Journal of the Senate

Number 23—Regular Session **Wednesday, April 29, 1998**

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CALL TO ORDER

The Senate was called to order by President Jennings at 9:00 a.m. A quorum present—40:

Madam President	Crist	Holzendorf	Meadows
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Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

PRAYER

The following prayer was offered by Rev. Jack Oliver, Pastor, Idlewild Baptist Church, Tampa:

Father, we thank you for the opportunity to be here today. I pray that you would bless these Senators who are here. I just pray you would watch over them.

Lord, we thank you for how you love us, how you provide for us. Thank you for the Lord Jesus Christ. I pray, Father, that all decisions they make today would honor you.

I thank you for them. Thank you for the time they spend away from their families. I pray you would bless their families, Lord, while they are away. Watch over them and protect them. We thank you, Lord, for them. It's in Jesus' name we pray. Amen.

PLEDGE

Senate Pages Shannon Blizzard of Tallahassee and Holly Fuqua of Tallahassee, led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

At the request of Senator Crist—

By Senator Crist—

SR 130—A proclamation honoring Dr. R. Vijayanagar of Tampa, cardiovascular surgeon, for his historic achievements in heart transplantation and in other state-of-the-art procedures.

WHEREAS, Dr. R. Vijayanagar, Assistant Clinical Professor of Surgery, College of Medicine, University of South Florida, in 1985 became the first physician in this state to perform a heart transplant upon a patient who survived for an appreciable period of time (10 years), and

WHEREAS, Dr. Vijayanagar has enjoyed a distinguished career in this country, both before and after becoming a naturalized citizen of the United States in 1977, and

WHEREAS, he was born in India, received his M.B.B.S. at G.S. Medical College, University of Bombay, served an internship at Passaic (New Jersey) General Hospital, and completed several residencies at hospitals in the Bronx, New York, and

WHEREAS, he is a fellow or member of more than a dozen physicians' associations, is the author or coauthor of a vast number of articles on the uses of cardiovascular surgery in a wide variety of cardiac ailments, including articles appearing in prestigious periodicals published in India as well as in major U.S. medical periodicals, and

WHEREAS, Dr. Vijayanagar has also lectured here and abroad at international congresses of cardiovascular surgeons and of thoracic surgeons, and

WHEREAS, Dr. Vijayanagar continues to provide state-of-the-art treatment for heart disease, including the performance, in 1995, of two partial left ventriculectomies, or "Batista procedures," so named in honor of the doctor who developed the procedure in a primitive hospital in the jungles of Brazil, and first performed in this country in 1995, and

WHEREAS, it is fitting that we recognize the amazing accomplishments of this Tampa practitioner, who has helped put his city and state "on the map," worldwide, for his extraordinary achievements in his field, NOW, THEREFORE,

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

That the Florida Senate honors Dr. R. Vijayanagar for performing the first heart transplant in Florida on a surviving patient and for his many other contributions to the advancement of cardiovascular surgery, through means including publishing numerous scholarly articles in noted medical journals as well as performing many successful operations.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Senate Seal affixed, be presented to Dr. R. Vijayanagar as a tangible token of the regard of the Florida Senate.

—**SR 130** was introduced, read and adopted by publication.

SPECIAL GUEST

Senator Crist introduced Dr. R. Vijayanagar who was present in the chamber.

At the request of Senator Forman—

By Senator Forman—

SR 2724—A resolution commemorating the Great Irish Famine and recognizing the many Irish-Americans and others living in Florida who support peace in a united Ireland.

WHEREAS, in 1169 Britain invaded Ireland and because of their religion, language, and race the Irish people were exploited, discriminated against, and subjugated, and

WHEREAS, in 1704 the Penal Laws deprived Irish Catholics of their civil rights and education, reducing them to a condition of extreme and brutal ignorance, and furthermore outlawed their religion and robbed them of their land, which was the only means of employment, profit, and subsistence for the people of Ireland, and

WHEREAS, in 1845, the year of the potato blight, the economy of Ireland was artificially designed for sole dependence on the potato by three million Irish who were forced to surrender all of their crops to the British government to be sold for profit, and

WHEREAS, Irish Catholics were forced to tithe and otherwise support the state church, thereby bankrolling their own oppression, and

WHEREAS, between 1845-1850 in The Great Famine - The Irish Holocaust, over one and a half million people died from starvation, fever, cold, and execution for stealing food and approximately two million more emigrated while thousands of starving men, women, and children were imprisoned or deported for stealing food, and

WHEREAS, sufficient food to abundantly feed every person in Ireland was exported for profit and starving men were forced to load the cargo ships that would carry away the food that could have saved their families' lives, and

WHEREAS, during the harvest of death and eviction, members of the British Parliament proclaimed that property rights took precedence over the Irish peasants' right to survive and the British official in charge of Irish Famine relief professed that the Famine was "divine judgment on a wicked and perverse people" and was an Act of God meted out to a lazy and indolent Irish peasant population, and

WHEREAS, British economists advised against assisting the Irish agrarian system and the "surplus" population was urged to emigrate and public funds were used for senseless projects like building roads that lead nowhere while the starving Irish were committed to workhouses that were soon closed, leading to soup kitchens where Catholics were promised food in return for denouncing their religion, and

WHEREAS, many of these immigrants died at sea in wretched coffin ships or in quarantine camps and were buried at sea or in unmarked graves while the remaining arrived without food, clothing, resources, or employment potential, products of the British immigration projects, and yet their contributions in industry, labor, arts, education, the military, and government have not been surpassed, and

WHEREAS, because of a shortage of experienced ship pilots, many more died from shipwrecks, or ironically, landed on uninhabited islands and died from starvation, and

WHEREAS, so unnatural was the concept of emigration to the Irish that their language had no word for it, the closest meaning was "exile or one who has been banished", and

WHEREAS, in 1847, known as Black '47, British landlords evicted over 500,000 starving and sick families from their homes without notice by British landlords, for nonpayment of exorbitant rents, and many of them died from cold and fever, while their homes and possessions were destroyed to prevent their further use, and

WHEREAS, 150,000 Irish immigrants fought and died in the American Civil War for a country and cause they hardly knew, and

WHEREAS, historians, philosophers, and humanitarians agree that we have learned less than we should have learned from the Great Irish Famine, and

WHEREAS, British Prime Minister, Tony Blair, in apologizing to the Irish people proclaimed: "Those who governed in London at the time failed their people through standing by while a crop failure turned into a massive human tragedy", NOW, THEREFORE,

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

That the Florida Senate commemorates the 150th Anniversary of THE GREAT IRISH FAMINE which was a genocide against the Irish people and joins British Prime Minister Tony Blair in celebrating the "resilience and courage of those Irish men and women."

BE IT FURTHER RESOLVED that the Florida Senate joins the four million Irish-Americans in Florida and all Floridians in the dream for peace with justice in a united Ireland.

—**SR 2724** was introduced, read and adopted by publication.

At the request of Senator Cowin—

By Senator Cowin—

SR 2728—A resolution honoring Susan Ryan, a fifth-grade teacher at Tavares Elementary School, as Lake County Teacher of the Year.

WHEREAS, Susan Ryan has a Master's Degree in Elementary Education from the University of Central Florida, has 19 years of teaching experience in Florida, and this year has been named Lake County's Teacher of the Year, and

WHEREAS, Susan Ryan holds a Florida Teaching Certificate in Elementary Education with endorsements in Music, English as a Second Language, and Gifted Education, and

WHEREAS, Susan Ryan co-authored Florida's Environmental Activity Guide, an activity book for environmental education, and she has participated in the development of materials on energy-related topics for teachers and students through her involvement in Florida State University's Energy and Environmental Alliance, and

WHEREAS, Susan Ryan has given more than 20 workshops to teachers throughout Florida on science-teaching methods and has presented at three Elementary Education Conferences, the League of Environmental Educators Conference, and the Florida Association of Science Teachers Conference, and

WHEREAS, Susan Ryan wrote, "Each day in my classroom my students have small victories they can call their own. My greatest accomplishments are their accomplishments", NOW, THEREFORE,

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

That Susan Ryan is commended for her lifelong dedication to teaching and for being named Lake County Teacher of the Year for 1998.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Susan Ryan as a tangible token of the sentiments and good wishes of the Florida Senate.

—**SR 2728** was introduced, read and adopted by publication.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Sullivan, by two-thirds vote **CS for SB 1726** was withdrawn from the Committee on Ways and Means.

On motion by Senator Bankhead, by two-thirds vote **CS for SB 1178** was withdrawn from the Committee on Governmental Reform and Oversight; **SB 1946** was withdrawn from the Committee on Commerce and Economic Opportunities; **HB 3433** was withdrawn from the Committee on Community Affairs; **HB 3541** was withdrawn from the Committee on Regulated Industries; **HB 3637** and **HB 3651** were withdrawn from the Committee on Education; **HB 3669** and **HB 3769** were withdrawn from the Committee on Regulated Industries; **HB 3963** was withdrawn from the Committee on Community Affairs; **HB 4465** was withdrawn from the Committee on Regulated Industries; **HB 4505** was withdrawn from the Committee on Community Affairs; **HB 4531** was withdrawn from the Committee on Natural Resources; and **HB 4691** was withdrawn from the Committee on Community Affairs.

MOTIONS

On motion by Senator Bankhead, a deadline of 10:00 a.m. Thursday, April 30, was set for filing amendments to the Local Bill Calendar to be considered that day.

On motion by Senator Bankhead, the rules were waived and a deadline of 9:30 p.m. this day was set for filing amendments to the Special

Order Calendar and Bills on Third Reading to be considered Thursday, April 30.

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

SPECIAL ORDER CALENDAR

SB 2454—A bill to be entitled An act relating to the re-creation of the Working Capital Trust Fund of the Department of Law Enforcement without modification; re-creating the Working Capital Trust Fund; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Burt and failed:

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

Section 1. *Each person who, as of July 1, 1997 holds a homestead exemption under Florida law, with a just value of $150,000 or less or is a registered owner of a mobile home licensed pursuant to s. 320.08 (11) shall be entitled to a tax rebate of $50 as set forth herein; provided, if a property to which this subsection applies is owned jointly by one or more persons, the joint owners shall be treated as one person for purposes of this section. The rebate will be sent to qualified persons as soon as practical by U.S. Mail, first class presort.*

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: providing for a rebate under certain conditions; providing an effective date.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Burt:

Amendment 2 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Each Florida resident with active, residential electric utility service established by May 1, 1998, shall be provided with a $50 credit, or an amount for which funds are equally available, toward electric utility service. The method for the award of this credit shall be as follows:*

(a) The Florida Public Service Commission shall obtain from each electric utility provider regulated by the Commission a certified list of all electric utility customers with active service established on or before May 1, 1998 by June 1, 1998.

(b) Upon receipt of these lists, the Commission shall calculate the amount of funds necessary per electric utility company to accomplish the provision of this section by multiplying the number of customers by $50.

(c) The Commission shall produce a list of all public, private and municipal electric utility companies under their regulation detailing the calculated amount of funds necessary to provide the $50 credit and certify this list to the Comptroller of the State of Florida, the President of the Senate, and the Speaker of the House of Representatives by June 1, 1998.

(d) The Comptroller shall distribute funds to each individual public, private and municipal electric utility company based on the list submitted by the Commission on or before July 1, 1998. The Comptroller shall make appropriate adjustments as funds are available to ensure an equal credit to each specified electric utility customer as provided by this section.

(e) The Commission shall direct each public, private and municipal electric utility company to provide the credit toward the amount due for the service period ending on or before August 30, 1998 to each residential electric utility customer as provided by this section, without exception.

It is the intent of the Legislature that this one-time credit not require any increase in current utility rates as established at the effective date of this section.

Section 2. This act shall take effect upon becoming law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: providing for an electric utilities credit under certain conditions; providing an effective date.

Senator Burt moved the following substitute amendment:

Amendment 3 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *(1) Each person who, as of June 30, 1998, was entitled to and received a homestead exemption under section 196.031, Florida Statutes, for tax year 1998, is entitled to a distribution of $50 as set forth in this section. If the homestead property is owned jointly by more than one person, the joint owners shall be treated as one person for purposes of this distribution.*

(2) By July 15, 1998, every property appraiser must provide to the Department of Revenue a certified list of all homestead property in his or her county as of June 30, 1998. This list must include each owner's name, the address and legal description of the property, and the code indicating the homestead classification for each eligible property and must be in compatible electronic format. Distributions shall be sent to qualified persons as soon as practicable, but no later than October 1, 1998. Each check distributed shall include a letter stating that the distribution is being provided to homestead property owners by the Governor, the Cabinet, and the Florida Legislature.

(3) No person is entitled to a distribution with respect to property for which he or she received a homestead exemption improperly, as described in section 196.011(9) or section 196.161, Florida Statutes.

(4) Persons who, after January 1, 1998, but on or before June 30, 1998, obtain legal or equitable title to real property on which a homestead exemption exists and are listed as owners of the property on the certified list of homestead properties provided by the property appraiser under this section shall receive the distribution provided by this section for that property.

(5) If a delinquent child-support obligor is entitled to receive a distribution, the department must withhold the amount of the delinquency from the rebate of that obligor. The department shall notify the obligor that his or her rebate is being withheld under this section for the purpose of paying the obligor's delinquent child-support obligations. The department shall apply the distribution amount withheld to the delinquent child-support obligation and transmit the balance, if any to the delinquent obligor.

(6) The department shall offset any distribution pursuant to section 213.25, Florida Statutes, and any other applicable law regarding debts or obligations owed to the state.

Section 2. *The sum of $184 million is appropriated from the General Revenue Fund to the Department of Revenue for fiscal year 1998-1999 for distribution to eligible holders of homestead tax exemptions. In the event these funds are insufficient to carry out the provisions of this act, the Administration Commission is authorized to transfer sufficient funds from the Working Capital Fund.*

Section 3. *The sum of $1.8 million is appropriated from the General Revenue Fund to the Department of Revenue for fiscal year 1998-1999 to administer the distributions provided for in this act. The department may contract with private vendors to carry out the distributions, notwithstanding the requirements set out in chapter 287, Florida Statutes. The provisions of chapter 120, Florida Statutes, do not apply to this act.*

Section 4. *Any action to challenge the validity or constitutionality of the rebate provided for in this act must be brought within 60 days after the effective date of this act, or else the challenge is barred. If any such proceeding is initiated, distribution of the rebate amounts under this act shall be held in abeyance until a judicial determination has become final and the time limit for any further proceeding regarding the validity or constitutionality of this act has expired.*

Section 5. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to homestead tax exemptions; providing for a distribution of money to specified persons who are entitled to an homestead tax exemption; providing appropriations; providing a time limit within which challenges to the rebate must be brought; providing an effective date.

SENATOR LATVALA PRESIDING

Senators Rossin, Silver, Campbell, Dyer, Forman, Hargrett, Holzendorf, Kurth, Meadows, Thomas and Turner offered the following amendment to **Amendment 3** which was moved by Senator Rossin and failed:

Amendment 3A (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Each residential electric utility customer account of an "electric utility" as defined in s. 366.02(2), F.S. receiving active, residential electric utility service on May 1, 1998, shall be provided with a $50 credit, or an amount for which funds are equally available from the General Revenue Trust Fund, on their electric utility service account in August of 1998. The method for the award of this credit shall be as follows:*

(a) Each electric utility shall file with the Florida Public Service Commission by June 1, 1998 certification of the total number of residential electric utility accounts receiving active service on May 1, 1998.

(b) Upon receipt of the certification of the total number of residential electric utility accounts from the utilities , the Commission shall calculate the amount of funds necessary for each electric utility to accomplish the provision of this section by multiplying the number of residential accounts active on May 1, 1998 by $50.

(c) The Commission shall produce a list of the utilities detailing the calculated amount of funds necessary to provide the $50 credit and certify this list to the Comptroller of the State of Florida, the President of the Senate, and the Speaker of the House of Representatives by June 15, 1998. Upon any specific request of the Comptroller, the President of the Senate, or the Speaker of the House of Representatives, the Public Service Commission shall have the authority to audit the total number of residential electric utility accounts as filed pursuant to subsection (b) of this act.

(d) The Comptroller shall distribute funds to each individual electric utility based on the list submitted by the Commission on or before July 1, 1998. The Comptroller shall make appropriate adjustments as funds are available to ensure an equal credit to each specified electric utility customer as provided by this section.

(e) The Florida Public Service Commission shall direct each electric utility to provide the credit on the electric service account of the eligible residential electric service customers on August 1, 1998 as provided by this section, without exception. The Commission shall develop the appropriate language describing the credit on the bill and notifying customers of the credit application process making every effort to neutralize costs to the utilities. Credits shall be reflected on the bills rendered by the utility starting on August 1, 1998 for the applicable customer accounts as they are subsequently billed according to the utility's standard billing cycles, said credits being applied to the bills up to the total amount owed each month for electric service. When bills for electric service do not have sufficient electric service amounts owed to utilize the entire amount of the credit, the remaining credit will be carried on the account for subsequent months billing until the total credit has been utilized or until October 31, 1998. Any customer receiving service on May 1, 1998 that is no longer receiving electric service from the electric utility on August 1, 1998, shall have the credit reflected on their prior account until such time as the utility determines that such customer has not requested or renewed service from the utility between August 1, 1998 and October 31, 1998. All undistributed credits which have not been distributed for whatever reason, shall be accounted for by the utility and returned to the Comptroller of the State of Florida before December 1, 1998. All disputes related to the distribution or the amount of the credit shall be resolved by the Florida Public Service Commission.

It is the intent of the Legislature that this one-time credit not require any increase or decrease in current utility rates as established at the effective date of this section. Prior to the application of this credit, amounts owed by each customer shall be calculated without regard to the existence of the credit. As a result, the amounts due from each customer, including but not limited to rates, state, and local taxes, franchise fees, and any other applicable charges, shall not be affected by the existence of this credit.

Section 2. This act shall take effect upon becoming law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: providing for a residential electric utilities credit under certain conditions; providing legislative intent with respect to the credit; providing an effective date.

The vote was:

Yeas—13

Campbell	Hargrett	Klein	Rossin
Childers	Holzendorf	Kurth	Silver
Dyer	Jones	Meadows	Turner
Forman			

Nays—24

Bankhead	Cowin	Harris	McKay
Bronson	Crist	Horne	Myers
Brown-Waite	Diaz-Balart	Kirkpatrick	Ostalkiewicz
Burt	Dudley	Latvala	Scott
Casas	Grant	Laurent	Sullivan
Clary	Gutman	Lee	Williams

Senator Burt moved the following amendment to **Amendment 3** which was adopted:

Amendment 3B—On page 2, between lines 29 and 30, insert:

(7) Under procedures established by the department, each recipient of the distribution described in this section may elect to return the distribution and designate the application of the $50 to the state for one of the following uses:

(a) Education;

(b) Children's health care;

(c) Criminal justice; or

(d) Roads.

