



# Journal of the Senate

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## CALL TO ORDER

The Senate was called to order by President King at 10:20 a.m. A quorum present—39:

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

Excused: Senator Sebesta

## PRAYER

The following prayer was offered by the Rev. Dr. Gordon Godfrey, Jr., Marcus Point Baptist Church, Pensacola:

“If my people which are called by my name shall humble themselves and pray and seek my face and turn from their wicked ways, then will I hear their prayers, forgive their sins and heal their land.”

God, today we humble ourselves before you. We ask you to give wisdom to this Senate as they do the work of the people today and as they do your work. God, we ask you to give them wisdom. We ask you to lead them and guide them in their important decisions. Lord, we turn to you today. We ask you to watch over this body.

God, we do also today pray for our President. We pray for the men and women who are overseas fighting for our freedom. We pray that you will give them protection today.

God, we are so honored that you have chosen us to be servants and ministers for you. Lead and guide us in every decision made today. God, we ask you to bless America. Keep your hand upon us. Amen.

## PLEDGE

Senate Pages Joia Jefferson of Tallahassee, Ryan Ritchie of Jacksonville, Jon Morris of Dunedin and Sara Ann Pennington of Tallahassee, led the Senate in the pledge of allegiance to the flag of the United States of America.

## DOCTOR OF THE DAY

The President recognized Dr. Ronald Knaus of Seminole, sponsored by Senator Jones, as doctor of the day. Dr. Knaus specializes in Psychiatry.

## ADOPTION OF RESOLUTIONS

At the request of Senator Posey—

By Senator Posey—

**SR 1984**—A resolution recognizing and commending Chris Economaki.

WHEREAS, Chris Economaki, now 83 years of age, is an icon among sports journalists, recognized for his preeminent role in promoting the popularity of auto racing, and

WHEREAS, Chris was born in 1920 in Brooklyn, New Jersey, and grew up in Ridgewood, New Jersey, where, at age 9, he observed his first auto race at the nearby Atlantic City Board Track and became smitten with a lifetime love for the sport of auto racing, and

WHEREAS, Chris began his career in sports journalism in 1934 when he began writing a byline column for the National Auto Racing News, a precursor to the National Speed Sport News, a publication Chris later acquired, developing it into the most influential weekly motorsports publication in the country, featuring Chris’s informative column, “The Editor’s Notebook,” and

WHEREAS, in more than 50 years as an auto racing sports journalist, Chris has excelled as a print journalist, a race announcer, and a network television analyst for automobile races broadcast by ABC, ESPN, and CBS, providing dynamic coverage of virtually every form of auto racing in every major venue throughout the world, and

WHEREAS, Chris has received numerous awards recognizing and honoring his contributions to the sport of auto racing, including the 1984 Walt Ader Memorial Award, the first Hugh Deery Memorial Award for Service to Auto Racing, the 1990 USAC Presidential Award, NASCAR’s 1990 Award of Excellence, induction in 1994 as the first journalist in the Motorsports Hall of Fame, NASCAR’s 1998 Lifetime Media Award, the 2000 NASCAR/Federal Mogul Buddy Sherman Award, and the 2001 International Automotive Media Council Lifetime Achievement Award, NOW, THEREFORE,

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

That the Florida Senate recognizes and commends Chris Economaki for his invaluable contributions to the sport of auto racing, for helping to make Daytona Beach, Florida, the Auto-Racing Capital of the World, and for his extraordinary accomplishments as a leader in the world of sports journalism.

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

—SR 1984 was introduced, read and adopted by publication.

At the request of Senator Posey—

By Senator Posey—

**SR 2142**—A resolution recognizing and commending Henry “Smokey” Yunick.

WHEREAS, Henry “Smokey” Yunick was born in 1924 in Nishaminy, Pennsylvania, where he grew up and lived on his family’s farm until he enlisted in the U.S. Army Air Corps and became a B-17 Bomber pilot in World War II, flying more than 50 bombing missions in the Balkan theatre for the Flying Tigers, and

WHEREAS, upon being honorably discharged from the Army Air Corps at the war’s end, Smokey settled in Daytona Beach, Florida, where in 1947 he opened a truck repair shop that he named the “Best Damn Garage in Town,” and

WHEREAS, shortly after opening his Daytona garage, Smokey accepted the invitation of fellow Daytona resident and stock car owner/racer Marshall Teague to join the Teague racing team and begin a career in automobile mechanics that would become the standard by which others in the auto racing business would be measured, and

WHEREAS, in the years that followed, Smokey established himself as a mechanical genius in the eyes of race car sponsors, owners, and drivers, repeatedly introducing mechanical innovations that led automakers to adopt his engineering designs, gave his cars a clear competitive edge over others, and enabled his drivers to achieve racing dominance on the tracks, and

WHEREAS, while pursuing his career in automotive mechanics, Smokey patented 11 of his automotive inventions, led in designing and building cars that won 39 Grand National races and two Grand National Championships between 1955 and 1962, designed and built the car that won the Indianapolis 500 in 1960, wrote articles published in Popular Science and Circle Track Magazine, founded and served as Director of Emory Riddle University, became Professor Emeritus at Daytona Beach Community College, and served as a member of the Society of Automotive Engineers, and

WHEREAS, in the course of his career, Smokey received numerous awards recognizing and honoring his extraordinary talents and successes in the sport of auto racing, including becoming a two-time winner of NASCAR’s Mechanic of the Year Award, receiving a Mechanical Achievements Award from Indianapolis Motor Speedway and from Ontario Speedway, receiving an Engineering Excellence Award from Indianapolis Motor Speedway, and being recognized as Inventor of the Year in 1983, and

WHEREAS, on May 9, 2001, Smokey succumbed to the ravages of leukemia, ending a remarkable life of innovative leadership in automotive mechanics, marked by extraordinary success in the sport of auto racing, and leaving a legacy of personal and professional accomplishments unlikely to be duplicated by his peers, NOW, THEREFORE,

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

That the Florida Senate posthumously recognizes and commends Henry “Smokey” Yunick for his dedication to the highest standards of excellence in pursuit of his ambition to build the most competitive race cars on the tracks, establishing the “Best Damn Garage in Town” as an exemplary business establishment that became a local landmark, and advancing the sport of auto racing to help make Daytona Beach, Florida, the stock car racing capital of the world.

—**SR 2142** was introduced, read and adopted by publication.

At the request of Senator Dockery—

By Senator Dockery—

**SR 2896**—A resolution commending Florida Baptist Children’s Home for its support of children of this state for the past 100 years.

WHEREAS, Florida Baptist Children’s Home is a faith-based, non-profit organization that provides safe, stable, Christian homes for boys and girls who have been neglected, misdirected, abandoned, abused, or caught up in family turmoil, and

WHEREAS, Florida Baptist Children’s Home ensures that children in its care receive medical care, nourishing food, proper clothing, and education, including counseling, love, attention, and a positive lifestyle, and

WHEREAS, Florida Baptist Children’s Home seeks to provide for children in its care a childhood that is as normal as possible by giving them hope, and providing for their physical, emotional, social, and spiritual needs, and

WHEREAS, Florida Baptist Children’s Home selects both boys and girls to live at its facilities, based upon the child’s need and the Home’s ability to help them, and

WHEREAS, Florida Baptist Children’s Home employs Christian house parents and social workers who do not regard the children as clients or case loads but instead, truly care for and about the children, loving and nurturing them, and laughing and crying with them, and

WHEREAS, Florida Baptist Children’s Home takes a proactive approach in healing broken lives by encouraging the social workers to interact with each child and his or her family, house parents, or foster parents, to ensure that progress is being made in each unique situation, and

WHEREAS, Florida Baptist Children’s Home has also committed its support for the Florida Baptist Convention’s emphasis on the Sanctity of Human Life, providing a specialist to work with pastors, pregnancy care centers, and pregnant, unwed, teen-age girls to help prevent abortions, and

WHEREAS, Florida Baptist Children’s Home operates campuses in many cities in Florida, including Miami, Fort Myers, Lakeland, Jacksonville, Tallahassee, and Pensacola, serving school-age boys and girls in family-style residences, NOW, THEREFORE,

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

That the Florida Baptist Children’s Home is commended for its outstanding support of and contributions to the lives of Florida’s children, on this its 100th anniversary.

—**SR 2896** was introduced, read and adopted by publication.

At the request of Senator Miller—

By Senators Miller and Wilson—

**SR 3092**—A resolution in support of the federal initiative to establish a regional approach to economic development in the Southeast.

WHEREAS, several academic studies, including the December 2001 Southeast Crescent Authority: A Proposal for Economic Growth in the Southeastern United States conducted by East Carolina University, and the January 2003 Study on Persistent Poverty by the University of Georgia and the Georgia Rural Development Council, among others, have shown that there is a region in the Southeast that has been persistently poor for decades, and

WHEREAS, this region is the poorest region of the country, and

WHEREAS, past policies for breaking the cycle of poverty in the region have failed, and different approaches are needed, and

WHEREAS, all of the people of the 7-state region, including Florida, Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Virginia bear a tremendous burden from the continuous cycle of poverty, and

WHEREAS, the region is economically disadvantaged as compared with other regions in industry sectors when measured by the production of goods and services per person, and

WHEREAS, the most highly distressed areas of the region have a lower output of goods and services than either the Appalachian Regional Commission or the Delta Regional Authority counties, and

WHEREAS, these areas have an average household income that is \$2,000 less per person than the counties in the Appalachian Regional

Commission or Delta Regional Authority, and a per capita income \$5,000 less than the national average, and

WHEREAS, the economy of the rural areas and components of the urbanized South are at risk because they lack an able workforce and the tools with which to build wealth, and

WHEREAS, the economic situation in the region will continue to worsen unless the region gains the innate ability to produce and sustain wealth through the creation of goods and services in manufacturing, service, and agriculture, and

WHEREAS, critical gaps exist in education, health, housing, transportation, technology, and sewer and water infrastructure in the region, and

WHEREAS, despite its poverty, this region is not presently served by a federally supported initiative similar to the Appalachian Regional Commission, which has shown much success in reducing economic distress through support for local job-creation strategies and projects, and

WHEREAS, there is clear evidence of the need for a new partnership between the states and the Federal Government to break the cycle of poverty through targeted, strategic support for local job-creation activities, NOW, THEREFORE,

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

That the Senate supports the creation of the SouthEast Crescent Authority, or a similar regional entity, as reflected in pending Congressional legislation.

BE IT FURTHER RESOLVED, that this body pledges to work to strengthen efforts in sharing information and to ensure that the full participation of all residents of this region in the workforce remains a priority.

—**SR 3092** was adopted by publication.

**BILLS ON THIRD READING**

**CS for SB 2736**—A bill to be entitled An act relating to the taking of fish and shellfish; amending s. 370.14, F.S.; increasing the fee for the trap number required for commercial crawfish trapping; providing for the use of a portion of the fee; amending s. 370.143, F.S.; clarifying that crawfish traps are included in the trap retrieval program of the Fish and Wildlife Conservation Commission; assessing crawfish trap owners the retrieval fee assessed other trap owners; providing for waiver of the retrieval fee under certain circumstances; providing for the use of revenues from retrieval fees; requiring payment of retrieval fees before a license is renewed; providing an effective date.

—was read the third time by title.

On motion by Senator Lawson, **CS for SB 2736** was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Jones

Consideration of **CS for CS for SB 3036**, **CS for SB 2342** and **CS for SB 1062** was deferred.

**SB 2446**—A bill to be entitled An act relating to installations honoring military veterans and their families; creating the “Ellwood Robinson ‘Bob’ Pipping, Jr., Memorial Act”; providing a popular name; providing purpose; authorizing the Department of Transportation to enter into contract with a group or organization for the installation and maintenance of plaques, markers, monuments, memorials, or various retired military equipment at rest stops; providing for a committee to approve proposals for the contracts; providing for membership and terms of members of the committee; requiring approval by said committee for such contracts; providing conditions for approval; providing that the group or organization shall be responsible for costs; providing an effective date.

—as amended April 22 was read the third time by title.

On motion by Senator Dockery, **SB 2446** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

**CS for SB 2694**—A bill to be entitled An act relating to the Lake Okeechobee Protection Program; amending s. 373.4595, F.S.; providing legislative findings and intent with respect to implementation and funding of the Lake Okeechobee Watershed Phosphorus Control Program and the Lake Okeechobee Protection Program; providing for implementation and funding of the Lake Okeechobee Protection Plan; providing an effective date.

—was read the third time by title.

On motion by Senator Pruitt, **CS for SB 2694** was passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

**CS for CS for CS for SB 478**—A bill to be entitled An act relating to the sale of residential property; creating s. 689.261, F.S.; requiring a seller to give notice to the prospective purchaser of residential property

concerning ad valorem taxes on the property; specifying the form of notice; providing an effective date.

—as amended April 22 was read the third time by title.

On motion by Senator Margolis, **CS for CS for CS for SB 478** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Argenziano

**CS for SB 2196**—A bill to be entitled An act relating to insurance payments from escrow accounts; amending s. 501.137, F.S.; requiring an insurer to reinstate, under certain circumstances, an insurance policy that is cancelled due to failure of the lender to pay a premium for which sufficient escrow funds are on deposit; requiring that the lender reimburse the property owner for any penalties or fees paid for purposes of reinstating the policy; requiring the lender to pay the increased cost of insurance premiums for a specified period of time under certain conditions; amending s. 627.4133, F.S.; requiring property insurers to reinstate a canceled policy as required by s. 501.137, F.S.; providing an effective date.

—was read the third time by title.

On motion by Senator Geller, **CS for SB 2196** was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Argenziano

**CS for CS for SB 2372**—A bill to be entitled An act relating to physical fitness and health; requiring the Department of Health to undertake certain actions to promote healthy lifestyles and body weight; authorizing the department to adopt rules; providing that the act is contingent on an appropriation; amending s. 320.08058, F.S.; requiring

the Florida Sports Foundation to allocate certain proceeds from the sale of license plates for additional purposes; providing an effective date.

—as amended April 22 was read the third time by title.

On motion by Senator Clary, **CS for CS for SB 2372** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

**CS for CS for SB 2336**—A bill to be entitled An act relating to probation and community control; amending s. 948.001, F.S.; deleting provisions authorizing the Department of Corrections to collect certain fees as a part of administrative probation; amending s. 948.01, F.S.; correcting a cross-reference; transferring and renumbering provisions governing probation and community control as s. 948.10(10), F.S.; transferring and renumbering provisions authorizing a split sentence of probation or community control and imprisonment as s. 948.012(1), F.S.; prohibiting a private entity from providing probation or supervision services to certain offenders; transferring and renumbering provisions relating to violations of community control as s. 948.10(9), F.S.; transferring and renumbering provisions restricting the placement of certain offenders into community control as s. 948.10(2), F.S.; transferring and renumbering provisions authorizing split sentencing as s. 948.012(2) and (3), F.S.; transferring and renumbering provisions relating to drug offender probation as s. 948.20, F.S.; transferring and renumbering provisions governing community control and criminal quarantine community control as s. 948.101(3), F.S.; transferring and renumbering provisions relating to administration probation as s. 948.013, F.S.; amending s. 948.011, F.S.; clarifying circumstances under which the court may impose a fine or place an offender on probation or community control; amending s. 948.03, F.S.; conforming cross-references; providing for submission of blood or other biological specimens as a standard condition of probation; transferring and renumbering provisions relating to intensive supervision and surveillance as s. 948.101, F.S.; authorizing the court to impose additional terms or conditions of community control; providing certain limitations; transferring and renumbering provisions governing electronic monitoring as s. 948.11(2), F.S.; amending s. 948.11, F.S.; transferring and renumbering provisions governing the diagnosis, evaluation, and treatment of certain sex offenders as s. 948.31, F.S.; transferring and renumbering provisions governing additional terms and conditions of probation or community control for certain sex offenses as s. 948.30, F.S.; clarifying a requirement for submitting blood and other specimens; transferring and renumbering provisions relating to residential treatment as s. 948.035, F.S.; transferring and renumbering provisions relating to work programs as s. 948.036, F.S.; transferring and renumbering provisions relating to education and learning as a condition of probation or community control as s. 948.037, F.S.; transferring and renumbering provisions relating to the submission of blood or other biological specimens as s. 948.014, F.S.; transferring and renumbering provisions relating to a batterers' intervention program as s. 948.038, F.S.; creating s. 948.039, F.S.; authorizing the court to impose special terms and conditions of probation or community control, including requiring the offender to attend an HIV/AIDS awareness program and pay certain costs; amending s. 948.06, F.S., relating to procedures following an arrest of an offender for a violation of probation or community control; transferring and renumbering provisions relating to the arrest of a person for certain sex offenses as s. 948.32, F.S.; amending s. 948.09, F.S.; requiring an offender under addiction-recovery supervision to pay the cost of supervision; amending s. 948.10,

F.S.; correcting a cross-reference; amending ss. 948.04, 440.02, 775.21, 812.0155, 921.0017, 921.187, 947.23, and 958.14, F.S.; revising cross-references, to conform; reenacting ss. 944.4731(2)(b) and (7)(b), 948.01(8), and 948.06(5), F.S., relating to the Addiction-Recovery Supervision Program, when the court may place a defendant on probation or into community control, and violations of probation or community control, respectively, for the purpose of incorporating the amendment to s. 948.09, F.S., in references thereto; reenacting s. 947.1747, F.S., relating to community control as a special condition of parole, for the purpose of incorporating the amendment to s. 948.10, F.S., in a reference thereto; providing an effective date.

—was read the third time by title.

On motion by Senator Haridopolos, **CS for CS for SB 2336** was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Pruitt

**CS for SB 2766**—A bill to be entitled An act relating to the Emergency Planning and Community Right-to-Know Act; amending s. 252.85, F.S.; updating a reference to substances listed in the Emergency Planning and Community Right-to-Know Act; providing an effective date.

—was read the third time by title.

On motion by Senator Constantine, **CS for SB 2766** was passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

**SENATOR CARLTON PRESIDING**

**CS for SB 2566**—A bill to be entitled An act relating to absentee ballots; amending s. 101.64, F.S.; removing the requirement that a voter's signature on an absentee ballot must be witnessed; amending s. 101.65, F.S.; revising the Voter's Certificate and instructions to absent electors to remove the requirement of an attesting witness; amending s. 101.68, F.S.; requiring that the supervisor of elections compare an elector's signature to verify registration; removing the requirement of the

signature of an attesting witness for an absentee ballot to be considered legal; amending ss. 101.6921 and 101.6923, F.S.; revising the Voter's Certificate and instructions for special absentee ballots for certain first-time voters to remove the requirement of an attesting witness; amending s. 101.6952, F.S., relating to absentee ballots received from overseas voters, to conform; amending s. 101.657, F.S., relating to absentee ballots voted In-Office; providing an effective date.

—as amended April 22 was read the third time by title.

On motion by Senator Dockery, **CS for SB 2566** as amended was passed and certified to the House. The vote on passage was:

Yeas—30

Alexander	Crist	Margolis
Argenziano	Diaz de la Portilla	Peaden
Atwater	Dockery	Posey
Bennett	Fasano	Pruitt
Bullard	Geller	Saunders
Campbell	Haridopolos	Siplin
Carlton	Hill	Villalobos
Clary	Jones	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Nays—8		
Aronberg	Klein	Smith
Dawson	Lawson	Wasserman Schultz
Garcia	Miller	

**CS for CS for SB 2430**—A bill to be entitled An act relating to collection practices; amending s. 559.544, F.S.; requiring an applicant to apply to the Office of Financial Regulation to register as a commercial collection agency; amending s. 559.545, F.S.; requiring an applicant to comply with certain procedures to register as a commercial collection agency; prescribing that a registration that is not renewed expires automatically; providing procedures by which a commercial collection agency may reinstate its registration; increasing the registration fee; prescribing when an applicant must be investigated; amending s. 559.546, F.S.; requiring each applicant to purchase a surety bond; creating s. 559.5471, F.S.; detailing the powers and duties of the office with respect to regulating commercial collection agencies; authorizing the commission to adopt rules; authorizing the office to conduct investigations to determine whether a person has violated ch. 559, F.S., or rules adopted by the office; authorizing the office to issue subpoenas and subpoenas duces tecum under certain conditions; providing procedures the office may use when a person does not comply with a subpoena; permitting a court to grant injunctive or other relief when a person does not comply with a subpoena; authorizing the court to award attorney's fees and costs to the office under certain circumstances; creating s. 559.5473, F.S.; authorizing the office to seek injunctive relief under certain circumstances; authorizing a court to appoint a receiver under specified conditions; creating s. 559.5474, F.S.; authorizing the office to issue cease and desist orders; creating s. 559.5475, F.S.; permitting specified documents made by a financial examiner to be admitted into evidence under certain conditions; creating s. 559.5476, F.S.; requiring each registrant to maintain business records; authorizing the commission to adopt rules to designate the types of information a registrant must maintain; creating s. 559.5477, F.S.; providing for administrative remedies; specifying the grounds under which a commercial collection agency may have its registration suspended or revoked; permitting a commercial collection agency to terminate its registration; authorizing the office to impose an administrative fine up to \$1,000 per violation; amending s. 559.55, F.S.; providing definitions; amending s. 559.552, F.S., relating to the relationship of state and federal laws; providing for construing interpretations of the Federal Trade Commission and the federal courts when applying state and federal laws and rules relating to consumer collection practices; amending s. 559.553, F.S.; requiring an applicant to provide certain information to register as a consumer collection agency; amending s. 559.555, F.S.; revising application procedures for consumer collection agencies; requiring an applicant to furnish specified information; requiring a surety bond; increasing the registration fee; requiring an applicant to report specified information on crimes and licensure discipline committed by the applicant; listing the grounds for denying an application

for registration; providing that registrations automatically expire; providing procedures for a consumer collection agency to renew its registration; amending s. 559.565, F.S.; providing that an out-of-state consumer collection agency otherwise subject to this state's jurisdiction is subject to sanctions for committing prohibited practices; amending s. 559.72, F.S.; specifying certain activities as prohibited consumer collection practices; amending s. 559.725, F.S.; authorizing the office to conduct investigations of consumer complaints; providing for the examination of a registrant; creating s. 559.726, F.S.; detailing the powers and duties of the office with respect to regulating consumer collection agencies; authorizing the commission to adopt rules; authorizing the office to issue subpoenas and subpoenas duces tecum under certain conditions; providing procedures the office may use when a person does not comply with a subpoena; permitting a court to grant injunctive or other relief when a person does not comply with a subpoena; authorizing the court to award attorney's fees and costs to the office under certain circumstances; creating s. 559.7262, F.S.; authorizing the office to seek injunctive relief under certain circumstances; creating s. 559.7263, F.S.; authorizing the office to issue cease and desist orders; creating s. 559.7264, F.S.; permitting certain documents prepared by a financial examiner to be admitted into evidence under specified conditions; creating s. 559.7265, F.S.; requiring each registrant to maintain business records; authorizing the commission to adopt rules to designate the types of information a registrant must maintain; amending s. 559.730, F.S.; providing administrative remedies for violating prohibited consumer collection practices; specifying the prohibited practices for which a consumer collection agency's registration may be suspended or revoked; providing that a consumer collection agency may terminate its registration; authorizing the office to assess an administrative fine of up to \$1,000 per violation; amending s. 559.77, F.S.; providing for construing interpretations of the Federal Trade Commission and the federal courts when applying state and federal laws and rules; amending s. 559.785, F.S.; specifying certain activities that subject a person to a criminal penalty; making an appropriation; repealing ss. 559.547 and 559.563, F.S., relating to void registrations; providing an effective date.

—was read the third time by title.

On motion by Senator Crist, **CS for CS for SB 2430** was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

**CS for CS for SB 2428**—A bill to be entitled An act relating to public records; creating s. 559.5472, F.S.; creating an exemption from public-records requirements for documents produced during an investigation or examination of a commercial collection agency or consumer collection agency conducted by the Office of Financial Regulation; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Crist, **CS for CS for SB 2428** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—38

Alexander	Aronberg	Bennett
Argenziano	Atwater	Bullard

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

Nays—None

**CS for CS for SB 206**—A bill to be entitled An act relating to the Florida Council on Deafness; creating the Florida Council on Deafness; providing for the appointment of members and the organization of the council; requiring the staff of the Department of Education to assist the council in its duties; providing the role, purpose, powers, duties, and responsibilities of the council; providing an effective date.

—was read the third time by title.

**MOTION**

On motion by Senator Jones, the rules were waived to allow the following amendments to be considered:

Senator Jones moved the following amendments which were adopted by two-thirds vote:

**Amendment 1 (190166)(with title amendment)**—On page 1, line 14, delete “Florida Council on Deafness” and insert: *Florida Coordinating Council for the Deaf and Hard of Hearing*

And the title is amended as follows:

On page 1, lines 2-4, delete “Florida Council on Deafness” and insert: *Florida Coordinating Council for the Deaf and Hard of Hearing*

**Amendment 2 (344796)(with title amendment)**—On page 2, lines 21 and 22, delete “Education shall be assigned by the Commissioner of Education” and insert: *Health shall be assigned by the Secretary of Health*

And the title is amended as follows:

On page 1, line 7, delete “Education” and insert: *Health*

**Amendment 3 (814382)**—On page 3, line 26 through page 4, line 2, delete those lines and insert:

*(c) A review of the feasibility of and necessity for regulation of interpreters and, if found to be feasible and advantageous, a recommendation of standards for licensure. The council shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006, describing its findings and recommendations.*

**Amendment 4 (881072)**—On page 1, line 20 through page 2, line 10, delete those lines and insert:

*(b) The coordinating council shall be composed of 17 members. The appointment of members not representing agencies shall be made by the Governor. The appointment of members representing organizations shall be made by the Governor in consultation with those organizations. The membership shall be as follows:*

1. *Two members representing the Florida Association of the Deaf.*
2. *Two members representing the Florida Association of Self Help for Hard of Hearing People.*
3. *A member representing the Association of Late Deafened Adults.*
4. *An individual who is deaf and blind.*
5. *A parent of an individual who is deaf.*

6. A member representing the Deaf Service Center Association.
7. A member representing the Florida Registry of Interpreters for the Deaf.
8. A member representing the Florida Alexander Graham Bell Association for the Deaf and Hard of Hearing.
9. A communication access realtime translator.
10. An audiologist licensed under part I of chapter 468, Florida Statutes.
11. A hearing aid specialist licensed under part II of chapter 484, Florida Statutes.
12. The Secretary of Children and Family Services or his or her designee.
13. The Secretary of Health or his or her designee.
14. The Commissioner of Education or his or her designee.
15. The Secretary of Elderly Affairs or his or her designee.

If any organization from which a representative is to be drawn ceases to exist, a representative of a similar organization shall be named to the coordinating council. The Governor shall make appointments to the coordinating council no later than August 1, 2004, and may remove any member for cause. Each member shall be appointed to a term of 4 years. However, for the purpose of providing staggered terms, of the initial appointments not representing state agencies, seven members, including the audiologist and the hearing aid specialist, shall be appointed to 2-year terms and six members shall be appointed to 4-year terms. Any vacancy on the coordinating council shall be filled in the same manner as the original appointment, and any member appointed to fill a vacancy occurring because of death, resignation, or ineligibility for membership shall serve only for the unexpired term of the member's predecessor. Prior to serving on the coordinating council, all appointees must attend orientation training that shall address, at a minimum, the provisions of this section; the programs operated by the coordinating council; the role and functions of the coordinating council; the current budget for the coordinating council; the results of the most recent formal audit of the coordinating council; and the requirements of the state's public records law, the code of ethics, the Administrative Procedure Act, and other laws relating to public officials, including conflict-of-interest laws.

(c) It is cause for the removal from the coordinating council of a member who during service on the coordinating council:

1. Is unable to discharge his or her duties for a substantial portion of the term for which he or she is appointed because of illness or disability; or
2. Is absent from more than one-half of the regularly scheduled coordinating council meetings during a calendar year, except when the absence is excused by majority vote of the coordinating council.

(Redesignate subsequent paragraphs.)

**Amendment 5 (842914)**—On page 2, line 16, delete “Seven” and insert: *Nine*

**Amendment 6 (085782)(with title amendment)**—On page 1, between lines 14 and 15, insert:

- (1) For purposes of this section, the term:
  - (a) “Communication access realtime translation” means the instant translation of the spoken word into English text using information technology in which the text appears on a computer monitor or other display.
  - (b) “Coordinating council” means the Florida Coordinating Council for the Deaf and the Hard of Hearing.
  - (c) “Deaf” means having a hearing impairment of such severity that an individual must depend on visual or tactile methods, or both, to communicate.
  - (d) “Hard of hearing” means having a hearing impairment that results in a loss of hearing functions to an individual and in which the

individual: relies on residual hearing that may be sufficient to process linguistic information through audition with or without amplification under favorable listening conditions; depends on visual methods to communicate; depends on assistive listening devices; or has an impairment with other auditory disabling conditions.

(e) “Interpreter” means a provider of accessible and effective communication between and among individuals who are deaf or hard of hearing and between and among such individuals and other persons. This process includes, but is not limited to, communication through American Sign Language and spoken English. It may also involve various other modalities that involve visual, gestural, and tactile methods.

For purposes of this section, individuals with any level of loss of hearing provided in the definitions in this subsection are included in references to deaf or hard of hearing individuals.

(Renumber subsequent subsections.)

And the title is amended as follows:

On page 1, line 4, after the semicolon (;) insert: providing definitions;

**Amendment 7 (651458)**—On page 1, lines 15 and 16, delete “Florida Council on Deafness” and insert: *Florida Coordinating Council for the Deaf and Hard of Hearing*

**Amendment 8 (814140)**—On page 1, lines 17-19, delete those lines and insert: *Health*.

On motion by Senator Fasano, **CS for CS for SB 206** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

**SB 220**—A bill to be entitled An act relating to official state designations; creating s. 15.0465, F.S.; designating the official state flagship; providing an effective date.

—as amended April 22 was read the third time by title.

On motion by Senator Crist, **SB 220** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

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

Villalobos                      Webster                      Wise  
 Wasserman Schultz              Wilson  
 Nays—None

**SB 1596**—A bill to be entitled An act relating to disciplinary procedures applicable to a prisoner for filing frivolous or malicious actions; amending s. 944.279, F.S.; providing that if a court finds that a prisoner brought a frivolous or malicious collateral criminal proceeding that is filed after a specified date, the prisoner is subject to disciplinary procedures under the rules of the Department of Corrections; providing an effective date.

—was read the third time by title.

On motion by Senator Smith, **SB 1596** was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Jones

**SB 2198**—A bill to be entitled An act relating to homestead exemption; amending s. 196.131, F.S.; providing a value-based sliding scale of criminal penalties for claiming homestead exemption if the funds for the homestead were unlawfully obtained through the performance of a fraudulent act; providing an effective date.

—was read the third time by title.

On motion by Senator Saunders, **SB 2198** was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

**CS for SB 2088**—A bill to be entitled An act relating to alarm system contracting; amending s. 633.702, F.S.; providing a criminal penalty for installing, servicing, testing, repairing, improving, or inspecting a fire alarm system without being in compliance with s. 489.5185, F.S.; providing an effective date.

—was read the third time by title.

On motion by Senator Bennett, **CS for SB 2088** was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

**CS for SB 2138**—A bill to be entitled An act relating to the Jessie Trice Cancer Prevention Program within the Department of Health; amending s. 381.91, F.S.; expanding the program statewide; deleting references to pilot programs; providing an effective date.

—was read the third time by title.

On motion by Senator Wilson, **CS for SB 2138** was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

**CS for SB 2562**—A bill to be entitled An act relating to money transmitters; amending s. 560.103, F.S.; defining the term “unsafe and unsound practice” for purposes of the Money Transmitters’ Code to include failure to comply with specified provisions of the Code of Federal Regulations relating to money and finance; amending s. 560.109, F.S.; authorizing the Office of Financial Regulation of the Financial Services Commission to make investigations or examinations to determine a violation of provisions of the Code of Federal Regulations relating to money and finance; amending s. 560.114, F.S.; providing for disciplinary actions for failure to maintain all books, accounts, or other documents pursuant to provisions of the Code of Federal Regulations relating to money and finance; amending s. 560.129, F.S.; providing that financial records or information may be furnished to any law enforcement agency; amending s. 560.208, F.S.; including business by electronic transfer in the business that registrants who sell or issue payment instruments or transmit funds may conduct; exempting, under specified conditions, a registrant who charges a different price for a funds transmission service from a penalty under s. 501.0117; providing an effective date.

—was read the third time by title.

On motion by Senator Dockery, **CS for SB 2562** was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

**CS for SB 2666**—A bill to be entitled An act relating to landlords and tenants; amending s. 83.575, F.S.; providing for tenant liability under a specific duration rental agreement for liquidated damages under certain circumstances; providing criteria for notice by a landlord; providing an effective date.

—was read the third time by title.

On motion by Senator Aronberg, **CS for SB 2666** was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—1

Lynn

**SB 1830**—A bill to be entitled An act relating to Indian reservations; amending s. 285.16, F.S.; specifying that the state’s jurisdiction over criminal offenses committed within Indian reservations does not apply to Indian reservations of the Miccosukee Tribe of Indians of Florida; providing an exception for such reservations with respect to the applicability of civil and criminal laws of the state; reenacting s. 285.061(3), F.S., relating to transfer of land to United States in trust for Seminole and Miccosukee Tribes, to incorporate the amendment to s. 285.16, F.S., in references thereto; providing an effective date.

—was read the third time by title.

On motion by Senator Smith, **SB 1830** was passed and certified to the House. The vote on passage was:

Yeas—30

Argenziano	Crist	Hill
Aronberg	Dawson	Klein
Atwater	Diaz de la Portilla	Lawson
Bennett	Dockery	Lee
Campbell	Fasano	Margolis
Clary	Garcia	Miller
Constantine	Geller	Peaden
Cowin	Haridopolos	Pruitt

Saunders	Smith	Wasserman Schultz
Siplin	Villalobos	Wilson

Nays—7

Alexander	Lynn	Webster
Bullard	Posey	Wise
Carlton		

Vote after roll call:

Yea—Jones

**CS for CS for SB 2340**—A bill to be entitled An act relating to administrative procedure; amending s. 120.55, F.S.; requiring forms incorporated by reference to display specified information; requiring electronic publication of the Florida Administrative Weekly on an Internet website managed by the Department of State; prescribing content and website search requirements; providing for free public access to such website; providing guidelines for publishing, revising guidelines for distributing, and specifying the funding source for the print version of the Florida Administrative Weekly; amending s. 120.551, F.S.; postponing the repeal of such section; providing for training courses for agencies currently publishing materials in the Florida Administrative Weekly; providing effective dates.

—was read the third time by title.

On motion by Senator Bennett, **CS for CS for SB 2340** was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

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

**SPECIAL ORDER CALENDAR**

On motion by Senator Alexander—

**CS for CS for CS for CS for SB 2488**—A bill to be entitled An act relating to the Florida Hurricane Catastrophe Fund; amending s. 215.555, F.S.; redefining and defining terms; providing for the State Board of Administration to specify interest due on delinquent remittances; revising conditions of, amounts of, and procedures relating to reimbursement contracts; revising maximum rates of, procedures relating to, and types of insurance subject to emergency assessments; revising provisions relating to reinsurance; deleting expired provisions; providing effective dates.

—was read the second time by title.

Senator Campbell moved the following amendment:

**Amendment 1 (752628)(with title amendment)**—On page 31, between lines 9 and 10, insert:

Section 3. *No later than December 31, 2005, each insurer writing a covered policy as defined in section 215.555(2)(c), Florida Statutes, shall submit to the Office of Insurance Regulation a rate filing for the line of*

insurance insuring a covered policy under this section reflecting the overall rate reduction or increase due to the provisions of this act. Such rate reduction or increase applies retroactively to policies issued or renewed on or after the effective date of this act.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 12, after the second semicolon (;) insert: requiring insurers to submit a rate filing to the Office of Insurance Regulation which conforms to the provisions of the act; providing for retroactive application;

#### MOTION

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

Senator Alexander moved the following substitute amendment:

**Amendment 2 (751428)(with title amendment)**—On page 31, between lines 9 and 10, insert:

Section 3. *Each insurer writing a covered policy as defined in section 215.555(2)(c), Florida Statutes, shall include an appropriate adjustment, if any, to reflect the provisions of this act not later than its next annual rate filing or a certification as provided in section 627.0645, Florida Statutes, for each line of insurance that includes covered policies under section 215.555, Florida Statutes. No adjustment is necessary if the rates are in compliance with the requirements of section 627.062, Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 12, after the second semicolon (;) insert: requiring insurers to make a rate filing or certification for policies covered under the act;

#### MOTION

Senator Campbell moved that the rules be waived to allow consideration of the late filed amendment 172684. The motion failed, therefore the amendment was not considered.

The question recurred on **Amendment 2** which was adopted.

Pursuant to Rule 4.19, **CS for CS for CS for CS for SB 2488** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Villalobos, by two-thirds vote **HB 869** was withdrawn from the Committees on Criminal Justice; Judiciary; Appropriations Subcommittee on Criminal Justice; and Appropriations.

On motion by Senator Villalobos—

**HB 869**—A bill to be entitled An act relating to adjudication of guilt; creating s. 775.08435, F.S.; prohibiting the withholding of adjudication of guilt upon defendants in felony cases in certain circumstances; providing exceptions; providing for appellate review in certain circumstances; amending s. 924.07, F.S.; providing for the state's right to appeal the withholding of adjudication in certain circumstances; repealing Rule 3.670, Florida Rules of Criminal Procedure, relating to rendition of judgment, to the extent of inconsistency with the act; providing for applicability; providing an effective date.

—a companion measure, was substituted for **CS for SB 2552** and read the second time by title.

Pursuant to Rule 4.19, **HB 869** was placed on the calendar of Bills on Third Reading.

#### THE PRESIDENT PRESIDING

**SB 1792**—A bill to be entitled An act relating to the Criminal Justice Standards and Training Commission; amending s. 943.11, F.S.; revising

the membership of the commission; amending s. 943.1395, F.S.; providing for the inspection and copying of certain records; tolling certain time limitations regarding investigations; authorizing an officer who is under investigation, or the office's attorney, to review certain documents regarding the investigation; requiring the commission to periodically conduct a workshop and review disciplinary guidelines; providing for an advisory panel; requiring the Criminal Justice Professionalism Program within the Department of Law Enforcement to review disciplinary penalties imposed against an officer by an employing agency; providing for the adoption of rules; providing an effective date.

—was read the second time by title.

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

**Amendment 1 (364756)**—On page 5, lines 18 and 19, delete those lines and insert: *commission shall adopt rules establishing procedures for administering this subsection.*

On motion by Senator Garcia, further consideration of **SB 1792** with pending **Amendment 1 (364756)** was deferred.

On motion by Senator Atwater—

**CS for CS for CS for SB 708**—A bill to be entitled An act relating to local government accountability; amending s. 11.40, F.S.; revising duties of the Legislative Auditing Committee; amending s. 11.45, F.S.; specifying requirements for a petition for a municipal audit; revising reporting requirements of the Auditor General; providing for technical advice by the Auditor General; amending s. 11.51, F.S.; conforming provisions to changes made by the act; amending s. 61.181, F.S.; correcting a cross-reference; amending s. 75.05, F.S.; deleting a requirement for an independent special district to submit a copy of a complaint to the Division of Bond Finance of the State Board of Administration; amending s. 112.08, F.S.; clarifying that local governments are authorized to provide health insurance; amending s. 112.625, F.S.; revising the definition of "governmental entity" to include counties and district school boards; amending s. 112.63, F.S.; providing for additional material information to be provided to the Department of Management Services in actuarial reports with regard to retirement systems and plans and providing procedures therefor; providing for notification of the Department of Revenue and the Department of Financial Services in cases of non-compliance and authorizing the withholding of certain funds; requiring the Department of Management Services to notify the Department of Community Affairs in the case of affected special districts; amending s. 130.04, F.S.; revising provisions governing notice of bids and disposition of bonds; amending s. 132.02, F.S.; revising provisions relating to the authorization to issue refund bonds; amending s. 132.09, F.S.; revising provisions relating to the notice of sale, bids, and awards and private sale of bonds; amending s. 163.05, F.S.; revising provisions governing the Small County Technical Assistance Program; amending s. 166.121, F.S.; revising provisions governing the issuance of bonds by a municipality; amending s. 166.241, F.S.; providing a municipal budget amendment process and requirements; amending ss. 175.261 and 185.221, F.S.; conforming provisions to changes made by the act; amending s. 189.4044, F.S.; revising special procedures for determination of inactive special districts; amending s. 189.412, F.S.; revising duties of the Special District Information Program of the Department of Community Affairs; amending s. 189.418, F.S.; revising reporting requirements of newly created special districts; authorizing the governing body of a special district to amend its budget; amending s. 189.419, F.S.; revising provisions relating to the failure of special districts to file required reports; amending s. 189.421, F.S.; revising provisions governing the failure of special districts to disclose financial reports; providing for extension of time for the filing of the reports; providing remedies for noncompliance; providing for attorney's fees and costs; amending s. 189.428, F.S.; revising provisions governing the special district oversight review process; amending s. 189.439, F.S.; revising provisions governing the issuance of bonds by special districts; amending s. 191.005, F.S.; exempting a candidate from campaign requirements under specified conditions; providing for the removal of a board member upon becoming unqualified; amending s. 218.075, F.S.; revising provisions governing the reduction or waiver of permit processing fees for certain counties; amending s. 218.32, F.S., relating to annual financial reports; requiring the Department of Financial Services to notify the Speaker of the House of Representatives and the President of the Senate of any municipality that has

not had financial activity for a specified period of time; providing that such notice is sufficient to initiate dissolution procedures; repealing s. 218.321, F.S., relating to annual financial statements of local governmental entities; amending s. 218.39, F.S.; providing reporting requirements for certain special districts; amending s. 218.36, F.S.; revising reporting requirements for boards of county commissioners relating to the failure of a county officer to comply with the provisions of the section; amending s. 218.369, F.S.; revising the definition of "unit of local government" to include district school boards; renaming pt. V of ch. 218, F.S., as "Local Governmental Entity and District School Board Financial Emergencies"; amending s. 218.50, F.S.; renaming ss. 218.50-218.504, F.S., as the "Local Governmental Entity and District School Board Act"; amending s. 218.501, F.S.; revising the stated purposes of pt. V of ch. 218, F.S.; amending s. 218.502, F.S.; revising the definition of "local governmental entity"; amending s. 218.503, F.S.; revising provisions governing the determination of a financial emergency for local governments and district school boards; amending s. 218.504, F.S.; revising provisions relating to the authority of the Governor and authorizing the Commissioner of Education to terminate all state actions pursuant to ss. 218.50-218.504, F.S.; repealing ch. 131, F.S., consisting of ss. 131.01, 131.02, 131.03, 131.04, 131.05, and 131.06, F.S., relating to refunding bonds of counties, municipalities, and special districts; repealing s. 132.10, F.S., relating to minimum sale price of bonds; repealing s. 165.052, F.S., relating to special dissolution procedures for municipalities; repealing s. 189.409, F.S., relating to determination of financial emergencies of special districts; repealing s. 189.422, F.S., relating to actions of the Department of Community Affairs and special districts; repealing s. 200.0684, F.S., relating to an annual compliance report of the Department of Community Affairs regarding special districts; repealing s. 218.37(1)(h), F.S., relating to the requirement that the Division of Bond Finance use a served copy of the complaint for bond validation to verify compliance by special districts with the requirements in s. 218.38, F.S.; amending s. 215.195, F.S., relating to the Statewide Cost Allocation Plan; providing that the Department of Financial Services is responsible for the plan's preparation and the monitoring of agency compliance; amending s. 1010.47, F.S.; providing that school districts must sell bonds; deleting obsolete provisions relating to the sale of bonds by a school district; amending s. 288.9610, F.S.; correcting a cross-reference; repealing s. 373.556, F.S., relating to the investment of funds by the governing board of a water management district; providing an effective date.

—was read the second time by title.

Senator Atwater moved the following amendment which was adopted:

**Amendment 1 (840254)**—On page 43, lines 22 and 25, delete "basic" and insert: *fund*

Senator Bullard moved the following amendment which was adopted:

**Amendment 2 (895182)(with title amendment)**—On page 52, between lines 19 and 20, insert:

Section 47. *Pilot program; Monroe County.*—

(1) *The Legislature has determined that insurers and managed care organizations are unable to provide adequate or affordable health insurance coverage in rural counties and other isolated areas of the state. It is therefore necessary to explore alternatives for making affordable health insurance coverage available in rural counties and other similar areas of the state.*

(2) *An entity in Monroe County, established pursuant to section 381.0406, Florida Statutes, may, through a nonprofit corporation, establish a self-insurance plan approved by the Office of Insurance Regulation in accordance with section 112.08 (2)(b), Florida Statutes, to insure residents of a rural county or similar area if the residents are unable to obtain adequate or affordable health insurance coverage. Premiums charged by the self-insurance plan for participating residents or employers shall be actuarially sound. In reviewing such a self-insurance plan, the office shall consult with the Department of Health to confirm that the program is consistent with the purpose and scope of chapter 381, Florida Statutes.*

(3) *The entity in Monroe County which establishes this program shall, in addition to the reporting requirements set forth in section 112.08(2)(b), Florida Statutes, prepare an evaluation of the pilot program, including recommendations for the future of the program, and*

*submit the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Department of Health, and the office no later than January 1, 2006.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 5, line 20, after the semicolon (;) insert: authorizing a pilot program to be established by a rural health network in Monroe County; providing for approval by the Office of Insurance Regulation of the Financial Services Commission; requiring a report by a specified date;

Pursuant to Rule 4.19, **CS for CS for CS for SB 708** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

**SB 1716**—A bill to be entitled An act relating to the Classrooms for Kids Program; amending s. 1013.735, F.S.; modifying the formula to be used in allocating funds from the Classrooms for Kids appropriation; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1716** was placed on the calendar of Bills on Third Reading.

On motion by Senator Garcia, the Senate resumed consideration of—

**SB 1792**—A bill to be entitled An act relating to the Criminal Justice Standards and Training Commission; amending s. 943.11, F.S.; revising the membership of the commission; amending s. 943.1395, F.S.; providing for the inspection and copying of certain records; tolling certain time limitations regarding investigations; authorizing an officer who is under investigation, or the office's attorney, to review certain documents regarding the investigation; requiring the commission to periodically conduct a workshop and review disciplinary guidelines; providing for an advisory panel; requiring the Criminal Justice Professionalism Program within the Department of Law Enforcement to review disciplinary penalties imposed against an officer by an employing agency; providing for the adoption of rules; providing an effective date.

—which was previously considered this day. Pending **Amendment 1 (364756)** by the Committee on Criminal Justice was adopted.

Pursuant to Rule 4.19, **SB 1792** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

**RECESS**

On motion by Senator Villalobos, the Senate recessed at 11:57 a.m. to reconvene at 1:00 p.m.

**AFTERNOON SESSION**

The Senate was called to order by the President at 1:25 p.m. A quorum present—39:

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

Smith Wasserman Schultz Wilson  
Villalobos Webster Wise

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

### BILLS ON THIRD READING

**CS for SB 1062**—A bill to be entitled An act relating to health care facilities; creating s. 400.0712, F.S.; authorizing the Agency for Health Care Administration to issue inactive licenses to nursing homes for all or a portion of their beds under certain circumstances; providing requirements for application for and issuance of such licenses; providing rulemaking authority; amending s. 400.071, F.S.; deleting a provision relating to issuance of inactive licenses, to conform; amending s. 400.021, F.S.; redefining the term “resident care plan,” as used in part II of ch. 400, F.S.; amending s. 400.23, F.S.; providing that certain information from the agency must be promptly updated to reflect the most current agency actions; amending s. 400.211, F.S.; revising inservice training requirements for persons employed as nursing assistants in a nursing home facility; amending s. 400.9905, F.S.; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 400.441, F.S.; requiring facilities to conduct a minimum number of resident elopement prevention and response drills annually; amending s. 408.034, F.S.; requiring the nursing-home-bed-need methodology established by the agency by rule to include a goal of maintaining a specified subdistrict average occupancy rate; amending s. 408.036, F.S., relating to health-care-related projects subject to review for a certificate of need; subjecting certain projects relating to replacement of a nursing home and relocation of nursing home beds to expedited review; revising requirements for certain projects relating to the addition of nursing home beds which are exempt from review; exempting from review certain projects relating to replacement of a licensed nursing home bed on the same site or nearby and consolidation or combination of licensed nursing homes or transfer of beds between licensed nursing homes within the same planning subdistrict; providing rulemaking authority; providing for assessment of exemption-request fees; amending s. 52, ch. 2001-45, Laws of Florida; specifying nonapplication of a moratorium on certificates of need and authorizing approval of certain certificates of need for certain counties under certain circumstances; providing review requirements and bed limitations; amending s. 651.118, F.S.; revising provisions relating to use of sheltered nursing home beds at a continuing care facility by persons who are not residents of the continuing care facility; amending s. 395.003, F.S.; requiring a report by the Agency for Health Care Administration regarding the licensure of emergency departments located off the premises of hospitals; prohibiting the issuance of licenses for such departments before July 1, 2005; amending s. 430.701, F.S.; providing legislative intent relating to the Department of Elderly Affairs approving service providers; amending s. 400.601, F.S.; redefining the term “hospice” as used in part VI of ch. 400, F.S.; amending s. 400.9935, F.S.; providing for posting of signs in health care facilities relating to rewards for information concerning certain crimes; providing for inspections by an employee of the Division of Insurance Fraud; amending s. 400.9905, F.S.; redefining the term “clinic”; amending s. 400.991, F.S.; changing the date by which an initial application for a health care clinic license must be filed with the Agency for Health Care Administration; making conforming changes to the requirement that qualified applicants receive a temporary license; providing for retroactive application; providing an effective date.

—as amended April 21 was read the third time by title.

### SENATOR WEBSTER PRESIDING

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

**Amendment 1 (184958)(with title amendment)**—On page 7, line 4 through page 8, line 3, delete those lines and insert:

Section 5. Subsection (4) of section 400.211, Florida Statutes, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(4) When employed by a nursing home facility for a 12-month period or longer, a nursing assistant, ~~to maintain certification,~~ shall submit to a performance review every 12 months and must receive regular inservice education based on the outcome of ~~these such~~ reviews. The inservice training must:

(a) Be sufficient to ensure the continuing competence of nursing assistants *and must meet the standard specified in s. 464.203(7), must be at least 18 hours per year, and may include hours accrued under s. 464.203(8);*

(b) Include, at a minimum:

1. Techniques for assisting with eating and proper feeding;
2. Principles of adequate nutrition and hydration;
3. Techniques for assisting and responding to the cognitively impaired resident or the resident with difficult behaviors;
4. Techniques for caring for the resident at the end-of-life; and
5. Recognizing changes that place a resident at risk for pressure ulcers and falls; and

(c) Address areas of weakness as determined in nursing assistant performance reviews and may address the special needs of residents as determined by the nursing home facility staff.

Costs associated with this training may not be reimbursed from additional Medicaid funding through interim rate adjustments.

Section 6. Subsection (1) of section 464.203, Florida Statutes, is amended, and subsections (8) and (9) are added to that section, to read:

464.203 Certified nursing assistants; certification requirement.—

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required ~~background Level I or Level II screening in subsection (8) pursuant to s. 400.215~~ and who meets one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department and:

1. Has a high school diploma, or its equivalent; or
2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state’s certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

(d) Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department.

(8) For purposes of this section, background screening shall include:

(a) A determination whether the person seeking the certificate has committed any act that would constitute grounds for disciplinary sanctions as provided in s. 464.204(1); and

(b)1. For persons who have continuously resided in this state for the 5 years immediately preceding the date of screening, level 1 screening as set forth in chapter 435; or

2. For persons who have not continuously resided in this state for the 5 years immediately preceding the date of screening, level 2 screening as set forth in chapter 435.

(9) Beginning January 1, 2005, the Department of Health and the Agency for Health Care Administration shall, after certification of an applicant, post information relating to background screening on the agency's background-screening database, which shall be available only to employers and prospective employers, who, as a condition of employment, are required by law to conduct a background check for the employment of certified nursing assistants.

Section 7. Subsection (5) of section 400.215, Florida Statutes, is amended to read:

400.215 Personnel screening requirement.—

(5) Any provision of law to the contrary notwithstanding, persons who have been screened and qualified as required by this section or s. 464.203 and who have not been unemployed for more than 180 days thereafter, and who under penalty of perjury attest to not having been convicted of a disqualifying offense since the completion of such screening, shall not be required to be rescreened. *For purposes of this subsection, screened and qualified under s. 464.203 means that the person subject to such screening at the time of certification by the Board of Nursing does not have any disqualifying offense under chapter 435 or has received an exemption from any disqualification under chapter 435 from the Board of Nursing.* An employer may obtain, under pursuant to s. 435.10, written verification of qualifying screening results from the previous employer or other entity which caused the such screening to be performed.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 20, after the semicolon (;) insert: amending s. 464.203, F.S.; providing that a person must pass the required background screening as a part of the certification process for certified nursing assistants; revising the requirements for conducting the background screening; requiring the Agency for Health Care Administration to post information relating to background screening in its database, after January 1, 2005; requiring that the database be available to employers and prospective employers; amending s. 400.215, F.S.; providing that a person who has been screened under certain provisions of law is not required to be rescreened to be employed in a nursing home;

Senator Bennett moved the following amendments which were adopted by two-thirds vote:

**Amendment 2 (513726)(with title amendment)**—On page 15, between lines 29 and 30, insert:

Section 9. Subsection (13) of section 400.619, Florida Statutes, is amended to read:

400.619 Licensure application and renewal.—

(13) All moneys collected under this section must be deposited into the Department of Elderly Affairs Administrative Trust Fund ~~and used to offset the expenses of departmental training and education for adult family-care home providers.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 29, after the semicolon (;) insert: amending s. 400.619, F.S.; removing the requirement that moneys collected by the Department of Elderly Affairs be used for training and education of adult family-care home providers;

**Amendment 3 (820796)(with title amendment)**—On page 23, line 28 through page 24, line 4, delete those lines and insert:

(2) *The agency may seek federal approval in advance of approval of its formal waiver application to limit the diversion provider network by freezing enrollment of providers at current levels when an area already has three or more providers or, in an expansion area, when enrollment reaches a level of three providers. This subsection does not prevent the*

And the title is amended as follows:

On page 3, lines 5-7, delete those lines and insert: amending s. 430.701, F.S.; authorizing the agency to seek federal approval to limit new enrollment to the diversion provider network under certain circumstances; providing that the Department of Elderly Affairs is not constrained from approving certain service expansion by an approved provider;

**Amendment 4 (893376)(with title amendment)**—On page 24, lines 8-16, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 3, lines 8 and 9, delete those lines.

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

**Amendment 5 (890312)(with title amendment)**—On page 24, line 17 through page 25, line 4, delete those lines and insert:

Section 16. Subsection (13) is added to section 400.9935, Florida Statutes, to read:

400.9935 Clinic responsibilities.—

(13) *The clinic shall display a sign in a conspicuous location within the clinic readily visible to all patients indicating that pursuant to s. 626.9892, the Department of Financial Services may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the Division of Insurance Fraud arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized employee of the Division of Insurance Fraud may make unannounced inspections of clinics licensed pursuant to this part as are necessary to determine that the clinic is in compliance with this subsection. A licensed clinic shall allow full and complete access to the premises to such authorized employee of the division who makes an inspection to determine compliance with this subsection.*

Section 17. Section 395.1053, Florida Statutes, is created to read:

395.1053 *Notice of reward to be posted.—Each hospital shall display a sign in a conspicuous location within the hospital readily visible to all patients indicating that, pursuant to s. 626.9892, the Department of Financial Services may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the Division of Insurance Fraud arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized employee of the Division of Insurance Fraud may make unannounced inspections of any hospital as are necessary to determine that the hospital is in compliance with this section. A hospital shall allow full and complete access to the premises to such authorized employee of the division who makes an inspection to determine compliance with this section.*

Section 18. *A physician-operated walk-in clinic that operates with or without appointments and with extended hours and that does not hold itself out to the public as an emergency center shall display a sign in a conspicuous location within the clinic readily visible to all patients indicating that, pursuant to section 626.9892, Florida Statutes, the Department of Financial Services may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the Division of Insurance Fraud arising from violations of section 440.105, Florida Statutes, section 624.15, Florida Statutes, section 626.9541, Florida Statutes, section 626.989, Florida Statutes, or section 817.234, Florida Statutes. An authorized employee of the Division of Insurance Fraud may make unannounced inspections of any walk-in clinic as are necessary to determine that the clinic is in compliance with this section. A walk-in clinic shall allow full and complete access to the premises to such authorized employee of the division who makes an inspection to determine compliance with this section.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, lines 10-14, delete those lines and insert: amending s. 400.9935, F.S.; providing for posting of signs in health care facilities

relating to rewards for information concerning specified crimes investigated by the Division of Insurance Fraud; providing for inspections by an employee of the division; creating s. 395.1053, F.S.; providing for posting of signs in hospitals relating to rewards for information concerning specified crimes investigated by the Division of Insurance Fraud; providing for inspections by an employee of the division; providing for posting of signs in physician-operated walk-in clinics relating to rewards for information concerning specified crimes investigated by the Division of Insurance Fraud; providing for inspections by an employee of the division;

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

**Amendment 6 (613002)**—On page 26, line 11, delete “18” and insert: “20”

#### MOTION

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

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

**Amendment 7 (812402)(with title amendment)**—On page 26, between lines 9 and 10, insert:

Section 19. *Sections 19 through 35 of this act may be cited as the “Clara Ramsey Care of the Elderly Act.”*

Section 20. *Certified Geriatric Specialist Preparation Pilot Program.*—

(1) *The Agency for Workforce Innovation shall establish a pilot program for delivery of geriatric nursing education to certified nursing assistants who wish to become certified geriatric specialists. The agency shall select two pilot sites in nursing homes that have received the Gold Seal designation under section 400.235, Florida Statutes; have been designated as a teaching nursing home under section 430.80, Florida Statutes; or have not received a class I or class II deficiency within the 30 months preceding application for this program.*

(2) *To be eligible to receive geriatric nursing education, a certified nursing assistant must have been employed by a participating nursing home for at least 1 year and must have received a high school diploma or its equivalent.*

(3) *The education shall be provided at the worksite and in coordination with the certified nursing assistant’s work schedule.*

(4) *Faculty shall provide the instruction under an approved nursing program pursuant to section 464.019, Florida Statutes.*

(5) *The education must be designed to prepare the certified nursing assistant to meet the requirements for certification as a geriatric specialist. The didactic and clinical education must include all portions of the practical nursing curriculum pursuant to section 464.019, Florida Statutes, except for pediatric and obstetric/maternal-child education, and must include additional education in the care of ill, injured, or infirm geriatric patients and the maintenance of health, the prevention of injury, and the provision of palliative care for geriatric patients.*

Section 21. *Certified Geriatric Specialty Nursing Initiative Steering Committee.*—

(1) *In order to guide the implementation of the Certified Geriatric Specialist Preparation Pilot Program, there is created a Certified Geriatric Specialty Nursing Initiative Steering Committee. The steering committee shall be composed of the following members:*

- (a) *The chair of the Board of Nursing or his or her designee;*
- (b) *A representative of the Agency for Workforce Innovation, appointed by the Director of Workforce Innovation;*
- (c) *A representative of Workforce Florida, Inc., appointed by the chair of the Board of Directors of Workforce Florida, Inc.;*

(d) *A representative of the Department of Education, appointed by the Commissioner of Education;*

(e) *A representative of the Department of Health, appointed by the Secretary of Health;*

(f) *A representative of the Agency for Health Care Administration, appointed by the Secretary of Health Care Administration;*

(g) *The Director of the Florida Center for Nursing;*

(h) *A representative of the Department of Elderly Affairs, appointed by the Secretary of Elderly Affairs; and*

(i) *A representative of a Gold Seal nursing home that is not one of the pilot program sites, appointed by the Secretary of Health Care Administration.*

(2) *The steering committee shall:*

(a) *Provide consultation and guidance to the Agency for Workforce Innovation on matters of policy during the implementation of the pilot program; and*

(b) *Provide oversight to the evaluation of the pilot program.*

(3) *Members of the steering committee are entitled to reimbursement for per diem and travel expenses under section 112.061, Florida Statutes.*

(4) *The steering committee shall complete its activities by June 30, 2007, and the authorization for the steering committee ends on that date.*

Section 22. *Evaluation of the Certified Geriatric Specialist Preparation Pilot Program.*—*The Agency for Workforce Innovation, in consultation with the Certified Geriatric Specialty Nursing Initiative Steering Committee, shall conduct or contract for an evaluation of the pilot program. The agency shall ensure that an evaluation report is submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2007. The evaluation must address the experience and success of the certified nursing assistants in the pilot program and must contain recommendations regarding the expansion of the delivery of geriatric nursing education in nursing homes.*

Section 23. *Reports.*—*The Agency for Workforce Innovation shall submit status reports and recommendations regarding legislation necessary to further the implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives on January 1, 2005, January 1, 2006, and January 1, 2007.*

Section 24. Section 464.0125, Florida Statutes, is created to read:

464.0125 *Certified geriatric specialists; certification requirements.*—

(1) **DEFINITIONS; RESPONSIBILITIES.**—

(a) *As used in this section, the term:*

1. *“Certified geriatric specialist” means a person who meets the qualifications specified in this section and who is certified by the board to practice as a certified geriatric specialist.*

2. *“Geriatric patient” means any patient who is 60 years of age or older.*

3. *“Practice of certified geriatric specialty nursing” means the performance of selected acts in facilities licensed under part II or part III of chapter 400, including the administration of treatments and medications, in the care of ill, injured, or infirm geriatric patients and the promotion of wellness, maintenance of health, and prevention of illness of geriatric patients under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist. The scope of practice of a certified geriatric specialist includes the practice of practical nursing as defined in s. 464.003 for geriatric patients only, except for any act in which instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing is required. A certified geriatric specialist, while providing nursing services in facilities licensed under part II or part III of chapter 400, may supervise the activities of certified nursing assistants and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the board.*

(b) *The certified geriatric specialist shall be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in performing certified geriatric specialty nursing.*

(2) **CERTIFICATION.—**

(a) *Any certified nursing assistant desiring to be certified as a certified geriatric specialist must apply to the department and submit proof that he or she holds a current certificate as a certified nursing assistant under part II of this chapter and has satisfactorily completed the following requirements:*

1. *Is in good mental and physical health, is a recipient of a high school diploma or its equivalent; has completed the requirements for graduation from an approved program for nursing or its equivalent, as determined by the board, for the preparation of licensed practical nurses, except for instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing; and has completed additional education in the care of ill, injured, or infirm geriatric patients, the maintenance of health, the prevention of injury, and the provision of palliative care for geriatric patients. By September 1, 2004, the Board of Nursing shall adopt rules establishing the core competencies for the additional education in geriatric care. Any program that is approved on July 1, 2004, by the board for the preparation of registered nurses or licensed practical nurses may provide education for the preparation of certified geriatric specialists without further board approval.*

2. *Has the ability to communicate in the English language, which may be determined by an examination given by the department.*

3. *Has provided sufficient information, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.*

(b) *Each applicant who meets the requirements of this subsection is, unless denied pursuant to s. 464.018, entitled to certification as a certified geriatric specialist. The board must certify, and the department must issue a certificate to practice as a certified geriatric specialist to, any certified nursing assistant who meets the qualifications set forth in this section. The board shall establish an application fee not to exceed \$100 and a biennial renewal fee not to exceed \$50. The board may adopt rules to administer this section.*

(c) *A person receiving certification under this section shall:*

1. *Work only within the confines of a facility licensed under part II or part III of chapter 400.*

2. *Care for geriatric patients only.*

3. *Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018.*

(3) **ARTICULATION.—***Any certified geriatric specialist who completes the additional instruction and coursework in an approved nursing program pursuant to s. 464.019 for the preparation of practical nursing in the areas of pediatric nursing and obstetric/maternal-child nursing is, unless denied pursuant to s. 464.018, entitled to licensure as a licensed practical nurse if the applicant otherwise meets the requirements of s. 464.008.*

(4) **TITLES AND ABBREVIATIONS; RESTRICTIONS; PENALTIES.—**

(a) *Only persons who hold certificates to practice as certified geriatric specialists in this state or who are performing services within the practice of certified geriatric specialty nursing pursuant to the exception set forth in s. 464.022(8) may use the title "Certified Geriatric Specialist" and the abbreviation "C.G.S."*

(b) *A person may not practice or advertise as, or assume the title of, certified geriatric specialist or use the abbreviation "C.G.S." or take any other action that would lead the public to believe that person is certified as such or is performing services within the practice of certified geriatric specialty nursing pursuant to the exception set forth in s. 464.022(8), unless that person is certified to practice as such.*

(c) *A violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

(5) **VIOLATIONS AND PENALTIES.—***Practicing certified geriatric specialty nursing, as defined in this section, without holding an active certificate to do so constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 25. Paragraph (b) of subsection (1) of section 381.00315, Florida Statutes, is amended to read:

381.00315 Public health advisories; public health emergencies.—The State Health Officer is responsible for declaring public health emergencies and issuing public health advisories.

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

(b) "Public health emergency" means any occurrence, or threat thereof, whether natural or man made, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters. Prior to declaring a public health emergency, the State Health Officer shall, to the extent possible, consult with the Governor and shall notify the Chief of Domestic Security Initiatives as created in s. 943.03. The declaration of a public health emergency shall continue until the State Health Officer finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and he or she terminates the declaration. However, a declaration of a public health emergency may not continue for longer than 60 days unless the Governor concurs in the renewal of the declaration. The State Health Officer, upon declaration of a public health emergency, may take actions that are necessary to protect the public health. Such actions include, but are not limited to:

1. Directing manufacturers of prescription drugs or over-the-counter drugs who are permitted under chapter 499 and wholesalers of prescription drugs located in this state who are permitted under chapter 499 to give priority to the shipping of specified drugs to pharmacies and health care providers within geographic areas that have been identified by the State Health Officer. The State Health Officer must identify the drugs to be shipped. Manufacturers and wholesalers located in the state must respond to the State Health Officer's priority shipping directive before shipping the specified drugs.

2. Notwithstanding chapters 465 and 499 and rules adopted thereunder, directing pharmacists employed by the department to compound bulk prescription drugs and provide these bulk prescription drugs to physicians and nurses of county health departments or any qualified person authorized by the State Health Officer for administration to persons as part of a prophylactic or treatment regimen.

3. Notwithstanding s. 456.036, temporarily reactivating the inactive license of the following health care practitioners, when such practitioners are needed to respond to the public health emergency: physicians licensed under chapter 458 or chapter 459; physician assistants licensed under chapter 458 or chapter 459; *certified geriatric specialists certified under part I of chapter 464*; licensed practical nurses, registered nurses, and advanced registered nurse practitioners licensed under part I of chapter 464; respiratory therapists licensed under part V of chapter 468; and emergency medical technicians and paramedics certified under part III of chapter 401. Only those health care practitioners specified in this paragraph who possess an unencumbered inactive license and who request that such license be reactivated are eligible for reactivation. An inactive license that is reactivated under this paragraph shall return to inactive status when the public health emergency ends or prior to the end of the public health emergency if the State Health Officer determines that the health care practitioner is no longer needed to provide services during the public health emergency. Such licenses may only be reactivated for a period not to exceed 90 days without meeting the requirements of s. 456.036 or chapter 401, as applicable.

4. Ordering an individual to be examined, tested, vaccinated, treated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to public health. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to quarantine.

a. Examination, testing, vaccination, or treatment may be performed by any qualified person authorized by the State Health Officer.

b. If the individual poses a danger to the public health, the State Health Officer may subject the individual to quarantine. If there is no practical method to quarantine the individual, the State Health Officer may use any means necessary to vaccinate or treat the individual.

Any order of the State Health Officer given to effectuate this paragraph shall be immediately enforceable by a law enforcement officer under s. 381.0012.

Section 26. Subsection (14) of section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

(14) “Nursing service” means such services or acts as may be rendered, directly or indirectly, to and in behalf of a person by individuals as defined in ss. ~~§~~ 464.003 and 464.0125.

Section 27. Subsection (1) of section 400.211, Florida Statutes, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(1) To serve as a nursing assistant in any nursing home, a person must be certified as a nursing assistant under part II of chapter 464, unless the person is a registered nurse, a ~~or~~ practical nurse, or a *certified geriatric specialist certified* or licensed in accordance with part I of chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules adopted by the Board of Nursing pursuant to part I of chapter 464.

Section 28. Paragraphs (a) and (c) of subsection (3) of section 400.23, Florida Statutes, are amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(3)(a) The agency shall adopt rules providing for the minimum staffing requirements for nursing homes. These requirements shall include, for each nursing home facility, a minimum certified nursing assistant staffing of 2.3 hours of direct care per resident per day beginning January 1, 2002, increasing to 2.6 hours of direct care per resident per day beginning January 1, 2003, and increasing to 2.9 hours of direct care per resident per day beginning May 1, 2004. Beginning January 1, 2002, no facility shall staff below one certified nursing assistant per 20 residents, and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident per day but never below one licensed nurse per 40 residents. ~~For purposes of computing nursing staffing minimums and ratios, certified geriatric specialists shall be considered licensed nursing staff. Nursing assistants employed never below one licensed nurse per 40 residents.~~ Nursing assistants employed under s. 400.211(2) may be included in computing the staffing ratio for certified nursing assistants only if they provide nursing assistance services to residents on a full-time basis. Each nursing home must document compliance with staffing standards as required under this paragraph and post daily the names of staff on duty for the benefit of facility residents and the public. The agency shall recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants, provided that the facility otherwise meets the minimum staffing requirements for licensed nurses and that the licensed nurses so recognized are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted towards the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and shall not also be counted towards the minimum staffing requirements for licensed nurses. If the agency approved a facility's request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. In no event may the hours of a licensed nurse with dual job responsibilities be counted twice.

(c) Licensed practical nurses licensed under chapter 464 who are providing nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, *certified geriatric specialists*, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

Section 29. Paragraph (b) of subsection (2) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be affected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(2)

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care.

1. Changes of ownership or of licensed operator do not qualify for increases in reimbursement rates associated with the change of ownership or of licensed operator. The agency shall amend the Title XIX Long Term Care Reimbursement Plan to provide that the initial nursing home reimbursement rates, for the operating, patient care, and MAR components, associated with related and unrelated party changes of ownership or licensed operator filed on or after September 1, 2001, are equivalent to the previous owner's reimbursement rate.

2. The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling, and the indirect care subcomponent shall be limited by the lower of the cost-based class ceiling, by the target rate class ceiling, or by the individual provider target. The agency shall adjust the patient care component effective January 1, 2002. The cost to adjust the direct care subcomponent shall be net of the total funds previously allocated for the case mix add-on. The agency shall make the required changes to the nursing home cost reporting forms to implement this requirement effective January 1, 2002.

3. The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, *certified geriatric specialists certified under part I of chapter 464*, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, MDS, and care plan coordinators, staff development, and staffing coordinator.

4. All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. There shall be no costs directly or indirectly allocated to the direct care subcomponent from a home office or management company.

5. On July 1 of each year, the agency shall report to the Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and direct care and indirect care salaries and benefits per category of staff member per facility.

6. In order to offset the cost of general and professional liability insurance, the agency shall amend the plan to allow for interim rate adjustments to reflect increases in the cost of general or professional liability insurance for nursing homes. This provision shall be implemented to the extent existing appropriations are available.

It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

Section 30. Subsection (2) of section 458.303, Florida Statutes, is amended to read:

458.303 Provisions not applicable to other practitioners; exceptions, etc.—

(2) Nothing in s. 458.301, s. 458.303, s. 458.305, s. 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s. 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s. 458.341, s. 458.343, s. 458.345, or s. 458.347 shall be construed to prohibit any service rendered by a registered nurse, ~~or a licensed practical nurse, or a certified geriatric specialist certified under part I of chapter 464~~, if such service is rendered under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and gives final approval to all services performed. Further, nothing in this or any other chapter shall be construed to prohibit any service rendered by a medical assistant in accordance with the provisions of s. 458.3485.

Section 31. Subsection (1) and paragraph (a) of subsection (2) of section 1009.65, Florida Statutes, are amended to read:

1009.65 Medical Education Reimbursement and Loan Repayment Program.—

(1) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, there is established the Medical Education Reimbursement and Loan Repayment Program. The function of the program is to make payments that offset loans and educational expenses incurred by students for studies leading to a medical or nursing degree, medical or nursing licensure, or advanced registered nurse practitioner certification or physician assistant licensure. The following licensed or certified health care professionals are eligible to participate in this program: medical doctors with primary care specialties, doctors of osteopathic medicine with primary care specialties, physician's assistants, *certified geriatric specialists certified under part I of chapter 464*, licensed practical nurses and registered nurses, and advanced registered nurse practitioners with primary care specialties such as certified nurse midwives. Primary care medical specialties for physicians include obstetrics, gynecology, general and family practice, internal medicine, pediatrics, and other specialties which may be identified by the Department of Health.

(2) From the funds available, the Department of Health shall make payments to selected medical professionals as follows:

(a) Up to \$4,000 per year for *certified geriatric specialists certified under part I of chapter 464*, licensed practical nurses, and registered nurses, up to \$10,000 per year for advanced registered nurse practitioners and physician's assistants, and up to \$20,000 per year for physicians. Penalties for noncompliance shall be the same as those in the National Health Services Corps Loan Repayment Program. Educational expenses include costs for tuition, matriculation, registration, books, laboratory and other fees, other educational costs, and reasonable living expenses as determined by the Department of Health.

Section 32. Subsection (2) of section 1009.66, Florida Statutes, is amended to read:

1009.66 Nursing Student Loan Forgiveness Program.—

(2) To be eligible, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as

a licensed practical nurse, *a certified geriatric specialist certified under part I of chapter 464*, or a registered nurse or a Florida certificate as an advanced registered nurse practitioner.

