



# Journal of the Senate

Number 2—Regular Session

Thursday, March 5, 1998

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## CALL TO ORDER

The Senate was called to order by President Jennings at 2:15 p.m. A quorum present—36:

Madam President	Cowin	Holzendorf	Myers
Bankhead	Crist	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Kirkpatrick	Rossin
Brown-Waite	Dudley	Klein	Scott
Burt	Dyer	Kurth	Silver
Campbell	Forman	Latvala	Sullivan
Casas	Gutman	Lee	Thomas
Childers	Hargrett	McKay	Turner
Clary	Harris	Meadows	Williams

Excused: Senator Grant

## PRAYER

The following prayer was offered by Rev. Jim Robinett, Pastor, First Baptist Church, Live Oak:

Recognizing that you, our Creator, are the source of wisdom, and that we are facing a challenging task requiring such wisdom, we humbly admit our need in this great hour. Grant us strength for the day, sight for the future, and a sense of humor in humongous proportions. Allow us to bridge the gap between our own wants and needs and the high calling of leading our beloved State of Florida.

We pray for your blessings upon our Governor, Cabinet, Senate and House members, and all of their support staff. Amen.

## PLEDGE

Senate Pages Tom Burket and Julian Wood, nephew of Senator Crist, of St. Petersburg and Alaina Rodriguez of Orlando, led the Senate in the pledge of allegiance to the flag of the United States of America.

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Sullivan, by two-thirds vote **CS for SB 162, CS for SB 190, CS for SB 236, SB 444, SB 560, SB 564, SB 594, SB 596, CS for SB 666 and SB 830** were withdrawn from the Committee on Ways and Means.

On motion by Senator Bronson, by two-thirds vote **SJR 100 and SB 102** were withdrawn from the committees of reference and further consideration.

On motion by Senator Dyer, by two-thirds vote **SB 546** was withdrawn from the committee of reference and further consideration.

On motion by Senator Williams, by two-thirds vote **SB 1494** was withdrawn from the committee of reference and further consideration.

## MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Bankhead, the rules were waived and the meeting of the Special Order Subcommittee of the Committee on Rules and Calendar scheduled this day was cancelled.

## MOTIONS

On motion by Senator Bankhead, a deadline of 10:00 a.m. Monday, March 9, was set for filing amendments to Bills on Third Reading to be considered that day.

## SPECIAL ORDER CALENDAR

On motion by Senator Burt—

**CS for SB's 360 and 350**—A bill to be entitled An act relating to execution; amending s. 922.10, F.S.; providing for execution by means of lethal injection if electrocution is held to be unconstitutional; providing legislative intent; providing an effective date.

—was read the second time by title.

Senator Myers offered the following amendment which was moved by Senator Sullivan:

**Amendment 1**—On page 2, line 30, after "executioner" insert: , *except that no licensed health care provider shall administer or participate in the administration of the lethal injection other than to certify death as provided in chapter 382*

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

**Amendment 1A**—On page 1, delete line 16, and insert: , *except that no licensed health care professional as defined in s. 39.01(29) shall*

**Amendment 1** as amended failed.

Pursuant to Rule 4.19, **CS for SB's 360 and 350** was placed on the calendar of Bills on Third Reading.

On motion by Senator Klein—

**SB 198**—A bill to be entitled An act relating to public records; providing exemptions from public records requirements for information identifying the person administering the lethal injection during execution of the death sentence; providing for future review and repeal; providing a finding of public necessity; amending s. 945.10, F.S., relating to confidential information of the Department of Corrections, to conform; providing a contingent effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 198** was placed on the calendar of Bills on Third Reading.

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

**CS for SJR 964**—A joint resolution proposing an amendment to s. 17, Art. I of the State Constitution, relating to excessive punishment.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SJR 964** was placed on the calendar of Bills on Third Reading.

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Consideration of **SJR 1234** was deferred.

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On motion by Senator Burt—

**SB 898**—A bill to be entitled An act relating to postconviction proceedings in capital cases; repealing Rule 3.852, Florida Rules of Criminal Procedure, relating to the production of records in postconviction proceedings in capital cases; providing a contingent effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 898** was placed on the calendar of Bills on Third Reading.

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

**CS for SB 1328**—A bill to be entitled An act relating to postconviction capital collateral proceedings; requesting that the Division of Statutory Revision designate part IV of ch. 27, F.S., as “Capital Collateral Representation”; amending s. 27.702, F.S.; deleting a requirement that specifies the time for the capital collateral regional counsel to commence the representation of a person sentenced to death; creating s. 27.710, F.S.; requiring that the executive director of the Commission on the Administration of Justice in Capital Cases maintain a registry of attorneys in private practice who are available to be appointed to represent defendants in postconviction capital collateral proceedings; authorizing the executive director to obtain names of attorneys who may register for appointment; providing eligibility requirements for appointment as counsel in postconviction capital collateral proceedings; providing for appointment of an attorney selected from the registry; providing that more than one attorney may not be appointed at any one time to represent a capital defendant; creating s. 27.711, F.S.; requiring that an attorney appointed to represent a capital defendant file a notice of appearance; providing a schedule of fees to which the attorney is entitled for specified appearances and representations; providing that such fees constitute the exclusive means of compensation for such representation; authorizing compensation as provided by federal law under certain circumstances; authorizing the use of investigative services and the payment of fees for such services; providing that by accepting appointment to represent a capital defendant the attorney agrees to continue such representation until the defendant’s sentence is reversed, reduced, or carried out; limiting the number of capital defendants that an attorney may represent; prohibiting a claim of ineffective assistance of counsel based on an action by the attorney who represents a capital defendant; prohibiting the attorney from representing the capital defendant in certain other proceedings; providing an effective date.

—was read the second time by title.

Senators Burt, Silver and Gutman offered the following amendments which were moved by Senator Burt and adopted:

**Amendment 1 (with title amendment)**—On page 5, lines 15-22, delete those lines and insert:

(3) *An attorney who applies for registration and court appointment as counsel in postconviction capital collateral proceedings must certify that he or she is counsel of record in not more than four such proceedings and, if appointed to represent a person in postconviction capital collateral proceedings, shall continue such representation under the terms and conditions set forth in s. 27.711 until the sentence is reversed, reduced, or carried out or unless permitted to withdraw from representation by the trial court. The court may not permit an attorney to withdraw from representation without a finding of extraordinary circumstances and sufficient good cause. The court may impose appropriate sanctions if it*

*finds that an attorney has shown bad faith with respect to continuing to represent a defendant in a postconviction capital collateral proceeding. This section does not preclude the court from reassigning a case to a capital collateral regional counsel following discontinuation of representation if a conflict of interest no longer exists with respect to the case.*

And the title is amended as follows:

On page 1, line 23, after the semicolon (;) insert: limiting the circumstances under which the court may permit an attorney to withdraw from representation following appointment; authorizing the court to impose sanctions;

**Amendment 2 (with title amendment)**—On page 5, between lines 22 and 23, insert:

(4) *Each private attorney who is appointed by the court to represent a capital defendant must enter into a contract with the Comptroller. The executive director of the Commission on the Administration of Justice in Capital Cases shall develop the form of the contract and the Comptroller shall function as contract manager and shall enforce performance of the terms and conditions of the contract. By signing such contract, the attorney certifies that he or she intends to continue the representation under the terms and conditions set forth in the contract until the sentence is reversed, reduced, or carried out or until released by order of the trial court.*

(Redesignate subsequent subsections.)