Senator Hargrett moved the following amendment to **Amendment 3** which was adopted:

Amendment 3C—On page 2, between lines 29 and 30, insert:

(7) Under procedures established by the department, each recipient of the distribution described in this section may elect to return the distribution and designate the application of the $50 to the state for one of the following uses:

(a) Education;

(b) Children's health care;

(c) Criminal justice; or

(d) Transportation.

THE PRESIDENT PRESIDING

Amendment 3 as amended was adopted.

On motion by Senator Burt, by two-thirds vote **SB 2454** as amended was read the third time by title, passed by the required constitutional three-fifths vote of the membership, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Madam President	Bronson	Burt	Casas
Bankhead	Brown-Waite	Campbell	Childers

Clary	Grant	Klein	Scott
Cowin	Gutman	Latvala	Silver
Crist	Hargrett	Laurent	Sullivan
Diaz-Balart	Harris	Lee	Thomas
Dudley	Holzendorf	McKay	Turner
Dyer	Horne	Meadows	Williams
Forman	Jones	Ostalkiewicz	
Geller	Kirkpatrick	Rossin	

Nays—2

Kurth	Myers

Vote after roll call:

Yea to Nay—Geller

On motion by Senator Cowin, by two-thirds vote **CS for CS for HB 4407** was withdrawn from the Committee on Ways and Means.

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

CS for CS for HB 4407—A bill to be entitled An act relating to tax on sales, use, and other transactions; providing a short title; providing that no tax levied under ch. 212, F.S., shall be collected on sales of clothing with a value of $50 or less during specified periods in August 1998 and January 1999; providing a definition; excluding sales within a theme park or entertainment complex or public lodging establishment; providing for rules; providing an effective date.

—a companion measure, was substituted for **CS for SB 1900** and by two-thirds vote read the second time by title.

Senator Cowin moved the following amendment:

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

Section 1. *(1) The sale of clothing, sold as part of a transaction with a taxable value totaling $100 or less, shall be exempt from the tax imposed by chapter 212, Florida Statutes, beginning at 12:01 a.m. on Saturday, August 15, 1998, through midnight of Wednesday, August 19, 1998.*

(2) For purposes of this section, the term "clothing" means any article of wearing apparel, including footwear and the materials and cloth used for fabricating clothing, intended to be worn on or about the human body. For purposes of this section, the term "clothing" does not include watches, watchbands, jewelry, or similar items of adornment, and does not include special clothing or footwear that is primarily designed for athletic activity or protective use and that is not worn except when so used.

(3) Notwithstanding the provisions of chapter 120, Florida Statutes, the Department of Revenue is authorized to notify dealers and administer the provisions of this section.

Section 2. *The sum of $200,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering this act.*

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

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to sales taxes; specifying a date on which the sale of clothing shall be exempt from sales taxes; defining the term "clothing"; authorizing the Department of Revenue to notify dealers and administer the provisions of the act; providing an appropriation; providing an effective date.

Senators Geller, Campbell, Forman, Turner, Meadows and Silver offered the following amendment to **Amendment 1** which was moved by Senator Geller and failed:

Amendment 1A (with title amendment)—On page 2, between lines 5 and 6, insert:

Section 3. *(1) The tax imposed by section 624.509, Florida Statutes, does not apply to premiums received by insurers in calendar year 1998 for residential property insurance policies. For the purposes of this subsection, the term "residential property insurance policies" has the same meaning as the term "covered policy" as defined in section 215.555(2), Florida Statutes.*

(2) An insurer exempt from premium tax liability under subsection (1) shall not be required to pay any additional retaliatory tax levied pursuant to section 624.5091, Florida Statutes, as a result of claiming such credit.

(3) Within 60 days after January 1, 1999, each insurer writing residential property insurance policies in this state shall make a rate filing indicating the reduction in expenses resulting from the exemption from the premium tax and retaliatory tax provided in subsection (1). An insurer may include this factor in a rate filing that indicates additional factors, as authorized by laws and rules applying to such rate filing.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 22, after the semicolon (;) insert: exempting residential property insurance from certain taxes; requiring rate filings that indicate reduced expense resulting from such tax exemptions;

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

Amendment 1B (with title amendment)—On page 2, between lines 5 and 6, insert:

Section 3. *This act does not apply to sales within a theme park complex, as defined in section 509.013(9), Florida Statutes, or within a public lodging establishment, as defined in section 509.013(4), Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 22, after the semicolon (;) insert: providing exceptions;

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

Amendment 1C—On page 1, lines 27-30, delete those lines and insert: *watchbands, jewelry, or similar items of adornment.*

Amendment 1 as amended was adopted.

On motion by Senator Cowin, by two-thirds vote **CS for CS for HB 4407** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—2

Kurth	Myers

STATEMENT OF INTENT

This is a very good bill and we might want to add some intent language that clearly is aimed at those buying the very basic things they need for going to school. However, there are a lot of cunning accountants and CPAs out there who might manipulate the system and begin to do little deals where they price a very expensive item at $100 with some obligation to buy a whole bunch of other things at $100 and are able to manipulate the system. So, I would like to spread some intent language in the

Journal that would say something to the effect that things that are usually priced as one item cannot be split into smaller increments to get under this threshold of $100, so that people won't manipulate the system.

Jim Horne
District 6

CS for SB 1450—A bill to be entitled An act relating to intangible personal property taxes; amending s. 199.023, F.S.; defining the terms "ministerial function" and "processing activity" for purposes of ch. 199, F.S.; amending s. 199.052, F.S.; increasing the minimum amount of annual intangible personal property tax which a person may be required to pay; repealing s. 199.052(11), F.S., relating to returns filed by banking organizations, to conform; amending s. 199.175, F.S., relating to taxable situs; conforming provisions; amending s. 199.185, F.S.; revising the exemption from intangible personal property taxes for certain property held in trust; revising the exemption for real estate mortgage investment conduits; partially exempting accounts receivable arising out of a trade or business from intangible personal property taxes; providing legislative intent to fully exempt such assets in subsequent years; providing a full, rather than partial, exemption from the annual tax for banks and savings associations and providing for application of the exemption to organizations defined by s. 220.62(1), (2), (3), and (4), F.S.; exempting insurers from the annual tax; repealing s. 199.104, F.S., which provides a credit against the annual tax for banks and savings associations; repealing s. 220.68, F.S., which provides a credit against the franchise tax imposed on banks and savings associations based on intangible tax paid; amending s. 199.282, F.S.; revising the penalty for late filing of an annual intangible tax return; providing a limitation on combined delinquency and late filing penalties; revising the penalty for omitting or undervaluing property on an annual return; amending s. 199.292, F.S.; revising the distribution of intangible tax revenues; amending s. 220.02, F.S., relating to order of credits against the corporate income tax or franchise tax, and s. 624.509, F.S., relating to the insurance premium tax; conforming provisions; providing application; providing effective dates.

—was read the second time by title.

Senator Ostalkiewicz moved the following amendment which failed:

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

Section 1. Subsections (13) and (14) are added to section 199.023, Florida Statutes, to read:

199.023 Definitions.—As used in this chapter:

(13) "Ministerial function" means an act the performance of which does not involve the use of discretion or judgment.

(14) "Processing activity" means an activity undertaken to administer or service intangible personal property in accordance with such terms, guidelines, criteria, or directions as are provided solely by the owner of the property. Methods, systems, or techniques chosen by the processor to implement such terms, guidelines, criteria, or directions are not considered the exercise of management or control.

Section 2. Subsection (2) of section 199.052, Florida Statutes, is amended to read:

199.052 Annual tax returns; payment of annual tax.—

(2) No person shall be required to pay the annual tax in any year when the aggregate annual tax upon the person's intangible personal property, after exemptions, would be less than *$60* ~~$5~~. In such case, an annual return is not required unless the taxpayer is a corporation, a banking organization claiming the exemption provided in s. 199.185(1)(i), or an agent or fiduciary of whom the department requires an informational return. Agents and fiduciaries shall report for each person for whom they hold intangible personal property if the aggregate annual tax on such person is *$60 or* more ~~than $5~~.

Section 3. Effective July 1, 2000, subsection (11) of section 199.052, Florida Statutes, is repealed, and subsection (2) of that section, as amended by this act, is amended to read:

199.052 Annual tax returns; payment of annual tax.—

(2) No person shall be required to pay the annual tax in any year when the aggregate annual tax upon the person's intangible personal property, after exemptions, would be less than $60. In such case, an annual return is not required unless the taxpayer is a corporation~~, a banking organization claiming the exemption provided in s. 199.185(1)(i),~~ or an agent or fiduciary of whom the department requires an informational return. Agents and fiduciaries shall report for each person for whom they hold intangible personal property if the aggregate annual tax on such person is $60 or more.

Section 4. Effective July 1, 2000, paragraph (a) of subsection (1) and paragraph (b) of subsection (2) of section 199.175, Florida Statutes, are amended to read:

199.175 Taxable situs.—For purposes of the annual tax imposed under this chapter:

(1) Intangible personal property shall have a taxable situs in this state when it is owned, managed, or controlled by any person domiciled in this state on January 1 of the tax year. Such intangibles shall be subject to annual taxation under this chapter, unless the person who owns, manages, or controls them is specifically exempt or unless the property is specifically exempt. This provision shall apply regardless of where the evidence of the intangible property is kept; where the intangible is created, approved, or paid; or where business may be conducted from which the intangible arises. The fact that a Florida corporation owns the stock of an out-of-state corporation and manages and controls such corporation from a location in this state shall not operate to give a taxable situs in this state to the intangibles owned by the out-of-state corporation, which intangibles arise out of business transacted outside this state.

(a) For the purposes of this chapter, "any person domiciled in this state" means:

1. Any natural person who is a legal resident of this state;

2. Any ~~bank or financial institution,~~ business, business trust as described in chapter 609, company, corporation, ~~insurance company,~~ partnership, or other artificial entity organized or created under the law of this state, except a trust; or

3. Any person, including a trust, who has established a commercial domicile in this state.

(2) Intangible personal property shall have a taxable situs in this state when it is deemed to have a business situs in this state and it is owned, managed, or controlled by a person transacting business in this state, even though the owner may claim a domicile elsewhere. This provision shall apply regardless of where the evidence of the intangible is kept or where the intangible is created, approved, or paid.

(b) Notwithstanding the provisions of this subsection:

1.a. Intangibles that are credit card or charge card receivables or related lines of credit or loans shall be deemed to have business situs in this state only when the debt represented by such intangibles is owed by a customer who is domiciled in this state.

b. The performance of ministerial functions relating to, or the processing of, credit card or charge card receivables in this state for the owner of such receivables is not sufficient to support a finding that the owner is transacting business in this state.

c. The term "credit card or charge card receivables" does not include trade or service receivables as defined in s. 864 of the Internal Revenue Code of 1986, as amended.

2. An intangible owned by a real estate mortgage investment conduit, a real estate investment trust, or a regulated investment company, as those terms are defined in the United States Internal Revenue Code of 1986, as amended, shall not be deemed to have a taxable situs in this state unless such entity has its legal or commercial domicile in this state.

3. The ownership of any interest in a participation or syndication loan or pool of loans, notes, or receivables shall not be sufficient to support a finding that the owner of such interest is transacting business

in this state. For the purposes of this subparagraph, a participation or syndication loan is a loan in which more than one lender is a creditor to a common borrower, and a participation or syndication interest in a pool of loans, notes, or receivables is an interest acquired from the originator or initial creditor with respect to the loans, notes, or receivables constituting the pool.

~~4. Assets owned by a foreign insurance company, as defined in s. 624.06, shall not be deemed to have a business situs in this state if they are managed and controlled outside this state.~~

Section 5. Subsections (1), (2), and (5) of section 199.185, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(1) The following intangible personal property shall be exempt from the annual and nonrecurring taxes imposed by this chapter:

(a) Money.

(b) Franchises.

(c) Any interest as a partner in a partnership, either general or limited, other than any interest as a limited partner in a limited partnership registered with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended.

(d) Notes, bonds, and other obligations issued by the State of Florida or its municipalities, counties, and other taxing districts, or by the United States Government and its agencies.

(e) Intangible personal property held in trust pursuant to any stock bonus, pension, or profit-sharing plan or any individual retirement account which is qualified under *s. 530,* s. 401, ~~or~~ s. 408, *or s. 408A* of the United States Internal Revenue Code, 26 U.S.C. ss. *530,* 401, ~~and~~ 408, *and 408A,* as amended.

(f) Intangible personal property held under a retirement plan of a Florida-based corporation exempt from federal income tax under s. 501(c)(6) of the United States Internal Revenue Code, 26 U.S.C., if the primary purpose of the corporation is to support the promotion of professional sports and the retirement plan is either a qualified plan under s. 457 of the United States Internal Revenue Code or the contributions to the plan, pursuant to a ruling by the United States Internal Revenue Service, are not taxable to plan participants until actual receipt or withdrawal by the participant.

(g) Notes and other obligations, except bonds, to the extent that such notes and obligations are secured by mortgage, deed of trust, or other lien upon real property situated outside the state.

(h) The assets of a corporation registered under the Investment Company Act of 1940, 15 U.S.C. s. 80a-1-52, as amended.

(i) All intangible personal property issued in or arising out of any international banking transaction and owned by a banking organization.

(j) Units of a unit investment trust organized under an agreement or declaration of trust and registered under the Investment Company Act of 1940, as amended, whose portfolio of assets consists solely of assets exempt under this section.

(k) *Interests in real estate securitizations, including, but not limited to,* real estate mortgage investment conduits (REMIC) *and financial asset securitization trusts (FASITS), which* ~~that~~ are directly or indirectly secured by or payable from notes and obligations that are in turn secured *solely* by a mortgage, deed of trust, or other lien upon real property situated in or outside ~~of~~ the state, including, but not limited to, mortgage pools, participations, and derivatives and are held as investments by banks or savings associations in compliance with regulatory agency guidelines.

(l) One-third of the accounts receivable arising or acquired in the ordinary course of a trade or business which are owned, controlled, or managed by a taxpayer on January 1, 1999, and thereafter. It is the intent of the Legislature that, pursuant to future legislative action, the portion of such accounts receivable exempt from taxation be increased to two-thirds for taxes levied on January 1, 2000, and further increased to all such accounts receivable on January 1, 2001, and thereafter. This exemption does not apply to accounts receivable which arise outside the taxpayer's ordinary course of trade or business. For the purposes of this chapter, the term "accounts receivable" means a business debt that is owed by another to the taxpayer or the taxpayer's assignor in the ordinary course of trade or business and is not supported by negotiable instruments. Accounts receivable include, but are not limited to, credit card receivables, charge card receivables, credit receivables, margin receivables, inventory or other floor plan financing, lease payments past due, conditional sales contracts, retail installment sales agreements, financing lease contracts, and a claim against a debtor usually arising from sales or services rendered and which is not necessarily due or past due. The examples specified in this paragraph shall be deemed not to be supported by negotiable instruments. The term "negotiable instrument" means a written document that is legally capable of being transferred by indorsement or delivery. The term "indorsement" means the act of a payee or holder in writing his or her name on the back of an instrument without further qualifying words other than "pay to the order of" or "pay to" whereby the property is assigned and transferred to another.

(2)(a) With respect to the ~~first mill of the~~ annual tax, every natural person is entitled each year to an exemption of the first *$50,000* ~~$20,000~~ of the value of property otherwise subject to *the* ~~said~~ tax *on January 1, 2000; $100,000 of the value of property otherwise subject to the tax on January 1, 2001; $150,000 of the value of property otherwise subject to the tax on January 1, 2002; and $200,000 of the value of property otherwise subject to the tax on January 1, 2003.* A husband and wife filing jointly shall have an exemption of *$100,000* ~~$40,000~~ *on January 1, 2000; $200,000 on January 1, 2001; $300,000 on January 1, 2002; and $400,000 on January 1, 2003.*

(b) *With respect to the annual tax, every taxpayer that is not a natural person is entitled to the following exemption:*

1. The first $100,000 of the value of property otherwise subject to the tax on January 1, 2000;

2. The first $200,000 of the value of property otherwise subject to the tax on January 1, 2001;

3. The first $300,000 of the value of property otherwise subject to the tax on January 1, 2002; and

4. The first $400,000 of the value of property otherwise subject to the tax on January 1, 2003. ~~With respect to the last mill of the annual tax, every natural person is entitled each year to an exemption of the first $100,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly shall have an exemption of $200,000.~~

Agents and fiduciaries, other than guardians and custodians under a gifts-to-minors act, filing as such may not claim this exemption on behalf of their principals or beneficiaries; however, if the principal or beneficiary returns the property held by the agent or fiduciary ~~and is a natural person~~, the principal or beneficiary may claim the exemption. No taxpayer shall be entitled to more than one exemption under *this subsection* ~~paragraph (a) and one exemption under paragraph (b)~~. This exemption shall not apply to that intangible personal property described in s. 199.023(1)(d).

(5) *Those organizations* ~~Every bank and savings association, as~~ defined in s. 220.62*(1), (2), (3), or (4) are*~~, is~~ exempt from ~~.5 mill of~~ the tax imposed by s. 199.032.

(8) Every insurer, as defined in s. 624.03, whether the insurer is authorized or unauthorized as defined in s. 624.09, is exempt from the tax imposed by s. 199.032.

Section 6. *The amendment to subsection (5) and the creation of subsection (8) of section 199.185, Florida Statutes, by this section shall apply to taxes due on or after July 1, 1999.*

Section 7. Effective July 1, 2000, paragraph (k) of subsection (1) of section 199.185, Florida Statutes, as amended by this act is amended to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(1) The following intangible personal property shall be exempt from the annual and nonrecurring taxes imposed by this chapter:

(k) Interests in real estate securitizations, including, but not limited to real estate mortgage investment conduits (REMIC) and financial asset securitization trusts (FASITS), which are directly or indirectly secured by or payable from notes and obligations that are in turn secured solely by a mortgage, deed of trust, or other lien upon real property situated outside the state, including, but not limited to, mortgage pools, participations, and derivatives ~~and are held as investments by banks or savings associations in compliance with regulatory agency guidelines~~.