Section 33. *The sum of \$157,017 is appropriated from the General Revenue Fund to the Agency for Workforce Innovation to support the work of the Certified Geriatric Specialty Nursing Initiative Steering Committee, to administer the pilot sites, contract for an evaluation, and to the extent that funds are available, and if necessary, to provide nursing faculty, substitute certified nursing assistants for those who are in clinical education, and technical support to the pilot sites during the 2004-2005 fiscal year.*

Section 34. Subsection (6) is added to section 464.201, Florida Statutes, to read:

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

(6) *“Practice of a certified nursing assistant” means providing care and assisting persons with tasks relating to the activities of daily living. Such tasks are those associated with personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and symptoms, post mortem care, patient socialization and reality orientation, end-of-life care, CPR and emergency care, residents’ or patients’ rights, documentation of nursing assistant services, and other tasks that a certified nurse assistant may perform after training beyond that required for initial certification and upon validation of competence in that skill by a registered nurse. This section does not restrict the ability of any person who is otherwise trained and educated from performing such tasks.*

Section 35. Section 464.202, Florida Statutes, is amended to read:

464.202 Duties and powers of the board.—The board shall maintain, or contract with or approve another entity to maintain, a state registry of certified nursing assistants. The registry must consist of the name of each certified nursing assistant in this state; other identifying information defined by board rule; certification status; the effective date of certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant. The registry shall be accessible to the public, the certificateholder, employers, and other state agencies. The board shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants *which specify the scope of practice authorized and level of supervision required for the practice of certified nursing assistants to enforce this part*. The board may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations. The board shall require that the contract provider offer certified nursing assistant applications via the Internet, and may require the contract provider to accept certified nursing assistant applications for processing via the Internet. The board shall require the contract provider to provide the preliminary results of the certified nursing examination on the date the test is administered. The provider shall pay all reasonable costs and expenses incurred by the board in evaluating the provider's application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

And the title is amended as follows:

On page 3, line 22, after the second semicolon (;) insert: providing a short title; requiring the Agency for Workforce Innovation to establish a pilot program for delivery of certified geriatric specialty nursing education; specifying eligibility requirements for certified nursing assistants to obtain certified geriatric specialty nursing education; specifying requirements for the education of certified nursing assistants to prepare for certification as a certified geriatric specialist; creating a Certified Geriatric Specialty Nursing Initiative Steering Committee; providing for the composition of and manner of appointment to the Certified Geriatric Specialty Nursing Initiative Steering Committee; providing responsibilities of the steering committee; providing for reimbursement for per diem and travel expenses; requiring the Agency for Workforce Innovation to conduct or contract for an evaluation of the pilot program for delivery of certified geriatric specialty nursing education; requiring the evaluation to include recommendations regarding the expansion of the delivery of certified geriatric specialty nursing education in nursing

homes; requiring the Agency for Workforce Innovation to report to the Governor and Legislature regarding the status and evaluation of the pilot program; creating s. 464.0125, F.S.; providing definitions; providing requirements for persons to become certified geriatric specialists; specifying fees; providing for articulation of geriatric specialty nursing coursework and practical nursing coursework; providing practice standards and grounds for which certified geriatric specialists may be subject to discipline by the Board of Nursing; creating restrictions on the use of professional nursing titles; prohibiting the use of certain professional titles; providing penalties; authorizing approved nursing programs to provide education for the preparation of certified geriatric specialists without further board approval; authorizing certified geriatric specialists to supervise the activities of others in nursing home facilities according to rules by the Board of Nursing; revising terminology relating to nursing to conform to the certification of geriatric specialists; amending s. 381.00315, F.S.; revising requirements for the reactivation of the licenses of specified health care practitioners in the event of a public health emergency to include certified geriatric specialists; amending s. 400.021, F.S.; including services provided by a certified geriatric specialist within the definition of nursing service; amending s. 400.211, F.S.; revising requirements for persons employed as nursing assistants to conform to the certification of certified geriatric specialists; amending s. 400.23, F.S.; specifying that certified geriatric specialists shall be considered licensed nursing staff; authorizing licensed practical nurses to supervise the activities of certified geriatric specialists in nursing home facilities according to rules adopted by the Board of Nursing; amending s. 409.908, F.S.; revising the methodology for reimbursement of Medicaid program providers to include services of certified geriatric specialists; amending s. 458.303, F.S.; revising exceptions to the practice of medicine to include services delegated to a certified geriatric specialist under specified circumstances; amending s. 1009.65, F.S.; revising eligibility for the Medical Education Reimbursement and Loan Repayment Program to include certified geriatric specialists; amending s. 1009.66, F.S.; revising eligibility requirements for the Nursing Student Loan Forgiveness Program to include certified geriatric specialists; providing an appropriation; amending s. 464.201, F.S.; defining terms; amending s. 464.202, F.S.; authorizing the Board of Nursing to adopt rules regarding the practice and supervision of certified nursing assistants;

#### MOTION

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

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

**Amendment 8 (221814)(with title amendment)**—On page 8, lines 4-21, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 1, lines 20-26, delete those lines and insert: nursing home facility; amending

#### MOTION

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

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

**Amendment 9 (254186)(with title amendment)**—On page 25, line 5 through page 26, line 11, delete those lines and insert:

Section 17. Subsections (3) and (4) of section 400.9905, Florida Statutes, are amended, and subsections (5) and (6) are added to that section, to read:

400.9905 Definitions.—

(3) “Clinic” means an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services, *including a mobile clinic and a portable equipment provider*. For purposes of this part, the term does not include and the licensure requirements of this part do not apply to:

(a) Entities licensed or registered by the state under chapter 395; or entities licensed or registered by the state and providing only health care

*services within the scope of services authorized under their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(b) Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 395; or entities that own, directly or indirectly, entities licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.

(c) Entities that are owned, directly or indirectly, by an entity licensed or registered by the state pursuant to chapter 395; or entities that are owned, directly or indirectly, by an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.

(d) Entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state pursuant to chapter 395; or entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to its respective license granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based services by licensed practitioners solely within a hospital licensed under chapter 395.

(e) An entity that is exempt from federal taxation under 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), and any community college or university clinic, and any entity owned or operated by federal or state government, including agencies, subdivisions, or municipalities thereof.

(f) A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered by s. 627.419, that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician.

(g)(f) A sole proprietorship, group practice, partnership, or corporation that provides health care services by licensed health care practitioners under chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, ~~chapter 480~~, chapter 484, chapter 486, chapter 490, chapter 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, which are wholly owned by one or more licensed health care practitioners ~~practitioner~~, or the licensed health care practitioners set forth in this paragraph ~~practitioner~~ and the spouse, parent, or child, or sibling of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, a health care practitioner may not supervise services beyond the scope of the practitioner's license, *except that, for the purposes of this part, a clinic owned by a licensee in s. 456.053(3)(b) that provides only services authorized pursuant to s.*

456.053(3)(b) may be supervised by a licensee specified in s. 456.053(3)(b).

(h)(g) Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.

(i) *Entities that provide only oncology or radiation therapy services by physicians licensed under chapter 458 or 459.*

(4) "Medical director" means a physician who is employed or under contract with a clinic and who maintains a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461. However, if the clinic does not provide services pursuant to the respective physician practice acts listed in this subsection, it is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a Florida-licensed health care practitioner who does not provide services pursuant to the respective physician practice acts listed in this subsection licensed under that chapter to serve as a clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license, except that a licensee specified in s. 456.053(3)(b) that provides only services authorized pursuant to s. 456.053(3)(b) may serve as clinic director of an entity providing services as specified in s. 456.053(3)(b).

(5) "Mobile clinic" means a movable or detached self-contained health care unit within or from which direct health care services are provided to individuals and that otherwise meets the definition of a clinic in subsection (3).

(6) "Portable equipment provider" means an entity that contracts with or employs persons to provide portable equipment to multiple locations performing treatment or diagnostic testing of individuals, that bills third-party payors for those services, and that otherwise meets the definition of a clinic in subsection (3).

Section 18. *The creation of paragraph 400.9905(3)(i), Florida Statutes, by this act is intended to clarify the legislative intent of this provision as it existed at the time the provision initially took effect as section 456.0375(1)(b), Florida Statutes, and paragraph 400.9905(3)(i), Florida Statutes, as created by this act, shall operate retroactively to October 1, 2001. Nothing in this section shall be construed as amending, modifying, limiting, or otherwise affecting in any way the legislative intent, scope, terms, prohibition, or requirements of section 456.053, Florida Statutes.*

Section 19. Subsections (1), (2), and (3) and paragraphs (a) and (b) of subsection (7) of section 400.991, Florida Statutes, are amended to read:

400.991 License requirements; background screenings; prohibitions.—

(1)(a) Each clinic, as defined in s. 400.9905, must be licensed and shall at all times maintain a valid license with the agency. Each clinic location shall be licensed separately regardless of whether the clinic is operated under the same business name or management as another clinic.

(b) *Each mobile clinic must obtain a separate health care clinic license and clinics must provide to the agency, at least quarterly, its their projected street location locations to enable the agency to locate and inspect such clinic clinics. A portable equipment provider must obtain a health care clinic license for a single administrative office and is not required to submit quarterly projected street locations.*

(2) The initial clinic license application shall be filed with the agency by all clinics, as defined in s. 400.9905, on or before July March 1, 2004. A clinic license must be renewed biennially.

(3) Applicants that submit an application on or before July March 1, 2004, which meets all requirements for initial licensure as specified in this section shall receive a temporary license until the completion of an initial inspection verifying that the applicant meets all requirements in rules authorized by s. 400.9925. However, a clinic engaged in magnetic resonance imaging services may not receive a temporary license unless it presents evidence satisfactory to the agency that such clinic is making a good faith effort and substantial progress in seeking accreditation required under s. 400.9935.

(7) Each applicant for licensure shall comply with the following requirements:

(a) As used in this subsection, the term "applicant" means individuals owning or controlling, directly or indirectly, 5 percent or more of an interest in a clinic; the medical or clinic director, or a similarly titled person who is responsible for the day-to-day operation of the licensed clinic; the financial officer or similarly titled individual who is responsible for the financial operation of the clinic; and licensed *health care practitioners* ~~medical providers~~ at the clinic.

(b) Upon receipt of a completed, signed, and dated application, the agency shall require background screening of the applicant, in accordance with the level 2 standards for screening set forth in chapter 435. Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other health care licensure requirements of this state is acceptable in fulfillment of this paragraph. *Applicants who own less than 10 percent of a health care clinic are not required to submit fingerprints under this section.*

Section 20. Subsections (9) and (11) of section 400.9935, Florida Statutes, are amended to read:

400.9935 Clinic responsibilities.—

(9) Any person or entity providing health care services which is not a clinic, as defined under s. 400.9905, may voluntarily apply for a certificate of exemption from licensure under its exempt status with the agency on a form that sets forth its name or names and addresses, a statement of the reasons why it cannot be defined as a clinic, and other information deemed necessary by the agency. *An exemption is not transferable. The agency may charge an applicant for a certificate of exemption \$100 or the actual cost, whichever is less, for processing the certificate.*

(11)(a) Each clinic engaged in magnetic resonance imaging services must be accredited by the Joint Commission on Accreditation of Healthcare Organizations, the American College of Radiology, or the Accreditation Association for Ambulatory Health Care, within 1 year after licensure. However, a clinic may request a single, 6-month extension if it provides evidence to the agency establishing that, for good cause shown, such clinic can not be accredited within 1 year after licensure, and that such accreditation will be completed within the 6-month extension. After obtaining accreditation as required by this subsection, each such clinic must maintain accreditation as a condition of renewal of its license.

(b) The agency may *deny disallow* the application or *revoke the license* of any entity formed for the purpose of avoiding compliance with the accreditation provisions of this subsection and whose principals were previously principals of an entity that was unable to meet the accreditation requirements within the specified timeframes. The agency may adopt rules as to the accreditation of magnetic resonance imaging clinics.

Section 21. Subsections (1) and (3) of section 400.995, Florida Statutes, are amended, and subsection (10) is added to said section, to read:

400.995 Agency administrative penalties.—

(1) The agency may *deny the application for a license renewal, revoke or suspend the license, and impose administrative fines penalties against* ~~clinics~~ of up to \$5,000 per violation for violations of the requirements of this part or rules of the agency. In determining if a penalty is to be imposed and in fixing the amount of the fine, the agency shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient will result or has resulted, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated.

(b) Actions taken by the owner, medical director, or clinic director to correct violations.

(c) Any previous violations.

(d) The financial benefit to the clinic of committing or continuing the violation.

(3) Any action taken to correct a violation shall be documented in writing by the owner, medical director, or clinic director of the clinic and verified through followup visits by agency personnel. The agency may impose a fine and, in the case of an owner-operated clinic, revoke or deny a clinic's license when a clinic medical director or clinic director *knowingly fraudulently* misrepresents actions taken to correct a violation.

(10) *If the agency issues a notice of intent to deny a license application after a temporary license has been issued pursuant to s. 400.991(3), the temporary license shall expire on the date of the notice and may not be extended during any proceeding for administrative or judicial review pursuant to chapter 120.*

Section 22. *The agency shall refund 90 percent of the license application fee to applicants that submitted their health care clinic licensure fees and applications but were subsequently exempted from licensure by this act.*

Section 23. *Any person or entity defined as a clinic under section 400.9905, Florida Statutes, shall not be in violation of part XIII of chapter 400, Florida Statutes, due to failure to apply for a clinic license by March 1, 2004, as previously required by section 400.991, Florida Statutes. Payment to any such person or entity by an insurer or other person liable for payment to such person or entity may not be denied on the grounds that the person or entity failed to apply for or obtain a clinic license before March 1, 2004.*

Section 24. This act shall take effect upon becoming a law, and section 19 shall apply retroactively to March 1, 2004.

And the title is amended as follows:

On page 3, lines 15-23, delete those lines and insert: amending s. 400.9905, F.S.; revising the definitions of "clinic" and "medical director" and defining "mobile clinic" and "portable equipment provider" for purposes of the Health Care Clinic Act; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 400.991, F.S.; requiring each mobile clinic to obtain a health care clinic license; requiring a portable equipment provider to obtain a health care clinic license for a single office and exempting such a provider from submitting certain information to the Agency for Health Care Administration; revising the date by which an initial application for a health care clinic license must be filed with the agency; revising the definition of "applicant"; amending s. 400.9935, F.S.; providing that an exemption from licensure is not transferable; providing that the agency may charge a fee of applicants for certificates of exemption; providing that the agency may deny an application or revoke a license under certain circumstances; amending s. 400.995, F.S.; providing that the agency may deny, revoke, or suspend specified licenses and impose fines for certain violations; providing that a temporary license expires after a notice of intent to deny an application is issued by the agency; providing that persons or entities made exempt under the act and which have paid the clinic licensure fee to the agency are entitled to a partial refund from the agency; providing that certain persons or entities are not in violation of part XIII of ch. 400, F.S., due to failure to apply for a clinic license by a specified date; providing that certain payments may not be denied to such persons or entities for failure to apply for or obtain a clinic license before a specified date; providing an effective date.

On motion by Senator Bennett, **CS for SB 1062** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

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

Nays—5

Argenziano	Crist	Hill
Campbell	Fasano	

Vote after roll call:

Yea—Lee

## THE PRESIDENT PRESIDING

### SPECIAL ORDER CALENDAR, continued

On motion by Senator Alexander—

**CS for CS for SB 96**—A bill to be entitled An act relating to the Department of Citrus; amending s. 601.155, F.S.; requiring the department to develop a process for persons liable for the equalizing excise tax to elect to not pay a portion of the tax; prohibiting the department from expending any remaining amount of excise tax moneys for advertising, marketing, or public-relations activities; providing for the dismissal of certain claims; requiring the Florida Citrus Commission to include a report by the internal auditor of the Department of Citrus as an agenda item at each regularly scheduled meeting; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 96** was placed on the calendar of Bills on Third Reading.

### CLAIM BILL CALENDAR

On motion by Senator Lawson—

**SB 6**—A bill to be entitled An act relating to Escambia County; providing for the relief of Bronwen Dodd; authorizing and directing the District School Board of Escambia County to compensate Ms. Dodd for personal injuries that she suffered due to the negligence of an employee of the school board; providing for attorney's fees and costs; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 6** to **HB 765**.

Pending further consideration of **SB 6** as amended, on motion by Senator Lawson, by two-thirds vote **HB 765** was withdrawn from the Committees on Education; and Finance and Taxation.

On motion by Senator Lawson—

**HB 765**—A bill to be entitled An act relating to Escambia County; providing for the relief of Bronwen Dodd; authorizing and directing the District School Board of Escambia County to compensate Bronwen Dodd for personal injuries that she suffered due to the negligence of an employee of the school board; providing for attorney's fees and costs; providing an effective date.

—a companion measure, was substituted for **SB 6** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 765** was placed on the calendar of Bills on Third Reading.

On motion by Senator Posey—

**CS for SB 16**—A bill to be entitled An act relating to Indian River County; providing for the relief of Debra Smith, Pamela Hughes, Michael Truitt, and Charles Hughes; authorizing and directing the Indian River County School Board to compensate them for the death of their father, Sammie Lee Hughes, due to the negligence of the school board; providing for attorney's fees and costs; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 16** was placed on the calendar of Bills on Third Reading.

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On motion by Senator Posey—

**CS for SB 18**—A bill to be entitled An act relating to the Indian River County School Board; providing for the relief of Amanda Johnson, a minor, by and through her parents and natural guardians, Virginia and Charles Johnson, for injuries sustained due to the negligence of the Indian River County School Board; providing for the use of such funds; providing for attorney's fees and costs; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 18** was placed on the calendar of Bills on Third Reading.

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On motion by Senator Posey—

**CS for SB 20**—A bill to be entitled An act relating to the Indian River County School Board; providing for the relief of Ryan Besancon, a minor, by and through his parents and natural guardians, Mark and Laurie Besancon, for injuries sustained due to the negligence of the Indian River County School Board; providing for the use of such funds; providing for restrictions on expenditure of the funds; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 20** was placed on the calendar of Bills on Third Reading.

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On motion by Senator Hill, by two-thirds vote **HB 349** was withdrawn from the Committees on Education; and Finance and Taxation.

On motion by Senator Hill—

**HB 349**—A bill to be entitled An act relating to the Hillsborough County School Board; providing for the relief of Alana Kelly and Richard F. Taylor, Sr.; providing for an appropriation to compensate them for the death of their son, Richard F. Taylor, Jr., caused by the negligence of a Hillsborough County School Board employee; providing for attorney's fees and costs; providing an effective date.

—a companion measure, was substituted for **SB 22** and read the second time by title.

Pursuant to Rule 4.19, **HB 349** was placed on the calendar of Bills on Third Reading.

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#### SENATOR CARLTON PRESIDING

On motion by Senator Lynn, by two-thirds vote **HB 683** was withdrawn from the Committees on Comprehensive Planning; Criminal Justice; and Finance and Taxation.

On motion by Senator Lynn—

**HB 683**—A bill to be entitled An act relating to Volusia County; providing for the relief of Cordell Davidson and Veronica Hensley Davidson; providing for an appropriation to compensate them for injuries and damages suffered as a result of the negligence of Volusia County; providing a schedule of payments; providing an effective date.

—a companion measure, was substituted for **SB 32** and read the second time by title.

Pursuant to Rule 4.19, **HB 683** was placed on the calendar of Bills on Third Reading.

On motion by Senator Diaz de la Portilla—

**CS for SB 40**—A bill to be entitled An act relating to the South Broward Hospital District; providing for the relief of the family of Jeffrey Haider, deceased; providing for an appropriation to compensate his family for injuries and damages sustained by Jeffery Haider as a result of the negligence of the South Broward Hospital District; providing for attorney's fees and costs; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 40** to **HB 929**.

Pending further consideration of **CS for SB 40** as amended, on motion by Senator Diaz de la Portilla, by two-thirds vote **HB 929** was withdrawn from the Committees on Health, Aging, and Long-Term Care; and Finance and Taxation.

On motion by Senator Diaz de la Portilla—

**HB 929**—A bill to be entitled An act for the relief of Cindy Haider, wife of Jeffrey Haider, deceased, Alan Haider, adult dependent child of Jeffrey Haider, deceased, Max Haider, adult child of Jeffrey Haider, deceased, Jonathan Haider, adult child of Jeffrey Haider, deceased, and Jessica Haider, adult child of Jeffrey Haider, deceased, by the South Broward Hospital District; providing for an appropriation to compensate them for injuries and damages sustained as a result of the negligence of the South Broward Hospital District; providing for the establishment of trusts and requirements with respect thereto; providing for attorney's fees and costs; providing an effective date.

—a companion measure, was substituted for **CS for SB 40** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 929** was placed on the calendar of Bills on Third Reading.

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

#### MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Villalobos, by two-thirds vote **CS for CS for SB 2984**, **SB 224**, **SB 1592**, **CS for CS for SB 2498**, **CS for SB 2548** and **CS for SB 3046** were withdrawn from the Committee on Judiciary; **SB 38**, **CS for SB 1366** and **CS for SB 2322** were withdrawn from the Committee on Finance and Taxation; **CS for CS for SB 154**, **CS for SB's 332**, **1912** and **2678**, **CS for SB 1302**, **CS for CS for SB 2262**, **CS for SB 2918** and **SB 1592** were withdrawn from the Committees on Appropriations Subcommittee on Education; and Appropriations; **SB 194**, **SB 412**, **CS for CS for SB 1314**, **CS for SB 1514**, **SB 2420**, **SB 2426** and **SB 2574** were withdrawn from the Committee on Appropriations; **CS for SB 444**, **CS for CS for SB 1200**, **CS for SB 1470** and **CS for SB 2412** were withdrawn from the Committees on Appropriations Subcommittee on Transportation and Economic Development; and Appropriations; **CS for SB 540**, **CS for SB 1870**, **CS for SB 2444**, **CS for CS for SB 2800**, **CS for CS for SB 2804**, **SB 2924**, **CS for SB 2932** and **SB 3010** were withdrawn from the Committees on Appropriations Subcommittee on General Government; and Appropriations; **CS for SB 1454** and **CS for SB 2674** were withdrawn from the Committees on Appropriations Subcommittee on Health and Human Services; and Appropriations; **CS for CS for SB 1700**, **CS for SB 2060**, **SB 2082** and **SB 2922** were withdrawn from the Committee on Rules and Calendar; **CS for SB 1878** was withdrawn from the Committee on Comprehensive Planning; **SB 1962**, **CS for SB 2054** and **CS for SB 2856** were withdrawn from the Committees on Appropriations Subcommittee on Criminal Justice; and Appropriations; **SB 2226**, **SB 2532**, **SB 2732** and **CS for SB 2920** were withdrawn from the Committee on Governmental Oversight and Productivity; **CS for SM 2522** and **SB 2754** were withdrawn from the Committee on Commerce, Economic Opportunities, and Consumer Services; and **SB 2688** and **SB 3012** were withdrawn from the Committees on Appropriations Subcommittee on Article V Implementation and Judiciary; and Appropriations.

### SPECIAL ORDER CALENDAR, continued

On motion by Senator Miller—

**CS for CS for SB 2184**—A bill to be entitled An act relating to student achievement; creating s. 1007.35, F.S.; providing a popular name; providing legislative intent; creating the Florida Partnership for Minority and Underrepresented Student Achievement; providing purposes and duties of the partnership; providing duties of the Department of Education and the participating partner; requiring the partnership to submit an annual evaluation report to the department; providing for funding the partnership; authorizing the State Board of Education to adopt rules; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 2184** was placed on the calendar of Bills on Third Reading.

On motion by Senator Jones—

**CS for CS for SB 2216**—A bill to be entitled An act relating to public health care; amending s. 381.0012, F.S.; expanding the environmental health enforcement authority of the Department of Health; authorizing the department to issue citations or order payment of fines; providing requirements and limitations; providing a criminal penalty; providing for deposit and use of fines; amending s. 381.004, F.S.; providing additional criteria for release of HIV preliminary test results; amending s. 381.0065, F.S.; modifying standards for rulemaking applicable to regulation of onsite sewage treatment and disposal systems; revising research award qualifications; providing for an extended right of entry; amending s. 381.0101, F.S.; revising definitions; revising environmental health professional certification requirements; clarifying exemptions; creating s. 381.104, F.S.; creating an employee health and wellness program; providing requirements; authorizing state agencies to undertake certain activities relating to agency resources for program purposes; requiring each participating agency to make an annual report; providing duties of the department; amending s. 384.25, F.S.; revising reporting requirements for sexually transmissible diseases; authorizing the department to adopt rules; amending s. 384.31, F.S.; revising sexually transmissible disease testing requirements for pregnant women; providing notice requirements; creating s. 385.104, F.S.; establishing the Health Promotion and Health Education Statewide Initiative for certain purposes; providing requirements; authorizing the department to award funding to county health departments for certain purposes; providing funding requirements; providing participation requirements for county health departments; amending s. 945.601, F.S.; revising a cross-reference, to conform; creating s. 945.6038, F.S.; authorizing the State of Florida Correctional Medical Authority to enter into agreements with other state agencies to provide additional medical services; providing a limitation; amending s. 381.005, F.S.; requiring hospitals licensed under ch. 395, F.S., to implement a program offering immunizations against the influenza virus and pneumococcal bacteria to all patients who have attained a specified age; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 2216** was placed on the calendar of Bills on Third Reading.

**CS for CS for SB 2288**—A bill to be entitled An act relating to unclaimed property; amending s. 717.101, F.S.; providing definitions; amending ss. 717.106, 717.107, 717.109, and 717.116, F.S.; revising criteria for presuming as unclaimed certain bank deposits and funds in financial organizations, funds owing under life insurance policies, funds held by business associations, and property held in a safe-deposit box or other safekeeping repository, respectively; amending s. 717.117, F.S.; revising reporting requirements for unclaimed property; presuming certain accounts as unclaimed under certain circumstances; providing that certain intangible property is exempt from being reported as unclaimed property under certain conditions; amending s. 717.118, F.S.; providing requirements for notification of apparent owners of unclaimed property; amending s. 717.119, F.S.; revising requirements for delivery of certain unclaimed property; providing penalties for late deliveries; amending s. 717.1201, F.S.; revising certain holder payment and repayment require-

ments; amending s. 717.122, F.S.; revising certain public sale requirements; authorizing the Department of Financial Services to deduct certain auction fees, costs, and expenses; prohibiting actions or proceedings against the department for certain decisions relating to auctions of unclaimed property; specifying that certain sales of unclaimed property are not subject to the sales tax; amending s. 717.123, F.S.; increasing a maximum amount of funds the department may retain from certain funds received; amending s. 717.124, F.S.; providing additional requirements for filing unclaimed property claims; providing for the return or withdrawal of certain claims under certain circumstances; specifying a time period for department determination of claims; authorizing the department to deny claims under certain circumstances; specifying an exclusive remedy for subsequent claimants; revising requirements for a power of attorney; requiring direct delivery of safe-deposit boxes under certain circumstances; revising payment of fees and costs requirements; creating s. 717.12403, F.S.; providing presumptions for certain unclaimed demand, savings, or checking accounts in financial institutions with more than one beneficiary; creating s. 717.12404, F.S.; providing requirements for claims for property reported in the name of an active or dissolved corporation for which the last annual report is unavailable; creating s. 717.12405, F.S.; providing requirements for claims by estates; amending s. 717.1241, F.S.; revising requirements for remittance of property subject to conflicting claims; amending s. 717.1242, F.S.; clarifying legislative intent relating to filing certain claims; creating s. 717.1244, F.S.; providing criteria for department determinations of claims; amending s. 717.126, F.S.; providing a criterion for proof of entitlement; specifying venue in certain unclaimed property actions; creating s. 717.1261, F.S.; requiring a death certificate in claiming entitlement to certain unclaimed property; creating s. 717.1262, F.S.; requiring certain court documents in claiming entitlement to certain unclaimed property; amending s. 717.1301, F.S.; revising certain fee and expense requirements for investigations or examinations; providing for interest on such amounts under certain circumstances; amending s. 717.1315, F.S.; clarifying a record retention requirement for owner representatives; amending s. 717.132, F.S.; specifying criteria for certain corrective actions; creating s. 717.1322, F.S.; specifying grounds for certain disciplinary actions; providing for certain disciplinary actions; providing penalties; authorizing the department to adopt rules with regard to disciplinary guidelines; creating s. 717.1331, F.S.; providing for department actions against certain lienholders under certain circumstances; creating s. 717.1333, F.S.; providing for admitting certain documents into evidence in certain actions; amending s. 717.134, F.S.; authorizing the department to impose and collect penalties for failing to report certain information; authorizing the department waive such penalties under certain circumstances; creating s. 717.1341, F.S.; prohibiting receipt of unentitled unclaimed property; providing for liability for such property under certain circumstances; authorizing the department to maintain certain civil or administrative actions; providing for fines, costs, and attorney fees; prohibiting filing claims for unentitled unclaimed property; providing criminal penalties; amending s. 717.135, F.S.; revising requirements for agreements to recover certain property; providing an agreement form; creating s. 717.1351, F.S.; providing requirements for acquisition of unclaimed property by certain persons; providing certain contract requirements; providing a contract form; creating s. 717.1400, F.S.; requiring certain licensed persons to register with the department for certain purposes; providing registration requirements; providing for denial of registration under certain circumstances; providing registration limitations; amending s. 212.02, F.S.; revising a definition to conform; amending ss. 322.142 and 395.3025, F.S.; providing for disclosure of certain confidential information to the department under certain circumstances; providing an effective date.

—was read the second time by title.

Senator Clary moved the following amendments which were adopted:

**Amendment 1 (065402)**—On page 8, lines 21-23, delete those lines and insert: prescribe by rule. In lieu of forms, a report identifying 25 or more different apparent owners must be submitted by the holder ~~may submit the required information~~ via electronic medium

**Amendment 2 (865836)**—On page 35, delete line 3 and insert: documents.—In any proceeding involving a holder under ss. 120.569 and 120.57 in

**Amendment 3 (693776)**—On page 47, delete line 6 and insert:

(1) In order to file claims as a claimant's representative, acquire ownership or entitlement to unclaimed property, receive a distribution of fees

and costs from the department, and obtain unclaimed property dollar amounts, the number of reported shares of stock, and the last four digits of social security numbers held by the department, a private investigator holding a Class "C"

**Amendment 4 (224344)**—On page 47, delete line 29 and insert:

(2) *In order to file claims as a claimant's representative, acquire ownership or entitlement to unclaimed property, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts, the number of reported shares of stock, and the last four digits of social security numbers held by the department, a Florida-certified public accountant must*

**Amendment 5 (102850)**—On page 48, delete line 22 and insert:

(3) *In order to file claims as a claimant's representative, acquire ownership or entitlement to unclaimed property, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts, the number of reported shares of stock, and the last four digits of social security numbers held by the department, an attorney licensed to practice in this state*

On motion by Senator Clary, further consideration of **CS for CS for SB 2288** as amended was deferred.

**CS for SB 2640**—A bill to be entitled An act relating to parenting coordination; amending s. 61.046, F.S.; providing definitions; creating s. 61.125, F.S.; creating the parenting coordination program; authorizing the court to appoint and discharge a parenting coordinator in certain proceedings; providing that communications with a parenting coordinator are not confidential except in certain situations; establishing the qualifications for a parenting coordinator; requiring the court to determine a party's financial ability to pay for certain services under certain circumstances; specifying powers and duties of a parenting coordinator; providing for compensation; restricting parenting coordinators from serving in certain cases; providing civil immunity for parenting coordinators acting within the scope of employment; providing an effective date.

—was read the second time by title.

Senator Villalobos moved the following amendments which were adopted:

**Amendment 1 (083104)**—On page 2, between lines 20 and 21, insert: *Before appointing a parenting coordinator for the parties, the court shall consider the effect that any domestic violence injunction affecting the parties may have on the parties' ability to engage in parenting coordination.*

**Amendment 2 (260098)**—On page 3, delete line 7 and insert:

(5) *Unless the parties agree to the appointment of a member of the clergy or a member of The Florida Bar in good standing offering services on a pro bono basis, each*

Senator Villalobos moved the following amendment:

**Amendment 3 (960962)**—On page 3, line 24, insert: *6. Domestic violence.*

On motion by Senator Villalobos, further consideration of **CS for SB 2640** with pending **Amendment 3 (960962)** was deferred.

On motion by Senator Clary, the Senate resumed consideration of—

**CS for CS for SB 2288**—A bill to be entitled An act relating to unclaimed property; amending s. 717.101, F.S.; providing definitions; amending ss. 717.106, 717.107, 717.109, and 717.116, F.S.; revising criteria for presuming as unclaimed certain bank deposits and funds in financial organizations, funds owing under life insurance policies, funds held by business associations, and property held in a safe-deposit box or other safekeeping repository, respectively; amending s. 717.117, F.S.; revising reporting requirements for unclaimed property; presuming certain accounts as unclaimed under certain circumstances; providing that

certain intangible property is exempt from being reported as unclaimed property under certain conditions; amending s. 717.118, F.S.; providing requirements for notification of apparent owners of unclaimed property; amending s. 717.119, F.S.; revising requirements for delivery of certain unclaimed property; providing penalties for late deliveries; amending s. 717.1201, F.S.; revising certain holder payment and repayment requirements; amending s. 717.122, F.S.; revising certain public sale requirements; authorizing the Department of Financial Services to deduct certain auction fees, costs, and expenses; prohibiting actions or proceedings against the department for certain decisions relating to auctions of unclaimed property; specifying that certain sales of unclaimed property are not subject to the sales tax; amending s. 717.123, F.S.; increasing a maximum amount of funds the department may retain from certain funds received; amending s. 717.124, F.S.; providing additional requirements for filing unclaimed property claims; providing for the return or withdrawal of certain claims under certain circumstances; specifying a time period for department determination of claims; authorizing the department to deny claims under certain circumstances; specifying an exclusive remedy for subsequent claimants; revising requirements for a power of attorney; requiring direct delivery of safe-deposit boxes under certain circumstances; revising payment of fees and costs requirements; creating s. 717.12403, F.S.; providing presumptions for certain unclaimed demand, savings, or checking accounts in financial institutions with more than one beneficiary; creating s. 717.12404, F.S.; providing requirements for claims for property reported in the name of an active or dissolved corporation for which the last annual report is unavailable; creating s. 717.12405, F.S.; providing requirements for claims by estates; amending s. 717.1241, F.S.; revising requirements for remittance of property subject to conflicting claims; amending s. 717.1242, F.S.; clarifying legislative intent relating to filing certain claims; creating s. 717.1244, F.S.; providing criteria for department determinations of claims; amending s. 717.126, F.S.; providing a criterion for proof of entitlement; specifying venue in certain unclaimed property actions; creating s. 717.1261, F.S.; requiring a death certificate in claiming entitlement to certain unclaimed property; creating s. 717.1262, F.S.; requiring certain court documents in claiming entitlement to certain unclaimed property; amending s. 717.1301, F.S.; revising certain fee and expense requirements for investigations or examinations; providing for interest on such amounts under certain circumstances; amending s. 717.1315, F.S.; clarifying a record retention requirement for owner representatives; amending s. 717.132, F.S.; specifying criteria for certain corrective actions; creating s. 717.1322, F.S.; specifying grounds for certain disciplinary actions; providing for certain disciplinary actions; providing penalties; authorizing the department to adopt rules with regard to disciplinary guidelines; creating s. 717.1331, F.S.; providing for department actions against certain lienholders under certain circumstances; creating s. 717.1333, F.S.; providing for admitting certain documents into evidence in certain actions; amending s. 717.134, F.S.; authorizing the department to impose and collect penalties for failing to report certain information; authorizing the department waive such penalties under certain circumstances; creating s. 717.1341, F.S.; prohibiting receipt of unentitled unclaimed property; providing for liability for such property under certain circumstances; authorizing the department to maintain certain civil or administrative actions; providing for fines, costs, and attorney fees; prohibiting filing claims for unentitled unclaimed property; providing criminal penalties; amending s. 717.135, F.S.; revising requirements for agreements to recover certain property; providing an agreement form; creating s. 717.1351, F.S.; providing requirements for acquisition of unclaimed property by certain persons; providing certain contract requirements; providing a contract form; creating s. 717.1400, F.S.; requiring certain licensed persons to register with the department for certain purposes; providing registration requirements; providing for denial of registration under certain circumstances; providing registration limitations; amending s. 212.02, F.S.; revising a definition to conform; amending ss. 322.142 and 395.3025, F.S.; providing for disclosure of certain confidential information to the department under certain circumstances; providing an effective date.

—which was previously considered and amended this day.

## MOTION

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

Senators Aronberg and Klein offered the following amendment which was moved by Senator Aronberg and adopted:

**Amendment 6 (391958)(with title amendment)**—On page 54, between lines 6 and 7, insert:

Section 36. Section 732.103, Florida Statutes, is amended to read:

732.103 Share of other heirs.—The part of the intestate estate not passing to the surviving spouse under s. 732.102, or the entire intestate estate if there is no surviving spouse, descends as follows:

- (1) To the lineal descendants of the decedent.
- (2) If there is no lineal descendant, to the decedent's father and mother equally, or to the survivor of them.
- (3) If there is none of the foregoing, to the decedent's brothers and sisters and the descendants of deceased brothers and sisters.
- (4) If there is none of the foregoing, the estate shall be divided, one-half of which shall go to the decedent's paternal, and the other half to the decedent's maternal, kindred in the following order:
  - (a) To the grandfather and grandmother equally, or to the survivor of them.
  - (b) If there is no grandfather or grandmother, to uncles and aunts and descendants of deceased uncles and aunts of the decedent.
  - (c) If there is either no paternal kindred or no maternal kindred, the estate shall go to the other kindred who survive, in the order stated above.
- (5) If there is no kindred of either part, the whole of the property shall go to the kindred of the last deceased spouse of the decedent as if the deceased spouse had survived the decedent and then died intestate entitled to the estate.

(6) *If there are none of the foregoing and part of the normal family lineage of the intestate decedent cannot be documented because it includes a Holocaust victim, the probate court may extend the right of succession to other persons who the best available evidence shows are surviving heirs. A petition by a person claiming to be such an heir may not be dismissed for failure to comply with an applicable statute of limitations or laches. In addition, the court may allow such a claimant to meet a reasonable, not unduly restrictive, standard to substantiate a claim, including a claim that a person's whereabouts are unknown as evidence of a decedent if such claim is from a source that a reasonable person would accept as reliable in the conduct of his or her affairs. For purposes of this subsection, the term "Holocaust victim" means a person who disappeared or lost his or her life or property as a result of discriminatory laws, policies, or actions targeted against discreet groups or persons between 1900 and 1945, inclusive, in Nazi Germany, areas occupied by Nazi Germany, or countries allied or cooperating with Nazi Germany.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 30, after the semicolon (;) insert: amending s. 723.103, F.S.; authorizing the court, under specified conditions, to extend the right of succession to surviving heirs when the decedent's lineage cannot be fully documented because it includes a Holocaust victim; limiting the application of statutes of limitation under certain circumstances; defining the term "Holocaust victim";

Pursuant to Rule 4.19, **CS for CS for SB 2288** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Villalobos, the Senate resumed consideration of—

**CS for SB 2640**—A bill to be entitled An act relating to parenting coordination; amending s. 61.046, F.S.; providing definitions; creating s. 61.125, F.S.; creating the parenting coordination program; authorizing the court to appoint and discharge a parenting coordinator in certain proceedings; providing that communications with a parenting coordinator are not confidential except in certain situations; establishing the qualifications for a parenting coordinator; requiring the court to determine a party's financial ability to pay for certain services under certain

circumstances; specifying powers and duties of a parenting coordinator; providing for compensation; restricting parenting coordinators from serving in certain cases; providing civil immunity for parenting coordinators acting within the scope of employment; providing an effective date.

—which was previously considered and amended this day. Pending **Amendment 3 (960962)** by Senator Villalobos was adopted.

Pursuant to Rule 4.19, **CS for SB 2640** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Alexander—

**SB 2810**—A bill to be entitled An act relating to state university student athletic fees; amending s. 1009.24, F.S.; authorizing a fee increase to defray the costs of changing competitive divisions; providing that the increase may exceed the limit on fee increases; limiting such an increase to not more than \$2 per credit hour; requiring that such an increase be approved by the athletic fee committee; providing an effective date.

—was read the second time by title.

Senator Alexander moved the following amendments which were adopted:

**Amendment 1 (823820)**—On page 1, lines 29 and 30, delete those lines and insert: *university that changes National Collegiate Athletic Association divisions may increase its athletic fee at the time the university is in the transitional stage of changing divisions to defray the costs associated with*

**Amendment 2 (235298)(with title amendment)**—On page 2, line 5, after the period (.) insert: *Notwithstanding ss. 1009.534, 1009.535, and 1009.536, any increase to an athletic fee to defray the costs associated with changing National Collegiate Athletic Association divisions which is assessed pursuant to this subsection may not be included in calculating the amount a student receives for a Florida Academic Scholars award, a Florida Medallion Scholar award, or a Florida Gold Seal Vocational Scholars award.*

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: providing that the increase may not be included in calculating the amount a student receives for certain scholarship programs;

Pursuant to Rule 4.19, **SB 2810** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Lynn—

**CS for CS for CS for SB 160**—A bill to be entitled An act relating to child support; amending s. 61.046, F.S.; redefining the term "support order" for purposes of ch. 61, F.S., to include an order of an administrative agency; amending s. 61.13, F.S.; deleting the requirement that a child support order include the minor's social security number; amending s. 61.1301, F.S.; providing for continuation of a support obligation at the same amount after emancipation until any arrearage is satisfied; providing for application to support orders or income or income deduction orders entered before, on, or after July 1, 2004; requiring an obligor contesting an income deduction order rendered by the Title IV-D agency to file the petition with the Title IV-D agency; amending s. 61.14, F.S.; providing for the termination of the current child support obligation when the child emancipates unless certain conditions occur; providing for continuation of a support obligation at the same amount after emancipation until any arrearage is satisfied; providing for application to support orders entered before, on, or after July 1, 2004; amending s. 61.181, F.S.; requiring the clerk of the court to establish an account for interstate cases; amending s. 61.1814, F.S.; providing for types of moneys to be deposited into the Child Support Enforcement Application and Program Revenue Trust Fund; providing for the use of moneys deposited into the Child Support Enforcement Application and Program Revenue Trust Fund; amending s. 120.80, F.S.; providing for the location of an administrative hearing; amending ss. 382.013 and 382.016, F.S.; permitting voluntary acknowledgments of paternity which are witnessed;

amending s. 409.2558, F.S.; providing for a notice to the noncustodial parent in applying an undistributable support collection to another support order; amending s. 409.2561, F.S.; providing for the Department of Revenue to establish the obligation of support; amending s. 409.2563, F.S.; providing for the noncustodial parent to request that the Department of Revenue proceed in circuit court to determine the support obligation; revising the requirements under which a noncustodial parent may petition the circuit court to determine the support obligation; providing that the Department of Revenue is a party to court action only with respect to issues of support; providing for the assignment of an account number with the depository upon initiating establishment of an administrative support order; revising the due date for an evaluation by the Office of Program Policy Analysis and Government Accountability; amending s. 409.25656, F.S.; providing for the recovery of fees in liquidating securities for the support owed; creating s. 409.25659, F.S.; providing for insurance claim data exchange; providing definitions; authorizing an insurer to participate in the data match system; providing for the payment of a fee to the insurer; providing limited immunity to the insurer; limiting the use of the data obtained by insurers from the department; providing rulemaking authority; amending s. 409.257, F.S.; permitting the use of any means of service of process under ch. 48, F.S.; amending s. 409.2572, F.S.; revising the definition of noncooperation or failure to cooperate as applied to an applicant for or a recipient of public assistance; substituting the use of DNA sample for drawing a blood sample to confirm paternity; amending s. 409.259, F.S.; revising the manner of reimbursement to the clerk of the court for court filings in Title IV-D cases; amending s. 409.2598, F.S.; providing definitions; providing for the suspension of licenses under specified circumstances; amending s. 742.10, F.S.; permitting voluntary acknowledgments of paternity which are witnessed; providing legislative intent to address the child support issues of incarcerated noncustodial parents to improve their ability to meet child support obligations; requiring the Department of Revenue, with the assistance of the Department of Corrections, to identify inmates with child support obligations; requiring the Department of Corrections and Department of Revenue to jointly develop a plan to facilitate child support payment from incarcerated noncustodial parents upon release; providing for the minimum requirements of the plan; requires reports to the Governor and Legislature; providing effective dates.

—was read the second time by title.

Senator Lynn moved the following amendments which were adopted:

**Amendment 1 (104520)**—On page 30, line 26, after “may” insert: *voluntarily*

**Amendment 2 (050424)**—On page 30, line 30 and on page 31, line 1, delete those lines and insert: *who owes past due support, and the claim number maintained by the insurer for each*

**Amendment 3 (642410)(with title amendment)**—On page 32, lines 5-7, delete and insert:

(5) *The department and insurers may only use the data obtained pursuant to subsection (2) for the purpose of identifying noncustodial parents who owe past due support. If the department does not match such data with a noncustodial parent who owes past due support, such data shall be destroyed immediately, and shall not be maintained by the department.*

And the title is amended as follows:

On page 3, line 7, after the semicolon (;) insert: *requiring that certain data obtained by the department be destroyed;*

Pursuant to Rule 4.19, **CS for CS for CS for SB 160** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Lynn—

**CS for CS for SB 2826**—A bill to be entitled An act relating to public records; creating s. 409.25661, F.S.; exempting from public-records requirements certain records obtained by the Department of Revenue under an insurance claim data exchange system; providing for expiration of the exemption; providing for future legislative review and repeal;

providing findings of public necessity; providing a contingent effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 2826** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 602**, **CS for SB 606** and **CS for SB 1172** was deferred.

On motion by Senator Saunders—

**CS for CS for SB 1464**—A bill to be entitled An act relating to patient safety; creating s. 381.0271, F.S.; providing definitions; creating the Florida Patient Safety Corporation, which shall be registered, incorporated, organized, and operated in compliance with ch. 617, F.S.; authorizing the corporation to create not-for-profit subsidiaries; specifying that the corporation is not an agency within the meaning of s. 20.03(11), F.S.; requiring the corporation to be subject to public meetings and records requirements; specifying that the corporation is not subject to the provisions of ch. 297, F.S., relating to procurement of personal property and services; providing a purpose for the corporation; establishing the membership of the board of directors of the corporation; requiring the formation of certain advisory committees for the corporation; requiring the Agency for Health Care Administration to provide assistance in establishing the corporation; specifying the powers and duties of the corporation; requiring annual reports; requiring the Office of Program Policy Analysis and Government Accountability, in consultation with the Agency for Health Care Administration and the Department of Health, to develop performance measures for the corporation; requiring a performance audit; requiring a report to the Governor and the Legislature; requiring the Patient Safety Center at the Florida State University College of Medicine to study the return on investment by hospitals from implementing computerized physician order entry and other information technologies related to patient safety; providing requirements for the study; requiring a report to the Governor and the Legislature; amending s. 395.1012, F.S.; providing additional duties of the patient safety committee at hospitals and other licensed facilities; requiring such facilities to adopt a plan to reduce medication errors and adverse drug events, including the use of computerized physician order entry and other information technologies; repealing s. 766.1016(3), F.S., which requires a patient safety organization to promptly remove patient-identifying information from patient safety data reported to the organization and requires such organization to maintain the confidentiality of patient-identifying information; providing appropriations; providing an effective date.

—was read the second time by title.

Senator Jones moved the following amendment which was adopted:

**Amendment 1 (331274)**—On page 5, between lines 8 and 9, insert:

(l) *A physician with expertise in patient safety, appointed by the Florida Podiatric Medical Association.*

(m) *A physician with expertise in patient safety, appointed by the Florida Chiropractic Association.*

(n) *A dentist with expertise in patient safety, appointed by the Florida Dental Association.*

(o) *A representative with expertise in patient safety from the authorized health maintenance organization with the largest market share, as measured by premiums written in the state for the most recent calendar year, appointed by such health maintenance organization.*

Senator Saunders moved the following amendments which were adopted:

**Amendment 2 (955780)**—On page 5, line 9 through page 6, line 17, delete those lines and insert:

(5) **ADVISORY COMMITTEES.**—*In addition to any committees that the corporation may establish, the corporation shall establish the following advisory committees:*

(a) A scientific research advisory committee that includes, at a minimum, a representative from each patient safety center or other patient safety program in the universities of this state who is a physician licensed under chapter 458 or chapter 459, with experience in patient safety and evidence-based medicine. The duties of the scientific research advisory committee shall include, but not be limited to, the analysis of existing data and research to improve patient safety and encourage evidence-based medicine.

(b) A technology advisory committee that includes, at a minimum, a representative of a hospital that has implemented a computerized physician order entry system and a health care provider that has implemented an electronic medical records system. The duties of the technology advisory committee shall include, but not be limited to, fostering development and use of new patient safety technologies, including electronic medical records.

(c) A health care provider advisory committee that includes, at a minimum, representatives of hospitals, ambulatory surgical centers, physicians, nurses, and pharmacists licensed in this state and a representative of the Veterans Integrated Service Network 8 VA Patient Safety Center. The duties of the health care provider advisory committee shall include, but not be limited to, promotion of a culture of patient safety that reduces errors.

(d) A health care consumer advisory committee that includes, at a minimum, representatives of businesses that provide health insurance coverage to their employees, consumer advocacy groups, and representatives of patient organizations. The duties of the health care consumer advisory committee shall include, but not be limited to, identification of incentives to encourage patient safety and the efficiency and quality of care.

(e) A state agency advisory committee that includes, at a minimum, a representative from each state agency that has regulatory responsibilities related to patient safety. The duties of the state agency advisory committee shall include, but not be limited to, fostering coordination of patient safety activities among state agencies.

(f) A litigation alternatives advisory committee that includes, at a minimum, representatives of attorneys who represent plaintiffs and defendants in medical malpractice cases, a representative of each law school in the state, physicians, and health care facilities. The duties of the litigation alternatives advisory committee shall include, but not be limited to, identification of alternative systems to compensate for injuries.

(g) An education advisory committee that includes, at a minimum, the associate dean for education, or the equivalent position, as a representative from each school of medicine, nursing, public health, or allied health to provide advice on the development, implementation, and measurement of core competencies for patient safety to be considered for incorporation in the educational programs of the universities and colleges of this state.

**Amendment 3 (952138)**—On page 8, lines 1-11, delete those lines and insert:

(c) Establish a “near-miss,” patient safety reporting system. The purpose of the near-miss reporting system is to: identify potential systemic problems that could lead to adverse incidents; enable publication of systemwide alerts of potential harm; and facilitate development of both facility-specific and statewide options to avoid adverse incidents and improve patient safety. The reporting system shall record “near-misses” submitted by hospitals, birthing centers, and ambulatory surgical centers and other providers. For the purpose of the reporting system:

1. A “near-miss” means any potentially harmful event that could have had an adverse result but, through chance or intervention in which, harm was prevented.

2. The “near-miss” reporting system shall be voluntary and anonymous and independent of mandatory reporting systems used for regulatory purposes.

3. “Near-miss” data submitted to the corporation is patient safety data as defined in s. 766.1016.

4. Reports of “near-miss” data shall be published on a regular basis and special alerts shall be published as needed regarding newly identified, significant risks.

5. Aggregated data shall be made available publicly.

6. The corporation shall report the performance and results of the reporting system in its annual report.

(d) Work collaboratively with the appropriate state agencies in the development of electronic health records.

(e) Provide for access to an active library of evidence-based medicine and patient safety practices, together with the emerging evidence supporting their retention or modification, and make this information available to health care practitioners, health care facilities, and the public. Support for implementation of evidence-based medicine shall include:

1. A report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Agency for Health Care Administration by January 1, 2005, on:

a. The ability to join or support efforts for the use of evidence-based medicine already underway, such as those of the Leapfrog Group, the international group Bandolier, and the Healthy Florida Foundation.

b. The means by which to promote research using Medicaid and other data collected by the Agency for Health Care Administration to identify and quantify the most cost-effective treatment and interventions, including disease management and prevention programs.

c. The means by which to encourage development of systems to measure and reward providers who implement evidence-based medical practices.

d. The review of other state and private initiatives and published literature for promising approaches and the dissemination of information about them to providers.

e. The encouragement of the Florida health care boards under the Department of Health to regularly publish findings related to the cost-effectiveness of disease-specific, evidence-based standards.

f. Public and private sector initiatives related to evidence-based medicine and communication systems for the sharing of clinical information among caregivers.

g. Regulatory barriers that interfere with the sharing of clinical information among caregivers.

2. An implementation plan reported to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Agency for Health Care Administration by September 1, 2005, that must include, but need not be limited to: estimated costs and savings, capital investment requirements, recommended investment incentives, initial committed provider participation by region, standards of functionality and features, a marketing plan, and implementation schedules for key components.

(Redesignate subsequent paragraphs.)

## MOTION

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

Senator Saunders moved the following amendment which was adopted:

**Amendment 4 (533588)**—On page 4, lines 22 and 23, delete those lines and insert:

(e) Two representatives of hospitals in this state that are implementing innovative patient safety initiatives,

Pursuant to Rule 4.19, **CS for CS for SB 1464** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Peaden—

**CS for SB 1172**—A bill to be entitled An act relating to service charges; amending ss. 319.32 and 320.04, F.S.; increasing certain service

charges for certificates of title and license plates, certain stickers, or registration certificates; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1172** was placed on the calendar of Bills on Third Reading.

On motion by Senator Klein—

**SB 2718**—A bill to be entitled An act relating to the Florida Business Corporation Act; amending s. 607.1302, F.S.; clarifying a corporate action entitling a shareholder to certain appraisal rights and payments for shares; creating s. 607.1330, F.S.; providing requirements, procedures, and limitations on court actions; providing for entitlement to certain judgments; requiring corporate payments under certain circumstances; amending s. 607.1407, F.S.; revising certain notice requirements for dissolved corporations; revising a procedure to clarify an exemption for certain claims against dissolved corporations being barred; correcting a cross reference; providing an effective date.

—was read the second time by title.

The Committee on Commerce, Economic Opportunities, and Consumer Services recommended the following amendment which was moved by Senator Klein and adopted:

**Amendment 1 (675086)(with title amendment)**—On page 5, between lines 24 and 25, insert:

Section 4. For the purpose of incorporating the amendment made by this act to section 607.1302, Florida Statutes, in references thereto, paragraph (g) of subsection (1) and subsection (2) of section 607.1106, Florida Statutes, are reenacted to read:

607.1106 Effect of merger or share exchange.—

(1) When a merger becomes effective:

(g) The shares (and the rights to acquire shares, obligations, or other securities) of each corporation party to the merger that are to be converted into shares, rights, obligations, or other securities of the surviving or any other corporation or into cash or other property are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under s. 607.1302.

(2) When a share exchange becomes effective, the shares of each acquired corporation are exchanged as provided in the plan of exchange, and the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under s. 607.1302.

Section 5. For the purpose of incorporating the amendment made by this act to section 607.1302, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 607.1107, Florida Statutes, is reenacted to read:

607.1107 Merger or share exchange with foreign corporations.—

(2) Upon the merger becoming effective, the surviving foreign corporation of a merger, and the acquiring foreign corporation in a share exchange, is deemed:

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under s. 607.1302.

Section 6. For the purpose of incorporating the amendment made by this act to section 607.1302, Florida Statutes, in references thereto, paragraph (g) of subsection (1) of section 607.1109, Florida Statutes, is reenacted to read:

607.1109 Articles of merger.—

(1) After a plan of merger is approved by each domestic corporation and other business entity that is a party to the merger, the surviving entity shall deliver to the Department of State for filing articles of merger, which shall be executed by each domestic corporation as re-

quired by s. 607.0120 and by each other business entity as required by applicable law, and which shall set forth:

(g) If the surviving entity is another business entity formed, organized, or incorporated under the laws of any state, country, or jurisdiction other than this state:

1. The address, including street and number, if any, of its principal office under the laws of the state, country, or jurisdiction in which it was formed, organized, or incorporated.

2. A statement that the surviving entity is deemed to have appointed the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation that is a party to the merger.

3. A statement that the surviving entity has agreed to promptly pay to the dissenting shareholders of each domestic corporation that is a party to the merger the amount, if any, to which they are entitled under s. 607.1302.

Section 7. For the purpose of incorporating the amendment made by this act to section 607.1302, Florida Statutes, in references thereto, subsection (1) of section 607.1321, Florida Statutes, is reenacted to read:

607.1321 Notice of intent to demand payment.—

(1) If proposed corporate action requiring appraisal rights under s. 607.1302 is submitted to a vote at a shareholders' meeting, or is submitted to a shareholder pursuant to a consent vote under s. 607.0704, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares:

(a) Must deliver to the corporation before the vote is taken, or within 20 days after receiving the notice pursuant to s. 607.1320(3) if action is to be taken without a shareholder meeting, written notice of the shareholder's intent to demand payment if the proposed action is effectuated.

(b) Must not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 16, after the semicolon (;) insert: reenacting ss. 607.1106(1)(g) and (2), 607.1107(2)(b), 607.1109(1)(g), and 607.1321(1), F.S., relating to effect of merger or share exchange, merger or share exchange with foreign corporations, articles of merger, and notice of intent to demand payment, to incorporate the amendment to s. 607.1302, F.S., in references thereto;

Pursuant to Rule 4.19, **SB 2718** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Constantine—

**CS for SB 2986**—A bill to be entitled An act relating to education personnel; amending s. 943.0585, F.S.; providing for the expunging of criminal history records of applicants for employment at certain schools; amending s. 943.059, F.S.; providing an exception to sealed records provisions for applicants for employment at certain schools; amending s. 1002.33, F.S.; requiring charter school employees and governing board members to undergo background screening; amending s. 1004.04, F.S.; revising certain criteria for admission to approved teacher preparation programs; requiring a certification ombudsman; authorizing certain postsecondary institutions to develop and implement short-term teacher assistant experiences; creating s. 1004.85, F.S.; providing a definition; providing for postsecondary institutions to create educator preparation institutes; providing purpose of the institutes; authorizing institutes to offer alternative educator certification programs; requiring Department of Education response to a request for approval; providing criteria for alternative certification programs; providing requirements for program participants; providing for participants to receive a credential signifying mastery of professional preparation and education competence; authorizing school districts to use an alternative certification program at an educator preparation institute to satisfy certain requirements; requiring performance evaluations; requiring certain criteria for instructors; providing rulemaking authority; amending s. 1012.05, F.S.; requiring

guidelines for teacher mentors; requiring electronic access to professional resources for teachers; creating an Education Appreciation Week; requiring action by the Commissioner of Education in helping teachers meet high-quality teacher criteria; amending s. 1012.32, F.S.; requiring background screening for contractual personnel, charter school personnel, and certain instructional and noninstructional personnel; deleting provision for probationary status for new employees pending fingerprint processing; prohibiting certain persons from providing services; providing for appeals; providing for payment of costs; deleting a refingerprinting requirement; requiring the Department of Law Enforcement to retain and enter fingerprints into the statewide automated fingerprint identification system; requiring the Department of Law Enforcement to search arrest fingerprint cards against retained fingerprints and to report identified arrest records; providing school district responsibilities and the imposition of a fee; requiring refingerprinting for personnel whose fingerprints are not retained; amending s. 1012.35, F.S.; providing employment and training requirements for substitute teachers; amending s. 1012.39, F.S.; providing employment criteria for substitute teachers; creating s. 1012.465, F.S.; requiring background screening for certain noninstructional personnel and contractors with the school district; requiring such persons to report conviction of a disqualifying offense; providing for suspension of personnel who do not meet screening requirements; amending s. 1012.55, F.S.; providing departmental duties relating to identification of appropriate certification for certain instruction; requiring background screening for certain instructors; amending s. 1012.56, F.S.; providing for the issuance of renewal instructions and temporary certificates; clarifying circumstances for issuance of a status of eligibility statement; authorizing the filing of an affidavit with the application for a certificate; requiring background screening for educator certification; providing background screening requirements; requiring reporting of disqualifying offenses; providing for suspension from a position and suspension or revocation of certification; creating s. 1012.561, F.S.; requiring certified educators and applicants for certification to maintain a current address with the Department of Education; amending s. 1012.57, F.S.; adding a cross-reference to the background screening requirements; amending s. 1012.585, F.S.; requiring training in the teaching of reading for certified personnel who teach students who have limited English proficiency; amending s. 1012.79, F.S.; reducing the membership of Education Practice Commission review panels; amending s. 1012.795, F.S.; increasing the discipline options available to the Education Practices Commission; amending s. 1012.796, F.S.; revising the procedures for investigating complaints against certified personnel; providing the conditions of probation; amending s. 1012.798, F.S.; revising procedures for accessing the recovery network program; providing an effective date.

—was read the second time by title.

The Committee on Criminal Justice recommended the following amendment which was moved by Senator Constantine:

**Amendment 1 (935042)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (4) of section 943.0585, Florida Statutes, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activ-

ity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.059;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or
6. Is seeking to be employed or licensed by ~~the Office of Teacher Education, Certification, Staff Development, and Professional Practices~~ of the Department of Education, any district school board, *any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities.*

(b) Subject to the exceptions in paragraph (a), a person who has been granted an expunction under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.

(c) Information relating to the existence of an expunged criminal history record which is provided in accordance with paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the existence of a criminal history record ordered expunged to the entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes, and to criminal justice agencies for their respective criminal justice purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. to disclose information relating to the existence of an expunged criminal history record of a person seeking employment or licensure with such entity or contractor, except

to the person to whom the criminal history record relates or to persons having direct responsibility for employment or licensure decisions. Any person who violates this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Subsection (4) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the ~~Office of Teacher Education, Certification, Staff Development, and Professional Practices~~ of the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that ~~which~~ licenses child care facilities.

(b) Subject to the exceptions in paragraph (a), a person who has been granted a sealing under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge a sealed criminal history record.

(c) Information relating to the existence of a sealed criminal record provided in accordance with the provisions of paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the sealed criminal history record to the entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. to disclose information relating to the existence of a sealed criminal history record of a person seeking employment or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment or licensure decisions. Any person who violates the provisions of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. Paragraph (g) of subsection (12) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(12) EMPLOYEES OF CHARTER SCHOOLS.—

(g) A charter school shall employ or contract with employees who have ~~undergone background screening~~ been fingerprinted as provided in s. 1012.32. Members of the governing board of the charter school shall also ~~undergo background screening~~ be fingerprinted in a manner similar to that provided in s. 1012.32.

Section 4. Subsection (4) of section 1004.04, Florida Statutes, is amended, subsections (10), (11), and (12) are renumbered as subsections (11), (12), and (13), respectively, and a new subsection (10) is added to that section, to read:

1004.04 Public accountability and state approval for teacher preparation programs.—

(4) INITIAL STATE PROGRAM APPROVAL.—

(a) A program approval process based on standards adopted pursuant to subsections (2) and (3) must be established for postsecondary teacher preparation programs, phased in according to timelines determined by the Department of Education, and fully implemented for all teacher preparation programs in the state. Each program shall be approved by the department, consistent with the intent set forth in subsection (1) and based primarily upon significant, objective, and quantifiable graduate performance measures.

(b) Each teacher preparation program approved by the Department of Education, as provided for by this section, shall require students to meet the following as prerequisites for admission into the program:

1. Have a grade point average of at least 2.5 on a 4.0 scale for the general education component of undergraduate studies or have completed the requirements for a baccalaureate degree with a minimum grade point average of 2.5 on a 4.0 scale from any college or university accredited by a regional accrediting association as defined by State Board of Education rule or any college or university otherwise approved pursuant to State Board of Education rule.

2. Demonstrate mastery of general knowledge, including the ability to read, write, and compute, by passing the *General Knowledge Test of the Florida Teacher Certification Examination*, the *College Level Academic Skills Test*, a corresponding component of the *National Teachers Examination* series, or a similar test pursuant to rules of the State Board of Education.

Each teacher preparation program may waive these admissions requirements for up to 10 percent of the students admitted. Programs shall implement strategies to ensure that students admitted under a waiver receive assistance to demonstrate competencies to successfully meet requirements for certification.

(c) *Each teacher preparation program approved by the Department of Education, as provided for by this section, shall provide a certification ombudsman to facilitate the process and procedures required for graduates to obtain educator professional or temporary certification pursuant to s. 1012.56.*

(10) **SHORT-TERM EXPERIENCES AS TEACHER ASSISTANTS.**—*Postsecondary institutions offering teacher preparation programs and community colleges, in collaboration with school districts, may develop and implement a program to provide short-term experiences as teacher assistants prior to beginning a teacher preparation program or alternative certification program. The program shall serve individuals with baccalaureate degrees who are interested in the teaching profession. This experience may be accepted for use in teacher preparation programs and competency-based alternative certification programs, where applicable.*

Section 5. Section 1004.85, Florida Statutes, is created to read:

1004.85 *Postsecondary educator preparation institutes.*—

(1) *As used in this section, “educator preparation institute” means an institute created by a postsecondary institution and approved by the Department of Education.*

(2) *Postsecondary institutions that are accredited or approved as described in state board rule may seek approval from the Department of Education to create educator preparation institutes for the purpose of providing any or all of the following:*

(a) *Professional development instruction to assist teachers in improving classroom instruction and in meeting certification or recertification requirements.*

(b) *Instruction to assist potential and existing substitute teachers in performing their duties.*

(c) *Instruction to assist paraprofessionals in meeting education and training requirements.*

(d) *Instruction for baccalaureate degree holders to become certified teachers as provided in this section in order to increase routes to the classroom for mid-career professionals who hold a baccalaureate degree and college graduates who were not education majors.*

(3) *Educator preparation institutes approved pursuant to this section may offer alternative certification programs specifically designed for non-education major baccalaureate degree holders to enable program participants to meet the educator certification requirements of s. 1012.56. Such programs shall be competency-based educator certification preparation programs that prepare educators through an alternative route. An educator preparation institute choosing to offer an alternative certification program pursuant to the provisions of this section must implement a program previously approved by the Department of Education for this purpose or a program developed by the institute and approved by the department for this purpose. Approved programs shall be available for use by other approved educator preparation institutes.*

(a) *Within 90 days after receipt of a request for approval, the Department of Education shall approve an alternative certification program or issue a statement of the deficiencies in the request for approval. The department shall approve an alternative certification program if the institute provides sufficient evidence of the following:*

1. *Instruction must be provided in professional knowledge and subject matter content that includes educator-accomplished practices and competencies specified in State Board of Education rule and meets subject matter content requirements, professional competency testing requirements, and competencies associated with teaching scientifically based reading instruction and strategies that research has shown to be successful in improving reading among low-performing readers.*

2. *The program must provide field experience with supervision from qualified educators.*

3. *The program must provide a certification ombudsman to facilitate the process and procedures required for participants who complete the program to meet any requirements related to the background screening pursuant to s. 1012.32 and educator professional or temporary certification pursuant to s. 1012.56.*

(b) *Each program participant must:*

1. *Meet certification requirements pursuant to s. 1012.56(1) by obtaining a statement of status of eligibility and meet the requirements of s. 1012.56(2)(a)-(f).*

2. *Participate in field experience that is appropriate to his or her educational plan.*

3. *Fully demonstrate his or her ability to teach the subject area for which he or she is seeking certification and demonstrate mastery of professional preparation and education competence by achievement of a passing score on the professional education competency examination required by state board rule prior to completion of the program.*

(c) *Upon completion of an alternative certification program approved pursuant to this subsection, a participant shall receive a credential from the sponsoring institution signifying satisfaction of the requirements of s. 1012.56(5) relating to mastery of professional preparation and education competence. A participant shall be eligible for educator certification through the Department of Education upon satisfaction of all requirements for certification set forth in s. 1012.56(2), including demonstration of mastery of general knowledge, subject area knowledge, and professional preparation and education competence, through testing or other statutorily authorized means.*

(d) *If an institution offers an alternative certification program approved pursuant to this subsection, such program may be used by the school district or districts served by that institution in addition to the alternative certification program as required in s. 1012.56(7).*

(4) *Each institute approved pursuant to this section shall submit to the Department of Education annual performance evaluations that measure the effectiveness of the programs, including the pass rates of participants on all examinations required for teacher certification, employment rates, longitudinal retention rates, and employer satisfaction surveys. The employer satisfaction surveys must be designed to measure the sufficient preparation of the educator to enter the classroom. These evaluations shall be used by the Department of Education for purposes of continued approval of an educator preparation institute’s alternative certification program.*

(5) *Instructors for an alternative certification program approved pursuant to this section must possess a master’s degree in education or a master’s degree in an appropriate related field and document teaching experience.*

(6) *Educator preparation institutes approved pursuant to this section and providing approved instructional programs for any of the purposes in subsection (2) are eligible for funding from federal and state funds, as appropriated by the Legislature.*

(7) *The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.*

Section 6. Subsection (2) of section 1012.01, Florida Statutes, is amended to read:

1012.01 **Definitions.**—*Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida K-20 Education Code, they shall be used as follows:*

(2) **INSTRUCTIONAL PERSONNEL.**—*“Instructional personnel” means any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are the following K-12 personnel:*

(a) **Classroom teachers.**—*Classroom teachers are staff members assigned the professional activity of instructing students in courses in classroom situations, including basic instruction, exceptional student education, career and technical education, and adult education, including substitute teachers.*

(b) Student personnel services.—Student personnel services include staff members responsible for: advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments; providing placement services; performing educational evaluations; and similar functions. Included in this classification are guidance counselors, social workers, occupational/placement specialists, and school psychologists.

(c) Librarians/media specialists.—Librarians/media specialists are staff members responsible for providing school library media services. These employees are responsible for evaluating, selecting, organizing, and managing media and technology resources, equipment, and related systems; facilitating access to information resources beyond the school; working with teachers to make resources available in the instructional programs; assisting teachers and students in media productions; and instructing students in the location and use of information resources.

(d) Other instructional staff.—Other instructional staff are staff members who are part of the instructional staff but are not classified in one of the categories specified in paragraphs (a)-(c). Included in this classification are primary specialists, learning resource specialists, instructional trainers, adjunct educators certified pursuant to s. 1012.57, and similar positions.

(e) Education paraprofessionals.—Education paraprofessionals are individuals who are under the direct supervision of an instructional staff member, aiding the instructional process. Included in this classification are classroom paraprofessionals in regular instruction, exceptional education paraprofessionals, career education paraprofessionals, adult education paraprofessionals, library paraprofessionals, physical education and playground paraprofessionals, and other school-level paraprofessionals.

Section 7. Section 1012.05, Florida Statutes, is amended to read:

1012.05 Teacher recruitment and retention.—

(1) The Department of Education, in cooperation with teacher organizations, district personnel offices, and schools, colleges, and departments of all public and nonpublic postsecondary educational institutions, shall concentrate on the recruitment and retention of qualified teachers.

(2) The Department of Education shall:

(a) Develop and implement a system for posting teaching vacancies and establish a database of teacher applicants that is accessible within and outside the state.

(b) Advertise in major newspapers, national professional publications, and other professional publications and in public and nonpublic postsecondary educational institutions.

(c) Utilize state and nationwide toll-free numbers.

(d) Conduct periodic communications with district personnel directors regarding applicants.

(e) Provide district access to the applicant database by computer or telephone.

(f) Develop and distribute promotional materials related to teaching as a career.

(g) Publish and distribute information pertaining to employment opportunities, application procedures, and all routes toward teacher certification in Florida, and teacher salaries.

(h) Provide information related to certification procedures.

(i) Develop and sponsor the Florida Future Educator of America Program throughout the state.

(j) Develop, in consultation with school district staff including, but not limited to, district school superintendents, district school board members, and district human resources personnel, a long-range plan for educator recruitment and retention.

(k) Identify best practices for retaining high-quality teachers.

(l) Develop, in consultation with Workforce Florida, Inc., and the Agency for Workforce Innovation, created pursuant to ss. 445.004 and 20.50, respectively, a plan for accessing and identifying available resources in the state's workforce system for the purpose of enhancing teacher recruitment and retention.

(m) Create guidelines and identify best practices for the mentors of first-time teachers and for new teacher-support programs that focus on the professional assistance needed by first-time teachers throughout the first year of teaching. The department shall consult with the Florida Center for Reading Research and the Just Read, Florida! Office in developing the guidelines.

(n)(~~m~~) Develop and implement a First Response Center to provide educator candidates one-stop shopping for information on teaching careers in Florida and establish the Teacher Lifeline Network to provide online support to beginning teachers and those needing assistance.

(o) Develop and implement an online Teacher Toolkit that contains a menu of resources, based on the Sunshine State Standards, that all teachers can use to enhance classroom instruction and increase teacher effectiveness, thus resulting in improved student achievement.

(p) Establish a week designated as Educator Appreciation Week to recognize the significant contributions made by educators to their students and school communities.

(q) The Department of Education shall notify each teacher, via e-mail, of each item in the General Appropriations Act and legislation that affects teachers, including, but not limited to, the Excellent Teaching Program, the Teachers Lead Program, liability insurance protection for teachers, death benefits for teachers, substantive legislation, rules of the State Board of Education, and issues concerning student achievement.

(3)(a) Each school board shall adopt policies relating to mentors and support for first-time teachers based upon guidelines issued by the Department of Education.

(b) By September 15 and February 15 each school year, each school district shall electronically submit accurate public school e-mail addresses for all instructional and administrative personnel, as identified in s. 1012.01(2) and (3), to the Department of Education.

(4)(~~3~~) The Department of Education, in cooperation with district personnel offices, shall sponsor a job fair in a central part of the state to match in-state educators and potential educators and out-of-state educators and potential educators with teaching opportunities in this state.

(5)(4) Subject to proviso in the General Appropriations Act, the Commissioner of Education may use funds appropriated by the Legislature and funds from federal grants and other sources to provide incentives for teacher recruitment and preparation programs. The purpose of the use of such funds is to recruit and prepare individuals who do not graduate from state-approved teacher preparation programs to teach in a Florida public school. The commissioner may contract with entities other than, and including, approved teacher preparation programs to provide intensive teacher training leading to passage of the required certification exams for the desired subject area or coverage. The commissioner shall survey school districts to evaluate the effectiveness of such programs.

(6) The Commissioner of Education shall take steps that provide flexibility and consistency in meeting the highly qualified teacher criteria as defined in the No Child Left Behind Act of 2001 through a High, Objective, Uniform State Standard of Evaluation (HOUSSE).

Section 8. Subsections (1) and (3) of section 1012.231, Florida Statutes, are amended to read:

1012.231 BEST Florida Teaching salary career ladder program; assignment of teachers.—

(1) SALARY CAREER LADDER FOR CLASSROOM TEACHERS.—Beginning with the 2005-2006 ~~2004-2005~~ academic year, each district school board shall implement a salary career ladder for classroom teachers as defined in s. 1012.01(2)(a). Performance shall be defined as designated in s. 1012.34(3)(a)1.-7. District school boards shall designate categories of classroom teachers reflecting these salary career ladder levels as follows:

(a) Associate teacher.—Classroom teachers in the school district who have not yet received a professional certificate or those with a professional certificate who are evaluated as low-performing teachers.

