purposes under the Internal Revenue Code, 26 U.S.C. s. 2056 or s. 2523.

(10) Any trustee or disinterested person who in good faith takes or fails to take any action under this section shall not be liable to any person affected by such action or inaction, regardless of whether such person received written notice as provided in this section and regardless of whether such person was under a legal disability at the time of the delivery of such notice. Such person's exclusive remedy shall be to obtain, under subsection (11), an order of the court directing the trustee to convert an income trust to a total return unitrust, to reconvert from a total return unitrust to an income trust, or to change the percentage used to calculate the unitrust amount.

(11) If a majority in interest of either the income or remainder beneficiaries of an income trust has delivered to the trustee a written objection to the amount of the income distributions of the trust, and, if the trustee has failed to resolve the objection to the satisfaction of the objecting beneficiaries within 6 months from the receipt of such written objection, then the objecting beneficiaries may petition the court in accordance with subsection (3).

(12) This section shall be construed as pertaining to the administration of a trust and shall be available to any trust that is administered in this state under Florida law unless:

(a) The governing instrument reflects an intention that the current beneficiary or beneficiaries are to receive an amount other than a reasonable current return from the trust;

(b) The trust is a trust described in the Internal Revenue Code, 26 U.S.C. s. 170(f)(2)(B), s. 642(c)(5), s. 664(d), s. 1361(d), s. 2702(a)(3), or s. 2702(b);

(c) One or more persons to whom the trustee could distribute income have a power of withdrawal over the trust that is not subject to an ascertainable standard under the Internal Revenue Code, 26 U.S.C. s. 2041 or s. 2514, or that can be exercised to discharge a duty of support he or she possesses;

(d) The governing instrument expressly prohibits use of this section by specific reference to the section. A provision in the governing instrument that, "The provisions of section 738.1041, Florida Statutes, as amended, or any corresponding provision of future law, shall not be used in the administration of this trust," or similar words reflecting such intent shall be sufficient to preclude the use of this section; or

(e) The trust is a trust with respect to which a trustee currently possesses the power to adjust under s. 738.104.

738.105 Judicial control of discretionary powers.—

(1) A court shall not change a fiduciary's decision to exercise or not to exercise a discretionary power conferred by this chapter unless the court determines that the decision was an abuse of the fiduciary's discretion. A court shall not determine that a fiduciary abused its discretion merely because the court would have exercised the discretion in a different manner or would not have exercised the discretion.

(2) The decisions to which subsection (1) applies include:

(a) A determination under s. 738.104(1) of whether and to what extent an amount should be transferred from principal to income or from income to principal.

(b) A determination of the factors that are relevant to the trust and trust beneficiaries, the extent to which such factors are relevant, and the weight, if any, to be given to the relevant factors, in deciding whether and to what extent to exercise the power conferred by s. 738.104(1).

(3) If a court determines that a fiduciary has abused its discretion, the remedy shall be to restore the income and remainder beneficiaries to the positions they would have occupied if the fiduciary had not abused its discretion, according to the following rules:

(a) To the extent the abuse of discretion has resulted in no distribution to a beneficiary or a distribution that is too small, the court shall require the fiduciary to distribute from the trust to the beneficiary an amount the court determines will restore the beneficiary, in whole or in part, to his or her appropriate position.

(b) To the extent the abuse of discretion has resulted in a distribution to a beneficiary that is too large, the court shall restore the beneficiaries, the trust, or both, in whole or in part, to their appropriate positions by requiring the fiduciary to withhold an amount from one or more future distributions to the beneficiary who received the distribution that was too large or requiring that beneficiary to return some or all of the distribution to the trust.

(c) To the extent the court is unable, after applying paragraphs (a) and (b), to restore the beneficiaries, the trust, or both, to the positions they would have occupied if the fiduciary had not abused its discretion, the court may require the fiduciary to pay an appropriate amount from its own funds to one or more of the beneficiaries or the trust or both.

(4) Upon the filing of a petition by the fiduciary, the court having jurisdiction over the trust or estate shall determine whether a proposed exercise or nonexercise by the fiduciary of a discretionary power conferred by this chapter will result in an abuse of the fiduciary's discretion. If the petition describes the proposed exercise or nonexercise of the power and contains sufficient information to inform the beneficiaries of the reasons for the proposal, the facts upon which the fiduciary relies, and an explanation of how the income and remainder beneficiaries will be affected by the proposed exercise or nonexercise of the power, a beneficiary who challenges the proposed exercise or nonexercise has the burden of establishing that such exercise or nonexercise will result in an abuse of discretion.

(5) If an action is instituted alleging an abuse of discretion in the exercise or nonexercise of the power of adjustment conferred by s. 738.104(1) and the court determines that no abuse of discretion has occurred, the trustee's costs and attorney's fees incurred in defending the action shall be paid from the trust assets.

738.201 Determination and distribution of net income.—After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

(1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in ss. 738.301-738.706 which apply to trustees and the rules in subsection (5). The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in ss. 738.301-738.706 which apply to trustees and by:

(a) Including in net income all income from property used to discharge liabilities.

(b) Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent the payment of those expenses from income will not cause the reduction or loss of the deduction.

(c) Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or applicable law from net income

determined under subsection (2) or from principal to the extent net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no interest or other amount is provided for by the terms of the trust or applicable law, the fiduciary shall distribute the interest or other amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

(4) A fiduciary shall distribute the net income remaining after distributions required by subsection (3) in the manner described in s. 738.202 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(5) A fiduciary may not reduce principal or income receipts from property described in subsection (1) because of a payment described in s. 738.701 or s. 738.702 to the extent the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

738.202 Distribution to residuary and remainder beneficiaries.—

(1) Each beneficiary described in s. 738.201(4) is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

(2) In determining a beneficiary's share of net income, the following rules apply:

(a) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations.

(b) The beneficiary's fractional interest in the undistributed principal assets shall be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust.

(c) The beneficiary's fractional interest in the undistributed principal assets shall be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation.

(d) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

(3) If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

(4) A fiduciary may apply the rules in this section, to the extent the fiduciary considers appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

(5) The value of trust assets shall be determined on an asset-by-asset basis and shall be conclusive if reasonable and determined in good faith.

Determinations based on appraisals performed within 2 years after the valuation date shall be presumed reasonable. The value of trust assets shall be conclusively presumed to be reasonable and determined in good faith unless proven otherwise in a proceeding commenced by or on behalf of a person interested in the trust within the time provided in s. 737.307.

738.301 *When right to income begins and ends.—An income beneficiary is entitled to net income from the date on which the income interest begins.*

(1) *An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.*

(2) *An asset becomes subject to a trust:*

(a) *On the date the asset is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;*

(b) *On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or*

(c) *On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.*

(3) *An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection (4), even if there is an intervening period of administration to wind up the preceding income interest.*

(4) *An income interest ends on the day before an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.*

738.302 *Apportionment of receipts and disbursements when decedent dies or income interest begins.—*

(1) *A trustee shall allocate an income receipt or disbursement other than one to which s. 738.201(1) applies to principal if the due date of the receipt or disbursement occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.*

(2) *A trustee shall allocate an income receipt or disbursement to income if the due date of the receipt or disbursement occurs on or after the date on which a decedent dies or an income interest begins and the due date is a periodic due date. An income receipt or disbursement shall be treated as accruing from day to day if the due date of the receipt or disbursement is not periodic or the receipt or disbursement has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins shall be allocated to principal and the balance shall be allocated to income.*

(3) *An item of income or an obligation is due on the date the payor is required to make a payment. If a payment date is not stated, there is no due date for the purposes of this chapter. Distributions to shareholders or other owners from an entity to which s. 738.401 applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that shall be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.*

(4) *Nothing in this section shall prevent the application of s. 733.817 to apportion tax to the income recipient under this section.*

738.303 *Apportionment when income interest ends.—*

(1) *For purposes of this section, "undistributed income" means net income received before the date on which an income interest ends. The term does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.*

(2) *When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than 5 percent of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked shall be added to principal.*

(3) *When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its grantor relating to income, gift, estate, or other tax requirements.*

738.401 *Character of receipts.—*

(1) *For purposes of this section, "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest other than a trust or estate to which s. 738.402 applies, a business or activity to which s. 738.403 applies, or an asset-backed security to which s. 738.608 applies.*

(2) *Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.*

(3) *A trustee shall allocate the following receipts from an entity to principal:*

(a) *Property other than money.*

(b) *Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity.*

(c) *Money received in total or partial liquidation of the entity.*

(d) *Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed represents a distribution of short-term or long-term capital gain for federal income tax purposes.*

(4) *If a trustee elects, or continues an election made by its predecessor, to reinvest dividends in shares of stock of a distributing corporation or fund, whether evidenced by new certificates or entries on the books of the distributing entity, the new shares shall retain their character as income.*

(5) *Money is received in partial liquidation:*

(a) *To the extent the entity, at or near the time of a distribution, indicates that such money is a distribution in partial liquidation; or*

(b) *If the total amount of money and property received in a distribution or series of related distributions is greater than 20 percent of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.*

(6) *Money is not received in partial liquidation, nor may money be taken into account under paragraph (5)(b), to the extent such money does not exceed the amount of income tax a trustee or beneficiary must pay on taxable income of the entity that distributes the money.*

(7) *A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.*

738.402 *Distribution from trust or estate.—A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, s. 738.401 or s. 738.608 applies to a receipt from the trust.*

738.403 *Business and other activities conducted by trustee.—*

(1) *If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for the business or activity as part of the trust's general accounting records, the trustee may maintain separate accounting records for the transactions of such business or other activity, whether or not the assets of such business or activity are segregated from other trust assets.*

(2) *A trustee who accounts separately for a business or other activity may determine the extent to which the net cash receipts of such business or activity must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.*

(3) *Activities for which a trustee may maintain separate accounting records include:*

(a) *Retail, manufacturing, service, and other traditional business activities.*

(b) *Farming.*

(c) *Raising and selling livestock and other animals.*

(d) *Management of rental properties.*

(e) *Extraction of minerals and other natural resources.*

(f) *Timber operations.*

(g) *Activities to which s. 738.608 applies.*

738.501 *Principal receipts.—A trustee shall allocate to principal:*

(1) *To the extent not allocated to income under this chapter, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest, or a payor under a contract naming the trust or its trustee as beneficiary.*

(2) *Money or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this section.*

(3) *Amounts recovered from third parties to reimburse the trust because of disbursements described in s. 738.702(1)(g) or for other reasons to the extent not based on the loss of income.*

(4) *Proceeds of property taken by eminent domain but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income.*

(5) *Net income received in an accounting period during which there is no beneficiary to whom a trustee may or shall distribute income.*

(6) *Other receipts as provided in ss. 738.601-738.608.*

738.502 *Rental property.—To the extent a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, shall be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.*

738.503 *Obligation to pay money.—*

(1) *An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, shall be allocated to income without any provision for amortization of premium.*

(2) *Except as otherwise provided herein, a trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee.*

(3) *The increment in value of a bond or other obligation for the payment of money bearing no stated interest but payable at a future time in excess of the price at which it was issued or purchased, if purchased after issuance, is distributable as income. If the increment in value accrues and becomes payable pursuant to a fixed schedule of appreciation, it may be distributed to the beneficiary who was the income beneficiary at this time of increment from the first principal cash available or, if none is available, when the increment is realized by sale, redemption, or other disposition. When unrealized increment is distributed as income but out of principal, the principal shall be reimbursed for the increment when realized. If, in the reasonable judgment of the trustee, exercised in good faith, the ultimate payment of the bond principal is in doubt, the trustee may withhold the payment of incremental interest to the income beneficiary.*

(4) *This section does not apply to an obligation to which s. 738.602, s. 738.603, s. 738.604, s. 738.605, s. 738.607, or s. 738.608 applies.*