Section 8. *Effective for tax years beginning after December 31, 1999, sections 199.104 and 220.68, Florida Statutes, are repealed.*

Section 9. Subsections (3) and (4) of section 199.282, Florida Statutes, are amended to read:

199.282 Penalties for violation of this chapter.—

(3)(a) If any annual or nonrecurring tax is not paid by the due date, a delinquency penalty shall be charged. The delinquency penalty shall be 10 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 50 percent of the total tax not timely paid.

(b) If any annual tax return required by this chapter is not filed by the due date, a penalty of *10* ~~30~~ percent of the tax due with the return shall be charged *for each calendar month or portion thereof during which the return remains unfiled, up to a limit of 50 percent of the total tax due* ~~for each year or portion of the year during which the return remains unfiled~~.

For any penalty assessed under this subsection, the combined total for all penalties assessed under paragraphs (a) and (b) shall not exceed 10 percent per calendar month, up to a limit of 50 percent of the total tax due.

(4) If an annual tax return is filed and property is either omitted from it or undervalued, then a specific penalty shall be charged. The specific penalty shall be *10* ~~30~~ percent of the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty shall be charged with respect to any undervaluation.

Section 10. Subsection (3) of section 199.292, Florida Statutes, is amended to read:

199.292 Disposition of intangible personal property taxes.—All intangible personal property taxes collected pursuant to this chapter shall be placed in a special fund designated as the "Intangible Tax Trust Fund." The fund shall be disbursed as follows:

(3) ~~An amount equal to 33.5 percent~~ Of the remaining intangible personal property taxes collected*, an amount equal to 35.3 percent in state fiscal year 1998-1999 and an amount equal to 37.7 percent in each year thereafter,* shall be transferred to the Revenue Sharing Trust Fund for Counties. ~~An amount equal to 66.5 percent~~ Of the remaining taxes collected*, an amount equal to 64.7 percent in state fiscal year 1998-1999 and an amount equal to 62.3 percent in each year thereafter,* shall be transferred to the General Revenue Fund of the state.

Section 11. Effective July 1, 2000, subsection (10) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(10) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: ~~those enumerated in s. 220.68,~~ those enumerated in s. 631.719(1), those enumerated in s. 631.705, those enumerated in s. 220.18, those enumerated in s. 631.828, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 221.02, those enumerated in s. 220.184, those enumerated in s. 220.186, and those enumerated in s. 220.188.

Section 12. Effective July 1, 2000, subsections (4), (7), and (8) of section 624.509, Florida Statutes, are amended to read:

624.509 Premium tax; rate and computation.—

(4) ~~The intangible tax imposed under chapter 199,~~ The income tax imposed under chapter 220, and the emergency excise tax imposed under chapter 221 which are paid by any insurer shall be credited against, and to the extent thereof shall discharge, the liability for tax imposed by this section for the annual period in which such tax payments are made. As to any insurer issuing policies insuring against loss or damage from the risks of fire, tornado, and certain casualty lines, the tax imposed by this section, as intended and contemplated by this subsection, shall be construed to mean the net amount of such tax remaining after there has been credited thereon such gross premium receipts tax as may be payable by such insurer in pursuance of the imposition of such tax by any incorporated cities or towns in the state for firefighters' relief and pension funds and police officers' retirement funds maintained in such cities or towns, as provided in and by relevant provisions of the Florida Statutes. For purposes of this subsection, payments of estimated income tax under chapter 220 and of estimated emergency excise tax under chapter 221 shall be deemed paid either at the time the insurer actually files its annual returns under chapter 220 or at the time such returns are required to be filed, whichever first occurs, and not at such earlier time as such payments of estimated tax are actually made.

(7) Credits and deductions against the tax imposed by this section shall be taken in the following order: deductions for assessments made pursuant to s. 440.51; credits for taxes paid under ss. 175.101 and 185.08; credits for income taxes paid under chapter 220, the emergency excise tax paid under chapter 221 and the credit allowed under subsection (5), as these credits are limited by subsection (6); ~~credits for intangible taxes paid under chapter 199;~~ all other available credits and deductions.

(8) From and after July 1, 1980, the premium tax authorized by this section shall not be imposed upon receipts of annuity premiums or considerations paid by holders in this state ~~and from and after July 1, 1991, the intangible tax imposed by chapter 199 shall not be imposed on assets equal to the statutory legal reserves of annuity products maintained by insurance companies on behalf of their holders~~ if the tax savings derived are credited to the annuity holders. Upon request by the Department of Revenue, any insurer availing itself of this provision shall submit to the department evidence which establishes that the tax savings derived have been credited to annuity holders. As used in this subsection, the term "holders" shall be deemed to include employers contributing to an employee's pension, annuity, or profit-sharing plan.

Section 13. *For tax years beginning after December 31, 1999, no credit under section 624.509(4), Florida Statutes, for intangible tax imposed under chapter 199, Florida Statutes, shall be available.*

Section 14. *Effective January 1, 2004, sections 199.012, 199.023, 199.032, 199.042, 199.052, 199.057, 199.062, 199.104, 199.106, 199.133, 199.145, 199.155, 199.175, 199.202, 199.212, 199.218, 199.232, 199.282, 199.292, and 199.303, Florida Statutes; section 199.103, Florida Statutes, as amended by section 1 of chapter 95-244, Laws of Florida, and by section 14 of chapter 97-287, Laws of Florida; section 199.135, Florida Statutes, as amended by section 1480 of chapter 95-147, Laws of Florida; section 199.143, Florida Statutes, as amended by section 1 of chapter 97-123, Laws of Florida; section 199.183, Florida Statutes, as amended by section 2 of chapter 96-283, Laws of Florida, and by section 4 of chapter 97-197, Laws of Florida; section 199.185, Florida Statutes, as amended by section 1 of chapter 96-283, Laws of Florida, by section 13 of chapter 96-320, by section 1 of chapter 97-191, Laws of Florida, and by this act; section 199.262, Florida Statutes, as amended by section 1046 of chapter 95-147, Laws of Florida; and section 199.272, Florida Statutes, as amended by section 1047 of chapter 95-147, Laws of Florida, are repealed.*

Section 15. *The Department of Revenue is authorized to take any action after January 1, 2004, which it was authorized to take before that date to collect any tax that was due before that date under chapter 199, Florida Statutes, and that was unpaid, underpaid, or otherwise avoided.*

Section 16. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to intangible personal property taxes; amending

s. 199.023, F.S.; defining the terms "ministerial function" and "processing activity" for purposes of ch. 199, F.S.; amending s. 199.052, F.S.; increasing the minimum amount of annual intangible personal property tax which a person may be required to pay; repealing s. 199.052(11), F.S., relating to returns filed by banking organizations, to conform; amending s. 199.175, F.S., relating to taxable situs; conforming provisions; amending s. 199.185, F.S.; revising the exemption from intangible personal property taxes for certain property held in trust; revising the exemption for real estate mortgage investment conduits; partially exempting accounts receivable arising out of a trade or business from intangible personal property taxes; providing legislative intent to fully exempt such assets in subsequent years; providing increased exemptions; providing a full, rather than partial, exemption from the annual tax for banks and savings associations and providing for application of the exemption to organizations defined by s. 220.62(1), (2), (3), and (4), F.S.; exempting insurers from the annual tax; repealing s. 199.104, F.S., which provides a credit against the annual tax for banks and savings associations; repealing s. 220.68, F.S., which provides a credit against the franchise tax imposed on banks and savings associations based on intangible tax paid; amending s. 199.282, F.S.; revising the penalty for late filing of an annual intangible tax return; providing a limitation on combined delinquency and late filing penalties; revising the penalty for omitting or undervaluing property on an annual return; amending s. 199.292, F.S.; revising the distribution of intangible tax revenues; amending s. 220.02, F.S., relating to order of credits against the corporate income tax or franchise tax, and s. 624.509, F.S., relating to the insurance premium tax; conforming provisions; providing for future repeal of tax on personal property, authorizing the Department of Revenue to collect any tax that was due before the date of repeal; providing application; providing effective dates.

Senator Rossin moved the following amendments which were adopted:

Amendment 2 (with title amendment)—On page 3, between lines 14 and 15, insert:

(15) If a bank or savings association, as defined in s. 220.62, acts as a fiduciary or agent of a trust other than as a trustee, intangible personal property of the trust shall not have taxable situs in this state pursuant to s. 199.175 solely by virtue of the management or control of the bank or savings association.

And the title is amended as follows:

On page 1, line 9, after the semicolon (;) insert: providing that personal property of a trust will not have taxable situs in this state under specified circumstances;

Amendment 3—On page 3, line 2, after "amended" insert: , and subsection (15) is added to that section,

Senator Bankhead moved the following amendments which were adopted:

Amendment 4 (with title amendment)—On page 3, line 30, insert:

Section 4. Paragraph (c) is added to subsection (1) of section 199.175, Florida Statutes, to read:

199.175 Taxable situs.—For purposes of the annual tax imposed under this chapter:

(1) Intangible personal property shall have a taxable situs in this state when it is owned, managed, or controlled by any person domiciled in this state on January 1 of the tax year. Such intangibles shall be subject to annual taxation under this chapter, unless the person who owns, manages, or controls them is specifically exempt or unless the property is specifically exempt. This provision shall apply regardless of where the evidence of the intangible property is kept; where the intangible is created, approved, or paid; or where business may be conducted from which the intangible arises. The fact that a Florida corporation owns the stock of an out-of-state corporation and manages and controls such corporation from a location in this state shall not operate to give a taxable situs in this state to the intangibles owned by the out-of-state corporation, which intangibles arise out of business transacted outside this state.

(c) Notwithstanding the provisions of this subsection, intangibles that are credit card receivables or charge card receivables or related lines of credit or loans that would otherwise be deemed to have taxable situs in this state solely because they are owned, managed, or controlled by a bank or savings association as defined in s. 220.62, or an affiliate or subsidiary thereof, which is domiciled in this state shall be treated as having a taxable situs in this state only when the debt represented by the intangible is owed by a customer who is domiciled in this state. As used in this paragraph, the terms "credit card receivables" and "charge card receivables" do not include trade or service receivables as defined in s. 864 of the Internal Revenue Code of 1986, as amended.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 12, after the semicolon (;) following "situs" insert: amending s. 199.175, F.S.; providing for situs of credit or charge card receivables owned, managed, or controlled by a bank or savings association;

Amendment 5—On page 8, lines 11 and 12, delete "and are held as investments by banks or savings associations in compliance with regulatory agency guidelines" and insert: ~~and are held as investments by banks or savings associations in compliance with regulatory agency guidelines~~

Amendment 6—On page 8, line 25, delete "*assignor*" and insert: *assignee*

Senator Burt moved the following amendment which was adopted:

Amendment 7 (with title amendment)—On page 9, between lines 11 and 12, insert:

(m) Stock options granted to employees by their employer pursuant to an incentive plan, if the employees cannot transfer, sell, or mortgage the options. Stock purchased by an employee from an employer pursuant to an incentive plan shall be treated as a nontaxable stock option if part of the purchase price of the stock is nonrecourse debt secured by the stock and the stock cannot be sold, transferred, or assigned by the employee until the nonrecourse debt is discharged. Such stock becomes taxable stock when it can be sold, transferred, or assigned by the employee.

And the title is amended as follows:

On page 1, line 21, after the semicolon (;) insert: exempting stock options granted to employees by an employer and stock purchased by employees under certain conditions from intangible personal property taxes;

Senator Bankhead moved the following amendment which was adopted:

Amendment 8—On page 9, line 22 through page 10, line 8, delete section 7 and redesignate subsequent sections.

On motion by Senator Bankhead, by two-thirds vote **CS for SB 1450** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Grant, Lee

On motion by Senator Ostalkiewicz, by two-thirds vote **CS for HB 3171** was withdrawn from the Committees on Ways and Means; and Commerce and Economic Opportunities.

On motion by Senator Ostalkiewicz—

CS for HB 3171—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; revising the application of the exemption for labor charges for the maintenance and repair of certain aircraft; providing an exemption for replacement engines, parts, and equipment used in the repair or maintenance of certain aircraft; providing an exemption for the sale or lease of certain aircraft for use by a common carrier; providing an effective date.

—a companion measure, was substituted for **CS for SB 328** and read the second time by title. On motion by Senator Ostalkiewicz, by two-thirds vote **CS for HB 3171** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

On motion by Senator Latvala, by two-thirds vote **CS for CS for HB's 3249 and 3305** was withdrawn from the Committee on Ways and Means.

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

CS for CS for HB's 3249 and 3305—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; revising the activities that constitute a manufacturing function for purposes of the sales tax exemption on certain uses of electricity; exempting the sale of steam energy used in manufacturing; providing a threshold for electricity use; providing a presumption with respect to the proportion of nonexempt use for electricity use that falls below the threshold; deleting a requirement that the electricity be separately metered; revising the applicability of the exemption; providing an effective date.

—a companion measure, was substituted for **CS for SB 338** and by two-thirds vote read the second time by title. On motion by Senator Latvala, by two-thirds vote **CS for CS for HB's 3249 and 3305** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

On motion by Senator Clary, by two-thirds vote **CS for CS for HB 3351** was withdrawn from the Committee on Ways and Means.

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

CS for CS for HB 3351—A bill to be entitled An act relating to corporate income tax; amending s. 220.15, F.S., which provides for apportionment of adjusted federal income for corporate income tax purposes; providing that the property factor fraction shall not include property certified as dedicated to research and development pursuant to sponsored research conducted through certain universities; providing a definition; providing that the payroll factor shall not include compensation paid to employees certified as dedicated to such activities; providing that no such activities shall cause a corporation not otherwise subject to corporate income tax to be subject to said tax; providing limitations; providing for rules; requiring a report; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 742** and by two-thirds vote read the second time by title. On motion by Senator Clary, by two-thirds vote **CS for CS for HB 3351** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

CS for SB 916—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing exemptions from the tax for aquaculture purposes; providing an effective date.

—was read the second time by title. On motion by Senator Bronson, by two-thirds vote **CS for SB 916** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

On motion by Senator Bronson, by two-thirds vote **CS for HB 3681** was withdrawn from the Committees on Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Bronson—

CS for HB 3681—A bill to be entitled An act relating to capital investment tax credits; amending s. 220.02, F.S.; revising legislative intent on the order of application of certain credits; creating s. 220.191, F.S.; providing definitions; providing for a credit against the corporate income tax for certain capital costs; providing requirements; providing limitations; providing for certification of eligibility by the Office of Tourism, Trade, and Economic Development; providing duties of the Department of Revenue; authorizing the office to develop certification guidelines and application materials; providing a responsibility for qualifying businesses; authorizing the Department of Revenue to adopt rules; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1314** and read the second time by title. On motion by Senator Bronson, by two-thirds vote **CS for HB 3681** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

CS for 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 read the second time by title.

Senator Harris moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, lines 16-24, delete those lines and insert:

Section 1. Paragraphs (f) and (j) of subsection (5) of section 212.08, Florida Statutes, are amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(f) *Certain property* ~~Motion picture or video equipment~~ used in motion picture or television production activities *or broadcasting* and sound recording equipment used in the production of master tapes and master records.—

1. Motion picture or video equipment and sound recording equipment purchased or leased for use in this state in production activities is exempt from the tax imposed by this chapter upon an affirmative showing by the purchaser or lessee to the satisfaction of the department that the equipment will be used for production activities. *There is exempt from the tax imposed under this chapter all personal or real property purchased or leased for use in the operation of any television broadcasting station that:*

a. Has been acquired following the conclusion of bankruptcy proceedings by a previous owner;

b. Submits an affidavit from its general manager stating that the broadcasting station employs more than 50 employees and that at least 90 percent of the employees of the bankrupt station were offered jobs following its acquisition;

c. Has received more than $5 million in capital improvements following its acquisition;

d. Is located within the boundaries of a metropolitan statistical area and shares common ownership or management with another broadcasting station that has been acquired following bankruptcy and that is located in a different metropolitan statistical area;

e. Has spent more than $3 million since 1995 for equipment used in the digital storage of programming; and

f. In the year following receipt of a tax refund under this section, broadcasts, at no cost to the state, youth-oriented, anti-tobacco public service announcements of an equal or greater value than the tax refund received by the broadcasting station in the previous year. If the broadcasting station that has received a refund fails to broadcast a sufficient number of public service announcements, the taxpayer must return the refund to the state together with interest and penalties.

The exemption provided by this paragraph shall inure to the taxpayer only through a refund of previously paid taxes. *The maximum refund allowed in any year is $350,000 for any broadcasting station, and a taxpayer may not receive a refund for more than 5 years.* Notwithstanding the provisions of s. 212.095, such refund shall be made within 30 days of formal application, which application may be made after the completion of *each quarter* ~~production activities or on a quarterly basis~~. Notwithstanding the provisions of chapter 213, the department shall provide the Department of Commerce with a copy of each refund application and the amount of such refund, if any.

2. For the purpose of the exemption provided in subparagraph 1.:

a. "Motion picture or video equipment" and "sound recording equipment" includes only equipment meeting the definition of "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is used by the lessee or purchaser exclusively as an integral part of production activities; however, motion picture or video equipment and sound recording equipment does not include supplies, tape, records, film, or video tape used in productions or other similar items; vehicles or vessels; or general office equipment not specifically suited to production activities. In addition, the term does not include equipment purchased or leased by television or radio broadcasting or cable companies licensed by the Federal Communications Commission.

b. "Production activities" means activities directed toward the preparation of a:

(I) Master tape or master record embodying sound; or

(II) Motion picture or television production which is produced for theatrical, commercial, advertising, or educational purposes and utilizes live or animated actions or a combination of live and animated actions. The motion picture or television production shall be commercially produced for sale or for showing on screens or broadcasting on television and may be on film or video tape.

And the title is amended as follows:

On page 1, line 3, after the semicolon (;) insert: creating a tax incentive for certain television broadcasting stations;

Senator McKay moved the following amendment which was adopted:

Amendment 2 (with title amendment)—On page 6, between lines 2 and 3, insert:

Section 2. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, as amended by section 17 of chapter 97-384, Laws of Florida, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified.

Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 50,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), may, in addition, use the proceeds to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

2. For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

3. Notwithstanding any other provision of this subsection, a discretionary sales surtax imposed or extended after the effective date of this act may provide for an amount not to exceed 30 percent of the local option sales surtax proceeds to be allocated for deposit to a trust fund within the county's accounts created for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 11, after the semicolon (;) insert: amending s. 212.055, F.S.; authorizing counties to use a specified percent of surtax proceeds for economic development projects;

On motion by Senator McKay, by two-thirds vote **CS for SB 1564** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

On motion by Senator Harris, by two-thirds vote **CS for HB 209** was withdrawn from the Committees on Ways and Means Subcommittee E (Finance and Tax); Ways and Means; and Commerce and Economic Opportunities.

On motion by Senator Harris—

CS for HB 209—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing a definition of "self-propelled farm equipment," "power-drawn farm equipment," "power-driven farm equipment," and "forest"; amending s. 212.08, F.S.; revising application of the partial exemption for self-propelled or power-drawn farm equipment; including power-driven farm equipment within such exemption; providing an effective date.

—a companion measure, was substituted for **CS for SB 984** and read the second time by title.

Senator Harris moved the following amendment which was adopted:

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

Section 1. Subsections (27), (28), (29), and (30) are added to section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(27) "Self-propelled farm equipment" means equipment that contains within itself the means for its own propulsion, including, but not limited to, tractors.

(28) "Power-drawn farm equipment" means equipment that is pulled, dragged, or otherwise attached to self-propelled equipment, including, but not limited to, disks, harrows, hay balers, and mowers.

(29) "Power-driven farm equipment" means moving or stationary equipment that is dependent upon an external power source to perform its function, including, but not limited to, conveyors, augers, feeding systems, and pumps.

(30) "Forest" means the land stocked by trees of any size used in the production of forest products, or formerly having such tree cover, and not currently developed for nonforest use.

Section 2. Subsection (3) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.—There shall be taxable at the rate of 3 percent the sale, use, consumption, or storage for use in this state of self-propelled, ~~or~~ power-drawn, *or power-driven* farm equipment used exclusively *on a farm or in a forest* ~~by a farmer on a farm owned, leased, or sharecropped by the farmer~~ in plowing, planting, cultivating, or harvesting crops *or products as produced by those agricultural industries included in s. 570.02(1), or for fire prevention and supression work with respect to such crops or products. Harvesting may not be construed to include processing activities. This exemption is not forfeited by moving farm equipment between farms or forests.* The rental of self-propelled, ~~or~~ power-drawn, *or power-driven* farm equipment shall be taxed at the rate of *3* ~~6~~ percent.

Section 3. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing a definition of "self-propelled farm equipment," "power-drawn farm equipment," "power-driven farm equipment," and "forest"; amending s. 212.08, F.S.; revising application of the partial exemption for self-propelled or power-drawn farm equipment; including power-driven farm equipment within such exemption; reducing the rate of tax on such equipment; providing an effective date.

Senator Kirkpatrick moved the following amendment:

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

Section 3. Paragraph (k) is added to subsection (5) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(k) Growth enhancers or performance enhancers for cattle.—There is exempt from the tax imposed by this chapter the sale of performance-enhancing or growth-enhancing products for cattle.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 11, after the semicolon (;) insert: providing an exemption for the sale of performance-enhancing or growth-enhancing products for cattle;

On motion by Senator Harris, further consideration of **CS for HB 209** as amended with pending **Amendment 2** was deferred.

Consideration of **CS for SB 1608** was deferred.

On motion by Senator Burt, by two-thirds vote **CS for HB 4413** was withdrawn from the Committee on Ways and Means.

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

CS for HB 4413—A bill to be entitled An act relating to administration of revenue laws; amending s. 192.001, F.S.; restricting applicability of the definition of "computer software" for purposes of imposing ad valorem taxes; amending s. 199.052, F.S.; requiring banks and financial organizations filing annual intangible personal property tax returns for their customers to file information using machine-sensible media; amending s. 212.0515, F.S.; eliminating the requirement that persons selling food or beverages to operators for resale through vending machines report to the Department of Revenue quarterly; amending s. 212.054, F.S.; removing provisions which specify when a dealer outside a county which adopts or revises a discretionary sales surtax who makes sales within that county must begin to collect the surtax; prescribing the effective date of an increase or decrease in the rate of any discretionary sales surtax and revising the termination date; providing requirements with respect to notice to the department by a county or school board imposing, terminating, revising, or proposing to impose, terminate, or revise, a surtax, and specifying effect of failure to provide notice; amending s. 212.055, F.S.; removing provisions which allow a nonuniform effective date for the local government infrastructure surtax, small county surtax, indigent care surtax, small county indigent care surtax, and school capital outlay surtax; amending s. 125.2801, F.S.; correcting a reference; amending ss. 212.097 and 212.098, F.S.; redefining "new business" for purposes of the urban high-crime area job tax credit and the rural job tax credit; amending s. 212.11, F.S.; providing requirements relating to sales tax returns filed through electronic data interchange; amending s. 212.12, F.S.; revising provisions relating to the dealer's credit for collecting sales tax; specifying that the credit is also for the filing of timely returns; authorizing the department to deny, rather than reduce, the credit if an incomplete return is filed; revising the definition of "incomplete return"; amending s. 212.17, F.S.; providing that the department shall prescribe the format for filing returns through electronic data interchange and specifying that failure to use the format does not relieve a dealer from the payment of tax; amending s. 213.755, F.S.; defining "payment" and "return" for purposes of revenue laws administered by the department; amending s. 213.053, F.S., relating to confidentiality of information obtained by the department and sharing of such information; revising provisions relating to applicability of said section; amending s. 213.0535, F.S.; revising provisions relating to frequency of exchange of information by certain participants in the Registration Information Sharing and Exchange Program; amending s. 213.21, F.S.; revising provisions that authorize the department to delegate to the executive director authority to approve a settlement or compromise of tax liability, to increase the limit on the amount of tax reduction with respect to which such delegation may be made; specifying a time period for which the department may settle and compromise tax and interest due when a taxpayer voluntarily self-discloses a tax liability and authorizing further settlement and compromise under certain circumstances; amending s. 213.28, F.S.; revising qualifications of certified public accountants contracting with the department to perform audits; amending s. 213.67, F.S.; providing that a person who receives a notice to withhold with respect to property of a delinquent taxpayer and who disposes of such property during the effective period of the notice is liable for the taxpayer's indebtedness under certain circumstances; providing that such notice remains in effect while a taxpayer's contest of an intended levy is pending; providing that a financial institution receiving such notice has a right of setoff for certain debit card transactions; requiring persons who receive such notice to notify the department of assets of the delinquent taxpayer subsequently coming into their possession and prohibiting disposal of such assets; specifying that a notice of levy to such persons be by registered mail; authorizing the department to bring an action to compel compliance with notices issued under said section; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; amending s. 220.02, F.S.; providing legislative intent regarding taxation of a "qualified subchapter S subsidiary"; amending s. 220.22, F.S.; requiring certain returns by such subsidiaries; providing retroactive application; providing effective dates.

—a companion measure, was substituted for **CS for SB 1952** and by two-thirds vote read the second time by title.

Senator Burt moved the following amendment:

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

Section 1. Section 125.2801, Florida Statutes, is amended to read:

125.2801 County qualification retention.—Once a county qualifies for authorization to create a jury district under s. 40.015(1), and once a county qualifies for small county technical assistance pursuant to s. 163.05(3), and once a county qualifies to be required to include optional elements in their comprehensive plans pursuant to s. 163.3177(6)(i), and once a county qualifies to enter into a written agreement with the state land planning agency pursuant to s. 163.3191(12)(a), and once a county qualifies under s. 212.055(2)(d)1. to use local government infrastructure surtax proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure, and once a county qualifies under *s. 212.055(2)(h)* ~~s. 212.055(2)(j)~~ to use local government infrastructure surtax proceeds and interest for operation and maintenance of parks and recreation programs and facilities established with proceeds of the surtax, and once a county qualifies for reduction or waiver of permit processing fees pursuant to s. 218.075, and once a county qualifies for emergency distribution pursuant to s. 218.65, and once a county qualifies for funds from the Emergency Management, Preparedness, and Assistance Trust Fund pursuant to s. 252.373(3)(a), and once a county qualifies for priority State Touring Program grants under s. 265.2861(1)(c), and once a county qualifies under s. 403.706(4)(d) to provide its residents with the opportunity to recycle, and once a county qualifies for receipt of annual solid waste and recycling grants pursuant to s. 403.7095(7)(a), the county shall retain such qualification until it exceeds a population of 75,000.

Section 2. Subsection (19) of section 192.001, Florida Statutes, is amended to read:

192.001 Definitions.—All definitions set out in chapters 1 and 200 that are applicable to this part are included herein. In addition, the following definitions shall apply in the imposition of ad valorem taxes:

(19) "Computer software" means any information, program, or routine, or any set of one or more programs, routines, or collections of information used or intended for use to convey information or to cause one or more computers or pieces of computer-related peripheral equipment, or any combination thereof, to perform a task or set of tasks. Without limiting the generality of the definition provided in this subsection, the term includes operating and applications programs and all related documentation. Computer software does not include embedded software that resides permanently in the internal memory of a computer or computer-related peripheral equipment and that is not removable without terminating the operation of the computer or equipment. Computer software constitutes personal property only to the extent of the value of the unmounted or uninstalled medium on or in which the information, program, or routine is stored or transmitted, and, after installation or mounting by any person, computer software does not increase the value of the computer or computer-related peripheral equipment, or any combination thereof. *Notwithstanding any other provision of law, this subsection applies to the 1997 and subsequent tax rolls and to any assessment in an administrative or judicial action pending on June 1, 1997.*

Section 3. Subsection (15) is added to section 199.052, Florida Statutes, to read:

199.052 Annual tax returns; payment of annual tax.—

(15) All banks and financial organizations filing annual intangible tax returns for their customers shall file return information for taxes due January 1, 1999, and thereafter using machine-sensible media. The information required by this subsection must be reported by banks or financial organizations on machine-sensible media, using specifications and instructions of the department. A bank or financial organization that demonstrates to the satisfaction of the department that a hardship exists is not required to file intangible tax returns for its customers using machine-sensible media. The department shall adopt rules necessary to administer this subsection.

Section 4. Paragraph (c) of subsection (14) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(14)

(c) "Retail sales," "sale at retail," "use," "storage," and "consumption" do not include materials, containers, labels, sacks, or bags intended to be used one time only for packaging tangible personal property for sale or for packaging in the process of providing a service taxable under this chapter and do not include the sale, use, storage, or consumption of industrial materials, including chemicals and fuels except as provided herein, for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials, including chemicals and fuels except as provided herein, become a component or ingredient of the finished product *and do not include the sale, use, storage, or consumption of materials for use in repairing a motor vehicle, airplane, or boat, when such materials are incorporated into the repaired vehicle, airplane, or boat.* However, said terms include the sale, use, storage, or consumption of tangible personal property, including machinery and equipment or parts thereof, purchased electricity, and fuels used to power machinery, when said items are used and dissipated in fabricating, converting, or processing tangible personal property for sale, even though they may become ingredients or components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion, or similar means.

Section 5. Subsections (3) and (4) are added to section 212.0601, Florida Statutes, to read:

212.0601 Use taxes of vehicle dealers.—

(3) Unless otherwise exempted by law, a motor vehicle dealer who loans a vehicle to any person at no charge shall accrue use tax based on the annual lease value as determined by the United States Interval Revenue Service's Automobile Annual Lease Value Table.

(4) Notwithstanding the provisions of a motor vehicle rental agreement, no sales or use tax and no rental car surcharge pursuant to s. 212.0606 shall accrue to the use of a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 6. Subsection (4) is added to section 212.0606, Florida Statutes, to read:

212.0606 Rental car surcharge.—

(4) The surcharge imposed by this section does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 7. Subsection (5) of section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; special provisions; registration; penalties.—

(5)~~(a) Any person who sells food or beverages to an operator for resale through vending machines shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator described in paragraph (b) who has purchased such items from said person and states the net dollar amount of purchases made by each operator from said person. In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of 25 cases or more.~~

(a)~~(b)~~ Each operator who purchases food or beverages for resale in vending machines shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state that the purchaser is a vending machine operator. The certificate shall initially be provided upon the first transaction between the parties and by November 1 of each year thereafter.

(b)~~(c) A penalty of $250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so or who files false information.~~ A penalty of $250 is imposed on any operator who fails to comply with the requirements of this subsection or who provides the dealer with false information. Penalties accrue interest as provided for delinquent taxes under this chapter and apply in addition to all other applicable taxes, interest, and penalties.

~~(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.~~

Section 8. Section 212.054, Florida Statutes, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(1) No general excise tax on sales shall be levied by the governing body of any county unless specifically authorized in s. 212.055. Any general excise tax on sales authorized pursuant to said section shall be administered and collected exclusively as provided in this section.

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by this chapter. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times the amount of taxable sales and taxable purchases representing such transactions. If the surtax is levied on the sale of an item of tangible personal property or on the sale of a service, the surtax shall be computed by multiplying the rate imposed by the county within which the sale occurs by the amount of the taxable sale. The sale of an item of tangible personal property or the sale of a service is not subject to the surtax if the property, the service, or the tangible personal property representing the service is delivered within a county that does not impose a discretionary sales surtax.

(b) However:

1. The tax on any sales amount above $5,000 on any item of tangible personal property and on long-distance telephone service shall not be subject to the surtax. For purposes of administering the $5,000 limitation on an item of tangible personal property, if two or more taxable items of tangible personal property are sold to the same purchaser at the same time and, under generally accepted business practice or industry standards or usage, are normally sold in bulk or are items that, when assembled, comprise a working unit or part of a working unit, such items must be considered a single item for purposes of the $5,000 limitation when supported by a charge ticket, sales slip, invoice, or other tangible evidence of a single sale or rental. The limitation provided in this subparagraph does not apply to the sale of any other service.

2. In the case of utility, telecommunication, or television system program services billed on or after the effective date of any such surtax, the entire amount of the tax for utility, telecommunication, or television system program services shall be subject to the surtax. In the case of utility, telecommunication, or television system program services billed after the last day the surtax is in effect, the entire amount of the tax on said items shall not be subject to the surtax.

3. In the case of written contracts which are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:

(a)1. The sale includes an item of tangible personal property, a service, or tangible personal property representing a service, and the item of tangible personal property, the service, or the tangible personal property representing the service is delivered within the county. If there is no reasonable evidence of delivery of a service, the sale of a service is deemed to occur in the county in which the purchaser accepts the bill of sale.

~~2. However, a dealer selling tangible personal property, or delivering a service or tangible personal property representing a service, into a county which, before November 9 of any year, adopts or revises any surtax authorized in s. 212.055, from outside such a county, is not required to collect the surtax at the new or revised rate on such transaction until February 1 of the year following the year of the adoption or revision of the surtax. However, if the surtax is adopted or revised between November 9 and December 31 of any year, such dealer is not required to collect such surtax at the new or revised rate until February 1 of the year after the subsequent year. The department shall notify all dealers of all surtax rates in effect on November 9 no later than February 1 of the subsequent year.~~

2.~~3.~~ The sale of any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state shall be deemed to have occurred only in the county identified as the residence address of the purchaser on the registration or title document for such property.

(b) The event for which an admission is charged is located in the county.

(c) The consumer of utility or television system program services is located in the county, or the telecommunication services are provided to a location within the county.

(d)1. The user of any aircraft or boat of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government imported into the county for use, consumption, distribution, or storage to be used or consumed in the county is located in the county.

2. However, it shall be presumed that such items used outside the county for 6 months or longer before being imported into the county were not purchased for use in the county, except as provided in s. 212.06(8)(b).

3. This paragraph does not apply to the use or consumption of items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county.

(e) The purchaser of any motor vehicle or mobile home of a class or type which is required to be registered in this state is a resident of the taxing county as determined by the address appearing on or to be reflected on the registration document for such property.

(f)1. Any motor vehicle or mobile home of a class or type which is required to be registered in this state is imported from another state into the taxing county by a user residing therein for the purpose of use, consumption, distribution, or storage in the taxing county.

2. However, it shall be presumed that such items used outside the taxing county for 6 months or longer before being imported into the county were not purchased for use in the county.

(g) The real property which is leased or rented is located in the county.

(h) The transient rental transaction occurs in the county.

(i) The delivery of any aircraft or boat of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is to a location in the county. However, this paragraph does not apply to the use or consumption of items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county.

(j) The dealer owing a use tax on purchases or leases is located in the county.

(k) The delivery of tangible personal property other than that described in paragraph (d), paragraph (e), or paragraph (f) is made to a location outside the county, but the property is brought into the county within 6 months after delivery, in which event, the owner must pay the surtax as a use tax.

(l) The coin-operated amusement or vending machine is located in the county.

(m) The florist taking the original order to sell tangible personal property is located in the county, notwithstanding any other provision of this section.

(4)(a) The department shall administer, collect, and enforce the tax authorized under s. 212.055 pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under the provisions of this chapter, except as provided in this section. The provisions of this chapter regarding interest and penalties on delinquent taxes shall apply to the surtax. Discretionary sales surtaxes shall not be included in the computation of estimated taxes pursuant to s. 212.11. Notwithstanding any other provision of law, a dealer need not separately state the amount of the surtax on the charge ticket, sales slip, invoice, or other tangible evidence of sale. For the purposes of this section and s. 212.055, the “proceeds” of any surtax means all funds collected and received by the department pursuant to a specific authorization and levy under s. 212.055, including any interest and penalties on delinquent surtaxes.

(b) The proceeds of a discretionary sales surtax collected by the selling dealer located in a county which imposes the surtax shall be returned, less the cost of administration, to the county where the selling dealer is located. The proceeds shall be transferred to the Discretionary Sales Surtax Clearing Trust Fund. A separate account shall be established in such trust fund for each county imposing a discretionary surtax. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenue generated for all counties levying a surtax authorized in s. 212.055. The amount deducted for the costs of administration shall be used only for those costs which are solely and directly attributable to the surtax. The total cost of administration shall be prorated among those counties levying the surtax on the basis of the amount collected for a particular county to the total amount collected for all counties. No later than March 1 of each year, the department shall submit a written report which details the expenses and amounts deducted for the costs of administration to the President of the Senate, the Speaker of the House of Representatives, and the governing authority of each county levying a surtax. The department shall distribute the moneys in the trust fund each month to the appropriate counties, unless otherwise provided in s. 212.055.