(b) Professional teacher.—Classroom teachers in the school district who have received a professional certificate.

(c) Lead teacher.—Classroom teachers in the school district who are responsible for leading others in the school as department chair, lead teacher, grade-level leader, intern coordinator, or professional development coordinator. Lead teachers must participate on a regular basis in the direct instruction of students and serve as faculty for professional development activities as determined by the State Board of Education. To be eligible for designation as a lead teacher, a teacher must demonstrate outstanding performance pursuant to s. 1012.34(3)(a)1.-7. and must have been a “professional teacher” pursuant to paragraph (b) for at least 1 year.

(d) Mentor teacher.—Classroom teachers in the school district who serve as regular mentors to other teachers who are either not performing satisfactorily or who strive to become more proficient. Mentor teachers must serve as faculty-based professional development coordinators and regularly demonstrate and share their expertise with other teachers in order to remain mentor teachers. Mentor teachers must also participate on a regular basis in the direct instruction of low-performing students. To be eligible for designation as a mentor teacher, a teacher must demonstrate outstanding performance pursuant to s. 1012.34(3)(a)1.-7. and must have been a “lead teacher” pursuant to paragraph (c) for at least 2 two years.

Promotion of a teacher to a higher level on the salary career ladder shall be based upon prescribed performance criteria and not based upon length of service.

(3) STATE BOARD AND SCHOOL DISTRICT PLANS.—The State Board of Education shall develop a long-range plan to implement a differentiated pay model for teachers beginning in the 2005-2006 2004-2005 academic year, based upon the differentiated classroom teacher categories in subsection (1). No later than December 1, 2003, the State Board of Education shall approve guidelines and criteria for the district plans. District school boards shall develop plans to implement the salary career ladder prescribed in this section and submit these plans to the State Board of Education by March 1, 2004.

Section 9. Section 1012.32, Florida Statutes, is amended, to read:

1012.32 Qualifications of personnel.—

(1) To be eligible for appointment in any position in any district school system, a person shall be of good moral character; shall have attained the age of 18 years, if he or she is to be employed in an instructional capacity; and shall, when required by law, hold a certificate or license issued under rules of the State Board of Education or the Department of Children and Family Services, except when employed pursuant to s. 1012.55 or under the emergency provisions of s. 1012.24. Previous residence in this state shall not be required in any school of the state as a prerequisite for any person holding a valid Florida certificate or license to serve in an instructional capacity.

(2)(a) Instructional and noninstructional personnel who are hired or contracted to fill positions requiring direct contact with students in any district school system or university lab school shall, upon employment or engagement to provide services, undergo background screening as required under s. 1012.56 or s. 1012.465, whichever is applicable, ~~file a complete set of fingerprints taken by an authorized law enforcement officer or an employee of the school or district who is trained to take fingerprints.~~

(b) Instructional and noninstructional personnel who are hired or contracted to fill positions in any charter school and members of the governing board of any charter school, in compliance with s. 1002.33(12)(g), shall, upon employment, engagement of services, or appointment, undergo background screening as required under s. 1012.56 or s. 1012.465, whichever is applicable, by filing with the district school board for the school district in which the charter school is located a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school district who is trained to take fingerprints.

(c) Instructional and noninstructional personnel who are hired or contracted to fill positions requiring direct contact with students in an alternative school that operates under contract with a district school system shall, upon employment or engagement to provide services, undergo background screening as required under s. 1012.56 or s. 1012.465, whichever is applicable, by filing with the district school board for the school district to which the alternative school is under contract a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school district who is trained to take fingerprints.

(d) Student teachers, persons participating in a field experience pursuant to s. 1004.04(6) or s. 1004.85, and persons participating in a short-term experience as a teacher assistant pursuant to s. 1004.04(10) in any district school system, lab school, or charter school shall, upon engagement to provide services, undergo background screening as required under s. 1012.56.

These Fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. ~~Persons subject to this subsection The new employees shall be on probationary status pending fingerprint processing and determination of compliance with standards of good moral character. Employees found through fingerprint processing to have been convicted of a crime involving moral turpitude shall not be employed, engaged to provide services, or serve in any position requiring direct contact with students. Probationary persons subject to this subsection employees terminated because of their criminal record shall have the right to appeal such decisions. The cost of the background screening fingerprint processing may be borne by the district school board, the charter school, or the employee, the contractor, or a person subject to this subsection.~~

~~(b) Personnel who have been fingerprinted or screened pursuant to this subsection and who have not been unemployed for more than 90 days shall not be required to be refingerprinted or rescreened in order to comply with the requirements of this subsection.~~

(3)(a) Beginning July 1, 2004, all fingerprints submitted to the Department of Law Enforcement as required by subsection (2) shall be retained by the Department of Law Enforcement in a manner provided by rule and entered in the statewide automated fingerprint identification system authorized by s. 943.05(2)(b). Such fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprint cards entered in the statewide automated fingerprint identification system pursuant to s. 943.051.

(b) Beginning December 15, 2004, the Department of Law Enforcement shall search all arrest fingerprint cards received under s. 943.051 against the fingerprints retained in the statewide automated fingerprint identification system under paragraph (a). Any arrest record that is identified with the retained fingerprints of a person subject to the background screening under this section shall be reported to the employing or contracting school district or the school district with which the person is affiliated. Each school district is required to participate in this search process by payment of an annual fee to the Department of Law Enforcement and by informing the Department of Law Enforcement of any change in the affiliation, employment, or contractual status or place of affiliation, employment, or contracting of its instructional and noninstructional personnel whose fingerprints are retained under paragraph (a). The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon each school district for performing these searches and establishing the procedures for the retention of instructional and noninstructional personnel fingerprints and the dissemination of search results. The fee may be borne by the district school board, the contractor, or the person fingerprinted.

(c) Personnel whose fingerprints are not retained by the Department of Law Enforcement under paragraphs (a) and (b) are required to be refingerprinted and must meet level 2 screening requirements as described in this section upon reemployment or reengagement to provide services in order to comply with the requirements of this subsection.

Section 10. Paragraph (g) of subsection (3) of section 1012.33, Florida Statutes, is amended to read:

1012.33 Contracts with instructional staff, supervisors, and school principals.—

(3)

(g) Beginning July 1, 2001, for each employee who enters into a written contract, pursuant to this section, in a school district in which the employee was not employed as of June 30, 2001, or was employed as of June 30, 2001, but has since broken employment with that district for 1 school year or more, for purposes of pay, a district school board must recognize and accept each year of full-time public school teaching service earned in the State of Florida or outside the state and for which the employee received a satisfactory performance evaluation. Instructional personnel employed pursuant to s. 121.091(9)(b)3. are exempt from the provisions of this paragraph.

Section 11. Section 1012.35, Florida Statutes, is amended to read:

1012.35 Substitute teachers.—

(1) Each district school board shall adopt rules prescribing the compensation of, and the procedure for employment of, substitute teachers.

(a) ~~The~~ Such procedure for employment ~~shall~~ include, but is not limited to, the filing of a complete set of fingerprints as required in s. 1012.32; documentation of a minimum education level of a high school diploma or equivalent; and completion of an initial orientation and training program in district policies and procedures addressing school safety and security procedures, educational liability laws, professional responsibilities, and ethics.

(b) Candidates who have no prior teaching experience, as determined by the employing school district, must complete an additional training program that includes classroom management skills and instructional strategies.

(c) The required training programs for substitute teachers may be provided by community colleges, colleges of education, district school boards, educational consortia, or commercial vendors.

(d) It is recommended that ongoing training and access to professional development offerings be made available to substitute teachers by the employing district.

(2) The Department of Education shall develop web-based resources to enhance district substitute orientation programs.

(3) Districts shall develop performance appraisal measures for assessing the quality of instruction delivered by substitutes who provide instruction for 30 or more days in a single classroom placement.

Section 12. Paragraph (a) of subsection (1) of section 1012.39, Florida Statutes, is amended to read:

1012.39 Employment of substitute teachers, teachers of adult education, nondegree teachers of career education, and career specialists; students performing clinical field experience.—

(1) Notwithstanding ss. 1012.32, 1012.55, 1012.56, and 1012.57, or any other provision of law or rule to the contrary, each district school board shall establish the minimal qualifications for:

(a) Substitute teachers to be employed pursuant to s. 1012.35. The qualifications shall require the filing of a complete set of fingerprints in the same manner as required by s. 1012.32; documentation of a minimum education level of a high school diploma or equivalent; and completion of an initial orientation and training program in district policies and procedures addressing school safety and security procedures, educational liability laws, professional responsibilities, and ethics.

Section 13. Section 1012.465, Florida Statutes, is created to read:

1012.465 Background screening requirements for certain noninstructional school district employees and contractors.—

(1) Noninstructional school district employees or contractual personnel who have direct contact with students or have access to or control of school funds must meet level 2 screening requirements as described in s. 1012.32.

(2) Every 5 years following employment or entry into a contract in a capacity described in subsection (1), each person who is so employed or

under contract with the school district must meet level 2 screening requirements as described in s. 1012.32, at which time the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening. If, for any reason following employment or entry into a contract in a capacity described in subsection (1), the fingerprints of a person who is so employed or under contract with the school district are not retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b), the person must file a complete set of fingerprints with the district school superintendent of the employing or contracting school district. Upon submission of fingerprints for this purpose, the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b). The cost of the state and federal criminal history check required by level 2 screening may be borne by the district school board, the contractor, or the person fingerprinted. Under penalty of perjury, each person who is employed or under contract in a capacity described in subsection (1) must agree to inform his or her employer or the party with whom he or she is under contract within 48 hours if convicted of any disqualifying offense while he or she is employed or under contract in that capacity.

(3) If it is found that a person who is employed or under contract in a capacity described in subsection (1) does not meet the level 2 requirements, the person shall be immediately suspended from working in that capacity and shall remain suspended until final resolution of any appeals.

Section 14. Subsections (1) and (4) of section 1012.55, Florida Statutes, are amended to read:

1012.55 Positions for which certificates required.—

(1) The State Board of Education shall classify school services, designate the certification subject areas, establish competencies, including the use of technology to enhance student learning, and certification requirements for all school-based personnel, and adopt rules in accordance with which the professional, temporary, and part-time certificates shall be issued by the Department of Education to applicants who meet the standards prescribed by such rules for their class of service. Each person employed or occupying a position as school supervisor, school principal, teacher, library media specialist, school counselor, athletic coach, or other position in which the employee serves in an instructional capacity, in any public school of any district of this state shall hold the certificate required by law and by rules of the State Board of Education in fulfilling the requirements of the law for the type of service rendered. The Department of Education shall identify appropriate educator certification for the instruction of specified courses in an annual publication of a directory of course code numbers for all programs and courses that are funded through the Florida Education Finance Program. However, the state board shall adopt rules authorizing district school boards to employ selected noncertificated personnel to provide instructional services in the individuals' fields of specialty or to assist instructional staff members as education paraprofessionals.

(4) A commissioned or noncommissioned military officer who is an instructor of junior reserve officer training shall be exempt from requirements for teacher certification, except for the background screening filing of fingerprints pursuant to s. 1012.32, if he or she meets the following qualifications:

(a) Is retired from active military duty, pursuant to chapter 102 of Title 10, U.S.C.

(b) Satisfies criteria established by the appropriate military service for certification by the service as a junior reserve officer training instructor.

(c) Has an exemplary military record.

If such instructor is assigned instructional duties other than junior reserve officer training, he or she shall hold the certificate required by law and rules of the state board for the type of service rendered.

Section 15. Subsection (1), paragraphs (b) and (d) of subsection (2), and subsections (3), (4), and (5) of section 1012.56, Florida Statutes, are amended, present subsections (9) through (15) of that section are renumbered as subsections (10) through (16), respectively, and a new subsection (9) is added to that section, to read:

## 1012.56 Educator certification requirements.—

(1) APPLICATION.—Each person seeking certification pursuant to this chapter shall submit a completed application containing the applicant's social security number to the Department of Education and remit the fee required pursuant to s. 1012.59 and rules of the State Board of Education. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement is limited to the purpose of administration of the Title IV-D program of the Social Security Act for child support enforcement. Pursuant to s. 120.60, the department shall issue within 90 calendar days after the stamped receipted date of the completed application:

(a) *If the applicant meets the requirements, a professional certificate covering the classification, level, and area for which the applicant is deemed qualified and a document explaining the requirements for renewal of the professional certificate; or*

(b) *If the applicant meets the requirements and if requested by an employing school district or an employing private school with a professional education competence demonstration program pursuant to paragraphs (5)(f) and (7)(b), a temporary certificate covering the classification, level, and area for which the applicant is deemed qualified and an official statement of status of eligibility; or*

(c) ~~(b)~~ *If an applicant does not meet the requirements for either certificate, an official statement of status of eligibility.*

The statement of status of eligibility must advise the applicant of any qualifications that must be completed to qualify for certification. Each statement of status of eligibility is valid for 3 years after its date of issuance, except as provided in paragraph (2)(d).

(2) ELIGIBILITY CRITERIA.—To be eligible to seek certification, a person must:

(b) ~~File an affidavit a written statement, under oath,~~ that the applicant subscribes to and will uphold the principles incorporated in the Constitution of the United States and the Constitution of the State of Florida *and that the information provided in the application is true, accurate, and complete. The affidavit shall be by original signature or by electronic authentication. The affidavit shall include substantially the following warning:*

*WARNING: Giving false information in order to obtain or renew a Florida educator's certificate is a criminal offense under Florida law. Anyone giving false information on this affidavit is subject to criminal prosecution as well as disciplinary action by the Education Practices Commission.*

(d) ~~Submit to background screening in accordance with subsection (9) a fingerprint check from the Department of Law Enforcement and the Federal Bureau of Investigation pursuant to s. 1012.32. If the background screening indicates fingerprint reports indicate~~ a criminal history or if the applicant acknowledges a criminal history, the applicant's records shall be referred to the *investigative section in the Department of Education Bureau of Educator Standards* for review and determination of eligibility for certification. If the applicant fails to provide the necessary documentation requested by the ~~department Bureau of Educator Standards~~ within 90 days after the date of the receipt of the certified mail request, the statement of eligibility and pending application shall become invalid.

(3) MASTERY OF GENERAL KNOWLEDGE.—Acceptable means of demonstrating mastery of general knowledge are:

(a) Achievement of passing scores on basic skills examination required by state board rule;

(b) Achievement of passing scores on the College Level Academic Skills Test earned prior to July 1, 2002;

(c) A valid professional standard teaching certificate issued by another state;

(d) A valid certificate issued by the National Board for Professional Teaching Standards *or a national educator credentialing board approved by the State Board of Education; or*

(e) Documentation of two semesters of successful teaching in a community college, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education as having a quality program.

(4) MASTERY OF SUBJECT AREA KNOWLEDGE.—Acceptable means of demonstrating mastery of subject area knowledge are:

(a) Achievement of passing scores on subject area examinations required by state board rule;

(b) Completion of the subject area specialization requirements specified in state board rule and verification of the attainment of the essential subject matter competencies by the district school superintendent of the employing school district or chief administrative officer of the employing state-supported or private school for a subject area for which a subject area examination has not been developed and required by state board rule;

(c) Completion of the subject area specialization requirements specified in state board rule for a subject coverage requiring a master's or higher degree and achievement of a passing score on the subject area examination specified in state board rule;

(d) A valid professional standard teaching certificate issued by another state; or

(e) A valid certificate issued by the National Board for Professional Teaching Standards *or a national educator credentialing board approved by the State Board of Education.*

(5) MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION COMPETENCE.—Acceptable means of demonstrating mastery of professional preparation and education competence are:

(a) Completion of an approved teacher preparation program at a postsecondary educational institution within this state and achievement of a passing score on the professional education competency examination required by state board rule;

(b) Completion of a teacher preparation program at a postsecondary educational institution outside Florida and achievement of a passing score on the professional education competency examination required by state board rule;

(c) A valid professional standard teaching certificate issued by another state;

(d) A valid certificate issued by the National Board for Professional Teaching Standards *or a national educator credentialing board approved by the State Board of Education;*

(e) Documentation of two semesters of successful teaching in a community college, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education as having a quality program;

(f) Completion of professional preparation courses as specified in state board rule, successful completion of a professional education competence demonstration program pursuant to paragraph (7)(b), and achievement of a passing score on the professional education competency examination required by state board rule; ~~or~~

(g) Successful completion of a professional preparation alternative certification and education competency program, outlined in paragraph (7)(a); ~~or-~~

(h) *Successful completion of an alternative certification program pursuant to s. 1004.85 and achievement of a passing score on the professional education competency examination required by rule of the State Board of Education.*

(9) BACKGROUND SCREENING REQUIRED, INITIALLY AND PERIODICALLY.—

(a) *Each person who seeks certification under this chapter must meet level 2 screening requirements as described in s. 1012.32 unless a level*

2 screening has been conducted by a district school board or the Department of Education within 12 months before the date the person initially obtains certification under this chapter, the results of which are submitted to the district school board or to the Department of Education.

(b) A person may not receive a certificate under this chapter until the level 2 screening has been completed and the results have been submitted to the Department of Education or to the district school superintendent of the school district that employs the person. Every 5 years after obtaining initial certification, each person who is required to be certified under this chapter must meet level 2 screening requirements as described in s. 1012.32, at which time the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening. If, for any reason after obtaining initial certification, the fingerprints of a person who is required to be certified under this chapter are not retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b), the person must file a complete set of fingerprints with the district school superintendent of the employing school district. Upon submission of fingerprints for this purpose, the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b). The cost of the state and federal criminal history check required by level 2 screening may be borne by the district school board or the employee. Under penalty of perjury, each person who is certified under this chapter must agree to inform his or her employer within 48 hours if convicted of any disqualifying offense while he or she is employed in a position for which such certification is required.

(c) If it is found under s. 1012.796 that a person who is employed in a position requiring certification under this chapter does not meet the level 2 screening requirements, the person's certification shall be immediately revoked or suspended and he or she shall be immediately suspended from the position requiring certification.

Section 16. Section 1012.561, Florida Statutes, is created to read:

1012.561 Address of record.—Each certified educator or applicant for certification is solely responsible for maintaining his or her current address with the Department of Education and for notifying the department in writing of a change of address. By January 1, 2005, each educator and applicant for certification must have on file with the department a current mailing address. Thereafter, a certified educator or applicant for certification who is employed by a district school board shall notify his or her employing school district within 10 days after a change of address. At a minimum, the employing district school board shall notify the department monthly of the addresses of the certified educators or applicants for certification in the manner prescribed by the department. A certified educator or applicant for certification who is not employed by a district school board shall personally notify the department in writing within 30 days after a change of address. The department shall permit electronic notification; however, it is the responsibility of the certified educator or applicant for certification to ensure that the department has received the electronic notification.

Section 17. Section 1012.57, Florida Statutes, is amended to read:

1012.57 Certification of adjunct educators.—

(1) Notwithstanding the provisions of ss. 1012.32, 1012.55, and 1012.56, or any other provision of law or rule to the contrary, district school boards shall adopt rules to allow for the issuance of an adjunct teaching certificate to any applicant who fulfills the requirements of s. 1012.56(2)(a)-(f) and (9) and who has expertise in the subject area to be taught. An applicant shall be considered to have expertise in the subject area to be taught if the applicant demonstrates sufficient subject area mastery through passage of a subject area test. The adjunct teaching certificate shall be used for part-time teaching positions. The intent of this provision is to allow school districts to tap the wealth of talent and expertise represented in Florida's citizens who may wish to teach part-time in a Florida public school by permitting school districts to issue adjunct certificates to qualified applicants. Adjunct certificateholders should be used as a strategy to reduce the teacher shortage; thus, adjunct certificateholders should supplement a school's instructional staff, not supplant it. Each school principal shall assign an experienced peer mentor to assist the adjunct teaching certificateholder during the certificateholder's first year of teaching, and an adjunct certificateholder may

participate in a district's new teacher training program. District school boards shall provide the adjunct teaching certificateholder an orientation in classroom management prior to assigning the certificateholder to a school. Each adjunct teaching certificate is valid for 5 school years and is renewable if the applicant has received satisfactory performance evaluations during each year of teaching under adjunct teaching certification.

(2) Individuals who are certified and employed under ~~pursuant to~~ this section shall have the same rights and protection of laws as teachers certified under ~~pursuant to~~ s. 1012.56.

Section 18. Paragraph (d) of subsection (3) of section 1012.585, Florida Statutes, is amended to read:

1012.585 Process for renewal of professional certificates.—

(3) For the renewal of a professional certificate, the following requirements must be met:

(d) The State Board of Education shall adopt rules for the expanded use of training for renewal of the professional certificate for educators who are required to complete training in teaching students of limited English proficiency and training in the teaching of reading as follows:

1. A teacher who holds a professional certificate may use college credits or inservice points completed in English-for-Speakers-of-Other-Languages training and training in the teaching of reading in excess of 6 semester hours during one certificate-validity period toward renewal of the professional certificate during the subsequent validity periods.

2. A teacher who holds a temporary certificate may use college credits or inservice points completed in English-for-Speakers-of-Other-Languages training and training in the teaching of reading toward renewal of the teacher's first professional certificate. Such training must not have been included within the degree program, and the teacher's temporary and professional certificates must be issued for consecutive school years.

Section 19. Subsection (8) of section 1012.79, Florida Statutes, is amended to read:

1012.79 Education Practices Commission; organization.—

(8)(a) The commission shall, from time to time, designate members of the commission to serve on panels for the purpose of reviewing and issuing final orders upon cases presented to the commission. A case concerning a complaint against a teacher shall be reviewed and a final order thereon shall be entered by a panel composed of five ~~seven~~ commission members, three ~~four~~ of whom shall be teachers. A case concerning a complaint against an administrator shall be reviewed and a final order thereon shall be entered by a panel composed of five ~~seven~~ commission members, three ~~four~~ of whom shall be administrators.

(b) A majority of a quorum of a panel of the commission shall have final agency authority in all cases involving the revocation, suspension, or other disciplining of certificates of teachers and school administrators. A majority of the membership of the panel shall constitute a quorum. The district school board shall retain the authority to discipline teachers and administrators pursuant to law.

Section 20. Subsections (1) and (6) of section 1012.795, Florida Statutes, are amended to read:

1012.795 Education Practices Commission; authority to discipline.—

(1) The Education Practices Commission may suspend the educator certificate of any person as defined in s. 1012.01(2) or (3) for a period of time not to exceed 5 3 years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the holder may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for a period of time not to exceed 10 years, with reinstatement subject to the provisions of subsection (4); may revoke permanently the educator certificate of any person thereby denying that

person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; may suspend the educator certificate, upon order of the court, of any person found to have a delinquent child support obligation; or may impose any other penalty provided by law, provided it can be shown that the person:

(a) Obtained or attempted to obtain an the educator certificate by fraudulent means.

(b) Has proved to be incompetent to teach or to perform duties as an employee of the public school system or to teach in or to operate a private school.

(c) Has been guilty of gross immorality or an act involving moral turpitude.

(d) Has had an educator certificate *sanctioned by revocation, suspension, or surrender* ~~revoked~~ in another state.

(e) Has been convicted of a misdemeanor, felony, or any other criminal charge, other than a minor traffic violation.

(f) Upon investigation, has been found guilty of personal conduct which seriously reduces that person's effectiveness as an employee of the district school board.

(g) Has breached a contract, as provided in s. 1012.33(2).

(h) Has been the subject of a court order directing the Education Practices Commission to suspend the certificate as a result of a delinquent child support obligation.

(i) Has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

(j) Has otherwise violated the provisions of law, the penalty for which is the revocation of the educator certificate.

(k) Has violated any order of the Education Practices Commission.

(l) *Has been the subject of a court order or plea agreement in any jurisdiction which requires the certificateholder to surrender or otherwise relinquish his or her educator's certificate. A surrender or relinquishment shall be for permanent revocation of the certificate. A person may not surrender or otherwise relinquish his or her certificate prior to a finding of probable cause by the commissioner as provided in s. 1012.796.*

(6)(a) ~~When an individual violates any provision of the provisions of a settlement agreement enforced by a final order of the Education Practices Commission, the Department of Education may request an order to show cause may be issued by the clerk of the commission. The order shall require the individual to appear before the commission to show cause why further penalties should not be levied against the individual's certificate pursuant to the authority provided to the Education Practices Commission in subsection (1). The department may dismiss an order to show cause before the commission enters a final order. The Education Practices Commission may fashion further penalties under the authority of subsection (1) as it deems deemed appropriate when it considers the show cause order is responded to by the individual.~~

(b) The Education Practices Commission shall *adopt rules requiring the issuance of issue* a final order permanently revoking an individual's Florida educator's certificate *if the individual has been the subject of sanctions by the Education Practices Commission on two previous occasions. However, an individual is not subject to this provision if the only reason for sanctions on any occasion was one or more administrative violations. For purposes of this paragraph the term "administrative violation" means the failure of the individual to submit annual performance reports or the failure to pay a probation fee as required by a final order of the Education Practices Commission. Furthermore, any sanction levied by the Education Practices Commission against an applicant for certification is not subject to this provision, if the applicant was not previously sanctioned by the Education Practices Commission. for a minimum of 1 year under the following circumstances:*

~~1. If the individual:~~

~~a. Has been found to have violated the provisions of this section, such that the Education Practices Commission has the authority to discipline the individual's Florida educator's certificate on two separate occasions;~~

~~b. Has twice entered into a settlement agreement enforced by a final order of the Education Practices Commission; or~~

~~e. Has been found to have violated the provisions of this section, such that the Education Practices Commission has the authority to discipline the individual's Florida educator's certificate on one occasion and entered into a settlement agreement enforced by a final order of the Education Practices Commission on one occasion; and~~

~~2. A third finding of probable cause and a finding that the allegations are proven or admitted to is subsequently found by the Commissioner of Education.~~

~~If, in the third instance, the individual enters into a settlement agreement with the Department of Education, that agreement shall also include a penalty revoking that individual's Florida educator's certificate for a minimum of 1 year.~~

Section 21. Subsections (1), (7), and (8) of section 1012.796, Florida Statutes, are amended to read:

1012.796 Complaints against teachers and administrators; procedure; penalties.—

(1)(a) The Department of Education shall cause to be investigated expeditiously any complaint filed before it or otherwise called to its attention which, if legally sufficient, contains grounds for the revocation or suspension of a certificate or any other appropriate penalty as set forth in subsection (7). The complaint is legally sufficient if it contains the ultimate facts which show a violation has occurred as provided in s. 1012.795. The department may investigate or continue to investigate and take appropriate action on a complaint even though the original complainant withdraws the complaint or otherwise indicates a desire not to cause it to be investigated or prosecuted to completion. The department may investigate or continue to investigate and take action on a complaint filed against a person whose educator certificate has expired if the act or acts which are the basis for the complaint were allegedly committed while that person possessed an educator certificate.

(b) When an investigation is undertaken, the department shall notify the certificateholder or applicant for certification and the district school superintendent or the university laboratory school, charter school, or private school in which the certificateholder or applicant for certification is employed or was employed at the time the alleged offense occurred. ~~In addition, the department in the district in which the certificateholder is employed and shall inform the certificateholder or applicant for certification of the substance of any complaint which has been filed against that certificateholder or applicant, unless the department determines that such notification would be detrimental to the investigation, in which case the department may withhold notification.~~

(c) Each school district shall file in writing with the department all legally sufficient complaints within 30 days after the date on which subject matter of the complaint comes to the attention of the school district. The school district shall include all information relating to the complaint which is known to the school district at the time of filing. Each district school board shall develop policies and procedures to comply with this reporting requirement. The district school board policies and procedures shall include appropriate penalties for all personnel of the district school board for nonreporting and procedures for promptly informing the district school superintendent of each legally sufficient complaint. The district school superintendent is charged with knowledge of these policies and procedures. If the district school superintendent has knowledge of a legally sufficient complaint and does not report the complaint, or fails to enforce the policies and procedures of the district school board, and fails to comply with the requirements of this subsection, in addition to other actions against certificateholders authorized by law, the district school superintendent shall be subject to penalties as specified in s. 1001.51(12) ~~s. 1001.51(13)~~. This paragraph does not limit or restrict the power and duty of the department to investigate complaints as provided in paragraphs (a) and (b), regardless of the school district's untimely filing, or failure to file, complaints and followup reports.

(d) *Notwithstanding any other law, all law enforcement agencies, state attorneys, social service agencies, district school boards, and the Division of Administrative Hearings shall fully cooperate with and, upon request, shall provide unredacted documents to the Department of Education to further investigations and prosecutions conducted pursuant to this section. Any document received pursuant to this paragraph may not be redisclosed except as authorized by law.*

(7) A panel of the commission shall enter a final order either dismissing the complaint or imposing one or more of the following penalties:

(a) Denial of an application for a teaching certificate or for an administrative or supervisory endorsement on a teaching certificate. The denial may provide that the applicant may not reapply for certification, and that the department may refuse to consider that applicant's application, for a specified period of time or permanently.

(b) Revocation or suspension of a certificate.

(c) Imposition of an administrative fine not to exceed \$2,000 for each count or separate offense.

(d) Placement of the teacher, administrator, or supervisor on probation for a period of time and subject to such conditions as the commission may specify, including requiring the certified teacher, administrator, or supervisor to complete additional appropriate college courses or work with another certified educator, with the administrative costs of monitoring the probation assessed to the educator placed on probation. *An educator who has been placed on probation shall, at a minimum:*

1. *Immediately notify the investigative office in the Department of Education upon employment or termination of employment in the state in any public or private position requiring a Florida educator's certificate.*

2. *Have his or her immediate supervisor submit annual performance reports to the investigative office in the Department of Education.*

3. *Pay to the commission within the first 6 months of each probation year the administrative costs of monitoring probation assessed to the educator.*

4. *Violate no law and shall fully comply with all district school board policies, school rules, and State Board of Education rules.*

5. *Satisfactorily perform his or her assigned duties in a competent, professional manner.*

6. *Bear all costs of complying with the terms of a final order entered by the commission.*

(e) Restriction of the authorized scope of practice of the teacher, administrator, or supervisor.

(f) Reprimand of the teacher, administrator, or supervisor in writing, with a copy to be placed in the certification file of such person.

(g) Imposition of an administrative sanction, upon a person whose teaching certificate has expired, for an act or acts committed while that person possessed a teaching certificate or an expired certificate subject to late renewal, which sanction bars that person from applying for a new certificate for a period of 10 years or less, or permanently.

(h) *Refer the teacher, administrator, or supervisor to the recovery network program provided in s. 1012.798 under such terms and conditions as the commission may specify.*

(8) Violations of the provisions of a final order ~~probation~~ shall result in an order to show cause issued by the clerk of the Education Practices Commission if requested by the Department of Education. Upon failure of the educator ~~probationer~~, at the time and place stated in the order, to show cause satisfactorily to the Education Practices Commission why a penalty for violating the provisions of a final order ~~probation~~ should not be imposed, the Education Practices Commission shall impose whatever penalty is appropriate as established in s. 1012.795(6). *The Department of Education shall prosecute the individual ordered to show cause before the Education Practices Commission. The Department of Education and the individual may enter into a settlement agreement, which shall be presented to the Education Practices Commission for consideration. Any probation period will be tolled when an order to show cause has been issued until the issue is resolved by the Education Practices Commission; however, the other terms and conditions of the final order shall be in full force and effect until changed by the Education Practices Commission.*

Section 22. Subsections (1), (3), (6), and (10) of section 1012.798, Florida Statutes, are amended to read:

1012.798 Recovery network program for educators.—

(1) RECOVERY NETWORK ESTABLISHED.—There is created within the Department of Education, a recovery network program to assist educators who are impaired as a result of alcohol abuse, drug abuse, or a mental condition to ~~obtain treatment in obtaining treatment to permit their continued contribution to the education profession.~~ Any person who *has applied for or* holds certification issued by the department pursuant to s. 1012.56 is eligible for the ~~program assistance.~~ *The individual may access the program voluntarily or be directed to participate through a deferred prosecution agreement with the Commissioner of Education or a final order of the Education Practices Commission pursuant to s. 1012.796.*

(3) PURPOSE.—The recovery network program shall assist educators in obtaining treatment and services from approved treatment providers, but each impaired educator must pay for his or her treatment under terms and conditions agreed upon by the impaired educator and the treatment provider. A person who is admitted to the *recovery network* program must contract with the treatment provider and the program. The treatment contract must prescribe the type of treatment and the responsibilities of the impaired educator and of the provider and must provide that the impaired educator's progress will be monitored by the *recovery network* program.

(6) PARTICIPATION.—The recovery network program shall operate independently of employee assistance programs operated by local school districts, and the powers and duties of school districts to make employment decisions, including disciplinary decisions, is not affected except as provided in this section:

(a) A person who is not subject to investigation or proceedings under ss. 1012.795 and 1012.796 may voluntarily seek assistance through a local school district employee assistance program for which he or she is eligible and through the recovery network, regardless of action taken against him or her by a school district. Voluntarily seeking assistance alone does not subject a person to proceedings under ss. 1012.795 and 1012.796.

(b) A person who is subject to investigation or proceedings under ss. 1012.795 and 1012.796 may be required to participate in the program. The program may approve a local employee assistance program as a treatment provider or as a means of securing a treatment provider. The program and the local school district shall cooperate so that the person may obtain treatment without limiting the school district's statutory powers and duties as an employer or the disciplinary procedures under ss. 1012.795 and 1012.796.

(c) ~~A person may be enrolled in a treatment program by the recovery network program after an investigation pursuant to s. 1012.796 has commenced, if the person A person who has not previously been under investigation by the department may be enrolled in a treatment program by the recovery network after an investigation has commenced, if the person:~~

1. Acknowledges his or her impairment.
2. Agrees to evaluation, as approved by the recovery network.
3. Agrees to enroll in an appropriate treatment program approved by the recovery network.
4. Executes releases for all medical and treatment records regarding his or her impairment and participation in a treatment program to the recovery network, pursuant to 42 U.S.C. s. 290dd-3 and the federal regulations adopted thereunder.
5. Enters into a deferred prosecution agreement with the commissioner, which provides that no prosecution shall be instituted concerning the matters enumerated in the agreement if the person is properly enrolled in the treatment program and successfully completes the program as certified by the recovery network. The commissioner is under no obligation to enter into a deferred prosecution agreement with the educator but may do so if he or she determines that it is in the best interest of the educational program of the state *and the educator.*
6. Has not previously entered a substance abuse program.
7. Is not being investigated for any action involving commission of a felony or violent act against another person.

8. Has not had multiple arrests for minor drug use, possession, or abuse of alcohol.

(10) DECLARATION OF INELIGIBILITY.—

(a) A person may be declared ineligible for further assistance from the recovery network program if he or she does not progress satisfactorily in a treatment program or leaves a prescribed program or course of treatment without the approval of the treatment provider.

(b) The determination of ineligibility must be made by ~~the commissioner in cases referred to him or her by the program administrator or designee after review of the circumstances of the case. Before referring a case to the commissioner, the administrator must discuss the circumstances with the treatment provider. The commissioner may direct the Office of Professional Practices Services to investigate the case and provide a report.~~

(c) If ~~treatment through a treatment contract with~~ the program is a condition of a deferred prosecution agreement, and the ~~program administrator commissioner~~ determines that the person is ineligible for further assistance, the commissioner may agree to modify the terms and conditions of the deferred prosecution agreement or may issue an administrative complaint, pursuant to s. 1012.796, alleging the charges regarding which prosecution was deferred. The person may dispute the determination as an affirmative defense to the administrative complaint by including with his or her request for hearing on the administrative complaint a written statement setting forth the facts and circumstances that show that the determination of ineligibility was erroneous. If administrative proceedings regarding the administrative complaint, pursuant to ss. 120.569 and 120.57, result in a finding that the determination of ineligibility was erroneous, the person is eligible to participate in the program. If the determination of ineligibility was the only reason for setting aside the deferred prosecution agreement and issuing the administrative complaint and the administrative proceedings result in a finding that the determination was erroneous, the complaint shall be dismissed and the deferred prosecution agreement reinstated without prejudice to the commissioner's right to reissue the administrative complaint for other breaches of the agreement.

(d) If ~~treatment through a treatment contract with~~ the program is a condition of a final order of the Education Practices Commission, the ~~program administrator's commissioner's~~ determination of ineligibility constitutes a finding of ~~probable cause~~ that the person failed to comply with the final order. Pursuant to ss. 1012.795 and 1012.796, upon the request of the Department of Education, the clerk of the Education Practices Commission shall issue to the educator an order to show cause, or the Commissioner of Education may issue an administrative complaint ~~The commissioner shall issue an administrative complaint, and the case shall proceed under ss. 1012.795 and 1012.796, in the same manner as for cases based on a failure to comply with an order of the Education Practices Commission.~~

(e) If the person voluntarily entered into a treatment contract with the program, the ~~program administrator commissioner~~ shall issue a written notice stating the reasons for the determination of ineligibility. Within 20 days after the date of such notice, the person may contest the determination of ineligibility pursuant to ss. 120.569 and 120.57.

Section 23. For the purpose of incorporating the amendment made by this act to section 1012.01, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 112.1915, Florida Statutes, is reenacted to read:

112.1915 Teachers and school administrators; death benefits.—Any other provision of law to the contrary notwithstanding:

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

(b) "Teacher" means any instructional staff personnel as described in s. 1012.01(2).

Section 24. For the purpose of incorporating the amendment made by this act to section 1012.01, Florida Statutes, in a reference thereto, paragraph (b) of subsection (9) and paragraph (a) of subsection (13) of section 121.091, Florida Statutes, are reenacted to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment

as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(b)1. Any person who is retired under this chapter, except under the disability retirement provisions of subsection (4), may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his or her employer without any limitations, except that a person may not receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

2. Any person to whom the limitation in subparagraph 1. applies who violates such reemployment limitation and who is reemployed with any agency participating in the Florida Retirement System before completion of the 12-month limitation period shall give timely notice of this fact in writing to the employer and to the division and shall have his or her retirement benefits suspended for the balance of the 12-month limitation period. Any person employed in violation of this paragraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received while reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and retirement benefits shall remain suspended until such repayment has been made. Benefits suspended beyond the reemployment limitation shall apply toward repayment of benefits received in violation of the reemployment limitation.

3. A district school board may reemploy a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). A district school board may reemploy a retired member as instructional personnel, as defined in s. 1012.01(2)(a), on an annual contractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any other retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. District school boards reemploying such teachers, education paraprofessionals, transportation assistants, bus drivers, or food service workers are subject to the retirement contribution required by subparagraph 7.

4. A community college board of trustees may reemploy a retired member as an adjunct instructor, that is, an instructor who is noncontractual and part-time, or as a participant in a phased retirement program within the Florida Community College System, after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in subparagraph 7. A retired member may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment

limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

5. The State University System may reemploy a retired member as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph 7., as appropriate. A retired member may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

6. The Board of Trustees of the Florida School for the Deaf and the Blind may reemploy a retired member as a substitute teacher, substitute residential instructor, or substitute nurse on a noncontractual basis after he or she has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The Board of Trustees of the Florida School for the Deaf and the Blind reemploying such teachers, residential instructors, or nurses is subject to the retirement contribution required by subparagraph 7. Reemployment of a retired member as a substitute teacher, substitute residential instructor, or substitute nurse is limited to 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and his or her retirement benefits shall remain suspended until payment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

7. The employment by an employer of any retiree or DROP participant of any state-administered retirement system shall have no effect on the average final compensation or years of creditable service of the retiree or DROP participant. Prior to July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who

has been retired under any state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution which would be required for regular members of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for retirees with renewed membership or subsection (13) with respect to DROP participants.

8. Any person who has previously retired and who is holding an elective public office or an appointment to an elective public office eligible for the Elected Officers' Class on or after July 1, 1990, shall be enrolled in the Florida Retirement System as provided in s. 121.053(1)(b) or, if holding an elective public office that does not qualify for the Elected Officers' Class on or after July 1, 1991, shall be enrolled in the Florida Retirement System as provided in s. 121.122, and shall continue to receive retirement benefits as well as compensation for the elected officer's service for as long as he or she remains in elective office. However, any retired member who served in an elective office prior to July 1, 1990, suspended his or her retirement benefit, and had his or her Florida Retirement System membership reinstated shall, upon retirement from such office, have his or her retirement benefit recalculated to include the additional service and compensation earned.

9. Any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in nonelected covered employment may elect to retire while continuing employment in the elective public office, provided that he or she shall be required to terminate his or her nonelected covered employment. Any person who exercises this election shall receive his or her retirement benefits in addition to the compensation of the elective office without regard to the time limitations otherwise provided in this subsection. No person who seeks to exercise the provisions of this subparagraph, as the same existed prior to May 3, 1984, shall be deemed to be retired under those provisions, unless such person is eligible to retire under the provisions of this subparagraph, as amended by chapter 84-11, Laws of Florida.

10. The limitations of this paragraph apply to reemployment in any capacity with an "employer" as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

11. An employing agency may reemploy a retired member as a firefighter or paramedic after the retired member has been retired for 1 calendar month, in accordance with s. 121.021(39). Any retired member who is reemployed within 1 calendar month after retirement shall void his or her application for retirement benefits. The employing agency reemploying such firefighter or paramedic is subject to the retired contribution required in subparagraph 8. Reemployment of a retired firefighter or paramedic is limited to no more than 780 hours during the first 12 months of his or her retirement. Any retired member reemployed for more than 780 hours during the first 12 months of retirement shall give timely notice in writing to the employer and to the division of the date he or she will exceed the limitation. The division shall suspend his or her retirement benefits for the remainder of the first 12 months of retirement. Any person employed in violation of this subparagraph and any employing agency which knowingly employs or appoints such person without notifying the Division of Retirement to suspend retirement benefits shall be jointly and severally liable for reimbursement to the Retirement System Trust Fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by a retired member while reemployed in excess of 780 hours during the first 12 months of retirement shall be repaid to the Retirement System Trust Fund, and retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retired member's first 12 months of retirement shall apply toward repayment of benefits received in violation of the 780-hour reemployment limitation.

(13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is a program under which an eligible member of the Florida Retirement System may elect to participate, deferring receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer. The deferred monthly benefits shall accrue in the System Trust Fund on behalf of the participant, plus interest compounded monthly, for the

specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of DROP. Participation in the DROP by an eligible member beyond the initial 60-month period as authorized in this subsection shall be on an annual contractual basis for all participants.

(a) Eligibility of member to participate in the DROP.—All active Florida Retirement System members in a regularly established position, and all active members of either the Teachers' Retirement System established in chapter 238 or the State and County Officers' and Employees' Retirement System established in chapter 122 which systems are consolidated within the Florida Retirement System under s. 121.011, are eligible to elect participation in the DROP provided that:

1. The member is not a renewed member of the Florida Retirement System under s. 121.122, or a member of the State Community College System Optional Retirement Program under s. 121.051, the Senior Management Service Optional Annuity Program under s. 121.055, or the optional retirement program for the State University System under s. 121.35.

2. Except as provided in subparagraph 6., election to participate is made within 12 months immediately following the date on which the member first reaches normal retirement date, or, for a member who reaches normal retirement date based on service before he or she reaches age 62, or age 55 for Special Risk Class members, election to participate may be deferred to the 12 months immediately following the date the member attains 57, or age 52 for Special Risk Class members. For a member who first reached normal retirement date or the deferred eligibility date described above prior to the effective date of this section, election to participate shall be made within 12 months after the effective date of this section. A member who fails to make an election within such 12-month limitation period shall forfeit all rights to participate in the DROP. The member shall advise his or her employer and the division in writing of the date on which the DROP shall begin. Such beginning date may be subsequent to the 12-month election period, but must be within the 60-month or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month maximum participation period, as provided in subparagraph (b)1. When establishing eligibility of the member to participate in the DROP for the 60-month or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member with dual normal retirement dates shall be eligible to elect to participate in DROP within 12 months after attaining normal retirement date in either class.

3. The employer of a member electing to participate in the DROP, or employers if dually employed, shall acknowledge in writing to the division the date the member's participation in the DROP begins and the date the member's employment and DROP participation will terminate.

4. Simultaneous employment of a participant by additional Florida Retirement System employers subsequent to the commencement of participation in the DROP shall be permissible provided such employers acknowledge in writing a DROP termination date no later than the participant's existing termination date or the 60-month limitation period as provided in subparagraph (b)1.

5. A DROP participant may change employers while participating in the DROP, subject to the following:

a. A change of employment must take place without a break in service so that the member receives salary for each month of continuous

DROP participation. If a member receives no salary during a month, DROP participation shall cease unless the employer verifies a continuation of the employment relationship for such participant pursuant to s. 121.021(39)(b).

b. Such participant and new employer shall notify the division on forms required by the division as to the identity of the new employer.

c. The new employer shall acknowledge, in writing, the participant's DROP termination date, which may be extended but not beyond the original 60-month or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month period provided in subparagraph (b)1., shall acknowledge liability for any additional retirement contributions and interest required if the participant fails to timely terminate employment, and shall be subject to the adjustment required in sub-subparagraph (c)5.d.

6. Effective July 1, 2001, for instructional personnel as defined in s. 1012.01(2), election to participate in the DROP shall be made at any time following the date on which the member first reaches normal retirement date. The member shall advise his or her employer and the division in writing of the date on which the Deferred Retirement Option Program shall begin. When establishing eligibility of the member to participate in the DROP for the 60-month or, with respect to members who are instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind to participate in the DROP beyond 60 months, or who are instructional personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 and who have received authorization by the district school superintendent to participate in the DROP beyond 60 months, the 96-month maximum participation period, as provided in subparagraph (b)1., the member may elect to include or exclude any optional service credit purchased by the member from the total service used to establish the normal retirement date. A member with dual normal retirement dates shall be eligible to elect to participate in either class.

Section 25. For the purpose of incorporating the amendment made by this act to section 1012.01, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 1011.685, Florida Statutes, is reenacted to read:

1011.685 Class size reduction; operating categorical fund.—

(2) Class size reduction operating categorical funds shall be used by school districts for the following:

(b) For any lawful operating expenditure, if the district has met the constitutional maximums identified in s. 1003.03(1) or the reduction of two students per year required by s. 1003.03(2); however, priority shall be given to increase salaries of classroom teachers as defined in s. 1012.01(2)(a) and to implement the salary career ladder defined in s. 1012.231.

Section 26. For the purpose of incorporating the amendment made by this act to section 1012.01, Florida Statutes, in a reference thereto, paragraphs (a) and (b) of subsection (2) of section 1012.74, Florida Statutes, are reenacted to read:

1012.74 Florida educators professional liability insurance protection.—

(2)(a) Educator professional liability coverage for all instructional personnel, as defined by s. 1012.01(2), who are full-time personnel, as defined by the district school board policy, shall be provided by specific appropriations under the General Appropriations Act.

(b) Educator professional liability coverage shall be extended at cost to all instructional personnel, as defined by s. 1012.01(2), who are part-time personnel, as defined by the district school board policy, and choose to participate in the state-provided program.

Section 27. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to education personnel; amending s. 943.0585, F.S.; providing for the expunging of criminal history records of applicants for employment at certain schools; amending s. 943.059, F.S.; providing an exception to sealed records provisions for applicants for employment at certain schools; amending s. 1002.33, F.S.; requiring charter school employees and governing board members to undergo background screening; amending s. 1004.04, F.S.; revising certain criteria for admission to approved teacher preparation programs; requiring a certification ombudsman; authorizing certain postsecondary institutions to develop and implement short-term teacher assistant experiences; creating s. 1004.85, F.S.; providing a definition; providing for postsecondary institutions to create educator preparation institutes; providing purpose of the institutes; authorizing institutes to offer alternative educator certification programs; requiring Department of Education response to a request for approval; providing criteria for alternative certification programs; providing requirements for program participants; providing for participants to receive a credential signifying mastery of professional preparation and education competence; authorizing school districts to use an alternative certification program at an educator preparation institute to satisfy certain requirements; requiring performance evaluations; requiring certain criteria for instructors; providing rulemaking authority; amending s. 1012.01, F.S.; specifying that the term "instructional personnel" includes K-12 personnel only; amending s. 1012.05, F.S.; requiring guidelines for teacher mentors; requiring electronic access to professional resources for teachers; creating an Educator Appreciation Week; requiring the Department of Education to notify teachers of legislation and rules that affect teachers; requiring school districts to submit e-mail addresses of school personnel to the Department of Education; requiring action by the Commissioner of Education in helping teachers meet highly qualified teacher criteria; amending s. 1012.231, F.S.; requiring the BEST teacher program to begin in 2005-2006; amending s. 1012.32, F.S.; requiring background screening for contractual personnel, charter school personnel, and certain instructional and noninstructional personnel; deleting provision for probationary status for new employees pending fingerprint processing; prohibiting certain persons from providing services; providing for appeals; providing for payment of costs; deleting a refingerprinting requirement; requiring the Department of Law Enforcement to retain and enter fingerprints into the statewide automated fingerprint identification system; requiring the Department of Law Enforcement to search arrest fingerprint cards against retained fingerprints and to report identified arrest records; providing school district responsibilities and the imposition of a fee; requiring refingerprinting for personnel whose fingerprints are not retained; amending s. 1012.33, F.S.; requiring district school boards to recognize years of service of certain employees; amending s. 1012.35, F.S.; providing employment and training requirements for substitute teachers; amending s. 1012.39, F.S.; providing employment criteria for substitute teachers; creating s. 1012.465, F.S.; requiring background screening for certain noninstructional personnel and contractors with the school district; requiring such persons to report conviction of a disqualifying offense; providing for suspension of personnel who do not meet screening requirements; amending s. 1012.55, F.S.; providing departmental duties relating to identification of appropriate certification for certain instruction; requiring background screening for certain instructors; amending s. 1012.56, F.S.; providing for the issuance of renewal instructions and temporary certificates; clarifying circumstances for issuance of a status of eligibility statement; authorizing the filing of an affidavit with the application for a certificate; authorizing use of alternative certificates for demonstrating mastery of general knowledge, subject area knowledge, and professional preparation and education competence; authorizing an alternative route for demonstrating mastery of professional preparation and education competence; requiring background screening for educator certification; providing background screening requirements; requiring reporting of disqualifying offenses; providing for suspension from a position and suspension or revocation of certification; creating s. 1012.561, F.S.; requiring certified educators and applicants for certification to maintain a current address with the Department of Education; amending s. 1012.57, F.S.; adding a cross-reference to the background screening requirements; amending s. 1012.585, F.S.; requiring training in the teaching of reading for certified personnel who teach students who have limited English proficiency; amending s. 1012.79, F.S.; reducing the membership of Education Practice Commission review panels; amending s. 1012.795, F.S.; increasing the discipline options available to the Education Practices Commission; amending s. 1012.796, F.S.; revising the notice requirements and other

procedures concerning the investigation of complaints against certified personnel and applicants for certification; requiring other state entities to provide information in connection with investigations; providing the conditions of probation; amending s. 1012.798, F.S.; revising procedures for accessing the recovery network program; reenacting ss. 112.1915(1)(b), 121.091(9)(b) and (13)(a), 1011.685(2)(b), and 1012.74(2)(a) and (b), F.S., relating to death benefits, retirement benefits, the operating categorical fund for class size reduction, and educators professional liability insurance protection, to incorporate the amendment to s. 1012.01, F.S., in references thereto; providing an effective date.

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

**Amendment 1A (803108)(with title amendment)**—On page 25, between lines 26 and 27, insert:

Section 10. Subsection (3) of section 1012.34, Florida Statutes, is amended to read:

1012.34 Assessment procedures and criteria.—

(3) The assessment procedure for instructional personnel and school administrators must be primarily based on the performance of students assigned to their classrooms or schools, as appropriate. *Pursuant to this section, a school district's performance assessment is not limited to basing unsatisfactory performance of instructional personnel and school administrators upon student performance, but may include other criteria approved to assess instructional personnel and school administrators' performance, or any combination of student performance and other approved criteria.* The procedures must comply with, but are not limited to, the following requirements:

(a) An assessment must be conducted for each employee at least once a year. The assessment must be based upon sound educational principles and contemporary research in effective educational practices. The assessment must primarily use data and indicators of improvement in student performance assessed annually as specified in s. 1008.22 and may consider results of peer reviews in evaluating the employee's performance. Student performance must be measured by state assessments required under s. 1008.22 and by local assessments for subjects and grade levels not measured by the state assessment program. The assessment criteria must include, but are not limited to, indicators that relate to the following:

1. Performance of students.
2. Ability to maintain appropriate discipline.
3. Knowledge of subject matter. The district school board shall make special provisions for evaluating teachers who are assigned to teach out-of-field.
4. Ability to plan and deliver instruction, including the use of technology in the classroom.
5. Ability to evaluate instructional needs.
6. Ability to establish and maintain a positive collaborative relationship with students' families to increase student achievement.
7. Other professional competencies, responsibilities, and requirements as established by rules of the State Board of Education and policies of the district school board.

(b) All personnel must be fully informed of the criteria and procedures associated with the assessment process before the assessment takes place.

(c) The individual responsible for supervising the employee must assess the employee's performance. The evaluator must submit a written report of the assessment to the district school superintendent for the purpose of reviewing the employee's contract. The evaluator must submit the written report to the employee no later than 10 days after the assessment takes place. The evaluator must discuss the written report of assessment with the employee. The employee shall have the right to initiate a written response to the assessment, and the response shall become a permanent attachment to his or her personnel file.

(d) If an employee is not performing his or her duties in a satisfactory manner, the evaluator shall notify the employee in writing of such determination. The notice must describe such unsatisfactory performance and include notice of the following procedural requirements:

1. Upon delivery of a notice of unsatisfactory performance, the evaluator must confer with the employee, make recommendations with respect to specific areas of unsatisfactory performance, and provide assistance in helping to correct deficiencies within a prescribed period of time.

2.a. If the employee holds a professional service contract as provided in s. 1012.33, the employee shall be placed on performance probation and governed by the provisions of this section for 90 calendar days following the receipt of the notice of unsatisfactory performance to demonstrate corrective action. School holidays and school vacation periods are not counted when calculating the 90-calendar-day period. During the 90 calendar days, the employee who holds a professional service contract must be evaluated periodically and apprised of progress achieved and must be provided assistance and inservice training opportunities to help correct the noted performance deficiencies. At any time during the 90 calendar days, the employee who holds a professional service contract may request a transfer to another appropriate position with a different supervising administrator; however, a transfer does not extend the period for correcting performance deficiencies.

b. Within 14 days after the close of the 90 calendar days, the evaluator must assess whether the performance deficiencies have been corrected and forward a recommendation to the district school superintendent. Within 14 days after receiving the evaluator's recommendation, the district school superintendent must notify the employee who holds a professional service contract in writing whether the performance deficiencies have been satisfactorily corrected and whether the district school superintendent will recommend that the district school board continue or terminate his or her employment contract. If the employee wishes to contest the district school superintendent's recommendation, the employee must, within 15 days after receipt of the district school superintendent's recommendation, submit a written request for a hearing. The hearing shall be conducted at the district school board's election in accordance with one of the following procedures:

(I) A direct hearing conducted by the district school board within 60 days after receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of ss. 120.569 and 120.57. A majority vote of the membership of the district school board shall be required to sustain the district school superintendent's recommendation. The determination of the district school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment; or

(II) A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days after receipt of the written appeal in accordance with chapter 120. The recommendation of the administrative law judge shall be made to the district school board. A majority vote of the membership of the district school board shall be required to sustain or change the administrative law judge's recommendation. The determination of the district school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 69, line 22, after the first semicolon (;) insert: amending s. 1012.34, F.S.; providing additional reference to assessment criteria for instructional personnel and school administrators;

**Amendment 1** as amended was adopted.

Pursuant to Rule 4.19, **CS for SB 2986** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Wise—

**CS for SB 1678**—A bill to be entitled An act relating to public records; creating s. 39.2021, F.S.; authorizing a petition for an order to make public records pertaining to certain investigations by the Department of

Children and Family Services; amending s. 119.01, F.S.; establishing state policy with respect to public records; requiring governmental agencies to consider certain factors in designing or acquiring electronic recordkeeping systems; providing certain restrictions with respect to electronic recordkeeping systems and proprietary software; requiring governmental agencies to provide copies of public records stored in electronic recordkeeping systems; authorizing agencies to charge a fee for such copies; specifying circumstances under which the financial, business, and membership records of an organization are public records; amending s. 119.011, F.S.; providing definitions; correcting cross-references; repealing ss. 119.0115, 119.012, and 119.02, F.S., relating to specified exemption for certain videotapes and video signals, records made public by the use of public funds, and penalties for violation of public records requirements by a public officer; amending s. 119.021, F.S.; providing requirements for governmental agencies in maintaining and preserving public records; requiring the Division of Library and Information Services of the Department of State to adopt rules for retaining and disposing of public records; authorizing the division to provide for archiving certain noncurrent records; providing for the destruction of certain records and the continued maintenance of certain records; providing for the disposition of records at the end of an official's term of office; requiring that a custodian of public records demand delivery of records held unlawfully; repealing ss. 119.031, 119.041, 119.05, and 119.06, F.S., relating to the retention, disposal, and disposition of public records and the delivery of records held unlawfully; amending s. 119.07, F.S.; revising provisions governing the inspection and copying of public records; establishing fees for copying; providing requirements for making photographs; authorizing additional means of inspecting or copying public records; providing requirements for making photographs of public records; relocating an exemption from public records requirements for any videotape or video signal that, under an agreement with an agency is produced, made, or received by or in the custody of a federally licensed radio or television station or its agents; repealing s. 119.08, F.S., relating to requirements for making photographs of public records; amending s. 119.084, F.S.; deleting certain provisions governing the maintenance of public records in an electronic recordkeeping system; repealing ss. 119.085 and 119.09, F.S., relating to remote electronic access to public records and the program for records and information management of the Department of State; amending s. 119.10, F.S.; clarifying provisions with respect to penalties for violations of ch. 119, F.S.; amending s. 119.105, F.S.; clarifying provisions under which certain police reports may be exempt from the public records law; amending s. 119.12, F.S.; conforming provisions; amending s. 120.55, F.S.; revising provisions with respect to publication of the Florida Administrative Code to provide that the Department of State is required to compile and publish the code through a continuous revision system; amending s. 257.36, F.S.; providing procedures with respect to the official custody of records upon the transfer of duties or responsibilities between state agencies or the dissolution of a state agency; amending s. 328.15, F.S.; revising the classification of records of notices and satisfaction of liens on vessels maintained by the Department of Highway Safety and Motor Vehicles; amending s. 372.5717, F.S.; revising the classification of records of hunter safety certification cards maintained by the Fish and Wildlife Conservation Commission; creating s. 415.1071, F.S.; authorizing a petition for an order making public certain investigatory records of the Department of Children and Family Services; amending s. 560.121, F.S.; decreasing and qualifying the period of retention for examination reports, investigatory records, applications, application records, and related information compiled by the Office of Financial Regulation of the Financial Services Commission under the Money Transmitters' Code; amending s. 560.123, F.S.; decreasing the period of retention for specified reports filed by money transmitters with the Department of Banking and Finance under the Money Transmitters' Code; amending s. 560.129, F.S.; decreasing and qualifying the period of retention for examination reports, investigatory records, applications, application records, and related information compiled by the Office of Financial Regulation of the Financial Services Commission under the Money Transmitters' Code; amending s. 624.311, F.S.; authorizing the Department of Financial Services, the Financial Services Commission, and the Office of Insurance Regulation of the Financial Services Commission to maintain an electronic recordkeeping system for specified records, statements, reports, and documents; eliminating a standard for the reproduction of such records, statements, reports, and documents; amending s. 624.312, F.S.; providing that reproductions from an electronic recordkeeping system of specified documents and records of the Department of Financial Services, the Financial Services Commission, and the Office of Insurance Regulation of the Financial Services Commission shall be treated as originals for the purpose of their admissibility in evidence; amending s. 633.527, F.S.; decreasing

the period of retention for specified examination test questions, answer sheets, and grades in the possession of the Division of State Fire Marshal of the Department of Financial Services; amending s. 655.50, F.S.; revising requirements of the Office of Financial Regulation with respect to retention of copies of specified reports and records of exemption submitted or filed by financial institutions under the Florida Control of Money Laundering in Financial Institutions Act; amending s. 945.25, F.S.; requiring the Department of Corrections to obtain and place in its records specified information on every person who may be sentenced to supervision or incarceration under the jurisdiction of the department; eliminating a requirement of the department, in its discretion, to obtain and place in its permanent records specified information on persons placed on probation and on persons who may become subject to pardon and commutation of sentence; amending s. 985.31, F.S.; revising the classification of specified medical files of serious or habitual juvenile offenders; repealing s. 212.095(6)(d), F.S., which requires the Department of Revenue to keep a permanent record of the amounts of certain refunds claimed and paid under ch. 212, F.S., and which requires that such records shall be open to public inspection; repealing s. 238.03(9), F.S., relating to the authority of the Department of Management Services to photograph and reduce to microfilm as a permanent record its ledger sheets showing the salaries and contributions of members of the Teachers' Retirement System of Florida, the records of deceased members of the system, and the authority to destroy the documents from which such films derive; amending ss. 23.22, 27.02, 101.5607, 112.533, 1012.31, 257.34, 257.35, 282.21, 287.0943, 320.05, 322.20, 338.223, 401.27, 409.2577, 455.219, 456.025, 627.311, 627.351, 633.527, 668.50, 794.024, and 921.0022, F.S.; conforming cross-references; reenacting s. 947.13(2)(a), F.S., relating to the duty of the Parole Commission to examine specified records, to incorporate the amendment to s. 945.25, F.S., in a reference thereto; repealing s. 430.015, F.S.; removing a public necessity statement for a public records exemption for identifying information contained in records of elderly persons collected and held by the Department of Elderly Affairs; amending s. 440.132, F.S.; removing a public necessity statement for a public records exemption for investigatory records of the Agency for Health Care Administration made or received pursuant to a workers' compensation managed care arrangement and examination records necessary to complete an investigation; repealing s. 723.0065, F.S.; removing a public necessity statement for a public records exemption for specified financial records of mobile home park owners acquired by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, and the Bureau of Mobile Homes of the division; repealing s. 768.301, F.S.; removing a public necessity statement for a public records exemption for certain claims files records and minutes of meetings and proceedings relating to risk management programs entered into by the state and its agencies and subdivisions, and a public meetings exemption for proceedings and meetings regarding claims filed; amending s. 943.031, F.S.; removing a public necessity statement for a public records and public meetings exemption for specified portions of meetings of the Florida Violent Crime and Drug Control Council, specified portions of public records generated at closed council meetings, and documents related to active criminal investigations or matters constituting active criminal intelligence; providing an effective date.

—was read the second time by title.

Senator Wise moved the following amendment which was adopted:

**Amendment 1 (111220)**—On page 76, line 5, delete “s. 119.01(2)(f)” and insert: s. 119.07(2)

Pursuant to Rule 4.19, **CS for SB 1678** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **SB 2016** was deferred.

On motion by Senator Campbell—

**CS for SB 1970**—A bill to be entitled An act relating to mediation alternatives to judicial action; amending s. 44.102, F.S.; deleting language regarding the disclosure of specified information made during court-ordered mediation; amending s. 44.107, F.S.; providing immunity from liability for trainees in the Supreme Court's mentorship program; providing immunity from liability for persons serving as mediators in

specified circumstances; amending s. 44.201, F.S.; deleting language regarding disclosure of specified information held by Citizen Dispute Resolution Centers; creating ss. 44.401-44.406, F.S.; providing a popular name; providing for the creation of the Mediation Confidentiality and Privilege Act; providing for application; providing definitions; specifying when a mediation begins and ends; providing for confidentiality of mediation communications; providing for a privilege; providing exceptions; providing for civil remedies; providing a statute of limitation; providing an exception; amending s. 61.183, F.S.; deleting language regarding disclosure of specified information made during cases; reenacting s. 627.7015(5), F.S., relating to statements and documents produced at mediation conferences, to incorporate the amendment to s. 44.107, F.S., in references thereto; providing an effective date.

—was read the second time by title.

Senator Campbell moved the following amendment which was adopted:

**Amendment 1 (363266)(with title amendment)**—On page 10, line 27 through page 11, line 9, delete those lines and renumber subsequent section.

And the title is amended as follows:

On page 1, lines 26-30, delete those lines and insert: cases; providing an effective date.

Pursuant to Rule 4.19, **CS for SB 1970** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Saunders—

**CS for SB 2136**—A bill to be entitled An act relating to emergency medical services; amending s. 401.113, F.S.; requiring that a recipient of funds from the Emergency Medical Services Trust Fund return unexpended funds to the Department of Health at the end of the grant period; authorizing the expenditure of interest generated from grant funds under certain circumstances; amending s. 401.27, F.S.; authorizing the electronic submission of an application for certification as an emergency medical technician or paramedic; requiring that rules of the department provide for the approval of certain equivalent courses for purposes of certification; deleting provisions authorizing the department to issue a temporary certification; creating s. 401.27001, F.S.; providing requirements for background screening for applicants for initial certification as an emergency medical technician or paramedic and for renewal of certification; requiring an applicant to pay the costs of screening; requiring that fingerprints be submitted to the Department of Law Enforcement and forwarded to the Federal Bureau of Investigation; specifying the offenses that are grounds for denial of certification; authorizing the department to grant an exemption to an applicant, notwithstanding certain convictions; requiring the department to adopt rules; amending s. 401.2701, F.S.; requiring that a training program for emergency medical technicians and paramedics include information concerning the requirements for background screening; providing an effective date.

—was read the second time by title.

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

**Amendment 1 (380744)(with title amendment)**—On page 10, lines 14-24, delete those lines and insert:

(13) The department shall adopt *the current* a standard state insignia for emergency medical technicians and paramedics. The department shall establish by rule the requirements to display the state emergency medical technician and paramedic insignia. The rules may not require a person to wear the standard insignia but must require that if a person wears any insignia that identifies the person as a certified emergency medical technician or paramedic in this state, the insignia must be the standard state insignia adopted under this section and *the person must be functioning in his or her capacity as an emergency medical technician or paramedic*. The insignia must denote the individual's level of certification at which he or she is functioning *when that person is wearing the insignia*.

And the title is amended as follows:

On page 1, line 17, following the semicolon (;) insert: requiring that a person wearing emergency medical technician or paramedic insignia must be functioning in that capacity when doing so;

Senator Saunders moved the following amendments which were adopted:

**Amendment 2 (235082)(with title amendment)**—On page 2, between lines 8 and 9, insert:

Section 1. Subsection (1) of section 395.003, Florida Statutes, is amended to read:

395.003 Licensure; issuance, renewal, denial, modification, suspension, and revocation.—

(1)(a) ~~A No~~ person may not shall establish, conduct, or maintain a hospital, ambulatory surgical center, or mobile surgical facility in this state without first obtaining a license under this part.

(b)1. It is unlawful for a any person to use or advertise to the public, in any way or by any medium whatsoever, any facility as a “hospital,” “ambulatory surgical center,” or “mobile surgical facility” unless such facility has first secured a license under the provisions of this part.

2. ~~Nothing in~~ This part does not apply applies to veterinary hospitals or to commercial business establishments using the word “hospital,” “ambulatory surgical center,” or “mobile surgical facility” as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

3. *By December 31, 2004, the agency shall submit a report to the President of the Senate and the Speaker of the House of Representatives recommending whether it is in the public interest to allow a hospital to license or operate an emergency department located off the premises of the hospital. If the agency finds it to be in the public interest, the report shall also recommend licensure criteria for such medical facilities, including criteria related to quality of care and, if deemed necessary, the elimination of the possibility of confusion related to the service capabilities of such facility in comparison to the service capabilities of an emergency department located on the premises of the hospital. Until July 1, 2005, additional emergency departments located off the premises of licensed hospitals may not be authorized by the agency.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: amending s. 395.003, F.S.; requiring a report by the Agency for Health Care Administration regarding the licensure of emergency departments located off the premises of hospitals; prohibiting the issuance of licenses for such departments before July 1, 2005;

**Amendment 3 (905010)(with title amendment)**—On page 18, between lines 3 and 4, insert:

Section 5. Subsection (7) of section 456.025, Florida Statutes, is amended to read:

456.025 Fees; receipts; disposition.—

(7) Each board, or the department if there is no board, shall establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses or programs and shall establish by rule a biennial renewal fee not to exceed \$250 for the renewal of providership of such courses. The fees collected from continuing education providers shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, and covering legal expenses incurred as a result of not granting or renewing a providership, and developing and maintaining an electronic continuing education tracking system. ~~The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system. All approved continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted.~~

Section 6. Section 456.0251, Florida Statutes, is created to read:

456.0251 Continuing education.—

(1) *Unless otherwise provided in a profession’s practice act, each board, or the department if there is no board, shall establish by rule procedures for approval of continuing education providers and continuing education courses for renewal of licenses. Except for those continuing education courses whose subjects are prescribed by law, each board, or the department if there is no board, may limit by rule the subject matter for approved continuing education courses to courses addressing the scope of practice of each respective health care profession.*

(2) *Licensees who have not completed all of the continuing education credits required for licensure during a biennium may obtain an extension of 3 months from the date after the end of the license renewal biennium within which to complete the requisite hours for license renewal. Each board, or the department if there is no board, shall establish by rule procedures for requesting a 3-month extension and whether proof of completion of some approved hours of continuing education are required to be submitted with the request for extension as a prerequisite for granting the request.*

(3) *Failure to complete the requisite number of hours of continuing education hours within a license renewal biennium or within a 3 month period from the date after the end of the license renewal biennium, if requested, shall be grounds for issuance of a citation and a fine, plus a requirement that at least the deficit hours are completed within a time established by rule of each board, or the department if there is no board. Each board, or the department if there is no board, shall establish by rule a fine for each continuing education hour which was not completed within the license renewal biennium or the 3-month period following the last day of the biennium if so requested, not to exceed \$500 per each hour not completed. The issuance of the citation and fine shall not be considered discipline. A citation and a fine issued under this subsection may only be issued to a licensee a maximum of two times for two separate failures to complete the requisite number of hours for license renewal.*

(4) *The department shall report to each board no later than 3 months following the last day of the license renewal biennium the percentage of licensees regulated by that board who have not timely complied with the continuing education requirements during the previous license renewal biennium for which auditing of licensees regulated by that board are completed. Each board shall direct the department the percentage of licensees regulated by that board that are to be audited during the next license renewal biennium. In addition to the percentage of licensees audited as directed by the boards, the department shall audit those licensees found to be deficient during any of the two license renewal bienniums.*

Section 7. Paragraph (ff) is added to subsection (1) of section 456.072, Florida Statutes, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(ff) *Failure for a third or more times to complete the requisite number of hours of continuing education hours within a license renewal biennium period or within a 3-month period from the date after the end of the license renewal biennium, if the extension was requested.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to health care; amending s. 456.025, F.S.; deleting requirements for the Department of Health to administer an electronic continuing education tracking system for health care practitioners; creating s. 456.0251, F.S.; providing for enforcement of continuing education requirements required for license renewal; authorizing citations and fines to be imposed for failure to comply with required continuing education requirements; amending s. 456.072, F.S.; providing for discipline of licensees who fail to meet continuing education requirements as a prerequisite for license renewal three or more times;

Pursuant to Rule 4.19, CS for SB 2136 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Smith—

**CS for SB 602**—A bill to be entitled An act relating to funding for children's advocacy centers; creating s. 938.10, F.S.; imposing an additional court cost against persons who plead guilty or nolo contendere to, or who are found guilty of, certain crimes against minors; requiring the clerk of the court to deposit the proceeds of the court cost into the State Treasury for deposit into a specified trust fund to be used to fund children's advocacy centers; requiring the clerk of the court to retain a portion of the court cost as a service charge; requiring annual reports; requiring a report to the Legislature; amending s. 39.3035, F.S.; requiring compliance with specified statutory provisions in order for a child advocacy center to receive certain funding; directing the Florida Network of Children's Advocacy Centers, Inc., to document such compliance; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 602** was placed on the calendar of Bills on Third Reading.

On motion by Senator Smith—

**CS for SB 606**—A bill to be entitled An act relating to trust funds; creating the Child Advocacy Trust Fund within the Department of Children and Family Services; providing for sources of funds and purposes; specifying the use of collected funds; requiring the development of an allocation methodology for distributing funds deposited in the trust fund; providing for funds to establish children's advocacy centers; providing for future legislative review and termination or re-creation of the trust fund; providing a contingent effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 606** was placed on the calendar of Bills on Third Reading.

**SB 1322**—A bill to be entitled An act relating to fleeing or attempting to elude a law enforcement officer; amending s. 316.1935, F.S.; providing an additional classification for the offense of fleeing or attempting to elude a law enforcement officer; providing an additional classification for the offense of aggravated fleeing or eluding; providing and revising elements of the offenses; providing and revising criminal penalties for the offenses of fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding with serious bodily injury or death; providing for a minimum period of incarceration in certain circumstances involving serious bodily injury or death; providing an affirmative defense to fleeing or attempting to elude a law enforcement officer under certain circumstances; prohibiting courts from suspending, deferring, or withholding adjudication of guilt or imposition of sentence in certain circumstances; providing for seizure and forfeiture of certain motor vehicles as contraband in certain circumstances; amending s. 921.0022, F.S.; ranking and revising the offense classifications of fleeing or attempting to elude a law enforcement officer on the offense severity ranking chart of the Criminal Punishment Code; ranking the offense of aggravated fleeing or eluding with serious bodily injury or death on the offense severity ranking chart of the Criminal Punishment Code; reenacting ss. 318.17(1) and 322.61(1)(d), F.S.; incorporating the amendment to s. 316.1935, F.S., in references thereto; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 1322** to **HB 295**.

Pending further consideration of **SB 1322** as amended, on motion by Senator Lynn, by two-thirds vote **HB 295** was withdrawn from the Committees on Criminal Justice; Appropriations Subcommittee on Criminal Justice; and Appropriations.

On motion by Senator Lynn—

**HB 295**—A bill to be entitled An act relating to fleeing or attempting to elude a law enforcement officer; amending s. 316.1935, F.S.; providing an additional classification for the offense of fleeing or attempting to elude a law enforcement officer; providing an additional classification for

the offense of aggravated fleeing or eluding; providing and revising elements of the offenses; providing and revising criminal penalties for the offenses of fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding with serious bodily injury or death; providing for a minimum period of incarceration in certain circumstances involving serious bodily injury or death; providing an affirmative defense to fleeing or attempting to elude a law enforcement officer under certain circumstances; prohibiting courts from suspending, deferring, or withholding adjudication of guilt or imposition of sentence in certain circumstances; providing for seizure and forfeiture of certain motor vehicles as contraband in certain circumstances; amending s. 921.0022, F.S.; ranking and revising fleeing or attempting to elude a law enforcement officer offense classifications on the offense severity ranking chart of the Criminal Punishment Code; ranking the offense of aggravated fleeing or eluding with serious bodily injury or death on the offense severity ranking chart of the Criminal Punishment Code; reenacting ss. 318.17(1) and 322.61(1)(d), F.S.; incorporating the amendment to s. 316.1935, F.S., in references thereto; providing an effective date.