738.504 *Insurance policies and similar contracts.—*

(1) *Except as otherwise provided in subsection (2), a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income and to principal if the premiums are paid from principal.*

(2) *A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or, subject to s. 738.403, loss of profits from a business.*

(3) *This section does not apply to a contract to which s. 738.602 applies.*

738.601 *Insubstantial allocations not required.—If a trustee determines that an allocation between principal and income required by s. 738.602, s. 738.603, s. 738.604, s. 738.605, or s. 738.608 is insubstantial, the trustee may allocate the entire amount to principal unless one of the circumstances described in s. 738.104(3) applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in s. 738.104(4) and may be released for the reasons and in the manner described in s. 738.104(5). An allocation is presumed to be insubstantial if:*

(1) *The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than 10 percent; or*

(2) *The value of the asset producing the receipt for which the allocation would be made is less than 10 percent of the total value of the trust's assets at the beginning of the accounting period.*

738.602 *Deferred compensation, annuities, and similar payments.—*

(1) *For purposes of this section, "payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future payments. The term includes a payment made in money or property from the payor's general assets or from a separate fund created by the payor, including a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.*

(2) *With respect to payments that may be characterized as interest, dividends, or their equivalent:*

(a) *A trustee shall allocate to income in the following order:*

1. *First, payments characterized by the payor as interest or dividends or as a payment made in lieu of interest or dividends.*

2. *Second, all other payments to the extent that the trustee, reasonably and in good faith, determines that such payments represent interest, dividends, or their equivalent.*

(b) *A trustee shall allocate to principal the balance of any payment not characterized as, or otherwise determined to be, interest, dividends, or their equivalent.*

(3) *If no part of a payment is characterized as, or otherwise determined to be, interest, a dividend, or an equivalent payment and all or part of the payment is required to be made, a trustee shall allocate to income 10 percent of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent the payment is made because the trustee exercises a right of withdrawal.*

(4) *If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.*

(5) *This section does not apply to payments to which s. 738.603 applies.*

738.603 Liquidating asset.—

(1) *For purposes of this section, "liquidating asset" means an asset the value of which will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than 1 year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term does not include a payment subject to s. 738.602, resources subject to s. 738.604, timber subject to s. 738.605, an activity subject to s. 738.607, an asset subject to s. 738.608, or any asset for which the trustee establishes a reserve for depreciation under s. 738.703.*

(2) *A trustee shall allocate to income 10 percent of the receipts from a liquidating asset and the balance to principal.*

738.604 Minerals, water, and other natural resources.—

(1) *To the extent a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate such receipts as follows:*

(a) *If received as nominal delay rental or nominal annual rent on a lease, a receipt shall be allocated to income.*

(b) *If received from a production payment, a receipt shall be allocated to income if and to the extent the agreement creating the production payment provides a factor for interest or its equivalent. The balance shall be allocated to principal.*

(c) *If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, 90 percent shall be allocated to principal and the balance to income.*

(d) *If an amount is received from a working interest or any other interest not provided for in paragraph (a), paragraph (b), or paragraph (c), 90 percent of the net amount received shall be allocated to principal and the balance to income.*

(2) *An amount received on account of an interest in water that is renewable shall be allocated to income. If the water is not renewable, 90 percent of the amount shall be allocated to principal and the balance to income.*

(3) *This chapter applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.*

(4) *If a trust owns an interest in minerals, water, or other natural resources on January 1, 2003, the trustee may allocate receipts from the interest as provided in this chapter or in the manner used by the trustee before January 1, 2003. If the trust acquires an interest in minerals, water, or other natural resources after January 1, 2003, the trustee shall allocate receipts from the interest as provided in this chapter.*

738.605 Timber.—

(1) *To the extent a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:*

(a) *To income to the extent the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;*

(b) *To principal to the extent the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;*

(c) *To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs (a) and (b); or*

(d) *To principal to the extent advance payments, bonuses, and other payments are not allocated pursuant to paragraph (a), paragraph (b), or paragraph (c).*

(2) *In determining net receipts to be allocated pursuant to subsection (1), a trustee shall deduct and transfer to principal a reasonable amount for depletion.*

(3) *This chapter applies whether or not a decedent or transferor was harvesting timber from the property before the property became subject to the trust.*

(4) *If a trust owns an interest in timberland on January 1, 2003, the trustee may allocate net receipts from the sale of timber and related products as provided in this chapter or in the manner used by the trustee before January 1, 2003. If the trust acquires an interest in timberland after January 1, 2003, the trustee shall allocate net receipts from the sale of timber and related products as provided in this chapter.*

738.606 Property not productive of income.—

(1) *If a marital deduction is allowed for all or part of a trust the income of which is required to be distributed to the grantor's spouse and the assets of which consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts the trustee transfers from principal to income under s. 738.104 and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by ss. 738.104 and 738.1041. The trustee may decide which action or combination of actions to take.*

(2) *In cases not governed by subsection (1), proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.*

738.607 Derivatives and options.—

(1) *For purposes of this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments which gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group*

of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

(2) To the extent a trustee does not account under s. 738.403 for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

(3) If a trustee grants an option to buy property from the trust whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option shall be allocated to principal. An amount paid to acquire the option shall be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a grantor of the trust for services rendered, shall be allocated to principal.

738.608 Asset-backed securities.—

(1) For purposes of this section, “asset-backed security” means an asset the value of which is based upon the right given the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The term does not include an asset to which s. 738.401 or s. 738.602 applies.

(2) If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment which the payor identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

(3) If a trust receives one or more payments in exchange for the trust’s entire interest in an asset-backed security during a single accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust’s interest in the security over more than a single accounting period, the trustee shall allocate 10 percent of the payment to income and the balance to principal.

738.701 Disbursements from income.—A trustee shall make the following disbursements from income to the extent they are not disbursements to which s. 738.201(2)(a) or (c) applies:

(1) One-half of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee.

(2) One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests.

(3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest.

(4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

738.702 Disbursements from principal.—

(1) A trustee shall make the following disbursements from principal:

(a) The remaining one-half of the disbursements described in s. 738.701(1) and (2).

(b) All of the trustee’s compensation calculated on principal as a fee for acceptance, distribution, or termination and disbursements made to prepare property for sale.

(c) Payments on the principal of a trust debt.

(d) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property.

(e) Premiums paid on a policy of insurance not described in s. 738.701(4) of which the trust is the owner and beneficiary.

(f) Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust.

(g) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of such activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

(h) Payments representing extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments; however, a trustee may establish an allowance for depreciation out of income to the extent permitted by s. 738.703.

(2) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

738.703 Transfers from income to principal for depreciation.—

(1) For purposes of this section, “depreciation” means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more than 1 year.

(2) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation but may not transfer any amount for depreciation:

(a) Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary;

(b) During the administration of a decedent’s estate; or

(c) Under this section if the trustee is accounting under s. 738.403 for the business or activity in which the asset is used.

(3) The amount of depreciation taken for tax purposes with respect to an asset shall be presumed to be a reasonable amount of depreciation. An amount taken for depreciation shall not be considered unreasonable solely because it is greater or less than the amount taken for tax purposes.

(4) An amount transferred to principal need not be held as a separate fund.

738.704 Transfers from income to reimburse principal.—

(1) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

(2) Principal disbursements to which subsection (1) applies include the following, but only to the extent the trustee has not been and does not expect to be reimbursed by a third party:

(a) An amount chargeable to income but paid from principal because the amount is unusually large.

(b) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker’s commissions.

(c) Disbursements described in s. 738.702(1)(g).

(3) If the asset the ownership of which gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection (1).

(4) To the extent principal cash is not sufficient to pay the principal balance of payments due on mortgaged property, income may be applied

to such payment in order to avoid a default on any mortgage or security interest securing the property. Income shall be reimbursed for such payments out of the first available principal cash. If the asset the ownership of which gives rise to the disbursements described in this subsection becomes subject to a successive income interest after an income interest ends, all rights of the initial income interest shall lapse, and amounts remaining due from principal shall not be a lien on the assets of the trust.

738.705 Income taxes.—

(1) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

(2) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(3) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid proportionately:

(a) From income to the extent receipts from the entity are allocated to income; and

(b) From principal to the extent:

1. Receipts from the entity are allocated to principal; and

2. The trust's share of the entity's taxable income exceeds the total receipts described in paragraph (a) and subparagraph 1.

(4) For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.

738.706 Adjustments between principal and income because of taxes.—

(1) A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

(a) Elections and decisions, other than those described in paragraph (b), that the fiduciary makes from time to time regarding tax matters;

(b) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or

(c) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or a beneficiary.

(2) If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting such amount for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement shall equal the increase in the estate tax to the extent the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust, or beneficiary whose income taxes are reduced shall be the same as such estate's, trust's, or beneficiary's proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

738.801 Application with respect to apportionment of expenses; improvements.—

(1) The provisions of ss. 738.701-738.705, so far as applicable and excepting those dealing with costs of, or assessments for, improvements to property, shall govern the apportionment of expenses between tenants and remaindermen when no trust has been created, subject to any

agreement of the parties or specific direction of the taxing or other statutes, but when either tenant or remainderman has incurred an expense for the benefit of his or her own estate without consent or agreement of the other, he or she shall pay such expense in full.

(2) Subject to the exceptions stated in subsection (1), the cost of, or special taxes or assessments for, an improvement representing an addition of value to property forming part of the principal shall be paid by the tenant when the improvement is not reasonably expected to outlast the estate of the tenant. In all other cases a part only shall be paid by the tenant, while the remainder shall be paid by the remainderman. The part payable by the tenant shall be ascertainable by taking that percentage of the total that is found by dividing the present value of the tenant's estate by the present value of an estate of the same form as that of the tenant except that it is limited for a period corresponding to the reasonably expected duration of the improvement. The computation of present values of the estates shall be made on the expectancy basis set forth in the official mortality tables, and no other evidence of duration or expectancy shall be considered.

738.802 Uniformity of application and construction.—In applying and construing this act, consideration shall be given to the need to promote uniformity of the law with respect to the act's subject matter among states that enact such act.

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

738.804 Application.—Except as provided in the trust instrument, the will, or this chapter, this chapter shall apply to any receipt or expense received or incurred and any disbursement made after January 1, 2003, by any trust or decedent's estate, whether established before or after January 1, 2003, and whether the asset involved was acquired by the trustee or personal representative before or after January 1, 2003. Receipts or expenses received or incurred and disbursements made before January 1, 2003, shall be governed by the law of this state in effect at the time of the event, except as otherwise expressly provided in the will or terms of the trust or in this chapter.

Section 2. Sections 738.01, 738.02, 738.03, 738.04, 738.05, 738.06, 738.07, 738.08, 738.09, 738.10, 738.11, 738.12, 738.13, 738.14, and 738.15, Florida Statutes, are repealed.

Section 3. This act shall take effect January 1, 2003.