(c)1. Any dealer located in a county that does not impose a discretionary sales surtax but who collects the surtax due to sales of tangible personal property or services delivered outside the county shall remit monthly the proceeds of the surtax to the department to be deposited into an account in the Discretionary Sales Surtax Clearing Trust Fund

which is separate from the county surtax collection accounts. The department shall distribute funds in this account using a distribution factor determined for each county that levies a surtax and multiplied by the amount of funds in the account and available for distribution. The distribution factor for each county equals the product of:

a. The county's latest official population determined pursuant to s. 186.901;

b. The county's rate of surtax; and

c. The number of months the county has levied a surtax during the most recent distribution period;

divided by the sum of all such products of the counties levying the surtax during the most recent distribution period.

2. The department shall compute distribution factors for eligible counties once each quarter and make appropriate quarterly distributions.

3. A county that fails to timely provide the information required by this section to the department authorizes the department, by such action, to use the best information available to it in distributing surtax revenues to the county. If this information is unavailable to the department, the department may partially or entirely disqualify the county from receiving surtax revenues under this paragraph. A county that fails to provide timely information waives its right to challenge the department's determination of the county's share, if any, of revenues provided under this paragraph.

(5) No discretionary sales surtax *or increase or decrease in the rate of any discretionary sales surtax* shall take effect on a date other than January 1. No discretionary sales surtax shall terminate on a day other than *December 31* ~~the last day of a calendar quarter~~.

(6) The governing body of any county levying a discretionary sales surtax shall enact an ordinance levying the surtax in accordance with the procedures described in s. 125.66(2) ~~and shall notify the department within 10 days after adoption of the ordinance. The notice shall include the time period during which the surtax will be in effect, the rate, a copy of the ordinance, and such other information as the department may prescribe by rule. Notification and final adoption of the surtax shall occur no later than 45 days prior to initial imposition of the surtax~~.

(7)(a) The governing body of any county levying a discretionary sales surtax or the school board of any county levying the school capital outlay surtax authorized by s. 212.055(7) shall notify the department within 10 days after final adoption by ordinance or referendum of an imposition, termination, or rate change of the surtax, but no later than November 16 prior to the effective date. The notice must specify the time period during which the surtax will be in effect and the rate and must include a copy of the ordinance and such other information as the department requires by rule. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

(b) In addition to the notification required by paragraph (a), the governing body of any county proposing to levy a discretionary sales surtax or the school board of any county proposing to levy the school capital outlay surtax authorized by s. 212.055(7) shall notify the department by October 1 if the referendum or consideration of the ordinance that would result in imposition, termination, or rate change of the surtax is scheduled to occur on or after October 1 of that year. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

(8)~~(7)~~ With respect to any motor vehicle or mobile home of a class or type which is required to be registered in this state, the tax due on a transaction occurring in the taxing county as herein provided shall be collected from the purchaser or user incident to the titling and registration of such property, irrespective of whether such titling or registration occurs in the taxing county.

Section 9. Section 212.055, Florida Statutes, as amended by section 17 of chapter 97-384, Laws of Florida, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(a) Each charter county which adopted a charter prior to June 1, 1976, and each county the government of which is consolidated with that of one or more municipalities, may levy a discretionary sales surtax, subject to approval by a majority vote of the electorate of the county or by a charter amendment approved by a majority vote of the electorate of the county.

(b) The rate shall be up to 1 percent.

(c) The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body.

(d) Proceeds from the surtax shall be:

1. Deposited by the county in the trust fund and shall be used only for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system;

2. Remitted by the governing body of the county to an expressway or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, or for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges; or

3. For each county, as defined in s. 125.011(1), used for the development, construction, operation, or maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of an existing bus system; or for the payment of principal and interest on existing bonds issued for the construction of fixed guideway rapid transit systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, roads, or bridges.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a)1. The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

2. If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance, or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of such surtax may be extended only by approval of a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement which includes a brief general description of the projects to be funded by the surtax and which conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for a referendum on the levy of the surtax or in which the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions calling for a referendum on the surtax. The following question shall be placed on the ballot:

. . . . FOR the . . . . –cent sales tax
. . . . AGAINST the . . . . –cent sales tax

(c) Pursuant to s. 212.054(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within such county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

Any change in the distribution formula must take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 50,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), may, in addition, use the proceeds to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

2. For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

3. Notwithstanding any other provision of this subsection, a discretionary sales surtax imposed or extended after the effective date of this act may provide for an amount not to exceed 30 percent of the local option sales surtax proceeds to be allocated for deposit to a trust fund within the county's accounts created for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

(e) School districts, counties, and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. In no case may a jurisdiction issue bonds pursuant to this subsection more frequently than once per year. Counties and municipalities may join together for the issuance of bonds authorized by this subsection.

(f) Counties and municipalities shall not use the surtax proceeds to supplant or replace user fees or to reduce ad valorem taxes existing prior to the levy of the surtax authorized by this subsection.

~~(g) Notwithstanding s. 212.054(5), the surtax must take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph (a), and may not take effect until at least 60 days after the date that the referendum approving the levy is held.~~

(g)~~(h)~~1. Notwithstanding paragraph (d), a county that has a population of 50,000 or less on April 1, 1992, or any county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may use the proceeds and interest of the surtax for any public purpose if:

a. The debt service obligations for any year are met;

b. The county's comprehensive plan has been determined to be in compliance with part II of chapter 163; and

c. The county has adopted an amendment to the surtax ordinance pursuant to the procedure provided in s. 125.66 authorizing additional uses of the surtax proceeds and interest.

2. A municipality located within a county that has a population of 50,000 or less on April 1, 1992, or within a county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may not use the proceeds and interest of the surtax for any purpose other than an infrastructure purpose authorized in paragraph (d) unless the municipality's comprehensive plan has been determined to be in compliance with part II of chapter 163 and the municipality has adopted an amendment to its surtax ordinance or resolution pursuant to the procedure provided in s. 166.041 authorizing additional uses of the surtax proceeds and interest. Such municipality may expend the surtax proceeds and interest for any public purpose authorized in the amendment.

3. Those counties designated as an area of critical state concern which qualify to use the surtax for any public purpose may use only up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes authorized by this section.

(h)~~(i)~~ Notwithstanding paragraph (d), a county in which 40 percent or more of the just value of real property is exempt or immune from ad valorem taxation, and the municipalities within such a county, may use the proceeds and interest of the surtax for operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax.

(i)~~(j)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (3), (4), (5), and (6) in excess of a combined rate of 1 percent.

(3) SMALL COUNTY SURTAX.—

(a) The governing authority in each county that has a population of 50,000 or less on April 1, 1992, may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by an extraordinary vote of the members of the county governing authority if the surtax revenues are expended for operating purposes. If the surtax revenues are expended for the purpose of servicing bond indebtedness, the surtax shall be approved by a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement that includes a brief general description of the projects to be funded by the surtax and conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county that enacts an ordinance calling for a referendum on the levy of the surtax for the purpose of servicing bond indebtedness. The following question shall be placed on the ballot:

. . . . FOR the . . . . –cent sales tax
. . . . AGAINST the . . . . –cent sales tax

(c) Pursuant to s. 212.054(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within the county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

Any change in the distribution formula shall take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d)1. If the surtax is levied pursuant to a referendum, the proceeds of the surtax and any interest accrued thereto may be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, for the purpose of servicing bond indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources. However, if the surtax is levied pursuant to an ordinance approved by an extraordinary vote of the members of the county governing authority, the proceeds and any interest accrued thereto may be used for operational expenses of any infrastructure or for any public purpose authorized in the ordinance under which the surtax is levied.

2. For the purposes of this paragraph, "infrastructure" means any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

(e) A school district, county, or municipality that receives proceeds under this subsection following a referendum may pledge the proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. A jurisdiction may not issue bonds pursuant to this subsection more frequently than once per year. A county and municipality may join together to issue bonds authorized by this subsection.

~~(f) Notwithstanding s. 212.054(5), the surtax shall take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph (a). A surtax levied pursuant to a referendum shall not take effect until at least 60 days after the date that the referendum approving the levy is held.~~

(f)~~(g)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2), (4), (5), and (6) in excess of a combined rate of 1 percent.

(4) INDIGENT CARE SURTAX.—

(a) The governing body in each county the government of which is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents and is not authorized to levy a surtax under subsection (5) or subsection (6), may levy, pursuant to an ordinance either approved by an extraordinary vote of the governing body or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) If the ordinance is conditioned on a referendum, a statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:

FOR THE. . . .CENTS TAX

AGAINST THE. . . .CENTS TAX

~~(c) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the ordinance adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of adoption of the ordinance adopted pursuant to paragraph (a) or, if the surtax is made subject to a referendum, at least 60 days after the date of approval by the electors of the ordinance adopted pursuant to paragraph (a).~~

(c)~~(d)~~ The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a plan for providing health care services to qualified residents, as defined in paragraph *(d)*~~(e)~~. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment including, but not limited to, case management. It must also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the Florida Hospital Uniform Reporting System (FHURS) manual referenced in s. 408.07. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

(d)~~(e)~~ For the purpose of this subsection, the term "qualified resident" means residents of the authorizing county who are:

1. Qualified as indigent persons as certified by the authorizing county;

2. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county is intended to serve as the payor of last resort; or

3. Participating in innovative, cost-effective programs approved by the authorizing county.

(e)~~(f)~~ Moneys collected pursuant to this subsection remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

1. Maintain the moneys in an indigent health care trust fund;

2. Invest any funds held on deposit in the trust fund pursuant to general law; and

3. Disburse the funds, including any interest earned, to any provider of health care services, as provided in paragraphs *(c)*~~(d)~~ and *(d)*~~(e)~~, upon directive from the authorizing county.

(f)~~(g)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(g)~~(h)~~ This subsection expires October 1, 2005.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(a) The rate shall be 0.5 percent.

(b) If the ordinance is conditioned on a referendum, the proposal to adopt the county public hospital surtax shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing

body. The referendum question on the ballot shall include a brief general description of the health care services to be funded by the surtax.

(c) Proceeds from the surtax shall be:

1. Deposited by the county in a special fund, set aside from other county funds, to be used only for the operation, maintenance, and administration of the county public general hospital; and

2. Remitted promptly by the county to the agency, authority, or public health trust created by law which administers or operates the county public general hospital.

(d) The county shall continue to contribute each year at least 80 percent of that percentage of the total county budget appropriated for the operation, administration, and maintenance of the county public general hospital from the county's general revenues in the fiscal year of the county ending September 30, 1991.

(e) Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(6) SMALL COUNTY INDIGENT CARE SURTAX.—

(a) The governing body in each county that has a population of 50,000 or less on April 1, 1992, may levy, pursuant to an ordinance approved by an extraordinary vote of the governing body, a discretionary sales surtax at a rate of 0.5 percent. Any county that levies the surtax authorized by this subsection shall continue to expend county funds for the medically poor and related health services in an amount equal to the amount that it expended for the medically poor and related health services in the fiscal year preceding the adoption of the authorizing ordinance.

~~(b) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the ordinance adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of adoption of the ordinance.~~

(b)~~(c)~~ The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a brief plan for providing health care services to qualified residents, as defined in paragraph *(c)*~~(d)~~. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment including, but not limited to, case management. It shall also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the rules of the Health Care Cost Containment Board. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

(c)~~(d)~~ For the purpose of this subsection, "qualified resident" means residents of the authorizing county who are:

1. Qualified as indigent persons as certified by the authorizing county;

2. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county is intended to serve as the payor of last resort; or

3. Participating in innovative, cost-effective programs approved by the authorizing county.

(d)~~(e)~~ Moneys collected pursuant to this subsection remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

1. Maintain the moneys in an indigent health care trust fund;

2. Invest any funds held on deposit in the trust fund pursuant to general law; and

3. Disburse the funds, including any interest earned, to any provider of health care services, as provided in paragraphs *(b)*~~(c)~~ and *(c)*~~(d)~~, upon directive from the authorizing county.

(e)~~(f)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(f)~~(g)~~ This subsection expires October 1, 1998.

(7) SCHOOL CAPITAL OUTLAY SURTAX.—

(a) The school board in each county may levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) The resolution shall include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax. If applicable, the resolution must state that the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program. The statement shall conform to the requirements of s. 101.161 and shall be placed on the ballot by the governing body of the county. The following question shall be placed on the ballot:

. . . . FOR THE	. . . . CENTS TAX
. . . . AGAINST THE	. . . . CENTS TAX

~~(c) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the resolution adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of approval by the electors of the resolution adopted pursuant to paragraph (a).~~

(c)~~(d)~~ The resolution providing for the imposition of the surtax shall set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses. If the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program, the district's plan for use of the surtax proceeds must be consistent with this subsection and with uses assured under the Florida Frugal Schools Program.

(d)~~(e)~~ Any school board imposing the surtax shall implement a freeze on noncapital local school property taxes, at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least 3 years from the date of imposition of the surtax. This provision shall not apply to existing debt service or required state taxes.

(e)~~(f)~~ Surtax revenues collected by the Department of Revenue pursuant to this subsection shall be distributed to the school board imposing the surtax in accordance with law.

Section 10. Paragraph (c) of subsection (2) of section 212.097, Florida Statutes, is amended to read:

212.097 Urban High-Crime Area Job Tax Credit Program.—

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

(c) "New business" means any eligible business first beginning operation on a site in a qualified high-crime area and clearly separate from any other commercial or business operation of the business entity within a qualified high-crime area. A business entity that operated an eligible business within a qualified high-crime area within the 48 months before the *period provided for* application *by subsection (3) is* ~~date shall~~ not ~~be~~ considered a new business.

Section 11. Paragraph (d) of subsection (2) of section 212.098, Florida Statutes, is amended to read:

212.098 Rural Job Tax Credit Program.—

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

(d) "New business" means any eligible business first beginning operation on a site in a qualified county and clearly separate from any other commercial or business operation of the business entity within a qualified county. A business entity that operated an eligible business within a qualified county within the 48 months before the *period provided for* application *by subsection (3) is* ~~date shall~~ not ~~be~~ considered a new business.

Section 12. Subsection (1) of section 212.11, Florida Statutes, is amended to read:

212.11 Tax returns and regulations.—

(1)(a) Each dealer shall calculate his or her estimated tax liability for any month by one of the following methods:

1. Sixty-six percent of the current month's liability pursuant to this part as shown on the tax return;

2. Sixty-six percent of the tax reported on the tax return pursuant to this part by a dealer for the taxable transactions occurring during the corresponding month of the preceding calendar year; or

3. Sixty-six percent of the average tax liability pursuant to this part for those months during the preceding calendar year in which the dealer reported taxable transactions.

(b) For the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers to *file* ~~make~~ a return *and remit the tax,* on or before the 20th day of the month, to the department, upon forms prepared and furnished by it *or in a format prescribed by it. Such return must show*~~, showing~~ the rentals, admissions, gross sales, or purchases, as the case may be, arising from all leases, rentals, admissions, sales, or purchases taxable under this chapter during the preceding calendar month.

(c) However, the department may require:

1. A quarterly return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed $1,000.

2. A semiannual return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed $500.

3. An annual return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed $100.

4. A quarterly return and monthly payment when the tax remitted by the dealer for the preceding four calendar quarters exceeded $1,000 but did not exceed $12,000.

(d) The department may authorize dealers who are newly required to file returns and pay tax quarterly to file returns and remit the tax for the 3-month periods ending in February, May, August, and November, and may authorize dealers who are newly required to file returns and pay tax semiannually to file returns and remit the tax for the 6-month periods ending in May and November.

(e) The department shall accept returns, *except those required to be initiated through an electronic data interchange,* as timely if postmarked on or before the 20th day of the month; if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns shall be accepted as timely if postmarked on the next succeeding workday. Any dealer who operates two or more places of business for which returns are required to be filed with the department and maintains records for such places of business in a central office or place shall have the privilege on each reporting date of filing a consolidated return for all such places of business in lieu of separate returns for each such place of business; however, such consolidated returns must clearly indicate the amounts collected within each county of the state. Any dealer who files a consolidated return shall calculate his or her estimated tax liability for each county by the same method the dealer uses to calculate his or her estimated tax liability on the consolidated return as a whole. Each dealer shall file a return for each tax period even though no tax is due for such period.

(f)1. A taxpayer who is required to remit taxes by electronic funds transfer shall make a return in a *manner* ~~form~~ that is initiated through an electronic data interchange. The acceptable method of transfer, the method, form, and content of the electronic data interchange, giving due regard to developing uniform standards for formats as adopted by the American National Standards Institute, the circumstances under which an electronic data interchange shall serve as a substitute for the filing of another form of return, and the means, if any, by which taxpayers will be provided with acknowledgments, shall be as prescribed by the department. *The department must accept such returns as timely if initiated and accepted on or before the 20th day of the month. If the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns must be accepted as timely if initiated and accepted on the next succeeding workday.*

2. The department may waive the requirement to make a return through an electronic data interchange due to problems arising from the taxpayer's computer capabilities, data systems changes, and taxpayer operating procedures. To obtain a waiver, the taxpayer shall demonstrate in writing to the department that such circumstances exist.

Section 13. Subsection (1) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records, *filing timely tax returns,* and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his or her report and paying the amount due by him or her; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax *and making of tax returns* in the manner herein provided, for paying the amount due to be paid by him or her, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,200, no allowance shall be allowed for all amounts in excess of $1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the *required tax return or* tax is delinquent at the time of payment.

(b) The Department of Revenue may *deny* ~~reduce~~ the collection allowance ~~by 10 percent or $50, whichever is less,~~ if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, ~~or~~ review of the return, *or determination of other taxes and fees reported on the return* may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, *reported,* and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. ~~For returns remitted on or after February 1, 1992, the department shall also require that~~ Sales made through vending machines as defined in s. 212.0515 *must* be separately shown *on the return*. ~~For returns remitted on or after February 1, 1995,~~ Sales made through coin-operated amusement machines as defined by s. 212.02 and the number of machines operated must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same penalties for late filing, incomplete filing, or failure to file as provided for the sales tax return shall apply to said form.

(c) The collection allowance and other credits or deductions provided in this chapter shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

Section 14. Subsection (4) of section 212.17, Florida Statutes, is amended to read:

212.17 Credits for returned goods, rentals, or admissions; additional powers of department.—

(4)*(a)* The department shall design, prepare, print and furnish to all dealers*, except dealers filing through electronic data interchange,* or make available *or prescribe* to *the* ~~said~~ dealers, all necessary forms for filing returns and instructions to ensure a full collection from dealers and an accounting for the taxes due, but failure of any dealer to secure such forms *does* ~~shall~~ not relieve *the* ~~such~~ dealer from the payment of *the* ~~said~~ tax at the time and in the manner ~~herein~~ provided.