—a companion measure, was substituted for **SB 1322** as amended and read the second time by title.

On motion by Senator Lynn, further consideration of **HB 295** was deferred.

On motion by Senator Diaz de la Portilla—

**SB 2016**—A bill to be entitled An act relating to home inspection services; creating s. 501.935, F.S.; providing for licensure of persons providing home inspection services; providing legislative intent and definitions; providing standards of practice; creating the Florida Home Inspection Advisory Council; providing licensure requirements, including grandfathering provisions; providing exemptions; providing prohibited acts and penalties; providing for complaints and discipline; providing fees; requiring liability insurance; exempting from duty to provide repair cost estimates; providing for reciprocity; providing continuing education requirements; providing limitations; providing for enforcement of violations; providing an effective date.

—was read the second time by title.

The Committee on Finance and Taxation recommended the following amendments which were moved by Senator Diaz de la Portilla and adopted:

**Amendment 1 (900122)**—On page 4, between lines 7 and 8, insert:

(k) *A master septic tank contractor licensed under part III of chapter 489.*

**Amendment 2 (100510)**—On page 4, between lines 7 and 8, insert:

(k) *A certified energy auditor performing an energy audit of any home or building conducted under chapter 366 or rules adopted by the Public Service Commission.*

The Committee on Appropriations recommended the following amendment which was moved by Senator Diaz de la Portilla and adopted:

**Amendment 3 (793392)(with title amendment)**—On page 8, line 26, and insert:

Section 2. *For the 2004-2005 fiscal year, the sum of \$642,463 is appropriated from the Professional Regulation Trust Fund, and four positions are authorized, to the Department of Business and Professional Regulation for the purpose of conducting licensing and regulatory activities associated with home inspection services.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 17, after the semicolon (;) insert: providing an appropriation and authorizing positions;

Pursuant to Rule 4.19, **SB 2016** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Posey—

**CS for SB 2268**—A bill to be entitled An act relating to workers' compensation; amending s. 440.02, F.S.; redefining the terms "corporate officer," "employee," and "employer"; providing members of limited liability companies similar authority to elect exemption from workers' compensation coverage as corporate officers; amending ss. 440.05, 440.077, F.S.; providing technical and conforming changes relating to exemptions from coverage requirements; amending s. 440.093, F.S.; providing exceptions for limitations on benefits for mental and nervous injuries; amending s. 440.105, F.S.; deleting the prohibition against specified acts; providing for carriers and self-insured employers to verify whether benefit recipients are concurrently listed as employees of an employing unit; amending s. 440.106, F.S.; providing a technical and conforming change relating to notification requirements; amending s. 440.107, F.S.; providing technical and conforming changes relating to exemptions from coverage requirements; amending s. 440.13, F.S.; revising method of calculating the value of attendant care services; revising provisions relating to penalties with respect to payment of medical bills; revising practice parameters applicable to medical care; amending ss. 440.14, 440.15, F.S.; correcting cross-references; amending s. 440.20, F.S.; providing duties of the Department of Financial Services in ensuring timely payment of benefits; deleting provisions that require an ongoing examination of certain claims files and provide for imposition of fines, that prohibit recoupment of penalties through rate filings, and that authorize rules for audit and standards of the Automated Carrier Performance System; amending s. 440.381, F.S.; revising penalties relating to applications for coverage; amending s. 440.525, F.S.; providing for examination of certain entities and reports; providing for the department to examine claims files for questionable claims handling practices or a pattern of unreasonably controverted claims; providing for interviews of certain witnesses; prohibiting recoupment of a penalty through a rate base, premium, or rate filing; amending s. 921.0022, F.S.; revising criminal offense severity ranking chart with respect to specified offenses involving workers' compensation; providing an effective date.

—was read the second time by title.

The Committee on Criminal Justice recommended the following amendments which were moved by Senator Posey and adopted:

**Amendment 1 (470222)**—On page 37, lines 23-25, delete those lines and insert:

440.105(3)(b)      3rd      ~~Receipt of fee or consideration without approval by judge of compensation claims.~~

**Amendment 2 (463370)**—On page 8, lines 29-31, delete those lines and insert: officer of a corporation who elects to be exempt from this chapter. Such officer is not an employee for any reason under this

**Amendment 3 (160768)**—On page 4, lines 23 and 24, delete those lines and insert:

3. An officer of a corporation who elects to be exempt from this

Senators Atwater and Campbell offered the following amendment which was moved by Senator Atwater and adopted:

**Amendment 4 (320412)**—On page 10, lines 18-20, delete those lines and insert: trustees of any person. "Employer" also includes ~~employment agencies, employee leasing companies, and similar agents who provide employees to other persons.~~ If the employer is a

Pursuant to Rule 4.19, **CS for SB 2268** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Posey—

**CS for CS for SB 2270**—A bill to be entitled An act relating to workers' compensation; amending s. 627.311, F.S.; establishing three tiers of employers eligible for coverage under the plan; providing for criteria and rates for each tier; deleting references to subplans; providing for assessments to cover deficits in tiers one and two; providing procedures to collect the assessment; exempting the plan from specified

premium tax and assessments; appropriating moneys from the Workers' Compensation Administration Trust Fund to fund plan deficits; providing transitional provisions to subplan "D" policies; providing legislative intent to create a state workers' compensation mutual fund under certain conditions; establishing the Workers' Compensation Insurance Market Evaluation Committee; providing for appointment of members; requiring the committee to monitor and report; requiring the Office of Insurance Regulation and workers' compensation insurers to report certain information; specifying meeting dates and interim reports for the committee; providing for reimbursement for travel and per diem; providing legislative intent as to the type of mutual fund it intends to create; prohibiting insurers from providing coverage to any person who is an affiliated person of a person who is delinquent in the payment of premiums, assessments, penalties, or surcharges owed to the plan; providing effective dates.

—was read the second time by title.

Senator Posey moved the following amendment which was adopted:

**Amendment 1 (485656)(with title amendment)**—On page 2, between lines 5 and 6, insert:

Section 1. Paragraph (a) of subsection (7) of section 440.107, Florida Statutes, is amended to read:

440.107 Department powers to enforce employer compliance with coverage requirements.—

(7)(a) Whenever the department determines that an employer who is required to secure the payment to his or her employees of the compensation provided for by this chapter has failed to secure the payment of workers' compensation required by this chapter or to produce the required business records under subsection (5) within 5 business days after receipt of the written request of the department, such failure shall be deemed an immediate serious danger to public health, safety, or welfare sufficient to justify service by the department of a stop-work order on the employer, requiring the cessation of all business operations. If the department makes such a determination, the department shall issue a stop-work order within 72 hours. The order shall take effect when served upon the employer or, for a particular employer work site, when served at that work site. In addition to serving a stop-work order at a particular work site which shall be effective immediately, the department shall immediately proceed with service upon the employer which shall be effective upon all employer work sites in the state for which the employer is not in compliance. A stop-work order may be served with regard to an employer's work site by posting a copy of the stop-work order in a conspicuous location at the work site. The order shall remain in effect until the department issues an order releasing the stop-work order upon a finding that the employer has come into compliance with the coverage requirements of this chapter and has paid any penalty assessed under this section. *The department may issue an order of conditional release from a stop-work order to an employer upon a finding that the employer has complied with coverage requirements of this chapter and has agreed to remit periodic payments of the penalty pursuant to a payment agreement schedule with the department. If an order of conditional release is issued, failure by the employer to meet any term or condition of such penalty payment agreement shall result in the immediate reinstatement of the stop-work order and the entire unpaid balance of the penalty shall become immediately due.* The department may require an employer who is found to have failed to comply with the coverage requirements of s. 440.38 to file with the department, as a condition of release from a stop-work order, periodic reports for a probationary period that shall not exceed 2 years that demonstrate the employer's continued compliance with this chapter. The department shall by rule specify the reports required and the time for filing under this subsection. (Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: amending s. 440.107, F.S.; authorizing the department to issue an order of conditional release from a stop-work order if an employer complies with coverage requirements and a penalty payment agreement;

Senators Atwater, Posey, Aronberg, Klein and Bullard offered the following amendment which was moved by Senator Atwater and adopted:

**Amendment 2 (803798)(with title amendment)**—On page 24, between lines 27 and 28, insert:

Section 5. Subsection (7) of section 440.16, Florida Statutes, is amended to read:

440.16 Compensation for death.—

~~(7) Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving spouse and child or children, or if there be no surviving spouse or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of 1 year prior to the date of the injury, and except that the judge of compensation claims may, at the option of the judge of compensation claims, or upon the application of the insurance carrier, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one half of the commuted amount of such future installments of compensation as determined by the judge of compensation claims, and provided further that compensation to dependents referred to in this subsection shall in no case exceed \$75,000.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 1, after the semicolon (;) insert: amending s. 440.16(7), F.S., which limits workers' compensation benefits to a nonresident alien for the death of the worker;

**MOTION**

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

Senators Posey, Alexander, Atwater and Clary offered the following amendment which was moved by Senator Posey and adopted:

**Amendment 3 (033548)**—On page 22, lines 4-15, delete those lines and insert: *(1) The sum of \$10 million is appropriated from the Workers' Compensation Administration Trust Fund in the Department of Financial Services for transfer to the workers' compensation joint underwriting plan provided in section 627.311(5), Florida Statutes, as a capital contribution to fund any deficit in the plan. The Chief Financial Officer shall transfer the funds to the plan no later than July 31, 2004.*

*(2) The workers' compensation joint underwriting plan set forth in section 627.311(5), Florida Statutes, may request the Department of Financial Services to transfer an amount not to exceed \$25 million from the Workers' Compensation*

**MOTION**

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

Senator Atwater moved the following amendment which was adopted:

**Amendment 4 (125598)**—On page 23, line 14 through page 24, line 27, delete those lines and insert:

*(1) The Legislature intends to create a state workers' compensation mutual fund if workers' compensation coverage is not generally available and affordable to small employers and organizations that are exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code in Florida by October 1, 2005. In order to make this determination, there is established the Workers' Compensation Insurance Market Evaluation Committee which shall consist of one member appointed by the Governor, who shall serve as chair; two members appointed by the President of the Senate; and two members appointed by the Speaker of the House of Representatives. The committee shall monitor and report on the number of insurers actively writing workers' compensation insurance in this state for small employers and organizations that are exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code, the number of policies issued, premium volume written, types of underwriting restrictions utilized, and the extent to which actual premiums charged vary from standard rates, such as the use of excess rates pursuant to section 627.171, Florida Statutes, and rate deviations pursuant to section*

*627.211, Florida Statutes. The Office of Insurance Regulation shall provide such related information to the committee as is requested, and workers' compensation insurers shall report such information to the office in the manner and format specified by the office.*

*(2) The committee shall meet once each month, beginning in August 2004, and shall provide interim reports to the appointing officers on October 1, 2004, December 1, 2004, and March 1, 2005, and at such additional times as the President of the Senate and the Speaker of the House of Representatives jointly require. Members of the committee shall be entitled to reimbursement for travel and per diem pursuant to section 112.061, Florida Statutes.*

*(3) If the Legislature determines that workers' compensation coverage is not generally available and affordable to small employers and organizations that are exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code in Florida, the Legislature intends to create a state mutual fund as a nonprofit entity for the benefit of its policyholders that are a small employer or an organization that is exempt from the federal income tax under s. 501(c)(3) of the Internal Revenue Code. The state mutual fund would compete with private carriers and would be charged with the public mission of customer service, quality loss prevention, timely claims management, active fighting of fraud, and compassionate care for injured workers, at the lowest cost consistent with actuarial sound rates. The fund should primarily rely on an in-house staff of professional employees, rather than contracting with servicing carriers. It is further intended that the state appropriate adequate initial capitalization for the fund and that the fund be subject to the same financial and other requirements as apply to an authorized insurer.*

**MOTION**

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

Senator Alexander moved the following amendment which was adopted:

**Amendment 5 (865866)(with title amendment)**—On page 21, following line 31, insert:

Section 2. Section 627.0915, Florida Statutes, is amended to read:

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

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

*(2) An insurer offering a rate plan approved under this section shall notify the employer at the time of a written offer of insurance and at the time of each renewal of the policy of the availability of the premium discount where a drug-free workplace plan is used by the employer pursuant to s. 440.102 and related rules. The commission shall adopt rules to implement this section.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 10, following the semicolon (;) insert: amending s. 627.0915, F.S., relating to drug-free workplace discounts; providing for notice by insurers to employers of the availability of premium discounts where certain drug-free workplace programs are used;

Pursuant to Rule 4.19, **CS for CS for SB 2270** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Haridopolos—

**CS for SB 2472**—A bill to be entitled An act relating to motor vehicle speed competitions; amending s. 316.191, F.S.; defining the term “conviction”; specifying that the offense applies to motor vehicles; revising penalties for violation of prohibitions against described motor vehicle speed competitions; providing for application of the Florida Contraband Forfeiture Act; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2472** was placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell—

**CS for CS for SB 1060**—A bill to be entitled An act relating to child support; amending s. 61.30, F.S.; revising certain child care cost guidelines; revising the formula for determining child support obligations with respect to child care costs and federal tax credits for child and dependent care expenses; amending ss. 61.14 and 742.031, F.S.; providing for the modification of temporary support orders; reenacting ss. 39.402(11), 39.521(2)(s), 61.13(1)(a) and (5), 61.14(1), 409.2563(1)(d), (2)(c), (4)(f), (5)(a), and (7)(e), 409.2564(12), and 742.031(1), F.S.; incorporating the amendments to s. 61.30, F.S., in references thereto; providing an effective date.

—was read the second time by title.

Senator Campbell moved the following amendments which were adopted:

**Amendment 1 (184940)(with title amendment)**—On page 1, line 20 through page 5, line 18, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 2-7, delete those lines and insert: An act relating to child support;

**Amendment 2 (814048)(with title amendment)**—On page 6, line 20 through page 15, line 17, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 1, lines 10-15, delete those lines and insert: orders; providing an effective

Pursuant to Rule 4.19, **CS for CS for SB 1060** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Peaden—

**CS for CS for SB 1154 and CS for SB 1462**—A bill to be entitled An act relating to a health care practitioner workforce database; creating s. 381.03015, F.S.; providing legislative intent with respect to a health care practitioner workforce database; providing definitions; creating the Florida Health Care Practitioner Workforce Database within the Department of Health; authorizing the database to be implemented in stages; giving priority in the database for information concerning allopathic and osteopathic physicians; specifying data elements of allopathic and osteopathic physicians for inclusion in the database; requiring that data for the health care practitioner workforce database be gathered from existing data sources; requiring certain entities to provide data elements to the department; authorizing the department to create an advisory committee; requiring the department to adopt rules; providing that the act will not take effect unless funds are specifically appropriated for this purpose; prohibiting the use of a specified trust fund to administer the act; amending s. 456.039, F.S.; revising the requirements for updating the information submitted by designated health care professionals for licensure and license renewal; authorizing the Department of Health to receive automated criminal arrest information concerning health care professionals who are subject to the profiling requirements; requiring certain health professionals to submit fingerprints to the Department of Health and to pay fees for a criminal history records check;

amending s. 456.0391, F.S.; revising the requirements for information submitted by advanced registered nurse practitioners for certification; authorizing the Department of Health to receive automated criminal arrest information concerning health care professionals who are subject to the profiling requirements; requiring certain health professionals to submit fingerprints to the Department of Health and to pay fees for a criminal history records check; requiring applications for a physician license and license renewal to be submitted electronically by a specified date; amending s. 456.042, F.S.; requiring designated health care practitioners to electronically submit updates of required information for compilation into practitioner profiles; amending s. 456.051, F.S.; revising requirements for the Department of Health to publish reports of claims or actions for damages for certain health care practitioners on the practitioner profiles; amending ss. 458.319, 459.008, 460.407, and 461.007, F.S.; revising requirements for physician licensure renewal; authorizing the Department of Health to gain access to renewal applicants' records in an automated system maintained by the Department of Law Enforcement; amending s. 461.014, F.S.; providing that each hospital annually provide a list of podiatric residents; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Saunders moved the following amendment which was adopted:

**Amendment 1 (283464)(with title amendment)**—On page 27, between lines 18 and 19, insert:

Section 13. Subsection (7) of section 456.025, Florida Statutes, is amended to read:

456.025 Fees; receipts; disposition.—

(7) Each board, or the department if there is no board, shall establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses or programs and shall establish by rule a biennial renewal fee not to exceed \$250 for the renewal of providership of such courses. The fees collected from continuing education providers shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, and covering legal expenses incurred as a result of not granting or renewing a providership, and developing and maintaining an electronic continuing education tracking system. The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system. All approved continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted.

Section 14. Section 456.0251, Florida Statutes, is created to read:

456.0251 Continuing education.—

(1) Unless otherwise provided in a profession's practice act, each board, or the department if there is no board, shall establish by rule procedures for approval of continuing education courses for renewal of licenses. Except for those continuing education courses whose subjects are prescribed by law, each board, or the department if there is no board, may limit by rule the subject matter for approved continuing education courses to courses addressing the scope of practice of each respective health care profession.

(2) Licensees who have not completed all of the continuing education credits required for licensure during a biennium may obtain an extension of 3 months from the date after the end of the license renewal biennium within which to complete the requisite hours for license renewal. Each board, or the department if there is no board, shall establish by rule procedures for requesting a 3-month extension and whether proof of completion of some approved hours of continuing education are required to be submitted with the request for extension as a prerequisite for granting the request.

(3) Failure to complete the requisite number of hours of continuing education hours within a license renewal biennium or within a 3-month period from the date after the end of the license renewal biennium, if

requested, shall be grounds for issuance of a citation and a fine, plus a requirement that at least the deficit hours are completed within a time established by rule of each board, or the department if there is no board. Each board, or the department if there is no board, shall establish by rule a fine for each continuing education hour which was not completed within the license renewal biennium or the 3-month period following the last day of the biennium if so requested, not to exceed \$500 per each hour not completed. The issuance of the citation and fine shall not be considered discipline. A citation and a fine issued under this subsection may only be issued to a licensee a maximum of two times for two separate failures to complete the requisite number of hours for license renewal.

(4) The department shall report to each board no later than 3 months following the last day of the license renewal biennium the percentage of licensees regulated by that board who have not timely complied with the continuing education requirements during the previous license renewal biennium for which auditing of licensees regulated by that board are completed. Each board shall direct the department the percentage of licensees regulated by that board that are to be audited during the next license renewal biennium. In addition to the percentage of licensees audited as directed by the boards, the department shall audit those licensees found to be deficient during any of the two license renewal bienniums.

Section 15. Paragraph (ff) is added to subsection (1) of section 456.072, Florida Statutes, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(ff) Failure for a third or more times to complete the requisite number of hours of continuing education hours within a license renewal biennium period or within a 3-month period from the date after the end of the license renewal biennium, if the extension was requested.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete those lines and insert: An act relating to health care practitioners; amending s. 456.025, F.S.; deleting requirements for the Department of Health to administer an electronic continuing education tracking system for health care practitioners; creating s. 456.0251, F.S.; providing for enforcement of continuing education requirements required for license renewal; authorizing citations and fines to be imposed for failure to comply with required continuing education requirements; amending s. 456.072, F.S.; providing for discipline of licensees who fail to meet continuing education requirements as a prerequisite for license renewal three or more times; creating s. 381.03015,

Pursuant to Rule 4.19, **CS for CS for SB 1154 and CS for SB 1462** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Saunders—

**CS for CS for CS for SB 1680**—A bill to be entitled An act relating to the licensure of health care providers; designating parts I, II, III, and IV of ch. 408, F.S., relating to health care administration; creating ss. 408.801-408.819, F.S.; amending ss. 400.991, 400.9915, 400.992, 400.9925, 400.993, 400.9935, and 400.995, F.S., and repealing ss. 400.9905(2), 400.994, and 400.9945, F.S., relating to health care clinics; defining terms; providing licensure requirements for mobile clinics; prohibiting the transfer of certain exemptions; providing for the expiration of certain temporary licenses; providing for the refund of certain fees; exempting certain persons from license application deadlines; requiring health care clinics to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; providing requirements for license application; providing for late fees; providing duties of the agency, including requirements for inspections; authorizing the electronic submission of information to the agency; providing requirements for licensure upon a change of ownership of a provider; specifying license categories; requiring background screening of a licensee, administrator, financial officer, or controlling interest; providing minimum licensure requirements; providing requirements for a licensee that discontinues operation; requiring that notice be provided to clients; requiring a licensee to

inform clients of certain rights; requiring an applicant for licensure to provide proof of liability insurance and financial ability to operate; authorizing the agency to make inspections and investigations; prohibiting certain unlicensed activity; providing penalties; providing for administrative fines; authorizing the agency to impose a moratorium under certain circumstances; specifying grounds under which the agency may deny or revoke a license; authorizing the agency to institute proceedings for an injunction against a provider; requiring that fees and fines be deposited into the Health Care Trust Fund and used for administering the laws and rules governing providers; providing rulemaking authority; amending s. 112.045, F.S., relating to the Drug-Free Workplace Act; requiring drug-testing laboratories to be in compliance with part II of ch. 408, F.S.; deleting obsolete and repetitive provisions; providing for rules and licensure fees; amending ss. 383.301, 383.305, 383.309, 383.315, 383.324, 383.33, and 383.335, F.S., and repealing ss. 383.304, 383.325, 383.331, and 383.332, F.S., relating to the Birth Center Licensure Act; requiring birth centers to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 390.011, 390.012, 390.014, and 390.018, F.S., and repealing ss. 390.013, 390.015, 390.016, 390.017, 390.019, and 390.021, F.S., relating to the regulation of abortion clinics; requiring abortion clinics to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending s. 394.455, F.S., relating to the Florida Mental Health Act; clarifying a definition; amending ss. 394.67, 394.875, 394.877, 394.878, 394.879, 394.90, and 394.902, F.S., and repealing s. 394.876, F.S., relating to the Community Substance Abuse and Mental Health Services Act; defining the term “short-term residential treatment facility”; requiring substance abuse or mental health facilities, programs, and services to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative penalties; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 395.003, 395.004, 395.0161, 395.0163, 395.0199, 395.1046, 395.1055, and 395.1065, F.S., and repealing ss. 395.002(4), 395.0055, and 395.0162, F.S., relating to hospitals and other licensed facilities; requiring hospitals and other licensed facilities to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending s. 395.1041, F.S.; requiring a facility licensed under ch. 395, F.S., to withhold or withdraw cardiopulmonary resuscitation when presented with an order not to resuscitate; creating s. 395.10411, F.S.; providing requirements to be carried out by a facility licensed under ch. 395, F.S., when a patient has an advance directive, has an order not to resuscitate, or is a designated organ donor; amending s. 765.1105, F.S.; requiring a health care provider that refuses to carry out a patient’s advance directive to transfer the patient within a specified time to a health care provider that will comply with the advance directive; creating s. 765.1021, F.S., to encourage physicians and patients to discuss end-of-life care and to specify when an advance directive be part of the patient’s medical record; amending s. 765.304, F.S.; requiring an attending physician who refuses to comply with a person’s living will to transfer the person to a physician who will comply; amending s. 395.0197, F.S.; providing that a health care facility must use the services of, rather than hire, a risk manager; restricting the number of internal risk management programs in separate hospitals which may be the responsibility of a risk manager; providing exceptions; amending ss. 395.10973, 395.10974, and 395.10975, F.S., relating to health care risk managers; requiring health care risk managers to comply with part II of ch. 408, F.S.; providing for fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending s. 400.21, F.S.; providing that certain registered nurses may sign a resident care plan; amending ss. 400.022, 400.051, 400.062, 400.063, 400.071, 400.102, 400.111, 400.1183, 400.121, 400.141, 400.17, 400.179, 400.18, 400.19, 400.191, 400.20, 400.211, and 400.23, F.S., and repealing ss. 400.021(5) and (20), 400.125, and 400.241(1) and (2), F.S., relating to nursing homes; requiring nursing homes to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; revising reporting requirements; conforming provisions with the requirements of part II of ch. 408, F.S.; creating s. 400.0712, F.S.; authorizing the Agency for Health Care Administration to issue an inactive license to a nursing home facility for all or a portion of its beds; providing procedures when applying for an inactive license; permitting the agency to issue an inactive license to a nursing home that chooses to use an unoccupied contigu-

ous portion of the facility for an alternative use to meet the needs of elderly persons through the use of less restrictive, less institutional services; providing that an inactive license issued may be granted for specified periods of time; directing that a nursing home that receives an inactive license to provide alternative services may not receive preference for participation in the Assisted Living for the Elderly Medicaid waiver; providing that reactivation of an inactive license requires the applicant to meet certain specified conditions; amending ss. 400.402, 400.407, 400.4075, 400.408, 400.411, 400.412, 400.414, 400.417, 400.4174, 400.4176, 400.418, 400.419, 400.42, 400.424, 400.4255, 400.4256, 400.427, 400.4275, 400.431, 400.434, 400.441, 400.442, 400.444, 400.452, and 400.454, F.S., and repealing ss. 400.415, 400.4178(7), 400.435(1), 400.447(1), (2), and (3), and 400.451, F.S., relating to assisted living facilities; requiring assisted living facilities to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; requiring assisted living facilities to conduct resident elopement prevention and response drills; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 400.464, 400.471, 400.474, 400.484, 400.494, 400.495, 400.497, 400.506, 400.509, and 400.512, F.S., and repealing s. 400.515, F.S., relating to home health agencies and nurse registries; requiring home health agencies and nurse registries to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 400.551, 400.554, 400.555, 400.556, 400.5565, 400.557, 400.5572, 400.559, 400.56, and 400.562, F.S., and repealing ss. 400.5575, 400.558, and 400.564, F.S., relating to adult day care centers; requiring adult day care centers to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 400.602, 400.605, 400.606, 400.6065, 400.607, and 400.6095, F.S., relating to hospices; requiring hospices to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 400.617, 400.619, 400.6194, 400.6196, 400.621, 400.6211, and 400.625, F.S., and repealing s. 400.622, F.S., relating to adult family-care homes; requiring adult family-care homes to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 400.801 and 400.805, F.S., relating to homes for special services and transitional living facilities; requiring such homes and facilities to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 400.902, 400.903, 400.905, 400.907, 400.908, 400.912, 400.914, and 400.915, F.S., and repealing ss. 400.906, 400.910, 400.911, 400.913, 400.916, and 400.917, F.S., relating to prescribed pediatric extended care centers; requiring such centers to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 400.925, 400.93, 400.931, 400.932, 400.933, and 400.935, F.S., and repealing ss. 400.95, 400.953(2), 400.955(4), and 400.956, F.S., relating to home medical equipment providers; requiring home medical equipment providers to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 400.960, 400.962, 400.967, 400.968, and 400.969, F.S., and repealing ss. 400.963 and 400.965, F.S., relating to intermediate care facilities for the developmentally disabled; requiring such facilities to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending s. 400.908, F.S.; requiring health care services pools to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 400.991, 400.9915, 400.992, 400.9925, 400.993, 400.9935, and 400.995, F.S., and repealing ss. 400.9905(2), 400.994, and 400.9945, F.S., relating to health care clinics; requiring health care clinics to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending s. 408.036, F.S.; revising

the prerequisites for allowing an exemption from certificate-of-need review for adding skilled nursing facility beds to a licensed skilled nursing facility or for construction of a skilled nursing facility; allowing such an exemption only in counties having a specified maximum population; amending s. 408.831, F.S., relating to the authority of the Agency for Health Care Administration to impose certain penalties against a regulated or licensed entity; conforming provisions to changes made by the act; amending s. 440.102, F.S., relating to the drug-free workplace program; requiring laboratories to be in compliance with the requirements of part II of ch. 408, F.S.; conforming provisions to changes made by the act; amending s. 468.711, F.S.; deleting the requirement that continuing education for athletic trainers include first aid; amending s. 468.723, F.S.; revising exemptions from licensure requirements; amending s. 1012.46, F.S.; providing that a first responder for a school district may not represent himself or herself as an athletic trainer; amending ss. 483.035, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172, 483.201, 483.221, and 483.23, F.S., and repealing ss. 483.131 and 483.25, F.S., relating to clinical laboratories; requiring clinical laboratories to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; amending ss. 483.291, 483.294, 483.30, 483.302, and 483.32, F.S., and repealing ss. 483.311, 483.317(1), 483.322(1), and 483.328, F.S., relating to multiphasic health testing centers; requiring such centers to be in compliance with part II of ch. 408, F.S.; providing for licensure fees; authorizing the agency to adopt rules; providing for administrative fines; conforming provisions with the requirements of part II of ch. 408, F.S.; providing for ss. 408.801-408.819, F.S., to prevail in the case of a conflict with other laws governing the licensure of health care providers by the agency; authorizing the agency to issue a license for less than a specified period and to charge a prorated fee; amending s. 651.118, F.S.; revising standards for use of sheltered nursing home beds by certain persons; providing an effective date.

—was read the second time by title.

Senator Saunders moved the following amendments which were adopted:

**Amendment 1 (103530)**—On page 29, lines 18-20, delete those lines and insert:

*(7) If proof of insurance is required by the authorizing statute, that insurance must be in compliance with chapter 624, chapter 626, chapter 627, or chapter 628 and with agency rules.*

**Amendment 2 (705836)**—On page 34, delete lines 14 and 15 and insert:

*separate fine. For fines imposed by final agency action, the violator shall pay the*

**Amendment 3 (361394)**—On page 35, delete line 12 and insert:

*grounds that may be used by the agency for denying or revoking a license or application*

**Amendment 4 (471680)**—On page 35, delete lines 7-9.

**Amendment 5 (501242)**—On page 35, delete lines 27 and 28 and insert: *the Medicare program.*

**Amendment 6 (720394)**—On page 36, delete lines 3-6 and insert:

*licensure fees. The provisions of s.120.60(1) shall not apply to renewal applications filed during the time period the litigation of the denial or revocation is pending until that litigation is final.*

**Amendment 7 (313616)**—On page 37, delete line 24 and insert:

*408.819 Rules.—The agency is authorized to adopt rules as necessary*

Senator Jones moved the following amendment which was adopted:

**Amendment 8 (022256)**—On page 100, line 6, after “*must*” insert: *, within 48 hours after a determination by the attending physician that the patient’s condition is such that the advance directive applies,*

Senator Saunders moved the following amendments which were adopted:

**Amendment 9 (240064)**—On page 122, line 20 through page 124, line 29, delete those lines and insert:

Section 66. Subsections (14), (15), and (16) of section 400.141, Florida Statutes, are amended to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(14) Submit to the agency the information specified in s. 400.071(1)(a) ~~s. 400.071(2)(e)~~ for a management company within 30 days after the effective date of the management agreement.

(15)(a) *At the end of each calendar quarter*, submit ~~semiannually~~ to the agency, ~~or more frequently if requested by the agency~~, information regarding facility staff-to-resident ratios, staff turnover, and staff stability, including information regarding certified nursing assistants, licensed nurses, the director of nursing, and the facility administrator. For purposes of this reporting:

1.(a) Staff-to-resident ratios must be reported in the categories specified in s. 400.23(3)(a) and applicable rules. The ratio must be reported as an average for the most recent calendar quarter.

2.(b) Staff turnover must be reported for the most recent 12-month period ending on the last workday of the most recent calendar quarter prior to the date the information is submitted. The turnover rate must be computed quarterly, with the annual rate being the cumulative sum of the quarterly rates. The turnover rate is the total number of terminations or separations experienced during the quarter, excluding any employee terminated during a probationary period of 3 months or less, divided by the total number of staff employed at the end of the period for which the rate is computed, and expressed as a percentage.

3.(c) The formula for determining staff stability is the total number of employees that have been employed for more than 12 months, divided by the total number of employees employed at the end of the most recent calendar quarter, and expressed as a percentage.

(b)(d) A nursing facility that has failed to comply with state minimum-staffing requirements for 2 consecutive days is prohibited from accepting new admissions until the facility has achieved the minimum-staffing requirements for a period of 6 consecutive days. For the purposes of this paragraph, any person who was a resident of the facility and was absent from the facility for the purpose of receiving medical care at a separate location or was on a leave of absence is not considered a new admission. Failure to impose such an admissions moratorium constitutes a class II deficiency.

(c)(e) A nursing facility *that* ~~which~~ does not have a conditional license may be cited for failure to comply with the standards in s. 400.23(3)(a) only if it has failed to meet those standards on 2 consecutive days or if it has failed to meet at least 97 percent of those standards on any one day.

(d)(f) A facility *that* ~~which~~ has a conditional license must be in compliance with the standards in s. 400.23(3)(a) at all times *from the effective date of the conditional license until the effective date of a subsequent standard license*.

Nothing in this section shall limit the agency's ability to impose a deficiency or take other actions if a facility does not have enough staff to meet the residents' needs.

(16) Report monthly the number of vacant beds in the facility which are available for resident occupancy on the *last day of the month information is reported*.

**Amendment 10 (033012)**—On page 165, line 16 through page 166, line 16, delete those lines and insert:

(2)(6) The applicant shall provide proof of liability insurance as defined in s. 624.605.

(7) ~~If the applicant is a community residential home, the applicant must provide proof that it has met the requirements specified in chapter 419.~~

~~(8) The applicant must provide the agency with proof of legal right to occupy the property.~~

(3)(9) ~~The applicant must furnish proof that the facility has received a satisfactory firesafety inspection.~~ The local authority having jurisdiction or the State Fire Marshal must conduct the inspection within 30 days after written request by the applicant.

(4)(10) The applicant must furnish documentation of a satisfactory sanitation inspection of the facility by the county health department.

~~(11) The applicant must furnish proof of compliance with level-2 background screening as required under s. 400.4174.~~

(5)(12) A provisional license may be issued to an applicant making initial application for licensure or making application for a change of ownership. A provisional license shall be limited in duration to a specific period of time not to exceed 6 months, as determined by the agency.

(6)(13) A county or municipality may not issue an occupational license that is being obtained for the purpose of operating a facility regulated under this part without first ascertaining that the applicant has been licensed to operate such facility at the specified location or locations by the agency. The agency shall furnish to local agencies responsible for issuing occupational licenses sufficient instruction for making such determinations.

**Amendment 11 (152182)(with title amendment)**—On page 375, between lines 16 and 17, insert:

Section 211. Subsection (7) of section 456.025, Florida Statutes, is amended to read:

456.025 Fees; receipts; disposition.—

(7) Each board, or the department if there is no board, shall establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses or programs and shall establish by rule a biennial renewal fee not to exceed \$250 for the renewal of providership of such courses. The fees collected from continuing education providers shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, *and covering legal expenses incurred as a result of not granting or renewing a providership, and developing and maintaining an electronic continuing education tracking system.* ~~The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system. All approved continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted.~~

Section 212. Section 456.0251, Florida Statutes, is created to read:

456.0251 Continuing education.—

(1) *Unless otherwise provided in a profession's practice act, each board, or the department if there is no board, shall establish by rule procedures for approval of continuing education providers and continuing education courses for renewal of licenses. Except for those continuing education courses whose subjects are prescribed by law, each board, or the department if there is no board, may limit by rule the subject matter for approved continuing education courses to courses addressing the scope of practice of each respective health care profession.*

(2) *Licensees who have not completed all of the continuing education credits required for licensure during a biennium may obtain an extension of 3 months from the date after the end of the license renewal biennium within which to complete the requisite hours for license renewal. Each board, or the department if there is no board, shall establish by rule procedures for requesting a 3-month extension and whether proof of completion of some approved hours of continuing education are required to be submitted with the request for extension as a prerequisite for granting the request.*

(3) *Failure to complete the requisite number of hours of continuing education hours within a license renewal biennium or within a 3 month*

period from the date after the end of the license renewal biennium, if requested, shall be grounds for issuance of a citation and a fine, plus a requirement that at least the deficit hours are completed within a time established by rule of each board, or the department if there is no board. Each board, or the department if there is no board, shall establish by rule a fine for each continuing education hour which was not completed within the license renewal biennium or the 3-month period following the last day of the biennium if so requested, not to exceed \$500 per each hour not completed. The issuance of the citation and fine shall not be considered discipline. A citation and a fine issued under this subsection may only be issued to a licensee a maximum of two times for two separate failures to complete the requisite number of hours for license renewal.

(4) The department shall report to each board no later than 3 months following the last day of the license renewal biennium the percentage of licensees regulated by that board who have not timely complied with the continuing education requirements during the previous license renewal biennium for which auditing of licensees regulated by that board are completed. Each board shall direct the department the percentage of licensees regulated by that board that are to be audited during the next license renewal biennium. In addition to the percentage of licensees audited as directed by the boards, the department shall audit those licensees found to be deficient during any of the two license renewal bienniums.

Section 213. Paragraph (ff) is added to subsection (1) of section 456.072, Florida Statutes, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(ff) Failure for a third or more times to complete the requisite number of hours of continuing education hours within a license renewal biennium period or within a 3-month period from the date after the end of the license renewal biennium, if the extension was requested.

And the title is amended as follows:

On page 11, line 29, after the semicolon (;) insert: amending s. 456.025, F.S.; deleting requirements for the Department of Health to administer an electronic continuing education tracking system for health care practitioners; creating s. 456.0251, F.S.; providing for enforcement of continuing education requirements required for license renewal; authorizing citations and fines to be imposed for failure to comply with required continuing education requirements; amending s. 456.072, F.S.; providing for discipline of licensees who fail to meet continuing education requirements as a prerequisite for license renewal three or more times;

**Amendment 12 (535318)(with title amendment)**—On page 375, lines 17 and 18, delete those lines and insert:

Section 211. Except as otherwise expressly provided in this act, and except for this section, which shall take effect upon becoming a law, this act shall take effect October 1, 2004.

And the title is amended as follows:

On page 11, delete line 30 and insert: providing effective dates.

## MOTION

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

Senator Saunders moved the following amendments which were adopted:

**Amendment 13 (100810)(with title amendment)**—On page 214, between lines 23 and 24, insert:

Section 111. Subsections (1) and (2) of section 400.487, Florida Statutes, are amended to read:

400.487 Home health service agreements; physician's, physician's assistant's, and advanced registered nurse practitioner's treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate.—

(1) Services provided by a home health agency must be covered by an agreement between the home health agency and the patient or the patient's legal representative specifying the home health services to be provided, the rates or charges for services paid with private funds, and the sources method of payment, which may include Medicare, Medicaid, private insurance, personal funds, or a combination thereof. A home health agency providing skilled care must make an assessment of the patient's needs within 48 hours after the start of services.

(2) When required by the provisions of chapter 464; part I, part III, or part V of chapter 468; or chapter 486, the attending physician, physician's assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, shall for a patient who is to receive skilled care ~~must~~ establish treatment orders for a patient who is to receive skilled care. The treatment orders must be signed by the physician, physician's assistant, or advanced registered nurse practitioner before a claim for payment for the skilled services is submitted by the home health agency. If the claim is submitted to a managed care organization, the treatment orders must be signed in the time allowed under the provider agreement. The treatment orders shall ~~within 30 days after the start of care and must~~ be reviewed, as frequently as the patient's illness requires, by the physician, physician's assistant, or advanced registered nurse practitioner in consultation with the home health agency ~~personnel that provide services to the patient.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 6, after the semicolon (;) insert: amending s. 400.487, F.S.; revising home health agency service agreements and treatment orders;

**Amendment 14 (325238)**—On page 75, line 24 through page 76, line 21, delete those lines and insert:

395.003 Licensure; issuance, renewal, denial, modification, suspension, and revocation.—

(1)(a) A ~~No~~ person may not ~~shall~~ establish, conduct, or maintain a hospital, ambulatory surgical center, or mobile surgical facility in this state without first obtaining a license under this part.

(b)1. It is unlawful for a ~~any~~ person to use or advertise to the public, in any way or by any medium whatsoever, any facility as a "hospital," "ambulatory surgical center," or "mobile surgical facility" unless such facility has first secured a license under the provisions of this part.

2. ~~Nothing in~~ This part ~~does not apply~~ applies to veterinary hospitals or to commercial business establishments using the word "hospital," "ambulatory surgical center," or "mobile surgical facility" as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

3. *By December 31, 2004, the agency shall submit a report to the President of the Senate and the Speaker of the House of Representatives recommending whether it is in the public interest to allow a hospital to license or operate an emergency department located off the premises of the hospital. If the agency finds it to be in the public interest, the report shall also recommend licensure criteria for such medical facilities, including criteria related to quality of care and, if deemed necessary, the elimination of the possibility of confusion related to the service capabilities of such facility in comparison to the service capabilities of an emergency department located on the premises of the hospital. Until July 1, 2005, additional emergency departments located off the premises of licensed hospitals may not be authorized by the agency.*

**Amendment 15 (692332)**—On page 224, line 27 through page 228, line 30, delete those lines and insert:

(c) A nurse registry shall, at the time of contracting for services through the nurse registry, advise the patient, the patient's family, or a person acting on behalf of the patient of the availability of registered nurses to make visits to the patient's home at an additional cost. A ~~registered nurse shall make monthly visits to the patient's home to assess the patient's condition and quality of care being provided by the certified nursing assistant or home health aide.~~ Any condition that ~~which~~ in the professional judgment of the nurse requires further medical attention shall be reported to the attending physician and the nurse registry. The assessment shall become a part of the patient's file with the

nurse registry and may be reviewed by the agency during their survey procedure.

(6)(11) A person who is referred by a nurse registry for contract in private residences and who is not a nurse licensed under part I of chapter 464 may perform only those services or care to clients that the person has been certified to perform or trained to perform as required by law or rules of the Agency for Health Care Administration or the Department of Business and Professional Regulation. Providing services beyond the scope authorized under this subsection constitutes the unauthorized practice of medicine or a violation of the Nurse Practice Act and is punishable as provided under chapter 458, chapter 459, or part I of chapter 464.

(7)(12) Each nurse registry must require every applicant for contract to complete an application form providing the following information:

(a) The name, address, date of birth, and social security number of the applicant.

(b) The educational background and employment history of the applicant.

(c) The number and date of the applicable license or certification.

(d) When appropriate, information concerning the renewal of the applicable license, registration, or certification.

(8)(13) Each nurse registry must comply with the procedures set forth in s. 400.512 for maintaining records of the employment history of all persons referred for contract and is subject to the standards and conditions set forth in that section. However, an initial screening may not be required for persons who have been continuously registered with the nurse registry since September 30, 1990.

(9)(14) The nurse registry must maintain the application on file, and that file must be open to the inspection of the Agency for Health Care Administration. The nurse registry must maintain on file the name and address of the client to whom the nurse or other nurse registry personnel is sent for contract and the amount of the fee received by the nurse registry. A nurse registry must maintain the file that includes the application and other applicable documentation for 3 years after the date of the last file entry of client-related information.

(10)(15) Nurse registries shall assist persons who would need assistance and sheltering during evacuations because of physical, mental, or sensory disabilities in registering with the appropriate local emergency management agency pursuant to s. 252.355.

(11)(16) Each nurse registry shall prepare and maintain a comprehensive emergency management plan that is consistent with the criteria in this subsection and with the local special needs plan. The plan shall be updated annually. The plan shall specify how the nurse registry shall facilitate the provision of continuous care by persons referred for contract to persons who are registered pursuant to s. 252.355 during an emergency that interrupts the provision of care or services in private residences.

(a) All persons referred for contract who care for persons registered pursuant to s. 252.355 must include in the patient record a description of how care will be continued during a disaster or emergency that interrupts the provision of care in the patient's home. It shall be the responsibility of the person referred for contract to ensure that continuous care is provided.

(b) Each nurse registry shall maintain a current prioritized list of patients in private residences who are registered pursuant to s. 252.355 and are under the care of persons referred for contract and who need continued services during an emergency. This list shall indicate, for each patient, if the client is to be transported to a special needs shelter and if the patient is receiving skilled nursing services. Nurse registries shall make this list available to county health departments and to local emergency management agencies upon request.

(c) Each person referred for contract who is caring for a patient who is registered pursuant to s. 252.355 shall provide a list of the patient's medication and equipment needs to the nurse registry. Each person referred for contract shall make this information available to county health departments and to local emergency management agencies upon request.

(d) Each person referred for contract shall not be required to continue to provide care to patients in emergency situations that are beyond the person's control and that make it impossible to provide services, such as when roads are impassable or when patients do not go to the location specified in their patient records.

(e) The comprehensive emergency management plan required by this subsection is subject to review and approval by the county health department. During its review, the county health department shall ensure that, at a minimum, the local emergency management agency, the Agency for Health Care Administration, and the local chapter of the American Red Cross or other lead sheltering agency are given the opportunity to review the plan. The county health department shall complete its review within 60 days after receipt of the plan and shall either approve the plan or advise the nurse registry of necessary revisions.

(f) The Agency for Health Care Administration shall adopt rules establishing minimum criteria for the comprehensive emergency management plan and plan updates required by this subsection, with the concurrence of the Department of Health and in consultation with the Department of Community Affairs.

(12)(17) All persons referred for contract in private residences by a nurse registry must comply with the following requirements for a plan of treatment:

(a) When, in accordance with the privileges and restrictions imposed upon a nurse under part I of chapter 464, the delivery of care to a patient is under the direction or supervision of a physician or when a physician is responsible for the medical care of the patient, a medical plan of treatment must be established for each patient receiving care or treatment provided by a licensed nurse in the home. The original medical plan of treatment must be timely signed by the physician, *physician's assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice*, and reviewed by him or her in consultation with the licensed nurse at least every 2 months. Any additional order or change in orders must be obtained from the physician, *physician's assistant, or advanced registered nurse practitioner* and reduced to writing and timely signed by the physician, *physician's assistant, or advanced registered nurse practitioner*. The delivery of care under a medical plan of treatment must be substantiated by the appropriate nursing notes or documentation made by the nurse in compliance with nursing practices established under part I of chapter 464.

**Amendment 16 (430906)**—On page 15, line 29 through page 16, line 5, delete those lines and insert:

(5) "*Change in ownership*" means an event in which the licensee changes to a different legal entity or in which 45 percent or more of the ownership, voting shares, or controlling interest in a corporation whose shares are not publicly traded on a recognized stock exchange is transferred or assigned, including the final transfer or assignment of multiple transfers or assignments over a 2-year period which cumulatively total 45 percent or greater. However, a change solely in the management company is not a change of ownership.

#### MOTION

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

Senator Jones moved the following amendment which was adopted:

**Amendment 17 (560448)(with title amendment)**—On page 375, between lines 16 and 17, insert:

Section 211. *Sections 211 through 227 of this act may be cited as the "Clara Ramsey Care of the Elderly Act."*

Section 212. *Certified Geriatric Specialist Preparation Pilot Program.*—

(1) *The Agency for Workforce Innovation shall establish a pilot program for delivery of geriatric nursing education to certified nursing assistants who wish to become certified geriatric specialists. The agency shall select two pilot sites in nursing homes that have received the Gold Seal designation under section 400.235, Florida Statutes; have been designated as a teaching nursing home under section 430.80, Florida Statutes; or have not received a class I or class II deficiency within the 30 months preceding application for this program.*

(2) To be eligible to receive geriatric nursing education, a certified nursing assistant must have been employed by a participating nursing home for at least 1 year and must have received a high school diploma or its equivalent.

(3) The education shall be provided at the worksite and in coordination with the certified nursing assistant's work schedule.

(4) Faculty shall provide the instruction under an approved nursing program pursuant to section 464.019, Florida Statutes.

(5) The education must be designed to prepare the certified nursing assistant to meet the requirements for certification as a geriatric specialist. The didactic and clinical education must include all portions of the practical nursing curriculum pursuant to section 464.019, Florida Statutes, except for pediatric and obstetric/maternal-child education, and must include additional education in the care of ill, injured, or infirm geriatric patients and the maintenance of health, the prevention of injury, and the provision of palliative care for geriatric patients.

Section 213. *Certified Geriatric Specialty Nursing Initiative Steering Committee.*—

(1) In order to guide the implementation of the Certified Geriatric Specialist Preparation Pilot Program, there is created a Certified Geriatric Specialty Nursing Initiative Steering Committee. The steering committee shall be composed of the following members:

- (a) The chair of the Board of Nursing or his or her designee;
- (b) A representative of the Agency for Workforce Innovation, appointed by the Director of Workforce Innovation;
- (c) A representative of Workforce Florida, Inc., appointed by the chair of the Board of Directors of Workforce Florida, Inc.;
- (d) A representative of the Department of Education, appointed by the Commissioner of Education;
- (e) A representative of the Department of Health, appointed by the Secretary of Health;
- (f) A representative of the Agency for Health Care Administration, appointed by the Secretary of Health Care Administration;
- (g) The Director of the Florida Center for Nursing;
- (h) A representative of the Department of Elderly Affairs, appointed by the Secretary of Elderly Affairs; and
- (i) A representative of a Gold Seal nursing home that is not one of the pilot program sites, appointed by the Secretary of Health Care Administration.

(2) The steering committee shall:

- (a) Provide consultation and guidance to the Agency for Workforce Innovation on matters of policy during the implementation of the pilot program; and
  - (b) Provide oversight to the evaluation of the pilot program.
- (3) Members of the steering committee are entitled to reimbursement for per diem and travel expenses under section 112.061, Florida Statutes.
- (4) The steering committee shall complete its activities by June 30, 2007, and the authorization for the steering committee ends on that date.

Section 214. *Evaluation of the Certified Geriatric Specialist Preparation Pilot Program.*—The Agency for Workforce Innovation, in consultation with the Certified Geriatric Specialty Nursing Initiative Steering Committee, shall conduct or contract for an evaluation of the pilot program. The agency shall ensure that an evaluation report is submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2007. The evaluation must address the experience and success of the certified nursing assistants in the pilot program and must contain recommendations regarding the expansion of the delivery of geriatric nursing education in nursing homes.

Section 215. *Reports.*—The Agency for Workforce Innovation shall submit status reports and recommendations regarding legislation neces-

sary to further the implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives on January 1, 2005, January 1, 2006, and January 1, 2007.

Section 216. Section 464.0125, Florida Statutes, is created to read:

464.0125 *Certified geriatric specialists; certification requirements.*—

(1) *DEFINITIONS; RESPONSIBILITIES.*—

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

1. "Certified geriatric specialist" means a person who meets the qualifications specified in this section and who is certified by the board to practice as a certified geriatric specialist.

2. "Geriatric patient" means any patient who is 60 years of age or older.

3. "Practice of certified geriatric specialty nursing" means the performance of selected acts in facilities licensed under part II or part III of chapter 400, including the administration of treatments and medications, in the care of ill, injured, or infirm geriatric patients and the promotion of wellness, maintenance of health, and prevention of illness of geriatric patients under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist. The scope of practice of a certified geriatric specialist includes the practice of practical nursing as defined in s. 464.003 for geriatric patients only, except for any act in which instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing is required. A certified geriatric specialist, while providing nursing services in facilities licensed under part II or part III of chapter 400, may supervise the activities of certified nursing assistants and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the board.

(b) The certified geriatric specialist shall be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in performing certified geriatric specialty nursing.

(2) *CERTIFICATION.*—

(a) Any certified nursing assistant desiring to be certified as a certified geriatric specialist must apply to the department and submit proof that he or she holds a current certificate as a certified nursing assistant under part II of this chapter and has satisfactorily completed the following requirements:

1. Is in good mental and physical health, is a recipient of a high school diploma or its equivalent; has completed the requirements for graduation from an approved program for nursing or its equivalent, as determined by the board, for the preparation of licensed practical nurses, except for instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing; and has completed additional education in the care of ill, injured, or infirm geriatric patients, the maintenance of health, the prevention of injury, and the provision of palliative care for geriatric patients. By September 1, 2004, the Board of Nursing shall adopt rules establishing the core competencies for the additional education in geriatric care. Any program that is approved on July 1, 2004, by the board for the preparation of registered nurses or licensed practical nurses may provide education for the preparation of certified geriatric specialists without further board approval.

2. Has the ability to communicate in the English language, which may be determined by an examination given by the department.

3. Has provided sufficient information, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.

(b) Each applicant who meets the requirements of this subsection is, unless denied pursuant to s. 464.018, entitled to certification as a certified geriatric specialist. The board must certify, and the department must issue a certificate to practice as a certified geriatric specialist to, any certified nursing assistant who meets the qualifications set forth in this section. The board shall establish an application fee not to exceed \$100 and a biennial renewal fee not to exceed \$50. The board may adopt rules to administer this section.

(c) A person receiving certification under this section shall:

1. Work only within the confines of a facility licensed under part II or part III of chapter 400.
2. Care for geriatric patients only.
3. Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018.

(3) **ARTICULATION.**—Any certified geriatric specialist who completes the additional instruction and coursework in an approved nursing program pursuant to s. 464.019 for the preparation of practical nursing in the areas of pediatric nursing and obstetric/maternal-child nursing is, unless denied pursuant to s. 464.018, entitled to licensure as a licensed practical nurse if the applicant otherwise meets the requirements of s. 464.008.

(4) **TITLES AND ABBREVIATIONS; RESTRICTIONS; PENALTIES.**—

(a) Only persons who hold certificates to practice as certified geriatric specialists in this state or who are performing services within the practice of certified geriatric specialty nursing pursuant to the exception set forth in s. 464.022(8) may use the title “Certified Geriatric Specialist” and the abbreviation “C.G.S.”

(b) A person may not practice or advertise as, or assume the title of, certified geriatric specialist or use the abbreviation “C.G.S.” or take any other action that would lead the public to believe that person is certified as such or is performing services within the practice of certified geriatric specialty nursing pursuant to the exception set forth in s. 464.022(8), unless that person is certified to practice as such.

(c) A violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) **VIOLATIONS AND PENALTIES.**—Practicing certified geriatric specialty nursing, as defined in this section, without holding an active certificate to do so constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 217. Paragraph (b) of subsection (1) of section 381.00315, Florida Statutes, is amended to read:

381.00315 Public health advisories; public health emergencies.—The State Health Officer is responsible for declaring public health emergencies and issuing public health advisories.

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

(b) “Public health emergency” means any occurrence, or threat thereof, whether natural or man made, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters. Prior to declaring a public health emergency, the State Health Officer shall, to the extent possible, consult with the Governor and shall notify the Chief of Domestic Security Initiatives as created in s. 943.03. The declaration of a public health emergency shall continue until the State Health Officer finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and he or she terminates the declaration. However, a declaration of a public health emergency may not continue for longer than 60 days unless the Governor concurs in the renewal of the declaration. The State Health Officer, upon declaration of a public health emergency, may take actions that are necessary to protect the public health. Such actions include, but are not limited to:

1. Directing manufacturers of prescription drugs or over-the-counter drugs who are permitted under chapter 499 and wholesalers of prescription drugs located in this state who are permitted under chapter 499 to give priority to the shipping of specified drugs to pharmacies and health care providers within geographic areas that have been identified by the State Health Officer. The State Health Officer must identify the drugs to be shipped. Manufacturers and wholesalers located in the state must respond to the State Health Officer’s priority shipping directive before shipping the specified drugs.

2. Notwithstanding chapters 465 and 499 and rules adopted thereunder, directing pharmacists employed by the department to compound

bulk prescription drugs and provide these bulk prescription drugs to physicians and nurses of county health departments or any qualified person authorized by the State Health Officer for administration to persons as part of a prophylactic or treatment regimen.

3. Notwithstanding s. 456.036, temporarily reactivating the inactive license of the following health care practitioners, when such practitioners are needed to respond to the public health emergency: physicians licensed under chapter 458 or chapter 459; physician assistants licensed under chapter 458 or chapter 459; certified geriatric specialists certified under part I of chapter 464; licensed practical nurses, registered nurses, and advanced registered nurse practitioners licensed under part I of chapter 464; respiratory therapists licensed under part V of chapter 468; and emergency medical technicians and paramedics certified under part III of chapter 401. Only those health care practitioners specified in this paragraph who possess an unencumbered inactive license and who request that such license be reactivated are eligible for reactivation. An inactive license that is reactivated under this paragraph shall return to inactive status when the public health emergency ends or prior to the end of the public health emergency if the State Health Officer determines that the health care practitioner is no longer needed to provide services during the public health emergency. Such licenses may only be reactivated for a period not to exceed 90 days without meeting the requirements of s. 456.036 or chapter 401, as applicable.

4. Ordering an individual to be examined, tested, vaccinated, treated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to public health. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to quarantine.

- a. Examination, testing, vaccination, or treatment may be performed by any qualified person authorized by the State Health Officer.

- b. If the individual poses a danger to the public health, the State Health Officer may subject the individual to quarantine. If there is no practical method to quarantine the individual, the State Health Officer may use any means necessary to vaccinate or treat the individual.

Any order of the State Health Officer given to effectuate this paragraph shall be immediately enforceable by a law enforcement officer under s. 381.0012.

Section 218. Subsection (14) of section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

(14) “Nursing service” means such services or acts as may be rendered, directly or indirectly, to and in behalf of a person by individuals as defined in ss. 464.003 and 464.0125.

Section 219. Subsection (1) of section 400.211, Florida Statutes, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(1) To serve as a nursing assistant in any nursing home, a person must be certified as a nursing assistant under part II of chapter 464, unless the person is a registered nurse, a practical nurse, or a certified geriatric specialist certified or licensed in accordance with part I of chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules adopted by the Board of Nursing pursuant to part I of chapter 464.

Section 220. Paragraphs (a) and (c) of subsection (3) of section 400.23, Florida Statutes, are amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(3)(a) The agency shall adopt rules providing for the minimum staffing requirements for nursing homes. These requirements shall include, for each nursing home facility, a minimum certified nursing assistant staffing of 2.3 hours of direct care per resident per day beginning January 1, 2002, increasing to 2.6 hours of direct care per resident per day beginning January 1, 2003, and increasing to 2.9 hours of direct care per resident per day beginning May 1, 2004. Beginning January 1, 2002, no

facility shall staff below one certified nursing assistant per 20 residents, and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident per day but never below one licensed nurse per 40 residents. *For purposes of computing nursing staffing minimums and ratios, certified geriatric specialists shall be considered licensed nursing staff. Nursing assistants employed never below one licensed nurse per 40 residents.* Nursing assistants employed under s. 400.211(2) may be included in computing the staffing ratio for certified nursing assistants only if they provide nursing assistance services to residents on a full-time basis. Each nursing home must document compliance with staffing standards as required under this paragraph and post daily the names of staff on duty for the benefit of facility residents and the public. The agency shall recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants, provided that the facility otherwise meets the minimum staffing requirements for licensed nurses and that the licensed nurses so recognized are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted towards the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and shall not also be counted towards the minimum staffing requirements for licensed nurses. If the agency approved a facility's request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. In no event may the hours of a licensed nurse with dual job responsibilities be counted twice.

(c) Licensed practical nurses licensed under chapter 464 who are providing nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, *certified geriatric specialists*, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

Section 221. Paragraph (b) of subsection (2) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be affected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(2)

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care.

1. Changes of ownership or of licensed operator do not qualify for increases in reimbursement rates associated with the change of ownership or of licensed operator. The agency shall amend the Title XIX Long Term Care Reimbursement Plan to provide that the initial nursing home

reimbursement rates, for the operating, patient care, and MAR components, associated with related and unrelated party changes of ownership or licensed operator filed on or after September 1, 2001, are equivalent to the previous owner's reimbursement rate.

2. The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling, and the indirect care subcomponent shall be limited by the lower of the cost-based class ceiling, by the target rate class ceiling, or by the individual provider target. The agency shall adjust the patient care component effective January 1, 2002. The cost to adjust the direct care subcomponent shall be net of the total funds previously allocated for the case mix add-on. The agency shall make the required changes to the nursing home cost reporting forms to implement this requirement effective January 1, 2002.

3. The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, *certified geriatric specialists certified under part I of chapter 464*, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, MDS, and care plan coordinators, staff development, and staffing coordinator.

4. All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. There shall be no costs directly or indirectly allocated to the direct care subcomponent from a home office or management company.

5. On July 1 of each year, the agency shall report to the Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and direct care and indirect care salaries and benefits per category of staff member per facility.

6. In order to offset the cost of general and professional liability insurance, the agency shall amend the plan to allow for interim rate adjustments to reflect increases in the cost of general or professional liability insurance for nursing homes. This provision shall be implemented to the extent existing appropriations are available.

It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

Section 222. Subsection (2) of section 458.303, Florida Statutes, is amended to read:

458.303 Provisions not applicable to other practitioners; exceptions, etc.—

(2) Nothing in s. 458.301, s. 458.303, s. 458.305, s. 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s. 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s. 458.341, s. 458.343, s. 458.345, or s. 458.347 shall be construed to prohibit any service rendered by a registered nurse, ~~or a licensed practical nurse, or a certified geriatric specialist certified under part I of chapter 464~~, if such service is rendered under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and gives final approval to all services performed. Further, nothing in this or any other chapter shall be construed to prohibit any service rendered by a medical assistant in accordance with the provisions of s. 458.3485.

Section 223. Subsection (1) and paragraph (a) of subsection (2) of section 1009.65, Florida Statutes, are amended to read:

1009.65 Medical Education Reimbursement and Loan Repayment Program.—

(1) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, there is established the Medical Education Reimbursement and Loan Repayment Program. The function of the program is to make payments that offset loans and educational expenses incurred by students for studies leading to a medical or nursing degree, medical or nursing licensure, or advanced registered nurse practitioner certification or physician assistant licensure. The following licensed or certified health care professionals are eligible to participate in this program: medical doctors with primary care specialties, doctors of osteopathic medicine with primary care specialties, physician's assistants, *certified geriatric specialists certified under part I of chapter 464*, licensed practical nurses and registered nurses, and advanced registered nurse practitioners with primary care specialties such as certified nurse midwives. Primary care medical specialties for physicians include obstetrics, gynecology, general and family practice, internal medicine, pediatrics, and other specialties which may be identified by the Department of Health.

(2) From the funds available, the Department of Health shall make payments to selected medical professionals as follows:

(a) Up to \$4,000 per year for *certified geriatric specialists certified under part I of chapter 464*, licensed practical nurses, and registered nurses, up to \$10,000 per year for advanced registered nurse practitioners and physician's assistants, and up to \$20,000 per year for physicians. Penalties for noncompliance shall be the same as those in the National Health Services Corps Loan Repayment Program. Educational expenses include costs for tuition, matriculation, registration, books, laboratory and other fees, other educational costs, and reasonable living expenses as determined by the Department of Health.

Section 224. Subsection (2) of section 1009.66, Florida Statutes, is amended to read:

1009.66 Nursing Student Loan Forgiveness Program.—

(2) To be eligible, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse, *a certified geriatric specialist certified under part I of chapter 464*, or a registered nurse or a Florida certificate as an advanced registered nurse practitioner.

Section 225. *The sum of \$157,017 is appropriated from the General Revenue Fund to the Agency for Workforce Innovation to support the work of the Certified Geriatric Specialty Nursing Initiative Steering Committee, to administer the pilot sites, contract for an evaluation, and to the extent that funds are available, and if necessary, to provide nursing faculty, substitute certified nursing assistants for those who are in clinical education, and technical support to the pilot sites during the 2004-2005 fiscal year.*

Section 226. Subsection (6) is added to section 464.201, Florida Statutes, to read:

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

(6) *“Practice of a certified nursing assistant” means providing care and assisting persons with tasks relating to the activities of daily living. Such tasks are those associated with personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and symptoms, post mortem care, patient socialization and reality orientation, end-of-life care, CPR and emergency care, residents’ or patients’ rights, documentation of nursing assistant services, and other tasks that a certified nurse assistant may perform after training beyond that required for initial certification and upon validation of competence in that skill by a registered nurse. This section does not restrict the ability of any person who is otherwise trained and educated from performing such tasks.*

Section 227. Section 464.202, Florida Statutes, is amended to read:

464.202 Duties and powers of the board.—The board shall maintain, or contract with or approve another entity to maintain, a state registry of certified nursing assistants. The registry must consist of the name of each certified nursing assistant in this state; other identifying information defined by board rule; certification status; the effective date of certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as pro-

vided under chapter 435; and any disciplinary action taken against the certified nursing assistant. The registry shall be accessible to the public, the certificateholder, employers, and other state agencies. The board shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants *which specify the scope of practice authorized and level of supervision required for the practice of certified nursing assistants to enforce this part*. The board may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations. The board shall require that the contract provider offer certified nursing assistant applications via the Internet, and may require the contract provider to accept certified nursing assistant applications for processing via the Internet. The board shall require the contract provider to provide the preliminary results of the certified nursing examination on the date the test is administered. The provider shall pay all reasonable costs and expenses incurred by the board in evaluating the provider's application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 11, line 29, after the semicolon (;) insert: providing a short title; requiring the Agency for Workforce Innovation to establish a pilot program for delivery of certified geriatric specialty nursing education; specifying eligibility requirements for certified nursing assistants to obtain certified geriatric specialty nursing education; specifying requirements for the education of certified nursing assistants to prepare for certification as a certified geriatric specialist; creating a Certified Geriatric Specialty Nursing Initiative Steering Committee; providing for the composition of and manner of appointment to the Certified Geriatric Specialty Nursing Initiative Steering Committee; providing responsibilities of the steering committee; providing for reimbursement for per diem and travel expenses; requiring the Agency for Workforce Innovation to conduct or contract for an evaluation of the pilot program for delivery of certified geriatric specialty nursing education; requiring the evaluation to include recommendations regarding the expansion of the delivery of certified geriatric specialty nursing education in nursing homes; requiring the Agency for Workforce Innovation to report to the Governor and Legislature regarding the status and evaluation of the pilot program; creating s. 464.0125, F.S.; providing definitions; providing requirements for persons to become certified geriatric specialists; specifying fees; providing for articulation of geriatric specialty nursing coursework and practical nursing coursework; providing practice standards and grounds for which certified geriatric specialists may be subject to discipline by the Board of Nursing; creating restrictions on the use of professional nursing titles; prohibiting the use of certain professional titles; providing penalties; authorizing approved nursing programs to provide education for the preparation of certified geriatric specialists without further board approval; authorizing certified geriatric specialists to supervise the activities of others in nursing home facilities according to rules by the Board of Nursing; revising terminology relating to nursing to conform to the certification of geriatric specialists; amending s. 381.00315, F.S.; revising requirements for the reactivation of the licenses of specified health care practitioners in the event of a public health emergency to include certified geriatric specialists; amending s. 400.021, F.S.; including services provided by a certified geriatric specialist within the definition of nursing service; amending s. 400.211, F.S.; revising requirements for persons employed as nursing assistants to conform to the certification of certified geriatric specialists; amending s. 400.23, F.S.; specifying that certified geriatric specialists shall be considered licensed nursing staff; authorizing licensed practical nurses to supervise the activities of certified geriatric specialists in nursing home facilities according to rules adopted by the Board of Nursing; amending s. 409.908, F.S.; revising the methodology for reimbursement of Medicaid program providers to include services of certified geriatric specialists; amending s. 458.303, F.S.; revising exceptions to the practice of medicine to include services delegated to a certified geriatric specialist under specified circumstances; amending s. 1009.65, F.S.; revising eligibility for the Medical Education Reimbursement and Loan Repayment Program to include certified geriatric specialists; amending s. 1009.66, F.S.; revising eligibility requirements for the Nursing Student Loan Forgiveness Program to include certified geriatric specialists; providing an appropriation; amending s. 464.201, F.S.; defining terms; amending s. 464.202, F.S.; authorizing the Board of Nursing to adopt rules regarding the practice and supervision of certified nursing assistants;

## MOTION

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

Senators Alexander and Cowin offered the following amendment which was moved by Senator Alexander and adopted:

**Amendment 18 (092988)(with title amendment)**—On page 327, line 13 through page 345, line 11, delete those lines and insert:

Section 172. Subsections (3) and (4) of section 400.9905, Florida Statutes, are amended, and subsections (5) and (6) are added to that section, to read:

## 400.9905 Definitions.—

(3) “Clinic” means an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services, *including a mobile clinic and a portable equipment provider*. For purposes of this part, the term does not include and the licensure requirements of this part do not apply to:

(a) Entities licensed or registered by the state under chapter 395; or entities licensed or registered by the state and providing only health care services within the scope of services authorized under their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter *except part XIII*, chapter 463, chapter 465, chapter 466, chapter 478, *part I of chapter 483 480*, chapter 484, or chapter 651, *end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(b) Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 395; or entities that own, directly or indirectly, entities licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter *except part XIII*, chapter 463, chapter 465, chapter 466, chapter 478, *part I of chapter 483 480*, chapter 484, or chapter 651, *end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(c) Entities that are owned, directly or indirectly, by an entity licensed or registered by the state pursuant to chapter 395; or entities that are owned, directly or indirectly, by an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter *except part XIII*, chapter 463, chapter 465, chapter 466, chapter 478, *part I of chapter 483 480*, chapter 484, or chapter 651, *end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(d) Entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state pursuant to chapter 395; or entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to its respective license granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter *except part XIII*, chapter 463, chapter 465, chapter 466, chapter 478, *part I of chapter 483 480*, chapter 484, or chapter 651, *end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based services by licensed practitioners solely within a hospital licensed under chapter 395.*

(e) An entity that is exempt from federal taxation under 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), ~~and~~ any community college or university

clinic, and any entity owned or operated by federal or state government, including agencies, subdivisions, or municipalities thereof.

(f) A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered by s. 627.419, that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician.

(g)(~~f~~) A sole proprietorship, group practice, partnership, or corporation that provides health care services by licensed health care practitioners under chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, *chapter 480*, chapter 484, chapter 486, chapter 490, chapter 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, which are wholly owned by *one or more* a licensed health care practitioners ~~practitioner~~, or the licensed health care practitioners *set forth in this paragraph practitioner* and the spouse, parent, or child, or sibling of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity’s compliance with all federal and state laws. However, a health care practitioner may not supervise services beyond the scope of the practitioner’s license, *except that, for the purposes of this part, a clinic owned by a licensee in s. 456.053(3)(b) that provides only services authorized pursuant to s. 456.053(3)(b) may be supervised by a licensee specified in s. 456.053(3)(b).*

(h)(~~g~~) Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.

(i) Entities that provide only oncology or radiation therapy services by physicians licensed under chapter 458 or 459.

(4) “Medical director” means a physician who is employed or under contract with a clinic and who maintains a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461. However, if the clinic does not provide services pursuant to the respective physician practice acts listed in this subsection, ~~it is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a Florida-licensed health care practitioner who does not provide services pursuant to the respective physician practice acts listed in this subsection licensed under that chapter~~ to serve as a clinic director who is responsible for the clinic’s activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner’s license, *except that a licensee specified in s. 456.053(3)(b) that provides only services authorized pursuant to s. 456.053(3)(b) may serve as clinic director of an entity providing services as specified in s. 456.053(3)(b).*

(5) “Mobile clinic” means a movable or detached self-contained health care unit within or from which direct health care services are provided to individuals and that otherwise meets the definition of a clinic in subsection (3).

(6) “Portable equipment provider” means an entity that contracts with or employs persons to provide portable equipment to multiple locations performing treatment or diagnostic testing of individuals, that bills third-party payors for those services, and that otherwise meets the definition of a clinic in subsection (3).

Section 173. *The creation of paragraph 400.9905(3)(i), Florida Statutes, by this act is intended to clarify the legislative intent of this provision as it existed at the time the provision initially took effect as section 456.0375(1)(b), Florida Statutes, and paragraph 400.9905(3)(i), Florida Statutes, as created by this act, shall operate retroactively to October 1, 2001. Nothing in this section shall be construed as amending, modifying, limiting, or otherwise affecting in any way the legislative intent, scope, terms, prohibition, or requirements of section 456.053, Florida Statutes.*

Section 174. Subsections (1), (2), and (3) and paragraphs (a) and (b) of subsection (7) of section 400.991, Florida Statutes, are amended to read:

400.991 License requirements; background screenings; prohibitions.—

(1)(a) Each clinic, as defined in s. 400.9905, must be licensed and shall at all times maintain a valid license with the agency. Each clinic location shall be licensed separately regardless of whether the clinic is operated under the same business name or management as another clinic.

(b) Each mobile clinic must obtain a separate health care clinic license and ~~clinics~~ must provide to the agency, at least quarterly, ~~its their~~ projected street location ~~locations~~ to enable the agency to locate and inspect such ~~clinic clinics~~. A portable equipment provider must obtain a health care clinic license for a single administrative office and is not required to submit quarterly projected street locations.

(2) The initial clinic license application shall be filed with the agency by all clinics, as defined in s. 400.9905, on or before ~~July~~ ~~March~~ 1, 2004. A clinic license must be renewed biennially.

(3) Applicants that submit an application on or before ~~July~~ ~~March~~ 1, 2004, which meets all requirements for initial licensure as specified in this section shall receive a temporary license until the completion of an initial inspection verifying that the applicant meets all requirements in rules authorized by s. 400.9925. However, a clinic engaged in magnetic resonance imaging services may not receive a temporary license unless it presents evidence satisfactory to the agency that such clinic is making a good faith effort and substantial progress in seeking accreditation required under s. 400.9935.

(7) Each applicant for licensure shall comply with the following requirements:

(a) As used in this subsection, the term "applicant" means individuals owning or controlling, directly or indirectly, 5 percent or more of an interest in a clinic; the medical or clinic director, or a similarly titled person who is responsible for the day-to-day operation of the licensed clinic; the financial officer or similarly titled individual who is responsible for the financial operation of the clinic; and licensed ~~health care practitioners~~ ~~medical providers~~ at the clinic.

(b) Upon receipt of a completed, signed, and dated application, the agency shall require background screening of the applicant, in accordance with the level 2 standards for screening set forth in chapter 435. Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other health care licensure requirements of this state is acceptable in fulfillment of this paragraph. *Applicants who own less than 10 percent of a health care clinic are not required to submit fingerprints under this section.*

Section 175. Subsections (9) and (11) of section 400.9935, Florida Statutes, are amended to read:

400.9935 Clinic responsibilities.—

(9) Any person or entity providing health care services which is not a clinic, as defined under s. 400.9905, may voluntarily apply for a certificate of exemption from licensure under its exempt status with the agency on a form that sets forth its name or names and addresses, a statement of the reasons why it cannot be defined as a clinic, and other information deemed necessary by the agency. *An exemption is not transferable. The agency may charge an applicant for a certificate of exemption \$100 or the actual cost, whichever is less, for processing the certificate.*

(11)(a) Each clinic engaged in magnetic resonance imaging services must be accredited by the Joint Commission on Accreditation of Healthcare Organizations, the American College of Radiology, or the Accreditation Association for Ambulatory Health Care, within 1 year after licensure. However, a clinic may request a single, 6-month extension if it provides evidence to the agency establishing that, for good cause shown, such clinic can not be accredited within 1 year after licensure, and that such accreditation will be completed within the 6-month extension. After obtaining accreditation as required by this subsection, each such clinic must maintain accreditation as a condition of renewal of its license.