And the title is amended as follows:

remove: the entire title,

and insert: A bill to be entitled An act relating to the Florida Uniform Principal and Income Act; creating ss. 738.101, 738.102, 738.103, 738.104, 738.1041, 738.105, 738.201, 738.202, 738.301, 738.302, 738.303, 738.401, 738.402, 738.403, 738.501, 738.502, 738.503, 738.504, 738.601, 738.602, 738.603, 738.604, 738.605, 738.606, 738.607, 738.608, 738.701, 738.702, 738.703, 738.704, 738.705, 738.706, 738.801, 738.802, 738.803, and 738.804, F.S.; providing a short title; providing definitions; specifying a fiduciary's duties; providing general principles; providing a trustee's power to adjust between principal and income; providing for a unitrust alternative to certain trusts where the power to adjust is unavailable or not exercised; providing requirements, criteria, and procedures; providing for judicial control of certain discretionary powers; providing limitations; providing for determinations and distributions of net income; providing requirements; providing for distributions to residuary and remainder beneficiaries; providing for apportionment at beginning and end of an income interest; providing for entitlement to a right to income; providing for apportionment of receipts and disbursements under certain circumstances; providing for allocation of trust receipts during administration; specifying character of receipts; providing for distributions from trust or estate; providing for separate accounting by trustee of certain businesses or activities; providing for allocation of certain receipts not normally apportioned; providing for allocation of certain normally apportioned receipts;

providing for allocation of disbursements from income and principal during administration of a trust; providing for certain transfers from income under certain circumstances; providing for payment of certain taxes; providing for adjustments between principal and income due to taxes; providing for uniform application and construction; providing severability; providing for application with respect to apportionment of expenses and improvements; providing for application; repealing ss. 738.01, 738.02, 738.03, 738.04, 738.05, 738.06, 738.07, 738.08, 738.09, 738.10, 738.11, 738.12, 738.13, 738.14, and 738.15, F.S., relating to principal and income of trusts; providing an effective date.

Rep. Goodlette moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 683—A bill to be entitled An act relating to firefighter pensions and police pensions; amending s. 175.032, F.S.; providing an extended time period for the recognition of supplemental firefighter plans; amending s. 185.02, F.S.; providing an extended time period for the recognition of supplemental police pension plans; amending ss. 175.061 and 185.05, F.S.; prescribing guidelines for selecting trustees for closed plans of specified size; amending ss. 175.371 and 185.38, F.S.; providing for termination of plans after distribution of final benefit payments; amending s. 175.351, F.S.; providing an extended time period for the recognition of certain municipal supplemental pension plans; amending s. 185.35, F.S.; providing an extended time period for the recognition of certain municipal supplemental pension plans; providing an effective date.

—was read the second time by title.

On motion by Rep. Fasano, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Fasano offered the following:

(Amendment Bar Code: 591757)

Amendment 1—On page 4, line 25, and on page 7, line 16, remove: the word “The”

and insert: *Effective May 31, 1998, for plans discussed herein*, the

Rep. Fasano moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 805—A bill to be entitled An act relating to human cloning; creating s. 877.27, F.S., the “Human Cloning Prohibition and Responsibility Act of 2002”; providing definitions; providing that it is unlawful to perform or attempt to perform human cloning, to participate or assist in an attempt to perform human cloning, or to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo; providing a penalty; providing civil penalties; providing construction with respect to scientific research; providing for enforcement of the act; providing civil remedies; providing limitations on commencement of actions; amending ss. 95.11 and 775.15, F.S.; providing periods of limitations on actions and prosecutions for violations of the act; providing an effective date.

—was taken up, having been read the second time, and amended, earlier today; now pending on motion by Rep. Gannon to adopt Amendment 2.

The question recurred on the adoption of **Amendment 2**, which failed of adoption. The vote was:

Session Vote Sequence: 761

Yeas—49

| | | | |
|---------------------|------------|---------|------------|
| Argenziano | Bennett | Bucher | Detert |
| Ausley | Betancourt | Bullard | Fields |
| Bendross-Mindingall | Brutus | Cusack | Fiorentino |

| | | | |
|------------|----------|------------|----------|
| Frankel | Jennings | Peterman | Smith |
| Gannon | Joyner | Rich | Sobel |
| Gelber | Justice | Richardson | Stansel |
| Goodlette | Kendrick | Ritter | Weissman |
| Gottlieb | Kosmas | Romeo | Wiles |
| Green | Lee | Russell | Wilson |
| Greenstein | Lerner | Ryan | Wishner |
| Harper | Machek | Seiler | |
| Henriquez | McGriff | Siplin | |
| Heyman | Meadows | Slosberg | |

Nays—66

| | | | |
|-----------|---------------------|-------------|------------|
| The Chair | Brown | Gibson | Mayfield |
| Alexander | Brummer | Haridopolos | Maygarden |
| Allen | Byrd | Harrell | Mealor |
| Andrews | Cantens | Harrington | Melvin |
| Arza | Carassas | Hart | Murman |
| Attkisson | Clarke | Hogan | Needelman |
| Atwater | Crow | Holloway | Paul |
| Baker | Davis | Johnson | Pickens |
| Ball | Diaz de la Portilla | Kallinger | Ross |
| Barreiro | Diaz-Balart | Kilmer | Rubio |
| Baxley | Dockery | Kottkamp | Simmons |
| Bean | Evers | Kravitz | Sorensen |
| Bense | Farkas | Kyle | Spratt |
| Benson | Fasano | Littlefield | Trovillion |
| Berfield | Flanagan | Lynn | Wallace |
| Bilirakis | Garcia | Mack | |
| Bowen | Gardiner | Mahon | |

Votes after roll call:

Nays—Negron

On motion by Rep. Wishner, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Wishner and Seiler offered the following:

(Amendment Bar Code: 885419)

Amendment 3—On page 3, lines 5 & 6, remove: all of said lines

and insert: *produce molecules, DNA, tissues, organs, plants, animals, or cells other than human embryos*.

Rep. Wishner moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, consideration of **HJR 709** was temporarily postponed under Rule 11.10.

HJR 765—A joint resolution proposing an amendment to Section 7 of Article III of the State Constitution, relating to the passage of bills by the Legislature, to require a specified review period for proposed legislation prior to final passage.

—was read the second time by title.

On motion by Rep. Ryan, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Ryan and Byrd offered the following:

(Amendment Bar Code: 793165)

Amendment 1—On page 2, lines 1 - 24 remove: all of said lines

and insert: *prior to final passage by that house of the legislature. For purposes of the forty-eight hour period, the term “final form” does not prohibit correction by technical, nonsubstantive amendment. On final passage, the vote of each member voting shall be entered on the journal. Passage of a bill shall require a majority vote in each house. Each bill*

and joint resolution passed in both houses shall be signed by the presiding officers of the respective houses and by the secretary of the senate and the clerk of the house of representatives during the session or as soon as practicable after its adjournment sine die.

BE IT FURTHER RESOLVED that in accordance with the requirements of s. 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

REVIEW PERIOD FOR PROPOSED LEGISLATION
BEFORE FINAL PASSAGE; EXEMPTIONS

Requires all bills, joint resolutions, concurrent resolutions, resolutions, memorials, and conference reports to be furnished in their final form, subject to technical, nonsubstantive amendments, to each member of the house hearing the measure at least forty-eight hours prior to final passage by that house of the Legislature. Exempts all general appropriation bills and their conference reports, which are subject to a separate seventy-two hour public review period under the State Constitution, and exempts concurrent resolutions or resolutions relating to extension of a session or legislative organization or procedures.

Rep. Ryan moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the joint resolution was referred to the Engrossing Clerk.

HB 835—A bill to be entitled An act relating to theft; creating s. 812.0145, F.S.; providing enhanced criminal penalties for theft from persons age 65 or older; requiring restitution and community service for theft from said persons; providing an effective date.

—was read the second time by title.

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 594145)

Amendment 1—On page 2, line 7 remove: said lines

and insert: *theft from a person 65 years of age or older is valued at \$300 or more, but less*

Rep. Gardiner moved the adoption of the amendment, which was adopted.

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 702623)

Amendment 2 (with title amendment)—On page 2, line 11, remove: said line

and insert: Section 2. Paragraphs (c), (e) and (g) of subsection (3) of section 921.0022, Florida Statutes are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

| Florida Statute | Felony Degree | Description | Florida Statute | Felony Degree | Description |
|-----------------|---------------|--|-----------------|---------------|---|
| | | (c) LEVEL 3 | | | |
| 316.1935(2) | 3rd | Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated. | 831.29 | 2nd | Possession of instruments for counterfeiting drivers' licenses or identification cards. |
| 319.30(4) | 3rd | Possession by junkyard of motor vehicle with identification number plate removed. | 838.021(3)(b) | 3rd | Threatens unlawful harm to public servant. |
| 319.33(1)(a) | 3rd | Alter or forge any certificate of title to a motor vehicle or mobile home. | 843.19 | 3rd | Injure, disable, or kill police dog or horse. |
| 319.33(1)(c) | 3rd | Procure or pass title on stolen vehicle. | 870.01(2) | 3rd | Riot; inciting or encouraging. |
| | | | 893.13(1)(a)2. | 3rd | Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs). |
| | | | 519.33(4) | 3rd | With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration. |
| | | | 328.05(2) | 3rd | Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels. |
| | | | 328.07(4) | 3rd | Manufacture, exchange, or possess vessel with counterfeit or wrong ID number. |
| | | | 376.302(5) | 3rd | Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund. |
| | | | 501.001(2)(b) | 2nd | Tampers with a consumer product or the container using materially false/misleading information. |
| | | | 697.08 | 3rd | Equity skimming. |
| | | | 790.15(3) | 3rd | Person directs another to discharge firearm from a vehicle. |
| | | | 796.05(1) | 3rd | Live on earnings of a prostitute. |
| | | | 806.10(1) | 3rd | Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting. |
| | | | 806.10(2) | 3rd | Interferes with or assaults firefighter in performance of duty. |
| | | | 810.09(2)(c) | 3rd | Trespass on property other than structure or conveyance armed with firearm or dangerous weapon. |
| | | | 812.014(2)(c)2. | 3rd | Grand theft; \$5,000 or more but less than \$10,000. |
| | | | 812.0145(2)(c) | 3rd | <i>Theft from person 65 years of age or older; \$300 or more but less than \$10,000.</i> |
| | | | 815.04(4)(b) | 2nd | Computer offense devised to defraud or obtain property. |
| | | | 817.034(4)(a)3. | 3rd | Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000. |
| | | | 817.233 | 3rd | Burning to defraud insurer. |
| | | | 817.234(8)&(9) | 3rd | Unlawful solicitation of persons involved in motor vehicle accidents. |
| | | | 817.234(11)(a) | 3rd | Insurance fraud; property value less than \$20,000. |
| | | | 817.505(4) | 3rd | Patient brokering. |
| | | | 828.12(2) | 3rd | Tortures any animal with intent to inflict intense pain, serious physical injury, or death. |
| | | | 831.28(2)(a) | 3rd | Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument. |