And the title is amended as follows:

On page 1, line 23, after the semicolon (;) insert: requiring that appointed counsel enter into a contract with the Comptroller; providing for the Comptroller to enforce performance of the contract;

**Amendment 3 (with title amendment)**—On page 7, line 19 through page 10, line 21, delete those lines and insert:

(3) *An attorney appointed to represent a capital defendant is entitled to payment of the fees set forth in this section only upon full performance by the attorney of the duties specified in this section and approval of payment by the trial court. The attorney shall maintain appropriate documentation, including a current and detailed hourly accounting of time spent representing the capital defendant. The fee and payment schedule in this section is the exclusive means of compensating a court-appointed attorney who represents a capital defendant. When appropriate, a court-appointed attorney may seek further compensation from the Federal Government, as provided in 18 U.S.C. s. 3006A or other federal law, in habeas corpus litigation in the federal courts.*

(4) *Upon approval by the trial court, an attorney appointed to represent a capital defendant under s. 27.710 is entitled to payment of the following fees by the Comptroller:*

(a) *Regardless of the stage of postconviction capital collateral proceedings, the attorney is entitled to \$100 per hour, up to a maximum of \$2,500, upon accepting appointment and filing a notice of appearance. This fee is in the nature of a fee for a retainer agreement.*

(b) *The attorney is entitled to \$100 per hour, up to a maximum of \$20,000, after timely filing in the trial court the capital defendant’s complete original motion for postconviction relief under the Florida Rules of Criminal Procedure. The motion must raise all issues to be addressed by the trial court.*

(c) *The attorney is entitled to \$100 per hour, up to a maximum of \$10,000, after the trial court issues a final order granting or denying the capital defendant’s motion for postconviction relief.*

(d) *The attorney is entitled to \$100 per hour, up to a maximum of \$4,000, after timely filing in the Supreme Court the capital defendant’s brief or briefs that address the trial court’s final order granting or denying the capital defendant’s motion for postconviction relief and the state petition for writ of habeas corpus.*

(e) *The attorney is entitled to \$100 per hour, up to a maximum of \$20,000, after the appeal of the trial court’s denial of the capital defendant’s motion for postconviction relief and the capital defendant’s state petition for writ of habeas corpus become final in the Supreme Court.*

(f) *At the conclusion of the capital defendant's postconviction capital collateral proceedings in state court, the attorney is entitled to \$100 per hour, up to a maximum of \$2,500, after filing a petition for writ of certiorari in the Supreme Court of the United States.*

(g) *If, at any time, the Supreme Court of the United States accepts for review the capital defendant's collateral challenge of the conviction and sentence of death, the attorney is entitled to \$100 per hour, up to a maximum of \$5,000. This payment shall be full compensation for representing the capital defendant throughout the certiorari proceedings before the United States Supreme Court.*

(5) *An attorney who represents a capital defendant may use the services of one or more investigators to assist in representing a capital defendant. Upon approval by the trial court, the attorney is entitled to payment from the Comptroller of \$40 per hour, up to a maximum of \$15,000, for the purpose of paying for investigative services.*

(6) *An attorney who represents a capital defendant is entitled to a maximum of \$5,000 for miscellaneous expenses, such as the costs of preparing transcripts, compensating expert witnesses, and copying documents. Upon approval by the trial court, the attorney is entitled to payment by the Comptroller for miscellaneous expenses.*

And the title is amended as follows:

On page 1, line 30, after the semicolon (;) insert: requiring that the trial court approve the payment of costs and fees;

Senator Burt moved the following amendment which was adopted:

**Amendment 4**—On page 9, delete line 30, and insert: *Supreme Court.*

*The hours billed by a contracting attorney under this subsection may include time devoted to representation of the defendant by another attorney who is qualified under s. 27.710 and who has been designated by the contracting attorney to assist him or her.*

Senators Burt, Silver and Gutman offered the following amendment which was moved by Senator Burt and adopted:

**Amendment 5**—In title, on page 2, line 18, insert:

WHEREAS, persons convicted of murder and sentenced to death in Florida are entitled to challenge the legality of the judgment and sentence imposed upon them in postconviction capital collateral litigation in the state and federal courts in this state, and

WHEREAS, persons sentenced to death are entitled to legal representation, at public expense, in such proceedings by the office of the Capital Collateral Regional Counsel or by counsel appointed by the court, or may be represented by private counsel hired by such person under sentence of death, and

WHEREAS, the Legislature of Florida deems it a matter of great public importance that state resources appropriated to finance postconviction capital collateral litigation are expended in a cost-effective manner and that such litigation be concluded without unreasonable or purposeful delay, and

WHEREAS, the Legislature finds that the prudent expenditure of public moneys for and the reasonably expeditious and orderly conclusion to postconviction capital collateral litigation will best be accomplished by contracting for such services either with the offices of the Capital Collateral Regional Counsel or with private counsel who are retained or appointed for such purpose, NOW, THEREFORE,

Pursuant to Rule 4.19, **CS for SB 1328** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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

**CS for SB 1330**—A bill to be entitled An act relating to the administration of capital cases; creating s. 119.19, F.S.; defining terms; requiring that the Secretary of State establish a records repository for archiving capital postconviction records; requiring that the law enforcement agencies and the state attorney copy and deliver to the records repository public records produced in capital cases; requiring the Department of Corrections to copy and deliver to the records repository public records that pertain to the defendant; providing requirements for notifying the Attorney General upon delivery of such records to the repository; requiring that the Attorney General request public records from certain additional persons and agencies; providing requirements for sealing confidential records and records that are exempt from disclosure under the Public Records Law; prohibiting the opening of such records without a court order; providing for written demand for additional public records; prohibiting the capital collateral regional counsel or private counsel from obtaining the production of additional public records in a capital case until after filing an affidavit and obtaining a court order; requiring that the capital collateral regional counsel or private counsel provide the personnel and equipment for copying records held at the repository; providing for resolving certain disputes with respect to the production of records; specifying circumstances under which the Secretary of State may destroy records held by a repository; amending s. 27.702, F.S.; requiring that the capital collateral regional counsel or private counsel notify the Commission on the Administration of Justice in Capital Cases and the trial court of pleadings filed in capital cases; requiring that a notice of hearing be filed with each pleading; requiring that the trial court expedite the hearings in capital cases; amending s. 27.708, F.S.; deleting references to Rule 3.852; limiting certain public-records requests made on behalf of clients; providing an appropriation; providing an effective date.

—was read the second time by title.

#### MOTION

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

Senator Burt moved the following amendment which was adopted:

**Amendment 1 (with title amendment)**—On page 7, line 1 through page 9, line 23, delete those lines and insert:

(9)(a) *After production of additional public records or recertification as provided in subsection (8), the regional counsel or the private counsel is prohibited from making any further public-records requests under this chapter. An agency is not required to produce additional public records except by court order as provided in this subsection.*

(b) *In order to obtain additional public records beyond those provided under subsection (8), the regional counsel, private counsel, or other counsel who is a member of The Florida Bar and is authorized by the regional counsel or private counsel shall file an affidavit in the trial court which attests that he or she has made a timely and diligent search of the records repository and specifically identifies those additional public records that are not at the repository and are relevant to the subject matter of a proceeding under Rule 3.850 or Rule 3.851 or are reasonably calculated to lead to the discovery of admissible evidence. The affiant shall provide a copy of the affidavit to all affected agencies upon the filing of such affidavit in the trial court.*

(c) *Within 30 days after the filing of an affidavit, the trial court shall order an agency to produce additional public records only if it finds each of the following:*

1. *The regional counsel or private counsel has made a timely and diligent search as provided in this section.*

2. *The regional or private counsel's affidavit identifies, with specificity, those additional public records that are not at the repository.*

3. *The additional public records sought are relevant to the subject matter of a proceeding under Rule 3.850 or Rule 3.851 or appear reasonably calculated to lead to the discovery of admissible evidence.*

4. *The additional public-records request is not overbroad or unduly burdensome.*

(10) *The capital collateral regional counsel or private counsel shall provide the personnel, supplies, and any necessary equipment used by the capital collateral regional counsel or private counsel to copy records held at the records repository.*

(11) *The trial court shall resolve any dispute that arises under this section, unless the appellate court has exclusive jurisdiction.*

(12) *The capital collateral regional counsel or private counsel shall not solicit another person to make a request for public records on behalf of the regional counsel or private counsel. The trial court shall impose appropriate sanctions against any regional counsel or private counsel found in violation of this subsection.*

(13) *Sixty days after a capital sentence is carried out, 60 days after a defendant is released from incarceration following the granting of a pardon or reversal of the sentence, or 60 days after the defendant has been resentenced to a term of years, the Attorney General shall provide written notification to the Secretary of State, who may then destroy the records held by the records repository which pertain to that case.*

(14) *This section pertains only to the production of records for capital postconviction defendants and does not change or alter any times periods specified in Rule 3.850 or Rule 3.851, Florida Rules of Criminal Procedure. Furthermore, this section does not affect, expand, or limit the production of public records for any purposes other than use in a proceeding held pursuant to Rule 3.850 or Rule 3.851, Florida Rules of Criminal Procedure.*

Section 2. Subsection (4) of section 27.702, Florida Statutes, is amended to read:

27.702 Duties of the capital collateral regional counsel; reports.—

(4)(a) *The capital collateral regional counsel or private counsel shall give written notification of each pleading filed by that office and the name of the person filing the pleading to the Commission on the Administration of Justice in Capital Cases and to the trial court assigned to the case.*

(b) *Each capital collateral regional counsel shall provide a quarterly report to the President of the Senate, the Speaker of the House of Representatives, and the Commission on the Administration of Justice in Capital Cases which details the number of hours worked by investigators and legal counsel per case and the amounts per case expended during the preceding quarter in investigating and litigating capital collateral cases.*

Section 3. Subsections (2) and (3) of section 27.708, Florida Statutes, are amended to read:

27.708 Access to prisoners; compliance with the Florida Rules of Criminal Procedure in capital collateral litigation; records requests; approval of records requests.—

(2) ~~The capital collateral regional counsel and contracted private counsel must timely comply with all provisions of the Florida Rules of Criminal Procedure governing collateral review of capital cases, including provisions pertaining to requests for records under Rule 3.852, Florida Rules of Criminal Procedure.~~

(3) *Except as provided in s. 119.19, the capital collateral regional counsel or contracted private counsel shall not make any public-records request on behalf of his or her client. All*

And the title is amended as follows:

On page 2, lines 2-4, delete those lines and insert: production of records; prohibiting the capital collateral regional counsel or private counsel from soliciting another person to make a request for public records on the counsel's behalf; providing for sanctions; specifying circumstances under which the Secretary of State may destroy records held by a repository; clarifying the application of provisions governing the production of records in capital postconviction proceedings; amending s.