(b) The agency may ~~deny~~ ~~disallow~~ the application or ~~revoke~~ the license of any entity formed for the purpose of avoiding compliance with the accreditation provisions of this subsection and whose principals were previously principals of an entity that was unable to meet the accreditation requirements within the specified timeframes. The agency may

adopt rules as to the accreditation of magnetic resonance imaging clinics.

Section 176. Subsections (1) and (3) of section 400.995, Florida Statutes, are amended, and subsection (10) is added to said section, to read:

400.995 Agency administrative penalties.—

(1) The agency may ~~deny the application for a license renewal, revoke or suspend the license, and impose administrative fines penalties against~~ ~~clinics~~ of up to \$5,000 per violation for violations of the requirements of this part or rules of the agency. In determining if a penalty is to be imposed and in fixing the amount of the fine, the agency shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient will result or has resulted, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated.

(b) Actions taken by the owner, medical director, or clinic director to correct violations.

(c) Any previous violations.

(d) The financial benefit to the clinic of committing or continuing the violation.

(3) Any action taken to correct a violation shall be documented in writing by the owner, medical director, or clinic director of the clinic and verified through followup visits by agency personnel. The agency may impose a fine and, in the case of an owner-operated clinic, revoke or deny a clinic's license when a clinic medical director or clinic director ~~knowingly~~ ~~fraudulently~~ misrepresents actions taken to correct a violation.

(10) *If the agency issues a notice of intent to deny a license application after a temporary license has been issued pursuant to s. 400.991(3), the temporary license shall expire on the date of the notice and may not be extended during any proceeding for administrative or judicial review pursuant to chapter 120.*

Section 177. *The agency shall refund 90 percent of the license application fee to applicants that submitted their health care clinic licensure fees and applications but were subsequently exempted from licensure by this act.*

Section 178. *Any person or entity defined as a clinic under section 400.9905, Florida Statutes, shall not be in violation of part XIII of chapter 400, Florida Statutes, due to failure to apply for a clinic license by March 1, 2004, as previously required by section 400.991, Florida Statutes. Payment to any such person or entity by an insurer or other person liable for payment to such person or entity may not be denied on the grounds that the person or entity failed to apply for or obtain a clinic license before March 1, 2004.*

Section 179. Sections 172-178 shall take effect upon becoming a law, and section 173 shall apply retroactively to March 1, 2004.

And the title is amended as follows:

On page 3, lines 15-23, delete those lines and insert: amending s. 400.9905, F.S.; revising the definitions of "clinic" and "medical director" and defining "mobile clinic" and "portable equipment provider" for purposes of the Health Care Clinic Act; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 400.991, F.S.; requiring each mobile clinic to obtain a health care clinic license; requiring a portable equipment provider to obtain a health care clinic license for a single office and exempting such a provider from submitting certain information to the Agency for Health Care Administration; revising the date by which an initial application for a health care clinic license must be filed with the agency; revising the definition of "applicant"; amending s. 400.9935, F.S.; providing that an exemption from licensure is not transferable; providing that the agency may charge a fee of applicants for certificates of exemption; providing that the agency may deny an application or revoke a license under certain circumstances; amending s. 400.995, F.S.; providing that the agency may deny, revoke, or suspend specified licenses and impose fines for certain violations; providing that a temporary license expires after

a notice of intent to deny an application is issued by the agency; providing that persons or entities made exempt under the act and which have paid the clinic licensure fee to the agency are entitled to a partial refund from the agency; providing that certain persons or entities are not in violation of part XIII of ch. 400, F.S., due to failure to apply for a clinic license by a specified date; providing that certain payments may not be denied to such persons or entities for failure to apply for or obtain a clinic license before a specified date; providing an effective date.

#### MOTION

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

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

**Amendment 19 (160706)(with title amendment)**—On page 375, between lines 16 and 17, insert:

Section 211. *Nothing in this act shall be construed as amending, modifying, limiting, or otherwise affecting in any way the legislative intent, scope, terms, prohibition, or requirements of section 456.052 or section 456.053, Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 11, line 29, after the semicolon (;) insert: providing inapplicability to ss.456.052 and 456.053, F.S.;

Pursuant to Rule 4.19, **CS for CS for CS for SB 1680** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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On motion by Senator Smith—

**SB 1828**—A bill to be entitled An act relating to home-invasion robbery; amending s. 812.135, F.S.; providing additional offense classifications and revising the penalties for home-invasion robbery; providing that it is a first degree felony punishable by a term of imprisonment not exceeding life imprisonment to commit a home-invasion robbery in the course of which a firearm or other deadly weapon is carried; providing penalties; reenacting s. 943.325(1), F.S., relating to blood specimen testing for DNA analysis, to incorporate the amendment made to s. 812.135, F.S., by this act in a reference thereto; amending s. 921.0022, F.S., relating to the Criminal Punishment Code offense severity ranking chart, with respect to home-invasion robberies; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1828** was placed on the calendar of Bills on Third Reading.

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On motion by Senator Lynn, the Senate resumed consideration of—

**HB 295**—A bill to be entitled An act relating to fleeing or attempting to elude a law enforcement officer; amending s. 316.1935, F.S.; providing an additional classification for the offense of fleeing or attempting to elude a law enforcement officer; providing an additional classification for the offense of aggravated fleeing or eluding; providing and revising elements of the offenses; providing and revising criminal penalties for the offenses of fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding with serious bodily injury or death; providing for a minimum period of incarceration in certain circumstances involving serious bodily injury or death; providing an affirmative defense to fleeing or attempting to elude a law enforcement officer under certain circumstances; prohibiting courts from suspending, deferring, or withholding adjudication of guilt or imposition of sentence in certain circumstances; providing for seizure and forfeiture of certain motor vehicles as contraband in certain circumstances; amending s. 921.0022, F.S.; ranking and revising fleeing or attempting to elude a law enforcement officer offense classifications on the offense severity ranking chart of the Criminal Punishment Code; ranking the offense of aggravated fleeing or eluding with serious bodily injury or death on the offense severity ranking

chart of the Criminal Punishment Code; reenacting ss. 318.17(1) and 322.61(1)(d), F.S.; incorporating the amendment to s. 316.1935, F.S., in references thereto; providing an effective date.

—which was previously considered this day.

#### MOTION

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

Senator Lynn moved the following amendment which was adopted:

**Amendment 1 (783946)(with title amendment)**—On page 2, line 25 through page 3, line 9, delete those lines and insert: enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia

And the title is amended as follows:

On page 1, lines 17-23, delete those lines and insert: or death; providing for seizure and

#### MOTION

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

Senators Siplin, Dawson, Hill and Wilson offered the following amendment which was moved by Senator Siplin and failed:

**Amendment 2 (252986)(with title amendment)**—On page 2, lines 21 and 22, delete those lines and insert: misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

And the title is amended as follows:

On page 1, lines 4-6, delete those lines and insert: 316.1935, F.S.;

Pursuant to Rule 4.19, **HB 295** as amended was placed on the calendar of Bills on Third Reading.

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**CS for CS for SB 2170**—A bill to be entitled An act relating to the Department of Health; amending s. 381.005, F.S.; requiring hospitals to offer immunizations against the influenza virus and pneumococcal bacteria to all patients 65 years of age or older during specified time periods, subject to the availability of the vaccines; amending s. 395.0193, F.S., relating to disciplinary powers; correcting references to the Division of Medical Quality Assurance and the department; amending s. 395.0197, F.S.; requiring the Agency for Health Care Administration to forward reports of adverse incidents to the division; amending s. 395.3025, F.S.; providing requirements for a facility administrator or records custodian with respect to the certification of patient records; specifying the charges for reproducing records; revising purposes for which patient records may be used; amending s. 395.7015, F.S., relating to annual assessments; correcting cross-references; amending s. 400.141, F.S.; providing requirements for the production of records by nursing home facilities; amending s. 400.145, F.S.; providing requirements for a facility administrator or records custodian with respect to the certification of patient records; allowing facilities to charge a reasonable fee for certain copies of documents which are provided to the department; amending s. 400.147, F.S.; requiring the Agency for Health Care Administration to provide certain reports to the division; amending s. 400.211, F.S.; revising inservice training requirements for nursing assistants; amending s. 400.423, F.S.; requiring the Agency for Health Care Administration to forward reports of adverse incidents to the division; creating s. 400.455, F.S.; providing requirements for the production of records by assisted living facilities; amending s. 456.005, F.S.; requiring the department to obtain input from licensees in developing long-range plans; amending s. 456.011, F.S.; providing procedures for resolving a conflict between two or more boards; authorizing the Secretary of Health to resolve certain conflicts between boards; amending s. 456.012, F.S.; limiting challenges

by a board to a declaratory statement; amending s. 456.013, F.S.; increasing the period of validity of a temporary license; authorizing a rule allowing coursework to be completed by certain teaching activities; revising requirements for wall certificates; amending s. 381.00593, F.S., relating to the public school volunteer program; correcting a cross-reference; amending s. 456.017, F.S.; revising requirements for examinations; authorizing the department to post scores on the Internet; creating s. 456.0195, F.S.; requiring continuing education concerning domestic violence, and HIV and AIDS; specifying course content; providing for disciplinary action for failure to comply with the requirements; amending s. 456.025, F.S.; revising reporting requirements for the department concerning management of the boards; amending s. 456.031, F.S.; revising requirements for continuing education concerning domestic violence; deleting a reporting requirement; amending ss. 456.036 and 456.037, F.S.; authorizing the board or department to require the display of a license; amending s. 456.039, F.S., relating to designated health care professionals; correcting a cross-reference; amending s. 456.057, F.S.; specifying the charges for healthcare practitioners to reproduce records for the Department of Health; amending s. 456.063, F.S.; authorizing the board or the department to adopt rules to determine the sufficiency of an allegation of sexual misconduct; amending s. 456.072, F.S.; revising certain grounds for disciplinary action; prohibiting the provision of a drug if the patient does not have a valid professional relationship with the prescribing practitioner; providing for disciplinary action against an impaired practitioner who is terminated from an impaired practitioner program for failure to comply, without good cause, with the terms of his or her monitoring or treatment contract; authorizing the department to impose a fee to defray the costs of monitoring a licensee's compliance with an order; amending s. 456.073, F.S.; revising certain procedures for investigations concerning a disciplinary proceeding; amending s. 457.105, F.S.; revising requirements for licensure to practice acupuncture; amending s. 457.107, F.S.; removing certain education programs as eligible for continuing education credit; authorizing the Board of Acupuncture to adopt rules for establishing standards for providers of continuing education activities; amending s. 457.109, F.S.; clarifying circumstances under which the department may take disciplinary action; amending s. 458.303, F.S., relating to certain exceptions to the practice acts; correcting cross-references; amending s. 458.311, F.S.; revising licensure requirements for physicians; amending s. 458.3124, F.S., relating to restricted licenses; correcting a cross-reference; amending s. 458.315, F.S.; revising requirements for issuing a limited license to practice as a physician; providing for waiver of fees and assessments; amending s. 458.319, F.S., relating to continuing education; conforming provisions; amending s. 458.320, F.S., relating to financial responsibility; correcting a cross-reference; amending s. 458.331, F.S.; revising requirements for a physician in responding to a complaint or other document; amending s. 458.345, F.S., relating to the registration of residents, interns, and fellows; correcting a cross-reference; amending s. 458.347, F.S.; revising requirements for licensure as a physician assistant; revising requirements for temporary licensure; authorizing the board to mandate requirements for continuing medical education, including alternative methods for obtaining credits; amending s. 459.008, F.S.; authorizing the board to require by rule continuing medical education and approve alternative methods of obtaining credits; amending s. 459.015, F.S.; revising requirements for an osteopathic physician in responding to a complaint or other document; amending s. 459.021, F.S.; revising certain requirements for registration as a resident, intern, or fellow; amending s. 460.406, F.S., relating to the licensure of chiropractic physicians; correcting a reference; revising requirements for chiropractic physician licensure to allow a student in his or her final year of an accredited chiropractic school to apply for licensure; amending ss. 460.413 and 461.013, F.S.; revising requirements for a chiropractic physician and podiatric physician in responding to a complaint or other document; amending s. 461.014, F.S.; revising the interval at which hospitals with podiatric residency programs submit lists of podiatric residents; amending s. 463.006, F.S., relating to optometry; correcting a reference; amending and reenacting s. 464.009, F.S.; amending s. 464.0205, F.S., relating to volunteer nurses; correcting a cross-reference; amending s. 464.201, F.S.; defining the term "practice of a certified nursing assistant"; amending s. 464.202, F.S.; requiring rules for practice as a certified nursing assistant which specify the scope of authorized practice and level of supervision required; amending s. 464.203, F.S.; revising screening requirements for certified nursing assistants; amending s. 464.204, F.S., relating to disciplinary actions; clarifying a cross-reference; amending s. 465.0075, F.S.; clarifying requirements for certain continuing education for pharmacists; amending s. 465.022, F.S.; requiring that a pharmacy permit be issued only to a person or corporate officers who are 18 years of age or older and of good

moral character; requiring that certain persons applying for a pharmacy permit submit fingerprints for a criminal history check; amending s. 465.023, F.S.; authorizing the department to deny a pharmacy permit application for specified reasons; specifying additional criteria for denying, revoking or suspending a pharmacy permit; amending s. 465.025, F.S.; revising requirements for the substitution of drugs; deleting requirements that a pharmacy establish a formulary of generic and brand name drugs; amending s. 465.0251, F.S., relating to generic drugs; correcting a cross-reference; amending s. 465.0265, F.S.; providing requirements for central fill pharmacies that prepare prescriptions on behalf of pharmacies; amending s. 465.026, F.S.; authorizing a community pharmacy to transfer a prescription for certain controlled substances; amending s. 466.007, F.S.; revising requirements for dental hygienists in qualifying for examination; amending s. 466.021, F.S.; revising records requirements concerning unlicensed persons employed by a dentist; amending s. 467.009, F.S., relating to midwifery programs; correcting references; amending s. 467.013, F.S.; providing for placing a midwife license on inactive status pursuant to rule of the department; deleting requirements for reactivating an inactive license; amending s. 467.0135, F.S.; revising requirements for fees, to conform; amending s. 467.017, F.S.; revising requirements for the emergency care plan; amending s. 468.1155, F.S., relating to the practice of speech-language pathology and audiology; correcting references; amending s. 468.352, F.S.; revising and providing definitions applicable to the regulation of respiratory therapy; amending s. 468.355, F.S.; revising provisions relating to respiratory therapy licensure and testing requirements; amending s. 468.368, F.S.; revising exemptions from respiratory therapy licensure requirements; repealing s. 468.356, F.S., relating to the approval of educational programs; repealing s. 468.357, F.S., relating to licensure by examination; amending s. 468.509, F.S., relating to dietitian/nutritionists; correcting references; amending s. 468.707, F.S., relating to licensure as an athletic trainer; conforming provisions to changes made by the act; amending s. 480.041, F.S.; revising requirements for licensure as a massage therapist; requiring the department to provide for a written examination for the practice of colonic irrigation; amending s. 486.021, F.S., relating to the practice of physical therapy; redefining the term "direct supervision"; amending s. 486.031, F.S., relating to licensure requirements; correcting references; amending s. 486.051, F.S.; revising examination requirements; amending s. 486.081, F.S.; providing for licensure by endorsement for physical therapists licensed in another jurisdiction; amending s. 486.102, F.S.; revising requirements for licensure; correcting reference; amending s. 486.104, F.S.; revising examination requirements for a physical therapist assistant; amending s. 486.107, F.S.; providing for licensure by endorsement for physical therapist assistants licensed in another jurisdiction; amending s. 486.109, F.S.; revising requirements for continuing education; amending s. 486.161, F.S.; providing an exemption from licensure for certain physical therapists affiliated with a team or organization temporarily located in the state; amending s. 486.172, F.S.; clarifying provisions governing the qualifications of immigrants for examination; amending s. 490.005, F.S., relating to psychological services; correcting references; amending s. 491.005, F.S., relating to clinical, counseling, and psychotherapy services; revising licensure requirements; correcting references; amending s. 491.006, F.S.; providing requirements for licensure by endorsement as a mental health counselor; amending ss. 491.009 and 491.0145, F.S.; clarifying provisions governing the discipline of a certified master social worker; creating s. 491.0146, F.S.; providing for the validity of certain licenses to practice as a certified master social worker; amending s. 491.0147, F.S.; providing an exemption from liability for disclosure of confidential information under certain circumstances; amending s. 817.505, F.S.; clarifying provisions prohibiting actions that constitute patient brokering; amending s. 817.567, F.S., relating to making false claims of a degree or title; correcting a reference; amending s. 1009.992, F.S., relating to the Florida Higher Education Loan Authority Act; correcting a reference; amending s. 468.711, F.S.; deleting the requirement that continuing education for athletic trainers include first aid; amending s. 468.723, F.S.; revising exemptions from licensure requirements; amending s. 1012.46, F.S.; providing that a first responder for a school district may not represent himself or herself as an athletic trainer; providing for reactivation of a license to practice medicine by certain retired practitioners; providing conditions on such reactivation; providing for a fee; providing powers, including rulemaking powers, of the Board of Medicine; providing for future review and expiration; amending s. 466.0135, F.S.; providing additional requirements for continuing education for dentists; amending s. 480.034, F.S.; exempting certain massage therapists from premises licensure; repealing ss. 456.033, 456.034, 458.313, 458.3147, 458.316, 458.3165, 458.317, 468.711(3), and 480.044(1)(h), F.S., relating to instruction concerning HIV and AIDS, licensure by

endorsement of physicians, medical school eligibility, public health and public psychiatry certificates, limited licenses, and examination fees; providing an effective date.

—was read the second time by title.

Senator Saunders moved the following amendments which were adopted:

**Amendment 1 (484362)(with title amendment)**—On page 11, between lines 14 and 15, insert:

Section 2. Subsections (9), (10), and (11) are added to section 395.003, Florida Statutes, to read:

395.003 Licensure; issuance, renewal, denial, modification, suspension, and revocation.—

(9) A hospital may not be licensed or relicensed if:

(a) The diagnosis-related groups for 65 percent or more of the discharges from the hospital, in the most recent year for which data is available to the Agency for Health Care Administration pursuant to s. 408.061, are for diagnosis, care, and treatment of patients who have:

1. Cardiac-related diseases and disorders classified as diagnosis-related groups 103-145, 478-479, 514-518, or 525-527;

2. Orthopedic-related diseases and disorders classified as diagnosis-related groups 209-256, 471, 491, 496-503, or 519-520;

3. Cancer-related diseases and disorders classified as diagnosis-related groups 64, 82, 172, 173, 199, 200, 203, 257-260, 274, 275, 303, 306, 307, 318, 319, 338, 344, 346, 347, 363, 366, 367, 400-414, 473, or 492; or

4. Any combination of the above discharges.

(b) The hospital restricts its medical and surgical services to primarily or exclusively cardiac, orthopedic, surgical, or oncology specialties.

(10) A hospital licensed as of June 1, 2004, shall be exempt from subsection (9) as long as the hospital maintains the same ownership, facility street address, and range of services that were in existence on June 1, 2004. Any transfer of beds, or other agreements that result in the establishment of a hospital or hospital services within the intent of this section, shall be subject to subsection (9). Unless the hospital is otherwise exempt under subsection (9), the agency shall deny or revoke the license of a hospital that violates any of the criteria set forth in that subsection.

(11) The agency may adopt rules implementing the licensure requirements set forth in subsection (9). Within 14 days after rendering its decision on a license application or revocation, the agency shall publish its proposed decision in the Florida Administrative Weekly. Within 21 days after publication of the agency's decision, any authorized person may file a request for an administrative hearing. In administrative proceedings challenging the approval, denial, or revocation of a license pursuant to subsection (9), the hearing must be based on the facts and law existing at the time of the agency's proposed agency action. Existing hospitals may initiate or intervene in an administrative hearing to approve, deny, or revoke licensure under subsection (9) based upon a showing that an established program will be substantially affected by the issuance or renewal of a license to a hospital within the same district or service area.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: amending s. 395.003, F.S.; providing additional conditions for the licensure or relicensure of hospitals; exempting currently licensed hospitals;

**Amendment 2 (984144)(with title amendment)**—On page 11, between lines 14 and 15, insert:

Section 2. Subsection (1) of section 395.003, Florida Statutes, is amended to read:

395.003 Licensure; issuance, renewal, denial, modification, suspension, and revocation.—

(1)(a) A ~~No~~ person ~~may not shall~~ establish, conduct, or maintain a hospital, ambulatory surgical center, or mobile surgical facility in this state without first obtaining a license under this part.

(b)1. It is unlawful for a ~~any~~ person to use or advertise to the public, in any way or by any medium whatsoever, any facility as a "hospital," "ambulatory surgical center," or "mobile surgical facility" unless such facility has first secured a license under the provisions of this part.

2. ~~Nothing in~~ This part ~~does not apply~~ applies to veterinary hospitals or to commercial business establishments using the word "hospital," "ambulatory surgical center," or "mobile surgical facility" as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

3. *By December 31, 2004, the agency shall submit a report to the President of the Senate and the Speaker of the House of Representatives recommending whether it is in the public interest to allow a hospital to license or operate an emergency department located off the premises of the hospital. If the agency finds it to be in the public interest, the report shall also recommend licensure criteria for such medical facilities, including criteria related to quality of care and, if deemed necessary, the elimination of the possibility of confusion related to the service capabilities of such facility in comparison to the service capabilities of an emergency department located on the premises of the hospital. Until July 1, 2005, additional emergency departments located off the premises of licensed hospitals may not be authorized by the agency.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2-8, delete those lines, and insert: An act relating to human health; amending s. 381.005, F.S.; requiring hospitals to offer immunizations against the influenza virus and pneumococcal bacteria to all patients 65 years of age or older during specified time periods, subject to the availability of the vaccines; amending s. 395.003, F.S.; requiring a report by the Agency for Health Care Administration regarding the licensure of emergency departments located off the premises of hospitals; prohibiting the issuance of licenses for such departments before July 1, 2005; amending s. 395.0193, F.S., relating

**Amendment 3 (705868)(with title amendment)**—On page 20, line 5 through page 21, line 2, delete those lines and insert:

Section 9. Subsection (4) of section 400.211, Florida Statutes, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(4) When employed by a nursing home facility for a 12-month period or longer, a nursing assistant, ~~to maintain certification,~~ shall submit to a performance review every 12 months and must receive regular inservice education based on the outcome of ~~these such~~ reviews. The inservice training must:

(a) Be sufficient to ensure the continuing competence of nursing assistants, must be at least ~~12~~ 18 hours per year, and may include hours accrued under ~~s.464.203(7)~~ ~~s.464.203(8)~~;

(b) Include, at a minimum:

1. Techniques for assisting with eating and proper feeding;

2. Principles of adequate nutrition and hydration;

3. Techniques for assisting and responding to the cognitively impaired resident or the resident with difficult behaviors;

4. Techniques for caring for the resident at the end-of-life; and

5. Recognizing changes that place a resident at risk for pressure ulcers and falls; and

(c) Address areas of weakness as determined in nursing assistant performance reviews and may address the special needs of residents as determined by the nursing home facility staff.

Costs associated with this training may not be reimbursed from additional Medicaid funding through interim rate adjustments.

Section 10. Subsection (5) of section 400.215, Florida Statutes, is amended to read:

400.215 Personnel screening requirement.—

(5) Any provision of law to the contrary notwithstanding, persons who have been screened and qualified as required by this section or s. 464.203 and who have not been unemployed for more than 180 days thereafter, and who under penalty of perjury attest to not having been convicted of a disqualifying offense since the completion of such screening, shall not be required to be rescreened. *For purposes of this subsection, screened and qualified under s. 464.203 means that the person subject to such screening at the time of certification by the Board of Nursing does not have any disqualifying offense under chapter 435 or has received an exemption from any disqualification under chapter 435 from the Board of Nursing.* An employer may obtain, under ~~pursuant to~~ s. 435.10, written verification of qualifying screening results from the previous employer or other entity which caused ~~the such~~ screening to be performed.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 5, following the first semicolon (;) insert: correcting a cross-reference; amending s. 400.215, F.S.; providing that a person who has been screened under certain provisions of law is not required to be rescreened to be employed in a nursing home;

Senator Peaden moved the following amendments which were adopted:

**Amendment 4 (354076)(with title amendment)**—On page 20, line 16, delete “s. 464.203(8)” and insert: *s. 464.203(7)* ~~s. 464.203(8)~~

And the title is amended as follows:

On page 2, line 5, after “assistants;” insert: correcting a cross-reference;

**Amendment 5 (493322)**—On page 21, delete line 11 and insert: *456.001(4) shall be forwarded by the agency to the Division of Medical*

**Amendment 6 (144106)**—On page 22, line 1, after the period (.) insert: *The department may be charged a reasonable fee for copies of all documents provided to the department under this section.*

**Amendment 7 (984640)(with title amendment)**—On page 22, between lines 2 and 3, insert:

Section 12. Paragraph (m) of subsection (1) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

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

(m) “Medicine” means a drug prescribed by an authorized health care provider and includes only generic drugs or single-source patented drugs for which there is no generic equivalent, unless the authorized health care provider writes or states that the brand-name drug as defined in s. 465.025 is medically necessary, or is a drug appearing on the schedule of drugs created pursuant to s. 465.025(5) ~~465.025(6)~~, or is available at a cost lower than its generic equivalent.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 10, after the semicolon (;) insert: amending s. 440.13, F.S.; correcting a cross-reference;

Senator Bennett moved the following amendment which was adopted:

**Amendment 8 (664888)**—On page 42, delete line 1 and insert: (ff) and (gg) are added to that subsection, and subsection (7)

Senator Peaden moved the following amendments which were adopted:

**Amendment 9 (605270)**—On page 70, delete line 20 and insert: department, within 30 days *prior to* ~~of~~

**Amendment 10 (851416)**—On page 70, delete line 20 and insert: department, within 30 days *prior to* ~~of~~

Senator Saunders moved the following amendment which was adopted:

**Amendment 11 (040674)(with title amendment)**—On page 78, line 7 through page 79, line 3, delete those lines and insert:

Section 52. Subsections (1), (5), and (7) of section 464.203, Florida Statutes, are amended, and subsections (8), (9), and (10) are added to that section, to read:

464.203 Certified nursing assistants; certification requirement.—

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required *background Level I or Level II screening in subsection (9) pursuant to s. 400.215* and who meets one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department and:

1. Has a high school diploma, or its equivalent; or
2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state’s certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

(d) Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department.

(5) Certification as a nursing assistant, in accordance with this part, *may be renewed continues in effect* until such time as the nursing assistant allows a period of 24 consecutive months to pass during which period the nursing assistant fails to perform any nursing-related services for monetary compensation. When a nursing assistant fails to perform any nursing-related services for monetary compensation for a period of 24 consecutive months, the nursing assistant must complete a new training and competency evaluation program or a new competency evaluation program.

(7) A certified nursing assistant shall complete *12 18* hours of inservice training during each calendar year. The certified nursing assistant shall be responsible for maintaining documentation demonstrating compliance with these provisions. The Council on Certified Nursing Assistants, in accordance with s. 464.2085(2)(b), shall propose rules to implement this subsection.

(8) *The department shall renew a certificate upon receipt of the renewal application and imposition of a fee of \$20 which may be increased to not more than \$50 biennially. The department shall adopt rules establishing a procedure for the biennial renewal of certificates. Any certificate not renewed by July 1, 2006, shall be void.*

(9) *For purposes of this section, background screening shall include:*

(a) *A determination whether the person seeking the certificate has committed any act that would constitute grounds for disciplinary sanctions as provided in s. 464.204(1); and*

(b)1. For persons who have continuously resided in this state for the 5 years immediately preceding the date of screening, level 1 screening as set forth in chapter 435; or

2. For persons who have not continuously resided in this state for the 5 years immediately preceding the date of screening, level 2 screening as set forth in chapter 435.

(10) Beginning January 1, 2005, the Department of Health and the Agency for Health Care Administration shall, after certification of an applicant, post information relating to background screening on the agency's background-screening database, which shall be available only to employers and prospective employers, who, as a condition of employment, are required by law to conduct a background check for the employment of certified nursing assistants.

And the title is amended as follows:

On page 6, line 13, following the semicolon (;) insert: revising the requirements for conducting the background screening; requiring the Agency for Health Care Administration to post information relating to background screening in its database after January 1, 2005; requiring that the database be available to employers and prospective employers;

Senator Peaden moved the following amendments which were adopted:

**Amendment 12 (950390)**—On page 91, delete line 7 and insert: application to the department pursuant to department rule and paying a fee.

**Amendment 13 (923932)(with title amendment)**—On page 112, before line 1, insert:

Section 86. Paragraph (a) of subsection (2) of section 490.014, Florida Statutes, is amended to read:

490.014 Exemptions.—

(2) No person shall be required to be licensed or provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency or of a private provider contracting with the governmental agency for the performance of the same essential services previously provided by the governmental agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution, so long as the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a).

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 9, line 11, after the second semicolon (;) insert: amending s. 490.014, F.S.; providing a salaried employee of a private provider who contracts with a governmental agency to provide certain psychological services the same exemption from licensing requirements which a salaried employee of the governmental agency receives;

**Amendment 14 (031636)(with title amendment)**—On page 125, between lines 12 and 13, insert:

Section 89. Paragraph (a) of subsection (4) of section 491.014, Florida Statutes, is amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency or of a private provider contracting with a governmental agency for the performance of the same essential services previously provided by the governmental

agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 9, line 17, after the semicolon (;) insert: amending s. 491.014, F.S.; providing a salaried employee of a private provider who contracts with a governmental agency to provide certain psychological services the same exemption from licensing requirements which a salaried employee of the governmental agency receives;

Senator Saunders moved the following amendment which was adopted:

**Amendment 15 (425872)(with title amendment)**—On page 134, between lines 17 and 18 insert:

Section 101. Paragraph (h) is added to subsection (3) of section 400.9905, Florida Statutes, to read:

400.9905 Definitions.—

(3) "Clinic" means an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services. For purposes of this part, the term does not include and the licensure requirements of this part do not apply to:

(h) Entities that provide only oncology or radiation therapy services by physicians licensed under chapter 458 or 459.

Section 102. The amendment made by this act to section 400.9905(3), Florida Statutes, is intended to clarify the legislative intent of this provision as it existed at the time the provision initially took effect as section 456.0375(1)(b), Florida Statutes, and section 400.9905(3)(h), Florida Statutes, as created by this act, shall operate retroactively to October 1, 2001.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 10, line 20, after the semicolon (;) insert: amending s. 400.9905, F.S.; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application;

Senator Fasano moved the following amendments which were adopted:

**Amendment 16 (402672)(with title amendment)**—On page 134, between lines 21 and 22, insert:

Section 102. Subsection (2) of section 466.006, Florida Statutes, is amended to read:

466.006 Examination of dentists.—

(2) An applicant shall be entitled to take the examinations required in this section to practice dentistry in this state if the applicant:

(a) Is 18 years of age or older.

(b)1. Is a graduate of a dental school accredited by the Commission on Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency; or-

2. Is a dental student in the final year of a program at such an accredited school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures

required to pass the examinations. With respect to a dental student in the final year of a program at a dental school, a passing score on the examinations is valid for 180 days after the date the examinations were completed. A dental school student who takes the licensure examinations during the student's final year of an approved dental school must have graduated before being certified for licensure pursuant to s. 466.011.

(c) Has successfully completed the National Board of Dental Examiners dental examination within 10 years of the date of application.

Section 103. Section 466.0065, Florida Statutes, is created to read:

466.0065 *Regional licensure examinations.*—

(1) *It is the intent of the Legislature that schools of dentistry be allowed to offer regional licensure examinations to dental students who are in the final year of a program at an approved dental school for the sole purpose of facilitating the student's licensing in other jurisdictions. This section does not allow a person to be licensed as a dentist in this state without taking the examinations as set forth in s. 466.006, nor does this section mean that regional examinations administered under this section may be substituted for complying with testing requirements under s. 466.006.*

(2) *Each school of dentistry in this state which is accredited by the Commission on Accreditation of the American Dental Association or its successor agency may, upon written approval by the Board of Dentistry, offer regional licensure examinations only to dental students in the final year of a program at an approved dental school, if the board has approved the hosting school's written plan to comply with the following conditions:*

(a) *A member of the regional examination body's board of directors or equivalent thereof must be a member of the American Association of Dental Examiners.*

(b) *The student must have successfully passed parts I and II of the National Board of Dental Examiners examination within 2 years before taking the regional examination.*

(c) *The student must possess medical malpractice insurance in amounts not less than the amounts required to take the Florida licensure examinations.*

(d) *At least one of the examination monitors must be a dentist licensed in this state who has completed all necessary standardization exercises required by the regional examination body. Recruitment of examination monitors is the responsibility of the regional examination body.*

(e) *Adequate arrangements, as defined by the regional examination body and as otherwise required by law, must be made, when necessary, for patients who require followup care as a result of procedures performed during the clinical portion of the regional examination. The regional examination body must inform patients in writing of their right to followup care in advance of any procedures performed by a student.*

(f) *The board chair or the chair's designee must be allowed to observe testing while it is in progress.*

(g) *Each student, upon being deemed eligible by the dental school to apply to the regional examination body to take the regional examination, must receive written disclosure in at least 12-point boldface type that states: "This examination does not meet the licensure requirements of chapter 466, Florida Statutes, for licensure in the State of Florida. Persons wishing to practice dentistry in Florida must pass the Florida licensure examinations."*

(h) *The student must be enrolled as a dental student in the student's final year of a program at an approved dental school that is accredited by the Commission on Accreditation of the American Dental Association or its successor agency.*

(i) *The student must have completed all coursework deemed necessary by the dental school to prepare the student to perform all clinical and diagnostic procedures required to pass the regional examination.*

(j) *The student's academic record must not include any evidence suggesting that the student poses an unreasonable risk to any live patients who are required for the clinical portion of the regional examination. In order to protect the health and safety of the public, the dental school may*

*request additional information and documents pertaining to the candidate's mental and physical health in order to fully assess the candidate's fitness to engage in exercises involving a live patient.*

(3) *A student who takes the examination pursuant to this section, a dental school that submits a plan pursuant to this section, or a regional examination body that a dental school proposes to host under this section does not have standing to assert that a state agency has taken action for which a hearing may be sought under ss. 120.569 and 120.57.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 10, line 28, after the semicolon (;) insert: amending s. 466.006, F.S.; allowing certain dental students to take the examinations required to practice dentistry in this state under specified conditions; providing a prerequisite to licensure of such students; creating s. 466.0065, F.S.; allowing certain dental students to take regional licensure examinations under specified conditions; restricting the applicability of examination results to licensing in other jurisdictions; requiring approval by the Board of Dentistry and providing prerequisites to such approval;

**Amendment 17 (471032)(with title amendment)**—On page 134, between lines 21 and 22, insert:

Section 102. Section 456.048, Florida Statutes, is amended to read:

456.048 *Financial responsibility requirements for certain health care practitioners.*—

(1) *As a prerequisite for licensure or license renewal, the Board of Acupuncture, the Board of Chiropractic Medicine, the Board of Podiatric Medicine, and the Board of Dentistry shall, by rule, require that all health care practitioners licensed under the respective board, and the Board of Medicine and the Board of Osteopathic Medicine shall, by rule, require that all anesthesiologist assistants licensed pursuant to s. 458.3475 or s. 459.023, and the Board of Nursing shall, by rule, require that advanced registered nurse practitioners certified under s. 464.012, and the department shall, by rule, require that midwives maintain medical malpractice insurance or provide proof of financial responsibility in an amount and in a manner determined by the board or department to be sufficient to cover claims arising out of the rendering of or failure to render professional care and services in this state.*

(2) *The board or department may grant exemptions upon application by practitioners meeting any of the following criteria:*

(a) *Any person licensed under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(15) or who is a volunteer under s. 110.501(1).*

(b) *Any person whose license or certification has become inactive under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, part I of chapter 464, chapter 466, or chapter 467 and who is not practicing in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after October 1, 1993, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.*

(c) *Any person holding a limited license pursuant to s. 456.015, and practicing under the scope of such limited license.*

(d) *Any person licensed or certified under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who practices only in conjunction with his or her teaching duties at an accredited school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the school.*

(e) Any person holding an active license or certification under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who is not practicing in this state. If such person initiates or resumes practice in this state, he or she must notify the department of such activity.

(f) Any person who can demonstrate to the board or department that he or she has no malpractice exposure in the state.

(3) Notwithstanding the provisions of this section, the financial responsibility requirements of ss. 458.320 and 459.0085 shall continue to apply to practitioners licensed under those chapters, *except for anesthesiologist assistants licensed pursuant to s. 458.3475 or s. 459.023 who must meet the requirements of this section.*

Section 103. Paragraph (dd) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(dd) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, or advanced registered nurse practitioners, or *anesthesiologist assistants* acting under the supervision of the physician.

Section 104. Section 458.3475, Florida Statutes, is created to read:

458.3475 *Anesthesiologist assistants.*—

(1) *DEFINITIONS.*—As used in this section, the term:

(a) “Anesthesiologist” means an allopathic physician who holds an active, unrestricted license; who has successfully completed an anesthesiology training program approved by the Accreditation Council on Graduate Medical Education or its equivalent; and who is certified by the American Board of Anesthesiology, is eligible to take that board’s examination, or is certified by the Board of Certification in Anesthesiology affiliated with the American Association of Physician Specialists.

(b) “Anesthesiologist assistant” means a graduate of an approved program who is licensed to perform medical services delegated and directly supervised by a supervising anesthesiologist.

(c) “Anesthesiology” means the practice of medicine that specializes in the relief of pain during and after surgical procedures and childbirth, during certain chronic disease processes, and during resuscitation and critical care of patients in the operating room and intensive care environments.

(d) “Approved program” means a program for the education and training of anesthesiologist assistants which has been approved by the boards as provided in subsection (5).

(e) “Boards” means the Board of Medicine and the Board of Osteopathic Medicine.

(f) “Continuing medical education” means courses recognized and approved by the boards, the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association, the American Academy of Anesthesiologist Assistants, the American Society of Anesthesiologists, or the Accreditation Council on Continuing Medical Education.

(g) “Direct supervision” means the on-site, personal supervision by an anesthesiologist who is present in the office when the procedure is being performed in that office, or is present in the surgical or obstetrical suite when the procedure is being performed in that surgical or obstetrical suite and who is in all instances immediately available to provide assistance and direction to the anesthesiologist assistant while anesthesia services are being performed.

(h) “Proficiency examination” means an entry-level examination approved by the boards, including examinations administered by the National Commission on Certification of Anesthesiologist Assistants.

(i) “Trainee” means a person who is currently enrolled in an approved program.

(2) *PERFORMANCE OF SUPERVISING ANESTHESIOLOGIST.*—

(a) An anesthesiologist who directly supervises an anesthesiologist assistant must be qualified in the medical areas in which the anesthesiologist assistant performs and is liable for the performance of the anesthesiologist assistant. An anesthesiologist may only supervise two anesthesiologist assistants at the same time. The board may, by rule, allow an anesthesiologist to supervise up to four anesthesiologist assistants, after July 1, 2008.

(b) An anesthesiologist or group of anesthesiologists must, upon establishing a supervisory relationship with an anesthesiologist assistant, file with the board a written protocol that includes, at a minimum:

1. The name, address, and license number of the anesthesiologist assistant.

2. The name, address, license number, and federal Drug Enforcement Administration number of each physician who will be supervising the anesthesiologist assistant.

3. The address of the anesthesiologist assistant’s primary practice location and the address of any other locations where the anesthesiologist assistant may practice.

4. The date the protocol was developed and the dates of all revisions.

5. The signatures of the anesthesiologist assistant and all supervising physicians.

6. The duties and functions of the anesthesiologist assistant.

7. The conditions or procedures that require the personal provision of care by an anesthesiologist.

8. The procedures to be followed in the event of an anesthetic emergency.

The protocol must be on file with the board before the anesthesiologist assistant may practice with the anesthesiologist or group. An anesthesiologist assistant may not practice unless a written protocol has been filed for that anesthesiologist assistant in accordance with this paragraph, and the anesthesiologist assistant may only practice under the direct supervision of an anesthesiologist who has signed the protocol. The protocol must be updated biennially.

(3) *PERFORMANCE OF ANESTHESIOLOGIST ASSISTANTS.*—

(a) An anesthesiologist assistant may assist an anesthesiologist in developing and implementing an anesthesia care plan for a patient. In providing assistance to an anesthesiologist, an anesthesiologist assistant may perform duties established by rule by the board in any of the following functions that are included in the anesthesiologist assistant’s protocol while under the direct supervision of an anesthesiologist:

1. Obtain a comprehensive patient history and present the history to the supervising anesthesiologist.

2. Pretest and calibrate anesthesia delivery systems and monitor, obtain, and interpret information from the systems and monitors.

3. Assist the supervising anesthesiologist with the implementation of medically accepted monitoring techniques.

4. Establish basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support.

5. Administer intermittent vasoactive drugs and start and adjust vasoactive infusions.

6. Administer anesthetic drugs, adjuvant drugs, and accessory drugs.

7. Assist the supervising anesthesiologist with the performance of epidural anesthetic procedures and spinal anesthetic procedures.

8. Administer blood, blood products, and supportive fluids.
9. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.
10. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.
11. Participate in management of the patient while in the postanesthesia recovery area, including the administration of any supporting fluids or drugs.
12. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.
- (b) Nothing in this section or chapter prevents third-party payors from reimbursing employers of anesthesiologist assistants for covered services rendered by such anesthesiologist assistants.
- (c) An anesthesiologist assistant must clearly convey to the patient that he or she is an anesthesiologist assistant.
- (d) An anesthesiologist assistant may perform anesthesia tasks and services within the framework of a written practice protocol developed between the supervising anesthesiologist and the anesthesiologist assistant.
- (e) An anesthesiologist assistant may not prescribe, order, or compound any controlled substance, legend drug, or medical device, nor may an anesthesiologist assistant dispense sample drugs to patients. Nothing in this paragraph prohibits an anesthesiologist assistant from administering legend drugs or controlled substances; intravenous drugs, fluids, or blood products; or inhalation or other anesthetic agents to patients which are ordered by the supervising anesthesiologist and administered while under the direct supervision of the supervising anesthesiologist.
- (4) **PERFORMANCE BY TRAINEES.**—The practice of a trainee is exempt from the requirements of this chapter while the trainee is performing assigned tasks as a trainee in conjunction with an approved program. Before providing anesthesia services, including the administration of anesthesia in conjunction with the requirements of an approved program, the trainee must clearly convey to the patient that he or she is a trainee.
- (5) **PROGRAM APPROVAL.**—The boards shall approve programs for the education and training of anesthesiologist assistants which meet standards established by board rules. The boards may recommend only those anesthesiologist assistant training programs that hold full accreditation or provisional accreditation from the Commission on Accreditation of Allied Health Education Programs.
- (6) **ANESTHESIOLOGIST ASSISTANT LICENSURE.**—
- (a) Any person desiring to be licensed as an anesthesiologist assistant must apply to the department. The department shall issue a license to any person certified by the board to:
1. Be at least 18 years of age.
  2. Have satisfactorily passed a proficiency examination with a score established by the National Commission on Certification of Anesthesiologist Assistants.
  3. Be certified in advanced cardiac life support.
  4. Have completed the application form and remitted an application fee, not to exceed \$1,000, as set by the boards. An application must include:
    - a. A certificate of completion of an approved graduate level program.
    - b. A sworn statement of any prior felony convictions.
    - c. A sworn statement of any prior discipline or denial of licensure or certification in any state.
    - d. Two letters of recommendation from anesthesiologists.

(b) A license must be renewed biennially. Each renewal must include:

1. A renewal fee, not to exceed \$1,000, as set by the boards.
2. A sworn statement of no felony convictions in the immediately preceding 2 years.

(c) Each licensed anesthesiologist assistant must biennially complete 40 hours of continuing medical education or hold a current certificate issued by the National Commission on Certification of Anesthesiologist Assistants or its successor.

(d) An anesthesiologist assistant must notify the department in writing within 30 days after obtaining employment that requires a license under this chapter and after any subsequent change in his or her supervising anesthesiologist. The notification must include the full name, license number, specialty, and address of the supervising anesthesiologist. Submission of a copy of the required protocol by the anesthesiologist assistant satisfies this requirement.

(e) The Board of Medicine may impose upon an anesthesiologist assistant any penalty specified in s. 456.072 or s. 458.331(2) if the anesthesiologist assistant or the supervising anesthesiologist is found guilty of or is investigated for an act that constitutes a violation of this chapter or chapter 456.

(7) **ANESTHESIOLOGIST AND ANESTHESIOLOGIST ASSISTANT TO ADVISE THE BOARD.**—

(a) The chairman of the board may appoint an anesthesiologist and an anesthesiologist assistant to advise the board as to the adoption of rules for the licensure of anesthesiologist assistants. The board may use a committee structure that is most practicable in order to receive any recommendations to the board regarding rules and all matters relating to anesthesiologist assistants, including, but not limited to, recommendations to improve safety in the clinical practices of licensed anesthesiologist assistants.

(b) In addition to its other duties and responsibilities as prescribed by law, the board shall:

1. Recommend to the department the licensure of anesthesiologist assistants.

2. Develop all rules regulating the use of anesthesiologist assistants by qualified anesthesiologists under this chapter and chapter 459, except for rules relating to the formulary developed under s. 458.347(4)(f). The board shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule at the regularly scheduled meeting immediately following the submission of the proposed rule. A proposed rule may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules.

3. Address concerns and problems of practicing anesthesiologist assistants to improve safety in the clinical practices of licensed anesthesiologist assistants.

(c) When the board finds that an applicant for licensure has failed to meet, to the board's satisfaction, each of the requirements for licensure set forth in this section, the board may enter an order to:

1. Refuse to certify the applicant for licensure;
2. Approve the applicant for licensure with restrictions on the scope of practice or license; or
3. Approve the applicant for conditional licensure. Such conditions may include placement of the licensee on probation for a period of time and subject to such conditions as the board specifies, including, but not limited to, requiring the licensee to undergo treatment, to attend continuing education courses, or to take corrective action.

(8) **PENALTY.**—A person who falsely holds himself or herself out as an anesthesiologist assistant commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) *DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.*—The boards may deny, suspend, or revoke the license of an anesthesiologist assistant who the board determines has violated any provision of this section or chapter or any rule adopted pursuant thereto.

(10) *RULES.*—The boards shall adopt rules to administer this section.

(11) *LIABILITY.*—A supervising anesthesiologist is liable for any act or omission of an anesthesiologist assistant acting under the anesthesiologist's supervision and control and shall comply with the financial responsibility requirements of this chapter and chapter 456, as applicable.

(12) *FEES.*—The department shall allocate the fees collected under this section to the board.

Section 105. Paragraph (hh) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(hh) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced registered nurse practitioners, *anesthesiologist assistants*, or other persons acting under the supervision of the osteopathic physician.

Section 106. Section 459.023, Florida Statutes, is created to read:

459.023 *Anesthesiologist assistants.*—

(1) *DEFINITIONS.*—As used in this section, the term:

(a) “Anesthesiologist” means an osteopathic physician who holds an active, unrestricted license; who has successfully completed an anesthesiology training program approved by the Accreditation Council on Graduate Medical Education, or its equivalent, or the American Osteopathic Association; and who is certified by the American Osteopathic Board of Anesthesiology or is eligible to take that board's examination, is certified by the American Board of Anesthesiology or is eligible to take that board's examination, or is certified by the Board of Certification in Anesthesiology affiliated with the American Association of Physician Specialists.

(b) “Anesthesiologist assistant” means a graduate of an approved program who is licensed to perform medical services delegated and directly supervised by a supervising anesthesiologist.

(c) “Anesthesiology” means the practice of medicine that specializes in the relief of pain during and after surgical procedures and childbirth, during certain chronic disease processes, and during resuscitation and critical care of patients in the operating room and intensive care environments.

(d) “Approved program” means a program for the education and training of anesthesiologist assistants which has been approved by the boards as provided in subsection (5).

(e) “Boards” means the Board of Medicine and the Board of Osteopathic Medicine.

(f) “Continuing medical education” means courses recognized and approved by the boards, the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association, the American Academy of Anesthesiologist Assistants, the American Society of Anesthesiologists, or the Accreditation Council on Continuing Medical Education.

(g) “Direct supervision” means the on-site, personal supervision by an anesthesiologist who is present in the office when the procedure is being performed in that office, or is present in the surgical or obstetrical suite when the procedure is being performed in that surgical or obstetrical suite and who is in all instances immediately available to provide assistance and direction to the anesthesiologist assistant while anesthesia services are being performed.

(h) “Proficiency examination” means an entry-level examination approved by the boards, including examinations administered by the National Commission on Certification of Anesthesiologist Assistants.

(i) “Trainee” means a person who is currently enrolled in an approved program.

(2) *PERFORMANCE OF SUPERVISING ANESTHESIOLOGIST.*—

(a) An anesthesiologist who directly supervises an anesthesiologist assistant must be qualified in the medical areas in which the anesthesiologist assistant performs and is liable for the performance of the anesthesiologist assistant. An anesthesiologist may only supervise two anesthesiologist assistants at the same time. The board may, by rule, allow an anesthesiologist to supervise up to four anesthesiologist assistants, after July 1, 2008.

(b) An anesthesiologist or group of anesthesiologists must, upon establishing a supervisory relationship with an anesthesiologist assistant, file with the board a written protocol that includes, at a minimum:

1. The name, address, and license number of the anesthesiologist assistant.

2. The name, address, license number, and federal Drug Enforcement Administration number of each physician who will be supervising the anesthesiologist assistant.

3. The address of the anesthesiologist assistant's primary practice location and the address of any other locations where the anesthesiologist assistant may practice.

4. The date the protocol was developed and the dates of all revisions.

5. The signatures of the anesthesiologist assistant and all supervising physicians.

6. The duties and functions of the anesthesiologist assistant.

7. The conditions or procedures that require the personal provision of care by an anesthesiologist.

8. The procedures to be followed in the event of an anesthetic emergency.

The protocol must be on file with the board before the anesthesiologist assistant may practice with the anesthesiologist or group. An anesthesiologist assistant may not practice unless a written protocol has been filed for that anesthesiologist assistant in accordance with this paragraph, and the anesthesiologist assistant may only practice under the direct supervision of an anesthesiologist who has signed the protocol. The protocol must be updated biennially.

(3) *PERFORMANCE OF ANESTHESIOLOGIST ASSISTANTS.*—

(a) An anesthesiologist assistant may assist an anesthesiologist in developing and implementing an anesthesia care plan for a patient. In providing assistance to an anesthesiologist, an anesthesiologist assistant may perform duties established by rule by the board in any of the following functions that are included in the anesthesiologist assistant's protocol while under the direct supervision of an anesthesiologist:

1. Obtain a comprehensive patient history and present the history to the supervising anesthesiologist.

2. Pretest and calibrate anesthesia delivery systems and monitor, obtain, and interpret information from the systems and monitors.

3. Assist the supervising anesthesiologist with the implementation of medically accepted monitoring techniques.

4. Establish basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support.

5. Administer intermittent vasoactive drugs and start and adjust vasoactive infusions.

6. Administer anesthetic drugs, adjuvant drugs, and accessory drugs.

7. Assist the supervising anesthesiologist with the performance of epidural anesthetic procedures and spinal anesthetic procedures.

8. Administer blood, blood products, and supportive fluids.
9. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.
10. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.
11. Participate in management of the patient while in the postanesthesia recovery area, including the administration of any supporting fluids or drugs.
12. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.
- (b) Nothing in this section or chapter prevents third-party payors from reimbursing employers of anesthesiologist assistants for covered services rendered by such anesthesiologist assistants.
- (c) An anesthesiologist assistant must clearly convey to the patient that she or he is an anesthesiologist assistant.
- (d) An anesthesiologist assistant may perform anesthesia tasks and services within the framework of a written practice protocol developed between the supervising anesthesiologist and the anesthesiologist assistant.
- (e) An anesthesiologist assistant may not prescribe, order, or compound any controlled substance, legend drug, or medical device, nor may an anesthesiologist assistant dispense sample drugs to patients. Nothing in this paragraph prohibits an anesthesiologist assistant from administering legend drugs or controlled substances; intravenous drugs, fluids, or blood products; or inhalation or other anesthetic agents to patients which are ordered by the supervising anesthesiologist and administered while under the direct supervision of the supervising anesthesiologist.

(4) **PERFORMANCE BY TRAINEES.**—The practice of a trainee is exempt from the requirements of this chapter while the trainee is performing assigned tasks as a trainee in conjunction with an approved program. Before providing anesthesia services, including the administration of anesthesia in conjunction with the requirements of an approved program, the trainee must clearly convey to the patient that he or she is a trainee.

(5) **PROGRAM APPROVAL.**—The boards shall approve programs for the education and training of anesthesiologist assistants which meet standards established by board rules. The board may recommend only those anesthesiologist assistant training programs that hold full accreditation or provisional accreditation from the Commission on Accreditation of Allied Health Education Programs.

(6) **ANESTHESIOLOGIST ASSISTANT LICENSURE.**—

(a) Any person desiring to be licensed as an anesthesiologist assistant must apply to the department. The department shall issue a license to any person certified by the board to:

1. Be at least 18 years of age.
2. Have satisfactorily passed a proficiency examination with a score established by the National Commission on Certification of Anesthesiologist Assistants.
3. Be certified in advanced cardiac life support.
4. Have completed the application form and remitted an application fee, not to exceed \$1,000, as set by the boards. An application must include:
  - a. A certificate of completion of an approved graduate level program.
  - b. A sworn statement of any prior felony convictions.
  - c. A sworn statement of any prior discipline or denial of licensure or certification in any state.
  - d. Two letters of recommendation from anesthesiologists.

(b) A license must be renewed biennially. Each renewal must include:

1. A renewal fee, not to exceed \$1,000, as set by the boards.
2. A sworn statement of no felony convictions in the immediately preceding 2 years.

(c) Each licensed anesthesiologist assistant must biennially complete 40 hours of continuing medical education or hold a current certificate issued by the National Commission on Certification of Anesthesiologist Assistants or its successor.

(d) An anesthesiologist assistant must notify the department in writing within 30 days after obtaining employment that requires a license under this chapter and after any subsequent change in her or his supervising anesthesiologist. The notification must include the full name, license number, specialty, and address of the supervising anesthesiologist. Submission of a copy of the required protocol by the anesthesiologist assistant satisfies this requirement.

(e) The Board of Osteopathic Medicine may impose upon an anesthesiologist assistant any penalty specified in s. 456.072 or s. 459.015(2) if the anesthesiologist assistant or the supervising anesthesiologist is found guilty of or is investigated for an act that constitutes a violation of this chapter or chapter 456.

(7) **ANESTHESIOLOGIST AND ANESTHESIOLOGIST ASSISTANT TO ADVISE THE BOARD.**—

(a) The chairman of the board may appoint an anesthesiologist and an anesthesiologist assistant to advise the board as to the adoption of rules for the licensure of anesthesiologist assistants. The board may use a committee structure that is most practicable in order to receive any recommendations to the board regarding rules and all matters relating to anesthesiologist assistants, including, but not limited to, recommendations to improve safety in the clinical practices of licensed anesthesiologist assistants.

(b) In addition to its other duties and responsibilities as prescribed by law, the board shall:

1. Recommend to the department the licensure of anesthesiologist assistants.
2. Develop all rules regulating the use of anesthesiologist assistants by qualified anesthesiologists under this chapter and chapter 458, except for rules relating to the formulary developed under s. 458.347(4)(f). The board shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule at the regularly scheduled meeting immediately following the submission of the proposed rule. A proposed rule may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules.
3. Address concerns and problems of practicing anesthesiologist assistants to improve safety in the clinical practices of licensed anesthesiologist assistants.

(c) When the board finds that an applicant for licensure has failed to meet, to the board's satisfaction, each of the requirements for licensure set forth in this section, the board may enter an order to:

1. Refuse to certify the applicant for licensure;
2. Approve the applicant for licensure with restrictions on the scope of practice or license; or
3. Approve the applicant for conditional licensure. Such conditions may include placement of the licensee on probation for a period of time and subject to such conditions as the board specifies, including, but not limited to, requiring the licensee to undergo treatment, to attend continuing education courses, or to take corrective action.

(8) **PENALTY.**—A person who falsely holds herself or himself out as an anesthesiologist assistant commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) *DENIAL, SUSPENSION, OR REVOCATION OF LICENSURE.*—The boards may deny, suspend, or revoke the license of an anesthesiologist assistant who the board determines has violated any provision of this section or chapter or any rule adopted pursuant thereto.

(10) *RULES.*—The boards shall adopt rules to administer this section.

(11) *LIABILITY.*—A supervising anesthesiologist is liable for any act or omission of an anesthesiologist assistant acting under the anesthesiologist's supervision and control and shall comply with the financial responsibility requirements of this chapter and chapter 456, as applicable.

(12) *FEES.*—The department shall allocate the fees collected under this section to the board.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 10, line 28, after the semicolon (;) insert: amending s. 456.048, F.S.; requiring the Board of Medicine and the Board of Osteopathic Medicine to require medical malpractice insurance or proof of financial responsibility as a condition of licensure or licensure renewal for licensed anesthesiologist assistants; amending ss. 458.331, 459.015, F.S.; revising grounds for which a physician may be disciplined for failing to provide adequate supervision; creating ss. 458.3475, 459.023, F.S.; providing definitions; providing performance standards for anesthesiologist assistants and supervising anesthesiologists; providing for the approval of training programs and for services authorized to be performed by trainees; providing licensing procedures; providing for fees; providing for additional membership, powers, and duties of the Board of Medicine and the Board of Osteopathic Medicine; providing penalties; providing for disciplinary actions; providing for the adoption of rules; prescribing liability; providing for the allocation of fees;

## MOTION

On motion by Senator Peaden, the rules were waived to allow the following amendments to be considered:

Senator Peaden moved the following amendments which were adopted:

**Amendment 18 (940134)**—On page 124, line 27 through page 125, line 2, delete those lines and insert:

*An applicant for licensure by endorsement as a mental health counselor who has completed the two years of post-master's clinical experience prior to completing the required course in psychopathology or abnormal psychology and who has been licensed in another state for 5 of the last 6 years without being subject to disciplinary action, may be licensed by the board upon successful completion of the required course in psychopathology or abnormal psychology.*

**Amendment 19 (083946)(with title amendment)**—On page 127, line 31, insert:

Section 92. Paragraph (b) of subsection (4) of section 766.314, Florida Statutes, is amended to read:

766.314 Assessments; plan of operation.—

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

(b)1. On or before October 15, 1988, all physicians licensed pursuant to chapter 458 or chapter 459 as of October 1, 1988, other than participating physicians, shall be assessed an initial assessment of \$250, which must be paid no later than December 1, 1988.

2. Any such physician who becomes licensed after September 30, 1988, and before January 1, 1989, shall pay into the association an initial assessment of \$250 upon licensure.

3. Any such physician who becomes licensed on or after January 1, 1989, shall pay an initial assessment equal to the most recent assessment made pursuant to this paragraph, paragraph (5)(a), or paragraph (7)(b).

4. However, if the physician is a physician specified in this subparagraph, the assessment is not applicable:

a. A resident physician, assistant resident physician, or intern in an approved postgraduate training program, as defined by the Board of Medicine or the Board of Osteopathic Medicine by rule;

b. A retired physician who has withdrawn from the practice of medicine but who maintains an active license as evidenced by an affidavit filed with the Department of Health. Prior to reentering the practice of medicine in this state, a retired physician as herein defined must notify the Board of Medicine or the Board of Osteopathic Medicine and pay the appropriate assessments pursuant to this section;

c. A physician who holds a limited license pursuant to s. 458.315 s-458.317 and who is not being compensated for medical services;

d. A physician who is employed full time by the United States Department of Veterans Affairs and whose practice is confined to United States Department of Veterans Affairs hospitals; or

e. A physician who is a member of the Armed Forces of the United States and who meets the requirements of s. 456.024.

f. A physician who is employed full time by the State of Florida and whose practice is confined to state-owned correctional institutions, a county health department, or state-owned mental health or developmental services facilities, or who is employed full time by the Department of Health.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 9, delete line 26 and insert: certain circumstances; amending s. 766.314, F.S.; correcting a cross-reference; amending s. 817.505,

## MOTION

Senator Siplin moved that the rules be waived to allow consideration of the late filed amendment 160730. The motion failed, therefore the amendment was not considered.

## MOTION

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

Senator Saunders moved the following amendments which were adopted:

**Amendment 20 (300276)(with title amendment)**—On page 134, between lines 17 and 18, insert:

Section 101. Paragraph (c) of subsection (10) and paragraph (a) of subsection (17) of section 400.506, Florida Statutes, are amended to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(10)

(c) *A nurse registry shall, at the time of contracting for services through the nurse registry, advise the patient, the patient's family, or a person acting on behalf of the patient of the availability of registered nurses to make visits to the patient's home at an additional cost. A registered nurse shall make monthly visits to the patient's home to assess the patient's condition and quality of care being provided by the certified nursing assistant or home health aide. Any condition that which in the professional judgment of the nurse requires further medical attention shall be reported to the attending physician and the nurse registry. The assessment shall become a part of the patient's file with the nurse registry and may be reviewed by the agency during their survey procedure.*

(17) All persons referred for contract in private residences by a nurse registry must comply with the following requirements for a plan of treatment:

(a) When, in accordance with the privileges and restrictions imposed upon a nurse under part I of chapter 464, the delivery of care to a patient

is under the direction or supervision of a physician or when a physician is responsible for the medical care of the patient, a medical plan of treatment must be established for each patient receiving care or treatment provided by a licensed nurse in the home. The original medical plan of treatment must be timely signed by the physician, *physician's assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice*, and reviewed by ~~him or her~~ in consultation with the licensed nurse at least every 2 months. Any additional order or change in orders must be obtained from the physician, *physician's assistant, or advanced registered nurse practitioner* and reduced to writing and timely signed by the physician, *physician's assistant, or advanced registered nurse practitioner*. The delivery of care under a medical plan of treatment must be substantiated by the appropriate nursing notes or documentation made by the nurse in compliance with nursing practices established under part I of chapter 464.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 10, line 20, following the semicolon (;) insert: amending s. 400.506, F.S.; revising duties of nurse registries with respect to advising patients and their families or representatives with respect to home visits; revising requirements for plans of treatment;

**Amendment 21 (845616)(with title amendment)**—On page 134, between lines 21 and 22, insert:

Section 111. Subsections (1) and (2) of section 400.487, Florida Statutes, are amended to read:

400.487 Home health service agreements; physician's, *physician's assistant's, and advanced registered nurse practitioner's* treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate.—

(1) Services provided by a home health agency must be covered by an agreement between the home health agency and the patient or the patient's legal representative specifying the home health services to be provided, the rates or charges for services paid with private funds, and the ~~sources~~ *method* of payment, *which may include Medicare, Medicaid, private insurance, personal funds, or a combination thereof*. A home health agency providing skilled care must make an assessment of the patient's needs within 48 hours after the start of services.

(2) When required by the provisions of chapter 464; part I, part III, or part V of chapter 468; or chapter 486, the attending physician, *physician's assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, shall for a patient who is to receive skilled care must* establish treatment orders *for a patient who is to receive skilled care*. The treatment orders must be signed by the physician, *physician's assistant, or advanced registered nurse practitioner before a claim for payment for the skilled services is submitted by the home health agency. If the claim is submitted to a managed care organization, the treatment orders must be signed in the time allowed under the provider agreement. The treatment orders shall within 30 days after the start of care and must* be reviewed, as frequently as the patient's illness requires, by the physician, *physician's assistant, or advanced registered nurse practitioner* in consultation with *the home health agency personnel that provide services to the patient*.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 10, line 28, after the semicolon (;) insert: amending s. 400.487, F.S.; revising home health agency service agreements and treatment orders;

## MOTION

On motion by Senator Peaden, the rules were waived to allow the following amendments to be considered:

Senator Peaden moved the following amendments which were adopted:

**Amendment 22 (092960)(with title amendment)**—On page 20, lines 5-8, delete those lines and insert:

Section 9. Subsection (1) and (4) of section 400.211, Florida Statutes, are amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(1) To serve as a nursing assistant in any nursing home, a person must be certified as a nursing assistant under part II of chapter 464, unless the person is a registered nurse, a ~~or~~ practical nurse, or a *certified geriatric specialist certified* or licensed in accordance with part I of chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules adopted by the Board of Nursing pursuant to part I of chapter 464.

And the title is amended as follows:

On page 2, line 5, following the first semicolon (;) insert: revising qualifications for nursing assistants;

**Amendment 23 (190182)**—On page 50, delete line 29 and insert: registered nurse, ~~or~~ a licensed practical nurse, or a *geriatric specialist certified under part I of chapter 464*, if such

**Amendment 24 (911996)(with title amendment)**—On page 134, between lines 21 and 22, insert:

Section 102. *Sections 102-114 of this act may be cited as the "Clara Ramsey Care of the Elderly Act."*

Section 103. *Certified Geriatric Specialist Preparation Pilot Program.*—

(1) *The Agency for Workforce Innovation shall establish a pilot program for delivery of geriatric nursing education to certified nursing assistants who wish to become certified geriatric specialists. The agency shall select two pilot sites in nursing homes that have received the Gold Seal designation under section 400.235, Florida Statutes; have been designated as a teaching nursing home under section 430.80, Florida Statutes; or have not received a class I or class II deficiency within the 30 months preceding application for this program.*

(2) *To be eligible to receive geriatric nursing education, a certified nursing assistant must have been employed by a participating nursing home for at least 1 year and must have received a high school diploma or its equivalent.*

(3) *The education shall be provided at the worksite and in coordination with the certified nursing assistant's work schedule.*

(4) *Faculty shall provide the instruction under an approved nursing program pursuant to section 464.019, Florida Statutes.*

(5) *The education must be designed to prepare the certified nursing assistant to meet the requirements for certification as a geriatric specialist. The didactic and clinical education must include all portions of the practical nursing curriculum pursuant to section 464.019, Florida Statutes, except for pediatric and obstetric/maternal-child education, and must include additional education in the care of ill, injured, or infirm geriatric patients and the maintenance of health, the prevention of injury, and the provision of palliative care for geriatric patients.*

Section 104. *Certified Geriatric Specialty Nursing Initiative Steering Committee.*—

(1) *In order to guide the implementation of the Certified Geriatric Specialist Preparation Pilot Program, there is created a Certified Geriatric Specialty Nursing Initiative Steering Committee. The steering committee shall be composed of the following members:*

(a) *The chair of the Board of Nursing or his or her designee;*

(b) *A representative of the Agency for Workforce Innovation, appointed by the Director of Workforce Innovation;*

(c) *A representative of Workforce Florida, Inc., appointed by the chair of the Board of Directors of Workforce Florida, Inc.;*

(d) *A representative of the Department of Education, appointed by the Commissioner of Education;*

(e) A representative of the Department of Health, appointed by the Secretary of Health;

(f) A representative of the Agency for Health Care Administration, appointed by the Secretary of Health Care Administration;

(g) The Director of the Florida Center for Nursing;

(h) A representative of the Department of Elderly Affairs, appointed by the Secretary of Elderly Affairs; and

(i) A representative of a Gold Seal nursing home that is not one of the pilot program sites, appointed by the Secretary of Health Care Administration.

(2) The steering committee shall:

(a) Provide consultation and guidance to the Agency for Workforce Innovation on matters of policy during the implementation of the pilot program; and

(b) Provide oversight to the evaluation of the pilot program.

(3) Members of the steering committee are entitled to reimbursement for per diem and travel expenses under section 112.061, Florida Statutes.

(4) The steering committee shall complete its activities by June 30, 2007, and the authorization for the steering committee ends on that date.

Section 105. *Evaluation of the Certified Geriatric Specialist Preparation Pilot Program.*—The Agency for Workforce Innovation, in consultation with the Certified Geriatric Specialty Nursing Initiative Steering Committee, shall conduct or contract for an evaluation of the pilot program. The agency shall ensure that an evaluation report is submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2007. The evaluation must address the experience and success of the certified nursing assistants in the pilot program and must contain recommendations regarding the expansion of the delivery of geriatric nursing education in nursing homes.

Section 106. *Reports.*—The Agency for Workforce Innovation shall submit status reports and recommendations regarding legislation necessary to further the implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives on January 1, 2005, January 1, 2006, and January 1, 2007.

Section 107. Section 464.0125, Florida Statutes, is created to read:

464.0125 *Certified geriatric specialists; certification requirements.*—

(1) **DEFINITIONS; RESPONSIBILITIES.**—

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

1. “Certified geriatric specialist” means a person who meets the qualifications specified in this section and who is certified by the board to practice as a certified geriatric specialist.

2. “Geriatric patient” means any patient who is 60 years of age or older.

3. “Practice of certified geriatric specialty nursing” means the performance of selected acts in facilities licensed under part II or part III of chapter 400, including the administration of treatments and medications, in the care of ill, injured, or infirm geriatric patients and the promotion of wellness, maintenance of health, and prevention of illness of geriatric patients under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist. The scope of practice of a certified geriatric specialist includes the practice of practical nursing as defined in s. 464.003 for geriatric patients only, except for any act in which instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing is required. A certified geriatric specialist, while providing nursing services in facilities licensed under part II or part III of chapter 400, may supervise the activities of certified nursing assistants and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the board.

(b) The certified geriatric specialist shall be responsible and accountable for making decisions that are based upon the individual’s educa-

tional preparation and experience in performing certified geriatric specialty nursing.

(2) **CERTIFICATION.**—

(a) Any certified nursing assistant desiring to be certified as a certified geriatric specialist must apply to the department and submit proof that he or she holds a current certificate as a certified nursing assistant under part II of this chapter and has satisfactorily completed the following requirements:

1. Is in good mental and physical health, is a recipient of a high school diploma or its equivalent; has completed the requirements for graduation from an approved program for nursing or its equivalent, as determined by the board, for the preparation of licensed practical nurses, except for instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing; and has completed additional education in the care of ill, injured, or infirm geriatric patients, the maintenance of health, the prevention of injury, and the provision of palliative care for geriatric patients. By September 1, 2004, the Board of Nursing shall adopt rules establishing the core competencies for the additional education in geriatric care. Any program that is approved on July 1, 2004, by the board for the preparation of registered nurses or licensed practical nurses may provide education for the preparation of certified geriatric specialists without further board approval.

2. Has the ability to communicate in the English language, which may be determined by an examination given by the department.

3. Has provided sufficient information, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.

(b) Each applicant who meets the requirements of this subsection is, unless denied pursuant to s. 464.018, entitled to certification as a certified geriatric specialist. The board must certify, and the department must issue a certificate to practice as a certified geriatric specialist to, any certified nursing assistant who meets the qualifications set forth in this section. The board shall establish an application fee not to exceed \$100 and a biennial renewal fee not to exceed \$50. The board may adopt rules to administer this section.

(c) A person receiving certification under this section shall:

1. Work only within the confines of a facility licensed under part II or part III of chapter 400.

2. Care for geriatric patients only.

3. Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018.

(3) **ARTICULATION.**—Any certified geriatric specialist who completes the additional instruction and coursework in an approved nursing program pursuant to s. 464.019 for the preparation of practical nursing in the areas of pediatric nursing and obstetric/maternal-child nursing is, unless denied pursuant to s. 464.018, entitled to licensure as a licensed practical nurse if the applicant otherwise meets the requirements of s. 464.008.

(4) **TITLES AND ABBREVIATIONS; RESTRICTIONS; PENALTIES.**—

(a) Only persons who hold certificates to practice as certified geriatric specialists in this state or who are performing services within the practice of certified geriatric specialty nursing pursuant to the exception set forth in s. 464.022(8) may use the title “Certified Geriatric Specialist” and the abbreviation “C.G.S.”

(b) A person may not practice or advertise as, or assume the title of, certified geriatric specialist or use the abbreviation “C.G.S.” or take any other action that would lead the public to believe that person is certified as such or is performing services within the practice of certified geriatric specialty nursing pursuant to the exception set forth in s. 464.022(8), unless that person is certified to practice as such.

(c) A violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) *VIOLATIONS AND PENALTIES.*—*Practicing certified geriatric specialty nursing, as defined in this section, without holding an active certificate to do so constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 108. Paragraph (b) of subsection (1) of section 381.00315, Florida Statutes, is amended to read:

381.00315 Public health advisories; public health emergencies.—The State Health Officer is responsible for declaring public health emergencies and issuing public health advisories.

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

(b) “Public health emergency” means any occurrence, or threat thereof, whether natural or man made, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters. Prior to declaring a public health emergency, the State Health Officer shall, to the extent possible, consult with the Governor and shall notify the Chief of Domestic Security Initiatives as created in s. 943.03. The declaration of a public health emergency shall continue until the State Health Officer finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and he or she terminates the declaration. However, a declaration of a public health emergency may not continue for longer than 60 days unless the Governor concurs in the renewal of the declaration. The State Health Officer, upon declaration of a public health emergency, may take actions that are necessary to protect the public health. Such actions include, but are not limited to:

1. Directing manufacturers of prescription drugs or over-the-counter drugs who are permitted under chapter 499 and wholesalers of prescription drugs located in this state who are permitted under chapter 499 to give priority to the shipping of specified drugs to pharmacies and health care providers within geographic areas that have been identified by the State Health Officer. The State Health Officer must identify the drugs to be shipped. Manufacturers and wholesalers located in the state must respond to the State Health Officer’s priority shipping directive before shipping the specified drugs.

2. Notwithstanding chapters 465 and 499 and rules adopted thereunder, directing pharmacists employed by the department to compound bulk prescription drugs and provide these bulk prescription drugs to physicians and nurses of county health departments or any qualified person authorized by the State Health Officer for administration to persons as part of a prophylactic or treatment regimen.