| Florida Statute | Felony Degree | Description | Florida Statute | Felony Degree | Description |
|-----------------------|---------------|--|-----------------|---------------|--|
| 893.13(1)(d)2. | 2nd | Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of university or public park. | 812.015(8) | 3rd | Retail theft; property stolen is valued at \$300 or more and one or more specified acts. |
| | | | 812.019(1) | 2nd | Stolen property; dealing in or trafficking in. |
| 893.13(1)(f)2. | 2nd | Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of public housing facility. | 812.131(2)(b) | 3rd | Robbery by sudden snatching. |
| | | | 812.16(2) | 3rd | Owning, operating, or conducting a chop shop. |
| 893.13(6)(a) | 3rd | Possession of any controlled substance other than felony possession of cannabis. | 817.034(4)(a)2. | 2nd | Communications fraud, value \$20,000 to \$50,000. |
| 893.13(7)(a)9. | 3rd | Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc. | 817.234(11)(b) | 2nd | Insurance fraud; property value \$20,000 or more but less than \$100,000. |
| | | | 817.568(2)(b) | 2nd | Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$75,000 or more. |
| 893.13(7)(a)11. | 3rd | Furnish false or fraudulent material information on any document or record required by chapter 893. | 817.625(2)(b) | 2nd | Second or subsequent fraudulent use of scanning device or reencoder. |
| 918.13(1)(a) | 3rd | Alter, destroy, or conceal investigation evidence. | 825.1025(4) | 3rd | Lewd or lascivious exhibition in the presence of an elderly person or disabled adult. |
| 944.47 (1)(a)1.-2. | 3rd | Introduce contraband to correctional facility. | 827.071(4) | 2nd | Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child. |
| 944.47(1)(c) | 2nd | Possess contraband while upon the grounds of a correctional institution. | 843.01 | 3rd | Resist officer with violence to person; resist arrest with violence. |
| 985.3141 | 3rd | Escapes from a juvenile facility (secure detention or residential commitment facility). | 874.05(2) | 2nd | Encouraging or recruiting another to join a criminal street gang; second or subsequent offense. |
| | | (e) LEVEL 5 | | | |
| 316.027(1)(a) | 3rd | Accidents involving personal injuries, failure to stop; leaving scene. | 893.13(1)(a)1. | 2nd | Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs). |
| 316.1935(4) | 2nd | Aggravated fleeing or eluding. | 893.13(1)(c)2. | 2nd | Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility or school. |
| 322.34(6) | 3rd | Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury. | 893.13(1)(d)1. | 1st | Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of university or public park. |
| 327.30(5) | 3rd | Vessel accidents involving personal injury; leaving scene. | 893.13(1)(e)2. | 2nd | Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site. |
| 381.0041(11)(b) | 3rd | Donate blood, plasma, or organs knowing HIV positive. | 893.13(1)(f)1. | 1st | Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of public housing facility. |
| 790.01(2) | 3rd | Carrying a concealed firearm. | | | |
| 790.162 | 2nd | Threat to throw or discharge destructive device. | | | |
| 790.163 | 2nd | False report of deadly explosive. | | | |
| 790.165(2) | 3rd | Manufacture, sell, possess, or deliver hoax bomb. | | | |
| 790.221(1) | 2nd | Possession of short-barreled shotgun or machine gun. | | | |
| 790.23 | 2nd | Felons in possession of firearms or electronic weapons or devices. | | | |
| 800.04(6)(c) | 3rd | Lewd or lascivious conduct; offender less than 18 years. | 893.13(4)(b) | 2nd | Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs). |
| 800.04(7)(c) | 2nd | Lewd or lascivious exhibition; offender 18 years or older. | | | |
| 806.111(1) | 3rd | Possess, manufacture, or dispense fire bomb with intent to damage any structure or property. | | | (g) LEVEL 7 |
| | | | 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily injury. |
| 812.0145(2)(b) | 2nd | <i>Theft from person 65 year of age or older; \$10,000 or more but less than \$50,000.</i> | 327.35(3)(c)2. | 3rd | Vessel BUI resulting in serious bodily injury. |

| Florida Statute | Felony Degree | Description | Florida Statute | Felony Degree | Description |
|-----------------|---------------|--|-----------------|---------------|--|
| 402.319(2) | 2nd | Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death. | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally causing great bodily harm or disfigurement. |
| | | | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly weapon. |
| 409.920(2) | 3rd | Medicaid provider fraud. | 784.045(1)(b) | 2nd | Aggravated battery; perpetrator aware victim pregnant. |
| 456.065(2) | 3rd | Practicing a health care profession without a license. | 784.048(4) | 3rd | Aggravated stalking; violation of injunction or court order. |
| 456.065(2) | 2nd | Practicing a health care profession without a license which results in serious bodily injury. | 784.07(2)(d) | 1st | Aggravated battery on law enforcement officer. |
| 458.327(1) | 3rd | Practicing medicine without a license. | 784.074(1)(a) | 1st | Aggravated battery on sexually violent predators facility staff. |
| 459.013(1) | 3rd | Practicing osteopathic medicine without a license. | 784.08(2)(a) | 1st | Aggravated battery on a person 65 years of age or older. |
| 460.411(1) | 3rd | Practicing chiropractic medicine without a license. | 784.081(1) | 1st | Aggravated battery on specified official or employee. |
| 461.012(1) | 3rd | Practicing podiatric medicine without a license. | 784.082(1) | 1st | Aggravated battery by detained person on visitor or other detainee. |
| 462.17 | 3rd | Practicing naturopathy without a license. | 784.083(1) | 1st | Aggravated battery on code inspector. |
| 463.015(1) | 3rd | Practicing optometry without a license. | 790.07(4) | 1st | Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2). |
| 464.016(1) | 3rd | Practicing nursing without a license. | 790.16(1) | 1st | Discharge of a machine gun under specified circumstances. |
| 465.015(2) | 3rd | Practicing pharmacy without a license. | 790.166(3) | 2nd | Possessing, selling, using, or attempting to use a hoax weapon of mass destruction. |
| 466.026(1) | 3rd | Practicing dentistry or dental hygiene without a license. | 796.03 | 2nd | Procuring any person under 16 years for prostitution. |
| 467.201 | 3rd | Practicing midwifery without a license. | 800.04(5)(c)1. | 2nd | Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years. |
| 468.366 | 3rd | Delivering respiratory care services without a license. | 800.04(5)(c)2. | 2nd | Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older. |
| 483.828(1) | 3rd | Practicing as clinical laboratory personnel without a license. | 806.01(2) | 2nd | Maliciously damage structure by fire or explosive. |
| 483.901(9) | 3rd | Practicing medical physics without a license. | 810.02(3)(a) | 2nd | Burglary of occupied dwelling; unarmed; no assault or battery. |
| 484.013(1)(c) | 3rd | Preparing or dispensing optical devices without a prescription. | 810.02(3)(b) | 2nd | Burglary of unoccupied dwelling; unarmed; no assault or battery. |
| 484.053 | 3rd | Dispensing hearing aids without a license. | 810.02(3)(d) | 2nd | Burglary of occupied conveyance; unarmed; no assault or battery. |
| 494.0018(2) | 1st | Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims. | 812.014(2)(a) | 1st | Property stolen, valued at \$100,000 or more; cargo stolen valued at \$50,000, or more; property stolen while causing other property damage; 1st degree grand theft. |
| 560.123(8)(b)1. | 3rd | Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter. | 812.014(2)(b)2. | 2nd | Property stolen, emergency medical equipment; 2nd degree grand theft. |
| 560.125(5)(a) | 3rd | Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000. | 812.0145(2)(a) | 1st | <i>Theft from person 65 years of age or older; \$50,000 or more.</i> |
| 655.50(10)(b)1. | 3rd | Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution. | 812.019(2) | 1st | Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property. |
| 782.051(3) | 2nd | Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony. | 812.131(2)(a) | 2nd | Robbery by sudden snatching. |
| 782.07(1) | 2nd | Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter). | 812.133(2)(b) | 1st | Carjacking; no firearm, deadly weapon, or other weapon. |
| 782.071 | 2nd | Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide). | 817.234(11)(c) | 1st | Insurance fraud; property value \$100,000 or more. |
| 782.072 | 2nd | Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide). | 825.102(3)(b) | 2nd | Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement. |

| Florida Statute | Felony Degree | Description |
|-------------------|---------------|--|
| 825.1025(2) | 2nd | Lewd or lascivious battery upon an elderly person or disabled adult. |
| 825.103(2)(b) | 2nd | Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000. |
| 827.03(3)(b) | 2nd | Neglect of a child causing great bodily harm, disability, or disfigurement. |
| 827.04(3) | 3rd | Impregnation of a child under 16 years of age by person 21 years of age or older. |
| 837.05(2) | 3rd | Giving false information about alleged capital felony to a law enforcement officer. |
| 872.06 | 2nd | Abuse of a dead human body. |
| 893.13(1)(c)1. | 1st | Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school. |
| 893.13(1)(e)1. | 1st | Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site. |
| 893.13(4)(a) | 1st | Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs). |
| 893.135(1)(a)1. | 1st | Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs. |
| 893.135(1)(b)1.a. | 1st | Trafficking in cocaine, more than 28 grams, less than 200 grams. |
| 893.135(1)(c)1.a. | 1st | Trafficking in illegal drugs, more than 4 grams, less than 14 grams. |
| 893.135(1)(d)1. | 1st | Trafficking in phencyclidine, more than 28 grams, less than 200 grams. |
| 893.135(1)(e)1. | 1st | Trafficking in methaqualone, more than 200 grams, less than 5 kilograms. |
| 893.135(1)(f)1. | 1st | Trafficking in amphetamine, more than 14 grams, less than 28 grams. |
| 893.135(1)(g)1.a. | 1st | Trafficking in flunitrazepam, 4 grams or more, less than 14 grams. |
| 893.135(1)(h)1.a. | 1st | Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms. |
| 893.135(1)(i)1.a. | 1st | Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms. |
| 893.135(1)(j)2.a. | 1st | Trafficking in Phenethylamines, 10 grams or more, less than 200 grams. |
| 896.101(5)(a) | 3rd | Money laundering, financial transactions exceeding \$300 but less than \$20,000. |
| 896.104(4)(a)1. | 3rd | Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000. |

Section 3. This act shall take effect October 1, 2002.

And the title is amended as follows:

On page 1, line 6,
remove: said line

and insert: from said persons; amending s. 921.0022, F.S.; adding specified felonies to the Criminal Punishment Code offense severity ranking chart; providing an effective date.

Rep. Gardiner moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 841—A bill to be entitled An act relating to sexual predators and sexual offenders; amending s. 775.21, F.S.; defining the terms “institution of higher education” and “change in enrollment or employment status” for the purposes of the Florida Sexual Predators Act; providing additional registration requirements with respect to sexual predators who are enrolled, employed, or carrying on a vocation at an institution of higher education; providing requirements with respect to changes in the name or residence of a sexual predator; requiring the sheriff to promptly provide to the Department of Law Enforcement certain information received from the sexual predator; amending s. 775.24, F.S.; increasing a time period for an agency to move to modify or set aside certain orders or injunctions with respect to an agency’s performance of a duty imposed under the laws governing sexual predators or sexual offenders; amending s. 943.0435, F.S.; redefining the term “sexual offender”; defining the terms “institution of higher education” and “change in enrollment or employment status”; providing requirements with respect to changes in the sexual offender’s residence or name; providing additional registration requirements with respect to sexual offenders who are enrolled, employed, or carrying on a vocation at an institution of higher education; requiring the sheriff to provide certain information; revising provisions relating to sexual offenders who may petition for removal of registration requirements; providing legislative findings; creating s. 943.0436, F.S.; providing for the duty of the court to uphold laws governing sexual predators and sexual offenders; amending s. 944.606, F.S.; including a cross reference within the definition of the term “sexual offender”; amending s. 944.607, F.S.; redefining the term “sexual offender”; defining the terms “institution of higher education” and “change in enrollment or employment status”; providing additional registration requirements with respect to sexual offenders who are enrolled, employed, or carrying on a vocation at an institution of higher education; providing an effective date.

—was read the second time by title.

REPRESENTATIVE RITTER IN THE CHAIR

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 321037)

Amendment 1—On page 14, line 12, on page 15, line 11, on page 26, line 20, and on page 27, line 13, after s. 847.0137;

insert: s. 847.0138;

Rep. Kilmer moved the adoption of the amendment, which was adopted.

The Committee on Colleges & Universities offered the following:

(Amendment Bar Code: 685931)

Amendment 2—On page 4, line 4; page 15, line 26; and page 28, line 4, of the bill

after “community college,” insert: college,

Rep. Kilmer moved the adoption of the amendment, which was adopted.

The Committee on Colleges & Universities offered the following:

(Amendment Bar Code: 381659)

Amendment 3—On page 4, line 7; on page 15, line 29; and on page 28, line 7 of the bill

after “*employment*” insert: *or a change in location of enrollment or employment*

Rep. Kilmer moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 861—A bill to be entitled An act relating to state attorneys; amending s. 27.345, F.S., relating to the State Attorney RICO Trust Fund; revising reporting requirements; amending s. 775.082, F.S.; removing requirements for explanation, submission, and maintenance of sentencing deviation reports for prison release reoffenders who do not receive the mandatory minimum sentence; repealing s. 27.365, F.S., relating to the annual report by the Florida Prosecuting Attorneys Association regarding prosecutions under ss. 794.011, 794.05, 800.04, and 827.04(3), F.S.; repealing s. 39.205(7), F.S., relating to establishment and publication of procedures for prosecution of persons under s. 39.205, F.S., and reports on the disposition of complaints relating to reporting of child abuse, abandonment, or neglect; repealing s. 415.111(6), F.S., relating to establishment and publication of procedures for prosecution of persons under s. 415.111, F.S., and reports on the disposition of complaints relating to reporting of abuse, neglect, or exploitation of vulnerable adults; repealing s. 775.08401(3), F.S.; removing requirements for explanation, submission, and maintenance of sentencing deviation reports relating to eligibility criteria for sentencing of habitual offenders, habitual violent felony offenders, and violent career criminals; providing an effective date.