Pursuant to Rule 4.19, **CS for SB 1330** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Brown-Waite—

**CS for SB 188**—A bill to be entitled An act relating to transitional living facilities for brain-injured and spinal-cord-injured persons; amending s. 400.805, F.S.; providing for the regulation of transitional living facilities; providing for right of entry and inspection; providing for injunctive proceedings; providing for a moratorium on admissions; amending s. 413.49, F.S.; providing duties of transitional living facilities to provide certain therapies and plans; amending s. 413.605, F.S.; providing additional duties of the advisory council on brain and spinal cord injuries; providing an effective date.

—was read the second time by title.

Senator Brown-Waite moved the following amendments which were adopted:

**Amendment 1**—On page 3, lines 13-15, delete those lines and insert: *life-threatening situations. If it appears by competent evidence or a sworn,*

**Amendment 2**—On page 6, delete line 5, and insert: *an individual who continues to require any of the specialized services described in paragraph (c) or*

Pursuant to Rule 4.19, **CS for SB 188** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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Consideration of **CS for SB 358** was deferred.

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On motion by Senator Latvala—

**SB 112**—A bill to be entitled An act relating to public records; amending s. 110.1091, F.S.; revising provisions which specify that communications relating to a state employee's participation in an employee assistance program are confidential, and which provide a public records exemption for records relating thereto; creating ss. 125.585, 166.0444, F.S.; providing that certain communications relating to a county or municipal employee's participation in such a program are confidential; providing an exemption from public records requirements for records relating to such participation; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 112** was placed on the calendar of Bills on Third Reading.

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

**CS for SB 1328**—A bill to be entitled An act relating to postconviction capital collateral proceedings; requesting that the Division of Statutory Revision designate part IV of ch. 27, F.S., as "Capital Collateral Representation"; amending s. 27.702, F.S.; deleting a requirement that specifies the time for the capital collateral regional counsel to commence the representation of a person sentenced to death; creating s. 27.710, F.S.; requiring that the executive director of the Commission on the Administration of Justice in Capital Cases maintain a registry of attorneys in private practice who are available to be appointed to represent defendants in postconviction capital collateral proceedings; authorizing the executive director to obtain names of attorneys who may register for appointment; providing eligibility requirements for appointment as counsel in postconviction capital collateral proceedings; providing for appointment of an attorney selected from the registry; providing that more than one attorney may not be appointed at any one time to represent a capital defendant; creating s. 27.711, F.S.; requiring that an attorney appointed to represent a capital defendant file a notice of appearance; providing a schedule of fees to which the attorney is entitled for specified appearances and representations; providing that such fees constitute the exclusive means of compensation for such representation; authorizing compensation as provided by federal law under certain circumstances; authorizing the use of investigative services and the payment of fees for such services; providing that by accepting appointment

to represent a capital defendant the attorney agrees to continue such representation until the defendant's sentence is reversed, reduced, or carried out; limiting the number of capital defendants that an attorney may represent; prohibiting a claim of ineffective assistance of counsel based on an action by the attorney who represents a capital defendant; prohibiting the attorney from representing the capital defendant in certain other proceedings; providing an effective date.

—which was previously considered and amended this day.

### RECONSIDERATION OF AMENDMENT

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

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

**Amendment 1A**—On page 1, line 28, delete “*extraordinary circumstances and*”

**Amendment 1** as amended was adopted.

Pursuant to Rule 4.19, **CS for SB 1328** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Burt—

**CS for SB 358**—A bill to be entitled An act relating to controlled substances; amending s. 893.13, F.S., relating to prohibitions against selling, manufacturing, or delivering, or possessing with intent to sell, manufacture, or deliver, controlled substances within 200 feet of the real property comprising a public housing facility; defining “real property comprising a public housing facility”; providing penalties; amending s. 921.022, F.S.; ranking such offenses on the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendment which was adopted:

**Amendment 1**—On page 3, lines 22-24, delete “*The defendant must be sentenced to a minimum term of imprisonment of 3 calendar years.*”

Pursuant to Rule 4.19, **CS for SB 358** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Cowin—

**SB 348**—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing an exemption from public records requirements for a videotaped statement of a minor who is the victim of specified crimes involving sexual battery, lewd acts, or other sexual misconduct regarding such offenses; authorizing access by certain governmental agencies; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

The Committee on Governmental Reform and Oversight recommended the following amendment which was moved by Senator Cowin and adopted:

**Amendment 1**—On page 2, line 14, delete “*ss.*” and insert: *s.*

Senator Cowin moved the following amendments which were adopted:

**Amendment 2**—On page 2, lines 12-18, delete those lines and insert:

*2. Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which reveals that minor's identity, including, but not limited to, the minor's face; the minor's home, school, church, or employment telephone number; the minor's home, school, church, or employment address; the name of the*

*minor's school, church, or place of employment; or the personal assets of the minor; and which identifies that minor as the victim of a crime described in this subparagraph, is confidential and exempt from subsection (1) and s. 24(a), Art. I of the State Constitution.*

**Amendment 3 (with title amendment)**—On page 2, between lines 25 and 26, insert:

*3. A public employee or officer who has access to the videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, may not willfully and knowingly disclose videotaped information that reveals that minor's identity to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense.*

*4. A person who violates subparagraph 3. commits a 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, line 10, after the semicolon (;) insert: prohibiting a public employee or officer from disclosing videotaped information; providing a penalty;

Pursuant to Rule 4.19, **SB 348** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

### MOTION

On motion by Senator Bankhead, by two-thirds vote all bills remaining on the Special Order Calendar this day were established as the Special Order Calendar for Monday, March 9.

### REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, March 5, 1998: CS for SB's 360 and 350, SB 198, CS for SJR 964, SJR 1234, SB 898, CS for SB 1328, CS for SB 1330, CS for SB 188, CS for SB 358, SB 112, SB 348, SB 4, SB 8, SB 10, SB 12, SB 16, SB 26, SB 30, SB 32, SB 36, SB 38, SB 42, SB 44, SB 52, SB 54, SB 70, CS for SB 2, SB 6, SB 14, SB 18, SB 20, SB 22, SB 34, SB 40, SB 56, SB 66

Respectfully submitted,  
W. G. (Bill) Bankhead, Chairman

The Committee on Agriculture recommends the following pass: SB 1010

**The bill was referred to the Committee on Community Affairs under the original reference.**

The Committee on Commerce and Economic Opportunities recommends the following pass: SB 940

The Committee on Community Affairs recommends the following pass: SB 142

The Committee on Health Care recommends the following pass: SB 292 with 1 amendment

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

The Committee on Community Affairs recommends the following pass: SB 1172 with 2 amendments

**The bill was referred to the Committee on Health Care under the original reference.**

The Committee on Criminal Justice recommends the following pass: SB 978

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

The Committee on Transportation recommends the following pass: SB 986

**The bill was referred to the Committee on Natural Resources under the original reference.**

The Committee on Education recommends the following pass: SB 664

**The bill was referred to the Committee on Rules and Calendar under the original reference.**

The Committee on Criminal Justice recommends the following pass: SB 944 with 1 amendment

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

The Committee on Commerce and Economic Opportunities recommends the following pass: SB 410, SB 704

The Committee on Community Affairs recommends the following pass: SB 444, SB 560, SB 830

The Committee on Criminal Justice recommends the following pass: SB 554 with 2 amendments, SB 668

The Committee on Education recommends the following pass: CS for SB 124 with 2 amendments, SB 536, SB 564 with 2 amendments

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

The Committee on Agriculture recommends the following pass: SB 1004

The Committee on Commerce and Economic Opportunities recommends the following pass: CS for SB 644

The Committee on Criminal Justice recommends the following pass: SB 708, SB 898, SJR 1234

The Committee on Governmental Reform and Oversight recommends the following pass: SB 200 with 2 amendments, SB 928

The Committee on Health Care recommends the following pass: SB 1232 with 1 amendment

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

The Committee on Governmental Reform and Oversight recommends a committee substitute for the following: CS for SB 92

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

The Committee on Criminal Justice recommends a committee substitute for the following: SB 786

The Committee on Health Care recommends a committee substitute for the following: SB 650

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

The Committee on Criminal Justice recommends committee substitutes for the following: SJR 964, SB 1328, SB 1330

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

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

**REPORTS OF SUBCOMMITTEES**

The Honorable Toni Jennings February 19, 1998  
President, The Florida Senate

Dear President Jennings:

The Select Subcommittee on Election Integrity, appointed to study alleged fraud in absentee ballots and other potential fraud in elections, has completed its work. Attached is a letter from Senator Latvala outlining the work of the Select Subcommittee. A report was made to the Committee on Executive Business, Ethics and Elections and the report was accepted.