3. Notwithstanding s. 456.036, temporarily reactivating the inactive license of the following health care practitioners, when such practitioners are needed to respond to the public health emergency: physicians licensed under chapter 458 or chapter 459; physician assistants licensed under chapter 458 or chapter 459; *certified geriatric specialists certified under part I of chapter 464*; licensed practical nurses, registered nurses, and advanced registered nurse practitioners licensed under part I of chapter 464; respiratory therapists licensed under part V of chapter 468; and emergency medical technicians and paramedics certified under part III of chapter 401. Only those health care practitioners specified in this paragraph who possess an unencumbered inactive license and who request that such license be reactivated are eligible for reactivation. An inactive license that is reactivated under this paragraph shall return to inactive status when the public health emergency ends or prior to the end of the public health emergency if the State Health Officer determines that the health care practitioner is no longer needed to provide services during the public health emergency. Such licenses may only be reactivated for a period not to exceed 90 days without meeting the requirements of s. 456.036 or chapter 401, as applicable.

4. Ordering an individual to be examined, tested, vaccinated, treated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to public health. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to quarantine.

a. Examination, testing, vaccination, or treatment may be performed by any qualified person authorized by the State Health Officer.

b. If the individual poses a danger to the public health, the State Health Officer may subject the individual to quarantine. If there is no practical method to quarantine the individual, the State Health Officer may use any means necessary to vaccinate or treat the individual.

Any order of the State Health Officer given to effectuate this paragraph shall be immediately enforceable by a law enforcement officer under s. 381.0012.

Section 109. Subsection (14) of section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

(14) “Nursing service” means such services or acts as may be rendered, directly or indirectly, to and in behalf of a person by individuals as defined in ss. ~~s.~~ 464.003 and 464.0125.

Section 110. Paragraphs (a) and (c) of subsection (3) of section 400.23, Florida Statutes, are amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(3)(a) The agency shall adopt rules providing for the minimum staffing requirements for nursing homes. These requirements shall include, for each nursing home facility, a minimum certified nursing assistant staffing of 2.3 hours of direct care per resident per day beginning January 1, 2002, increasing to 2.6 hours of direct care per resident per day beginning January 1, 2003, and increasing to 2.9 hours of direct care per resident per day beginning May 1, 2004. Beginning January 1, 2002, no facility shall staff below one certified nursing assistant per 20 residents, and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident per day but never below one licensed nurse per 40 residents. ~~For purposes of computing nursing staffing minimums and ratios, certified geriatric specialists shall be considered licensed nursing staff. Nursing assistants employed never below one licensed nurse per 40 residents.~~ Nursing assistants employed under s. 400.211(2) may be included in computing the staffing ratio for certified nursing assistants only if they provide nursing assistance services to residents on a full-time basis. Each nursing home must document compliance with staffing standards as required under this paragraph and post daily the names of staff on duty for the benefit of facility residents and the public. The agency shall recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants, provided that the facility otherwise meets the minimum staffing requirements for licensed nurses and that the licensed nurses so recognized are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted towards the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and shall not also be counted towards the minimum staffing requirements for licensed nurses. If the agency approved a facility’s request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. In no event may the hours of a licensed nurse with dual job responsibilities be counted twice.

(c) Licensed practical nurses licensed under chapter 464 who are providing nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, *certified geriatric specialists*, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

Section 111. Paragraph (b) of subsection (2) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been

used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be affected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(2)

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care.

1. Changes of ownership or of licensed operator do not qualify for increases in reimbursement rates associated with the change of ownership or of licensed operator. The agency shall amend the Title XIX Long Term Care Reimbursement Plan to provide that the initial nursing home reimbursement rates, for the operating, patient care, and MAR components, associated with related and unrelated party changes of ownership or licensed operator filed on or after September 1, 2001, are equivalent to the previous owner's reimbursement rate.

2. The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling, and the indirect care subcomponent shall be limited by the lower of the cost-based class ceiling, by the target rate class ceiling, or by the individual provider target. The agency shall adjust the patient care component effective January 1, 2002. The cost to adjust the direct care subcomponent shall be net of the total funds previously allocated for the case mix add-on. The agency shall make the required changes to the nursing home cost reporting forms to implement this requirement effective January 1, 2002.

3. The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, *certified geriatric specialists certified under part I of chapter 464*, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, MDS, and care plan coordinators, staff development, and staffing coordinator.

4. All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. There shall be no costs directly or indirectly allocated to the direct care subcomponent from a home office or management company.

5. On July 1 of each year, the agency shall report to the Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and direct care and indirect care salaries and benefits per category of staff member per facility.

6. In order to offset the cost of general and professional liability insurance, the agency shall amend the plan to allow for interim rate adjustments to reflect increases in the cost of general or professional liability insurance for nursing homes. This provision shall be implemented to the extent existing appropriations are available.

It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The

agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

Section 112. Subsection (1) and paragraph (a) of subsection (2) of section 1009.65, Florida Statutes, are amended to read:

1009.65 Medical Education Reimbursement and Loan Repayment Program.—

(1) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, there is established the Medical Education Reimbursement and Loan Repayment Program. The function of the program is to make payments that offset loans and educational expenses incurred by students for studies leading to a medical or nursing degree, medical or nursing licensure, or advanced registered nurse practitioner certification or physician assistant licensure. The following licensed or certified health care professionals are eligible to participate in this program: medical doctors with primary care specialties, doctors of osteopathic medicine with primary care specialties, physician's assistants, *certified geriatric specialists certified under part I of chapter 464*, licensed practical nurses and registered nurses, and advanced registered nurse practitioners with primary care specialties such as certified nurse midwives. Primary care medical specialties for physicians include obstetrics, gynecology, general and family practice, internal medicine, pediatrics, and other specialties which may be identified by the Department of Health.

(2) From the funds available, the Department of Health shall make payments to selected medical professionals as follows:

(a) Up to \$4,000 per year for *certified geriatric specialists certified under part I of chapter 464*, licensed practical nurses, and registered nurses, up to \$10,000 per year for advanced registered nurse practitioners and physician's assistants, and up to \$20,000 per year for physicians. Penalties for noncompliance shall be the same as those in the National Health Services Corps Loan Repayment Program. Educational expenses include costs for tuition, matriculation, registration, books, laboratory and other fees, other educational costs, and reasonable living expenses as determined by the Department of Health.

Section 113. Subsection (2) of section 1009.66, Florida Statutes, is amended to read:

1009.66 Nursing Student Loan Forgiveness Program.—

(2) To be eligible, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse, *a certified geriatric specialist certified under part I of chapter 464*, or a registered nurse or a Florida certificate as an advanced registered nurse practitioner.

Section 114. *The sum of \$157,017 is appropriated from the General Revenue Fund to the Agency for Workforce Innovation to support the work of the Certified Geriatric Specialty Nursing Initiative Steering Committee, to administer the pilot sites, to contract for an evaluation, and to the extent that funds are available, and if necessary, to provide nursing faculty, substitute certified nursing assistants for those who are in clinical education, and technical support to the pilot sites during the 2004-2005 fiscal year.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 10, line 28, following the semicolon (;) insert: providing a short title; requiring the Agency for Workforce Innovation to establish a pilot program for delivery of certified geriatric specialty nursing education; specifying eligibility requirements for certified nursing assistants to obtain certified geriatric specialty nursing education; specifying requirements for the education of certified nursing assistants to prepare for certification as a certified geriatric specialist; creating a Certified Geriatric Specialty Nursing Initiative Steering Committee; providing for the composition of and manner of appointment to the Certified Geriatric Specialty Nursing Initiative Steering Committee; providing responsibilities of the steering committee; providing for reimbursement for per diem and travel expenses; requiring the Agency for Workforce Innovation to conduct or contract for an evaluation of the pilot program for delivery of certified geriatric specialty nursing education; requiring the evaluation to include recommendations regarding the expansion of the

delivery of certified geriatric specialty nursing education in nursing homes; requiring the Agency for Workforce Innovation to report to the Governor and Legislature regarding the status and evaluation of the pilot program; creating s. 464.0125, F.S.; providing definitions; providing requirements for persons to become certified geriatric specialists; specifying fees; providing for articulation of geriatric specialty nursing coursework and practical nursing coursework; providing practice standards and grounds for which certified geriatric specialists may be subject to discipline by the Board of Nursing; creating restrictions on the use of professional nursing titles; prohibiting the use of certain professional titles; providing penalties; authorizing approved nursing programs to provide education for the preparation of certified geriatric specialists without further board approval; authorizing certified geriatric specialists to supervise the activities of others in nursing home facilities according to rules by the Board of Nursing; revising terminology relating to nursing to conform to the certification of geriatric specialists; amending s. 381.00315, F.S.; revising requirements for the reactivation of the licenses of specified health care practitioners in the event of a public health emergency to include certified geriatric specialists; amending s. 400.021, F.S.; including services provided by a certified geriatric specialist within the definition of nursing service; amending s. 400.23, F.S.; specifying that certified geriatric specialists shall be considered licensed nursing staff; authorizing licensed practical nurses to supervise the activities of certified geriatric specialists in nursing home facilities according to rules adopted by the Board of Nursing; amending s. 409.908, F.S.; revising the methodology for reimbursement of Medicaid program providers to include services of certified geriatric specialists; amending s. 1009.65, F.S.; revising eligibility for the Medical Education Reimbursement and Loan Repayment Program to include certified geriatric specialists; amending s. 1009.66, F.S.; revising eligibility requirements for the Nursing Student Loan Forgiveness Program to include certified geriatric specialists; providing an appropriation;

#### MOTION

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

Senator Saunders moved the following amendment which was adopted:

**Amendment 25 (202710)(with title amendment)**—On page 35, line 24 through page 36, line 10, delete those lines and insert:

Section 19. Subsections (4), (7), and (9) of section 456.025, Florida Statutes, are amended to read:

456.025 Fees; receipts; disposition.—

(4) Each board, or the department if there is no board, may charge a fee not to exceed \$25, as determined by rule, for the issuance of a wall certificate pursuant to s. 456.013(3) ~~s. 456.013(2)~~ requested by a licensee who was licensed prior to July 1, 1998, or for the issuance of a duplicate wall certificate requested by any licensee.

(7) Each board, or the department if there is no board, shall establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses or programs and shall establish by rule a biennial renewal fee not to exceed \$250 for the renewal of providership of such courses. The fees collected from continuing education providers shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, and covering legal expenses incurred as a result of not granting or renewing a providership, ~~and developing and maintaining an electronic continuing education tracking system. The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system. All approved continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted.~~

(9) The department shall provide a ~~condensed~~ management report of revenues and expenditures, performance measures, and recommendations, if needed, to each board at least once each quarter ~~budgets, finances, performance statistics, and recommendations to each board at least once a quarter. The department shall identify and include in such~~

~~presentations any changes, or projected changes, made to the board's budget since the last presentation.~~

Section 20. Section 456.0251, Florida Statutes, is created to read:

456.0251 Continuing education.—

(1) Unless otherwise provided in a profession's practice act, each board, or the department if there is no board, shall establish by rule procedures for approval of continuing education providers and continuing education courses for renewal of licenses. Except for those continuing education courses whose subjects are prescribed by law, each board, or the department if there is no board, may limit by rule the subject matter for approved continuing education courses to courses addressing the scope of practice of each respective health care profession.

(2) Licensees who have not completed all of the continuing education credits required for licensure during a biennium may obtain an extension of 3 months from the date after the end of the license renewal biennium within which to complete the requisite hours for license renewal. Each board, or the department if there is no board, shall establish by rule procedures for requesting a 3-month extension and whether proof of completion of some approved hours of continuing education are required to be submitted with the request for extension as a prerequisite for granting the request.

(3) Failure to complete the requisite number of hours of continuing education hours within a license renewal biennium or within a 3 month period from the date after the end of the license renewal biennium, if requested, shall be grounds for issuance of a citation and a fine, plus a requirement that at least the deficit hours are completed within a time established by rule of each board, or the department if there is no board. Each board, or the department if there is no board, shall establish by rule a fine for each continuing education hour which was not completed within the license renewal biennium or the 3-month period following the last day of the biennium if so requested, not to exceed \$500 per each hour not completed. The issuance of the citation and fine shall not be considered discipline. A citation and a fine issued under this subsection may only be issued to a licensee a maximum of two times for two separate failures to complete the requisite number of hours for license renewal.

(4) The department shall report to each board no later than 3 months following the last day of the license renewal biennium the percentage of licensees regulated by that board who have not timely complied with the continuing education requirements during the previous license renewal biennium for which auditing of licensees regulated by that board are completed. Each board shall direct the department the percentage of licensees regulated by that board that are to be audited during the next license renewal biennium. In addition to the percentage of licensees audited as directed by the boards, the department shall audit those licensees found to be deficient during any of the two license renewal bienniums.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 6, after the semicolon (;) insert: deleting requirements for the Department of Health to administer an electronic continuing education tracking system for health care practitioners; creating s. 456.0251, F.S.; providing for enforcement of continuing education requirements required for license renewal; authorizing citations and fines to be imposed for failure to comply with required continuing education requirements;

#### MOTION

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

Senator Wasserman Schultz moved the following amendment:

**Amendment 26 (212230)(with title amendment)**—On page 127, line 31, insert:

Section 92. Section 514.0305, Florida Statutes, is created to read:

514.0305 Public pools; safety barriers.—

(1) Public pools must be equipped with the following safety features:

(a) A permanent barrier that completely encloses the pool.

(b) Pedestrian gates that open outward, are self-closing, and equipped with a release mechanism that is located on the pool side of the gate and placed so that a young child cannot reach it.

(c) Gates, other than pedestrian gates, which must be equipped with lockable hardware or padlocks and which must remain locked when not being used.

(2)(a) The barriers and other equipment required by this section shall be inspected by the county health department during each routine inspection.

(b) The inspector shall immediately close any pool that does not comply with the requirements of this section. Upon such closing, the owner or operator of the pool must correct the deficiencies or be subject to an administrative fine not to exceed \$1,500. The department, upon prevailing in enforcement of this section, shall be awarded attorney's fees at the rate of \$150 per attorney hour and shall in addition be awarded the costs of litigation. The attorney's fees and costs shall be awarded against the public pool operator by the presiding officer of any proceeding before the Division of Administrative Hearings or before a hearing officer appointed by the department.

(3) The definitions in s. 515.25 apply to this section and are incorporated herein by reference, except that the definition of the term "public swimming pool" shall be as provided in s. 514.011(2).

(4) This section applies to all public pools that are operated or constructed on or after January 1, 2005. Pools in operation on that date must be brought into compliance by April 1, 2005.

(5) This section does not apply to a membership club that has a pool in an enclosed room, to existing pools at any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of fewer than 30 days or 1 calendar month, whichever is less, or advertised or held out to the public as a place regularly rented to guests.

(6) The department shall revise its rules authorized by s. 514.021 in order to administer this section.

Section 93. Subsection (2) of section 514.0115, Florida Statutes, is amended to read:

514.0115 Exemptions from supervision or regulation; variances.—

(2)(a) Pools serving no more than 32 condominium or cooperative units which are not operated as a public lodging establishment shall be exempt from supervision under this chapter, except for water quality and the requirements of s. 514.0305.

(b) Pools serving condominium or cooperative associations of more than 32 units and whose recorded documents prohibit the rental or sublease of the units for periods of less than 60 days are exempt from supervision under this chapter, except that the condominium or cooperative owner or association must file applications with the department and obtain construction plans approval and receive an initial operating permit. The department shall inspect the swimming pools at such places annually, at the fee set forth in s. 514.033(3), or upon request by a unit owner, to determine compliance with department rules relating to water quality, and lifesaving equipment, and the requirements of s. 514.0305. The department may not require compliance with rules relating to swimming pool lifeguard standards.

And the title is amended as follows:

On page 9, line 6, after the semicolon (;) insert: creating s. 514.0305, F.S.; requiring the pools to be enclosed by a barrier; establishing additional safety requirements; requiring inspections; providing penalties for violations; providing that attorney's fees and costs be awarded to the Department of Health at a hearing at which the department prevails; providing definitions and for application; providing for exceptions; amending s. 514.0115, F.S.; providing that certain condominiums and cooperatives must comply with specified requirements of law;

## POINT OF ORDER

Senator Fasano raised a point of order that pursuant to rule 7.1 **Amendment 26 (212230)** contained language of a bill not reported favorably by a Senate committee and was therefore out of order.

The President referred the point of order and the amendment to Senator Lee, Chair of the Committee on Rules and Calendar.

On motion by Senator Peaden, further consideration of **CS for CS for SB 2170** with pending **Amendment 26 (212230)** and pending point of order was deferred.

On motion by Senator Aronberg—

**CS for SB 2796 and CS for SB 1418**—A bill to be entitled An act relating to cruelty to animals; amending s. 828.12, F.S.; increasing certain minimum mandatory fines and periods of incarceration for certain acts of cruelty to animals; amending s. 828.121, F.S.; providing a definition; providing that it is a first-degree misdemeanor for a person to intentionally drag or fell by the tail a bovine animal in an organized sports exhibition; providing clarification regarding techniques or practices that are not prohibited; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2796 and CS for SB 1418** was placed on the calendar of Bills on Third Reading.

On motion by Senator Peaden, the Senate resumed consideration of—

**CS for CS for SB 2170**—A bill to be entitled An act relating to the Department of Health; amending s. 381.005, F.S.; requiring hospitals to offer immunizations against the influenza virus and pneumococcal bacteria to all patients 65 years of age or older during specified time periods, subject to the availability of the vaccines; amending s. 395.0193, F.S., relating to disciplinary powers; correcting references to the Division of Medical Quality Assurance and the department; amending s. 395.0197, F.S.; requiring the Agency for Health Care Administration to forward reports of adverse incidents to the division; amending s. 395.3025, F.S.; providing requirements for a facility administrator or records custodian with respect to the certification of patient records; specifying the charges for reproducing records; revising purposes for which patient records may be used; amending s. 395.7015, F.S., relating to annual assessments; correcting cross-references; amending s. 400.141, F.S.; providing requirements for the production of records by nursing home facilities; amending s. 400.145, F.S.; providing requirements for a facility administrator or records custodian with respect to the certification of patient records; allowing facilities to charge a reasonable fee for certain copies of documents which are provided to the department; amending s. 400.147, F.S.; requiring the Agency for Health Care Administration to provide certain reports to the division; amending s. 400.211, F.S.; revising inservice training requirements for nursing assistants; amending s. 400.423, F.S.; requiring the Agency for Health Care Administration to forward reports of adverse incidents to the division; creating s. 400.455, F.S.; providing requirements for the production of records by assisted living facilities; amending s. 456.005, F.S.; requiring the department to obtain input from licensees in developing long-range plans; amending s. 456.011, F.S.; providing procedures for resolving a conflict between two or more boards; authorizing the Secretary of Health to resolve certain conflicts between boards; amending s. 456.012, F.S.; limiting challenges by a board to a declaratory statement; amending s. 456.013, F.S.; increasing the period of validity of a temporary license; authorizing a rule allowing coursework to be completed by certain teaching activities; revising requirements for wall certificates; amending s. 381.00593, F.S., relating to the public school volunteer program; correcting a cross-reference; amending s. 456.017, F.S.; revising requirements for examinations; authorizing the department to post scores on the Internet; creating s. 456.0195, F.S.; requiring continuing education concerning domestic violence, and HIV and AIDS; specifying course content; providing for disciplinary action for failure to comply with the requirements; amending s. 456.025, F.S.; revising reporting requirements for the department concerning management of the boards; amending s. 456.031, F.S.; revising requirements for continuing education concerning domestic violence; deleting a reporting requirement; amending ss. 456.036 and

456.037, F.S.; authorizing the board or department to require the display of a license; amending s. 456.039, F.S., relating to designated health care professionals; correcting a cross-reference; amending s. 456.057, F.S.; specifying the charges for healthcare practitioners to reproduce records for the Department of Health; amending s. 456.063, F.S.; authorizing the board or the department to adopt rules to determine the sufficiency of an allegation of sexual misconduct; amending s. 456.072, F.S.; revising certain grounds for disciplinary action; prohibiting the provision of a drug if the patient does not have a valid professional relationship with the prescribing practitioner; providing for disciplinary action against an impaired practitioner who is terminated from an impaired practitioner program for failure to comply, without good cause, with the terms of his or her monitoring or treatment contract; authorizing the department to impose a fee to defray the costs of monitoring a licensee's compliance with an order; amending s. 456.073, F.S.; revising certain procedures for investigations concerning a disciplinary proceeding; amending s. 457.105, F.S.; revising requirements for licensure to practice acupuncture; amending s. 457.107, F.S.; removing certain education programs as eligible for continuing education credit; authorizing the Board of Acupuncture to adopt rules for establishing standards for providers of continuing education activities; amending s. 457.109, F.S.; clarifying circumstances under which the department may take disciplinary action; amending s. 458.303, F.S., relating to certain exceptions to the practice acts; correcting cross-references; amending s. 458.311, F.S.; revising licensure requirements for physicians; amending s. 458.3124, F.S., relating to restricted licenses; correcting a cross-reference; amending s. 458.315, F.S.; revising requirements for issuing a limited license to practice as a physician; providing for waiver of fees and assessments; amending s. 458.319, F.S., relating to continuing education; conforming provisions; amending s. 458.320, F.S., relating to financial responsibility; correcting a cross-reference; amending s. 458.331, F.S.; revising requirements for a physician in responding to a complaint or other document; amending s. 458.345, F.S., relating to the registration of residents, interns, and fellows; correcting a cross-reference; amending s. 458.347, F.S.; revising requirements for licensure as a physician assistant; revising requirements for temporary licensure; authorizing the board to mandate requirements for continuing medical education, including alternative methods for obtaining credits; amending s. 459.008, F.S.; authorizing the board to require by rule continuing medical education and approve alternative methods of obtaining credits; amending s. 459.015, F.S.; revising requirements for an osteopathic physician in responding to a complaint or other document; amending s. 459.021, F.S.; revising certain requirements for registration as a resident, intern, or fellow; amending s. 460.406, F.S., relating to the licensure of chiropractic physicians; correcting a reference; revising requirements for chiropractic physician licensure to allow a student in his or her final year of an accredited chiropractic school to apply for licensure; amending ss. 460.413 and 461.013, F.S.; revising requirements for a chiropractic physician and podiatric physician in responding to a complaint or other document; amending s. 461.014, F.S.; revising the interval at which hospitals with podiatric residency programs submit lists of podiatric residents; amending s. 463.006, F.S., relating to optometry; correcting a reference; amending and reenacting s. 464.009, F.S.; amending s. 464.0205, F.S., relating to volunteer nurses; correcting a cross-reference; amending s. 464.201, F.S.; defining the term "practice of a certified nursing assistant"; amending s. 464.202, F.S.; requiring rules for practice as a certified nursing assistant which specify the scope of authorized practice and level of supervision required; amending s. 464.203, F.S.; revising screening requirements for certified nursing assistants; amending s. 464.204, F.S., relating to disciplinary actions; clarifying a cross-reference; amending s. 465.0075, F.S.; clarifying requirements for certain continuing education for pharmacists; amending s. 465.022, F.S.; requiring that a pharmacy permit be issued only to a person or corporate officers who are 18 years of age or older and of good moral character; requiring that certain persons applying for a pharmacy permit submit fingerprints for a criminal history check; amending s. 465.023, F.S.; authorizing the department to deny a pharmacy permit application for specified reasons; specifying additional criteria for denying, revoking or suspending a pharmacy permit; amending s. 465.025, F.S.; revising requirements for the substitution of drugs; deleting requirements that a pharmacy establish a formulary of generic and brand name drugs; amending s. 465.0251, F.S., relating to generic drugs; correcting a cross-reference; amending s. 465.0265, F.S.; providing requirements for central fill pharmacies that prepare prescriptions on behalf of pharmacies; amending s. 465.026, F.S.; authorizing a community pharmacy to transfer a prescription for certain controlled substances; amending s. 466.007, F.S.; revising requirements for dental hygienists in qualifying for examination; amending s. 466.021, F.S.; revising records re-

quirements concerning unlicensed persons employed by a dentist; amending s. 467.009, F.S., relating to midwifery programs; correcting references; amending s. 467.013, F.S.; providing for placing a midwife license on inactive status pursuant to rule of the department; deleting requirements for reactivating an inactive license; amending s. 467.0135, F.S.; revising requirements for fees, to conform; amending s. 467.017, F.S.; revising requirements for the emergency care plan; amending s. 468.1155, F.S., relating to the practice of speech-language pathology and audiology; correcting references; amending s. 468.352, F.S.; revising and providing definitions applicable to the regulation of respiratory therapy; amending s. 468.355, F.S.; revising provisions relating to respiratory therapy licensure and testing requirements; amending s. 468.368, F.S.; revising exemptions from respiratory therapy licensure requirements; repealing s. 468.356, F.S., relating to the approval of educational programs; repealing s. 468.357, F.S., relating to licensure by examination; amending s. 468.509, F.S., relating to dietitian/nutritionists; correcting references; amending s. 468.707, F.S., relating to licensure as an athletic trainer; conforming provisions to changes made by the act; amending s. 480.041, F.S.; revising requirements for licensure as a massage therapist; requiring the department to provide for a written examination for the practice of colonic irrigation; amending s. 486.021, F.S., relating to the practice of physical therapy; redefining the term "direct supervision"; amending s. 486.031, F.S., relating to licensure requirements; correcting references; amending s. 486.051, F.S.; revising examination requirements; amending s. 486.081, F.S.; providing for licensure by endorsement for physical therapists licensed in another jurisdiction; amending s. 486.102, F.S.; revising requirements for licensure; correcting reference; amending s. 486.104, F.S.; revising examination requirements for a physical therapist assistant; amending s. 486.107, F.S.; providing for licensure by endorsement for physical therapist assistants licensed in another jurisdiction; amending s. 486.109, F.S.; revising requirements for continuing education; amending s. 486.161, F.S.; providing an exemption from licensure for certain physical therapists affiliated with a team or organization temporarily located in the state; amending s. 486.172, F.S.; clarifying provisions governing the qualifications of immigrants for examination; amending s. 490.005, F.S., relating to psychological services; correcting references; amending s. 491.005, F.S., relating to clinical, counseling, and psychotherapy services; revising licensure requirements; correcting references; amending s. 491.006, F.S.; providing requirements for licensure by endorsement as a mental health counselor; amending ss. 491.009 and 491.0145, F.S.; clarifying provisions governing the discipline of a certified master social worker; creating s. 491.0146, F.S.; providing for the validity of certain licenses to practice as a certified master social worker; amending s. 491.0147, F.S.; providing an exemption from liability for disclosure of confidential information under certain circumstances; amending s. 817.505, F.S.; clarifying provisions prohibiting actions that constitute patient brokering; amending s. 817.567, F.S., relating to making false claims of a degree or title; correcting a reference; amending s. 1009.992, F.S., relating to the Florida Higher Education Loan Authority Act; correcting a reference; amending s. 468.711, F.S.; deleting the requirement that continuing education for athletic trainers include first aid; amending s. 468.723, F.S.; revising exemptions from licensure requirements; amending s. 1012.46, F.S.; providing that a first responder for a school district may not represent himself or herself as an athletic trainer; providing for reactivation of a license to practice medicine by certain retired practitioners; providing conditions on such reactivation; providing for a fee; providing powers, including rulemaking powers, of the Board of Medicine; providing for future review and expiration; amending s. 466.0135, F.S.; providing additional requirements for continuing education for dentists; amending s. 480.034, F.S.; exempting certain massage therapists from premises licensure; repealing ss. 456.033, 456.034, 458.313, 458.3147, 458.316, 458.3165, 458.317, 468.711(3), and 480.044(1)(h), F.S., relating to instruction concerning HIV and AIDS, licensure by endorsement of physicians, medical school eligibility, public health and public psychiatry certificates, limited licenses, and examination fees; providing an effective date.

—which was previously considered and amended this day.

#### POINT OF ORDER DISPOSITION

The pending point of order by Senator Fasano and pending **Amendment 26 (212230)**, by Senator Wasserman Schultz, were withdrawn.

## MOTION

On motion by Senator Jones, the rules were waived to allow the following amendments to be considered:

Senator Jones moved the following amendments which were adopted:

**Amendment 27 (410622)**—On page 72, lines 19-29, delete those lines and insert:

(5) *A student in a school or college of chiropractic accredited by the Council on Chiropractic Education, or its successors, in the final 6 months prior to his or her scheduled graduation, may file an application under subsection (1), take all examinations required for licensure, submit a set of fingerprints and pay all fees required for licensure. A chiropractic student who takes and successfully passes the licensure examinations and who otherwise meets all requirements for licensure as a chiropractic physician during the student's final 6 months of study must graduate and supply proof of graduation to the department before being certified for licensure under s. 460.406.*

**Amendment 28 (222294)**—On page 71, lines 1-16, delete those lines and insert:

Section 43. Paragraphs (c) and (d) of subsection (1) of section 460.406, Florida Statutes, are amended and subsection (5) is added to that section to read:

460.406 Licensure by examination.—

(1) Any person desiring to be licensed as a chiropractic physician shall apply to the department to take the licensure examination. There shall be an application fee set by the board not to exceed \$100 which shall be nonrefundable. There shall also be an examination fee not to exceed \$500 plus the actual per applicant cost to the department for purchase of portions of the examination from the National Board of Chiropractic Examiners or a similar national organization, which may be refundable if the applicant is found ineligible to take the examination. The department shall examine each applicant who the board certifies has:

(c) Submitted proof satisfactory to the department that he or she is *within 6 months of graduating from or is a graduate of a chiropractic college which is accredited by or has status with the Council on Chiropractic Education or its predecessor agency. However, any applicant who is a graduate of a chiropractic college that was initially accredited by the Council on Chiropractic Education in 1995, who graduated from such college within the 4 years immediately preceding such accreditation, and who is otherwise qualified shall be eligible to take the examination. No application for a license to practice chiropractic medicine shall be denied solely because the applicant is a graduate of a chiropractic college that subscribes to one philosophy of chiropractic medicine as distinguished from another.*

## MOTION

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

Senator Alexander offered the following amendment which was moved by Senator Saunders and adopted:

**Amendment 29 (212382)(with title amendment)**—On page 134, delete line 22 and insert:

Section 102. Subsections (3) and (4) of section 400.9905, Florida Statutes, are amended, and subsections (5) and (6) are added to that section, to read:

400.9905 Definitions.—

(3) “Clinic” means an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services, *including a mobile clinic and a portable equipment provider.* For purposes of this part, the term does not include and the licensure requirements of this part do not apply to:

(a) *Entities licensed or registered by the state under chapter 395; or entities licensed or registered by the state and providing only health care*

*services within the scope of services authorized under their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(b) *Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 395; or entities that own, directly or indirectly, entities licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(c) *Entities that are owned, directly or indirectly, by an entity licensed or registered by the state pursuant to chapter 395; or entities that are owned, directly or indirectly, by an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(d) *Entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state pursuant to chapter 395; or entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to its respective license granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based services by licensed practitioners solely within a hospital licensed under chapter 395.*

(e) *An entity that is exempt from federal taxation under 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), and any community college or university clinic, and any entity owned or operated by federal or state government, including agencies, subdivisions, or municipalities thereof.*

(f) *A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered by s. 627.419, that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician.*

(g)(f) *A sole proprietorship, group practice, partnership, or corporation that provides health care services by licensed health care practitioners under chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, ~~chapter 480~~, chapter 484, chapter 486, chapter 490, chapter 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, which are wholly owned by one or more licensed health care practitioners practitioner, or the licensed health care practitioners set forth in this paragraph practitioner and the spouse, parent, or child, or sibling of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, a health care practitioner may not supervise services beyond the scope of the practitioner's license, except that, for the purposes of this part, a clinic owned by a licensee in s. 456.053(3)(b) that provides only services authorized pursuant to s.*

456.053(3)(b) may be supervised by a licensee specified in s. 456.053(3)(b).

(h)(g) Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.

(i) *Entities that provide only oncology or radiation therapy services by physicians licensed under chapter 458 or 459.*

(4) "Medical director" means a physician who is employed or under contract with a clinic and who maintains a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461. However, if the clinic does not provide services pursuant to the respective physician practice acts listed in this subsection, it is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a Florida-licensed health care practitioner who does not provide services pursuant to the respective physician practice acts listed in this subsection licensed under that chapter to serve as a clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license, except that a licensee specified in s. 456.053(3)(b) that provides only services authorized pursuant to s. 456.053(3)(b) may serve as clinic director of an entity providing services as specified in s. 456.053(3)(b).

(5) "Mobile clinic" means a movable or detached self-contained health care unit within or from which direct health care services are provided to individuals and that otherwise meets the definition of a clinic in subsection (3).

(6) "Portable equipment provider" means an entity that contracts with or employs persons to provide portable equipment to multiple locations performing treatment or diagnostic testing of individuals, that bills third-party payors for those services, and that otherwise meets the definition of a clinic in subsection (3).

Section 103. *The creation of paragraph 400.9905(3)(i), Florida Statutes, by this act is intended to clarify the legislative intent of this provision as it existed at the time the provision initially took effect as section 456.0375(1)(b), Florida Statutes, and paragraph 400.9905(3)(i), Florida Statutes, as created by this act, shall operate retroactively to October 1, 2001. Nothing in this section shall be construed as amending, modifying, limiting, or otherwise affecting in any way the legislative intent, scope, terms, prohibition, or requirements of section 456.053, Florida Statutes.*

Section 104. Subsections (1), (2), and (3) and paragraphs (a) and (b) of subsection (7) of section 400.991, Florida Statutes, are amended to read:

400.991 License requirements; background screenings; prohibitions.—

(1)(a) Each clinic, as defined in s. 400.9905, must be licensed and shall at all times maintain a valid license with the agency. Each clinic location shall be licensed separately regardless of whether the clinic is operated under the same business name or management as another clinic.

(b) *Each mobile clinic must obtain a separate health care clinic license and clinics must provide to the agency, at least quarterly, its their projected street location locations to enable the agency to locate and inspect such clinic clinics. A portable equipment provider must obtain a health care clinic license for a single administrative office and is not required to submit quarterly projected street locations.*

(2) The initial clinic license application shall be filed with the agency by all clinics, as defined in s. 400.9905, on or before July March 1, 2004. A clinic license must be renewed biennially.

(3) Applicants that submit an application on or before July March 1, 2004, which meets all requirements for initial licensure as specified in this section shall receive a temporary license until the completion of an initial inspection verifying that the applicant meets all requirements in rules authorized by s. 400.9925. However, a clinic engaged in magnetic resonance imaging services may not receive a temporary license unless it presents evidence satisfactory to the agency that such clinic is making a good faith effort and substantial progress in seeking accreditation required under s. 400.9935.

(7) Each applicant for licensure shall comply with the following requirements:

(a) As used in this subsection, the term "applicant" means individuals owning or controlling, directly or indirectly, 5 percent or more of an interest in a clinic; the medical or clinic director, or a similarly titled person who is responsible for the day-to-day operation of the licensed clinic; the financial officer or similarly titled individual who is responsible for the financial operation of the clinic; and licensed *health care practitioners* ~~medical providers~~ at the clinic.

(b) Upon receipt of a completed, signed, and dated application, the agency shall require background screening of the applicant, in accordance with the level 2 standards for screening set forth in chapter 435. Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other health care licensure requirements of this state is acceptable in fulfillment of this paragraph. *Applicants who own less than 10 percent of a health care clinic are not required to submit fingerprints under this section.*

Section 105. Subsections (9) and (11) of section 400.9935, Florida Statutes, are amended to read:

400.9935 Clinic responsibilities.—

(9) Any person or entity providing health care services which is not a clinic, as defined under s. 400.9905, may voluntarily apply for a certificate of exemption from licensure under its exempt status with the agency on a form that sets forth its name or names and addresses, a statement of the reasons why it cannot be defined as a clinic, and other information deemed necessary by the agency. *An exemption is not transferable. The agency may charge an applicant for a certificate of exemption \$100 or the actual cost, whichever is less, for processing the certificate.*

(11)(a) Each clinic engaged in magnetic resonance imaging services must be accredited by the Joint Commission on Accreditation of Healthcare Organizations, the American College of Radiology, or the Accreditation Association for Ambulatory Health Care, within 1 year after licensure. However, a clinic may request a single, 6-month extension if it provides evidence to the agency establishing that, for good cause shown, such clinic can not be accredited within 1 year after licensure, and that such accreditation will be completed within the 6-month extension. After obtaining accreditation as required by this subsection, each such clinic must maintain accreditation as a condition of renewal of its license.

(b) The agency may *deny disallow* the application or *revoke the license* of any entity formed for the purpose of avoiding compliance with the accreditation provisions of this subsection and whose principals were previously principals of an entity that was unable to meet the accreditation requirements within the specified timeframes. The agency may adopt rules as to the accreditation of magnetic resonance imaging clinics.

Section 106. Subsections (1) and (3) of section 400.995, Florida Statutes, are amended, and subsection (10) is added to said section, to read:

400.995 Agency administrative penalties.—

(1) The agency may *deny the application for a license renewal, revoke or suspend the license, and impose administrative fines penalties against* ~~clinics~~ of up to \$5,000 per violation for violations of the requirements of this part or *rules of the agency*. In determining if a penalty is to be imposed and in fixing the amount of the fine, the agency shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient will result or has resulted, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated.

(b) Actions taken by the owner, medical director, or clinic director to correct violations.

(c) Any previous violations.

(d) The financial benefit to the clinic of committing or continuing the violation.

(3) Any action taken to correct a violation shall be documented in writing by the owner, medical director, or clinic director of the clinic and verified through followup visits by agency personnel. The agency may impose a fine and, in the case of an owner-operated clinic, revoke or deny a clinic's license when a clinic medical director or clinic director *knowingly fraudulently* misrepresents actions taken to correct a violation.

(10) *If the agency issues a notice of intent to deny a license application after a temporary license has been issued pursuant to s. 400.991(3), the temporary license shall expire on the date of the notice and may not be extended during any proceeding for administrative or judicial review pursuant to chapter 120.*

Section 107. *The agency shall refund 90 percent of the license application fee to applicants that submitted their health care clinic licensure fees and applications but were subsequently exempted from licensure by this act.*

Section 108. *Any person or entity defined as a clinic under section 400.9905, Florida Statutes, shall not be in violation of part XIII of chapter 400, Florida Statutes, due to failure to apply for a clinic license by March 1, 2004, as previously required by section 400.991, Florida Statutes. Payment to any such person or entity by an insurer or other person liable for payment to such person or entity may not be denied on the grounds that the person or entity failed to apply for or obtain a clinic license before March 1, 2004.*

Section 109. Except for this section and sections 102-108, which shall take effect upon becoming a law, and except that section 103 shall apply retroactively to March 1, 2004, this act shall take effect July 1, 2004.

And the title is amended as follows:

On page 10, delete line 28 and insert: examination fees; amending s. 400.9905, F.S.; revising the definitions of "clinic" and "medical director" and defining "mobile clinic" and "portable equipment provider" for purposes of the Health Care Clinic Act; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 400.991, F.S.; requiring each mobile clinic to obtain a health care clinic license; requiring a portable equipment provider to obtain a health care clinic license for a single office and exempting such a provider from submitting certain information to the Agency for Health Care Administration; revising the date by which an initial application for a health care clinic license must be filed with the agency; revising the definition of "applicant"; amending s. 400.9935, F.S.; providing that an exemption from licensure is not transferable; providing that the agency may charge a fee of applicants for certificates of exemption; providing that the agency may deny an application or revoke a license under certain circumstances; amending s. 400.995, F.S.; providing that the agency may deny, revoke, or suspend specified licenses and impose fines for certain violations; providing that a temporary license expires after a notice of intent to deny an application is issued by the agency; providing that persons or entities made exempt under the act and which have paid the clinic licensure fee to the agency are entitled to a partial refund from the agency; providing that certain persons or entities are not in violation of part XIII of ch. 400, F.S., due to failure to apply for a clinic license by a specified date; providing that certain payments may not be denied to such persons or entities for failure to apply for or obtain a clinic license before a specified date; providing effective dates.

Pursuant to Rule 4.19, **CS for CS for SB 2170** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Argenziano—

**CS for CS for SB 2820**—A bill to be entitled An act relating to the Fish and Wildlife Conservation Commission; amending s. 20.331, F.S.; reorganizing the commission; granting rights and privileges to the commission; providing responsibilities and duties of the executive director; revising the administrative structure of the commission; providing that the principal unit for program services within the commission shall be a division headed by a director; providing that the principal unit for research services within the commission is the Fish and Wildlife Research Institute; providing that the principal subunit within a division

shall be a section headed by a leader; providing that the principal subunit within a section shall be a subsection headed by an administrator; establishing divisions and sections within the commission; providing that the principal unit for administrative and support services shall be the Office of Executive Direction and Administrative Support Services headed by the executive director of the commission; establishing additional offices within the Office of Executive Direction and Administrative Support Services; providing that the head of an office shall be a director; providing an exception; providing position classifications within the state employee system; providing for reallocation of certain duties and functions; providing that additional divisions of the commission may only be created by general law; providing that divisions, offices, and sections created by this act may only be abolished by general law; authorizing the Department of Management Services and the Executive Office of the Governor to establish and approve new sections, subsections, and offices as initiated by the commission; assigning duties and responsibilities to the divisions; providing powers, duties, responsibilities, and functions of the Boating and Waterways Section; providing for adequate due process procedures; establishing statutory duties of the commission; authorizing the commission to provide comments to permitting agencies; authorizing the commission to acquire lands in the name of the state for certain purposes; providing for employee bonds at the request of the commission; amending s. 20.2551, F.S.; deleting provisions authorizing grants from the Florida Marine Research Institute to citizen support organizations within the Department of Environmental Protection; amending ss. 370.0603, 370.06091, 370.06093, 372.0215, 372.5701, 372.5702, and 403.0882, F.S.; conforming provisions to changes made by the act; amending s. 370.06092, F.S.; deleting obsolete provisions; conforming provisions to changes made by the act; amending s. 372.0222, F.S.; requiring the commission to publish the Florida Wildlife Magazine; creating the Florida Wildlife Magazine Advisory Council; requiring the council to make recommendations to the commission regarding magazine publication; providing for qualifications of members, appointment of members, terms of office, administrative support, and reimbursement for travel expenses; amending s. 372.0225, F.S.; revising requirements for the regulation of the promotion, marketing, and quality control of freshwater organisms; repealing s. 370.021(11), F.S., relating to employee bond requirements; repealing s. 370.16(2) and (5), F.S., relating to noncultured shellfish harvesting; repealing s. 370.172(4), F.S., relating to spearfishing; repealing s. 370.083, F.S., relating to special acts; repealing s. 370.162, F.S., relating to the purchase of sponges; repealing s. 372.051, F.S., relating to the seal of the commission; repealing s. 372.9906, F.S., relating to the Wildlife Law Enforcement Program; repealing subsection (3) of section 5 of chapter 99-245, Laws of Florida, relating to the Florida Marine Research Institute; providing an appropriation to the commission from the State Game Trust Fund to fund publication of the Florida Wildlife Magazine; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 2820** was placed on the calendar of Bills on Third Reading.

On motion by Senator Saunders—

**CS for SB 1762**—A bill to be entitled An act relating to trauma care; amending s. 381.74, F.S.; requiring hospitals and trauma centers to provide data on moderate-to-severe brain or spinal cord injuries to the Department of Health; amending s. 381.745, F.S.; defining "department" for purposes of the "Charlie Mack Overstreet Brain or Spinal Cord Injuries Act"; amending s. 395.40, F.S.; revising legislative findings; revising duties of the Department of Health to implement and plan for a statewide trauma system; amending s. 395.4001, F.S.; revising definitions; amending s. 395.401, F.S.; revising components for local and regional trauma services system plans; correcting references to the term "trauma center"; amending s. 395.4015, F.S.; requiring that the boundaries of the trauma regions administered by the Department of Health be coterminous with the boundaries of the regional domestic security task forces established within the Department of Law Enforcement; providing exceptions for certain interlocal agreements for trauma services in a regional system; eliminating requirements for the Department of Health to develop the minimum components for systems plans in defined trauma regions; amending s. 395.402, F.S.; revising requirements for the Department of Health to review trauma service areas; deleting an obsolete requirement that the department's assignment of counties for the purposes of developing a system of trauma centers remain as established by ch. 90-284, Laws of Florida, until completion of the department's

initial review; correcting references to the term "trauma center"; amending s. 395.4025, F.S.; revising requirements for the Department of Health's development of a state trauma system plan; deleting obsolete references; correcting references to the term "trauma center"; revising requirements for the department's approval and verification of a facility as a trauma center; granting the department authority to adopt rules for the procedures and process for notification, duration, and explanation of a trauma center's termination of trauma services; amending s. 395.403, F.S.; correcting references to the term "trauma center"; revising legislative intent; revising eligibility requirements for state funding of trauma centers; amending s. 395.4035, F.S.; correcting references to the term "trauma center"; amending s. 395.404, F.S.; revising reporting requirements to the trauma registry data system maintained by the Department of Health; providing that hospitals and trauma centers subject to reporting trauma registry data to the department are required to comply with other duties concerning the moderate-to-severe brain or spinal cord injury registry maintained by the department; correcting references to the term "trauma center"; amending s. 395.405, F.S.; authorizing the Department of Health to adopt and enforce rules necessary to administer part II of ch. 395, F.S.; providing an effective date.

—was read the second time by title.

The Committee on Home Defense, Public Security, and Ports recommended the following amendment which was moved by Senator Saunders:

**Amendment 1 (945668)(with title amendment)**—On page 32, between lines 30 and 31, insert:

Section 13. Paragraph (g) is added to subsection (7) of section 212.055, Florida Statutes, to read:

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

(7) VOTER-APPROVED INDIGENT CARE SURTAX.—

(g) *Notwithstanding any other provision of this section, the governing body in each county the government of which is not consolidated with that of one or more municipalities and that has a population of less than 800,000 residents, or a municipality or special district within such county, may levy, pursuant to an ordinance or resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.2 percent for the sole purpose of funding trauma services provided by a trauma center licensed under chapter 395. A county may not levy a discretionary sales surtax authorized in this paragraph and this subsection in excess of a combined rate of 0.5 percent.*

1. *A statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:*

*FOR THE . . . CENTS TAX  
AGAINST THE . . . CENTS TAX*

2. *The ordinance or resolution adopted by the governing body of the county, municipality, or special district providing for the imposition of the surtax shall set forth a plan for providing trauma services to trauma victims presenting in the trauma service area in which such county, municipality, or special district is located.*

3. *Moneys collected under this paragraph remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the clerk of the circuit, the clerk of the municipality, or the treasurer of the special district, as ex officio custodian of the funds of the authorizing county, municipality, or special district. The custodian of the funds shall:*

- a. *Maintain the moneys in a trauma services trust fund;*
- b. *Invest any funds held on deposit in the trust fund under general law;*
- c. *Disburse the funds, including any interest earned, to the trauma center in its trauma service area, as provided in the plan set forth in subparagraph 2. upon directive from the authorizing county, municipality, or special district. If the trauma center receiving funds requests that such funds be used to generate federal matching funds under Medicaid, the custodian of the funds shall instead issue a check to the Agency for Health Care Administration to accomplish that purpose to the extent that is allowed through the General Appropriations Act; and*
- d. *Prepare on a biennial basis an audit of the trauma services trust fund specified in sub-subparagraph a., to be delivered to the authorizing county, municipality, or special district.*

4. *The provisions of paragraph (f) do not apply to a surtax levied under this paragraph.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 5, following the semicolon (;) insert: providing that a governing body of certain counties, municipalities, or special districts may levy a sales surtax for the purpose of funding of trauma services if approved by a majority vote of the electors of the county; requiring a statement regarding a brief description of the purposes of the surtax to be placed on the ballot by the governing body; requiring the ordinance or resolution to set forth a plan for providing trauma services; requiring the Department of Revenue to distribute moneys to the clerk of court or the custodian of the funds; providing duties of the custodian of the funds;

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

**Amendment 1A (215662)**—On page 3, line 20, after "that is" delete: *is*

**Amendment 1** as amended was adopted.

The Committee on Home Defense, Public Security, and Ports recommended the following amendment which was moved by Senator Saunders and failed:

**Amendment 2 (953522)**—On page 25, between lines 8 and 9, insert:

(14) *Notwithstanding any other provision of this section and rules adopted pursuant to this section that impose time limits on the applications by hospitals seeking approval and verification to operate as a trauma center, any acute care general or pediatric hospital that has not already been previously approved may apply beginning on July 1, 2004, to the Department of Health for approval and verification to operate as a provisional trauma center or trauma center within the framework and substantive requirements under this part.*

Senator Saunders moved the following amendments which were adopted:

**Amendment 3 (120838)(with title amendment)**—On page 3, between lines 27 and 28, insert:

Section 3. Subsection (1) of section 395.003, Florida Statutes, is amended to read:

395.003 Licensure; issuance, renewal, denial, modification, suspension, and revocation.—

(1)(a) ~~A No~~ *person may not shall* establish, conduct, or maintain a hospital, ambulatory surgical center, or mobile surgical facility in this state without first obtaining a license under this part.

(b)1. It is unlawful for a ~~any~~ *person* to use or advertise to the public, in any way or by any medium whatsoever, any facility as a "hospital," "ambulatory surgical center," or "mobile surgical facility" unless such facility has first secured a license under the provisions of this part.

2. ~~Nothing in~~ This part ~~does not apply~~ applies to veterinary hospitals or to commercial business establishments using the word "hospital," "ambulatory surgical center," or "mobile surgical facility" as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

3. *By December 31, 2004, the agency shall submit a report to the President of the Senate and the Speaker of the House of Representatives recommending whether it is in the public interest to allow a hospital to license or operate an emergency department located off the premises of the hospital. If the agency finds it to be in the public interest, the report shall also recommend licensure criteria for such medical facilities, including criteria related to quality of care and, if deemed necessary, the elimination of the possibility of confusion related to the service capabilities of such facility in comparison to the service capabilities of an emergency department located on the premises of the hospital. Until July 1, 2005, additional emergency departments located off the premises of licensed hospitals may not be authorized by the agency.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: amending s. 395.003, F.S.; requiring a report by the Agency for Health Care Administration regarding the licensure of emergency departments located off the premises of hospitals; prohibiting the issuance of licenses for such departments before July 1, 2005;

**Amendment 4 (901168)**—On page 4, line 26 through page 7, line 31, delete those lines and insert:

Section 4. Section 395.4001, Florida Statutes, is amended to read:

395.4001 Definitions.—As used in this part, the term:

- (1) "Agency" means the Agency for Health Care Administration.
- (2) "Charity care" or "uncompensated *trauma* ~~charity~~ care" means that portion of hospital charges reported to the agency for which there is no compensation, *other than restricted or unrestricted revenues provided to a hospital by local governments or tax districts regardless of method of payment*, for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to ~~200~~ 150 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal poverty level for a family of four be considered charity.
- (3) "Department" means the Department of Health.
- (4) "Interfacility trauma transfer" means the transfer of a trauma victim between two facilities licensed under this chapter, pursuant to this part.
- (5) "Level I trauma center" means a trauma center that:
  - (a) Has formal research and education programs for the enhancement of trauma care; ~~and is verified determined~~ by the department to be in substantial compliance with Level I trauma center and pediatric trauma ~~referral~~ center standards; ~~and has been approved by the department to operate as a Level I trauma center.~~
  - (b) Serves as a resource facility to Level II trauma centers, pediatric trauma ~~referral~~ centers, and general hospitals through shared outreach, education, and quality improvement activities.
  - (c) Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

(6) "Level II trauma center" means a trauma center that:

- (a) Is ~~verified determined~~ by the department to be in substantial compliance with Level II trauma center standards ~~and has been approved by the department to operate as a Level II trauma center.~~
- (b) Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.

(c) Participates in an inclusive system of trauma care.

(7) "Pediatric trauma ~~referral~~ center" means a hospital that is ~~verified determined~~ by the department to be in substantial compliance with pediatric trauma ~~referral~~ center standards as established by rule of the department ~~and has been approved by the department to operate as a pediatric trauma center.~~

(8) "Provisional trauma center" means a hospital that has been verified by the department to be in substantial compliance with the requirements in s. 395.4025 and has been approved by the department to operate as a provisional Level I trauma center, Level II trauma center, or pediatric trauma center.

~~(8) "State approved trauma center" means a hospital that has successfully completed the selection process pursuant to s. 395.4025 and has been approved by the department to operate as a trauma center in the state.~~

~~(9) "State sponsored trauma center" means a trauma center or pediatric trauma referral center that receives state funding for trauma care services under s. 395.403.~~

(9)(10) "Trauma agency" means a department-approved agency established and operated by one or more counties, or a department-approved entity with which one or more counties contract, for the purpose of administering an inclusive regional trauma system.

(10)(11) "Trauma alert victim" means a person who has incurred a single or multisystem injury due to blunt or penetrating means or burns, who requires immediate medical intervention or treatment, and who meets one or more of the adult or pediatric scorecard criteria established by the department by rule.

~~(11)(12) "Trauma center" means a ~~any~~ hospital that has been verified determined by the department to be in substantial compliance with the requirements in s. 395.4025 and has been approved by the department to operate as a Level I trauma center, Level II trauma center, or pediatric trauma center verification standards as either state approved or provisional state approved.~~

(12)(13) "Trauma scorecard" means a statewide methodology adopted by the department by rule under which a person who has incurred a traumatic injury is graded as to the severity of his or her injuries or illness and which methodology is used as the basis for making destination decisions.

(13)(14) "Trauma transport protocol" means a document which describes the policies, processes, and procedures governing the dispatch of vehicles, the triage, prehospital transport, and interfacility trauma transfer of trauma victims.

(14)(15) "Trauma victim" means any person who has incurred a single or multisystem injury due to blunt or penetrating means or burns and who requires immediate medical intervention or treatment.

Senator Saunders moved the following amendment:

**Amendment 5 (303152)(with title amendment)**—On page 15, line 12 through page 32, line 30, delete those lines and insert:

Section 7. Section 395.402, Florida Statutes, is amended to read:

395.402 Trauma service areas; number and location of trauma centers.—

(1) The Legislature recognizes *the need for a statewide, cohesive, uniform, and integrated trauma system. Within the trauma service areas, that Level I and Level II trauma centers shall* ~~should~~ each be capable of annually treating a minimum of 1,000 and 500 patients, respectively, with an injury severity score (ISS) of 9 or greater. *Level II trauma centers in counties with a population of more than 500,000 shall have the capacity to care for a minimum of 1,000 patients per year. Further, the Legislature finds that, based on the numbers and locations of trauma victims with these injury severity scores, there should be 19 trauma service areas in the state, and, at a minimum, there should be at least one trauma center in each service area.*

~~(2) It is the intent of the Legislature that, as a planning guideline, Level I and Level II trauma centers should generally each provide care~~

~~annually to a minimum of 1,000 and 500 patients, respectively. Level II trauma centers in counties of more than 500,000 population are expected to be able to care for 1,000 patients per year, as a planning guideline.~~

(2)(3) Trauma service areas as described in this section are to be utilized until the Department of Health completes an assessment of the trauma system and reports its findings to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the substantive legislative committees. The report shall be submitted by December 1, 2004. The department shall review the existing trauma system and determine whether it is effective in providing trauma care uniformly throughout the state. The assessment shall:

(a) Consider aligning trauma service areas within the trauma region boundaries as established in July 2004.

(b) Review the number and level of trauma centers needed for each trauma service area to provide a statewide integrated trauma system.

(c) Establish criteria for determining the number and level of trauma centers needed to serve the population in a defined trauma service area or region.

(d) Consider including a criteria within trauma center verification standards based upon the number of trauma victims served within a service area.

(3) In conducting this assessment and subsequent annual reviews, the department shall consider:

(a) The recommendations made as part of the regional trauma system plans submitted by regional trauma agencies.

(b) Stakeholder recommendations.

(c) The geographical composition of an area to ensure rapid access to trauma care by patients.

(d) Historical patterns of patient referral and transfer in an area.

(e) Inventories of available trauma care resources, including professional medical staff.

(f) Population growth characteristics.

(g) Transportation capabilities, including ground and air transport.

(h) Medically appropriate ground and air travel times.

(i) Recommendations of the Regional Domestic Security Task Force.

(j) The actual number of trauma victims currently being served by each trauma center.

(k) Other appropriate criteria.

(4) ~~Annually thereafter, used~~ the department shall ~~periodically~~ review the assignment of the 67 counties to trauma service areas, in addition to the requirements of paragraphs (2)(b)-(e) and subsection (3). ~~County~~ These assignments are made for the purpose of developing a system of trauma centers. Revisions made by the department shall ~~should~~ take into consideration the recommendations made as part of the regional trauma system plans approved by the department, and as well as the recommendations made as part of the state trauma system plan. ~~In cases where a trauma service area is located within the boundaries of more than one trauma region, the trauma service area's needs, response capability, and system requirements shall be considered by each trauma region served by that trauma service area in its regional system plan. These areas must, at a minimum, be reviewed in the year 2000 and every 5 years thereafter.~~ Until the department completes the December 2004 assessment ~~its initial review~~, the assignment of counties shall remain as established in this section pursuant to chapter 90-284, Laws of Florida.

(a) The following trauma service areas are hereby established:

1. Trauma service area 1 shall consist of Escambia, Okaloosa, Santa Rosa, and Walton Counties.

2. Trauma service area 2 shall consist of Bay, Gulf, Holmes, and Washington Counties.

3. Trauma service area 3 shall consist of Calhoun, Franklin, Gadsden, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties.

4. Trauma service area 4 shall consist of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union Counties.

5. Trauma service area 5 shall consist of Baker, Clay, Duval, Nassau, and St. Johns Counties.

6. Trauma service area 6 shall consist of Citrus, Hernando, and Marion Counties.

7. Trauma service area 7 shall consist of Flagler and Volusia Counties.

8. Trauma service area 8 shall consist of Lake, Orange, Osceola, Seminole, and Sumter Counties.

9. Trauma service area 9 shall consist of Pasco and Pinellas Counties.

10. Trauma service area 10 shall consist of Hillsborough County.

11. Trauma service area 11 shall consist of Hardee, Highlands, and Polk Counties.

12. Trauma service area 12 shall consist of Brevard and Indian River Counties.

13. Trauma service area 13 shall consist of DeSoto, Manatee, and Sarasota Counties.

14. Trauma service area 14 shall consist of Martin, Okeechobee, and St. Lucie Counties.

15. Trauma service area 15 shall consist of Charlotte, Glades, Hendry, and Lee Counties.

16. Trauma service area 16 shall consist of Palm Beach County.

17. Trauma service area 17 shall consist of Collier County.

18. Trauma service area 18 shall consist of Broward County.

19. Trauma service area 19 shall consist of Dade and Monroe Counties.

(b) Each trauma service area should have at least one Level I or Level II trauma center. The department shall allocate, by rule, the number of trauma centers needed for each trauma service area.

~~(c) There shall be no more than a total of 44 state-sponsored trauma centers in the state.~~

Section 8. Section 395.4025, Florida Statutes, is amended to read:

395.4025 ~~State-approved~~ Trauma centers; selection; quality assurance; records.—

(1) For purposes of developing a system of ~~state-approved~~ trauma centers, the department shall use the 19 trauma service areas established in s. 395.402. Within each service area and based on the state trauma system plan, the local or regional trauma services system plan, and recommendations of the local or regional trauma agency, ~~and the 1990 Report and Proposal for Funding State-Sponsored Trauma Centers~~, the department shall establish the approximate number of ~~state-approved~~ trauma centers needed to ensure reasonable access to high-quality trauma services. ~~The Using the guidelines and procedures outlined in the 1990 report, except when in conflict with those prescribed in this section, the department shall select those hospitals that are to be recognized as state-approved trauma centers and shall include all trauma centers verified as of October 1, 1990, and subsequently, subject to specific programmatic and quality of care standards.~~

(2)(a) The department shall annually notify each acute care general hospital and each local and each regional trauma agency in the state that the department is accepting letters of intent from hospitals that are interested in becoming ~~state-approved~~ trauma centers. In order to be

considered by the department, a hospital that operates within the geographic area of a local or regional trauma agency must certify that its intent to operate as a ~~state-approved~~ trauma center is consistent with the trauma services plan of the local or regional trauma agency, as approved by the department, if such agency exists. Letters of intent must be postmarked no later than midnight October 1. ~~This paragraph does not apply to any hospital that is a provisional or verified trauma center on January 1, 1992.~~

(b) By October 15, the department shall send to all hospitals that submitted a letter of intent an application package that will provide the hospitals with instructions for submitting information to the department for selection as a ~~state-approved~~ trauma center. The standards for ~~verification of trauma centers and pediatric trauma referral centers~~ provided for in s. 395.401(2), as adopted by rule of the department, shall serve as the basis for these instructions.

(c) In order to be considered by the department, applications from those hospitals seeking selection as ~~state-approved~~ trauma centers, including those current ~~verified~~ trauma centers that seek *a change or redesignation in approval status as a trauma center to be state-approved trauma centers*, must be received by the department no later than the close of business on April 1. The department shall conduct a provisional review of each application for the purpose of determining that the hospital's application is complete and that the hospital has the critical elements required for a ~~state-approved~~ trauma center. This critical review will be based on trauma center ~~verification~~ standards and shall include, but not be limited to, a review of whether the hospital has:

1. Equipment and physical facilities necessary to provide trauma services.
2. Personnel in sufficient numbers and with proper qualifications to provide trauma services.
3. An effective quality assurance process.
4. Submitted written confirmation by the local or regional trauma agency that ~~the verification of the hospital applying to become as a state-approved~~ trauma center is consistent with the plan of the local or regional trauma agency, as approved by the department, if such agency exists. ~~This subparagraph applies to any hospital that is not a provisional or verified trauma center on January 1, 1992.~~

(d)1. Notwithstanding other provisions in this section, the department may grant up to an additional 18 months to a hospital applicant that is unable to meet all requirements as provided in paragraph (c) at the time of application if the number of applicants in the service area in which the applicant is located is equal to or less than the service area allocation, as provided by rule of the department. An applicant that is granted additional time pursuant to this paragraph shall submit a plan for departmental approval which includes timelines and activities that the applicant proposes to complete in order to meet application requirements. Any applicant that demonstrates an ongoing effort to complete the activities within the timelines outlined in the plan shall be included in the number of ~~state-approved~~ trauma centers at such time that the department has conducted a provisional review of the application and has determined that the application is complete and that the hospital has the critical elements required for a ~~state-approved~~ trauma center.

2. Timeframes provided in subsections (1)-(8) shall be stayed until the department determines that the application is complete and that the hospital has the critical elements required for a ~~state-approved~~ trauma center.

(3) After April 30, any hospital that submitted an application found acceptable by the department based on provisional review, ~~including all trauma centers verified as of December 1, 1989~~, shall be eligible to operate as a provisional ~~state-approved~~ trauma center.

(4) Between May 1 and October 1 of each year, the department shall conduct an in-depth evaluation of all applications found acceptable in the provisional review. The applications shall be evaluated against criteria enumerated in the application packages as provided to the hospitals by the department.

(5) Beginning October 1 of each year and ending no later than June 1 of the following year, a review team of out-of-state experts assembled

by the department shall make onsite visits to all provisional ~~state-approved~~ trauma centers. The department shall develop a survey instrument to be used by the expert team of reviewers. The instrument shall include objective criteria and guidelines for reviewers based on existing trauma center and ~~pediatric trauma referral center verification~~ standards such that all trauma centers and ~~pediatric trauma referral centers~~ are assessed equally. The survey instrument shall also include a uniform rating system that will be used by reviewers to indicate the degree of compliance of each *trauma* center with specific standards, and to indicate the quality of care provided by each *trauma* center as determined through an audit of patient charts. In addition, hospitals being considered as provisional ~~state-approved~~ trauma centers shall meet all the requirements of a ~~verified~~ trauma center ~~or pediatric trauma referral center~~, and shall be located in a trauma service area that has a need for such a *trauma* center.

(6) Based on recommendations from the review team, the department shall select ~~state-approved~~ trauma centers by July 1. An applicant for designation as a ~~state-approved~~ trauma center ~~or a state-approved pediatric trauma referral center~~ may request an extension of its provisional status if it submits a corrective action plan to the department. The corrective action plan must demonstrate the ability of the applicant to correct deficiencies noted during the applicant's onsite review conducted by the department between the previous October 1 and June 1. The department may extend the provisional status of an applicant for designation as a ~~state-approved~~ trauma center ~~or a state-approved pediatric trauma referral center~~ through December 31 if the applicant provides a corrective action plan acceptable to the department. The department or a team of out-of-state experts assembled by the department shall conduct an onsite visit on or before November 1 to confirm that the deficiencies have been corrected. The provisional ~~state-approved~~ trauma center ~~or the provisional state-approved pediatric trauma referral center~~ is responsible for all costs associated with the onsite visit in a manner prescribed by rule of the department. By January 1, the department must approve or deny the application of any provisional applicant granted an extension. Each ~~state-approved~~ trauma center shall be granted a ~~7-year approval verification~~ period during which time it must continue to maintain trauma center ~~verification~~ standards and acceptable patient outcomes as determined by department rule. *An approval A verification*, unless sooner suspended or revoked, automatically expires 7 years after the date of issuance and is renewable upon application for renewal as prescribed by rule of the department. ~~After July 1, 1992, only those hospitals selected as state-approved trauma centers may operate as trauma centers.~~

(7) Any hospital that wishes to protest a decision made by the department based on the department's preliminary or in-depth review of applications or on the recommendations of the site visit review team pursuant to this section shall proceed as provided in chapter 120. Hearings held under this subsection shall be conducted in the same manner as provided in ss. 120.569 and 120.57. Cases filed under chapter 120 may combine all disputes between parties.

(8) Notwithstanding any provision of chapter 381, a hospital licensed under ss. 395.001-395.3025 that operates a ~~state-approved~~ trauma center may not terminate or substantially reduce the availability of trauma service without providing at least *180 days' 6 months'* notice of its intent to terminate such service. Such notice shall be given to the department of Health, to all affected local or regional trauma agencies, and to all ~~state-approved~~ trauma centers, hospitals, and emergency medical service providers in the trauma service area. *The department shall adopt by rule the procedures and process for notification, duration, and explanation of the termination of trauma services.*

(9) Except as otherwise provided in this subsection, the department or its agent may collect trauma care and registry data, as prescribed by rule of the department, from trauma centers, ~~pediatric trauma referral centers~~, hospitals, emergency medical service providers, local or regional trauma agencies, or medical examiners for the purposes of evaluating trauma system effectiveness, ensuring compliance with the standards of ~~verification~~, and monitoring patient outcomes. A trauma center, ~~pediatric trauma referral center~~, hospital, emergency medical service provider, medical examiner, or local trauma agency or regional trauma agency, or a panel or committee assembled by such an agency under s. 395.50(1) may, but is not required to, disclose to the department patient care quality assurance proceedings, records, or reports. However, the department may require a local trauma agency or a regional trauma agency, or a panel or committee assembled by such an agency to disclose to the

department patient care quality assurance proceedings, records, or reports that the department needs solely to conduct quality assurance activities under s. 395.4015, or to ensure compliance with the quality assurance component of the trauma agency's plan approved under s. 395.401. The patient care quality assurance proceedings, records, or reports that the department may require for these purposes include, but are not limited to, the structure, processes, and procedures of the agency's quality assurance activities, and any recommendation for improving or modifying the overall trauma system, if the identity of a trauma center, ~~pediatric trauma referral center~~, hospital, emergency medical service provider, medical examiner, or an individual who provides trauma services is not disclosed.

(10) Out-of-state experts assembled by the department to conduct onsite visits are agents of the department for the purposes of s. 395.3025. An out-of-state expert who acts as an agent of the department under this subsection is not liable for any civil damages as a result of actions taken by him or her, unless he or she is found to be operating outside the scope of the authority and responsibility assigned by the department.

(11) Onsite visits by the department or its agent may be conducted at any reasonable time and may include but not be limited to a review of records in the possession of trauma centers, ~~pediatric trauma referral centers~~, hospitals, emergency medical service providers, local or regional trauma agencies, or medical examiners regarding the care, transport, treatment, or examination of trauma patients.

(12) Patient care, transport, or treatment records or reports, or patient care quality assurance proceedings, records, or reports obtained or made pursuant to this section, s. 395.3025(4)(f), s. 395.401, s. 395.4015, s. 395.402, s. 395.403, s. 395.404, s. 395.4045, s. 395.405, s. 395.50, or s. 395.51 must be held confidential by the department or its agent and are exempt from the provisions of s. 119.07(1). Patient care quality assurance proceedings, records, or reports obtained or made pursuant to these sections are not subject to discovery or introduction into evidence in any civil or administrative action.

(13) The department may adopt, by rule, the procedures and process by which it will select ~~state-approved~~ trauma centers. Such procedures and process must be used in annually selecting ~~state-approved~~ trauma centers and must be consistent with subsections (1)-(8) except in those situations in which it is in the best interest of, and mutually agreed to by, all applicants within a service area and the department to reduce the timeframes.

(14) *Notwithstanding any other provision of this section and rules adopted pursuant to this section that impose time limits on the applications by hospitals seeking approval and verification to operate as a trauma center, any acute care general or pediatric hospital that is located in a trauma service area where there is no existing trauma center and that has not already been previously approved may apply beginning on July 1, 2004, to the Department of Health for approval and verification to operate as a provisional trauma center or trauma center within the framework and substantive requirements under this part. Likewise, until the department has conducted the review provided under s. 395.402, only hospitals located in trauma service areas where there is no existing trauma center may apply.*

Section 9. Section 395.403, Florida Statutes, is amended to read:

395.403 Reimbursement of ~~state-sponsored~~ trauma centers.—

(1) The Legislature finds that many hospitals which provide services to trauma victims are not adequately compensated for such treatment. The Legislature also recognizes that the current ~~verified~~ trauma centers are providing such services without adequate reimbursement. Therefore, it is the intent of the Legislature to provide financial support to the current ~~verified~~ trauma centers and to establish a system of ~~state-sponsored~~ trauma centers as soon as feasibly possible. It is also the intent of the Legislature that this system of ~~state-sponsored~~ trauma centers be assisted financially based on the volume and acuity of uncompensated trauma care provided.

(2) All provisional *trauma centers* and ~~state-approved~~ trauma centers shall be considered *eligible to receive state funding* ~~state-sponsored~~ ~~trauma centers~~ when *state revenues dedicated for trauma centers funds* are specifically appropriated for ~~state-sponsored~~ trauma centers in the General Appropriations Act. *The department shall make annual payments from the Administrative Trust Fund under s. 20.435 to the trauma*

*centers and provisional trauma centers in recognition of the trauma centers' meeting the standards of trauma readiness and preparedness as prescribed in this part. The payments established in the General Appropriations Act shall be in equal amounts for the provisional trauma centers and trauma centers approved by the department during the fiscal year in which funding is appropriated. If a provisional trauma center or trauma center does not maintain its status as a trauma center for any state fiscal year in which such funding is appropriated, the provisional trauma center or trauma center shall repay the state for the portion of the year during which it was not a trauma center.*

(3) *For fiscal year 2005-2006 and thereafter, the department shall allocate funds not disbursed under subsection (1) for trauma readiness and preparedness to provisional trauma centers and trauma centers based on volume, acuity, and levels of uncompensated trauma care. Distribution to a provisional trauma center or trauma center shall be in an amount that bears the same ratio to the total amount of such distributions as the volume, acuity, and uncompensated trauma care provided by the center bears to the total volume, acuity, and uncompensated trauma care provided by all trauma centers and provisional trauma centers in the state, as indicated in the most recent year for which data is available.*

(4) *Provisional trauma centers and trauma centers eligible to receive distributions from the Administrative Trust Fund under s. 20.435 in accordance with subsections (2) and (3) may request that such funds be used as intergovernmental transfer funds in the Medicaid program.*

~~(3) To receive state funding, a state-sponsored trauma center shall submit a claim electronically via the Trauma Claims Processing System, designed, developed, implemented, and operated by the department's Medicaid program, to the department's Medicaid program upon discharge of a trauma patient. When a hospital stay spans a state fiscal year, a separate hospital claim shall be submitted for the hospital days incurred in each fiscal year.~~

~~(4)(a) State-sponsored trauma centers shall determine each trauma patient's eligibility for state funding prior to the submission of a claim.~~

~~(b) A trauma patient treated must meet the definition of charity care, have been designated as having an ISS score of 9 or greater, and have received services that are medically necessary from a state-sponsored trauma center in order for the state-sponsored trauma center to receive state funding for that patient.~~

~~(c) Each state-sponsored trauma center shall retain appropriate documentation showing a trauma patient's eligibility for state funding. Documentation recognized by the department as appropriate shall be limited to one of the following:~~

- ~~1. W-2 withholding forms.~~
- ~~2. Payroll stubs.~~
- ~~3. Income tax returns.~~
- ~~4. Forms approving or denying unemployment compensation or workers' compensation.~~
- ~~5. Written verification of wages from employer.~~
- ~~6. Written verification from public welfare agencies or any other governmental agency which can attest to the patient's income status for the past 12 months.~~

~~7. A witnessed statement signed by the patient or responsible party, as provided for in Pub. L. No. 79-725, as amended, known as the Hill-Burton Act, except that such statement need not be obtained within 48 hours of the patient's admission to the hospital as required by the Hill-Burton Act. The statement shall include acknowledgment that, in accordance with s. 817.50, providing false information to defraud a hospital for the purposes of obtaining goods or services is a misdemeanor of the second degree.~~

~~(d) The department shall conduct an audit or shall contract with an independent party to conduct an audit of each state-sponsored trauma center's claims to ensure that state funding was only provided for eligible trauma patients and medically necessary services.~~

~~(e) The department's Medicaid program office shall check each claim to confirm that the patient is not covered under the Medicaid program~~

and shall pay the claim out of the Trauma Services Trust Fund. Trauma patients who are eligible for the Medicaid program shall not be considered eligible for the state-sponsored trauma center program except for Medicaid noncovered services. If a claim is denied by the Trauma Claims Processing System as a result of Medicaid eligibility for Medicaid covered services, the hospital shall submit a claim to the Medicaid fiscal agent for payment.

(5) State funding shall be at a per diem rate equal to \$860 to provisional state approved and state approved trauma centers. This rate shall be effective for the first 12 months of funding, after which time payment to provisional state approved and state approved trauma centers shall be based on a trauma cost-based reimbursement methodology developed by the department. The department shall consult with representatives from the hospital industry including the Florida Hospital Association, the Association of Voluntary Hospitals of Florida, and the Florida League of Hospitals in the development of the reimbursement methodology.