—was read the second time by title.

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 413479)

Amendment 1 (with title amendment)—
Remove everything after the enacting clause

and insert:

Section 1. Subsection (3) of section 27.345, Florida Statutes, is amended to read:

27.345 State Attorney RICO Trust Fund; authorized use of funds; reporting.—

(3) Each state attorney *that has established a State Attorney RICO Trust Fund* shall report to the Executive Office of the Governor annually by November 15, commencing in 1985, the amounts recovered pursuant to this section for the previous fiscal year.

Section 2. Paragraph (d) of subsection (9) of section 775.082, Florida Statutes, is amended to read:

775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.—

(9)

(d)1. It is the intent of the Legislature that offenders previously released from prison who meet the criteria in paragraph (a) be punished to the fullest extent of the law and as provided in this subsection, unless the state attorney determines that extenuating circumstances exist which preclude the just prosecution of the offender, including whether the victim recommends that the offender not be sentenced as provided in this subsection.

2. For every case in which the offender meets the criteria in paragraph (a) and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in

writing and place such explanation in the case file maintained by the state attorney. ~~On a quarterly basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after the effective date of this subsection, to the president of the Florida Prosecuting Attorneys Association, Inc. The association must maintain such information, and make such information available to the public upon request, for at least a 10-year period.~~

Section 3. Subsection (3) of Section 775.08401, Florida Statutes, is amended to read:

(3)(a) A deviation from this criteria must be explained in writing, signed by the state attorney, and placed in the case file maintained by the state attorney.

~~(b) On a quarterly basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after October 1, 1995, to the president of the Florida Prosecuting Attorneys Association, Inc. The association must maintain such information for at least a 10-year period.~~

Section 4. *Section 27.365, subsection (7) of section 39.205, and subsection (6) of section 415.111, Florida Statutes, are repealed.*

Section 5. This act shall take effect July 1, 2002.

And the title is amended as follows:

On page 1, line 2,
remove:

and insert: An act relating to state attorneys; amending s. 27.345, F.S., relating to the State Attorney RICO Trust Fund; revising reporting requirements; amending s. 775.082, F.S.; revising requirements for explanation, submission, and maintenance of sentencing deviation reports for prison release reoffenders who do not receive the mandatory minimum sentence; repealing s. 27.365, F.S., relating to the annual report by the Florida Prosecuting Attorneys Association regarding prosecutions under ss. 794.011, 794.05, 800.04, and 827.04(3), F.S.; repealing s. 39.205(7), F.S., relating to establishment and publication of procedures for prosecution of persons under s. 39.205, F.S., and reports on the disposition of complaints relating to reporting of child abuse, abandonment, or neglect; repealing s. 415.111(6), F.S., relating to establishment and publication of procedures for prosecution of persons under s. 415.111, F.S., and reports on the disposition of complaints relating to reporting of abuse, neglect, or exploitation of vulnerable adults; amending s. 775.08401(3), F.S.; revising requirements for explanation, submission, and maintenance of sentencing deviation reports relating to eligibility criteria for sentencing of habitual offenders, habitual violent felony offenders, and violent career criminals; providing an effective date.

Rep. Flanagan moved the adoption of the amendment, which was adopted.

On motion by Rep. Kyle, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Kyle offered the following:

(Amendment Bar Code: 493861)

Amendment 2—On page 2, lines 14-21,
remove: all of said lines

and insert:

the case file maintained by the state attorney. ~~On an annual a quarterly basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after the effective date of this subsection, to the president of the Florida Prosecuting Attorneys Association, Inc. The association must maintain such information, and make such information available to the public upon request, for at least a 10-year period.~~

Rep. Kyle moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1085—A bill to be entitled An act relating to the Fish and Wildlife Conservation Commission; amending s. 327.73, F.S.; authorizing dismissal of certain violations for failure to possess a boating safety identification card; authorizing a dismissal fee in certain circumstances; amending s. 370.25, F.S.; authorizing state universities to receive financial and technical assistance from the commission for the siting and development of artificial reefs; authorizing the commission to accept title to certain vessels on behalf of the state for use in the artificial reef program and to adopt rules regarding the transfer of such titles; amending s. 372.001, F.S.; revising and reorganizing definitions; creating s. 372.002, F.S.; providing legislative intent regarding the right to hunt, fish, and take game in the state; amending s. 372.105, F.S.; revising provisions relating to sources and uses of funds in the Lifetime Fish and Wildlife Trust Fund; amending s. 372.106, F.S.; specifying distribution of certain funds in the Dedicated License Trust Fund; amending s. 372.16, F.S.; revising and reorganizing provisions relating to private game preserves and farms; creating s. 372.551, F.S.; authorizing the commission to establish processes and vendor fees for the sale of licenses and permits and the issuance of authorization numbers; requiring the use of competitive bidding procedures; amending s. 372.561, F.S.; revising provisions relating to issuance of recreational licenses, permits, and authorization numbers to take wild animal life, freshwater aquatic life, and marine life, and administrative costs and reporting requirements related thereto; creating s. 372.562, F.S.; providing exemptions from recreational license and permit fees and requirements; creating an exemption for commission employees in the performance of duties; creating an exemption for persons authorized by commission permit; amending s. 372.57, F.S.; revising and reorganizing provisions specifying fees and requirements for recreational licenses, permits, and authorization numbers, including hunting licenses, saltwater and freshwater fishing licenses, 5-year licenses, and lifetime licenses; creating an annual gold sportsman's license; providing for pier licenses and recreational vessel licenses, and providing fees therefor; providing for snook permits and crawfish permits; providing permit fees and providing for the use of revenues therefrom; renumbering and amending s. 370.0608, F.S.; providing for the deposit of saltwater licenses and fees into the Marine Resources Conservation Trust Fund; revising purposes for which licenses and fees may be used; renumbering and amending s. 370.0609, F.S.; providing for the expenditure of funds through grants and contracts to specified research institutes; renumbering and amending s. 370.062, F.S., relating to issuance of license tags for harvesting tarpon; modifying date for tax collector's return of unissued tags; deleting provisions relating to transfer of tag fees to the Marine Resources Conservation Trust Fund within a specified period; amending s. 372.574, F.S.; conforming subagent duties and reporting requirements; amending s. 372.661, F.S.; clarifying provisions relating to private hunting preserves; correcting a cross reference; amending s. 372.711, F.S.; providing for dismissal of violations of license or permit possession requirements under certain conditions; authorizing a dismissal fee under certain conditions; reenacting ss. 372.711(1) and 372.83(1)(h), F.S.; reenacting provisions referencing penalties for violations of hunting, fishing, and trapping license and permit requirements; amending s. 372.921, F.S.; including amphibians in provisions relating to exhibition of wildlife; providing rulemaking authority; providing a penalty; amending s. 372.922, F.S.; clarifying classifications of types of wildlife; requiring a permit for personal possession; providing a fee exemption for personal possession of wildlife by an exhibitor or seller; amending s. 705.101, F.S.; including derelict vessels within the definition of "abandoned property"; amending ss. 212.06, 215.20, 370.0603, 370.063, 372.571, 372.5712, 372.5715, 372.5717, 372.573, 372.65, 372.7015, 372.7016, and 810.09, F.S.; correcting cross references; deleting obsolete language; repealing s. 370.0605, F.S., relating to saltwater fishing licenses and fees; repealing s. 370.0615, F.S., relating to lifetime saltwater fishing licenses; repealing s. 370.1111, F.S., relating to snook fishing permits; repealing s. 370.14(10) and (11), F.S., relating to recreational crawfish taking permits and issuance of a crawfish stamp; repealing s. 372.05(4), F.S., relating to duties of the executive director of the commission; repealing s. 372.06, F.S., relating to meetings of the commission; providing an effective date.

—was read the second time by title.

Representative(s) Baxley offered the following:

(Amendment Bar Code: 954759)

Amendment 1 (with title amendment)—On page 16, between lines 22 and 23

insert:

Section 14. Effective July 1, 2003, section 372.561, Florida Statutes, is amended to read:

372.561 Recreational licenses, permits, and authorization numbers to take wild animal life, freshwater aquatic life, and marine life; issuance; costs; reporting.—

(1) This section applies to all recreational licenses and permits and to any authorization numbers issued by the commission for the use of such recreational licenses or permits.

(2) The commission shall establish forms for the issuance of recreational licenses and permits.

(3) The commission shall issue a license, permit, or authorization number to take wild animal life, freshwater aquatic life, or marine life when an applicant provides proof that she or he is entitled to such license, permit, or authorization number. Each applicant for a recreational license, permit, or authorization number shall provide her or his social security number on the application form. Disclosure of social security numbers obtained through this requirement shall be limited to the purposes of administration of the Title IV-D program for child support enforcement, use by the commission, and as otherwise provided by law.

(4) Licenses and permits to take wild animal life, freshwater aquatic life, or marine life may be sold by the commission, by any tax collector in the state, or by any subagent authorized under s. 372.574.

(5) In addition to any license or permit fee, the sum of \$1.50 shall be charged for each license or management area permit, *except for replacement licenses*, to cover the cost of issuing such license or permit.

(6)(a) *The fee established pursuant to s. 372.561(5) shall be distributed as follows:*

1. *For each hunting license and freshwater fishing license sold by a tax collector, including the combination freshwater fishing and hunting license, the sportsman's license, and the gold sportsman's license, a tax collector may retain \$1.00.*

2. *For each management area permit sold by a tax collector, a tax collector may retain \$1.00.*

3. *For each saltwater fishing tag and saltwater fishing license sold by a tax collector, including the combination saltwater fishing and freshwater fishing license and the combination saltwater fishing, freshwater fishing, and hunting license, a tax collector may retain \$1.50.*

4. *For licenses and management area permits sold by subagents, a tax collector may retain 50 cents for each license sold in the tax collector's county.*

5. *Any and all remaining fees shall be deposited in the State Game Trust Fund and shall be used to support an automated license system and administration of the license program.*

(b) *Tax collectors shall remit license and permit revenue to the commission weekly.*

(7)(a) *The sum of \$10 shall be charged for each replacement lifetime license and \$2 for all other replacement licenses and permits. A tax collector may retain \$1.00 for each replacement license.*

(b) *Fees collected from the issuance of replacement licenses shall be deposited in the State Game Trust Fund.*

~~(6)(a)1. For each type of hunting or freshwater fishing license sold and for each type of sportsman's license sold, a tax collector may retain \$1.~~

~~2. For each management area permit sold, a tax collector may retain \$1.~~

~~3. For each type of saltwater fishing tag or license sold, including combination saltwater fishing and freshwater fishing licenses, or combination saltwater fishing, freshwater fishing, and hunting licenses, a tax collector may retain \$1.50.~~

~~(b) Tax collectors shall remit license and permit moneys, along with a report of funds collected and other required documentation, to the commission weekly.~~

~~(c) Tax collectors shall maintain records of all licenses and permits sold, voided, stolen, or lost.~~

~~1. The tax collector is responsible to the commission for the fees for all licenses and permits sold and for the value of all licenses and permits reported as lost.~~

~~2. The tax collector shall report stolen licenses and permits to the appropriate law enforcement agency.~~

~~3. The tax collector shall submit a written report and a copy of the law enforcement agency's report to the commission within 5 days after discovering a theft.~~

~~4. The tax collector is responsible for the fees for all licenses and permits sold or lost by a subagent appointed pursuant to s. 372.574.~~

~~(8)(7) The commission is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.~~

And the title is amended as follows:

On page 2, line 7,
remove: all of said line

and insert: related thereto; amending s. 372.561, F.S.; effective July 1, 2003; revising amounts tax collectors may retain for the sale of licenses and permits; creating s. 372.562, F.S.;

Rep. Baxley moved the adoption of the amendment, which was adopted.