(b) The department shall prescribe the format and instructions necessary for filing returns in a manner that is initiated through an electronic data interchange to ensure a full collection from dealers and an accounting for the taxes due. The failure of any dealer to use such format does not relieve the dealer from the payment of the tax at the time and in the manner provided.

Section 15. Effective January 1, 1999, subsection (1) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(1) The provisions of this section apply to s. 125.0104, county government; s. 125.0108, tourist impact tax; *chapter 175, municipal firefighters' pension trust funds; chapter 185, municipal police officers' retirement trust funds;* chapter 198, estate taxes; chapter 199, intangible personal property taxes; chapter 201, excise tax on documents; chapter 203, gross receipts taxes; chapter 211, tax on severance and production of minerals; chapter 212, tax on sales, use, and other transactions; chapter 220, income tax code; chapter 221, emergency excise tax; *s. 252.372, emergency management, preparedness, and assistance surcharge;* s. 370.07(3), Apalachicola Bay oyster surcharge; chapter 376, pollutant spill prevention and control; s. 403.718, waste tire fees; s. 403.7185, lead-acid battery fees; s. 403.7195, waste newsprint disposal fees; ~~s. 403.7197, advance disposal fees;~~ s. 538.09, registration of secondhand dealers; s. 538.25, registration of secondary metals recyclers; *ss. 624.501 and 624.509-624.515* ~~ss. 624.509-624.514~~, insurance code~~: administration and general provisions~~; s. 681.117, motor vehicle warranty enforcement; and s. 896.102, reports of financial transactions in trade or business.

Section 16. Effective October 1, 1998, paragraph (a) of subsection (4) of section 213.0535, Florida Statutes, is amended to read:

213.0535 Registration Information Sharing and Exchange Program.—

(4) There are two levels of participation:

(a) Each unit of state or local government responsible for administering one or more of the provisions specified in subparagraphs 1.-7. is a level-one participant. Level-one participants shall exchange, monthly *or quarterly, as determined jointly by each participant and the department,* the data enumerated in subsection (2) for each new registrant, new filer, or initial reporter, permittee, or licensee, with respect to the following taxes, licenses, or permits:

1. The sales and use tax imposed under chapter 212.

2. The tourist development tax imposed under s. 125.0104.

3. The tourist impact tax imposed under s. 125.0108.

4. Local occupational license taxes imposed under chapter 205.

5. Convention development taxes imposed under s. 212.0305.

6. Public lodging and food service establishment licenses issued pursuant to chapter 509.

7. Beverage law licenses issued pursuant to chapter 561.

Section 17. Paragraph (a) of subsection (2) of section 213.21, Florida Statutes, is amended and subsection (7) is added to that section to read:

213.21 Informal conferences; compromises.—

(2)(a) The executive director of the department or his or her designee is authorized to enter into a written closing agreement with any taxpayer settling or compromising the taxpayer's liability for any tax, interest, or penalty assessed under any of the chapters specified in s. 72.011(1). When such a closing agreement has been approved by the department and signed by the executive director or his or her designee and the taxpayer, it shall be final and conclusive; and, except upon a showing of fraud or misrepresentation of material fact or except as to adjustments pursuant to ss. 198.16 and 220.23, no additional assessment may be made by the department against the taxpayer for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the taxpayer shall not be entitled to institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid pursuant to the closing agreement. The department is authorized to delegate to the executive director the authority to approve any such closing agreement resulting in a tax reduction of *$250,000* ~~$100,000~~ or less.

(7)(a) When a taxpayer voluntarily self–discloses a liability for tax to the department, the department may settle and compromise the tax and interest due under the voluntary self–disclosure to those amounts due for the 5 years immediately preceding the date that the taxpayer initially contacted the department concerning the voluntary self–disclosure. For purposes of this paragraph, the term "years" means tax years or calendar years, whichever is applicable to the tax that is voluntarily self-disclosed. A voluntary self–disclosure does not occur if the department has contacted or informed the taxpayer that the department is inquiring into the taxpayer's liability for tax or whether the taxpayer is subject to tax in this state.

(b) The department may further settle and compromise the tax and interest due under a voluntary self–disclosure when the department is able to determine that such further settlement and compromise is in the best interests of this state. When making this determination the department shall consider, but is not limited to, the following:

1. The amount of tax and interest that will be collected and compromised under the voluntary self-disclosure;

2. The financial ability of the taxpayer and the future outlook of the taxpayer's business and the industry involved;

3. Whether the taxpayer has paid or will be paying other taxes to the state;

4. The future voluntary compliance of the taxpayer; and

5. Any other factor that the department considers relevant to this determination.

(c) This subsection does not limit the department's ability to enter into further settlement and compromise of the liability that is voluntarily self-disclosed based on any other provision of this section.

(d) This subsection does not apply to a voluntary self–disclosure when the taxpayer collected, but failed to remit, the tax to the state.

Section 18. Subsection (6) of section 213.28, Florida Statutes, is amended to read:

213.28 Contracts with private auditors.—

(6) Certified public accountants entering into such contracts must be in good standing under the laws of the state in which they are licensed ~~and in which the work is performed~~. They shall be bound by the same confidentiality requirements and subject to the same penalties as the department under s. 213.053. Any return, return information, or documentation obtained from the Internal Revenue Service under an information-sharing agreement is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall not be divulged or disclosed in any manner by an officer or employee of the department to any certified public accountant under a contract authorized by this section, unless the department and the Internal Revenue Service mutually agree to such disclosure.

Section 19. Section 213.67, Florida Statutes, is amended to read:

213.67 Garnishment.—

(1) If a person is delinquent in the payment of any taxes, penalties, and interest owed to the department, the executive director or his or her designee may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or personal property, exclusive of wages, belonging to the delinquent taxpayer, or owing any debts to such delinquent taxpayer at the time of receipt by them of such notice. Thereafter, any person who has been notified may not transfer or make any other disposition of such credits, other personal property, or debts until the executive director or his or her designee consents to a transfer or disposition or until 60 days after the receipt of such notice. *If during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, he or she is liable to the state for any indebtedness owed to the department by the person with respect to whose obligation the notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. If the delinquent taxpayer contests the intended levy in circuit court or under chapter 120, the notice under this section remains effective until that final resolution of the contest. Any financial institution receiving such notice will maintain a right of set-off for any transaction involving a debit card occurring on or before the date of receipt of such notice.* ~~The notice provided for in this section may be renewed when the taxpayer contests the intended levy in circuit court or under chapter 120, pending the final resolution of that action.~~

(2) All persons who have been notified must, within 5 days after receipt of the notice, advise the executive director or his or her designee of the credits, other personal property, or debts in their possession, under their control, or owing them, *and must advise the executive director or designee within 5 days after coming into possession or control of any subsequent credits, personal property, or debts owed during the time prescribed by the notice. Any such person coming into possession or control of such subsequent credits, personal property, or debts may not transfer or dispose of them during the time prescribed by the notice or before the department consents to a transfer.*

(3) During the last 30 days of the 60-day period set forth in subsection (1), the executive director or his or her designee may levy upon such credits, other personal property, or debts. The levy must be accomplished by delivery of a notice of levy *by registered mail*, upon receipt of which the person possessing the credits, other personal property, or debts shall transfer them to the department or pay to the department the amount owed to the delinquent taxpayer.

(4) A notice that is delivered under this section is effective at the time of delivery against all credits, other personal property, or debts of the delinquent taxpayer which are not at the time of such notice subject to an attachment, garnishment, or execution issued through a judicial process.

(5) Any person acting in accordance with the terms of the notice or levy issued by the executive director or his or her designee is expressly discharged from any obligation or liability to the delinquent taxpayer with respect to such credits, other personal property, or debts of the delinquent taxpayer affected by compliance with the notice of freeze or levy.

(6)(a) Levy may be made under subsection (3) upon credits, other personal property, or debt of any person with respect to any unpaid tax, penalties, and interest only after the executive director or his or her designee has notified such person in writing of the intention to make such levy.

(b) No less than 30 days before the day of the levy, the notice of intent to levy required under paragraph (a) shall be given in person or sent by certified or registered mail to the person's last known address.

(c) The notice required in paragraph (a) must include a brief statement that sets forth in simple and nontechnical terms:

1. The provisions of this section relating to levy and sale of property;

2. The procedures applicable to the levy under this section;

3. The administrative and judicial appeals available to the taxpayer with respect to such levy and sale, and the procedures relating to such appeals; and

4. The alternatives, if any, available to taxpayers which could prevent levy on the property.

(7) A taxpayer may contest the notice of intent to levy provided for under subsection (6) by filing an action in circuit court. Alternatively, the taxpayer may file a petition under the applicable provisions of chapter 120. After an action has been initiated under chapter 120 to contest the notice of intent to levy, an action relating to the same levy may not be filed by the taxpayer in circuit court, and judicial review is exclusively limited to appellate review pursuant to s. 120.68. Also, after an action has been initiated in circuit court, an action may not be brought under chapter 120.

(8) An action may not be brought to contest a notice of intent to levy under chapter 120 or in circuit court, later than 21 days after the date of receipt of the notice of intent to levy.

(9) The department shall provide notice to the Comptroller, in electronic or other form specified by the Comptroller, listing the taxpayers for which tax warrants are outstanding. Pursuant to subsection (1), the Comptroller shall, upon notice from the department, withhold all payments to any person or business, as defined in s. 212.02, which provides commodities or services to the state, leases real property to the state, or constructs a public building or public work for the state. The department may levy upon the withheld payments in accordance with subsection (3). The provisions of s. 215.422 do not apply from the date the notice is filed with the Comptroller until the date the department notifies the Comptroller of its consent to make payment to the person or 60 days after receipt of the department's notice in accordance with subsection (1), whichever occurs earlier.

(10) The department may bring an action in circuit court for an order compelling compliance with any notice issued under this section.

Section 20. Section 213.755, Florida Statutes, is amended to read:

213.755 Payment of taxes by electronic funds transfer.—

(1) The executive director of the Department of Revenue shall have authority to require a taxpayer to remit taxes by electronic funds transfer where the taxpayer, including consolidated filers, is subject to tax

and has paid that tax in the prior state fiscal year in an amount of $50,000 or more.

(2) As used in any revenue law administered by the department, the term:

(a) "Payment" means any payment or remittance required to be made or paid within a prescribed period or on or before a prescribed date under the authority of any provision of a revenue law which the department has the responsibility for regulating, controlling, and administering. The term does not include any remittance unless the amount of the remittance is actually received by the department.

(b) "Return" means any report, claim, statement, notice, application, affidavit, or other document required to be filed within a prescribed period or on or before a prescribed date under the authority of any provision of a revenue law which the department has the responsibility of regulating, controlling, and administering.

(3) Solely for the purposes of administering this section:

(a)~~(1)~~ Taxes levied under parts I and II of chapter 206 shall be considered a single tax.

(b)~~(2)~~ A person required to remit a tax acting as a collection agent or dealer for the state shall nonetheless be considered the taxpayer.

Section 21. Effective retroactively to January 1, 1998, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, *1998* ~~1997~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, *1998* ~~1997~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 22. Subsection (11) is added to section 220.02, Florida Statutes, to read:

220.02 Legislative intent.—

(11) Notwithstanding any other provision of this chapter, it is the intent of the Legislature that, except as otherwise provided under the Internal Revenue Code, for the purposes of this chapter, the term "qualified subchapter S subsidiary," as that term is defined in s. 1361(b)(3) of the Internal Revenue Code, shall not be treated as a separate corporation or entity from the S corporation parent to which the subsidiary's assets, liabilities, income, deductions, and credits are attributed under s. 1361(b)(3) of the Internal Revenue Code.

Section 23. Except as otherwise expressly provided by this act, this act shall take effect July 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to administration of revenue laws; amending s. 125.2801, F.S.; conforming a reference; amending s. 192.001, F.S.; restricting applicability of the definition of the term "computer software"; amending s. 199.052, F.S.; requiring banks and financial organizations filing annual intangible personal property tax returns for their customers to file information using machine-sensible media; amending s. 212.02, F.S.; excluding materials purchased by certain repair facilities which are incorporated in the repair from the definition of the term "retail sales"; amending s. 212.0606, F.S.; providing an exemption to the rental car surcharge for certain motor vehicles; amending s. 212.0515, F.S.; modifying requirements relating to quarterly records required to be submitted to the Department of Revenue by certain persons selling food or beverages to operators for resale through vending machines; eliminating a penalty for failure to file such reports; eliminating the department's authority to adopt rules relating to such reports; amending s. 212.054, F.S.; eliminating a requirement that certain dealers collect the surtax on tangible personal property or specified service under certain conditions; prescribing the effective date of an increase or decrease in the rate of any discretionary sales surtax; requiring the governing body of any county levying a discretionary sales surtax and a county school board levying the school capital outlay surtax to provide notice to the department; amending s. 212.055, F.S.; providing an effective date for any change in the distribution formula of a local government infrastructure surtax or a small county surtax; authorizing counties to use a specified percentage of surtax proceeds for economic development projects; amending ss. 212.097, 212.098, F.S.; redefining the term "new business"; amending s. 212.11, F.S.; providing requirements relating to sales tax returns filed through electronic data interchange; amending s. 212.12, F.S.; revising provisions relating to the dealer's credit for collecting sales tax; specifying that the credit is also for the filing of timely returns; authorizing the department to deny, rather than reduce, the credit if an incomplete return is filed; revising the definition of "incomplete return"; amending s. 212.17, F.S.; providing that the department shall prescribe the format for filing returns through electronic data interchange and specifying that failure to use the format does not relieve a dealer from the payment of tax; amending s. 213.053, F.S., relating to information sharing; amending s. 213.0535, F.S.; providing for participation in RISE; amending s. 213.21, F.S.; revising provisions that authorize the department to delegate to the executive director authority to approve a settlement or compromise of tax liability, in order to increase the limit on the amount of tax reduction with respect to which such delegation may be made; specifying a time period for which the department may settle and compromise tax and interest due when a taxpayer voluntarily self-discloses a tax liability and authorizing further settlement and compromise under certain circumstances; amending s. 213.28, F.S.; prescribing qualifications of certified public accountants contracting with the department to perform audits; amending s. 213.67, F.S.; subjecting the garnishee to liability in the event that property subject to the freeze is transferred or disposed of by the garnishee; prohibiting disposition of assets of a delinquent taxpayer which come into the possession of another person after that person receives garnishment notice from the department for a specified period; requiring the garnishee to notify the department of such assets; providing that the garnishment notice remains in effect while a taxpayer's contest of an intended levy is pending; providing a financial institution receiving notice with a right of setoff; amending s. 213.755, F.S.; defining terms for use in any revenue law administered by the department; amending s. 220.03, F.S.; revising definitions; amending s. 212.0601, F.S.; providing a use tax for motor vehicle dealers who loan a vehicle at no charge unless otherwise exempted; prohibiting a sales or use tax and a rental car surcharge on a motor vehicle provided at no charge to a person whose vehicle is being repaired; amending s. 220.02, F.S.; providing legislative intent regarding qualified subchapter S subsidiaries; providing effective dates, including a retroactive effective date.

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

Amendment 1A—On page 20, line 24, delete "*30*" and insert: *15*

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

Amendment 1B (with title amendment)—On page 51, between lines 20 and 21, insert:

Section 23. *The Department of Revenue, in consultation with the Division of Economic and Demographic Research, shall conduct a study on the equity of the refund provisions for diesel fuel taxes pursuant to section 206.8745, Florida Statutes, with regard to their applicability to commercial carriers using fuel in a similar manner. The department shall issue a report on its findings to the President of the Senate and the Speaker of the House of Representatives before December 31, 1998.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 55, line 6, after the semicolon (;) insert: requiring a study and a report;

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

Amendment 1C (with title amendment)—On page 51, between lines 20 and 21, insert:

Section 23. Paragraph (b) of subsection (2) of section 72.011, Florida Statutes, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(2)

(b) The date on which an assessment or a denial of refund becomes final and *procedures* ~~a procedure~~ by which a taxpayer must be notified of the assessment or of the denial of refund must be established:

1. By rule adopted by the Department of Revenue;

2. With respect to assessments or refund denials under chapter 207, by rule adopted by the Department of Highway Safety and Motor Vehicles;

3. With respect to assessments or refund denials under chapters 210, 550, 561, 562, 563, 564, and 565, by rule adopted by the Department of Business and Professional Regulation; or

4. With respect to taxes that a county collects or enforces under s. 125.0104(10) or s. 212.0305(5), by an ordinance that may additionally provide for informal dispute resolution procedures in accordance with s. 213.21.

Section 24. Subsection (5) of section 199.052, Florida Statutes, is amended to read:

199.052 Annual tax returns; payment of annual tax.—

(5) The trustee of a Florida-situs trust is primarily responsible for returning the trust's intangible personal property and paying the annual tax on it.

(a) A trust has a Florida situs when:

1. All trustees are residents of the state;

2. There are three or more trustees sharing equally in the ownership, management, or control of the trust's intangible property, and the majority of the trustees are residents of this state; or

3. Trustees consist of both residents and nonresidents and management or control of the trust is with a resident trustee.

(b) When trustees consist of both residents and nonresidents and management or control is with a nonresident trustee, the trust does not have Florida situs and no return is necessary by any resident trustee.

(c) A portion of the trust has Florida situs when there are two trustees, one a resident of this state and one a nonresident, and they share equally in the ownership, management, or control of the trust's intangible property. The tax on such property shall be based on the value apportioned between them.

(d) If there is more than one trustee in the state, only one tax return for the trust must be filed.

(e) The trust's beneficiaries, however, may individually return their equitable shares of the trust's intangible personal property and pay the tax on such shares, in which case the trustee need not return such property or pay such tax, although the department may require the trustee to file an informational return.

Section 25. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 213.21, Florida Statutes, are amended to read:

213.21 Informal conferences; compromises.—

(1)(a) The Department of Revenue may adopt rules for establishing informal conference procedures within the department for resolution of disputes relating to assessment of taxes, interest, and penalties *and the denial of refunds,* and for informal hearings under ss. 120.569 and 120.57(2).