(6)(a) To ensure a fair distribution of funds appropriated for state sponsored trauma centers and to ensure that no state sponsored trauma center gains an unfair advantage due solely to its ability to bill more quickly than another state sponsored trauma center, the total amount of state funds appropriated in the General Appropriations Act for this section shall be divided into 19 trauma fund accounts with an account for each service area established in s. 395.402(3). The amount of funds distributed to a service area shall be based on the following formula:

$$\text{SAAA} = \frac{\text{SATD}}{\text{TTD}} \times \text{TA}$$

where:

SAAA = service area appropriation amount.

SATD = uncompensated service area trauma days with ISS score of 9 or greater.

TTD = uncompensated total trauma days with ISS score of 9 or greater for all 19 service areas.

TA = total dollars appropriated for state sponsored trauma centers.

(b) The database to be used for this calculation shall be the detailed patient discharge data of the most recently completed calendar year for which the board possesses data. Out of state days that are included in the database shall be allocated to the service area where the treating hospital is located.

(c) Fifty percent of the funds allocated to those service areas which had one or more trauma centers as of December 1, 1989, shall be distributed to those verified trauma centers proportionately based on volume and acuity of uncompensated trauma care provided during the most recently completed calendar year for which the board possesses data in a lump sum payment on the date funding becomes available. These trauma centers shall submit claims pursuant to subsection (3) in order to justify this funding. Effective 9 months after funding becomes available, any trauma center which fails to submit claims for reimbursement equal to or greater than the amount the trauma center received under the initial allocation shall return any unearned funds to the department for distribution pursuant to paragraph (e). Once this 50 percent lump sum is depleted, a trauma center will be reimbursed from the remaining 50 percent of the service area's original allocation.

(d) The department shall pay trauma claims on a monthly basis. In a given month when the outstanding claims will exceed the unexpended funds allocated to a service area, the department shall pay all of the submitted claims for the service area on a pro rata basis.

(e) At the end of the fiscal year, the unexpended funds for each service area shall be placed in one large state trauma account from which all remaining claims are paid without regard to service area on a pro rata basis until such funds are depleted.

(f) For any state fiscal year, reimbursement for any patient residing outside the trauma service area of the state sponsored trauma center where the patient is treated shall be paid out of the funds allocated for the trauma service area where the patient resides. Out of state days shall be paid from the service area where the treating hospital is located.

(5)(7) In order to receive state funding payments under this section, a hospital shall be a state-sponsored trauma center and shall:

(a) Agree to conform to all departmental requirements as provided by rule to assure high-quality trauma services.

(b) Agree to provide information concerning the provision of trauma services to the department, in a form and manner prescribed by rule of the department.

(c) Agree to accept all trauma patients, regardless of ability to pay, on a functional space-available basis.

(6)(8) A state sponsored trauma center that which fails to comply with any of the conditions listed in subsection (3) (7) or the applicable rules of the department shall not receive payments under this section for the period in which it was not in compliance.

Section 10. Section 395.404, Florida Statutes, is amended to read:

395.404 Review of trauma registry data; report to central registry; confidentiality and limited release.—

(1)(a) Each trauma center shall furnish, and, upon request of the department, all acute care hospitals shall furnish for department review, trauma registry data as prescribed by rule of the department for the purpose of monitoring patient outcome and ensuring compliance with the standards of approval.

(b) Trauma registry data obtained pursuant to this subsection are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, the department may provide such trauma registry data to the person, trauma center, hospital, emergency medical service provider, local or regional trauma agency, medical examiner, or other entity from which the data were obtained. The department may also use or provide trauma registry data for purposes of research in accordance with the provisions of chapter 405.

(2) Each trauma center and acute care hospital shall report to the department's brain and spinal cord injury central registry, consistent with the procedures and timeframes of s. 381.74, any person who has a moderate-to-severe brain or spinal cord injury, and shall include in the report the name, age, residence, and type of disability of the individual and any additional information that the department finds necessary. Notwithstanding the provisions of s. 381.74, each trauma center and acute care hospital shall submit severe disability and head injury registry data to the department as provided by rule. Each trauma center and acute care hospital shall continue to provide initial notification of persons who have severe disabilities and head injuries to the Department of Health within timeframes provided in chapter 413. Such initial notification shall be made in the manner prescribed by the Department of Health for the purpose of providing timely vocational rehabilitation services to the severely disabled or head-injured person.

(3) Trauma registry data obtained pursuant to this section are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, the department may provide such trauma registry data to the person, trauma center, pediatric trauma referral center, hospital, emergency medical service provider, local or regional trauma agency, medical examiner, or other entity from which the data were obtained. The department may also use or provide trauma registry data for purposes of research in accordance with the provisions of chapter 405.

Section 11. Section 395.405, Florida Statutes, is amended to read:

395.405 Rulemaking.—The department shall adopt and enforce all rules necessary to administer this part ss. 395.0199, 395.401, 395.4015, 395.402, 395.4025, 395.403, 395.404, and 395.4045.

Section 12. The Department of Health shall establish a task force by August 1, 2004, for the purpose of studying and making recommendations regarding the formula for the distribution of funds deposited in the Administrative Trust Fund in the Department of Health for distribution pursuant to section 395.403, Florida Statutes, and alternative financing options. The task force shall include representatives of the Governor's Office, the Department of Health, the Agency for Health Care Administration, and representatives from Level I, Level II, and pediatric trauma centers, and at least two surgeons. The report of the task force shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2005.

Section 13. *Trauma Center Matching Grant Program.*—*It is the intent of the Legislature to promote the development of at least one trauma center in every trauma service area. The Trauma Center matching grant program shall be established and administered by the Department of Health. The purpose of the program is to provide start-up funds as an incentive to encourage development of new trauma centers. The grant program shall function as a partnership between state and local governments and private-sector health care providers. Private providers shall provide \$1 in local matching funds for each \$1 grant payment made by the state. Hospitals may apply for matching grant funds by submitting a grant application to the department. Applications shall be competitively reviewed by an independent panel appointed by the secretary of the department. The department may use up to \$2 million annually from the Administrative Trust Fund for this program.*

Section 14. Subsection (5) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(5) Any person electing to appear before the designated official or who is required so to appear shall be deemed to have waived his or her right to the civil penalty provisions of s. 318.18. The official, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the official may impose a civil penalty not to exceed \$500, except that in cases involving unlawful speed in a school zone or, involving unlawful speed in a construction zone, or involving a death, the civil penalty may not exceed \$1,000; or require attendance at a driver improvement school, or both. ~~If the person is required to appear before the designated official pursuant to s. 318.19(1) and is found to have committed the infraction, the designated official shall impose a civil penalty of \$1,000 in addition to any other penalties. If the person is required to appear before the designated official pursuant to s. 318.19(2) and is found to have committed the infraction, the designated official shall impose a civil penalty of \$500 in addition to any other penalties.~~ If the official determines that no infraction has been committed, no costs or penalties shall be imposed and any costs or penalties that have been paid shall be returned. ~~Moneys received from the mandatory civil penalties imposed pursuant to this subsection upon persons required to appear before a designated official pursuant to s. 318.19(1) or (2) shall be remitted to the Department of Revenue and distributed into the Administrative Trust Fund created under s. 20.435 to be used by the Department of Health as required under s. 395.403.~~

Section 15. Subsection (13) is added to section 318.21, Florida Statutes, to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(13)(a) *Notwithstanding subsections (1) and (2), the proceeds from the mandatory civil penalties imposed pursuant to s. 318.14(5) shall be distributed as provided in that section.*

(b) *Notwithstanding subsections (1) and (2), the proceeds from the fines imposed under s. 318.18(13) and (14) shall be distributed as provided in that section.*

Section 16. Section 322.0261, Florida Statutes, is amended to read:

322.0261 ~~Mandatory~~ Driver improvement course; requirement to maintain driving privileges; failure to complete; department approval of course ~~certain crashes.~~—

(1) The department shall screen crash reports received under s. 316.066 or s. 324.051 to identify crashes involving the following:

(a) A crash involving death or a bodily injury requiring transport to a medical facility; or

(b) A second crash by the same operator within the previous 2-year period involving property damage in an apparent amount of at least \$500.

(2) With respect to an operator convicted of, or who pleaded nolo contendere to, a traffic offense giving rise to a crash identified pursuant to subsection (1), the department shall require that the operator, in

addition to other applicable penalties, attend a ~~departmentally approved~~ department-approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from the department, the operator's driver's license shall be canceled by the department until the course is successfully completed.

(3) *The department shall identify any operator convicted of, or who pleaded nolo contendere to, a second violation of s. 316.075(1)(c)1. or convicted of, or who pleaded nolo contendere to, a second steady red signal violation as provided in s. 316.074(1), which violation occurred within 12 months after the first violation, and shall require that operator, in addition to other applicable penalties, to attend a department-approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days after receiving notice from the department, the operator's driver's license shall be canceled by the department until the course is successfully completed.*

(4)(3) In determining whether to approve a driver improvement course for the purposes of this section, the department shall consider course content designed to promote safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint.

Section 17. Paragraph (d) of subsection (3) of section 322.27, Florida Statutes, is amended to read:

322.27 Authority of department to suspend or revoke license.—

(3) There is established a point system for evaluation of convictions of violations of motor vehicle laws or ordinances, and violations of applicable provisions of s. 403.413(6)(b) when such violations involve the use of motor vehicles, for the determination of the continuing qualification of any person to operate a motor vehicle. The department is authorized to suspend the license of any person upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws or ordinances, or applicable provisions of s. 403.413(6)(b), amounting to 12 or more points as determined by the point system. The suspension shall be for a period of not more than 1 year.

(d) The point system shall have as its basic element a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving, willful and wanton—4 points.
2. Leaving the scene of a crash resulting in property damage of more than \$50—6 points.
3. Unlawful speed resulting in a crash—6 points.
4. Passing a stopped school bus—4 points.
5. Unlawful speed:
  - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points.
  - b. In excess of 15 miles per hour of lawful or posted speed—4 points.
6. A violation of a traffic control signal device as provided in s. 316.075(1)(c)1.—4 points.
7. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points. However, no points shall be imposed for a violation of s. 316.0741 or s. 316.2065(12).
8. Any moving violation covered above, excluding unlawful speed, resulting in a crash—4 points.
9. Any conviction under s. 403.413(5)(b)—3 points.

Section 18. Subsections (13), (14), and (15) are added to section 318.18, Florida Statutes, to read:

318.18 Amount of civil penalties.—The penalties required for a non-criminal disposition pursuant to s. 318.14 are as follows:

(13) One hundred ten dollars for a violation of s. 316.075(1)(c)1. or for a steady red signal violation as provided in s. 316.074(1), of which \$60 shall be distributed as provided in s. 318.21 and the remaining \$50 shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund created under s. 20.435 to be used by the Department of Health as required under s. 395.403.

(14) Two hundred sixty dollars for any infraction that results in a crash that causes any bodily injury other than "serious bodily injury" as defined in s. 316.1933(1), of which \$60 shall be distributed as provided in s. 318.21 and the remaining \$200 shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund created under s. 20.435 to be used by the Department of Health as required under s. 395.403.

(15) Notwithstanding any law to the contrary, the clerk of the court shall collect an additional \$10 for each civil violation of chapter 316; \$20 for each offense specifically enumerated in s. 318.17; and \$20 for any other offense in chapter 316 which is classified as a criminal violation. The fines collected under this subsection shall be remitted to the Department of Revenue for deposit in the Administrative Trust Fund under s. 20.435 to be used by the Department of Health as required under s. 395.403.

Section 19. Section 322.751, Florida Statutes, is created to read:

322.751 Annual surcharge for points.—

(1) Each year the department shall assess a surcharge on each person who has accumulated eight or more points against his or her driver's license during the preceding 36-month period.

(2) The amount of a surcharge under this section is \$100 for the first eight points and \$25 for each additional point.

(3) The department shall notify the holder of a driver's license of the assignment of a fourth point on that license by first-class mail sent to the person's most recent address as shown on the records of the department.

(4) This section does not apply to a conviction that becomes final before July 1, 2004.

(5) All moneys due under this section shall be billed and collected by the Department of Highway Safety and Motor Vehicles or its designee for deposit in the Highway Safety Operating Trust Fund. Of the moneys collected annually, the department shall retain the actual cost of developing, implementing, and administering the driver responsibility program. The remainder shall be transferred at least quarterly to the Administrative Trust Fund created under s. 20.435 to be used by the Department of Health as required under s. 395.403.

Section 20. Paragraph (a) of subsection (2) of section 316.193, Florida Statutes, is amended to read:

316.193 Driving under the influence; penalties.—

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than \$250 or more than \$500 for a first conviction.

b. Not less than \$500 or more than \$1,000 for a second conviction; and

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

4. In addition to the fines and penalties established in this subsection, the court shall impose a surcharge, to be collected by the department and to be subject to a court's determination of financial ability to pay, as follows:

a. Each year the department shall assess a surcharge on each person who has a final conviction during the preceding 36-month period for an offense relating to s. 316.193.

b. The amount of a surcharge under this section is \$500 per year, except that the amount of the surcharge is:

(I) Seven hundred fifty dollars per year for a second or subsequent conviction within a 36-month period; and

(II) One thousand dollars for a first or subsequent conviction if the blood-alcohol level of the person was 0.20 or higher at the time the analysis was performed.

c. A surcharge under this section for the same conviction may not be assessed in more than 3 years.

d. This section does not apply to a conviction that becomes final before July 1, 2004.

e. All moneys due under this subparagraph shall be billed and collected by the Department of Highway Safety and Motor Vehicles or its designee for deposit in the Highway Safety Operating Trust Fund. Of the moneys collected annually, the department shall retain the actual cost of developing, implementing, and administering the driver responsibility program. The remainder shall be transferred at least quarterly to the Administrative Trust Fund created under s. 20.435 to be used by the Department of Health as required under s. 395.403.

Section 21. Section 794.056, Florida Statutes, is amended to read:

794.056 Rape Crisis Program Trust Fund.—

(1) The Rape Crisis Program Trust Fund is created within the Department of Health for the purpose of providing funds for rape crisis centers in this state. Trust fund moneys shall be used exclusively for the purpose of providing services for victims of sexual assault. Funds deposited in the trust fund shall include revenues as provided by law, moneys as appropriated by the Legislature, and grants from public or private entities. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, an offense defined in s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s. 784.083, s. 785.085, or s. 794.011.

(2) The Department of Health shall establish by rule, consistent with s. 794.055(3)(a), criteria for distributing moneys from the trust fund to the statewide nonprofit association the primary purpose of which is to represent and provide technical assistance to rape crisis centers for distribution to rape crisis centers.

(3) In accordance with s. 19(f)(2), Art. III of the State Constitution, the Rape Crisis Program Trust Fund shall be terminated on July 1, 2007, unless terminated sooner. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

Section 22. Section 322.7525, Florida Statutes, is created to read:

322.7525 Notice of surcharge.—

(1) The department shall notify the holder of a driver's license of the assessment of a surcharge on that license by first-class mail sent to the person's most recent address as shown on the records of the department. The notice must specify the date by which the surcharge must be paid and state the consequences of a failure to pay the surcharge.

(2) If, before the 30th day after the date the department sends a notice under s. 322.751, s. 322.7515, s. 322.7516, or s. 327.732, the person fails to pay the amount of a surcharge on the person's license or fails to enter into an installment payment agreement with the department, the license of the person is automatically suspended.

(3) A license suspended under this section remains suspended until the person pays the amount of the surcharge and any related costs.

Section 23. Section 322.753, Florida Statutes, is created to read:

322.753 *Installment payment of surcharges.—*

(1) *The department shall by rule provide for the payment of a surcharge in installments.*

(2) *A rule under this section:*

(a) *May not permit a person to pay a surcharge:*

1. *Of less than \$2,300 over a period of more than 12 consecutive months; or*

2. *Of \$2,300 or more over a period of more than 24 consecutive months.*

(b) *May provide that if the person fails to make a required installment payment, the department may declare the amount of the unpaid surcharge immediately due and payable.*

(3) *The department may by rule authorize the payment of a surcharge by use of a credit card. The rules shall require the person to pay all costs incurred by the department in connection with the acceptance of the credit card.*

(4) *If a person pays a surcharge or related cost by credit card and the amount is subsequently reversed by the issuer of the credit card, the license of that person is automatically suspended.*

(5) *A license suspended under this section remains suspended until the person pays the amount of the surcharge and any related costs.*

Section 24. Section 395.4035, Florida Statutes, is repealed.

Section 25. *The Department of Highway Safety and Motor Vehicles shall determine the level of funding necessary to implement sections 19 and 20 of this act with department resources. If the department determines that such services could be provided more effectively or efficiently, the department may consider outsourcing proposals through competitive processes. Notwithstanding the provisions of chapter 287, Florida Statutes, in the event that less than four responsive bids are received, the department shall continue implementation with in-house resources.*

Section 26. *There is appropriated \$250,000 from the Highway Safety Operating Trust Fund for initial development start-up costs related to sections 19 and 20 of this act. The Department of Highway Safety and Motor Vehicles shall submit a budget amendment for approval by the Legislative Budget Commission, pursuant to chapter 216, Florida Statutes, upon determination of the additional budget amounts by appropriation category that are necessary for full implementation.*

Section 27. *Of the funds received in the Administrative Trust Fund, the Department of Health shall retain 91.67 percent of monthly collections in the Administrative Trust Fund. The remaining 8.33 percent of monthly collections shall be distributed to the Rape Crisis Program Trust Fund, up to a maximum annual distribution of \$4 million. Once the \$4 million cap is reached for the Rape Crisis Program Trust Fund, 100 percent of collections shall be retained in the Administrative Trust Fund in the Department of Health. Annual collections in excess of \$55 million shall be transferred as follows: \$5 million to the Brain and Spinal Cord Injury Program Trust Fund for the purpose set forth in section 381.79, Florida Statutes, and the remainder to the General Revenue Fund.*

Section 28. *There is appropriated from the Administrative Trust Fund in the Department of Health the sum of \$31,591,454 to provide funding for verified and provisional trauma centers pursuant to section 395.403, Florida Statutes, and \$4 million from the Rape Crisis Program Trust Fund in the Department of Health for the purpose of providing services for victims of sexual assault.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28 through page 3, line 5, delete those lines and insert: regions; amending s. 395.402, F.S.; providing additional legislative intent with respect to trauma service areas; providing a treatment capacity for certain trauma centers; providing that current trauma service areas shall be used until the Department of Health completes an

assessment of the trauma system; requiring a report; providing guidelines for such assessment; requiring annual review; amending s. 395.4025, F.S.; revising requirements for the Department of Health's development of a state trauma system plan; deleting obsolete references; correcting references to the term "trauma center"; revising requirements for the department's approval and verification of a facility as a trauma center; granting the department authority to adopt rules for the procedures and process for notification, duration, and explanation of a trauma center's termination of trauma services; revising the requirements for notice that a hospital must give before it terminates or substantially reduces trauma service; exempting from certain time limits on applications to operate as trauma centers certain hospitals in areas having no trauma center; limiting applications until the completion of a specified review; amending s. 395.403, F.S.; correcting references to the term "trauma center"; revising eligibility requirements for state funding of trauma centers; providing that trauma centers may request that their distributions from the Administrative Trust Fund be used as intergovernmental transfer funds in the Medicaid program; amending s. 395.404, F.S.; revising reporting requirements to the trauma registry data system maintained by the Department of Health; providing that hospitals and trauma centers subject to reporting trauma registry data to the department are required to comply with other duties concerning the moderate-to-severe brain or spinal cord injury registry maintained by the department; correcting references to the term "trauma center"; amending s. 395.405, F.S.; authorizing the Department of Health to adopt and enforce rules necessary to administer part II of ch. 395, F.S.; establishing a task force on distribution of funds; providing for a trauma center matching grant program; amending s. 318.14, F.S.; providing additional civil penalties for certain traffic infractions; providing for disposition of such penalties; amending s. 318.21, F.S.; providing for disposition of mandatory civil penalties; amending s. 322.0261, F.S.; revising provisions relating to driver-improvement courses; amending s. 322.27, F.S.; prescribing points for violation of a traffic-control signal; amending s. 318.18, F.S.; providing penalty for specified violation of traffic control signal devices and for failure to submit to test for impairment or intoxication; providing for distribution of moneys collected; directing the clerk of court to collect a fee for each civil and criminal violation of ch. 316, F.S.; creating s. 322.751, F.S.; directing the Department of Highway Safety and Motor Vehicles to assess specified annual surcharges against a motor vehicle licensee who accumulates eight or more points against his or her license within the previous 36 months; requiring the department to notify a licensee by first-class mail upon receipt of four points against his or her license; directing the department to remit all such penalties to the Administrative Trust Fund in the Department of Health; amending s. 316.193, F.S.; directing the department to assess specified annual surcharges against motor vehicle licensees who have a final conviction within the previous 36 months for a DUI offense; directing the department to remit all such penalties to the Administrative Trust Fund in the Department of Health; amending s. 794.056, F.S.; providing that funds credited to the Rape Crisis Program Trust Fund shall include both funds collected as an additional court assessment in certain cases and certain funds deposited in the Administrative Trust Fund in the Department of Health; revising a requirement relating to the distribution of moneys from the trust fund pursuant to a rule by the Department of Health; creating s. 322.7525, F.S.; requiring the department to notify licensees of the surcharges and the time period in which to pay the surcharges; creating s. 322.753, F.S.; requiring the department to accept installment payments for the surcharges; providing sanctions for a licensee's failure to pay an installment; allowing the department to permit licensees to pay assessed surcharges with credit cards; requiring the department to suspend a driver's license if the licensee does not pay the surcharge or arrange for installment payments within a specified time after the notice of surcharge is sent; repealing s. 395.4035, F.S., relating to the Trauma Services Trust Fund; providing for distribution of collections in the Administrative Trust Fund in the Department of Health; providing an appropriation; providing an effective date.

#### MOTION

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

Senator Saunders moved the following amendments to **Amendment 5** which were adopted:

**Amendment 5A (391864)**—On page 28, lines 17 and 18 and on page 30, lines 4 and 5, delete:

"This section does not apply to a conviction that becomes final before July 1, 2004." and insert:

This section only applies to a violation that occurs on or after July 1, 2004.

**Amendment 5B (144836)**—On page 13, line 19 through page 14, line 1, delete those lines and insert:

(14) For fiscal year 2004-2005 only, notwithstanding any other provision of this section and rules adopted pursuant this section that impose time limits on the applications by hospitals located in trauma service areas where there are no existing trauma centers seeking approval and verification to operate as a trauma center, any acute care general or pediatric hospital that has not already been previously approved may apply beginning on July 1, 2004, to the Department of Health for approval and verification to operate as a provisional trauma center or trauma center within the framework and substantive requirements under this part.

**Amendment 5C (251060)**—On page 33, delete line 5 and insert: seek approval by the Legislative Budget Commission.

**Amendment 5** as amended was adopted.

Pursuant to Rule 4.19, **CS for SB 1762** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 2884** and **CS for SB 2762** was deferred.

On motion by Senator Bennett—

**CS for CS for SB 544**—A bill to be entitled An act relating to prompt payment for construction services; amending s. 218.70, F.S.; providing a short title; amending s. 218.72, F.S.; redefining terms used in part VII of ch. 218, F.S.; amending s. 218.735, F.S.; revising provisions relating to timely payment for purchases of construction services; revising deadlines for payment; providing procedures for project closeout and payment of retainage; providing requirements for local government construction retainage; providing that ss. 218.72-218.76, F.S., apply to the payment of any payment request for retainage; providing exceptions; creating s. 255.0705, F.S.; providing a short title; amending s. 255.071, F.S.; revising deadlines for the payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects; creating ss. 255.072, 255.073, 255.074, 255.075, 255.076, 255.077, and 255.078, F.S.; providing definitions; providing for timely payment for purchases of construction services by a public entity; providing procedures for calculating payment due dates; providing procedures for handling improper payment requests; providing for the resolution of disputes; providing for project closeout and payment of retainage; providing that ss. 255.072-255.076, F.S., apply to the payment of any payment request for retainage; providing exceptions; amending s. 255.05, F.S.; providing requirements for certain notices of nonpayment served by a claimant who is not in privity with the contractor; providing limitations on a claimant's institution of certain actions against a contractor or surety; creating s. 725.09, F.S.; prohibiting a contract provision that makes payment contingent upon certain conditions; amending s. 95.11, F.S., to conform a cross-reference; providing that this act does not apply to contracts pending approval on the effective date of the act or to projects advertised on or before that date; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Bennett and adopted:

**Amendment 1 (730456)**—On page 2, lines 27-31, delete those lines and insert:

(2) "Local governmental entity" means a county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board,

Senator Bennett moved the following amendments which were adopted:

**Amendment 2 (671588)**—On page 11, lines 21 and 22, delete those lines and insert:

(5) "Public entity" means the state, or any office, board, bureau, commission,

**Amendment 3 (812508)**—On page 13, line 14, delete "25" and insert: 20

**Amendment 4 (212424)**—On page 13, line 25 through page 14, line 25, delete those lines and insert: *disputes.*—In an action to recover amounts due for construction services purchased by a public entity, the court shall award court costs and reasonable attorney's fees, including fees incurred through any appeal, to the prevailing party, if the court finds that the nonprevailing party withheld any portion of the payment that is the subject of the action without any reasonable basis in law or fact to dispute the prevailing party's claim to those amounts.

**Amendment 5 (255890)(with title amendment)**—On page 23, line 24 through page 24, line 2, delete those lines.

And the title is amended as follows:

On page 2, lines 7-10, delete those lines and insert: against a contractor or surety; amending s. 95.11, F.S., to conform

#### MOTION

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

Senators Bennett and Sebesta offered the following amendment which was moved by Senator Bennett and adopted:

**Amendment 6 (244436)(with title amendment)**—On page 24, lines 13-21, delete those lines and insert: ss. 255.05(9) ~~255.05(2)(a)2-~~ and 713.23(1)(e).

Section 16. Neither the amendments to sections 95.11, 218.70, 218.72, 218.735, and 255.071, Florida Statutes, and subsection (2) of section 255.05, Florida Statutes, as provided in this act, nor subsection (9) of section 255.05, Florida Statutes, and section 255.078, Florida Statutes, as created by this act, applies to any existing construction contract pending approval by a local governmental entity or public entity, or to any project advertised for bid by the local government entity or public entity, on or before the effective date of this act. The amendments to subsections (3), (4), and (6) of section 255.05, Florida Statutes, as provided in this act, apply to public construction bonds issued for contracts entered into on or after the effective date of this act.

And the title is amended as follows:

On page 2, lines 11-14, delete those lines and insert: a cross-reference; providing for application of specified sections of the act to certain contracts and projects; providing an

#### MOTION

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

Senators Bennett and Sebesta offered the following amendment which was moved by Senator Bennett:

**Amendment 7 (162146)(with title amendment)**—On page 19, line 22 through page 22, line 24, delete those lines and insert:

Section 13. Section 255.05, Florida Statutes, is amended to read:

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(1)(a) Any person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver to the public owner, and record in the public records of the county where the improvement is located, a payment and performance bond

with a surety insurer authorized to do business in this state as surety. A public entity may not require a contractor to secure a surety bond under this section from a specific agent or bonding company. The bond must state on its front page: the name, principal business address, and phone number of the contractor, the surety, the owner of the property being improved, and, if different from the owner, the contracting public entity; the contract number assigned by the contracting public entity; and a description of the project sufficient to identify it, such as a legal description or the street address of the property being improved, and a general description of the improvement. Such bond shall be conditioned upon the contractor's performance of the construction work in the time and manner prescribed in the contract and promptly making payments to all persons defined in s. 713.01 who furnish labor, services, or materials for the prosecution of the work provided for in the contract. Any claimant may apply to the governmental entity having charge of the work for copies of the contract and bond and shall thereupon be furnished with a certified copy of the contract and bond. The claimant shall have a right of action against the contractor and surety for the amount due him or her, including unpaid finance charges due under the claimant's contract. Such action shall not involve the public authority in any expense. When such work is done for the state and the contract is for \$100,000 or less, no payment and performance bond shall be required. At the discretion of the official or board awarding such contract when such work is done for any county, city, political subdivision, or public authority, any person entering into such a contract which is for \$200,000 or less may be exempted from executing the payment and performance bond. When such work is done for the state, the Secretary of the Department of Management Services may delegate to state agencies the authority to exempt any person entering into such a contract amounting to more than \$100,000 but less than \$200,000 from executing the payment and performance bond. In the event such exemption is granted, the officer or officials shall not be personally liable to persons suffering loss because of granting such exemption. The Department of Management Services shall maintain information on the number of requests by state agencies for delegation of authority to waive the bond requirements by agency and project number and whether any request for delegation was denied and the justification for the denial.

(b) The Department of Management Services shall adopt rules with respect to all contracts for \$200,000 or less, to provide:

1. Procedures for retaining up to 10 percent of each request for payment submitted by a contractor and procedures for determining disbursements from the amount retained on a pro rata basis to laborers, materialmen, and subcontractors, as defined in s. 713.01.

2. Procedures for requiring certification from laborers, materialmen, and subcontractors, as defined in s. 713.01, prior to final payment to the contractor that such laborers, materialmen, and subcontractors have no claims against the contractor resulting from the completion of the work provided for in the contract.

The state shall not be held liable to any laborer, materialman, or subcontractor for any amounts greater than the pro rata share as determined under this section.

(2)(a)1. If a claimant is no longer furnishing labor, services, or materials on a project, a contractor or the contractor's agent or attorney may elect to shorten the prescribed time in this paragraph within which an action to enforce any claim against a payment bond provided pursuant to this section may be commenced by recording in the clerk's office a notice in substantially the following form:

NOTICE OF CONTEST OF CLAIM AGAINST PAYMENT BOND

To: (Name and address of claimant)

You are notified that the undersigned contests your notice of nonpayment, dated . . . . ., and served on the undersigned on . . . . ., and that the time within which you may file suit to enforce your claim is limited to 60 days after the date of service of this notice.

DATED on . . . . .

Signed: (Contractor or Attorney)

The claim of any claimant upon whom such notice is served and who fails to institute a suit to enforce his or her claim against the payment bond

within 60 days after service of such notice shall be extinguished automatically. The clerk shall mail a copy of the notice of contest to the claimant at the address shown in the notice of nonpayment or most recent amendment thereto and shall certify to such service on the face of such notice and record the notice. Service is complete upon mailing.

2. A claimant, except a laborer, who is not in privity with the contractor shall, before commencing or not later than 45 days after commencing to furnish labor, materials, or supplies for the prosecution of the work, furnish the contractor with a notice that he or she intends to look to the bond for protection. A claimant who is not in privity with the contractor and who has not received payment for his or her labor, materials, or supplies shall deliver to the contractor and to the surety written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment. The notice of nonpayment may be served at any time during the progress of the work or thereafter but not before 45 days after the first furnishing of labor, services, or materials, and not later than 90 days after the final furnishing of the labor, services, or materials by the claimant or, with respect to rental equipment, not later than 90 days after the date that the rental equipment was last on the job site available for use. Any notice of nonpayment served by a claimant who is not in privity with the contractor which includes sums for retainage must specify the portion of the amount claimed for retainage. No action for the labor, materials, or supplies may be instituted against the contractor or the surety unless both notices have been given. Notices required or permitted under this section may be served in accordance with s. 713.18. An action, except for an action exclusively for recovery of retainage, must be instituted against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 1 year after the performance of the labor or completion of delivery of the materials or supplies. An action exclusively for recovery of retainage must be instituted against the contractor or the surety within 1 year after the performance of the labor or completion of delivery of the materials or supplies, or within 90 days after receipt of final payment (or the payment estimate containing the owner's final reconciliation of quantities if no further payment is earned and due as a result of deductive adjustments) by the contractor or surety, whichever comes last. A claimant may not waive in advance his or her right to bring an action under the bond against the surety. In any action brought to enforce a claim against a payment bond under this section, the prevailing party is entitled to recover a reasonable fee for the services of his or her attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of the prevailing party's costs, as allowed in equitable actions. The time periods for service of a notice of nonpayment or for bringing an action against a contractor or a surety shall be measured from the last day of furnishing labor, services, or materials by the claimant and shall not be measured by other standards, such as the issuance of a certificate of occupancy or the issuance of a certificate of substantial completion.

(b) When a person is required to execute a waiver of his or her right to make a claim against the payment bond in exchange for, or to induce payment of, a progress payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM AGAINST THE PAYMENT BOND (PROGRESS PAYMENT)

The undersigned, in consideration of the sum of \$. . . . ., hereby waives its right to claim against the payment bond for labor, services, or materials furnished through (insert date) to (insert the name of your customer) on the job of (insert the name of the owner), for improvements to the following described project:

(description of project)

This waiver does not cover any retention or any labor, services, or materials furnished after the date specified.

DATED ON . . . . .

(Claimant) By: . . . . .

(c) When a person is required to execute a waiver of his or her right to make a claim against the payment bond, in exchange for, or to induce payment of, the final payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM AGAINST THE PAYMENT BOND (FINAL PAYMENT)

The undersigned, in consideration of the final payment in the amount of \$ . . . , hereby waives its right to claim against the payment bond for labor, services, or materials furnished to (insert the name of your customer) on the job of (insert the name of the owner) , for improvements to the following described project:

(description of project)

DATED ON . . . . .

By: (Claimant)

(d) A person may not require a claimant to furnish a waiver that is different from the forms in paragraphs (b) and (c).

(e) A claimant who executes a waiver in exchange for a check may condition the waiver on payment of the check.

(f) A waiver that is not substantially similar to the forms in this subsection is enforceable in accordance with its terms.

(3) The bond required in subsection (1) may be in substantially the following form:

PUBLIC CONSTRUCTION BOND

Bond No. (enter bond number)

BY THIS BOND, We \_\_\_\_\_, as Principal and \_\_\_\_\_, a corporation, as Surety, are bound to \_\_\_\_\_, herein called Owner, in the sum of \$ \_\_\_\_\_, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated \_\_\_\_\_, \_\_\_\_\_, between Principal and Owner for construction of \_\_\_\_\_, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and

2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and

3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and

4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05, Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

DATED ON \_\_\_\_\_, \_\_\_\_\_.

... (Name of Principal) ...

By ... (As Attorney in Fact) ...

... (Name of Surety) ...

(4) The payment provisions of All bonds required by furnished for public work contracts described in subsection (1) shall, regardless of form, be construed and deemed statutory bonds furnished pursuant to this section and such bonds shall not under any circumstances be converted into common law bonds bond provisions, subject to all requirements of subsection (2).

(5) In addition to the provisions of chapter 47, any action authorized under this section may be brought in the county in which the public

building or public work is being constructed or repaired. This subsection shall not apply to an action instituted prior to May 17, 1977.

(6) All bonds executed pursuant to this section shall make reference to this section by number and shall contain reference to the notice and time limitation provisions of this section.

(6)(7) In lieu of the bond required by this section, a contractor may file with the state, county, city, or other political authority an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in part II of chapter 625. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this section. The determination of the value of an alternative form of security shall be made by the appropriate state, county, city, or other political subdivision.

(7)(8) When a contractor has furnished a payment bond pursuant to this section, he or she may, when the state, county, municipality, political subdivision, or other public authority makes any payment to the contractor or directly to a claimant, serve a written demand on any claimant who is not in privity with the contractor for a written statement under oath of his or her account showing the nature of the labor or services performed and to be performed, if any; the materials furnished; the materials to be furnished, if known; the amount paid on account to date; the amount due; and the amount to become due, if known, as of the date of the statement by the claimant. Any such demand to a claimant who is not in privity with the contractor must be served on the claimant at the address and to the attention of any person who is designated to receive the demand in the notice to contractor served by the claimant. The failure or refusal to furnish the statement does not deprive the claimant of his or her rights under the bond if the demand is not served at the address of the claimant or directed to the attention of the person designated to receive the demand in the notice to contractor. The failure to furnish the statement within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the claimant who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his or her rights under the bond. If the contractor serves more than one demand for statement of account on a claimant and none of the information regarding the account has changed since the claimant's last response to a demand, the failure or refusal to furnish such statement does not deprive the claimant of his or her rights under the bond. The negligent inclusion or omission of any information deprives the claimant of his or her rights under the bond to the extent that the contractor can demonstrate prejudice from such act or omission by the claimant. The failure to furnish a response to a demand for statement of account does not affect the validity of any claim on the bond being enforced in a lawsuit filed before the date the demand for statement of account is received by the claimant.

(8)(9) On any public works project for which the public authority requires a performance and payment bond, suits at law and in equity may be brought and maintained by and against the public authority on any contract claim arising from breach of an express provision or an implied covenant of a written agreement or a written directive issued by the public authority pursuant to the written agreement. In any such suit, the public authority and the contractor shall have all of the same rights and obligations as a private person under a like contract except that no liability may be based on an oral modification of either the written contract or written directive. Nothing herein shall be construed to waive the sovereign immunity of the state and its political subdivisions from equitable claims and equitable remedies. The provisions of this subsection shall apply only to contracts entered into on or after July 1, 1999.

(9) An action, except an action for recovery of

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 5, after the semicolon (;) insert: revising the form for a public construction bond; requiring all public construction bonds to be construed as statutory bonds; prohibiting conversion to common law bonds; deleting a requirement that bond forms used by public owners reference certain notice and time limitation provisions;

MOTION

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

Senators Bennett and Sebesta offered the following substitute amendment which was moved by Senator Bennett and adopted:

**Amendment 8 (423626)(with title amendment)**—On page 19, line 22 through page 22, line 24, delete those lines and insert:

Section 13. Section 255.05, Florida Statutes, is amended to read:

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(1)(a) Any person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver to the public owner, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety. A public entity may not require a contractor to secure a surety bond under this section from a specific agent or bonding company. The bond must state on its front page: the name, principal business address, and phone number of the contractor, the surety, the owner of the property being improved, and, if different from the owner, the contracting public entity; the contract number assigned by the contracting public entity; and a description of the project sufficient to identify it, such as a legal description or the street address of the property being improved, and a general description of the improvement. Such bond shall be conditioned upon the contractor's performance of the construction work in the time and manner prescribed in the contract and promptly making payments to all persons defined in s. 713.01 who furnish labor, services, or materials for the prosecution of the work provided for in the contract. Any claimant may apply to the governmental entity having charge of the work for copies of the contract and bond and shall thereupon be furnished with a certified copy of the contract and bond. The claimant shall have a right of action against the contractor and surety for the amount due him or her, including unpaid finance charges due under the claimant's contract. Such action shall not involve the public authority in any expense. When such work is done for the state and the contract is for \$100,000 or less, no payment and performance bond shall be required. At the discretion of the official or board awarding such contract when such work is done for any county, city, political subdivision, or public authority, any person entering into such a contract which is for \$200,000 or less may be exempted from executing the payment and performance bond. When such work is done for the state, the Secretary of the Department of Management Services may delegate to state agencies the authority to exempt any person entering into such a contract amounting to more than \$100,000 but less than \$200,000 from executing the payment and performance bond. In the event such exemption is granted, the officer or officials shall not be personally liable to persons suffering loss because of granting such exemption. The Department of Management Services shall maintain information on the number of requests by state agencies for delegation of authority to waive the bond requirements by agency and project number and whether any request for delegation was denied and the justification for the denial.

(b) The Department of Management Services shall adopt rules with respect to all contracts for \$200,000 or less, to provide:

1. Procedures for retaining up to 10 percent of each request for payment submitted by a contractor and procedures for determining disbursements from the amount retained on a pro rata basis to laborers, materialmen, and subcontractors, as defined in s. 713.01.

2. Procedures for requiring certification from laborers, materialmen, and subcontractors, as defined in s. 713.01, prior to final payment to the contractor that such laborers, materialmen, and subcontractors have no claims against the contractor resulting from the completion of the work provided for in the contract.

The state shall not be held liable to any laborer, materialman, or subcontractor for any amounts greater than the pro rata share as determined under this section.

(2)(a)1. If a claimant is no longer furnishing labor, services, or materials on a project, a contractor or the contractor's agent or attorney may elect to shorten the prescribed time in this paragraph within which an action to enforce any claim against a payment bond provided pursuant to this section may be commenced by recording in the clerk's office a notice in substantially the following form:

NOTICE OF CONTEST OF CLAIM AGAINST PAYMENT BOND

To: (Name and address of claimant)

You are notified that the undersigned contests your notice of nonpayment, dated . . . . ., and served on the undersigned on . . . . ., and that the time within which you may file suit to enforce your claim is limited to 60 days after the date of service of this notice.

DATED on . . . . .

Signed: (Contractor or Attorney)

The claim of any claimant upon whom such notice is served and who fails to institute a suit to enforce his or her claim against the payment bond within 60 days after service of such notice shall be extinguished automatically. The clerk shall mail a copy of the notice of contest to the claimant at the address shown in the notice of nonpayment or most recent amendment thereto and shall certify to such service on the face of such notice and record the notice. Service is complete upon mailing.

2. A claimant, except a laborer, who is not in privity with the contractor shall, before commencing or not later than 45 days after commencing to furnish labor, materials, or supplies for the prosecution of the work, furnish the contractor with a notice that he or she intends to look to the bond for protection. A claimant who is not in privity with the contractor and who has not received payment for his or her labor, materials, or supplies shall deliver to the contractor and to the surety written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment. The notice of nonpayment may be served at any time during the progress of the work or thereafter but not before 45 days after the first furnishing of labor, services, or materials, and not later than 90 days after the final furnishing of the labor, services, or materials by the claimant or, with respect to rental equipment, not later than 90 days after the date that the rental equipment was last on the job site available for use. Any notice of nonpayment served by a claimant who is not in privity with the contractor which includes sums for retainage must specify the portion of the amount claimed for retainage. No action for the labor, materials, or supplies may be instituted against the contractor or the surety unless both notices have been given. Notices required or permitted under this section may be served in accordance with s. 713.18. ~~An action, except for an action exclusively for recovery of retainage, must be instituted against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 1 year after the performance of the labor or completion of delivery of the materials or supplies. An action exclusively for recovery of retainage must be instituted against the contractor or the surety within 1 year after the performance of the labor or completion of delivery of the materials or supplies, or within 90 days after receipt of final payment (or the payment estimate containing the owner's final reconciliation of quantities if no further payment is earned and due as a result of deductive adjustments) by the contractor or surety, whichever comes last.~~ A claimant may not waive in advance his or her right to bring an action under the bond against the surety. In any action brought to enforce a claim against a payment bond under this section, the prevailing party is entitled to recover a reasonable fee for the services of his or her attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of the prevailing party's costs, as allowed in equitable actions. The time periods for service of a notice of nonpayment or for bringing an action against a contractor or a surety shall be measured from the last day of furnishing labor, services, or materials by the claimant and shall not be measured by other standards, such as the issuance of a certificate of occupancy or the issuance of a certificate of substantial completion.

(b) When a person is required to execute a waiver of his or her right to make a claim against the payment bond in exchange for, or to induce payment of, a progress payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM AGAINST THE PAYMENT BOND (PROGRESS PAYMENT)

The undersigned, in consideration of the sum of \$ . . . , hereby waives its right to claim against the payment bond for labor, services, or materials furnished through (insert date) to (insert the name of your customer) on the job of (insert the name of the owner) , for improvements to the following described project:

(description of project)

This waiver does not cover any retention or any labor, services, or materials furnished after the date specified.

DATED ON . . . . .

(Claimant) By: . . . . .

(c) When a person is required to execute a waiver of his or her right to make a claim against the payment bond, in exchange for, or to induce payment of, the final payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM AGAINST THE PAYMENT BOND (FINAL PAYMENT)

The undersigned, in consideration of the final payment in the amount of \$ . . . , hereby waives its right to claim against the payment bond for labor, services, or materials furnished to (insert the name of your customer) on the job of (insert the name of the owner) , for improvements to the following described project:

(description of project)

DATED ON . . . . .

(Claimant) By: . . . . .

(d) A person may not require a claimant to furnish a waiver that is different from the forms in paragraphs (b) and (c).

(e) A claimant who executes a waiver in exchange for a check may condition the waiver on payment of the check.

(f) A waiver that is not substantially similar to the forms in this subsection is enforceable in accordance with its terms.

(3) The bond required in subsection (1) may be in substantially the following form:

PUBLIC CONSTRUCTION BOND

Bond No. (enter bond number)

BY THIS BOND, We \_\_\_\_\_, as Principal and \_\_\_\_\_, a corporation, as Surety, are bound to \_\_\_\_\_, herein called Owner, in the sum of \$ \_\_\_\_\_, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

- 1. Performs the contract dated \_\_\_\_\_, \_\_\_\_\_, between Principal and Owner for construction of \_\_\_\_\_, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05, Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

DATED ON \_\_\_\_\_, \_\_\_\_\_.

... (Name of Principal) ...

By ... (As Attorney in Fact) ...

... (Name of Surety) ...

(4) The payment provisions of all bonds required by furnished for public work contracts described in subsection (1) shall, regardless of form, be construed and deemed statutory bonds furnished pursuant to this section and such bonds shall not under any circumstances be converted into common law bonds bond provisions, subject to all requirements of subsection (2).

(5) In addition to the provisions of chapter 47, any action authorized under this section may be brought in the county in which the public building or public work is being constructed or repaired. This subsection shall not apply to an action instituted prior to May 17, 1977.

(6) All bonds executed pursuant to this section shall make reference to this section by number and shall contain reference to the notice and time limitation provisions of this section.

(6) (7) In lieu of the bond required by this section, a contractor may file with the state, county, city, or other political authority an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in part II of chapter 625. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this section. The determination of the value of an alternative form of security shall be made by the appropriate state, county, city, or other political subdivision.

(7) (8) When a contractor has furnished a payment bond pursuant to this section, he or she may, when the state, county, municipality, political subdivision, or other public authority makes any payment to the contractor or directly to a claimant, serve a written demand on any claimant who is not in privity with the contractor for a written statement under oath of his or her account showing the nature of the labor or services performed and to be performed, if any; the materials furnished; the materials to be furnished, if known; the amount paid on account to date; the amount due; and the amount to become due, if known, as of the date of the statement by the claimant. Any such demand to a claimant who is not in privity with the contractor must be served on the claimant at the address and to the attention of any person who is designated to receive the demand in the notice to contractor served by the claimant. The failure or refusal to furnish the statement does not deprive the claimant of his or her rights under the bond if the demand is not served at the address of the claimant or directed to the attention of the person designated to receive the demand in the notice to contractor. The failure to furnish the statement within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the claimant who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his or her rights under the bond. If the contractor serves more than one demand for statement of account on a claimant and none of the information regarding the account has changed since the claimant's last response to a demand, the failure or refusal to furnish such statement does not deprive the claimant of his or her rights under the bond. The negligent inclusion or omission of any information deprives the claimant of his or her rights under the bond to the extent that the contractor can demonstrate prejudice from such act or omission by the claimant. The failure to furnish a response to a demand for statement of account does not affect the validity of any claim on the bond being enforced in a lawsuit filed before the date the demand for statement of account is received by the claimant.

(8) (9) On any public works project for which the public authority requires a performance and payment bond, suits at law and in equity may be brought and maintained by and against the public authority on any contract claim arising from breach of an express provision or an implied covenant of a written agreement or a written directive issued by

the public authority pursuant to the written agreement. In any such suit, the public authority and the contractor shall have all of the same rights and obligations as a private person under a like contract except that no liability may be based on an oral modification of either the written contract or written directive. Nothing herein shall be construed to waive the sovereign immunity of the state and its political subdivisions from equitable claims and equitable remedies. The provisions of this subsection shall apply only to contracts entered into on or after July 1, 1999.

(9) *An action, except an action for recovery of*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 5, after the semicolon (;) insert: revising the form for a public construction bond; requiring the payment provisions of all public construction bonds to be construed as statutory bonds; prohibiting conversion to common law bonds; deleting a requirement that bond forms used by public owners reference certain notice and time limitation provisions;

Senator Bennett moved the following amendment which was adopted:

**Amendment 9 (211220)**—On page 12, lines 27 and 28, delete those lines and insert: *bear interest at the rate specified in s. 215.422. After July 1, 2005, such payments shall bear interest at the rate of 1 percent per month, to the extent that the Chief Financial Officer’s replacement project for the state’s accounting and cash management systems (Project ASPIRE) is operational for the particular affected public entities. After January 1, 2006, all such payments due from public entities shall bear interest at the rate of 1 percent per month.*

Pursuant to Rule 4.19, **CS for CS for SB 544** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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Consideration of **CS for CS for SB 528** was deferred.

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On motion by Senator Smith—

**CS for SB 2762**—A bill to be entitled An act relating to driving under the influence; amending s. 316.193, F.S.; providing that a previous conviction for the offense of driving under the influence is sufficient evidence to establish such conviction; providing that such evidence may be rebutted or contradicted; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2762** was placed on the calendar of Bills on Third Reading.

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On motion by Senator Atwater—

**CS for CS for SB 2698**—A bill to be entitled An act relating to motor vehicles; providing a popular name; amending s. 319.14, F.S.; defining the terms “insurance recovery vehicle,” “salvage recovery vehicle,” and “salvage company”; providing prohibitions on the sale of such vehicles; providing penalties; amending s. 319.23, F.S.; requiring affidavit with application for title of used motor vehicles not previously issued certificate of title; providing an exemption; providing penalties for violation or falsification; amending s. 319.30, F.S.; revising the definition of “total loss”; revising provisions for issuance to insurer of certificate of destruction and certificate of title upon total loss of vehicle; requiring the Department of Highway Safety and Motor Vehicles to create a program to promote and enhance public awareness of risks to consumers associated with buying used motor vehicles previously titled in other states; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 2698** was placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell—

**CS for CS for CS for SB 1184**—A bill to be entitled An act relating to condominium and community associations; amending s. 718.111, F.S.; providing immunity from liability for certain information provided by associations to prospective purchasers or lienholders under certain circumstances; amending s. 720.303, F.S.; requiring specific notice to be given to association members before certain assessments or rule changes may be considered at a meeting; amending s. 768.1325, F.S.; providing immunity from civil liability for community associations that provide automated defibrillator devices under certain circumstances; prohibiting insurers from requiring associations to purchase medical malpractice coverage as a condition of issuing other coverage; prohibiting insurers from excluding from coverage under a general liability policy damages resulting from the use of an automated external defibrillator device; amending ss. 718.112 and 719.1055, F.S.; revising notification and voting procedures with respect to any vote to forego retrofitting of the common areas of condominiums and cooperatives with fire sprinkler systems; amending s. 718.503, F.S.; requiring unit owners who are not developers to provide a specific question and answer disclosure document to certain prospective purchasers; creating s. 720.401, F.S.; providing legislative intent relating to the revival of governance of a community; creating s. 720.402, F.S.; providing eligibility to revive governance documents; specifying prerequisites to reviving governance documents; creating s. 720.403, F.S.; requiring the formation of an organizing committee; providing for membership; providing duties and responsibilities of the organizing committee; directing the organizing committee to prepare certain documents; providing for the contents of the documents; providing for a vote of the eligible parcel owners; creating s. 720.404, F.S.; directing the organizing committee to file certain documents with the Department of Community Affairs; specifies the content of the submission to the department; requiring the department to approve or disapprove the request to revive the governance documents within a specified time period; creating s. 720.405, F.S.; requiring the organizing committee to file and record certain documents within a specified time period; directing the organizing committee to give all affected parcel owners a copy of the documents filed and recorded; amending ss. 720.301 and 720.302, F.S.; conforming provisions to changes made by the act; amending s. 718.110, F.S.; restricting the application of certain amendments restricting owners’ rental rights; providing an effective date.

—was read the second time by title.

Senator Campbell moved the following amendments which were adopted:

**Amendment 1 (431740)**—On page 10, lines 26-31, delete those lines and insert: *required fire sprinkler system is to take place, in at least 16 point bold type, by certified mail, within 20 days after the association’s vote. Within 30 days after the association’s opt-out vote, notice of the results of the opt-out vote shall be mailed, delivered, or electronically transmitted to all unit owners. Evidence of compliance with this 30-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. After such notice is provided to each owner, a copy of such notice shall be provided by the current owner to a new owner prior to closing and shall be provided by a unit owner to a renter prior to signing a lease.*

**Amendment 2 (024892)**—On page 20, line 27, after the period (.) insert:

*For purposes of chapter 712, the association is deemed to be and shall be indexed as the grantee in a title transaction and the parcel owners named in the revived declaration are deemed to be and shall be indexed as the grantors in the title transaction.*

Senator Campbell offered the following amendment which was moved by Senator Atwater and adopted:

**Amendment 3 (482310)(with title amendment)**—On page 22, line 16 through page 24, line 17, delete those lines and insert:

(5) “Department” means the Department of Business and Professional Regulation.

(6)(5) “Developer” means a person or entity that:

(a) Creates the community served by the association; or

(b) Succeeds to the rights and liabilities of the person or entity that created the community served by the association, provided that such is evidenced in writing.

(7) “Division” means the Division of Florida Land Sales, Condominiums, and Mobile Homes in the Department of Business and Professional Regulation.

(8)(6) “Governing documents” means:

(a) The recorded declaration of covenants for a community, and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto; and

(b) The articles of incorporation and bylaws of the homeowners’ association, and any duly adopted amendments thereto.

(9)(7) “Homeowners’ association” or “association” means a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel. The term “homeowners’ association” does not include a community development district or other similar special taxing district created pursuant to statute.

(10)(8) “Member” means a member of an association, and may include, but is not limited to, a parcel owner or an association representing parcel owners or a combination thereof, and includes any person or entity obligated by the governing documents to pay an assessment or amenity fee.

(11)(9) “Parcel” means a platted or unplatted lot, tract, unit, or other subdivision of real property within a community, as described in the declaration:

(a) Which is capable of separate conveyance; and

(b) Of which the parcel owner, or an association in which the parcel owner must be a member, is obligated:

1. By the governing documents to be a member of an association that serves the community; and

2. To pay to the homeowners’ association assessments that, if not paid, may result in a lien.

(12)(10) “Parcel owner” means the record owner of legal title to a parcel.

(13)(11) “Voting interest” means the voting rights distributed to the members of the homeowners’ association, pursuant to the governing documents.

Section 13. Subsections (1), (2), (3), and (4) of section 720.302, are amended to read:

720.302 Purposes, scope, and application.—

(1) The purposes of *this chapter* ~~ss. 720.301-720.312~~ are to give statutory recognition to corporations not for profit that operate residential communities in this state, to provide procedures for operating homeowners’ associations, and to protect the rights of association members without unduly impairing the ability of such associations to perform their functions.

(2) The Legislature recognizes that it is not in the best interest of homeowners’ associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners’ associations. *However, in accordance with s. 720.311, the Legislature finds that homeowners’ associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter.* Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners’ associations and members thereof before the effective date of this act and that ~~ss. 720.301-720.501 ss. 720.301-720.312~~ are not intended to impair such

contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

(3) *This chapter does* ~~Sections 720.301-720.312 do~~ not apply to:

(a) A community that is composed of property primarily intended for commercial, industrial, or other nonresidential use; or

(b) The commercial or industrial parcels in a community that contains both residential parcels and parcels intended for commercial or industrial use.

(4) *This chapter does* ~~Sections 720.301-720.312 do~~ not apply to any association that is subject to regulation under chapter 718, chapter 719, or chapter 721; or to any nonmandatory association formed under chapter 723.

Section 14. Section 720.303, Florida Statutes, is amended to read:

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; *association funds; recalls.*—

(1) POWERS AND DUTIES.—An association which operates a community as defined in s. 720.301, must be operated by an association that is a Florida corporation. After October 1, 1995, the association must be incorporated and the initial governing documents must be recorded in the official records of the county in which the community is located. An association may operate more than one community. The officers and directors of an association have a fiduciary relationship to the members who are served by the association. The powers and duties of an association include those set forth in this chapter and, except as expressly limited or restricted in this chapter, those set forth in the governing documents. After control of the association is obtained by ~~members and~~ ~~owners~~ other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members, including, but not limited to, the common areas; roof or structural components of a building, or other improvements for which the association is responsible; mechanical, electrical, or plumbing elements serving an improvement or building for which the association is responsible; representations of the developer pertaining to any existing or proposed commonly used facility; and protesting ad valorem taxes on commonly used facilities. The association may defend actions in eminent domain or bring inverse condemnation actions. Before commencing litigation against any party in the name of the association involving amounts in controversy in excess of \$100,000, the association must obtain the affirmative approval of a majority of the voting interests at a meeting of the membership at which a quorum has been attained. This subsection does not limit any statutory or common-law right of any individual member or class of members to bring any action without participation by the association. A member does not have authority to act for the association by virtue of being a member. An association may have more than one class of members and may issue membership certificates. *An association of 15 or fewer parcel owners may enforce only the requirements of those deed restrictions established prior to the purchase of each parcel upon an affected parcel owner or owners.*

(2) BOARD MEETINGS.—

(a) A meeting of the board of directors of an association occurs whenever a quorum of the board gathers to conduct association business. All meetings of the board must be open to all members except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege.

(b) *Members have the right to attend all meetings of the board and to speak on any matter placed on the agenda by petition of the voting interests for at least 3 minutes. The association may adopt written reasonable rules expanding the right of members to speak and governing the frequency, duration, and other manner of member statements, which rules must be consistent with this paragraph and may include a sign-up sheet for members wishing to speak. Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the members is inapplicable to meetings between the board or a committee and the association’s attorney, with respect to meetings of the board held for the purpose of discussing personnel matters.*

(c) *The bylaws shall provide for giving notice to parcel owners and members of all board meetings and, if they do not do so, shall be deemed to provide the following:*

1. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with more than 100 members, the bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice, provision of a schedule of board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the homeowners' association. However, if broadcast notice is used in lieu of a notice posted physically in the community, the notice must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. The bylaws or amended bylaws may provide for giving notice by electronic transmission in a manner authorized by law for meetings of the board of directors, committee meetings requiring notice under this section, and annual and special meetings of the members; however, a member must consent in writing to receiving notice by electronic transmission.

2. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. *Written notice of any meeting at which special assessments will be considered or at which amendments to rules regarding parcel use will be considered must be mailed, delivered, or electronically transmitted to the members and parcel owners and posted conspicuously on the property or broadcast on closed-circuit cable television not less than 14 days before the meeting.*

3. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of association funds, and to any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community.

*(d) If 20 percent of the total voting interests petition the board to address an item of business, the board shall at its next regular board meeting or at a special meeting of the board, but not later than 60 days after the receipt of the petition, take the petitioned item up on an agenda. The board shall give all members notice of the meeting at which the petitioned item shall be addressed in accordance with the 14-day notice requirement pursuant to subparagraph 2. Each member shall have the right to speak for at least 3 minutes on each matter placed on the agenda by petition, provided that the member signs the sign-up sheet, if one is provided, or submits a written request to speak prior to the meeting. Other than addressing the petitioned item at the meeting, the board is not obligated to take any other action requested by the petition.*

(3) **MINUTES.**—Minutes of all meetings of the members of an association and of the board of directors of an association must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

(4) **OFFICIAL RECORDS.**—The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

(a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace.

(b) A copy of the bylaws of the association and of each amendment to the bylaws.

(c) A copy of the articles of incorporation of the association and of each amendment thereto.

(d) A copy of the declaration of covenants and a copy of each amendment thereto.

(e) A copy of the current rules of the homeowners' association.

(f) The minutes of all meetings of the board of directors and of the members, which minutes must be retained for at least 7 years.

(g) A current roster of all members and their mailing addresses and parcel identifications. The association shall also maintain the electronic mailing addresses and the numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by unit owners to receive notice by electronic transmission shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

(h) All of the association's insurance policies or a copy thereof, which policies must be retained for at least 7 years.

(i) A current copy of all contracts to which the association is a party, including, without limitation, any management agreement, lease, or other contract under which the association has any obligation or responsibility. Bids received by the association for work to be performed must also be considered official records and must be kept for a period of 1 year.

(j) The financial and accounting records of the association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:

1. Accurate, itemized, and detailed records of all receipts and expenditures.

2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.

3. All tax returns, financial statements, and financial reports of the association.

4. Any other records that identify, measure, record, or communicate financial information.

(k) *A copy of the disclosure summary described in s. 720.401(2).*

(l) *All other written records of the association not specifically included in the foregoing which are related to the operation of the association.*

(5) **INSPECTION AND COPYING OF RECORDS.**—The official records shall be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access. This subsection may be complied with by having a copy of the official records available for inspection or copying in the community. *If the association has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages.*

(a) The failure of an association to provide access to the records within 10 business days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this subsection.

(b) A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this subsection. The minimum damages are to be \$50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, *records to be inspected*, and manner

of inspections, but may not impose a requirement that a parcel owner demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month. The association ~~and~~ may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The association may charge up to 50 cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the association may have copies made by an outside vendor and may charge the actual cost of copying. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members, ~~and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.~~ Notwithstanding the provisions of this paragraph, the following records shall not be accessible to members or parcel owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including, but not limited to, any record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association and was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a parcel.

3. Disciplinary, health, insurance, and personnel records of the association's employees.

4. Medical records of parcel owners or community residents.

(6) BUDGETS.—The association shall prepare an annual budget. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the association, the developer, or another person. The association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The copy must be provided to the member within the time limits set forth in subsection (5).

(7) FINANCIAL REPORTING.—The association shall prepare an annual financial report within 60 days after the close of the fiscal year. The association shall, within the time limits set forth in subsection (5), provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. *Financial reports shall be prepared as follows:* ~~The financial report must consist of either:~~

(a) An association that meets the criteria of this paragraph shall prepare or cause to be prepared a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements shall be based upon the association's total annual revenues, as follows:

1. An association with total annual revenues of \$100,000 or more, but less than \$200,000, shall prepare compiled financial statements.

2. An association with total annual revenues of at least \$200,000, but less than \$400,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of \$400,000 or more shall prepare audited financial statements. *Financial statements presented in conformity with generally accepted accounting principles; or*

(b) A financial report of actual receipts and expenditures, cash basis, which report must show:

1. An association with total annual revenues of less than \$100,000 shall prepare a report of cash receipts and expenditures. ~~The amount of receipts and expenditures by classification; and~~

2. An association in a community of fewer than 50 parcels, regardless of the association's annual revenues, may prepare a report of cash receipts

and expenditures in lieu of financial statements required by paragraph (a) unless the governing documents provide otherwise. ~~The beginning and ending cash balances of the association.~~

3. A report of cash receipts and disbursement must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional, and management fees and expenses; taxes; costs for recreation facilities; expenses for refuse collection and utility services; expenses for lawn care; costs for building maintenance and repair; insurance costs; administration and salary expenses; and reserves if maintained by the association.

(c) If 20 percent of the parcel owners petition the board for a level of financial reporting higher than that required by this section, the association shall duly notice and hold a meeting of members within 30 days of receipt of the petition for the purpose of voting on raising the level of reporting for that fiscal year. Upon approval of a majority of the total voting interests of the parcel owners, the association shall prepare or cause to be prepared, shall amend the budget or adopt a special assessment to pay for the financial report regardless of any provision to the contrary in the governing documents, and shall provide within 90 days of the meeting or the end of the fiscal year, whichever occurs later:

1. Compiled, reviewed, or audited financial statements, if the association is otherwise required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the association is otherwise required to prepare compiled financial statements; or

3. Audited financial statements if the association is otherwise required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare or cause to be prepared:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

(8) ASSOCIATION FUNDS; COMMINGLING.—

(a) All association funds held by a developer shall be maintained separately in the association's name. Reserve and operating funds of the association shall not be commingled prior to turnover except the association may jointly invest reserve funds; however, such jointly invested funds must be accounted for separately.

(b) No developer in control of a homeowners' association shall commingle any association funds with his or her funds or with the funds of any other homeowners' association or community association.

(c) Association funds may not be used by a developer to defend a civil or criminal action, administrative proceeding, or arbitration proceeding that has been filed against the developer or directors appointed to the association board by the developer, even when the subject of the action or proceeding concerns the operation of the developer-controlled association.

(9) APPLICABILITY.—Sections 617.1601-617.1604 do not apply to a homeowners' association in which the members have the inspection and copying rights set forth in this section.

(10) RECALL OF DIRECTORS.—

(a)1. Regardless of any provision to the contrary contained in the governing documents, subject to the provisions of s. 720.307 regarding transition of association control, any member of the board or directors may be recalled and removed from office with or without cause by a majority of the total voting interests.

2. When the governing documents, including the declaration, articles of incorporation, or bylaws, provide that only a specific class of members

is entitled to elect a board director or directors, only that class of members may vote to recall those board directors so elected.

(b)1. Board directors may be recalled by an agreement in writing or by written ballot without a membership meeting. The agreement in writing or the written ballots, or a copy thereof, shall be served on the association by certified mail or by personal service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure.

2. The board shall duly notice and hold a meeting of the board within 5 full business days after receipt of the agreement in writing or written ballots. At the meeting, the board shall either certify the written ballots or written agreement to recall a director or directors of the board, in which case such director or directors shall be recalled effective immediately and shall turn over to the board within 5 full business days any and all records and property of the association in their possession, or proceed as described in paragraph (d).

3. When it is determined by the department pursuant to binding arbitration proceedings that an initial recall effort was defective, written recall agreements or written ballots used in the first recall effort and not found to be defective may be reused in one subsequent recall effort. However, in no event is a written agreement or written ballot valid for more than 120 days after it has been signed by the member.

4. Any rescission or revocation of a member's written recall ballot or agreement must be in writing and, in order to be effective, must be delivered to the association before the association is served with the written recall agreements or ballots.

5. The agreement in writing or ballot shall list at least as many possible replacement directors as there are directors subject to the recall, when at least a majority of the board is sought to be recalled; the person executing the recall instrument may vote for as many replacement candidates as there are directors subject to the recall.

(c)1. If the declaration, articles of incorporation, or bylaws specifically provide, the members may also recall and remove a board director or directors by a vote taken at a meeting. If so provided in the governing documents, a special meeting of the members to recall a director or directors of the board of administration may be called by 10 percent of the voting interests giving notice of the meeting as required for a meeting of members, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for this purpose.

2. The board shall duly notice and hold a board meeting within 5 full business days after the adjournment of the member meeting to recall one or more directors. At the meeting, the board shall certify the recall, in which case such member or members shall be recalled effective immediately and shall turn over to the board within 5 full business days any and all records and property of the association in their possession, or shall proceed as set forth in subparagraph (d).

(d) If the board determines not to certify the written agreement or written ballots to recall a director or directors of the board or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the meeting, file with the department a petition for binding arbitration pursuant to the applicable procedures in ss. 718.1255 and 718.112(2)(j) and the rules adopted thereunder. For the purposes of this section, the members who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any director or directors of the board, the recall will be effective upon mailing of the final order of arbitration to the association. The director or directors so recalled shall deliver to the board any and all records of the association in their possession within 5 full business days after the effective date of the recall.

(e) If a vacancy occurs on the board as a result of a recall and less than a majority of the board directors are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any provision to the contrary contained in this subsection or in the association documents. If vacancies occur on the board as a result of a recall and a majority or more of the board directors are removed, the vacancies shall be filled by members voting in favor of the recall; if removal is at a meeting, any vacancies shall be filled by the members at the meeting. If the recall occurred by agreement in writing or by written ballot, members may vote for replacement directors in the

same instrument in accordance with procedural rules adopted by the division, which rules need not be consistent with this subsection.

(f) If the board fails to duly notice and hold a board meeting within 5 full business days after service of an agreement in writing or within 5 full business days after the adjournment of the member recall meeting, the recall shall be deemed effective and the board directors so recalled shall immediately turn over to the board all records and property of the association.

(g) If a director who is removed fails to relinquish his or her office or turn over records as required under this section, the circuit court in the county where the association maintains its principal office may, upon the petition of the association, summarily order the director to relinquish his or her office and turn over all association records upon application of the association.

(h) The minutes of the board meeting at which the board decides whether to certify the recall are an official association record. The minutes must record the date and time of the meeting, the decision of the board, and the vote count taken on each board member subject to the recall. In addition, when the board decides not to certify the recall, as to each vote rejected, the minutes must identify the parcel number and the specific reason for each such rejection.

(i) When the recall of more than one board director is sought, the written agreement, ballot, or vote at a meeting shall provide for a separate vote for each board director sought to be recalled.

Section 15. Section 720.304, Florida Statutes, is amended to read:

720.304 Right of owners to peaceably assemble; display of flag; SLAPP suits prohibited.—

(1) All common areas and recreational facilities serving any homeowners' association shall be available to parcel owners in the homeowners' association served thereby and their invited guests for the use intended for such common areas and recreational facilities. The entity or entities responsible for the operation of the common areas and recreational facilities may adopt reasonable rules and regulations pertaining to the use of such common areas and recreational facilities. No entity or entities shall unreasonably restrict any parcel owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in common areas and recreational facilities.

(2) Any homeowner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day may display in a respectful manner portable, removable official flags, not larger than 4 1/2 feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless of any declaration rules or requirements dealing with flags or decorations.

(3) Any owner prevented from exercising rights guaranteed by subsection (1) or subsection (2) may bring an action in the appropriate court of the county in which the alleged infringement occurred, and, upon favorable adjudication, the court shall enjoin the enforcement of any provision contained in any homeowners' association document or rule that operates to deprive the owner of such rights.

(4) It is the intent of the Legislature to protect the right of parcel owners to exercise their rights to instruct their representatives and petition for redress of grievances before the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. The Legislature recognizes that "Strategic Lawsuits Against Public Participation" or "SLAPP" suits, as they are typically called, have occurred when members are sued by individuals, business entities, or governmental entities arising out of a parcel owner's appearance and presentation before a governmental entity on matters related to the homeowners' association. However, it is the public policy of this state that government entities, business organizations, and individuals not engage in SLAPP suits because such actions are inconsistent with the right of parcel owners to participate in the state's institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by governmental entities, business entities, and individuals against parcel owners who address matters concerning their homeowners' association will preserve this fundamental state policy, preserve the constitutional rights of parcel owners,

and assure the continuation of representative government in this state. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts.

(a) As used in this subsection, the term "governmental entity" means the state, including the executive, legislative, and judicial branches of government, the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions, or any agencies of these branches which are subject to chapter 286.

(b) A governmental entity, business organization, or individual in this state may not file or cause to be filed through its employees or agents any lawsuit, cause of action, claim, cross-claim, or counterclaim against a parcel owner without merit and solely because such parcel owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

(c) A parcel owner sued by a governmental entity, business organization, or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A parcel owner may petition the court for an order dismissing the action or granting final judgment in favor of that parcel owner. The petitioner may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the governmental entity's, business organization's, or individual's lawsuit has been brought in violation of this section. The governmental entity, business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after the filing of the governmental entity's, business organization's or individual's response. The court may award the parcel owner sued by the governmental entity, business organization, or individual actual damages arising from the governmental entity's, individual's, or business organization's violation of this section. A court may treble the damages awarded to a prevailing parcel owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney's fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(d) Homeowners' associations may not expend association funds in prosecuting a SLAPP suit against a parcel owner.

(5)(a) Any parcel owner may construct an access ramp if a resident or occupant of the parcel has a medical necessity or disability that requires a ramp for egress and ingress under the following conditions:

1. The ramp must be as unobtrusive as possible, be designed to blend in aesthetically as practicable, and be reasonably sized to fit the intended use.

2. Plans for the ramp must be submitted in advance to the homeowners' association. The association may make reasonable requests to modify the design to achieve architectural consistency with surrounding structures and surfaces.

(b) The parcel owner must submit to the association an affidavit from a physician attesting to the medical necessity or disability of the resident or occupant of the parcel requiring the access ramp. Certification used for s. 320.0848 shall be sufficient to meet the affidavit requirement.

(6) Any parcel owner may display a sign of reasonable size provided by a contractor for security services within 10 feet of any entrance to the home.

Section 16. Subsection (2) of section 720.305, Florida Statutes, is amended to read:

720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights; failure to fill sufficient number of vacancies on board of directors to constitute a quorum; appointment of receiver upon petition of any member.—

(2) If the governing documents so provide, an association may suspend, for a reasonable period of time, the rights of a member or a member's tenants, guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines, not to exceed \$100 per violation, against any member or any tenant, guest, or invitee. A fine may be levied

on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine shall not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to collect its reasonable attorney's fees and costs from the nonprevailing party as determined by the court.

(a) A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

(b) The requirements of this subsection do not apply to the imposition of suspensions or fines upon any member because of the failure of the member to pay assessments or other charges when due if such action is authorized by the governing documents.

(c) Suspension of common-area-use rights shall not impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

Section 17. Section 720.3055, Florida Statutes, is created to read:

720.3055 Contracts for products and services; in writing; bids; exceptions.—

(1) All contracts as further described in this section or any contract that is not to be fully performed within 1 year after the making thereof for the purchase, lease, or renting of materials or equipment to be used by the association in accomplishing its purposes under this chapter or the governing documents, and all contracts for the provision of services, shall be in writing. If a contract for the purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the association that exceeds 10 percent of the total annual budget of the association, including reserves, the association must obtain competitive bids for the materials, equipment, or services. Nothing contained in this section shall be construed to require the association to accept the lowest bid.

(2)(a)1. Notwithstanding the foregoing, contracts with employees of the association, and contracts for attorney, accountant, architect, community association manager, engineering, and landscape architect services are not subject to the provisions of this section.

2. A contract executed before October 1, 2004, and any renewal thereof, is not subject to the competitive bid requirements of this section. If a contract was awarded under the competitive bid procedures of this section, any renewal of that contract is not subject to such competitive bid requirements if the contract contains a provision that allows the board to cancel the contract on 30 days' notice. Materials, equipment, or services provided to an association under a local government franchise agreement by a franchise holder are not subject to the competitive bid requirements of this section. A contract with a manager, if made by a competitive bid, may be made for up to 3 years. An association whose declaration or bylaws provide for competitive bidding for services may operate under the provisions of that declaration or bylaws in lieu of this section if those provisions are not less stringent than the requirements of this section.

(b) Nothing contained in this section is intended to limit the ability of an association to obtain needed products and services in an emergency.

(c) This section does not apply if the business entity with which the association desires to enter into a contract is the only source of supply within the county serving the association.

(d) Nothing contained in this section shall excuse a party contracting to provide maintenance or management services from compliance with s. 720.309.

Section 18. Present subsections (5) through (8) of section 720.306, Florida Statutes, are renumbered as subsections (7) through (10), respectively, present subsection (7) is amended, and new subsections (5) and (6) are added to that section to read:

720.306 Meetings of members; voting and election procedures; amendments.—

(5) **NOTICE OF MEETINGS.**—The bylaws shall provide for giving notice to members of all member meetings, and if they do not do so shall be deemed to provide the following: The association shall give all parcel owners and members actual notice of all membership meetings, which shall be mailed, delivered, or electronically transmitted to the members not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed upon execution among the official records of the association. In addition to mailing, delivering, or electronically transmitting the notice of any meeting, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the association. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda.