Representative(s) Baxley offered the following:

(Amendment Bar Code: 964007)

Amendment 2 (with title amendment)—On page 37, between lines 20 and 21

insert:

Section 25. Effective July 1, 2003, section 372.574, Florida Statutes, is amended to read:

372.574 Appointment of subagents for the sale of hunting, fishing, and trapping licenses and permits.—

~~(1) A county tax collector who elects to sell licenses and permits may appoint any person as a subagent for the sale of fishing, hunting, and trapping licenses and permits that the tax collector is allowed to sell. The following are requirements for subagents:~~

~~(a) Each subagent must serve at the pleasure of the county tax collector.~~

~~(b) Neither an employee of the county tax collector nor her or his relative or next of kin, by blood or otherwise, may be appointed as a subagent.~~

~~(c) The tax collector may require each subagent to post an appropriate bond as determined by the tax collector, using an insurance company acceptable to the tax collector. In lieu of such bond, the tax collector may purchase blanket bonds covering all or selected subagents or may allow a subagent to post such other security as is required by the tax collector.~~

~~(d) A subagent may sell licenses and permits as are determined by the tax collector at such specific locations within the county and in~~

~~states contiguous to Florida as will best serve the public interest and convenience in obtaining licenses and permits. The commission may uniformly prohibit subagents from selling certain licenses or permits.~~

~~(e) It is unlawful for any person to handle licenses or permits for a fee or compensation of any kind unless she or he has been appointed as a subagent.~~

~~(f) Any person who willfully violates any of the provisions of this law is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(g) A subagent may charge and receive as her or his compensation 50 cents for each license or permit sold. This charge is in addition to the sum required by law to be collected for the sale and issuance of each license or permit.~~

~~(h) A subagent shall weekly submit payment for and report the sale of licenses and permits.~~

~~(i) Subagents shall submit an activity report for sales made during the reporting period on forms prescribed or approved by the commission. Periodic audits may be performed at the discretion of the commission.~~

~~(1)(2) If a tax collector elects not to appoint subagents, the commission may appoint subagents within that county. Subagents shall serve at the pleasure of the commission. The commission may establish, by rule, procedures for the selection and appointment of subagents. The following are requirements for subagents so appointed:~~

~~(a) The commission may require each subagent to post an appropriate bond as determined by the commission, using an insurance company acceptable to the commission. In lieu of the bond, the commission may purchase blanket bonds covering all or selected subagents or may allow a subagent to post other security as required by the commission.~~

~~(b) A subagent may sell licenses and permits as authorized by the commission at specific locations within the county and in states as will best serve the public interest and convenience in obtaining licenses and permits. The commission may prohibit subagents from selling certain licenses or permits.~~

~~(c) It is unlawful for any person to handle licenses or permits for a fee or compensation of any kind unless he or she has been appointed as a subagent.~~

~~(d) Any person who willfully violates any of the provisions of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(e) A subagent may charge and receive as his or her compensation 50 cents for each license or permit sold. This charge is in addition to the sum required by law to be collected for the sale and issuance of each license or permit.~~

~~(f) A subagent shall submit payment for and report the sale of licenses and permits to the commission as prescribed by the commission.~~

~~(g) Subagents shall maintain records of all licenses and permits sold, voided, stolen, or lost. Subagents are responsible to the commission for the fees for all licenses and permits sold and for the value of all licenses and permits reported as lost. Subagents must report all stolen licenses and permits to the appropriate law enforcement agency. The subagent shall submit a written report and a copy of the law enforcement agency's report to the commission within 5 days after discovering the theft.~~

~~(h) Subagents shall submit an activity report for sales made during the reporting period on forms prescribed or approved by the commission. Periodic audits may be performed at the discretion of the commission.~~

~~(i) By July 15 of each year, each subagent shall submit to the commission all unissued stamps for the previous year along with a written audit report, on forms prescribed or approved by the commission, on the numbers of the unissued stamps.~~

(2)(3) The Fish and Wildlife Conservation Commission or any other law enforcement agency may carry out any investigation necessary to secure information required to carry out and enforce this section.

(3)(4) All social security numbers that are provided pursuant to ss. 372.561 and 372.57 and are contained in records of any subagent appointed under this section are confidential as provided in those sections.

And the title is amended as follows:

On page 3, line 10
remove: all of said line

and insert: requirements; amending s. 372.574, F.S.; effective July 1, 2003; repealing tax collectors' authority to appoint subagents; clarifying the authority of the Fish and Wildlife Conservation Commission to select and appoint subagents; amending s. 372.661, F.S.;

Rep. Baxley moved the adoption of the amendment, which was adopted.

Representative(s) Kendrick offered the following:

(Amendment Bar Code: 023355)

Amendment 3 (with title amendment)—On page 45, between lines 29 and 30

insert:

Section 35. Section 372.27, Florida Statutes, is amended to read:

372.27 Silver Springs and Rainbow Springs, etc., closed to all fishing.—It is unlawful for any person to take any fish within Marion County, from the waters of Rainbow Springs and Rainbow River (formerly known as Blue Springs and Blue Springs River) within *that portion of Rainbow Springs State Park lying within a radius of 1,700 feet 1 mile* from the head of *Rainbow said* spring, or from the waters of Silver Springs or Silver Springs Run from the head of *Silver Springs said* spring to its junction with the Oklawaha River. *However, provided, that* the Fish and Wildlife Conservation Commission may remove or cause to be removed any gar, mud fish, or other predatory fish *from either spring or river* when in its judgment their removal is desirable.

And the title is amended as follows:

On page 4, line 16 after the semicolon

insert: amending s. 372.27, F.S.; authorizing persons to fish in a portion of the Rainbow River; providing an exception for a portion of the Rainbow River within the Rainbow Springs State Park;

Rep. Kendrick moved the adoption of the amendment, which was adopted.

Representative(s) Baxley offered the following:

(Amendment Bar Code: 575175)

Amendment 4 (with title amendment)—On page 46, line 3
remove: all of said line

and insert:

Section 36. *Effective July 1, 2003, section 372.60, Florida Statutes, is repealed.*

Section 37. Except where otherwise provided, this act shall take effect July 1, 2002.

And the title is amended as follows:

On page 4, lines 16 and 17
remove: all of said lines

and insert: to meetings of the commission; repealing s. 372.60, F.S.; effective July 1, 2003; relating to the issuance of replacement licenses; providing effective dates.

Rep. Baxley moved the adoption of the amendment, which was adopted.

On motion by Rep. Goodlette, the rules were waived and CS/HB 1085, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 762

Yeas—114

| | | | |
|---------------------|---------------------|-------------|------------|
| The Chair | Carassas | Henriquez | Murman |
| Alexander | Clarke | Heyman | Needelman |
| Allen | Crow | Hogan | Negron |
| Andrews | Cusack | Holloway | Paul |
| Argenziano | Davis | Jennings | Peterman |
| Arza | Detert | Johnson | Pickens |
| Attkisson | Diaz de la Portilla | Jordan | Rich |
| Atwater | Diaz-Balart | Joyner | Richardson |
| Ausley | Dockery | Justice | Romeo |
| Baker | Evers | Kallinger | Ross |
| Ball | Farkas | Kendrick | Rubio |
| Barreiro | Fasano | Kilmer | Russell |
| Baxley | Fields | Kosmas | Ryan |
| Bean | Fiorentino | Kottkamp | Seiler |
| Bendross-Mindingall | Flanagan | Kravitz | Simmons |
| Bennett | Frankel | Kyle | Slosberg |
| Bense | Gannon | Lacasa | Smith |
| Benson | Garcia | Lee | Sobel |
| Berfield | Gardiner | Lerner | Sorensen |
| Betancourt | Gelber | Littlefield | Spratt |
| Bilirakis | Gibson | Lynn | Stansel |
| Bowen | Goodlette | Machek | Trovillion |
| Brown | Gottlieb | Mahon | Wallace |
| Brummer | Green | Mayfield | Weissman |
| Brutus | Greenstein | Maygarden | Wiles |
| Bucher | Haridopolos | McGriff | Wilson |
| Bullard | Harper | Meadows | Wishner |
| Byrd | Harrington | Mealor | |
| Cantens | Hart | Melvin | |

Nays—None

Votes after roll call:

Yeas—Harrell

So the bill passed, as amended, and was certified to the Senate after engrossment.

THE SPEAKER IN THE CHAIR

Immediately Certified

On motion by Rep. Goodlette, the rules were waived and CS/HB 1085, which passed the House earlier today, was immediately certified to the Senate.

Consideration of HB 1327 was temporarily postponed under Rule 11.10.

HB 1675—A bill to be entitled An act relating to a public records exemption for bank account numbers and debit, charge, and credit card numbers; amending s. 119.07, F.S.; creating an exemption from public records requirements for bank account numbers and debit, charge, and credit card numbers held by an agency; providing retroactive application of the exemption; providing for future review and repeal; providing a finding of public necessity; repealing s. 119.07(3)(z), F.S., relating to bank account numbers and debit, charge, and credit card numbers given to an agency for the purpose of payment of a fee or debt owed to the agency; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Goodlette, the rules were waived and the House moved to the order of—

Motions Relating to Committee References

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 155 was withdrawn from the Committee on Fiscal Policy & Resources and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1545 was withdrawn from the Committee on Insurance and remains referred to the Council for Smarter Government.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1965 was withdrawn from the Committee on State Administration and placed on the Calendar of the House.

Messages from the Senate

First Reading by Publication

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 726, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Health, Aging and Long-Term Care and Senator Latvala and others—

CS for SB 726—A bill to be entitled An act relating to financial arrangements between referring health care providers and providers of health care services; amending s. 456.053, F.S., the “Patient Self-Referral Act of 1992”; redefining the term “referral” by revising the list of practices that constitute exceptions; providing an effective date.

Referred to the Council for Healthy Communities.

Motion to Adjourn

Rep. Byrd moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 10:00 a.m., Friday, March 1. The motion was agreed to.

Council and Committee Assignments

The Speaker advised that, in addition to previous appointments, he had appointed Reps. Benson, Berfield, Gelber, and Joyner to the Committee on Oversight & Accountability for Florida’s Pension Funds, Select.