*Charlie Crist, Chairman  
Committee on Executive Business,  
Ethics and Elections*

The Honorable Charlie Crist February 5, 1998  
Chairman, Committee on Executive Business,  
Ethics and Elections

Dear Senator Crist:

The Select Subcommittee on Election Integrity has completed its work and developed recommendations for legislative changes. I request that you schedule a discussion of the report of the Select Subcommittee at the next full committee meeting.

The Subcommittee held hearings in Miami and Tallahassee and received testimony from concerned citizens, the Florida Department of Law Enforcement, state attorneys, supervisors of elections, public officials, candidates, and others concerned with the integrity of the voting process. The Subcommittee reviewed reports on the issue of election fraud by the Florida Department of Law Enforcement, the Palm Beach County State Attorney's Office (1993 Hialeah mayoral race), the Miami-Dade County Grand Jury, and other written materials provided to the Subcommittee. The recommendations of the Subcommittee were drawn largely from these sources.

The Select Subcommittee concluded that the recent changes to the voter registration process mandated by Congress in the National Voter Registration Act and the recent changes to Florida's absentee voting laws have increased the potential for voter fraud. Therefore, the Select Subcommittee recommends significant changes to the voter registration system and current absentee voting process. The Select Subcommittee also believes that it is important to strengthen the penalties associated with election violations. I look forward to briefing the full Committee at our next meeting on the results of our inquiry.

*Jack Latvala, Chairman  
Subcommittee on Election  
Integrity of the Committee  
on Executive Business,  
Ethics and Elections*

**INTRODUCTION AND REFERENCE OF BILLS**

**FIRST READING**

By Senator Diaz-Balart—

**SB 1514**—A bill to be entitled An act relating to state employment; amending s. 110.205, F.S.; adding employees in the managerial/

confidential and supervisory bargaining units organized under ch. 447, F.S., to those employees exempted from the Career Service System; requiring the Legislature to evaluate the relevance and appropriateness of personnel protections for career service employees; repealing part II of ch. 110, F.S., relating to the career service system; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By Senator Turner—

**SB 1516**—A bill to be entitled An act relating to environmental equity; creating s. 760.854, F.S.; creating the Center for Environmental Equity and Justice; providing purpose of the center; requiring each state agency to include an environmental justice element in its agency functional plan; requiring the establishment of specified tracking systems and registries by the Department of Health and county health departments for the purpose of providing data to the Center for Environmental Equity and Justice; amending s. 382.008, F.S.; requiring specified additional information to be included on certain certificates of death for the purpose of providing data to the Center for Environmental Equity and Justice; amending s. 120.525, F.S.; requiring state agencies to provide notice of certain proposed agency action via specified media; providing effective dates.

—was referred to the Committees on Governmental Reform and Oversight; Health Care; Natural Resources; and Ways and Means.

By Senator Horne—

**SB 1518**—A bill to be entitled An act relating to the City of Jacksonville, amending chapter 92-341, Laws of Florida, as amended; amending the Charter of the City of Jacksonville, providing that the mayor's veto power shall not apply to zoning variances and quasi-judicial decisions by the city council; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senators Lee, Grant, Crist and Hargrett—

**SB 1520**—A bill to be entitled An act relating to Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue an alcoholic beverage license to the Museum of Science and Industry Foundation, Inc., for use at the present location of the Museum of Science and Industry for special events only; providing for payment of the license fee; providing for sale of beverages for consumption on premises; prohibiting sales for consumption off premises; providing for transfer of the license; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Regulated Industries; and Rules and Calendar.

By the Committee on Criminal Justice—

**SB 1522**—A bill to be entitled An act relating to sentencing; amending s. 2, ch. 97-194, Laws of Florida; clarifying that the Criminal Punishment Code does not apply to capital felonies; amending s. 921.002, F.S.; revising the principles embodied by the Criminal Punishment Code; requiring that the Department of Corrections make certain estimates with respect to the prison population and submit funding recommendations to the Legislature; requiring the department to project the impact of proposed changes to the Criminal Punishment Code; amending s. 921.0021, F.S.; clarifying application of the code; amending s. 921.0022, F.S.; providing for ranking certain offenses under the severity ranking chart of the code; specifying the ranking of additional offenses; amending s. 921.0023, F.S., relating to the ranking of unlisted offenses; delet-

ing duplicative provisions; amending s. 921.0024, F.S.; revising the arrangement of the sentencing scoresheet; providing that domestic violence be included as a multiplier on the offense score of the Criminal Punishment Code; providing for calculating the total sentence points and the lowest permissible sentence; clarifying the calculation of points for a prior capital felony; revising requirements for preparing scoresheets for a defendant sentenced under the code; requiring that the Department of Corrections revise the scoresheet annually; authorizing the department to collect and evaluate data from the judicial circuits; creating s. 921.0025, F.S.; providing for the adoption and implementation of sentencing scoresheets; amending s. 921.0026, F.S.; prohibiting the court from imposing a sentence below the lowest permissible sentence unless there are mitigating circumstances; providing that the court may not consider the defendant's diminished capacity due to the influence of alcohol or controlled substances as justification for departing from the permissible sentence; creating s. 921.00265, F.S.; requiring that the court delineate its reasons if the court decreases a defendant's sentence below the lowest permissible sentence; amending s. 775.082, F.S.; providing for the applicability of sentencing structures, based on the date of the offense; amending s. 775.084, F.S.; providing for community control without an adjudication of guilt to be considered a prior conviction under certain circumstances for purposes of sentencing; requiring that the court report to the Department of Corrections when the court finds it unnecessary to sentence a given defendant as a habitual felony offender, a habitual violent felony offender, or a violent career criminal; amending s. 782.051, F.S.; revising the elements of the offense of committing a felony that causes bodily injury to provide that if a person who perpetrates or attempts to perpetrate certain enumerated felony offenses and who commits, aids, or abets an intentional act that could, but does not, cause the death of another, the person commits a first-degree felony; providing for ranking such offense under the Criminal Punishment Code based on the felony offense committed; amending s. 924.06, F.S.; providing for an appeal of a sentence that exceeds the maximum sentence under s. 775.082, F.S.; amending s. 924.07, F.S.; authorizing the state to appeal a sentence imposed below the lowest sentence permitted under the Criminal Punishment Code; amending s. 944.17, F.S.; revising requirements for the sheriff or chief correctional officer in preparing scoresheets for a prisoner who is transferred to the state correctional system; creating s. 944.70, F.S.; specifying the conditions under which persons convicted of crimes may be released from incarceration; amending s. 944.705, F.S., relating to the release orientation program; conforming cross-references to changes made by the act; amending s. 948.015, F.S.; revising requirements for the presentence investigation report for certain defendants; amending s. 948.034, F.S., relating to probation for certain persons convicted of drug-related offenses; conforming cross-references; conforming provisions to reflect the reorganization of the Department of Health and Rehabilitative Services; amending s. 948.51, F.S., relating to community corrections assistance; conforming a cross-reference; conforming a reference to sentencing scores to reflect changes in sentencing requirements; amending s. 958.04, F.S., relating to judicial disposition of youthful offenders; providing for a sentence imposed outside of the code to be appealed; providing an effective date.

—was referred to the Committees on Criminal Justice; and Ways and Means.