(2)(a) The executive director of the department or his or her designee is authorized to enter into ~~a written~~ closing *agreements* ~~agreement~~ with any taxpayer settling or compromising the taxpayer's liability for any tax, interest, or penalty assessed under any of the chapters specified in s. 72.011(1). *Such agreements shall be in writing when the amount of tax, penalty, or interest compromised exceeds $30,000 or for lesser amounts when the department deems it appropriate or when requested by the taxpayer.* When ~~such~~ a *written* closing agreement has been approved by the department and signed by the executive director or his or her designee and the taxpayer, it shall be final and conclusive; and, except upon a showing of fraud or misrepresentation of material fact or except as to adjustments pursuant to ss. 198.16 and 220.23, no additional assessment may be made by the department against the taxpayer for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the taxpayer shall not be entitled to institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid pursuant to the closing agreement. The department is authorized to delegate to the executive director the authority to approve any such closing agreement resulting in a tax reduction of $100,000 or less.

Section 26. Paragraph (c) is added to subsection (2) of section 220.222, Florida Statutes, to read:

220.222 Returns; time and place for filing.—

(2)

(c) For purposes of this subsection, a taxpayer is not in compliance with the requirements of s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2000 or 30 percent of the tax shown on the return when filed.

Section 27. Subsection (1) of section 624.515, Florida Statutes, is amended to read:

624.515 State Fire Marshal regulatory assessment and surcharge; levy and amount.—

(1)*(a)* In addition to any other license or excise tax now or hereafter imposed, and such taxes as may be imposed under other statutes, there is hereby assessed and imposed upon every domestic, foreign, and alien insurer authorized to engage in this state in the business of issuing policies of fire insurance, a regulatory assessment in an amount equal to 1 percent of the gross amount of premiums collected by each such insurer on policies of fire insurance issued by it and insuring property in this state. The assessment shall be payable annually on or before March 1 to the Department of Revenue by the insurer on such premiums collected by it during the preceding calendar year.

(b) When it is impractical, due to the nature of the business practices within the insurance industry, to determine the percentage of fire insurance contained within a line of insurance written by an insurer on risks located or resident in Florida, the Department of Revenue may establish by rule such percentages for the industry. The Department of Revenue may also amend the percentages as the insurance industry changes its practices concerning the portion of fire insurance within a line of insurance.

Section 28. Subsection (3) of section 896.102, Florida Statutes, is amended to read:

896.102 Currency more than $10,000 received in trade or business; report required; noncompliance penalties.—

(3) The Department of Revenue may adopt rules and guidelines to administer and enforce these reporting requirements.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 55, line 6, after the semicolon (;) insert: amending s. 72.011, F.S.; providing for adoption of procedures for notifying a taxpayer of an

assessment or denial of a refund; amending s. 199.052, F.S.; prescribing conditions under which a trust will be considered a Florida-situs trust; amending s. 213.21, F.S.; providing for conferences relating to denial of refunds; providing for closing agreements; amending s. 220.222, F.S.; prescribing conditions under which a taxpayer will be considered not in compliance with s. 220.32, F.S., for purposes of granting extensions; amending s. 624.515, F.S.; providing for determination of the percentage of fire insurance within an insurance line; amending s. 896.102, F.S.; authorizing the Department of Revenue to adopt rules for reporting certain business transactions;

Amendment 1 as amended was adopted.

On motion by Senator Burt, by two-thirds vote **CS for HB 4413** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

CS for SB 1608—A bill to be entitled An act relating to credits against taxes; amending s. 220.02, F.S.; providing the order of credits against the corporate income tax or franchise tax; amending s. 220.03, F.S.; amending the definition of the term "child care facility startup costs" and defining the term "operation of a child care facility"; amending s. 220.12, F.S.; revising the definition of a taxpayer's net income for corporate income tax purposes to delete the deduction of child care facility startup costs; creating s. 220.19, F.S.; authorizing a credit against the corporate income tax for child care facility startup costs and operation, and for payment of an employee's child care costs; providing limitations; requiring a recipient to refund a portion of tax credits received under certain conditions; providing eligibility and application requirements; providing for administration by the Department of Revenue; providing for future expiration; defining the term "corporation"; creating s. 624.5107, F.S.; authorizing a credit against insurance premium taxes for child care facility startup costs and operation and for payment of an employee's child care costs; providing definitions; providing limitations; requiring a recipient to refund a portion of tax credits received under certain conditions; providing eligibility and application requirements; providing for administration by the Department of Revenue; providing for future expiration; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1608** to **CS for HB 193**.

Pending further consideration of **CS for SB 1608** as amended, on motion by Senator Harris, by two-thirds vote **CS for HB 193** was withdrawn from the Committee on Ways and Means.

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

CS for HB 193—A bill to be entitled An act relating to credits against taxes; amending s. 220.02, F.S.; providing the order of credits against the corporate income tax or franchise tax; amending s. 220.03, F.S.; revising the definition of "child care facility startup costs" and defining "operation of a child care facility"; amending s. 220.12, F.S.; revising the definition of a taxpayer's net income for corporate income tax purposes to delete the deduction of child care facility startup costs; creating s. 220.19, F.S.; authorizing a credit against the corporate income tax for child care facility startup costs and operation, and for payment of an employee's child care costs; providing limitations; requiring a recipient to refund a portion of tax credits received under certain conditions; providing eligibility and application requirements; providing for administration by the Department of Revenue; providing for future expiration; defining "corporation"; creating s. 624.5107, F.S.; authorizing a credit against insurance premium taxes for child care facility startup costs and operation, and for payment of an employee's child care costs; providing definitions; providing limitations; requiring a recipient to refund a portion of tax credits received under certain conditions; providing eligibility and application requirements; providing for administration by the Department of Revenue; providing for future expiration; providing an effective date.

—a companion measure, was substituted for **CS for SB 1608** as amended and by two-thirds vote read the second time by title. On motion by Senator Harris, by two-thirds vote **CS for HB 193** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Lee

The Senate resumed consideration of—

CS for HB 209—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing a definition of "self-propelled farm equipment," "power-drawn farm equipment," "power-driven farm equipment," and "forest"; amending s. 212.08, F.S.; revising application of the partial exemption for self-propelled or power-drawn farm equipment; including power-driven farm equipment within such exemption; providing an effective date.

—which was previously considered and amended this day. Pending **Amendment 2** by Senator Kirkpatrick was withdrawn.

On motion by Senator Harris, by two-thirds vote **CS for HB 209** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Sullivan

SB 704—A bill to be entitled An act relating to limited liability companies; amending s. 220.02, F.S.; revising legislative intent; providing application; amending s. 220.03, F.S.; revising a definition; amending s. 220.13, F.S.; redefining the term "taxable income" as applied to limited liability companies to exclude income of certain limited liability companies; amending s. 608.406, F.S.; revising criteria for limited liability company names; amending s. 608.471, F.S.; exempting certain limited

liability companies from the corporate income tax; providing for classifying certain limited liability companies or members or assignees of a member of a limited liability company for certain taxation purposes; providing an effective date.

—was read the second time by title.

Senators Grant and Harris offered the following amendment which was moved by Senator Grant:

Amendment 1 (with title amendment)—On page 1, line 20, insert:

Section 1. Subsections (2) and (3) of section 607.0730, Florida Statutes, are amended to read:

607.0730 Voting trusts.—

(2) A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee's name. ~~A voting trust is valid for not more than 10 years after its effective date unless extended under subsection (3). The validity of any voting trust otherwise lawful shall not be affected during a period of 10 years from the date when it was created or last extended by the fact that under its terms it will or may last beyond the 10-year period.~~

~~(3) All or some of the parties to a voting trust may extend it for additional terms of not more than 10 years each by signing an extension agreement and obtaining the voting trustee's written consent to the extension. An extension is valid for the period set forth therein, up to 10 years, from the date the first shareholder signs the extension agreement. The voting trustee must deliver copies of the extension agreement and list of beneficial owners to the corporation's principal office. An extension agreement binds only those parties signing it.~~

Section 2. *Holding company formation by merger by certain corporations.—*

(1) This section applies only to a corporation that has shares of any class or series which are either registered on a national securities exchange or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., or held of record by not fewer than 2,000 shareholders.

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

(a) "Constituent corporation" means a corporation that is a party to a merger governed by this section.

(b) "Holding company" means a corporation that, from the date it first issued shares until consummation of a merger governed by this section, was at all times a wholly owned subsidiary of a constituent corporation, and whose shares are issued in such merger.

(c) "Wholly owned subsidiary" means, as to a corporation, any other corporation of which it owns, directly or indirectly through one or more subsidiaries, all of the issued and outstanding shares.

(3) Notwithstanding the requirements of section 607.1103, Florida Statutes, unless expressly required by its articles of incorporation, no vote of shareholders of a corporation is necessary to authorize a merger of the corporation with or into a wholly owned subsidiary of such corporation if:

(a) Such corporation and wholly owned subsidiary are the only constituent corporations to the merger;

(b) Each share or fraction of a share of the constituent corporation whose shares are being converted pursuant to the merger into a share or equal fraction of share of a holding company having the same designations, rights, powers and preferences, and qualifications, limitations and restrictions thereof as the share of the constituent corporation being converted in the merger;

(c) The holding company and each of the constituent corporations to the merger are domestic corporations;

(d) The articles of incorporation and by–laws of the holding company immediately following the effective time of the merger contain provisions identical to the articles of incorporation and by–laws of the constituent corporation whose shares are being converted pursuant to the merger immediately prior to the effective time of the merger, except provisions regarding the incorporators, the corporate name, the registered office and agent, the initial board of directors, the initial subscribers for shares and matters solely of historical significance, and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, or cancellation of shares, if such change, exchange, reclassification, or cancellation has become effective;

(e) As a result of the merger, the constituent corporation whose shares are being converted pursuant to the merger or its successor corporation becomes or remains a direct or indirect wholly–owned subsidiary of the holding company;

(f) The directors of the constituent corporation become or remain the directors of the holding company upon the effective date of the merger;

(g) The articles of incorporation of the surviving corporation immediately following the effective time of the merger are identical to the articles of incorporation of the constituent corporation whose shares are being converted pursuant to the merger immediately prior to the effective time of the merger, except provisions regarding the incorporators, the corporate name, the registered office and agent, the initial board of directors, the initial subscribers for shares and matters solely of historical significance, and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, or cancellation of shares, if such change, exchange, reclassification, or cancellation has become effective. The articles of incorporation of the surviving corporation must be amended in the merger to contain a provision requiring, by specific reference to this section, that any act or transaction by or involving the surviving corporation which requires for its adoption under this act or its articles of incorporation the approval of the shareholders of the surviving corporation also be approved by the shareholders of the holding company, or any successor by merger, by the same vote as is required by this act or the articles of incorporation of the surviving corporation. The articles of incorporation of the surviving corporation may be amended in the merger to reduce the number of classes and shares which the surviving corporation is authorized to issue;

(h) The board of directors of the constituent corporation determines that the shareholders of the constituent corporation will not recognize gain or loss for United States federal income tax purposes; and

(i) The board of directors of such corporation adopts a plan of merger that sets forth:

1. The names of the constituent corporations;

2. The manner and basis of converting the shares of the corporation into shares of the holding company and the manner and basis of converting rights to acquire shares of such corporation into rights to acquire shares of the holding company; and

3. A provision for the pro rata issuance of shares of the holding company to the holders of shares of the corporation upon surrender of any certificates therefor.

(4) From and after the effective time of a merger adopted by a constituent corporation by action of its board of directors and without any vote of shareholders pursuant to this section:

(a) To the extent the restrictions of sections 607.0901 and 607.0902, Florida Statutes, applied to the constituent corporation and its shareholders at the effective time of the merger, such restrictions also apply to the holding company and its shareholders immediately after the effective time of the merger as though it were the constituent corporation, and all shares of the holding company acquired in the merger shall, for purposes of sections 607.0901 and 607.0902, Florida Statutes, be deemed to have been acquired at the time that the shares of the constituent corporation converted in the merger were acquired, and provided further that any shareholder who immediately prior to the effective time of the merger was not an interested shareholder within the meaning of section 607.0901, Florida Statutes, shall not, solely by reason of the merger, become an interested shareholder of the holding company; and

(b) If the corporate name of the holding company immediately following the effective time of the merger is the same as the corporate name of the constituent corporation immediately prior to the effective time of the

merger, the shares of the holding company into which the shares of the constituent corporation are converted in the merger shall be represented by the share certificates that previously represented shares of the constituent corporation.

(5) If a plan of merger is adopted by a constituent corporation by selection of its board of directors without any vote of shareholders pursuant to this section, the secretary or assistant secretary of the constituent corporation shall certify in the articles of merger that the plan of merger has been adopted pursuant to this section and that the conditions specified in the first sentence of this section have been satisfied. The articles of merger so certified shall then be filed and become effective in accordance with section 607.1106, Florida Statutes.

Section 3. Subsection (2) of section 608.407, Florida Statutes, is amended to read:

608.407 Articles of organization.—

(2) An affidavit declaring that the limited liability company has at least *one member* ~~two members~~ and setting forth the amount of the cash and a description and agreed value of property other than cash contributed by the members and the amount anticipated to be contributed by the members shall accompany the articles of organization of a limited liability company.

Section 4. Sections 607.1108, 607.1109, and 607.11101, Florida Statutes, are created to read:

607.1108 Merger of domestic corporation and other business entity.—

(1) As used in this section and ss. 607.1109 and 607.11101, the term "other business entity" means a limited liability company, a foreign corporation, a not-for-profit corporation, a business trust or association, a real estate investment trust, a common law trust, an unincorporated business, a general partnership, a limited partnership, or any other entity that is formed pursuant to the requirements of applicable law. Notwithstanding the provisions of chapter 617, a domestic not-for-profit corporation acting under a plan of merger approved pursuant to s. 617.1103 shall be governed by the provisions of ss. 607.1108, 607.1109, and 607.11101.

(2) Pursuant to a plan of merger complying and approved in accordance with this section, one or more domestic corporations may merge with or into one or more other business entities formed, organized, or incorporated under the laws of this state or any other state, the United States, foreign country, or other foreign jurisdiction, if:

(a) Each domestic corporation which is a party to the merger complies with the applicable provisions of this chapter.

(b) Each domestic partnership that is a party to the merger complies with the applicable provisions of chapter 620.

(c) Each domestic limited liability company that is a party to the merger complies with the applicable provisions of chapter 608.

(d) The merger is permitted by the laws of the state, country, or jurisdiction under which each other business entity that is a party to the merger is formed, organized, or incorporated and each such other business entity complies with such laws in effecting the merger.

(3) The plan of merger shall set forth:

(a) The name of each domestic corporation and the name and jurisdiction of formation, organization, or incorporation of each other business entity planning to merge, and the name of the surviving or resulting domestic corporation or other business entity into which each other domestic corporation or other business entity plans to merge, which is hereinafter and in ss. 607.1109 and 607.11101 designated as the surviving entity.

(b) The terms and conditions of the merger.

(c) The manner and basis of converting the shares of each domestic corporation that is a party to the merger and the partnership interests, interests, shares, obligations or other securities of each other business entity that is a party to the merger into partnership interests, interests, shares, obligations or other securities of the surviving entity or any other domestic corporation or other business entity or, in whole or in part, into cash or other property, and the manner and basis of converting rights to acquire the shares of each domestic corporation that is a party to the merger and rights to acquire partnership interests, interests, shares, obligations or other securities of each other business entity that is a party to the merger into rights to acquire partnership interests, interests, shares, obligations or other securities of the surviving entity or any other domestic corporation or other business entity or, in whole or in part, into cash or other property.

(d) If a partnership is to be the surviving entity, the names and business addresses of the general partners of the surviving entity.

(e) If a limited liability company is to be the surviving entity and management thereof is vested in one or more managers, the names and business addresses of such managers.

(f) All statements required to be set forth in the plan of merger by the laws under which each other business entity that is a party to the merger is formed, organized, or incorporated.

(4) The plan of merger may set forth:

(a) If a domestic corporation is to be the surviving entity, any amendments to, or a restatement of, the articles of incorporation of the surviving entity, and such amendments or restatement shall be effective at the effective date of the merger.

(b) The effective date of the merger, which may be on or after the date of filing the certificate of merger.

(c) Any other provisions relating to the merger.

(5) The plan of merger required by subsection (3) shall be adopted and approved by each domestic corporation that is a party to the merger in the same manner as is provided in s. 607.1103. Notwithstanding the foregoing, if the surviving entity is a partnership, no shareholder of a domestic corporation that is a party to the merger shall, as a result of the merger, become a general partner of the surviving entity, unless such shareholder specifically consents in writing to becoming a general partner of the surviving entity, and unless such written consent is obtained from each such shareholder who, as a result of the merger, would become a general partner of the surviving entity, such merger shall not become effective under s. 607.11101. Any shareholder providing such consent in writing shall be deemed to have voted in favor of the plan of merger for purposes of s. 607.1103.

(6) Sections 607.1103 and 607.1301-607.1320 shall, insofar as they are applicable, apply to mergers of one or more domestic corporations with or into one or more other business entities.

(7) Notwithstanding any provision of this section or ss. 607.1109 and 607.11101, any merger consisting solely of the merger of one or more domestic corporations with or into one or more foreign corporations shall be consummated solely in accordance with the requirements of s. 607.1107.

607.1109 Articles of merger.—

(1) After a plan of merger is approved by each domestic corporation and other business entity that is a party to the merger, the surviving entity shall deliver to the Department of State for filing articles of merger, which shall be executed by each domestic corporation as required by s. 607.0120 and by each other business entity as required by applicable law, and which shall set forth:

(a) The plan of merger.

(b) A statement that the plan of merger was approved by each domestic corporation that is a party to the merger in accordance with the applicable provisions of this chapter, and, if applicable, a statement that the written consent of each shareholder of such domestic corporation who, as a result of the merger, becomes a general partner of the surviving entity has been obtained pursuant to s. 607.1108(5).

(c) A statement that the plan of merger was approved by each domestic partnership that is a party to the merger in accordance with the applicable provisions of chapter 620.

(d) A statement that the plan of merger was approved by each domestic limited liability company that is a party to the merger in accordance with the applicable provisions of chapter 608.

(e) A statement that the plan of merger was approved by each other business entity that is a party to the merger, other than domestic corporations, limited liability companies, and partnerships formed, organized, or incorporated under the laws of this state, in accordance with the applicable laws of the state, country, or jurisdiction under which such other business entity is formed, organized, or incorporated.

(f) The effective date of the merger, which may be on or after the date of filing the articles of merger, provided, if the articles of merger do not provide for an effective date of the merger, the effective date shall be the date on which the articles of merger are filed.

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

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

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

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

(2) A copy of the articles of merger, certified by the Department of State, may be filed in the office of the official who is the recording officer of each county in this state in which real property of a party to the merger other than the surviving entity is situated.