Votes After Roll Call

[Date(s) of Vote(s) and Sequence Number(s)]

Rep. Andrews:

Yeas—February 20: 748, 749

Rep. Brummer:

Yeas to Nays—February 20: 747

Rep. Henriquez:

Yeas—February 20: 739, 742, 743, 744, 745, 746

Nays—February 20: 740

Rep. Jennings:

Yeas—January 31: 704, 706; February 5: 722

Nays—February 5: 718

Rep. Joyner:

Yeas—February 20: 742, 744

Rep. Wishner:

Yeas—February 20: 743, 744, 745, 746, 747, 748, 749, 750, 751

Prime Sponsors

HB 441—Romeo

HB 1361—Heyman

Withdrawals as Prime Sponsor

HB 1473—Sorensen

Cosponsors

HB 157—Betancourt

HB 219—Fiorentino

HB 233—Garcia

HB 235—Spratt

CS/HJR 317—Waters

CS/HB 399—Gibson

HB 517—Spratt

HB 523—Fiorentino

HB 697—Paul, Spratt

CS/HB 753—Farkas, Harrington

CS/HB 1057—Heyman

HB 1181—Harrington

HB 1305—Harper

HB 1361—Bucher, Needelman, Slosberg

HB 1675—Fiorentino

CS/HB 1825—Lynn

HR 9053—Jennings

Withdrawals as Cosponsor

HB 1277—Crow

Introduction and Reference

By the Committee on Judicial Oversight; Representative Crow—

HJR 1981—A joint resolution proposing an amendment to Section 12 of Article V and the creation of Section 26 of Article XII of the State Constitution relating to the Judicial Qualifications Commission.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Committee on Juvenile Justice; Representative Barreiro—

HB 1983—A bill to be entitled An act relating to juvenile delinquency programs and records; amending s. 938.19, F.S.; providing for the creation of county juvenile drug courts; providing for assessments for court costs by circuit and county courts to be used for the operation, administration, and programming of teen and juvenile drug courts and providing for distribution of such assessments; amending s. 943.0582, F.S.; requiring a report to the Legislature relating to expunction of certain records; amending s. 984.06, F.S.; authorizing the guardian ad litem of a child in need of services to inspect and copy official records pertaining to the child; amending s. 985.04, F.S.; expanding the circumstances under which certain juvenile records are not considered confidential and exempt solely because of age; authorizing law enforcement agencies to provide said information; amending s. 985.407, F.S.; requiring the Department of Juvenile Justice to adopt a rule regarding changes in policies that impact contracted delinquency services and programs and establishing procedure therefor; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Farkas—

HR 9065—A resolution designating the week of June 2-8, 2002, as “Chamber of Commerce Week” in Florida.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Jennings, McGriff, Rich, Wiles, Gelber, Heyman, Pickens, Kottkamp, Andrews, Ryan, Mack, Gottlieb, Mayfield, Johnson, Paul, Harrell, Rubio, Benson, Flanagan, Atwater, Lynn, Crow, Goodlette, Bilirakis, Feeney, Alexander, Dockery, Trovillion, Gibson, Spratt, and Frankel—

HR 9067—A resolution proclaiming March 6, 2002, as “University of Florida Day.”

First reading by publication (Art. III, s. 7, Florida Constitution).

Reference

HB 1947—Referred to the Council for Competitive Commerce.

HB 1973—Referred to the Calendar of the House.

HB 1975—Referred to the Calendar of the House.

First Reading of Council and Committee Substitutes by Publication

By the Council for Smarter Government; Representatives Ball, Bean, Seiler, Betancourt, Dockery, and Cantens—

CS/HB 147—A bill to be entitled An act relating to offenses by public servants; creating the “Citizens’ Right to Honest Government Act”; amending s. 16.56, F.S.; authorizing the Office of Statewide Prosecution to prosecute violations of ch. 838, F.S.; amending s. 838.014, F.S.; revising, providing, and deleting definitions; amending ss. 838.015 and 838.016, F.S.; increasing penalties; creating ss. 838.022, 838.20, 838.21, 838.22, 838.23, and 838.24, F.S.; providing criminal penalties for official misconduct, criminal misuse of official position, disclosure or use of confidential criminal justice information, and bid tampering; providing definitions; providing status of confidential informants or confidential sources; authorizing public servants who are subjected to an investigation for official misconduct to recover attorney’s fees; amending s. 837.02, F.S.; providing a criminal penalty for perjury in an official proceeding by a public servant; amending s. 905.34, F.S.; expanding jurisdiction of the statewide grand jury to include violations of ch. 838, F.S.; amending s. 921.0022, F.S.; deleting specified felonies from and adding specified felonies to the Criminal Punishment Code offense severity ranking chart; repealing s. 838.15, F.S., relating to commercial bribe receiving; repealing s. 838.16, F.S., relating to commercial bribery; repealing s. 839.25, F.S., relating to official misconduct; amending ss. 112.3173, 112.534, 117.01, and 121.091, F.S.; deleting and conforming cross references to changes made by the act; providing an effective date.

By the Council for Smarter Government; Committee on Local Government & Veterans Affairs; Representative Trovillion—

CS/CS/HB 263—A bill to be entitled An act relating to special assessments; creating ss. 125.0168 and 166.223, F.S.; providing the method for the levy of assessments by counties and municipalities on recreational vehicle parks; providing an effective date.

By the Council for Competitive Commerce; Committee on Economic Development & International Trade; Representative Ball—

CS/CS/HB 461—A bill to be entitled An act relating to enterprise zones; amending s. 290.00675, F.S.; revising the criteria for the Office of Tourism, Trade, & Economic Development to amend the boundaries of certain enterprise zones; creating s. 290.00686, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Brevard County; providing requirements with respect thereto; authorizing the City of Pensacola to apply to the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in the City of Pensacola; authorizing the office to designate one enterprise zone in the City of Pensacola; providing requirements with respect thereto; authorizing Leon County, or Leon County and the City of Tallahassee jointly, to apply to the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Leon County; authorizing the office to designate one enterprise zone notwithstanding certain limitations; providing requirements with respect thereto; requiring designation of an enterprise zone in the City of Hialeah under certain circumstances notwithstanding certain limitations; providing requirements with respect thereto; authorizing certain counties to apply for amendment of enterprise zone boundary lines; providing deadlines; prescribing conditions applicable to the areas proposed for addition to the enterprise zone; directing the Office of Tourism, Trade, and Economic Development to approve such amendment under certain conditions; providing application; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of certain enterprise zones; providing limitations; providing an effective date.

By the Council for Smarter Government; Representatives Bilirakis, Clarke, Kallinger, Garcia, and Cantens—

CS/HB 593—A bill to be entitled An act relating to real estate brokers and salespersons; amending s. 475.01, F.S.; revising a definition; amending s. 475.011, F.S.; clarifying application of certain exemptions; amending s. 475.15, F.S.; deleting a provision requiring only general partners of a limited partnership to be registered; amending s. 475.22, F.S.; specifying certain sign requirements; amending s. 475.25, F.S.; revising certain provisions relating to disciplinary actions; providing an alternative procedure for disbursing moneys from an escrow account; authorizing salespersons to compensate certain associated persons under certain circumstances; authorizing brokers to place and maintain moneys in an escrow account under certain circumstances; providing procedures for withdrawal of moneys from the account; providing legislative intent; providing an effective date.

By the Council for Competitive Commerce; Representatives Cantens and Allen—

CS/HB 819—A bill to be entitled An act relating to environmental protection; amending s. 373.114, F.S.; providing that certain water management district orders and rules are not subject to specified review; amending s. 403.412, F.S., the “Environmental Protection Act of 1971”; revising requirements for initiating specified proceedings under that act; clarifying provisions relating to award of attorney’s fees and requirements that a plaintiff post bond under certain circumstances; providing an effective date.

By the Council for Smarter Government; Representatives Mack, Gottlieb, Haridopolos, and Cantens—

CS/HB 843—A bill to be entitled An act relating to condominiums, cooperatives, and homeowners’ associations; amending s. 702.09, F.S.; redefining the terms “mortgage” and “foreclosure proceedings”; amending s. 718.104, F.S.; revising provisions relating to declarations for the creation of a condominium; amending s. 718.106, F.S.; revising provisions relating to appurtenances that pass with a condominium unit; amending s. 718.110, F.S.; revising provisions relating to amendments to a declaration of condominium; amending s. 718.111, F.S.; revising provisions relating to the association; amending s. 718.112, F.S.; revising provisions relating to bylaws; amending s. 718.113, F.S.; revising provisions relating to material alterations of common elements or association real property operated by a multicondominium association; amending s. 718.115, F.S.; revising provisions relating to common expenses; amending s. 718.1255, F.S., relating to alternative dispute resolution procedures; providing for the expedited handling of any allegation of an irregularity in the election of any director of the board of administration of a condominium; amending s. 718.405, F.S.; revising provisions relating to multicondominiums and multicondominium associations; amending s. 718.503, F.S.; relating to disclosure requirements for the sale of certain condominiums; removing the requirement that question and answer sheets be part of the closing documents; amending s. 718.504, F.S.; revising provisions relating to the prospectus or offering circular; providing an effective date.

By the Council for Smarter Government; Representatives Berfield, Flanagan, Betancourt, and Hogan—

CS/HB 1301—A bill to be entitled An act relating to the Board of Architecture and Interior Design; amending s. 481.205, F.S.; delegating to the board the duties and authority of the Department of Business and Professional Regulation to investigate and prosecute the practice and unlicensed practice of architecture and interior design; requiring the board to contract with a corporation or other business entity to provide legal, investigative, prosecutorial, and other services; providing requirements with respect to records; authorizing the board to use funds from the unlicensed activity account to perform certain duties; requiring the board to submit an annual budget request to the Legislature; providing an effective date.

By the Council for Smarter Government; Committee on State Administration; Representatives Brummer and Cantens—

CS/HB 1407—A bill to be entitled An act relating to capitol security; amending s. 20.201, F.S.; creating the Capitol Select Security Service

within the Department of Law Enforcement; transferring the powers, duties, and functions of the Division of Capitol Police relating to security within the Capitol Complex from the Department of Management Services to the Department of Law Enforcement; creating s. 281.01, F.S.; defining the Capitol Complex; amending s. 281.02, F.S.; providing for powers and duties of the Department of Management Services with respect to firesafety and security responsibilities; amending s. 281.03, F.S.; providing for collection and retention of certain reports by the Department of Management Services; repealing s. 281.04, F.S., relating to arrest procedures of the Florida Capitol Police; repealing s. 281.05, F.S., relating to ex officio agents of the Florida Capitol Police; amending s. 281.06, F.S.; authorizing the Department of Management Services to contract with counties, municipalities, or private security agencies to maintain the security of certain public premises; amending s. 281.07, F.S.; providing for adoption of parking regulations of the Department of Management Services; amending s. 281.08, F.S.; providing for the procurement of equipment by the Department of Management Services; creating s. 943.60, F.S., to define the Capitol Complex; creating s. 943.601, F.S.; providing for the preservation of legislative powers; limiting the authority of the Department of Law Enforcement to impede such powers; providing a duty of the Capitol Select Security Service to defend such legislative powers as requested by a presiding officer of the Legislature; creating s. 943.61, F.S.; creating and providing for the powers, duties, and functions of the Capitol Select Security Service; providing that the service shall serve the needs of both the legislative and executive branches of state government; prohibiting the taking of resources of, or the decreasing of appropriations to, the Capitol Select Security Service without the approval of the Governor and the Legislative Budget Commission; requiring the establishment of security plans; requiring consultation with the Governor, members of the Cabinet, and the presiding officers of the Legislature in the development of such plans; requiring biennial approval of such plans; authorizing the implementation of unapproved plans in times of emergency; establishing other powers and duties of the Capitol Select Security Service; establishing standards for officers of the Capitol Select Security Service; limiting authority of the Capitol Select Security Service with respect to certain legislative personnel and facilities; creating s. 943.611, F.S.; providing for the nomination and approval of the executive director of the Capitol Select Security Service; providing that the executive director serves at the pleasure of the head of the Department of Law Enforcement; requiring periodic reappointment and approval of the executive director; creating s. 943.62, F.S.; providing for investigations by the Capitol Select Security Service; creating s. 943.63, F.S.; providing that persons arrested or detained by the Capitol Select Security Service shall be delivered to the sheriff; creating s. 943.64, F.S.; providing that certain law enforcement officers may serve as ex officio agents of the Capitol Select Security Service; creating s. 943.66, F.S.; authorizing the Capitol Select Security Service to enforce certain rules of the Department of Management Services; creating s. 943.67, F.S.; providing for the procurement of equipment by the Department of Law Enforcement; renumbering and amending s. 281.20, F.S., relating to the security of the Governor and other specified persons; amending ss. 287.17 and 288.816, F.S.; correcting cross references, to conform; providing for a security inventory; providing an effective date.