By Senator Dudley—

**SB 1524**—A bill to be entitled An act relating to Lee County Mosquito Control District; providing for a codified charter of its special acts in a single act and repealing all prior special acts relating to the Lee County Mosquito Control District as required by chapter 97-255, Laws of Florida; creating and establishing a mosquito control district in said county and excepting therefrom certain territory of said county and fixing the boundaries of said district; dividing said district into areas for the purpose of electing members of the board of commissioners; providing for the terms of office and qualifications of the members of the board of commissioners and providing the method and times of elections; prescribing the powers and duties of the board; setting the compensation of the board; providing for audit of books and time of meetings; providing procedure for adopting a budget; giving the board the power to tax and to levy assessments for special benefits and providing the methods, procedure, and limitations thereon; authorizing the board to contract and cooperate with county, state, and other governmental agencies in regard to mosquito control or suppression; charging the Lee County

Health Unit or Health Department with the responsibility with refer-  
ence to mosquito control; determining the status of employees and pro-  
viding a method by which such responsibility shall terminate and declar-  
ing the legislative policy with reference thereto; providing penalty for  
damage to property; providing that the records shall be filed in the public  
records of Lee County; providing limitations of actions; granting to the  
district created herein such powers as are provided for mosquito control  
districts under the laws of Florida; providing for severability; providing  
that such act shall be construed liberally; providing an effective date.

Proof of publication of the required notice was attached.  
—was referred to the Committee on Rules and Calendar.

By Senator Dudley—

**SB 1526**—A bill to be entitled An act relating to the East County  
Water Control District, Lee and Hendry counties; amending chapter 87-  
477, Laws of Florida, as amended; providing for a change in the date of  
election of members of the district board of supervisors for each seat to  
conform with the state general election cycle; providing for extension of  
terms of the current members of the district board of supervisors; provid-  
ing an effective date.

Proof of publication of the required notice was attached.  
—was referred to the Committees on Community Affairs; and Rules  
and Calendar.

By Senator Dudley—

**SB 1528**—A bill to be entitled An act relating to the Lee County  
Hyacinth Control District; providing for a codified charter of its special  
acts in a single act and repealing all prior special acts relating to the Lee  
County Hyacinth Control District as required by chapter 97-255, Laws  
of Florida; providing for continuation of a hyacinth control district in the  
county from the effective date of this act; providing for a governing  
board; prescribing the powers, organization, and duties of the board;  
setting the compensation of the board; providing for audit of books and  
time of meetings; providing for a budget; granting eminent domain;  
giving the board the power to tax and to levy assessments for special  
benefits and providing the methods, procedures, and limitations  
thereon; providing for a limited millage; providing for employees; provid-  
ing for cooperation with local, state, and federal agencies and entities;  
providing that the legal authority for the Lee County Hyacinth Control  
District shall be construed liberally to accomplish continuation of the  
work of the Lee County Hyacinth Control District; providing an effective  
date.

Proof of publication of the required notice was attached.  
—was referred to the Committee on Rules and Calendar.

By Senator Kurth—

**SB 1530**—A bill to be entitled An act relating to Brevard County;  
amending chapter 94-442, Laws of Florida, as amended by chapter 95-  
499, Laws of Florida; clarifying the method, procedure, and requirement  
for performing a rate study to justify a distribution differential sur-  
charge rate imposed by a potable water utility; limiting the amount of  
distribution differential surcharge a water utility may charge consumers  
outside municipal boundaries; requiring a rate study for increases in  
excess of the limit; providing an effective date.

Proof of publication of the required notice was attached.  
—was referred to the Committees on Regulated Industries; and Rules  
and Calendar.

By Senators Grant, Crist and Lee—

**SB 1532**—A bill to be entitled An act relating to Hillsborough County;  
amending s. 7, ch. 95-488, Laws of Florida, as amended; revising powers

of the Tampa Port Authority; authorizing certain transfers of property  
and interests in property; amending s. 15, ch. 95-488, Laws of Florida;  
prescribing procedures for the Tampa Port Authority to use in awarding  
contracts; providing an effective date.

Proof of publication of the required notice was attached.  
—was referred to the Committee on Rules and Calendar.

By Senator Gutman—

**SB 1534**—A bill to be entitled An act relating to habitual violent  
felony offenders; amending s. 775.084, F.S.; authorizing the court to  
sentence a defendant to an extended term of imprisonment as a habitual  
violent felony offender if the defendant has previously been convicted of  
lewd, lascivious, or indecent conduct or of any attempt or conspiracy to  
commit such offense; providing an effective date.

—was referred to the Committees on Criminal Justice; and Ways and  
Means.

By Senator Turner—

**SB 1536**—A bill to be entitled An act relating to high school gradua-  
tion requirements; providing additional science and language require-  
ments; revising the minimum grade point average; providing an effec-  
tive date.

—was referred to the Committees on Education; and Ways and Means.

By Senator Turner—

**SB 1538**—A bill to be entitled An act relating to the Florida Evidence  
Code; amending s. 90.612, F.S., relating to mode and order of interroga-  
tion of witnesses and presentation of evidence; providing for the court to  
protect a witness under 14 years of age from undue harassment or  
embarrassment; providing for the court to ensure that questions are  
stated in a form appropriate to the witness's age and understanding and  
to forbid certain questions upon objection by a party; providing an effec-  
tive date.

—was referred to the Committee on Judiciary.

By Senator Turner—

**SB 1540**—A bill to be entitled An act relating to children and families;  
creating s. 415.531, F.S.; providing legislative intent; directing the De-  
partment of Children and Family Services to establish and operate the  
Relative Caretaker Program; providing for financial assistance and sup-  
port services to relatives caring for children; providing eligibility of such  
children for certain medical coverage and college tuition waivers; provid-  
ing for funding; providing a limitation; providing for rules; providing an  
effective date.

—was referred to the Committees on Children, Families and Seniors;  
and Ways and Means.

By Senator Turner—

**SB 1542**—A bill to be entitled An act relating to education; creating  
s. 233.0627, F.S.; requiring district school boards to provide swimming  
lessons for certain elementary school students; authorizing cooperative  
agreements for the use of community resources; providing for rules and  
standards; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.



By Senator Turner—

**SB 1544**—A bill to be entitled An act relating to youth employment; creating the “Florida Comprehensive Youth Employment Act”; requiring that each state agency having an annual budget in excess of a specified amount include a separate budget category for youth employment; providing for a portion of such budget category to include the employment of minority youths; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By Senator Rossin—

**SB 1546**—A bill to be entitled An act relating to confidential information; amending s. 945.10, F.S.; deleting a provision that presentence or postsentence investigative records are confidential; providing an effective date.

—was referred to the Committees on Criminal Justice; and Governmental Reform and Oversight.

By Senator Williams—

**SB 1548**—A bill to be entitled An act relating to public depositories; amending ss. 125.31, 136.01, 159.09, 166.261, 218.345, 236.24, 255.502, and 331.309, F.S.; providing for deposit of certain public funds in qualified public depositories or certain chartered depositories; amending s. 280.02, F.S.; defining governmental unit; revising the definition of qualified public depository; amending s. 280.03, F.S.; requiring deposit of public deposits into qualified public depositories; providing exemptions; amending s. 280.04, F.S.; clarifying certain collateral requirements; amending s. 280.05, F.S.; revising provisions providing powers and duties of the Treasurer; amending s. 280.07, F.S.; requiring qualified public depositories to execute a form for certain purposes; amending s. 280.08, F.S.; revising procedures for payment of losses; amending s. 280.16, F.S.; providing requirements for qualified public depositories; amending s. 280.17, F.S.; revising requirements for public depositories; amending s. 280.18, F.S.; providing for protection from loss to public depositories; limiting liability of the state and the Treasurer; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; Banking and Insurance; and Ways and Means.

By Senator Cowin—

**SB 1550**—A bill to be entitled An act relating to school-entry health requirements; amending s. 232.0315, F.S.; requiring a school-entry vision examination; providing an effective date.

—was referred to the Committee on Education.

By Senators Cowin, Lee, Dudley, Horne, Diaz-Balart, Clary, Ostalciewicz, Latvala, Gutman, Grant, Crist and Childers—

**SB 1552**—A bill to be entitled An act relating to political contributions; prohibiting public employers from deducting funds from a public employee’s wages to make political contributions or expenditures or to support political activities without the prior written request of the employee; prohibiting bargaining units for public employees from using a public employee member’s dues or fees to make political contributions or expenditures or to support political activities without the member’s written authorization; prescribing the form to be used; authorizing the Division of Elections of the Department of State to prepare and distribute such forms; prescribing content of the form; requiring employers and bargaining units that make such deductions to keep records; requiring such records to be presented to the Division of Elections; providing definitions; prohibiting an employer or bargaining unit from discriminating against officers and employees because of their political activities; providing a criminal penalty; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By Senator Williams—

**SB 1554**—A bill to be entitled An act relating to air pollution control revenues; amending s. 215.22, F.S.; exempting the Air Pollution Control Trust Fund from a surcharge; amending s. 403.0872, F.S.; providing for adjustments in the major stationary source annual air-operation permit license fees; changing the date for an audit of the major stationary source air-operation permit program; providing an effective date.

—was referred to the Committees on Natural Resources; and Ways and Means.