(6) **RIGHT TO SPEAK.**—Members and parcel owners have the right to attend all membership meetings and to speak at any meeting with reference to all items opened for discussion or included on the agenda. Notwithstanding any provision to the contrary in the governing documents or any rules adopted by the board or by the membership, a member and a parcel owner have the right to speak for at least 3 minutes on any item, provided that the member or parcel owner submits a written request to speak prior to the meeting. The association may adopt written reasonable rules governing the frequency, duration, and other manner of member and parcel owner statements, which rules must be consistent with this paragraph.

(9)(7) **ELECTIONS.**—Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. All members of the association shall be eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held. Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters. Any election dispute between a member and an association must be submitted to mandatory binding arbitration with the division. Such proceedings shall be conducted in the manner provided by s. 718.1255 and the procedural rules adopted by the division.

Section 19. Section 720.311, Florida Statutes, is amended to read:

720.311 Dispute resolution.—

(1) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. The filing of any petition for mediation or arbitration provided for in this section shall toll the applicable statute of limitations. Any recall dispute filed with the department pursuant to s. 720.303(10) shall be conducted by the department in accordance with the provisions of ss. 718.1255 and 718.112(2)(j) and the rules adopted by the division. In addition, the department shall conduct mandatory binding arbitration of election disputes between a member and an association pursuant to s. 718.1255 and rules adopted by the division. Neither election disputes nor recall disputes are eligible for mediation; these disputes shall be arbitrated by the department. At the conclusion of the proceeding, the department shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding. Initially, the petitioner shall remit a filing fee of at least \$200 to the department. The fees paid to the department shall become a recoverable cost in the arbitration proceeding and the prevailing party in an arbitration proceeding shall recover its reasonable costs and attorney's fees in an amount found reasonable by the arbitrator. The department shall adopt rules to effectuate the purposes of this section.

(2)(a) Disputes between an association and a parcel owner regarding use of or changes to the parcel or the common areas and other covenant enforcement disputes, disputes regarding amendments to the association documents, disputes regarding meetings of the board and committees appointed by the board, membership meetings not including election meetings, and access to the official records of the association shall be filed with the department for mandatory mediation before the dispute is filed in court. Mediation proceedings must be conducted in accordance with the applicable Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered medi-

ation. An arbitrator or judge may not consider any information or evidence arising from the mediation proceeding except in a proceeding to impose sanctions for failure to attend a mediation session. Persons who are not parties to the dispute may not attend the mediation conference without the consent of all parties, except for counsel for the parties and a corporate representative designated by the association. When mediation is attended by a quorum of the board, such mediation is not a board meeting for purposes of notice and participation set forth in s. 720.303. The department shall conduct the proceedings through the use of department mediators or refer the disputes to private mediators who have been duly certified by the department as provided in paragraph (c). The parties shall share the costs of mediation equally, including the fee charged by the mediator, if any, unless the parties agree otherwise. If a department mediator is used, the department may charge such fee as is necessary to pay expenses of the mediation, including, but not limited to, the salary and benefits of the mediator and any travel expenses incurred. The petitioner shall initially file with the department upon filing the disputes, a filing fee of \$200, which shall be used to defray the costs of the mediation. At the conclusion of the mediation, the department shall charge to the parties, to be shared equally unless otherwise agreed by the parties, such further fees as are necessary to fully reimburse the department for all expenses incurred in the mediation.

(b) If mediation as described in paragraph (a) is not successful in resolving all issues between the parties, the parties may file the unresolved dispute in a court of competent jurisdiction or elect to enter into binding or nonbinding arbitration pursuant to the procedures set forth in s. 718.1255 and rules adopted by the division, with the arbitration proceeding to be conducted by a department arbitrator or by a private arbitrator certified by the department. If all parties do not agree to arbitration proceedings following an unsuccessful mediation, any party may file the dispute in court. A final order resulting from nonbinding arbitration is final and enforceable in the courts if a complaint for trial de novo is not filed in a court of competent jurisdiction within 30 days after entry of the order.

(c) The department shall develop a certification and training program for private mediators and private arbitrators which shall emphasize experience and expertise in the area of the operation of community associations. A mediator or arbitrator shall be certified by the department only if he or she has attended at least 20 hours of training in mediation or arbitration, as appropriate, and only if the applicant has mediated or arbitrated at least 10 disputes involving community associations within 5 years prior to the date of the application, or has mediated or arbitrated 10 disputes in any area within 5 years prior to the date of application and has completed 20 hours of training in community association disputes. In order to be certified by the department, any mediator must also be certified by the Florida Supreme Court. The department may conduct the training and certification program within the department or may contract with an outside vendor to perform the training or certification. The expenses of operating the training and certification and training program shall be paid by the moneys and filing fees generated by the arbitration of recall and election disputes and by the mediation of those disputes referred to in this subsection and by the training fees.

(d) The mediation procedures provided by this subsection may be used by a Florida corporation responsible for the operation of a community in which the voting members are parcel owners or their representatives, in which membership in the corporation is not a mandatory condition of parcel ownership, or which is not authorized to impose an assessment that may become a lien on the parcel.

(3) The department shall develop an education program to assist homeowners, associations, board members, and managers in understanding and increasing awareness of the operation of homeowners' associations pursuant to chapter 720 and in understanding the use of alternative dispute resolution techniques in resolving disputes between parcel owners and associations or between owners. Such education program may include the development of pamphlets and other written instructional guides, the holding of classes and meetings by department employees or outside vendors, as the department determines, and the creation and maintenance of a website containing instructional materials. The expenses of operating the education program shall be initially paid by the moneys and filing fees generated by the arbitration of recall and election disputes and by the mediation of those disputes referred to in this subsection. ~~At any time after the filing in a court of competent jurisdiction of a complaint relating to a dispute under ss. 720.301-720.312, the court may order that the parties enter mediation or arbitration procedures.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 27, after the first semicolon (;) insert: providing definitions; prescribing a legislative purpose of providing alternative dispute resolution procedures for disputes involving elections and recalls; amending s. 720.303, F.S.; prescribing the right of an association to enforce deed restrictions; prescribing rights of members and parcel owners to attend and address association board meetings and to have items placed on an agenda; prescribing additional requirements for notice of meetings; providing for additional materials to be maintained as records; providing additional requirements and limitations with respect to inspecting and copying records; providing requirements with respect to financial statements; providing procedures for recall of directors; amending s. 720.304, F.S.; prescribing owners' rights with respect to flag display; prohibiting certain lawsuits against parcel owners; providing penalties; allowing a parcel owner to construct a ramp for a parcel resident who has a medical need for a ramp; providing conditions; allowing the display of a security-services sign; amending s. 720.305, F.S.; providing that a fine by an association cannot become a lien against a parcel; providing for attorney's fees in actions to recover fines; creating s. 720.3055, F.S.; prescribing requirements for contracts for products and services; amending s. 720.306, F.S.; providing for notice of and right to speak at member meetings; requiring election disputes between a member and an association to be submitted to mandatory binding arbitration; amending s. 720.311, F.S.; expanding requirements and guidelines with respect to alternative dispute resolution; providing requirements for mediation and arbitration; providing for training and education programs;

Senator Campbell moved the following amendments which were adopted:

**Amendment 4 (933526)**—On page 24, lines 22-30, delete those lines and insert:

(13) *Any amendment restricting unit owners' rights relating to the rental of units applies only to unit owners who consent to the amendment and unit owners who purchase their units after the effective date of that amendment.*

**Amendment 5 (514098)(with title amendment)**—On page 24, between lines 30 and 31, insert:

Section 15. Section 689.26, Florida Statutes, is transferred, renumbered as section 720.601, Florida Statutes, and amended to read:

~~720.601 689-26~~ Prospective purchasers subject to association membership requirement; disclosure required; covenants; assessments; contract cancellation voidability.—

(1)(a) A prospective parcel owner in a community must be presented a disclosure summary before executing the contract for sale. The disclosure summary must be in a form substantially similar to the following form:

DISCLOSURE SUMMARY  
FOR  
(NAME OF COMMUNITY)

1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL ~~(WILL)~~ ~~(WILL NOT)~~ BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS COMMUNITY.

3. YOU WILL ~~(WILL)~~ ~~(WILL NOT)~~ BE OBLIGATED TO PAY ASSESSMENTS TO THE ASSOCIATION. ~~ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_. YOU WILL ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.~~

4. YOU MAY ~~(WILL)~~ ~~(WILL NOT)~~ BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE RESPECTIVE MUNICIPALITY,

COUNTY, OR SPECIAL DISTRICT. ALL ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

5.4. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD RESULT IN A LIEN ON YOUR PROPERTY.

6.5. THERE ~~MAY BE~~ ~~(IS)~~ ~~(IS NOT)~~ AN OBLIGATION TO PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. ~~IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_. (If such obligation exists, then the amount of the current obligation shall be set forth.)~~

7.6. ~~THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE RESTRICTIVE COVENANTS (CAN) (CANNOT) BE AMENDED WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE, IF NO MANDATORY ASSOCIATION EXISTS, PARCEL OWNERS.~~

8.7. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

9.8. THESE DOCUMENTS ARE *EITHER* MATTERS OF PUBLIC RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE PROPERTY IS LOCATED, *OR ARE NOT RECORDED AND CAN BE OBTAINED FROM THE DEVELOPER.*  
DATE: PURCHASER:  
PURCHASER:

The disclosure must be supplied by the developer, or by the parcel owner if the sale is by an owner that is not the developer. Any contract or agreement for sale shall refer to and incorporate the disclosure summary and shall include, in prominent language, a statement that the potential buyer should not execute the contract or agreement until they have received and read the disclosure summary required by this section.

(b) Each contract entered into for the sale of property governed by covenants subject to disclosure required by this section must contain in conspicuous type a clause that states:

IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION ~~720.601 689-26~~, FLORIDA STATUTES, HAS NOT BEEN PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE EXECUTING THIS CONTRACT FOR SALE, THIS CONTRACT IS VOIDABLE BY BUYER BY DELIVERING TO SELLER OR SELLER'S AGENT *OR REPRESENTATIVE* WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS AFTER RECEIPT OF THE DISCLOSURE SUMMARY OR PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS NO EFFECT. BUYER'S RIGHT TO VOID THIS CONTRACT SHALL TERMINATE AT CLOSING.

(c) *If the disclosure summary is not provided to a prospective purchaser before the purchaser executes a contract for the sale of property governed by covenants that are subject to disclosure pursuant to this section, the purchaser may void the contract by delivering to the seller or the seller's agent or representative written notice canceling the contract within 3 days after receipt of the disclosure summary or prior to closing, whichever occurs first. This right may not be waived by the purchaser but terminates at closing. A contract that does not conform to the requirements of this subsection is voidable at the option of the purchaser prior to closing.*

(2) This section does not apply to any association regulated under chapter 718, chapter 719, chapter 721, or chapter 723 or to a subdivider registered under chapter 498; and also does not apply if disclosure regarding the association is otherwise made in connection with the requirements of chapter 718, chapter 719, chapter 721, or chapter 723.

Section 16. Section 689.265, Florida Statutes, is transferred and renumbered as section 720.3086, Florida Statutes, to read:

~~720.3086 689-265~~ Financial report.—In a residential subdivision in which the owners of lots or parcels must pay mandatory maintenance or

amenity fees to the subdivision developer or to the owners of the common areas, recreational facilities, and other properties serving the lots or parcels, the developer or owner of such areas, facilities, or properties shall make public, within 60 days following the end of each fiscal year, a complete financial report of the actual, total receipts of mandatory maintenance or amenity fees received by it, and an itemized listing of the expenditures made by it from such fees, for that year. Such report shall be made public by mailing it to each lot or parcel owner in the subdivision, by publishing it in a publication regularly distributed within the subdivision, or by posting it in prominent locations in the subdivision. This section does not apply to amounts paid to homeowner associations pursuant to chapter 617, chapter 718, chapter 719, chapter 721, or chapter 723, or to amounts paid to local governmental entities, including special districts.

Section 17. Paragraphs (g) and (h) of subsection (2) of section 498.025, Florida Statutes, are amended to read:

498.025 Exemptions.—

(2) Except as provided in s. 498.022, the provisions of this chapter do not apply to offers or dispositions of interests in lots, parcels, or units contained in a recorded subdivision plat, or resulting from the subdivision of land in accordance with applicable local land development laws and regulations pursuant to part II of chapter 163, including lots, parcels, units, or interest vested under such part, if all of the following conditions exist:

(g) The contract for purchase or lease contains, and the subdivider complies with, the following provisions:

1. The purchaser must inspect the subdivided land prior to the execution of the contract or lease.

2. The purchaser shall have an absolute right to cancel the contract or lease for any reason whatsoever for a period of 7 business days following the date on which the contract or lease was executed by the purchaser.

3. In the event the purchaser elects to cancel within the period provided, all funds or other property paid by the purchaser shall be refunded without penalty or obligation within 20 days of the receipt of the notice of cancellation by the developer.

4. All funds or property paid by the purchaser shall be put in escrow until closing has occurred and the lease or deed has been recorded.

5. Unless otherwise timely canceled, closing shall occur within 180 days of the date of execution of the contract by the purchaser.

6. When title is conveyed, said title shall be conveyed by statutory warranty deed unencumbered by any lien or mortgage except for any first purchase money mortgage given by the purchaser and restrictions, covenants, or easements of record.

7. The subdivider presents to the purchaser the disclosure required by s. 720.601 ~~s. 689.26~~ prior to the execution of the contract or lease.

(h) The agreement for deed contains, and the subdivider complies with, the following provisions:

1. The purchaser must inspect the subdivided land prior to the execution of the agreement for deed.

2. The purchaser shall have an absolute right to cancel the agreement for deed for any reason whatsoever for a period of 7 business days following the date on which the agreement for deed was executed by the purchaser.

3. If the purchaser elects to cancel within the period provided, all funds or other property paid by the purchaser shall be refunded without penalty or obligation within 20 days after the receipt of the notice of cancellation by the developer.

4. All funds or ~~for~~ property paid by the purchaser shall be put in escrow until the agreement for deed has been recorded in the county in which the subdivision is located.

5. Unless otherwise timely canceled, the agreement for deed shall be recorded within 180 days after its execution by the purchaser.

6. Sale of lots in the subdivision shall be restricted solely to residents of the state.

7. The underlying mortgage or other ancillary documents shall contain release provisions for the individual lot purchased.

8. The subdivider presents to the purchaser the disclosure required by s. 720.601 ~~s. 689.26~~ prior to the execution of the agreement for deed.

Section 18. Section 720.602, Florida Statutes, is created to read:

720.602 *Publication of false and misleading information.*—

(1) Any person who, in reasonable reliance upon any material statement or information that is false or misleading and published by or under authority from the developer in advertising and promotional materials, including, but not limited to, a contract of purchaser, the declaration of covenants, exhibits to a declaration of covenants, brochures, and newspaper advertising, pays anything of value toward the purchase of a parcel in a community located in this state has a cause of action to rescind the contract or collect damages from the developer for his or her loss before the closing of the transaction. After the closing of the transaction, the purchaser has a cause of action against the developer for damages under this section from the time of closing until 1 year after the date upon which the last of the events described in paragraphs (a) through (d) occur:

(a) The closing of the transaction;

(b) The issuance by the applicable governmental authority of a certificate of occupancy or other evidence of sufficient completion of construction of the purchaser's residence to allow lawful occupancy of the residence by the purchaser. In counties or municipalities in which certificates of occupancy or other evidences of completion sufficient to allow lawful occupancy are not customarily issued, for the purpose of this section, evidence of lawful occupancy shall be deemed to be given or issued upon the date that such lawful occupancy of the residence may be allowed under prevailing applicable laws, ordinances, or statutes;

(c) The completion by the developer of the common areas and such recreational facilities, whether or not the same are common areas, which the developer is obligated to complete or provide under the terms of the written contract, governing documents, or written agreement for purchase or lease of the parcel; or

(d) In the event there is not a written contract or agreement for sale or lease of the parcel, then the completion by the developer of the common areas and such recreational facilities, whether or not they are common areas, which the developer would be obligated to complete under any rule of law applicable to the developer's obligation.

Under no circumstances may a cause of action created or recognized under this section survive for a period of more than 5 years after the closing of the transaction.

(2) In any action for relief under this section, the prevailing party may recover reasonable attorney's fees. A developer may not expend association funds in the defense of any suit under this section.

Section 19. Subsection (1) of section 34.01, Florida Statutes, is amended to read:

34.01 Jurisdiction of county court.—

(1) County courts shall have original jurisdiction:

(a) In all misdemeanor cases not cognizable by the circuit courts;

(b) Of all violations of municipal and county ordinances; ~~and~~

(c) Of all actions at law in which the matter in controversy does not exceed the sum of \$15,000, exclusive of interest, costs, and attorney's fees, except those within the exclusive jurisdiction of the circuit courts. The party instituting any civil action, suit, or proceeding pursuant to this paragraph where the amount in controversy is in excess of \$5,000 shall pay to the clerk of the county court the filing fees and service charges in the same amounts and in the same manner as provided in s. 28.241; ~~and~~

(d) Of disputes occurring in the homeowners' associations as described in s. 720.311(2)(a), which shall be concurrent with jurisdiction of the circuit courts.

Section 20. Paragraph (a) of subsection (1) of section 316.00825, Florida Statutes, is amended to read:

316.00825 Closing and abandonment of roads; optional conveyance to homeowners' association; traffic control jurisdiction.—

(1)(a) In addition to the authority provided in s. 336.12, the governing body of the county may abandon the roads and rights-of-way dedicated in a recorded residential subdivision plat and simultaneously convey the county's interest in such roads, rights-of-way, and appurtenant drainage facilities to a homeowners' association for the subdivision, if the following conditions have been met:

1. The homeowners' association has requested the abandonment and conveyance in writing for the purpose of converting the subdivision to a gated neighborhood with restricted public access.

2. No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the homeowners' association.

3. The homeowners' association is both a corporation not for profit organized and in good standing under chapter 617, and a "homeowners' association" as defined in s. 720.301(8) ~~s. 720.301(7)~~ with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks, and pavement in the subdivision.

4. The homeowners' association has entered into and executed such agreements, covenants, warranties, and other instruments; has provided, or has provided assurance of, such funds, reserve funds, and funding sources; and has satisfied such other requirements and conditions as may be established or imposed by the county with respect to the ongoing operation, maintenance, and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting, and sidewalks in the subdivision after the abandonment by the county.

Section 21. Subsection (2) of section 558.002, Florida Statutes, is amended to read:

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

(2) "Association" has the same meaning as in s. 718.103(2), s. 719.103(2), s. 720.301(8) ~~s. 720.301(7)~~, or s. 723.025.

Section 22. *The Division of Statutory Revision is requested to designate sections 720.301-720.312, Florida Statutes, as part I of chapter 720, Florida Statutes; to designate sections 720.401-720.405, Florida Statutes, as part II of chapter 720, Florida Statutes, and entitle that part as "Covenant Revitalization;" to designate sections 720.601 and 720.602, Florida Statutes, as part III of chapter 720, Florida Statutes, and entitle that part "DISCLOSURE PRIOR TO SALE OF RESIDENTIAL PARCELS"; and to designate section 720.501, Florida Statutes, as part IV of chapter 720, Florida Statutes, and entitle that part "RIGHTS AND OBLIGATIONS OF DEVELOPERS."*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 29, after the semicolon (;) insert: transferring, renumbering, and amending s. 689.26, F.S.; modifying the disclosure form that a prospective purchaser must receive before a contract for sale; providing that certain contracts are voidable for a specified period; requiring that a purchaser provide written notice of cancellation; transferring and renumbering s. 689.265, F.S., relating to required financial reports of certain residential subdivision developers; amending s. 498.025, F.S., relating to the disposition of subdivided lands; conforming cross-references; creating s. 720.602, F.S.; providing remedies for publication of false and misleading information; amending s. 34.01, F.S.; providing jurisdiction of disputes involving homeowners' associations; amending ss. 316.00825, 558.002, F.S.; conforming cross-references; providing for internal organization of ch. 720, F.S.;

**Amendment 6 (662244)(with title amendment)**—On page 24, between lines 30 and 31, insert:

Section 15. Subsection (4) is added to section 190.012, Florida Statutes, to read:

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(4)(a) *To adopt rules necessary for the district to enforce certain deed restrictions pertaining to the use and operation of real property within the district. For the purpose of this subsection, "deed restrictions" are those covenants, conditions, and restrictions contained in any applicable declarations of covenants and restrictions that govern the use and operation of real property within the district and, for which covenants, conditions, and restrictions, there is no homeowners' association or property owner's association having respective enforcement powers. The district may adopt by rule all or certain portions of the deed restrictions that:*

1. *Relate to limitations or prohibitions that apply only to external structures and are deemed by the district to be generally beneficial for the district's landowners and for which enforcement by the district is appropriate, as determined by the district's board of supervisors; or*

2. *Are consistent with the requirements of a development order or regulatory agency permit.*

(b) *The board may vote to adopt such rules only when all of the following conditions exist:*

1. *The district's geographic area contains no homeowners' associations as defined in s. 720.301(7);*

2. *The district was in existence on the effective date of this subsection, or is located within a development that consists of multiple developments of regional impact and a Florida Quality Development;*

3. *The majority of the board has been elected by qualified electors pursuant to the provisions of s. 190.006; and*

4. *The declarant in any applicable declarations of covenants and restrictions has provided the board with a written agreement that such rules may be adopted. A memorandum of the agreement shall be recorded in the public records.*

(c) *Within 60 days after such rules taking effect, the district shall record a notice of rule adoption stating generally what rules were adopted and where a copy of the rules may be obtained. Districts may impose fines for violations of such rules and enforce such rules and fines in circuit court through injunctive relief.*

Section 16. Section 190.046, Florida Statutes, is amended to read:

190.046 Termination, contraction, or expansion of district.—

(1) The board may petition to contract or expand the boundaries of a community development district in the following manner:

(a) The petition shall contain the same information required by s. 190.005(1)(a)1. and 8. In addition, if the petitioner seeks to expand the district, the petition shall describe the proposed timetable for construction of any district services to the area, the estimated cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan. If the petitioner seeks to contract the district, the petition shall describe what services and facilities are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.

(b) For those districts initially established by county ordinance, the petition for ordinance amendment shall be filed with the county commission. If the land to be included or excluded is, in whole or in part, within the boundaries of a municipality, then the county commission shall not amend the ordinance without municipal approval. A public hearing shall be held in the same manner and with the same public notice as other ordinance amendments. The county commission shall consider the record of the public hearing and the factors set forth in s. 190.005(1)(e) in

making its determination to grant or deny the petition for ordinance amendment.

(c) For those districts initially established by municipal ordinance pursuant to s. 190.005(2)(e), the municipality shall assume the duties of the county commission set forth in paragraph (b); however, if any of the land to be included or excluded, in whole or in part, is outside the boundaries of the municipality, then the municipality shall not amend its ordinance without county commission approval.

(d)1. For those districts initially established by administrative rule pursuant to s. 190.005(1), the petition shall be filed with the Florida Land and Water Adjudicatory Commission.

2. Prior to filing the petition, the petitioner shall pay a filing fee of \$1,500 to the county and to each municipality the boundaries of which are contiguous with or contain all or a portion of the land within the district or the proposed amendment, and submit a copy of the petition to the county and to each such municipality. In addition, if the district is not the petitioner, the petitioner shall file the petition with the district board of supervisors.

3. The county and each municipality shall have the option of holding a public hearing as provided by s. 190.005(1)(c). However, such public hearing shall be limited to consideration of the contents of the petition and whether the petition for amendment should be supported by the county or municipality.

4. The district board of supervisors shall, in lieu of a hearing officer, hold the local public hearing provided for by s. 190.005(1)(d). This local public hearing shall be noticed in the same manner as provided in s. 190.005(1)(d). Within 45 days of the conclusion of the hearing, the district board of supervisors shall transmit to the Florida Land and Water Adjudicatory Commission the full record of the local hearing, the transcript of the hearing, any resolutions adopted by the local general-purpose governments, and its recommendation whether to grant the petition for amendment. The commission shall then proceed in accordance with s. 190.005(1)(e).

5. A rule amending a district boundary shall describe the land to be added or deleted.

(e) In all cases, written consent of all the landowners whose land is to be added to or deleted from the district shall be required. The filing of the petition for expansion or contraction by the district board of supervisors shall constitute consent of the landowners within the district other than of landowners whose land is proposed to be added to or removed from the district.

(f)1. During the existence of a district initially established by administrative rule, petitions to amend the boundaries of the district pursuant to paragraphs (a)-(e) shall be limited to a cumulative total of no more than 10 percent of the land in the initial district, and in no event shall all such petitions to amend the boundaries ever encompass more than a total of 250 acres.

2. For districts initially established by county or municipal ordinance, the limitation provided by this paragraph shall be a cumulative total of no more than 50 percent of the land in the initial district, and in no event shall all such petitions to amend the boundaries ever encompass more than a total of 500 acres.

3. Boundary expansions for districts initially established by county or municipal ordinance shall follow the procedure set forth in paragraph (b) or paragraph (c).

(g) Petitions to amend the boundaries of the district which exceed the amount of land specified in paragraph (f) shall be considered petitions to establish a new district and shall follow all of the procedures specified in s. 190.005.

(2) The district shall remain in existence unless:

(a) The district is merged with another district as provided in subsection (3);

(b) All of the specific community development *systems, facilities, and services* that it is authorized to perform have been transferred to a general-purpose unit of local government in the manner provided in subsections (4), (5), and (6); or

(c) The district is dissolved as provided in subsection (7), ~~or~~ subsection (8), *or subsection (9)*.

(3) The district may merge with other community development districts upon filing a petition for establishment of a community development district pursuant to s. 190.005 or may merge with any other special districts upon filing a petition for establishment of a community development district pursuant to s. 190.005. The government formed by a merger involving a community development district pursuant to this section shall assume all indebtedness of, and receive title to, all property owned by the preexisting special districts. Prior to filing said petition, the districts desiring to merge shall enter into a merger agreement and shall provide for the proper allocation of the indebtedness so assumed and the manner in which said debt shall be retired. The approval of the merger agreement by the board of supervisors elected by the electors of the district shall constitute consent of the landowners within the district.

(4) The local general-purpose government within the geographical boundaries of which the district lies may adopt a nonemergency ordinance providing for a plan for the transfer of a specific community development service from a district to the local general-purpose government. The plan must provide for the assumption and guarantee of the district debt that is related to the service by the local general-purpose government and must demonstrate the ability of the local general-purpose government to provide such service:

(a) As efficiently as the district.

(b) At a level of quality equal to or higher than the level of quality actually delivered by the district to the users of the service.

(c) At a charge equal to or lower than the actual charge by the district to the users of the service.

(5) No later than 30 days following the adoption of a transfer plan ordinance, the board of supervisors may file, in the circuit court for the county in which the local general-purpose government that adopted the ordinance is located, a petition seeking review by certiorari of the factual and legal basis for the adoption of the transfer plan ordinance.

(6) Upon the transfer of all of the community development services of the district to a general-purpose unit of local government, the district shall be terminated in accordance with a plan of termination which shall be adopted by the board of supervisors and filed with the clerk of the circuit court.

(7) If, within 5 years after the effective date of the rule or ordinance ~~establishing~~ ~~creating~~ the district, a landowner has not received a development permit, as defined in chapter 380, on some part or all of the area covered by the district, then the district will be automatically dissolved and a judge of the circuit court shall cause a statement to that effect to be filed in the public records.

(8) In the event the district has become inactive pursuant to s. 189.4044, the *respective* board of county commissioners *or city commission* shall be informed and it shall take appropriate action.

(9) *If a district has no outstanding financial obligations and no operating or maintenance responsibilities, upon the petition of the district, the district may be dissolved by a nonemergency ordinance of the general-purpose local governmental entity that established the district or, if the district was established by rule of the Florida Land and Water Adjudicatory Commission, the district may be dissolved by repeal of such rule of the commission.*

Section 17. Section 190.006, Florida Statutes, is amended to read:

190.006 Board of supervisors; members and meetings.—

(1) The board of the district shall exercise the powers granted to the district pursuant to this act. The board shall consist of five members; except as otherwise provided herein, each member shall hold office for a term of 2 years or 4 years, *as provided in this section*, and until a successor is chosen and qualifies. The members of the board must be residents of the state and citizens of the United States.

(2)(a) Within 90 days following the effective date of the rule or ordinance establishing the district, there shall be held a meeting of the

landowners of the district for the purpose of electing five supervisors for the district. Notice of the landowners' meeting shall be published once a week for 2 consecutive weeks in a newspaper which is in general circulation in the area of the district, the last day of such publication to be not fewer than 14 days or more than 28 days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair who shall conduct the meeting. *The chair may be any person present at the meeting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions.*

(b) At such meeting, each landowner shall be entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. *Each proxy must be signed by one of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized.* A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote with respect thereto. The two candidates receiving the highest number of votes shall be elected for a period of 4 years, and the three candidates receiving the next largest number of votes shall be elected for a period of 2 years, *with the term of office for each successful candidate commencing upon election.* The members of the first board elected by landowners shall serve their respective 4-year or 2-year terms; however, the next election by landowners shall be held on the first Tuesday in November. Thereafter, there shall be an election of supervisors for the district every 2 years in November on a date established by the board and noticed pursuant to paragraph (a). *The second and subsequent landowners' election shall be announced at a public meeting of the board at least 90 days prior to the date of the landowners' meeting and shall also be noticed pursuant to paragraph (a). Instructions on how all landowners may participate in the election, along with sample proxies, shall be provided during the board meeting that announces the landowners' meeting.* The two candidates receiving the highest number of votes shall be elected to serve for a 4-year period, and the remaining candidate elected shall serve for a 2-year period.

(3)(a)1. If the board proposes to exercise the ad valorem taxing power authorized by s. 190.021, the district board shall call an election at which the members of the board of supervisors will be elected. Such election shall be held in conjunction with a primary or general election unless the district bears the cost of a special election. Each member shall be elected by the qualified electors of the district for a term of 4 years, except that, at the first such election, three members shall be elected for a period of 4 years and two members shall be elected for a period of 2 years. All elected board members must be qualified electors of the district.

2.a. Regardless of whether a district has proposed to levy ad valorem taxes, commencing 6 years after the initial appointment of members or, for a district exceeding 5,000 acres in area, 10 years after the initial appointment of members, the position of each member whose term has expired shall be filled by a qualified elector of the district, elected by the qualified electors of the district. However, for those districts established after June 21, 1991, and for those existing districts established after December 31, 1983, which have less than 50 qualified electors on June 21, 1991, sub-subparagraphs b. and d. e. shall apply.

~~b.—For those districts to which this sub-subparagraph applies~~ If, in the 6th year after the initial appointment of members, or 10 years after such initial appointment for districts exceeding 5,000 acres in area, there are not at least 250 qualified electors in the district, or for a district exceeding 5,000 acres, there are not at least 500 qualified electors, members of the board shall continue to be elected by landowners.

b. After the 6th or 10th year, once a district reaches 250 or 500 qualified electors, respectively, then the ~~positions~~ position of two board members whose terms are expiring shall be filled by qualified electors of the district, elected by the qualified electors of the district for 4-year terms. ~~One of these board members shall serve a 2-year term, and the other a 4-year term.~~ The remaining board member whose term is expiring shall be elected for a 4-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members shall be qualified electors elected by qualified electors of the district for a term of 4 years.

c. *Once a district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district shall be held at the general election in November. The board shall adopt a resolution if necessary to implement this requirement when the board determines the number of qualified electors as required by sub-subparagraph d., to extend or reduce the terms of current board members.*

d.e. On or before ~~June 1~~ July 15 of each year, the board shall determine the number of qualified electors in the district as of the immediately preceding ~~April 15~~ June 1. The board shall use and rely upon the official records maintained by the supervisor of elections and property appraiser or tax collector in each county in making this determination. Such determination shall be made at a properly noticed meeting of the board and shall become a part of the official minutes of the district.

(b) Elections of board members by qualified electors held pursuant to this subsection shall be *nonpartisan and shall be conducted in the manner prescribed by law for holding general elections. Board members shall assume the office on the second Tuesday following their election.*

(c) Candidates seeking election to office by qualified electors under this subsection shall conduct their campaigns in accordance with the provisions of chapter 106 and shall file qualifying papers and qualify for individual seats in accordance with s. 99.061. *Candidates shall pay a qualifying fee, which shall consist of a filing fee and an election assessment or, as an alternative, shall file a petition signed by not less than 1 percent of the registered voters of the district. Candidates shall file petitions, and take the oath required in s. 99.021, with the supervisor of elections in the county affected by such candidacy. The amount of the filing fee is 3 percent of \$4,800; however, if the electors have provided for compensation pursuant to subsection (8), the amount of the filing fee is 3 percent of the maximum annual compensation so provided. The amount of the election assessment is 1 percent of \$4,800; however, if the electors have provided for compensation pursuant to subsection (8), the amount of the election assessment is 1 percent of the maximum annual compensation so provided. The filing fee and election assessment shall be distributed as provided in s. 105.031(3).*

(d) The supervisor of elections shall appoint the inspectors and clerks of elections, prepare and furnish the ballots, designate polling places, and canvass the returns of the election of board members by qualified electors. ~~The county canvassing board of county commissioners shall declare and certify the results of the election.~~

(4) Members of the board shall be known as supervisors and, upon entering into office, shall take and subscribe to the oath of office as prescribed by s. 876.05. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(5) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(6) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(7) The board shall keep a permanent record book entitled "Record of Proceedings of (name of district) Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to chapter 119. The record book shall be kept at the office or other regular place of business maintained by the board in the county or municipality in which the district is located or within the boundaries of a development of regional impact or Florida Quality Development, or combination of a development of regional impact and Florida Quality Development, which includes the district.

(8) Each supervisor shall be entitled to receive for his or her services an amount not to exceed \$200 per meeting of the board of supervisors,

not to exceed \$4,800 per year per supervisor, or an amount established by the electors at referendum. In addition, each supervisor shall receive travel and per diem expenses as set forth in s. 112.061.

(9) All meetings of the board shall be open to the public and governed by the provisions of chapter 286.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 29, after the semicolon (;) insert: amending s. 190.012, F.S.; providing for the enforcement of deed restrictions in certain circumstances; amending s. 190.046, F.S.; providing for additional dissolution procedures; amending s. 190.006, F.S.; specifying procedures for selecting a chair at the initial landowners' meeting; specifying requirements for proxy voting; requiring notice of landowners' elections; specifying the terms of certain supervisors; providing for nonpartisan elections; specifying the time that resident supervisors assume office; authorizing the supervisor of elections to designate seat numbers for resident supervisors of the board; providing procedures for filing qualifying papers; allowing candidates the option of paying a filing fee to qualify for the election; specifying payment requirements; specifying the number of petition signatures required to qualify for the election; requiring the county canvassing board to certify the results of resident elections;

#### THE PRESIDENT PRESIDING

**Amendment 7 (254436)**—On page 24, line 31, delete “July” and insert: October

#### MOTION

On motion by Senator Campbell, the rules were waived to allow the following amendments to be considered:

Senator Campbell moved the following amendments which were adopted:

**Amendment 8 (822908)**—On page 12, lines 14-19, delete those lines and insert: required fire sprinkler system *is to take place, in at least 16 point bold type, by certified mail, within 20 days after the association's vote. Within 30 days after the association's opt-out vote, notice of the results of the opt-out vote shall be mailed, delivered, or electronically transmitted to all unit owners. Evidence of compliance with this 30-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. After such notice is provided to each owner, a copy of such notice shall be provided by the current owner to a new owner prior to closing and shall be provided by a unit owner to a renter prior to signing a lease.*

**Amendment 9 (575198)(with title amendment)**—On page 21, between lines 12 and 13, insert:

(5) *With respect to any parcel that has ceased to be governed by a previous declaration of covenants as of the effective date of this act, the parcel owner may commence an action within one year after the effective date of this act for a judicial determination that the previous declaration did not govern that parcel as of the effective date of this act and that any revival of such declaration as to that parcel would unconstitutionally deprive the parcel owner of rights or property. A revived declaration that is implemented pursuant to this act shall not apply to or affect the rights of the respective parcel owner recognized by any court order or judgment in any such action commenced within one year after the effective date of this act, and any such rights so recognized may not be subsequently altered by a revived declaration implemented under this act without the consent of the affected property owner.*

And the title is amended as follows:

On page 2, line 24, after the semicolon (;) insert: providing for judicial determination of the effects of revived covenants on parcels; providing for effects of such a judicial determination;

Pursuant to Rule 4.19, **CS for CS for CS for SB 1184** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

**CS for CS for SB 2884**—A bill to be entitled An act relating to state universities; amending s. 1009.531, F.S.; revising eligibility criteria for the Florida Bright Futures Scholarship Program; creating s. 1011.901, F.S.; awarding incentive funds to state universities; requiring the Board of Governors to allocate incentive awards to university boards of trustees; requiring targeting of critical occupations and discipline areas; requiring an annual report to the Governor and the Legislature; amending s. 1009.24, F.S.; requiring university boards of trustees to provide students with a billing statement that reflects the true cost of the student's education; requiring university boards of trustees to develop proposals for block tuition and fee policies and to charge certain students the full cost of education per credit hour; providing certain exceptions; requiring legislative authorization to implement policies; amending s. 1011.94, F.S.; amending the Trust Fund for University Major Gifts; giving authority to the Board of Governors; revising provisions regarding matches for donations; deleting references to New College; designating the Student Union Building at the University of North Florida as the “James E. “Jim” and Linda King, Jr., Student Union Building”; designating the proposed entrance pavilion at the John and Mabel Ringling Museum of Art at the Florida State University Ringling Center for Cultural Arts as the “John M. McKay Visitors’ Pavilion”; authorizing the erection of suitable markers; creating the Florida-Scripps Research Compact; providing an appropriation; creating the Florida State University Center for the Performing Arts direct-support organization; providing an effective date.

—was read the second time by title.

Senator Carlton moved the following amendment which was adopted:

**Amendment 1 (441984)(with title amendment)**—On page 15, line 20, after “operation” insert: *provided that all decisions by its board of directors shall be taken by at least six-vote majorities*

And the title is amended as follows:

On page 2, line 6, after the semicolon (;) insert: creating s. 1004.451, F.S.;

#### MOTION

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

Senators Geller and Bullard offered the following amendment which was moved by Senator Geller:

**Amendment 2 (360472)**—On page 13, delete line 20 and insert: *state universities, the University of Miami, and any other accredited medical school in this state to collaborate*

#### MOTION

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

Senators Wilson and Bullard offered the following amendment to **Amendment 2** which was moved by Senator Wilson and adopted:

**Amendment 2A (531576)**—On page 1, line 16, after the first comma, insert: *the state's historically black colleges and universities,*

**Amendment 2** as amended was adopted.

#### MOTION

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

Senator Klein moved the following amendment which was adopted:

**Amendment 3 (093510)(with title amendment)**—On page 2, line 12, insert:

Section 1. Subsections (1) and (3) of section 1004.55, Florida Statutes, are amended to read:

1004.55 Regional autism centers.—

(1) ~~Seven~~ Six regional autism centers are established to provide non-residential resource and training services for persons of all ages and of all levels of intellectual functioning who have autism, as defined in s. 393.063; who have a pervasive developmental disorder that is not otherwise specified; who have an autistic-like disability; who have a dual sensory impairment; or who have a sensory impairment with other handicapping conditions. Each center shall be operationally and fiscally independent and shall provide services within its geographical region of the state. Each center shall coordinate services within and between state and local agencies and school districts but may not duplicate services provided by those agencies or school districts. The respective locations and service areas of the centers are:

(a) The Department of Communication Disorders at Florida State University, which serves Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties.

(b) The College of Medicine at the University of Florida, which serves Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Levy, Marion, Putnam, Suwannee, and Union Counties.

(c) The University of Florida Health Science Center at Jacksonville, which serves Baker, Clay, Duval, Flagler, Nassau, and St. Johns Counties.

(d) The Louis de la Parte Florida Mental Health Institute at the University of South Florida, which serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, ~~Indian River~~, Lee, Manatee, ~~Martin~~, ~~Okeechobee~~, Pasco, Pinellas, Polk, ~~St. Lucie~~, and Sarasota Counties.

(e) The Mailman Center for Child Development at the University of Miami, which serves Broward, Dade ~~and~~ Monroe, ~~and Palm Beach~~ Counties.

(f) The College of Health and Public Affairs at the University of Central Florida, which serves Brevard, Lake, Orange, Osceola, Seminole, Sumter, and Volusia Counties.

(g) *The Department of Exceptional Student Education at Florida Atlantic University, which serves Palm Beach, Martin, St. Lucie, Okeechobee, and Indian River Counties.*

(3) To promote statewide planning and coordination, a conference must be held annually for staff from each of the ~~seven~~ five centers and representatives from each center's constituency board. The purpose of the conference is to facilitate coordination, networking, cross-training, and feedback among the staffs and constituency boards of the centers.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: amending s. 1004.55, F.S.; relocating regional autism centers for certain counties;

## MOTION

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

Senator Constantine moved the following amendment which was adopted:

**Amendment 4 (655692)(with title amendment)**—On page 16, between lines 30 and 31, insert:

Section 10. Subsection (7) is added to section 121.35, Florida Statutes, to read:

121.35 Optional retirement program for the State University System.—

(7) *MAINTENANCE AND ADMINISTRATION OF PROGRAM.*—Effective July 1, 2004, a state university, as defined in s. 1000.21, may irrevocably assume responsibility for the independent maintenance and administration of the optional retirement program described in this section with respect to all former, present, and future eligible employees of

such university and their beneficiaries. When a state university implements the independent optional retirement program, the provisions of this section shall apply, except to the extent that such provisions are superseded by the following:

(a) All employer and employee contributions under the program shall be made either directly by the state university or by its program administrator to the designated provider companies that are contracting pursuant to subsection (1) for the accumulation and payment of benefits to the program participant, provided that a program administrator may not also be a designated provider company or affiliate thereof and shall be engaged solely for the purpose of facilitating the payment of contributions to designated provider companies as selected by the participant employee upon enrollment with such provider companies or their local representatives.

(b) The state university may authorize the deposit into a participant's account or accounts contributions in the form of rollovers or direct trustee-to-trustee transfers by or on behalf of participants who are reasonably determined by the state university to be eligible for rollover or transfer to its optional retirement program pursuant to the Internal Revenue Code and any applicable requirements of the state university. Accounting for such contributions by the designated provider companies shall be in accordance with the applicable requirements of the Internal Revenue Code and the state university.

(c) The state university may deduct from its employer contribution on behalf of each program participant an amount approved by the state university's board of trustees to provide for the administration of its optional retirement program.

(d) Benefits shall be paid by the provider company or companies in accordance with law, the provisions of the contract, and any applicable state university rule or policy.

(e) All aspects of the administration of the program as set forth in subsection (6), including the selection of provider companies, investment products, and contracts offered through the optional retirement program, written program description, and an annual accounting of contributions made by and on behalf of each participant, shall be the sole responsibility of the state university.

(f) For purposes of administering the Florida Retirement System, the state university shall continue to report required information to the division on a monthly basis.

(g) This section does not terminate or otherwise modify contracts entered into prior to July 1, 2004, between the current designated provider companies and the Division of Retirement or the Department of Management Services. Any rights under such contracts which are exercisable by the division or department shall be exercisable by each university assuming responsibility for its own optional retirement program pursuant to this section as the successor governmental entity with respect to such contracts.

Section 11. Subsection (7) is added to section 121.122, Florida Statutes, to read:

121.122 Renewed membership in system.—Except as provided in s. 121.053, effective July 1, 1991, any retiree of a state-administered retirement system who is employed in a regularly established position with a covered employer shall be enrolled as a compulsory member of the Regular Class of the Florida Retirement System or, effective July 1, 1997, any retiree of a state-administered retirement system who is employed in a position included in the Senior Management Service Class shall be enrolled as a compulsory member of the Senior Management Service Class of the Florida Retirement System as provided in s. 121.055, and shall be entitled to receive an additional retirement benefit, subject to the following conditions:

(7) Effective July 1, 2004, any retiree of a state-administered retirement system who is employed in a regularly established position is eligible to participate in an optional retirement program as established in s. 121.35 or s. 121.051(2)(c), subject to the provisions of those sections.

Section 12. Subsection (19) of section 1001.74, Florida Statutes, is amended to read:

1001.74 Powers and duties of university boards of trustees.—

(19)(a) Each board of trustees shall establish the personnel program for all employees of the university, including the president, pursuant to the provisions of chapter 1012 and, in accordance with rules and guidelines of the State Board of Education, including: compensation and other conditions of employment, recruitment and selection, nonreappointment, standards for performance and conduct, evaluation, benefits and hours of work, leave policies, recognition and awards, inventions and works, travel, learning opportunities, exchange programs, academic freedom and responsibility, promotion, assignment, demotion, transfer, tenure and permanent status, ethical obligations and conflicts of interest, restrictive covenants, disciplinary actions, complaints, appeals and grievance procedures, and separation and termination from employment. The Department of Management Services shall retain authority over state university employees for programs established in ss. 110.123, 110.161, 110.1232, 110.1234, and 110.1238 and in chapters 121, 122, and 238, except as otherwise provided in paragraph (b).

(b) Boards of trustees administering optional retirement programs pursuant to s. 121.35(7) may enter into consortia with other boards of trustees for this purpose.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 8, after the semicolon (;) insert: amending s. 121.35, F.S.; authorizing state universities to assume certain responsibilities regarding the optional retirement program; amending s. 121.122, F.S.; authorizing participation by renewed members in specified optional programs; amending s. 1001.74, F.S., to conform;

Pursuant to Rule 4.19, **CS for CS for SB 2884** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Atwater—

**CS for SB 1928**—A bill to be entitled An act relating to the unlawful use of a recording device in a motion picture theater; providing definitions; providing that a person who knowingly operates the audiovisual recording function of any device in a motion picture theater without the express written consent of the theater owner commits a felony of the third degree; providing for the imposition of criminal fines; authorizing the theater owner to detain a person in violation of the act; providing immunity to the theater owner for detaining a person in violation of the act while awaiting the arrival of a law enforcement officer; providing an exception to the immunity; providing that an employee or agent of certain law enforcement, protective services, or investigative agencies may operate an audiovisual recording device as part of a lawfully authorized activity; providing an effective date.

—was read the second time by title.

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

**Amendment 1 (350050)**—On page 2, lines 18-20, delete those lines and insert: *the owner has probable cause to believe has violated or is violating this section. A law enforcement officer shall be called to the scene immediately after the person is detained. The theater owner may not be held liable in any civil or criminal action arising out of measures taken in the course of*

**MOTION**

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

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

**Amendment 2 (554750)(with title amendment)**—On page 2, lines 9-13, delete those lines and insert:

(2) **PROHIBITED ACTS.**—*It is unlawful for a person to knowingly operate the audiovisual recording function of any device in a motion picture theater, in which a motion picture is being exhibited, with the intent of recording the motion picture, if the person knows or should have*

*known that he or she was recording the motion picture without the consent of the theater owner. A person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in section 775.082, Florida Statutes, or section 775.083, Florida Statutes. A second or subsequent violation is a felony of the third degree, punishable as*

And the title is amended as follows:

On page 1, lines 7-9, delete those lines and insert: picture theater with the intent of recording a motion picture under certain circumstances commits a criminal offense; providing criminal penalties; providing for the

**MOTION**

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

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

**Amendment 3 (385916)(with title amendment)**—On page 2, between lines 15 and 16 insert:

(3) **REQUIRED SIGNAGE.**—*A theater owner prohibiting motion pictures from being recorded in a motion picture theater must display a sign giving notice that recording a motion picture without the consent of the theater owner is a criminal violation. The sign must be displayed in a manner that is clearly legible and conspicuous from the entrance of the motion picture theater. This section does not create any liability for a theater owner failing to display a sign required under this subsection.*

(Redesignate subsequent subsections.)

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: requiring theater owners to display certain signs under specified conditions; specifying that failure to display the signs does not create liability for the theater owners;

Pursuant to Rule 4.19, **CS for SB 1928** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Miller—

**SB 398**—A bill to be entitled An act relating to the commercial exploitation of self-murder; creating s. 782.081, F.S.; defining the terms “self-murder” and “simulated self-murder”; prohibiting conducting an event, promoting or publicizing an event, collecting admission for an event, or providing a location for an event during which the act of self-murder is a part of the event; providing an exception for events in which simulated self-murder is conducted; providing that a violation of the act is a third-degree felony; authorizing the Attorney General and state attorneys to enforce the act through civil proceedings; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 398** to **HB 221**.

Pending further consideration of **SB 398** as amended, on motion by Senator Miller, by two-thirds vote **HB 221** was withdrawn from the Committees on Judiciary; and Criminal Justice.

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

**HB 221**—A bill to be entitled An act relating to assisting self-murder; amending s. 782.08, F.S.; revising element of offense; providing legislative findings; providing definitions; providing criminal penalties; amending s. 921.0022, F.S.; ranking the offense of assisting self-murder on the offense severity ranking chart of the Criminal Punishment Code; reenacting s. 790.065(2)(c), F.S.; incorporating the amendment to s. 782.08, F.S., in a reference thereto; providing an effective date.

—a companion measure, was substituted for **SB 398** as amended and read the second time by title.

## MOTION

On motion by Senator Miller, the rules were waived to allow the following amendments to be considered:

Senator Miller moved the following amendments which were adopted:

**Amendment 1 (930404)**—Line 25, delete that line and insert:

(a) *“Deliberately assisting” means carrying out a public act*

**Amendment 2 (081098)(with title amendment)**—Lines 17-24, delete those lines and insert:

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

And the title is amended as follows:

Lines 3 and 4, delete those lines and insert: providing

**Amendment 3 (504472)(with title amendment)**—Lines 14 and 15, delete those lines and insert:

Section 1. Section 782.081, Florida Statutes, is created to read:

And the title is amended as follows:

Lines 2 and 3, delete those lines and insert: An act relating to self-murder; creating s. 782.081, F.S.;

**Amendment 4 (073252)**—Line 16, delete that line and insert:

782.081 *Commercial exploitation of self-murder.*—

**Amendment 5 (574238)(with title amendment)**—Lines 26-203, delete those lines and insert: *that is intended to:*

1. *Aid, abet, facilitate, permit, advocate, or encourage;*
2. *Publicize, promote, advertise, operate, stage, schedule or conduct;*
3. *Provide or secure a venue, transportation, or security; or*
4. *Result in the collection of an admission or fee.*

(b) *“Self-murder” means the voluntary and intentional taking of one’s own life. As used in this section, the term includes attempted self-murder.*

(c) *“Simulated self-murder” means the artistic depiction or portrayal of self-murder which is not an actual self-murder. The term includes, but is not limited to, an artistic depiction or portrayal of self-murder in a script, play, movie, or story presented to the public or during an event.*

(2) *A person may not for commercial or entertainment purposes:*

(a) *Conduct any event that the person knows or reasonably should know includes an actual self-murder as a part of the event or deliberately assist in an actual self-murder.*

(b) *Provide a theater, auditorium, club, or other venue or location for any event that the person knows or reasonably should know includes an actual self-murder as a part of the event.*

(3) *This section does not prohibit any event during which simulated self-murder will occur.*

(4) *It is not a defense to a prosecution under this section that an attempted self-murder did not result in a self-murder.*

(5) *A person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 774.084.*

(6) *The Attorney General or any state attorney may bring a civil proceeding for declaratory, injunctive, or other relief to enforce the provisions of this section.*

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

And the title is amended as follows:

Lines 4-9, delete those lines and insert: defining the terms “deliberately assisting,” “self-murder,” and “simulated self-murder”; prohibiting

conducting an event or providing a location for an event that the person knows or reasonably should know includes the act of self-murder; prohibiting deliberately assisting in a self-murder; providing an exception for events in which simulated self-murder is conducted; providing that a violation of the act is a third-degree felony; authorizing the Attorney General and state attorneys to enforce the act through civil proceedings;

Pursuant to Rule 4.19, **HB 221** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **SM 2818** was deferred.

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lee, by two-thirds vote **CS for SB 1514** was withdrawn from the Committee on Rules and Calendar.

## MOTIONS

On motion by Senator Lee, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Saturday, April 24.

On motion by Senator Lee, a deadline of one hour after the availability of engrossed bills was set for filing amendments to Bills on Third Reading to be considered Saturday, April 24.

## MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Lee, the rules were waived and the Special Order Subcommittee of the Committee on Rules and Calendar was granted permission to meet this day from 6:30 p.m. until completion.

## REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Friday, April 23, 2004: CS for CS for CS for SB 2488, CS for SB 2552, SB 1792, CS for CS for CS for SB 708, SB 1716, CS for CS for SB 96, CS for CS for SB 2184, CS for CS for SB 2216, CS for CS for SB 2288, CS for SB 2640, SB 2810, CS for CS for CS for SB 160, CS for CS for SB 2826, CS for SB 602, CS for SB 606, CS for SB 1172, CS for CS for SB 1464, SB 2718, CS for SB 2986, CS for SB 1678, SB 2016, CS for SB 1970, CS for SB 2136, SB 1322, CS for SB 2268, CS for CS for SB 2270, CS for SB 2472, CS for CS for SB 1060, CS for CS for SB 1154 and CS for SB 1462, CS for CS for CS for SB 1680, SB 1828, CS for CS for SB 2170, CS for SB 2796 and CS for SB 1418, CS for CS for SB 2820, CS for SB 1762, CS for CS for SB 2884, CS for SB 2762, CS for CS for SB 544, CS for CS for SB 528, CS for CS for SB 2698, CS for CS for CS for SB 1184

Respectfully submitted,  
Tom Lee, Chair

The Committee on Rules and Calendar submits the following bills to be placed on the Claims Calendar for Friday, April 23, 2004: SB 6, CS for SB 16, CS for SB 18, CS for SB 20, SB 22, SB 32, CS for SB 40

Respectfully submitted,  
Tom Lee, Chair

The Committee on Finance and Taxation recommends a committee substitute for the following: CS for SB 2442

**The bill with committee substitute attached was referred to the Appropriations Subcommittee on General Government under the original reference.**

The Committee on Finance and Taxation recommends committee substitutes for the following: CS for SB 1358, CS for SB 2188

The bills with committee substitutes attached were referred to the Appropriations Subcommittee on Transportation and Economic Development under the original reference.

The Committee on Finance and Taxation recommends a committee substitute for the following: CS for SB 1700

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

The Committee on Appropriations recommends a committee substitute for the following: CS for SB 2842

The bill with committee substitute attached was placed on the calendar.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

Senate Resolutions 3134-3142—Not referenced.

By Senator Alexander—

SB 3144—A bill to be entitled An act relating to the Highlands County Hospital District; codifying, pursuant to s. 189.429, F.S., special laws relating to the Highlands County Hospital District; codifying, reenacting, amending, and repealing chapters 61-2232, 72-553, 74-487, 78-519, 80-506, 81-384, 84-437, 85-420, 88-456, and 96-443, Laws of Florida; fixing and prescribing boundaries of the district; providing for its governing and administration; providing and defining powers and purposes of the district and its board of commissioners; authorizing the board to establish, contract for, lease, operate, and maintain any hospital it has established in the district; authorizing and providing for issuance and sale of district bonds; authorizing the board to borrow money and give notes therefor; authorizing and providing for levy and collection of taxes for payment of bonds and notes and interest thereon; providing for exercise of the power of eminent domain; authorizing establishment of hospital staff and a nursing school; providing for liability insurance; providing construction; providing severability; providing for the issuance of revenue bonds; authorizing the transfer of certain funds and limiting the uses thereof; providing an effective date.

Proof of publication of the required notice was attached. —was referred to the Committee on Rules and Calendar.

By Senator Alexander—

SB 3146—A bill to be entitled An act relating to the DeSoto County Hospital District; codifying special laws relating to DeSoto County Hospital District pursuant to section 189.429, Florida Statutes; providing legislative intent; codifying, repealing, amending, and reenacting chapters 65-1450, 69-1011, 71-605, 73-443, 78-498, 82-288, and 89-493, Laws of Florida; providing district status and boundaries; providing for applicability of chapter 189, Florida Statutes, and other general laws; providing a district charter; providing an effective date.

Proof of publication of the required notice was attached. —was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3148—A bill to be entitled An act relating to the City of Weston, Broward County; extending and enlarging the corporate limits of the City of Weston to include specified unincorporated lands within said corporate limits; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached. —was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3150—A bill to be entitled An act relating to the Town of Lauderdale-By-The-Sea and the Village of Sea Ranch Lakes, Broward County; clarifying and delineating the corporate limits of the Town of Lauderdale-By-The-Sea and the Village of Sea Ranch Lakes to include specified lands within said corporate limits; providing an effective date.

Proof of publication of the required notice was attached. —was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3152—A bill to be entitled An act relating to Broward County; amending chapter 75-350, Laws of Florida, as amended by chapters 76-336, 77-507, and 81-349, Laws of Florida; revising provisions relating to the governing of municipal elections in Broward County; specifying the dates on which municipal candidates shall file qualification papers and pay certain fees with respect to certain elections; revising provisions relating to the dates on which municipal primary and general elections shall be held; authorizing municipalities to extend or reduce terms of office for certain purposes; authorizing the governing body of each municipality to change the date of its municipal elections by ordinance, subject to approval by referendum; requiring the supervisor of elections to provide to each municipality a schedule of fees and charges for all municipal election services for the following calendar year by a time certain; providing an effective date.

Proof of publication of the required notice was attached. —was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3154—A bill to be entitled An act relating to the Coral Springs Improvement District, Broward County; providing for codification of special laws regarding special districts pursuant to s. 189.429, Florida Statutes, relating to the Coral Springs Improvement District; codifying, amending, and reenacting chapters 70-617 and 89-419, Laws of Florida; providing legislative intent; deleting gender-specific references; providing a district charter; repealing chapters 70-617 and 89-419, Laws of Florida, relating to the Coral Springs Improvement District; providing severability; providing an effective date.

Proof of publication of the required notice was attached. —was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3156—A bill to be entitled An act relating to Broward County; creating the charter of the City of West Park; providing for the corporate name and purpose of the charter; establishing form of government and territorial boundaries of the municipality; providing powers of the municipality and of certain officers; providing for election and terms of office of a city commission, including the mayor and vice mayor, and providing for qualifications, powers, and duties of and restrictions on its membership; establishing circumstances which create vacancies in office and providing for filling vacancies and for forfeiture and recall; providing a procedure for establishing compensation and expense reimbursement for the mayor and city commission; providing for rules of procedure; providing for a city administrator, city clerk, and city attorney and powers and duties of each; providing restrictions on expenditure of city funds; authorizing establishment of city boards and agencies; providing for commission meetings, procedural rules, and recordkeeping and voting at meetings; providing for emergency ordinances; providing for budget requirements, adoption, and amendment and establishing a fis-

cal year; providing procedures for authentication, recording, and disposition of ordinances, resolutions, and charter amendments; establishing the right to determine, order, levy, assess, and collect taxes; providing for borrowing by the city; providing for an annual independent audit; providing for quasi-judicial procedures; establishing election requirements and guidelines; providing for charter amendments and review; providing for severability; providing for standards of conduct; providing for a personnel system; providing requirements for charitable contributions; providing for transition, including a referendum on incorporation and alternate manners of elections for the city commission, initial election and terms, and date of creation and establishment of the municipality; providing for interim adoption of codes and ordinances and taxes and fees; providing for payment of certain revenues and for transitional ordinances and resolutions; entitling the city to state shared and local option gas tax revenues; providing for the sharing of certain revenues; providing for the city commission to rename the city under certain circumstances; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Senator Campbell—

**SB 3158**—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Fort Lauderdale or the City of Oakland Park; providing for annexation of the unincorporated area known as Twin Lakes North; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain regulations; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Senator Campbell—

**SB 3160**—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Lauderdale Lakes or the City of Lauderhill; providing for annexation of the unincorporated area known as St. George; providing for an election; providing an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain regulations; providing for the continuation of certain rights; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Senator Campbell—

**SB 3162**—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Coral Springs; providing for annexation of the unincorporated area known as Ramblewood East Condominium; providing for continuation of certain regulations; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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**Senate Resolutions 3164-3166**—Not referenced.

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By Senator Campbell—

**SB 3168**—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Deerfield

Beach; providing for annexation of specified unincorporated areas; providing for an interlocal agreement; providing for continuation of certain Broward County regulations; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Senator Campbell—

**SB 3170**—A bill to be entitled An act relating to Broward County; providing for deannexation of certain lands from the City of Cooper City; providing for annexation of certain lands into the Town of Southwest Ranches; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Senator Campbell—

**SB 3172**—A bill to be entitled An act relating to Broward County; amending chapter 2001-289, Laws of Florida; authorizing local governments in the county to grant an exemption from impact fees for transportation facilities for certain developments; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Senator Campbell—

**SB 3174**—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Pompano Beach; providing for annexation of specified unincorporated areas; providing for an interlocal agreement; providing for continuation of certain Broward County regulations; providing for the transfer of Broward County roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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**SR 3176**—Not referenced.

## COMMITTEE SUBSTITUTES

### FIRST READING

By the Committees on Finance and Taxation; Commerce, Economic Opportunities, and Consumer Services; and Senators Garcia, Wilson and Bullard—

**CS for CS for SB 1358**—A bill to be entitled An act relating to enterprise zones; amending s. 290.0065, F.S.; authorizing certain counties or municipalities to apply to the Office of Tourism, Trade, and Economic Development to change enterprise zone boundaries; prescribing conditions and deadlines related to the boundary changes; amending s. 290.00675, F.S.; authorizing the office to approve requests to amend the boundaries of enterprise zones in two communities with specified populations; limiting the size by which the enterprise zones may increase; requiring that the applications for enterprise zone boundaries be filed by a specified date; amending s. 290.00688, F.S.; deleting census tract provisions relating to the boundaries of an enterprise zone in Leon County; creating ss. 290.00702, 290.00703, and 290.00704, F.S.; authorizing Osceola County or Osceola County and the City of Kissimmee jointly, the City of South Daytona, and the City of Lake Wales to apply to the office for designation of enterprise zones; providing requirements and conditions with respect thereto; authorizing Walton County, Miami-Dade County or Miami-Dade County and the City of West Miami jointly, and Miami-Dade County and the City of Hialeah jointly

to apply to the office for designation of enterprise zones; providing requirements and conditions with respect thereto; authorizing the governing bodies of certain counties to apply to the office to change the boundaries of enterprise zones; requiring the office to approve the application under certain circumstances; providing requirements; prescribing conditions and deadlines related to the boundary changes; providing for severability of provisions in the act; providing effective dates.

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By the Committees on Finance and Taxation; Ethics and Elections; and Senators Cowin, Bullard and Lynn—

**CS for CS for SB 1700**—A bill to be entitled An act relating to financial impact statements for proposed constitutional amendments; amending s. 15.21, F.S.; requiring the Secretary of State to submit certain proposed constitutional amendments to the Financial Impact Estimating Conference; amending s. 16.061, F.S.; requiring the Attorney General to immediately petition the Supreme Court for review of certain financial impact statements; deleting duties of the Attorney General with respect to constitutional amendments proposed other than by initiative; amending s. 100.371, F.S.; revising the times within which the Financial Impact Estimating Conference must complete its analysis and financial impact statement for amendments proposed by initiative; providing for open meetings; establishing the Financial Impact Estimating Conference for certain purposes; specifying principals of the conference; revising criteria for financial impact statements; providing for redrafting of such statements by the conference under certain circumstances; requiring the Financial Impact Estimating Conference to produce a financial information statement and summary; specifying statement requirements; providing for distribution and publication of the financial information statement and summary; repealing s. 100.381, F.S., relating to fiscal impact statement requirements for amendments proposed other than by initiative; amending s. 101.161, F.S.; prescribing placement of the financial impact statement on the ballot; amending s. 101.62, F.S., relating to absentee ballots, to conform; amending s. 216.136, F.S.; conforming provisions to changes made by the act; providing procedures for commencing the financial impact statement development and review process for certain proposed initiatives; providing an effective date.

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By the Committees on Finance and Taxation; and Comprehensive Planning—

**CS for CS for SB 2188**—A bill to be entitled An act relating to land development; amending s. 197.502, F.S.; providing for the issuance of an escheatment tax deed that is free and clear of any tax certificates, accrued taxes, and liens of any nature for certain properties; providing immunity for a county from environmental liability for certain properties that escheat to the county; providing for a written agreement between a county and the Department of Environmental Protection which addresses any investigative and remedial acts necessary for certain properties; providing legislative findings with respect to the shortage of affordable rentals in the state; providing a statement of important public purpose; providing definitions; authorizing local governments to permit accessory dwelling units in areas zoned for single-family residential use based upon certain findings; providing for certain accessory dwelling units to apply towards satisfying the affordable housing component of the housing element in a local government's comprehensive plan; requiring the Department of Community Affairs to report to the Legislature; amending s. 163.3167, F.S.; requiring a local government to address certain water supply sources in its comprehensive plan; amending s. 163.3177, F.S.; providing that rural land stewardship area designation should be specifically encouraged as an overlay on the future land use map; extending the deadline for certain information to be included in a comprehensive plan; requiring a work plan to be updated at certain intervals; requiring the Department of Community Affairs, in cooperation with other specified state agencies, to provide assistance to local governments in implementing provisions relating to rural land stewardship areas; providing for multicounty rural land stewardship areas; revising requirements, including the acreage threshold for designating a rural land stewardship area; providing that transferable rural land use credits may be assigned at different ratios according to the natural resource or other beneficial use characteristics of the land; providing legislative findings regarding mixed-use, high-density urban infill and redevelopment projects; requiring the Department of Community Affairs to provide technical assistance to local governments; providing

legislative findings regarding a program for the transfer of development rights and urban infill and redevelopment; requiring the Department of Community Affairs to provide technical assistance to local governments; amending s. 163.3187, F.S.; providing an exception to the limitation on the frequency of plan amendments; amending s. 288.107, F.S.; reducing the number of jobs that must be created for participation in the brownfield redevelopment bonus refund; amending s. 376.86, F.S.; increasing the percentage of a primary lender loan to which the limited state loan guaranty applies for redevelopment projects in brownfield areas; amending s. 718.103, F.S.; prohibiting any state, county, or municipal entity from being deemed a developer for purposes of s. 718.103, F.S.; amending s. 718.401, F.S.; prohibiting any association, owner, or third party from purchasing the fee interest of any real property owned by a county or municipal entity, unless agreed to by the governmental entity; providing an effective date.

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By the Committees on Finance and Taxation; Banking and Insurance; and Senators Margolis and Diaz de la Portilla—

**CS for CS for SB 2442**—A bill to be entitled An act relating to life insurance and annuity contracts; amending s. 624.402, F.S.; providing that a certificate of authority is not required for certain life insurance policies or annuity contracts issued by an insurer domiciled outside the United States and covering only persons who are not residents of the United States; requiring that the Office of Insurance Regulation determine that the insurer meets certain requirements; requiring the insurer to disclose certain information; providing for the office to determine when the insurer is no longer eligible for the exemption; providing an exemption from certain taxes; providing for disclosure; requiring that designated insurance policies and annuity contracts be subject to the provisions of ch. 896, F.S.; amending s. 627.404, F.S.; defining the term "charitable organization" for purposes of determining entities that are eligible to purchase life insurance on an insured; creating s. 627.4554, F.S.; providing a purpose; providing application; providing definitions; specifying duties of insurers and insurance agents relating to making annuity investment recommendations to senior consumers; providing requirements; limiting responsibility of insurers or insurance agents under certain circumstances; requiring a system of compliance and supervision; providing for enforcement by the Office of Insurance Regulation and the Department of Financial Services; authorizing the office and the department to issue orders to mitigate certain responsibilities of insurers or insurance agents; providing for reduction or elimination of certain penalties under certain circumstances; providing recordkeeping requirements; providing an exemption from application for variable annuities; providing effective dates.

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By the Committees on Appropriations; Health, Aging, and Long-Term Care; and Senators Atwater and Cowin—

**CS for CS for SB 2842**—A bill to be entitled An act relating to trauma care center care services; amending s. 381.74, F.S.; requiring hospitals and trauma centers to provide data on moderate-to-severe brain or spinal cord injuries to the Department of Health; amending s. 381.745, F.S.; defining "department" for purposes of the "Charlie Mack Overstreet Brain or Spinal Cord Injuries Act"; amending s. 395.40, F.S.; revising legislative findings; revising duties of the Department of Health to implement and plan for a statewide trauma system; amending s. 395.4001, F.S.; revising definitions; amending s. 395.401, F.S.; revising components for local and regional trauma services system plans; correcting references to the term "trauma center"; amending s. 395.4015, F.S.; requiring that the boundaries of the trauma regions administered by the Department of Health be coterminous with the boundaries of the regional domestic security task forces established within the Department of Law Enforcement; providing exceptions for certain interlocal agreements for trauma services in a regional system; eliminating requirements for the Department of Health to develop the minimum components for systems plans in defined trauma regions; amending s. 395.402, F.S.; providing additional legislative intent with respect to trauma service areas; providing a treatment capacity for certain trauma centers; providing that current trauma service areas shall be used until the Department of Health completes an assessment of the trauma system; requiring a report; providing guidelines for such assessment; requiring

annual review; amending s. 395.4025, F.S.; revising requirements for the Department of Health's development of a state trauma system plan; deleting obsolete references; correcting references to the term "trauma center"; revising requirements for the department's approval and verification of a facility as a trauma center; granting the department authority to adopt rules for the procedures and process for notification, duration, and explanation of a trauma center's termination of trauma services; revising the requirements for notice that a hospital must give before it terminates or substantially reduces trauma service; exempting from certain time limits on applications to operate as trauma centers certain hospitals in areas having no trauma center; limiting applications until the completion of a specified review; amending s. 395.403, F.S.; correcting references to the term "trauma center"; revising eligibility requirements for state funding of trauma centers; providing that trauma centers may request that their distributions from the Administrative Trust Fund be used as intergovernmental transfer funds in the Medicaid program; amending s. 395.404, F.S.; revising reporting requirements to the trauma registry data system maintained by the Department of Health; providing that hospitals and trauma centers subject to reporting trauma registry data to the department are required to comply with other duties concerning the moderate-to-severe brain or spinal cord injury registry maintained by the department; correcting references to the term "trauma center"; amending s. 395.405, F.S.; authorizing the Department of Health to adopt and enforce rules necessary to administer part II of ch. 395, F.S.; establishing a task force on distribution of funds; providing for a trauma center matching grant program; amending s. 318.14, F.S.; providing additional civil penalties for certain traffic infractions; providing for disposition of such penalties; amending s. 318.21, F.S.; providing for disposition of mandatory civil penalties; amending s. 322.0261, F.S.; revising provisions relating to driver-improvement courses; amending s. 322.27, F.S.; prescribing points for violation of a traffic-control signal; amending s. 318.18, F.S.; providing penalty for specified violation of traffic control signal devices and for failure to submit to test for impairment or intoxication; providing for distribution of moneys collected; directing the clerk of court to collect a fee for each civil and criminal violation of ch. 316, F.S.; creating s. 322.751, F.S.; directing the Department of Highway Safety and Motor Vehicles to assess specified annual surcharges against a motor vehicle licensee who accumulates eight or more points against his or her license within the previous 36 months; requiring the department to notify a licensee by first-class mail upon receipt of four points against his or her license; directing the department to remit all such penalties to the Administrative Trust Fund in the Department of Health; amending s. 316.193, F.S.; directing the department to assess specified annual surcharges against motor vehicle licensees who have a final conviction within the previous 36 months for a DUI offense; directing the department to remit all such penalties to the Administrative Trust Fund in the Department of Health; amending s. 794.056, F.S.; providing that funds credited to the Rape Crisis Program Trust Fund shall include both funds collected as an additional court assessment in certain cases and certain funds deposited in the Administrative Trust Fund in the Department of Health; revising a requirement relating to the distribution of moneys from the trust fund pursuant to a rule by the Department of Health; creating s. 322.7525, F.S.; requiring the department to notify licensees of the surcharges and the time period in which to pay the surcharges; creating s. 322.753, F.S.; requiring the department to accept installment payments for the surcharges; providing sanctions for a licensee's failure to pay an installment; allowing the department to permit licensees to pay assessed surcharges with credit cards; requiring the department to suspend a driver's license if the licensee does not pay the surcharge or arrange for

installment payments within a specified time after the notice of surcharge is sent; repealing s. 395.4035, F.S., relating to the Trauma Services Trust Fund; providing for distribution of collections in the Administrative Trust Fund in the Department of Health; providing an appropriation; providing an effective date.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

### FIRST READING

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

I am directed to inform the Senate that the House of Representatives has passed as amended HB 549 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By Representative Baker and others—

**HB 549**—A bill to be entitled An act relating to educational choice programs; creating s. 1002.395, F.S.; establishing the K-12 GI Bill Program to provide educational options for dependents of a Florida veteran, an active duty member of any branch of the United States Armed Forces, an active or retired member of the Florida National Guard, or an active member of the Armed Forces Reserves; providing that a student may attend a public school in the school district other than the one to which assigned; providing that a student may receive a K-12 GI Bill to attend a public school in an adjacent school district or to attend a private school; providing K-12 GI Bill eligibility requirements; providing school district obligations; providing private school eligibility requirements; providing obligations of families choosing the private school option; providing for the amount, funding, and payment of a K-12 GI Bill; exempting the state from liability; authorizing State Board of Education rules; amending s. 1002.20, F.S., relating to student and parent rights to educational choice, to conform; providing an effective date.

—was referred to the Committees on Education; Military and Veterans' Affairs, Base Protection, and Spaceports; Appropriations Subcommittee on Education; and Appropriations.

## CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 22 was corrected and approved.

## CO-SPONSORS

Senators Aronberg—SB 1962, SR 2292; Bullard—CS for SB 2138; Campbell—SB 1774; Lynn—CS for SB 218, CS for SB 630, SB 1170, CS for CS for SB 1376, CS for CS for SB 1712, CS for CS for CS for SB 2676, CS for CS for SB 3036; Pruitt—CS for CS for SB 1376 and Smith—CS for CS for SB 1060, CS for CS for CS for SB 1184, CS for SB 1970

## RECESS

On motion by Senator Lee, the Senate recessed at 6:17 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Saturday, April 24 or upon call of the President.