Resolutions Adopted by Publication

At the request of Rep. Gannon—

HR 9033—A resolution in honor of the late Charles Spencer Pompey.

WHEREAS, on July 24, 2001, the Delray Beach area lost a valued citizen and friend in the person of longtime educator, historian, and activist Charles Spencer Pompey, only seven days short of his eighty-sixth birthday, and

WHEREAS, encouraged by his mother's determination that her five children be properly educated, Charles Pompey became valedictorian of his high school class at the age of 15 and graduated summa cum laude in 1939 from Johnson C. Smith University in Charlotte, North Carolina, at that time a remarkable achievement for an African American, and

WHEREAS, during a career that spanned 41 years, Mr. Pompey successfully taught social studies, coached athletics, and served as

principal in the public schools of Florida, but it was through his soft-spoken example that generations of black children learned the principles of achievement, equality, and respect and, an issue very dear to his heart, the importance of voting, and

WHEREAS, although totally dedicated to his profession, Mr. Pompey was vitally interested in every facet of life in the community, and it was he who fought to desegregate the area beaches, pressed the city fathers to install street lights, sidewalks, and paved streets in black neighborhoods, and pushed for the first organized recreation programs for the city's African-American children, an effort which resulted in his having Pompey Park named in his honor, and

WHEREAS, never a man to hesitate to define and act on his convictions, Mr. Pompey was one of three African-American teachers who initiated the first class-action lawsuit in federal court to eliminate teacher salary disparity between the races; co-organized and served as the first president of the Palm Beach County Teachers Association; initiated the athletic program at Carver High School; and was elected to the Florida Education Association Board of Directors, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives pauses in its deliberations to honor the late Charles Spencer Pompey, a man of great stature and superlative accomplishments.

—was read and adopted by publication pursuant to Rule 10.20.

At the request of Rep. Hogan—

HR 9051—A resolution designating February 19, 2002, as "Florida 4-H Day."

WHEREAS, organized by the Florida Cooperative Extension System of the University of Florida's Institute of Food and Agricultural Sciences, the Florida 4-H program performs an invaluable service through its part in preparing the state's youth for the workplace and encouraging them to become leaders, not only of tomorrow, but also of today, and

WHEREAS, there are 287,156 children 5 through 18 years of age and 17,404 volunteers in all 67 counties and on the Seminole Tribes reservations who participate in the Florida 4-H program, an effort that brings the resources of local, state, and federal governments together with committed citizens and private entities to provide activities, events, and projects designed to develop and strengthen skills and talents of the young participants, and

WHEREAS, the Florida 4-H program participants, who "learn by doing," are involved in a diverse array of projects, in areas ranging from computers and community service to animal science and xeriscaping, and

WHEREAS, through the Power of Youth Pledge Campaign, a program through which members pledge a chosen amount of time to an activity of their choice, Florida 4-H members devote thousands of hours of work on behalf of their schools, communities, and state, and

WHEREAS, the 2002 4-H state project, "Tales From Teens: A 4-H Literacy Initiative," encourages clubs and individual members to work toward promoting literacy in their communities by collecting books and donating them to libraries, volunteering time to teach reading, and holding fundraisers to assist in the fight against illiteracy, and

WHEREAS, the year 2002 marks the 100th year of 4-H activity in America and, in observance of this milestone, Florida 4-H members have participated in county and state conversations that have brought together youth, youth leaders, and communities in efforts to identify pressing needs of young people in today's society and to create youth development strategies for the future, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives is pleased to express its appreciation for the efforts of the Florida 4-H program, to offer its

congratulations on the observance of the centennial anniversary of the 4-H program in America, and to designate February 19, 2002, as "Florida 4-H Day."

BE IT FURTHER RESOLVED that a copy of this resolution be presented to the Florida 4-H Foundation as a tangible token of the sentiments expressed herein.

—was read and adopted by publication pursuant to Rule 10.20.

At the request of Rep. Trovillion—

HR 9057—A resolution designating the month of October 2002 as "Children's Internet Protection Awareness Month."

WHEREAS, Internet and online technologies are an invaluable source of information, amusement, and pleasure for scores of users in Florida, providing a window on the world undreamed of a few short decades ago, and

WHEREAS, Florida's academic and educational institutions have set the standard for the rest of the nation in providing distance learning and the use of online technology in classrooms, homes, and libraries, allowing students to share coursework and class assignments with fellow students and indeed with those around the world and is perhaps unsurpassed in preparing children to perform research and to better equip them in working toward undergraduate, graduate, and professional degree programs and successful careers, and

WHEREAS, early in life, children become familiar with today's advanced technology and are found to be especially comfortable with computers, using them as tools in accessing information in furtherance of educational and academic goals, as well as for entertainment and as a means of interaction with friends and classmates, family members, and others, and

WHEREAS, in addition to the positive benefits afforded society, this remarkable technology also provides a means by which unsuspecting users may be preyed upon, with children being especially vulnerable to this type of exploitation, and

WHEREAS, believing that awareness and knowledge are indispensable tools in safeguarding the well-being of children and families, the Florida Peace Officers' Association, Inc., has a long tradition of combatting crime and aggressively promoting safety by offering training and education on the elementary and secondary school levels through programs such as its "Consequences of Crime" and "Kids Against Crime Online," NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives applauds the outstanding efforts of the Florida Peace Officers' Association, Inc., in striving toward increased safety for the state's children and hereby designates the month of October 2002 as "Children's Internet Protection Month," a time during which Florida residents are urged to focus their energies on ensuring that use of the Internet is a safe, beneficial, and pleasant experience for all Floridians.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to the Florida Peace Officers' Association, Inc., as a tangible token of the sentiments expressed herein.

—was read and adopted by publication pursuant to Rule 10.20.

At the request of Rep. Melvin—

HR 9059—A resolution honoring William H. Gates III.

WHEREAS, William H. Gates III has demonstrated his leadership, vision, and concern for education by his strong financial support of education nationwide through the operation of the Bill and Melinda Gates Foundation, and

WHEREAS, through the Bill and Melinda Gates Foundation, William H. Gates III has clearly shown his firm belief in the use of the technology developed by his companies to meet the educational needs of young

people, to recognize and encourage high achievement, and to develop strong leadership, and

WHEREAS, William H. Gates III has, through the foundation, awarded Florida schools \$5.5 million over a period of three years with which to provide school superintendents and principals, both public and private, opportunities to develop knowledge and skills in the effective use of technology as a means of promoting student learning, and

WHEREAS, in addition, Microsoft Corporation has contributed \$1,345,781 in funds and materials to libraries, universities, schools, and other educational entities in the state of Florida alone, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives hereby recognizes William H. Gates III for his commitment to education and for his generosity in providing the citizens of Florida, by means of the Bill and Melinda Gates Foundation, expanded learning opportunities through the use of technology and technological infrastructure in the state's schools and communities.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to William H. Gates III as a token of the gratitude and appreciation expressed herein.

—was read and adopted by publication pursuant to Rule 10.20.

At the request of Rep. Rich—

HR 9061—A resolution recognizing suicide as a state problem and encouraging initiatives aimed at preventing suicide.

WHEREAS, suicide, the eighth leading cause of all deaths in the United States and the third such cause for young persons ages 15 through 24, claims more than 30,000 lives annually nationwide, and

WHEREAS, suicide attempts, estimated to exceed 730,000 annually nationwide, adversely affect the lives of millions of family members, friends, and coworkers, including many Floridians, and

WHEREAS, suicide annually causes more than 180,000 family members nationwide, including many Floridians, to mourn a tragic death, and

WHEREAS, the suicide rate per 100,000 persons has remained relatively stable over the past 40 years for the general population, but that rate has nearly tripled for young persons and is highest for adults over 65, and

WHEREAS, the stigma associated with mental illness works against suicide prevention by keeping persons who are at risk of committing suicide from seeking lifesaving help, and

WHEREAS, the stigma associated with suicide seriously inhibits surviving family members from regaining meaningful lives, and

WHEREAS, suicide attempts and deaths impose a huge unrecognized and unmeasured economic burden on the State of Florida in terms of potential years of life lost, medical costs incurred, and work time lost by mourners, and

WHEREAS, suicide is a complex, multifaceted biological, sociological, psychological, and societal problem, and

WHEREAS, many suicides are currently preventable, and there is an urgent need for the development of more effective suicide-prevention programs, and

WHEREAS, suicide-prevention opportunities continue to increase due to advances in clinical research, treatments for mental disorders, neuroscience, and the development of community-based initiatives that await evaluation, and

WHEREAS, suicide-prevention efforts should be encouraged to the maximum extent possible, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives recognizes suicide as a state problem and declares suicide prevention to be a state priority; acknowledges that no single suicide-prevention program or effort will be appropriate for all populations or communities; and encourages initiatives dedicated to preventing suicide, responding to people who are at risk for suicide and people who have attempted suicide, promoting safe and effective treatment for persons who are at risk for suicidal behavior, supporting people who have lost someone to suicide, and developing an effective state strategy for the prevention of suicide.

BE IT FURTHER RESOLVED that this body encourages the development and promotion of accessible and affordable mental health services that would enable all persons who are at risk for suicide to obtain such services without fear of any stigma.

—was read and adopted by publication pursuant to Rule 10.20.

Reports of Councils and Standing Committees

Council Reports

Received February 27:

The Council for Healthy Communities recommends the following pass:

HB 161
HB 1177
HB 1423
HB 1437
HB 1467

The above bills were placed on the Calendar.

The Council for Competitive Commerce recommends council substitutes for the following:

CS/HB 461
HB 819

The above council substitutes were placed on the Calendar, subject to review under Rule 6.3, and, under the rule, CS/HB 461 and HB 819 were laid on the table.

The Council for Smarter Government recommends council substitutes for the following:

HB 147
CS/HB 263
HB 593
HB 843
HB 1301
HB 1407

The above council substitutes were placed on the Calendar, subject to review under Rule 6.3, and, under the rule, HB 147; CS/HB 263; HBs 593, 843, 1301, and 1407 were laid on the table.

Committee Reports

Received February 27:

The Committee on Insurance recommends the following pass:
CS/HB 323

The above bill was referred to the Council for Smarter Government.

The Committee on Insurance recommends the following pass:
HB 1571, with 1 amendment

The above bill was referred to the Committee on Fiscal Policy & Resources.

Excused

Rep. Prieguez; Rep. Waters after 2:30 p.m.

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 5:01 p.m., to reconvene at 10:00 a.m., Friday, March 1.

Pages and Messengers for the week of February 25 - March 1

PAGES—Jarvis Barnes, Fort Myers; Matthew Barnette, Brooksville; Brianna Barry, Tallahassee; Christina Anne Bell, Babson Park; Alisha Bowling, Port St. Lucie; Joshua E. Cantrell, Tampa; Kristin A. Coley, Marianna; Brendan Flanagan, Bradenton; Zachary R. Gershkoff, DeFuniak Springs; Adam P. Hulsman, Haines City; Jonah Johnson, Tallahassee; Kala Kelly, Ocala; Steven P. McFarland, Tallahassee; Mario McNish, Tampa; Kendall Lee Parris, Panama City; Caroline Peebles, Tallahassee; Kathryn Campbell

Saba, Sarasota; Jason Swindle, Tallahassee; Ashley Williams, Tallahassee.

MESSENGERS—Adrian D. Abner, Blountstown; Ryan Allcott, Pensacola; Kellen Baker, Blountstown; Kristin A. Bean, Fernandina Beach; Trevor Blackburn, Vero Beach; Carolanne Carrillo, Naples; Cristyl Contreras, Miami; Richard Contreras, St. Augustine; Jaime Gonzalez, Jr., Coral Springs; Megan Hall, Blountstown; Bradley C. Haveard, Jay; K. Allen Kent, Naples; Rene Pleasant, Lakeland.