By Senator Williams—

**SB 1556**—A bill to be entitled An act relating to access to public records and information by inmates and other offenders under correctional supervision; amending s. 945.10, F.S., relating to confidential information and other information available to inmates and offenders in the correctional system or under supervision; prohibiting certain disclosure or use of certain “personal information about another,” as defined, by an inmate or offender with intent to obtain a benefit or to harm or defraud another, to which information the inmate or offender has had access by means of correctional work or other program participation; providing penalties; providing that an inmate or offender convicted of such offense is prohibited from subsequent participation in such programs; providing that an inmate or offender convicted of such offense is subject to forfeiture of gain-time; providing for adoption of rules by the department; providing an effective date.

—was referred to the Committees on Criminal Justice; and Governmental Reform and Oversight.

By Senator Rossin—

**SB 1558**—A bill to be entitled An act relating to the Beverage Law; amending ss. 561.181, 561.331, F.S.; providing that a temporary license is a separate and distinct classification under the Beverage Law; providing that any temporary license that expires because of the denial of the application for a permanent license may not be extended; amending s. 562.13, F.S.; prescribing certain unlawful acts of vendors licensed under the Beverage Law; providing an effective date.

—was referred to the Committee on Regulated Industries.

By Senators Cowin and Dudley—

**SB 1560**—A bill to be entitled An act relating to judicial nominating commissions; repealing s. 43.29, F.S., relating to judicial nominating commissions; creating s. 43.295, F.S.; providing for appointment of members of judicial nominating commissions; prohibiting justices or judges from being members of judicial nominating commissions; prohibiting members of judicial nominating commissions from holding other public office; providing that a member of a judicial nominating commission is not eligible for a certain period for judicial appointment to a judicial office for which the commission has nominating authority; requiring that acts of judicial nominating commissions be made by concurrence of a majority; providing for terms of members of each judicial nominating commission; prohibiting consecutive reappointment to judicial nominating commissions; providing for suspension and removal of members of judicial nominating commissions pursuant to uniform rules of procedure; providing for the expiration of terms of current members of judicial nominating commissions; providing for commencement of terms for initial appointees to judicial nominating commissions; amending s. 440.45, F.S., relating to Office of the Judges of Compensation Claims, to conform a reference; providing an effective date.

—was referred to the Committees on Judiciary; and Ways and Means.

By Senator Cowin—

**SJR 1562**—A joint resolution proposing an amendment creating Section 18 of Article X of the State Constitution, to prohibit partial birth abortions.

—was referred to the Committees on Health Care; and Rules and Calendar.

By Senator McKay—

**SB 1564**—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; amending the exemption for machinery and equipment used in silicon technology production and research and development; deleting the requirement that the exemption be accomplished through the refund of taxes that were previously paid; deleting the provision that the refund is subject to a specific annual legislative appropriation; providing an effective date.

—was referred to the Committees on Ways and Means Subcommittee E (Finance and Tax); Ways and Means; and Commerce and Economic Opportunities.

By Senator Burt—

**SB 1566**—A bill to be entitled An act relating to criminal offenders; providing a short title; amending s. 921.0026, F.S.; providing that testimony in support of an offender's rehabilitation may not be a mitigating circumstance considered by the court in imposing a sentence; amending s. 944.026, F.S.; prohibiting the court from committing certain offenders to a probation and restitution center as an alternative to a secure state correctional institution; providing an effective date.

—was referred to the Committees on Criminal Justice; and Ways and Means.

By Senator McKay—

**SB 1568**—A bill to be entitled An act relating to tax administration; amending s. 193.063, F.S., which authorizes the property appraiser to grant an extension for filing tangible personal property tax returns; revising requirements for the request for an extension; amending s. 199.282, F.S.; reducing the penalties for failure to timely pay annual or nonrecurring intangible personal property tax and failure to timely file an annual tax return; providing an effective date.

—was referred to the Committee on Ways and Means.

By Senator Burt—

**SM 1570**—A memorial in support of designating the Florida Windstorm Underwriting Association and the Florida Residential Property & Casualty Joint Underwriting Association as tax-exempt entities under s. 501(c) of the Internal Revenue Code.

—was referred to the Committee on Rules and Calendar.

By Senator Harris—

**SB 1572**—A bill to be entitled An act relating to funeral and cemetery services; providing a short title; amending s. 497.005, F.S.; defining "care and maintenance"; creating s. 497.0255, F.S.; providing a duty of care and maintenance of licensed cemeteries in this state; providing rulemaking authority to the Board of Funeral and Cemetery Services for such purpose; amending s. 497.229, F.S.; providing circumstances under which a cemetery or component thereof may be deemed a public nuisance and providing for abatement thereof; amending s. 497.253, F.S.; providing additional requirements with respect to the conveyance of cemetery property to noncemetery uses, including certain notice; creating s. 497.255, F.S.; providing standards for construction and significant

alteration or renovation of mausoleums and columbaria; providing rule-making authority with respect to such standards to the board, in conjunction with the Board of Building Codes and Standards, and providing for incorporation of a portion thereof in the State Minimum Building Codes; requiring all newly constructed and significantly altered or renovated mausoleums and columbaria to conform to such standards and applicable building codes; amending s. 497.257, F.S.; including columbaria in provisions relating to preconstruction requirements applicable to mausoleums and belowground crypts; amending s. 497.527, F.S.; authorizing the Attorney General to bring a civil action for violation of chapter 497, relating to regulation of funeral and cemetery services, in the appropriate court; increasing the minimum liability for actual damages, except for violations designated as minor by rule of the board; amending s. 872.02, F.S., relating to prohibitions against injuring or removing tombs or monuments or disturbing the contents of graves or tombs; increasing penalties; specifying that the term "tomb" includes any mausoleum, columbarium, and belowground crypt; amending s. 245.07, F.S.; revising provisions relating to retention and disposition of bodies received by an anatomical board; creating the Task Force on Abandoned and Neglected Cemeteries within the Department of Banking and Finance; providing for appointment of members and election of officers; authorizing reimbursement for per diem and travel; requiring the department to provide administrative and staff support; providing duties; requiring preliminary and final reports; providing for termination of the task force; providing an appropriation; providing effective dates.

—was referred to the Committees on Banking and Insurance; Community Affairs; and Ways and Means.

By Senator Grant—

**SB 1574**—A bill to be entitled An act relating to personnel and agencies of the legislative branch; amending s. 11.0431, F.S.; providing for the presiding officers to determine legislative offices the records of which are exempt from disclosure; amending s. 11.045, F.S.; defining the term "division," for purposes of lobbyist registration, as the Division of Legislative Information Services; transferring certain functions of the Joint Legislative Management Committee to the division or to the presiding officers; amending s. 11.12, F.S.; providing for the presiding officers to determine subsistence rates; amending s. 11.13, F.S.; transferring certain functions of the Joint Legislative Management Committee relating to compensation of members to the Office of Legislative Services or to the presiding officers; amending s. 11.147, F.S.; abolishing the Joint Legislative Management Committee and replacing it with an Office of Legislative Services; repealing s. 11.39, F.S., relating to the Legislative Information Technology Resource Committee; amending s. 112.0455, F.S.; transferring certain functions of the Joint Legislative Management Committee with respect to rules relating to drug-free workplace requirements to the presiding officers; amending s. 112.3148, F.S.; transferring certain functions of the Joint Legislative Management Committee relating to reports of gifts to the Division of Legislative Information Services; amending s. 121.055, F.S.; transferring duties of the Joint Legislative Management Committee relating to designation of employees to participate in the Senior Management Service Optional Annuity Program to the presiding officers; amending s. 216.136, F.S.; conforming provisions to the amendments made by the act; amending s. 216.251, F.S.; clarifying authority with respect to approval of classification and pay plans for legislative employees; amending s. 985.401, F.S.; transferring duties of the Joint Legislative Management Committee with respect to the Juvenile Justice Advisory Board to the Department of Juvenile Justice; amending ss. 11.241, 11.242, 11.243, 11.70, 13.01, 13.10, 15.155, 20.315, 27.709, 112.061, 112.321, 119.15, 218.60, 229.593, 282.3091, 282.310, 282.322, 350.031, 402.50, 790.22, F.S.; conforming provisions to the amendments made by the act; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By Senator Rossin—

**SB 1576**—A bill to be entitled An act relating to marriage; creating the "Marriage Education and Family Stabilization Act"; creating s. 741.0305, F.S.; authorizing a premarital education course as a condition

precedent to obtaining a marriage license; providing for modification of marriage license fees; specifying course providers; providing course contents; providing for a pilot program in Leon County; amending s. 741.04, F.S.; prohibiting issuance of a marriage license until petitioners verify certain facts; amending s. 741.05, F.S.; conforming provisions; amending s. 61.21, F.S.; requiring the completion of a parent education and family stabilization course as a condition precedent to filing a petition for dissolution of marriage or seeking a modification of a final judgment action involving shared parental responsibilities, custody, or visitation; specifying course providers; providing course contents; authorizing the court to hold in contempt any person who refuses to complete the course; providing for the establishment of a registry of course sites and course providers; authorizing waiver of the requirements under specified circumstances; providing for unsigned anonymous informational questionnaires; providing an appropriation; providing an effective date.

—was referred to the Committees on Judiciary; and Ways and Means.

By Senator Forman—

**SB 1578**—A bill to be entitled An act relating to metropolitan planning organizations; amending s. 339.175, F.S.; amending provisions prescribing the voting membership of an M.P.O.; providing an effective date.

—was referred to the Committee on Community Affairs.

## COMMITTEE SUBSTITUTES

### FIRST READING

By the Committees on Governmental Reform and Oversight; Judiciary; and Senators Grant, Casas, Bronson and Kirkpatrick—

**CS for CS for SB 92**—A bill to be entitled An act relating to eminent domain; amending s. 73.0511, F.S.; providing for a dispute resolution process; providing for notice to fee owners and business owners; providing for an exchange of appraisals, right-of-way maps, and construction plans with fee owners and business owners; providing for an initial concern letter and conference; providing for disclosure of business records; providing for an offer of business damages and a counteroffer; providing for negotiation, mediation, and settlement in lieu of condemnation; amending s. 73.071, F.S.; providing criteria for compensation by jury; repealing s. 337.27(2), F.S., relating to the exercise of the power of eminent domain by the Department of Transportation; repealing ss. 348.0008(3), 348.759(3), 348.957(3), F.S., relating to the exercise of eminent domain power by expressway and bridge authorities; providing a finding of important state interest; providing an effective date.

By the Committee on Health Care and Senator Clary—

**CS for SB 650**—A bill to be entitled An act relating to Medicaid; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to pay for certain types of services for the Healthy Start program, pursuant to a federal waiver; providing for certain limits on such services; directing the agency to seek such a waiver; providing an effective date.

By the Committee on Criminal Justice and Senator Gutman—

**CS for SB 786**—A bill to be entitled An act relating to the offense of trespass; amending s. 810.08, F.S.; providing an enhanced penalty for trespass in a structure or conveyance if the offender commits an assault or battery upon any person in the structure or conveyance; amending s. 921.0022, F.S.; providing for a level-4 rank in the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

By the Committee on Transportation and Senator Hargrett—

**CS for SB 844**—A bill to be entitled An act relating to commercial motor vehicles; amending s. 316.091, F.S.; providing that on specified

highways certain commercial vehicles may drive only in certain lanes; amending s. 316.302, F.S.; adopting federal motor carrier safety regulations; authorizing audits of intrastate motor carriers for drivers' hours of service compliance; amending s. 316.545, F.S.; prescribing the penalty for operating an overweight or improperly registered commercial vehicle; amending s. 320.01, F.S.; defining the term "agricultural products"; amending s. 320.055, F.S.; providing for staggered fleet registration; amending s. 320.0657, F.S.; defining the term "fleet"; providing registration fees; providing penalties for late or improper registration; repealing s. 320.065, F.S., which requires permanent registration for certain agricultural vehicles; providing an effective date.

By the Committee on Criminal Justice and Senator Lee—

**CS for SJR 964**—A joint resolution proposing an amendment to s. 17, Art. I of the State Constitution, relating to excessive punishment.

By the Committee on Criminal Justice and Senator Burt—

**CS for SB 1328**—A bill to be entitled An act relating to postconviction capital collateral proceedings; requesting that the Division of Statutory Revision designate part IV of ch. 27, F.S., as "Capital Collateral Representation"; amending s. 27.702, F.S.; deleting a requirement that specifies the time for the capital collateral regional counsel to commence the representation of a person sentenced to death; creating s. 27.710, F.S.; requiring that the executive director of the Commission on the Administration of Justice in Capital Cases maintain a registry of attorneys in private practice who are available to be appointed to represent defendants in postconviction capital collateral proceedings; authorizing the executive director to obtain names of attorneys who may register for appointment; providing eligibility requirements for appointment as counsel in postconviction capital collateral proceedings; providing for appointment of an attorney selected from the registry; providing that more than one attorney may not be appointed at any one time to represent a capital defendant; creating s. 27.711, F.S.; requiring that an attorney appointed to represent a capital defendant file a notice of appearance; providing a schedule of fees to which the attorney is entitled for specified appearances and representations; providing that such fees constitute the exclusive means of compensation for such representation; authorizing compensation as provided by federal law under certain circumstances; authorizing the use of investigative services and the payment of fees for such services; providing that by accepting appointment to represent a capital defendant the attorney agrees to continue such representation until the defendant's sentence is reversed, reduced, or carried out; limiting the number of capital defendants that an attorney may represent; prohibiting a claim of ineffective assistance of counsel based on an action by the attorney who represents a capital defendant; prohibiting the attorney from representing the capital defendant in certain other proceedings; providing an effective date.

By the Committee on Criminal Justice and Senator Burt—

**CS for SB 1330**—A bill to be entitled An act relating to the administration of capital cases; creating s. 119.19, F.S.; defining terms; requiring that the Secretary of State establish a records repository for archiving capital postconviction records; requiring that the law enforcement agencies and the state attorney copy and deliver to the records repository public records produced in capital cases; requiring the Department of Corrections to copy and deliver to the records repository public records that pertain to the defendant; providing requirements for notifying the Attorney General upon delivery of such records to the repository; requiring that the Attorney General request public records from certain additional persons and agencies; providing requirements for sealing confidential records and records that are exempt from disclosure under the Public Records Law; prohibiting the opening of such records without a court order; providing for written demand for additional public records; prohibiting the capital collateral regional counsel or private counsel from obtaining the production of additional public records in a capital case until after filing an affidavit and obtaining a court order; requiring that the capital collateral regional counsel or private counsel provide the personnel and equipment for copying records held at the repository; providing for resolving certain disputes with respect to the production of records; specifying circumstances under which the Secretary of State

may destroy records held by a repository; amending s. 27.702, F.S.; requiring that the capital collateral regional counsel or private counsel notify the Commission on the Administration of Justice in Capital Cases and the trial court of pleadings filed in capital cases; requiring that a notice of hearing be filed with each pleading; requiring that the trial court expedite the hearings in capital cases; amending s. 27.708, F.S.; deleting references to Rule 3.852; limiting certain public-records requests made on behalf of clients; providing an appropriation; providing an effective date.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed HB 835 by the required constitutional two-thirds vote of all Members voting, the Governor's objections to the contrary notwithstanding, and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By Representatives Thrasher and Crady—

**HB 835 (1997 Regular Session)**—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.11, F.S.; authorizing, rather than requiring, taxpayers who are required to remit taxes by electronic funds transfer to make returns in a form initiated through an electronic data interchange; providing an effective date.

The Honorable Sandra B. Mortham  
Secretary of State

May 29, 1997

Dear Secretary Mortham:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of Florida, I do hereby withhold my approval of and transmit to you with my objections, House Bill 835, enacted during the 99th Session of the Legislature of Florida since statehood in 1845, convened under the Constitution of 1968, during the Regular Session of 1997, and entitled:

An act relating to tax on sales, use, and other transactions;...

This legislation represents the practical elimination of the Department of Revenue's Electronic Data Interchange (EDI) program. While the proponents of this measure represent that it is to help "small business," close scrutiny of the facts reveals that this is not the case. Further, the legislation is in direct contradiction to my efforts to improve governmental efficiency and effectiveness by reducing paperwork and operational costs.

Chapter 96-395, Laws of Florida, requires business remitting \$50,000 or more a year in sales tax to use EDI to submit their tax returns. The same group has been remitting funds electronically, through electronic funds transfer (EFT), for years. These businesses must have at least \$833,000 in taxable sales to reach this threshold. Only 25,000 of the state's 550,000 registered sales tax dealers, less than 5%, are directly affected by the EFT and EDI requirements. The EDI program affects only the largest taxpayers and has no impact on "small businesses." The Department of Revenue spent two years testing EDI and the users applaud its benefits.

Advocates of HB 835 contend that the program increases taxpayer burden. To the contrary, I find that the continuation of the EDI program is a proven means of reducing taxpayer burden with adequate safeguards to avoid unduly burdening small business. The current law provides for exemptions if a business does not have computer equipment or needs additional time for changes to their system or operating procedures. Any business requesting an exemption from the Department has received one. The Department has granted 8,000 such requests. I will be glad to work with the Department and the Legislature to examine the current waiver and whether its terms may be lengthened.

The costs to businesses are minimal and are easily recouped through the efficiencies which are gained. There are no routine monthly costs, since phone transmissions are to a local or toll-free number, and DOR pays all of the processing and mailbox charges. The EDI system works with most standard information systems, including personal computers.

Software for EDI filing is available from DOR-approved vendors and can be purchased for as little as \$99 to \$130 for the first year. Annual renewal fees will average \$30 - \$60, and include updates and customer support. If a business cannot afford software, the Department has granted a deferral. The Department has also communicated its desire to renew its offer to address the software costs. This would have to be considered by the 1998 Legislature.

I have established priorities in the areas of paperwork reduction, single business identifiers, and consolidation of information filing with state agencies. EDI is the first step in accomplishing all of those things. Without EDI, they may be impractical or impossible to implement. The Department processes 426,000 paper sales tax returns monthly; the EDI program will eliminate 60,000 of them. The Department currently corrects taxpayer errors in over 20% of consolidated sales tax returns and 13% of regular returns.

EDI will prevent almost all of those, from mathematical mistakes, lost mail, disagreements over postmarks, data copying, and data entry problems. It also allows for more accurate and timely allocation of tax revenues to General Revenue and local governments.

Another detrimental result of this legislation will be a significant negative impact on the Department's Performance Accountability Measures. The Department of Revenue has been the leader in performance-based program budgeting, setting the standard with the Legislation for this program, which was also my initiative. If HB 835 were to become law, of the nineteen measures in the General Appropriations Act for DOR, eight will be unattainable.

Elimination of the EDI program may also have a serious financial impact on those businesses who have been DOR's partners in implementing EDI. To achieve the most cost-effective program, the Department worked with several companies and service providers in a public/private partnership. Many of these businesses' investments will be at risk if HB 835 becomes law, increasing the likelihood that these businesses will be reluctant to enter into such partnerships with government in the future.

In conclusion, elimination of the EDI program is a step backwards in this era of government doing more with less. Electronic filing of information is a proven technology developed to reduce or eliminate paper processing. It is employed extensively in the private sector and is mandated by many businesses to their suppliers. Florida is one of 23 states with an EDI program and 14 other states are in the planning stage for implementing EDI. Filing tax information with the Department of Revenue is a logical use of this technology. Filing and processing tens of thousands of paper tax returns is contrary to our initiatives for improving the effectiveness and efficiency of government.

For these reasons, I am withholding my approval of House Bill 835, and hereby veto the same.

Sincerely,  
*LAWTON CHILES*

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 1227 by the required constitutional two-thirds vote of all Members voting, the Governor's objections to the contrary notwithstanding, and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By The Committee on Health Care Services and Representative Ball and other(s)—

**CS for HB 1227 (1997 Regular Session)**—A bill to be entitled An act relating to termination of pregnancies; renumbering and amending s. 390.001, F.S.; revising provisions relating to consents required prior to a termination of pregnancy; prohibiting partial-birth abortion; providing a penalty; providing civil liability; providing for relief; renumbering s. 390.002, F.S.; amending s. 390.011, F.S.; expanding scope of definitions; defining "partial-birth abortion"; providing an effective date.

The Honorable Sandra B. Mortham  
Secretary of State

May 23, 1997

Dear Secretary Mortham:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of Florida, I do hereby withhold my approval of and transmit to you with my objections, the Committee Substitute for House Bill 1227, enacted during the 99th Session of the Legislature of Florida since statehood in 1845, convened under the Constitution of 1968, during the Regular Session of 1997, and entitled:

An act relating to termination of pregnancies; . . .

Although I am personally opposed to abortion, I believe a woman, in conjunction with her physician, family, clergy, and loved ones, has the right to make her own decision on whether or not to have an abortion. I am deeply troubled by the number of abortions that are performed in Florida each year. The State must do all that it possibly can to prevent unwanted pregnancies from occurring in the first place, especially among teenagers. Through expanding our preventive efforts such as full service schools, family planning, access to proper health care, and education, we can significantly reduce the number of abortions in Florida.

Committee Substitute for House Bill 1227 is not the best means of addressing the issue of certain unwanted or complicated pregnancies. By giving physicians the option to perform the partial-birth abortion only when the mother's life is in danger, this bill does not adequately protect the health of the mother. Throughout my career I have supported prevention programs and health care services that would preserve the health of the mother and assist pregnant women in delivering healthy babies. Allowing this procedure to be used only on a very restrictive basis precludes its use when the health, including the reproductive health, of the mother is significantly jeopardized. Some physicians consider partial-birth abortions to be safer for certain pregnant women than the alternatives. Regardless of my personal feelings about the complex issue of abortion, I cannot support a bill that, in some cases, may force women to undergo a procedure more dangerous to their health and may interfere with the doctor-patient relationship.

I am also concerned with the provision in the Committee Substitute for House Bill 1227 that allows monetary damages to be awarded to the husband, or if the woman is a minor, the maternal grandparents of the fetus, should the mother obtain a partial-birth abortion. This provision opens the door to inappropriate litigation over a medical procedure, and opening that door can only hurt the women of Florida and their access to safe, reliable health care.

For these reasons, I am withholding my approval of the Committee Substitute for House Bill 1227, and do hereby veto the same.

Sincerely,  
LAWTON CHILES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 1597 by the required constitutional two-thirds vote of all Members voting, the Governor's objections to the contrary notwithstanding, and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By the Committee on Civil Justice and Claims and Representative Thrasher—

**CS for HB 1597 (1997 Regular Session)**—A bill to be entitled An act relating to evidence; amending s. 90.803, F.S.; revising an exception to the prohibition against hearsay evidence; providing an effective date.

The Honorable Sandra B. Mortham  
Secretary of State

May 29, 1997

Dear Secretary Mortham:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of Florida, I do hereby withhold my approval of and transmit to you with my objections, Committee Substitute for House Bill 1597, enacted during the 99th Session

of the Legislature of Florida since statehood in 1845, convened under the Constitution of 1968, during the Regular Session of 1997, and entitled:

An act relating to evidence; . . .

Committee Substitute for House Bill 1597 broadens the former testimony hearsay exception under section 90.803(22), Florida Statutes. Under section 90.803(22), Florida Statutes, a court may admit former testimony "given by the declarant at a civil trial, when used in a retrial of said trial involving identical parties and the same facts." The availability of the declarant is immaterial in admitting the former testimony under section 90.803(22).

In contrast to section 90.803(22), the evidence code also provides section 90.804(2)(a), Florida Statutes, a former testimony hearsay exception when the declarant is unavailable. Section 90.804(2)(a) provides that the following former testimony is admissible:

Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

Committee Substitute for House Bill 1597 transfers the former testimony exception in section 90.804(2)(a) to section 90.803(22). The result of the bill is to broaden the amount of former testimony that can be introduced in a civil trial without a showing that the declarant is unavailable to testify.

I cannot support Committee Substitute for House Bill 1597 because it reduces a party's ability to confront and question a witness. I do not see as beneficial a reform to the Evidence Code which creates an open-ended exception that precludes the right of a litigant to cross-examine witnesses at trial. This bill would primarily operate to the benefit of large, multi-state corporations that have engaged in extensive litigation throughout the country in many venues and jurisdictions. These multi-state corporations would have a distinct advantage of being able to pick and choose from depositions that have never been made public records, and offer these depositions as testimony. The opposing party would not have the right to confront the declarant about the statements.

Further, I am concerned that the proposed legislation precludes a fact-finder from evaluating a witness' demeanor and credibility. The proposed legislation would allow a party to conduct a trial by deposition, even if the declarant is available to testify. Consequently, a fact-finder is denied the ability to weigh the witness' demeanor and credibility.

Even though I am sure that the Legislature did not intend it to be so, this statute creates an untenable potential for unfairness to all parties to a lawsuit.

For these reasons, I am withholding my approval of Committee Substitute for House Bill 1597, and do hereby veto the same.

Sincerely,  
LAWTON CHILES

**The bills, together with the Governor's objections thereto, were referred to the Committee on Rules and Calendar.**

## CORRECTION AND APPROVAL OF JOURNAL

The Journal of March 3 was corrected and approved.

## CO-SPONSORS

Senators Brown-Waite—SB 356; Clary—SB 854, SB 1396; Crist—SB 142; Forman—SB 1228; Latvala—SB 636, SB 1036; Meadows—SB 882; Myers—SB 1396; Ostalkiewicz—SB 1266; Scott—SB 882; Silver—SB 1266; Turner—SB 1266

Senator Williams withdrew as prime sponsor of SB 1490 and Senator McKay was recorded as prime sponsor of SB 1490.

**RECESS**

On motion by Senator Bankhead, the Senate recessed at 3:50 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 1:30 p.m., Monday, March 9.