607.11101 Effect of merger of domestic corporation and other business entity.—When a merger becomes effective:

(1) Every domestic corporation and other business entity that is a party to the merger merges into the surviving entity and the separate existence of every domestic corporation and other business entity that is a party to the merger except the surviving entity ceases.

(2) The title to all real estate and other property, or any interest therein, owned by each domestic corporation and other business entity that is a party to the merger is vested in the surviving entity without reversion or impairment and without any requirement to record any deed or other conveyance.

(3) The surviving entity shall thereafter be responsible and liable for all the liabilities and obligations of each domestic corporation and other business entity that is a party to the merger, including liabilities arising out of the rights of dissenters with respect to such merger under applicable law.

(4) Any claim existing or action or proceeding pending by or against any domestic corporation or other business entity that is a party to the merger may be continued as if the merger did not occur or the surviving entity may be substituted in the proceeding for the domestic corporation or other business entity which ceased existence.

(5) Neither the rights of creditors nor any liens upon the property of any domestic corporation or other business entity shall be impaired by such merger.

(6) If a domestic corporation is the surviving entity, the articles of incorporation of such corporation in effect immediately prior to the time the merger becomes effective shall be the articles of incorporation of the surviving entity, except as amended or restated to the extent provided in the plan of merger.

(7) The shares, partnership interests, interests, obligations, or other securities, and the rights to acquire shares, partnership interests, interests, obligations, or other securities, of each domestic corporation and other business entity that is a party to the merger shall be converted into shares, partnership interests, interests, obligations, or other securities, or rights to such securities, of the surviving entity or any other domestic corporation or other business entity or, in whole or in part, into cash or other property as provided in the plan of merger, and the former holders of shares, partnership interests, interests, obligations, or other securities, or rights to such securities, shall be entitled only to the rights provided in the plan of merger and to their rights as dissenters, if any, under ss. 607.1301-607.1320, s. 608.4384, s. 620.205, or other applicable law.

Section 5. Sections 608.438, 608.4381, 608.4382, 608.4383, and 608.4384, Florida Statutes, are created to read:

608.438 Merger of limited liability company.—

(1) As used in this section and ss. 608.4381-608.4384, the term "other business entity" includes a corporation, a business trust or association, a real estate investment trust, a common law trust, an unincorporated business, a general partnership, a limited partnership, a limited liability company other than a limited liability company organized under the laws of this chapter, or any other entity that is formed pursuant to the requirements of applicable law.

(2) Unless otherwise provided in the articles of organization or the regulations of a limited liability company, pursuant to a plan of merger, a limited liability company may merge with or into one or more limited liability companies or other business entities formed, organized, or incorporated under the laws of this state or any other state, the United States, foreign country, or other foreign jurisdiction, if:

(a) Each limited liability company that is a party to the merger complies with the applicable provisions of this chapter and complies with the terms of its articles of organization and regulations.

(b) Each domestic partnership that is a party to the merger complies with the applicable provisions of chapter 620.

(c) Each domestic corporation that is a party to the merger complies with the applicable provisions of chapter 607.

(d) The merger is permitted by the laws of the state, country, or jurisdiction under which each other business entity that is a party to the merger is formed, organized, or incorporated, and each such other business entity complies with such laws in effecting the merger.

(3) The plan of merger shall set forth:

(a) The name of each limited liability company and the name and jurisdiction of formation, organization, or incorporation of each other business entity planning to merge, and the name of the surviving or resulting limited liability company or other business entity into which each other limited liability company or other business entity plans to merge, which is, in this section and in ss. 608.4381-608.4384, designated as the surviving entity.

(b) The terms and conditions of the merger.

(c) The manner and basis of converting the interests of the members of each limited liability company that is a party to the merger and the interests, partnership interests, shares, obligations, or other securities of each other business entity that is a party to the merger into interests, partnership interests, shares, obligations, or other securities of the surviving entity or any other limited liability company or other business entity or, in whole or in part, into cash or other property, and the manner and basis of converting rights to acquire interests of each limited liability company that is a party to the merger and rights to acquire interests, partnership interests, shares, obligations, or other securities of each other business entity that is a party to the merger into rights to acquire interests, partnership interests, shares, obligations, or other securities of the surviving entity or any other limited liability company or other business entity or, in whole or in part, into cash or other property.

(d) If a partnership is to be the surviving entity, the names and business addresses of the general partners of the surviving entity.

(e) If a limited liability company is to be the surviving entity, and management thereof is vested in one or more managers, the names and business addresses of such managers.

(f) All statements required to be set forth in the plan of merger by the laws under which each other business entity that is a party to merger is formed, organized, or incorporated.

(4) The plan of merger may set forth:

(a) If a limited liability company is to be the surviving entity, any amendments to, or a restatement of, the articles of organization or the regulations of the surviving entity, and such amendments or restatement shall be effective at the effective date of the merger.

(b) The effective date of the merger, which may be on or after the date of filing the certificate of merger.

(c) A provision authorizing one or more of the limited liability companies that are parties to the merger to abandon the proposed merger pursuant to s. 608.4381(7).

(d) A statement of, or a statement of the method of determining, the "fair value," as defined in s. 608.4384(1)(b), of an interest in any limited liability company that is a party to the merger.

(e) Other provisions relating to the merger.

608.4381 Action on plan of merger.—

(1) Unless the articles of organization or the regulations of a limited liability company require a greater-than-majority vote, the plan of merger shall be approved in writing by a majority of the managers of a limited liability company that is a party to the merger in which management is not reserved to its members. Unless the articles of organization or the regulations of a limited liability company require a greater-than-majority vote or provide for another method of determining the voting rights of each of its members, and whether or not management is reserved to its members, the plan of merger shall be approved in writing by a majority of the members of a limited liability company that is a party to the merger, and, if applicable, the vote of each member shall be weighted in accordance with s. 608.4231(1)(b), provided, unless the articles of organization or the regulations of the limited liability company require a greater-than-majority vote or provide for another method of determining the voting rights of each of its members, if there is more than one class or group of members, the merger shall be approved by a majority of the members of each such class or group, and, if applicable, the vote of each member shall be weighted in accordance with s. 608.4231(1)(b).

(2) In addition to the approval required by subsection (1), if the surviving entity is a partnership, no member of a limited liability company that is a party to the merger shall, as a result of the merger, become a general partner of the surviving entity unless such member specifically consents in writing to becoming a general partner of the surviving entity and unless such written consent is obtained from each such member who, as a result of the merger, would become a general partner of the surviving entity, such merger shall not become effective under s. 608.4383. Any member providing such consent in writing shall be deemed to have voted in favor of the plan of merger for purposes of s. 608.4384.

(3) All members of each limited liability company that is a party to the merger shall be given written notice of any meeting or other action with respect to the approval of a plan of merger as provided in subsection (4), not fewer than 30 or more than 60 days before the date of the meeting at which the plan of merger shall be submitted for approval by the members of such limited liability company, provided, if the plan of merger is submitted to the members of the limited liability company for their written approval or other action without a meeting, such notification shall be given to each member not fewer than 30 or more than 60 days before the effective date of the merger. Pursuant to s. 608.455, the notification required by this subsection may be waived in writing by the person or persons entitled to such notification.

(4) The notification required by subsection (3) shall be in writing and shall include:

(a) The date, time, and place of the meeting, if any, at which the plan of merger is to be submitted for approval by the members of the limited liability company, or, if the plan of merger is to be submitted for written approval or by other action without a meeting, a statement to that effect.

(b) A copy or summary of the plan of merger.

(c) A clear and concise statement that, if the plan of merger is effected, members dissenting therefrom may be entitled, if they comply with the provisions of s. 608.4384 regarding the rights of dissenting members, to be paid the fair value of their interests, which shall be accompanied by a copy of s. 608.4384.

(d) A statement of, or a statement of the method of determining, the "fair value," as defined in s. 608.4384(1)(b), of an interest in the limited liability company, in the case of a limited liability company in which management is not reserved to its members, as determined by the managers of such limited liability company, which statement may consist of a reference to the applicable provisions of such limited liability company's articles of organization or regulations that determine the fair value of an interest in the limited liability company for such purposes, and which shall constitute an offer by the limited liability company to purchase at such fair value any interests of a "dissenter," as defined in s. 608.4384(1)(a), unless and until such dissenter's right to receive the fair value of his interests in the limited liability company is terminated pursuant to s. 608.4384(8).

(e) The date on which such notification was mailed or delivered to the members.

(f) Any other information concerning the plan of merger.

(5) The notification required by subsection (3) shall be deemed to be given at the earliest date of:

(a) The date such notification is received;

(b) Five days after the date such notification is deposited in the United States mail addressed to the member at his address as it appears in the books and records of the limited liability company, with postage thereon prepaid;

(c) The date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or

(d) The date such notification is given in accordance with the provisions of the articles of organization or the regulations of the limited liability company.

(6) A plan of merger may provide for the manner, if any, in which the plan of merger may be amended at any time before the effective date of the merger, except after the approval of the plan of merger by the members of a limited liability company that is a party to the merger, the plan of merger may not be amended to:

(a) Change the amount or kind of interests, partnership interests, shares, obligations, other securities, cash, rights, or any other property to be received by the members of such limited liability company in exchange for or on conversion of their interests;

(b) If the surviving entity is a limited liability company, change any term of the articles of organization or the regulations of the surviving entity, except for changes that otherwise could be adopted without the approval of the members of the surviving entity;

(c) If the surviving entity is not a limited liability company, change any term of the articles of incorporation or comparable governing document of the surviving entity, except for changes that otherwise could be adopted by the board of directors or comparable representatives of the surviving entity; or

(d) Change any of the terms and conditions of the plan of merger if any such change, alone or in the aggregate, would materially and adversely affect the members, or any class or group of members, of such limited liability company.

If an amendment to a plan of merger is made in accordance the plan and articles of merger have been filed with the Department of State, amended articles of merger executed by each limited liability company and other business entity that is a party to the merger shall be filed with the Department of State prior to the effective date of the merger.

(7) Unless the limited liability company's articles of organization or regulations or the plan of merger provide otherwise, notwithstanding the prior approval of the plan of merger by any limited liability company that is a party to the merger in which management is not reserved to its members, and at any time prior to the filing of articles of merger with the Department of State, the planned merger may be abandoned, subject to any contractual rights, by any such limited liability company by the affirmative vote of a majority of its managers without further action by its members, in accordance with the procedure set forth in the plan of

merger or if none is set forth, in the manner determined by the managers of such limited liability company.

608.4382 Articles of merger.—

(1) After a plan of merger is approved by each limited liability company and other business entity that is a party to the merger, the surviving entity shall deliver to the Department of State for filing articles of merger, which shall be executed by each limited liability company and by each other business entity as required by applicable law, and which shall set forth:

(a) The plan of merger.

(b) A statement that the plan of merger was approved by each limited liability company that is a party to the merger in accordance with the applicable provisions of this chapter, and, if applicable, a statement that the written consent of each member of such limited liability company who, as a result of the merger, becomes a general partner of the surviving entity has been obtained pursuant to s. 608.4381(2).

(c) A statement that the plan of merger was approved by each domestic partnership that is a party to the merger in accordance with the applicable provisions of chapter 620.

(d) A statement that the plan of merger was approved by each domestic corporation that is a party to the merger in accordance with the applicable provisions of chapter 607.

(e) A statement that the plan of merger was approved by each other business entity that is a party to the merger, other than limited liability companies, partnerships, and corporations formed, organized, or incorporated under the laws of this state, in accordance with the applicable laws of the state, country, or jurisdiction under which such other business entity is formed, organized, or incorporated.

(f) The effective date of the merger, which may be on or after the date of filing the articles of merger, provided, if the articles of merger do not provide for an effective date of the merger, the effective date shall be the date on which the articles of merger are filed.

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

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

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

3. A statement that the surviving entity has agreed to promptly pay to the dissenting members of each limited liability company that is a party to the merger the amount, if any, to which such dissenting members are entitled under s. 608.4384.

(2) A copy of the articles of merger, certified by the Department of State, may be filed in the office of the official who is the recording officer of each county in this state in which real property of a party to the merger other than the surviving entity is situated.

608.4383 Effect of merger.—When a merger becomes effective:

(1) Every limited liability company and other business entity that is a party to the merger merges into the surviving entity and the separate existence of every limited liability company and other business entity that is a party to the merger, except the surviving entity, ceases.

(2) The title to all real estate and other property, or any interest therein, owned by each limited liability company and other business entity that is a party to the merger is vested in the surviving entity without reversion or impairment and without any requirement to record any deed or other conveyance.

(3) The surviving entity shall thereafter be responsible and liable for all the liabilities and obligations of each limited liability company and other business entity that is a party to the merger, including liabilities arising out of the rights of dissenters with respect to such merger under applicable law.

(4) Any claim existing or action or proceeding pending by or against any limited liability company or other business entity that is a party to the merger may be continued as if the merger did not occur or the surviving entity may be substituted in the proceeding for the limited liability company or other business entity which ceased existence.

(5) Neither the rights of creditors nor any liens upon the property of any limited liability company or other business entity shall be impaired by such merger.

(6) If a limited liability company is the surviving entity, the articles of organization and the regulations of such limited liability company in effect immediately prior to the time the merger becomes effective shall be the articles of organization and the regulations of the surviving entity, except as amended or restated to the extent provided in the plan of merger.

(7) The interests, partnership interests, shares, obligations, or other securities, and the rights to acquire interests, partnership interests, shares, obligations, or other securities, of each limited liability company and other business entity that is a party to the merger shall be converted into interests, partnership interests, shares, obligations, or other securities, or rights to such securities, of the surviving entity or any other limited liability company or other business entity or, in whole or in part, into cash or other property as provided in the plan of merger, and the former holders of interests, partnership interests, shares, obligations, or other securities, or rights to such securities, shall be entitled only to the rights provided in the plan of merger and to their rights as dissenters, if any, under s. 608.4384, ss. 607.1301-607.1320, s. 620.205, or other applicable law.

608.4384 Rights of dissenting members.—

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

(a) "Dissenter" means a member of a limited liability company who is a recordholder of the interests to which he seeks relief as of the date fixed for the determination of members entitled to notice of a plan of merger, who does not vote such interests in favor of the plan of merger, and who exercises the right to dissent from the plan of merger when and in the manner required by this section.

(b) "Fair value," with respect to a dissenter's interests, means the value of the interests in the limited liability company that is a party to a plan of merger as of the close of business of the day prior to the effective date of the merger to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the merger, unless such exclusion would be inequitable.

(2) Each member of a limited liability company that is a party to a merger shall have the right to be paid the fair value of his interests as a dissenter only as provided in this section.

(3) Not later than 20 days after the date on which the notification required by s. 608.4381(3) is given to the members, or if such notification is waived in writing by the dissenter, not later than 20 days after the date of such written waiver, the dissenter shall deliver to the limited liability company a written demand for payment to him of the fair value of the interests as to which he seeks relief that states his address, the number and class, if any, of those interests, and, at the election of the dissenter, the amount claimed by him as the fair value of the interests. The statement of fair market value by the dissenter, if any, shall constitute an offer by the dissenter to sell the interests to the limited liability company at such amount. A dissenter may dissent as to less than all the interests registered in his name. In such event, the dissenter's rights shall be determined as if the interests as to which he has dissented and his remaining interests were registered in the names of different members. If the interests as to which a dissenter seeks relief are represented by certificates, the dissenter shall deposit such certificates with the limited liability company simultaneously with the delivery of the written demand for payment. Upon receiving a demand for payment from a dissenter who is a recordholder of uncertificated interests, the limited liability company shall make an appropriate notation of the demand for payment in its records. The limited liability company may restrict the transfer of uncertificated interests from the date the dissenter's written demand for payment is delivered. A written demand for payment served on the limited

liability company in which the dissenter is a member shall constitute service on the surviving entity.

(4) The written demand for payment required by subsection (3) shall be deemed to be delivered to the limited liability company at the earliest of:

(a) The date such written demand is received;

(b) Five days after the date such written demand is deposited in the United States mail addressed to the principal business office of the limited liability company, with postage thereon prepaid;

(c) The date shown on the return receipt, if such written demand is sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or

(d) The date such written demand is given in accordance with the provisions of the limited liability company's articles of organization or regulations.

(5) Unless the articles of organization or regulations of the limited liability company in which the dissenter is a member provides a basis or method for determining and paying the fair value of the interests as to which the dissenter seeks relief, or unless the limited liability company or the surviving entity and the dissenter have agreed in writing as to the fair value of the interests as to which the dissenter seeks relief, the dissenter, the limited liability company, or the surviving entity, within 90 days after the dissenter delivers the written demand for payment to the limited liability company, may file an action in any court of competent jurisdiction in the county in this state where the registered office of the limited liability company is located or was located when the plan of merger was approved by its members, or in the county in this state in which the principal office of the limited liability company that issued the interests is located or was located when the plan of merger was approved by its partners, requesting that the fair value of the dissenter's interests be determined. The court shall also determine whether each dissenter that is a party to such proceeding, as to whom the limited liability company or the surviving entity requests the court to make such determination, is entitled to receive payment of the fair value for his interests. Other dissenters, within the 90-day period after a dissenter delivers a written demand to the limited liability company, may join such proceeding as plaintiffs or may be joined in any such proceeding as defendants, and any two or more such proceedings may be consolidated. If the limited liability company or surviving entity commences such a proceeding, all dissenters, whether or not residents of this state, other than dissenters who have agreed in writing with the limited liability company or the surviving entity as to the fair value of the interests as to which such dissenters seek relief, shall be made parties to such action as an action against their interests. The limited liability company or the surviving entity shall serve a copy of the initial pleading in such proceeding upon each dissenter who is a party to such proceeding and who is a resident of this state in the manner provided by law for the service of a summons and complaint and upon each such dissenter who is not a resident of this state either by registered or certified mail and publication or in such matter as is permitted by law. The jurisdiction of the court in such a proceeding shall be plenary and exclusive. All dissenters who are proper parties to the proceeding are entitled to judgment against the limited liability company or the surviving entity for the amount of the fair value of their interests as to which payment is sought hereunder. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as is specified in the order of their appointment or an amendment thereof. The limited liability company shall pay each dissenter the amount found to be due him within 10 days after final determination of the proceedings. Upon payment of the judgment, the dissenter shall cease to have any interest in the interests as to which payment is sought hereunder.

(6) The judgment may, at the discretion of the court, include a fair rate of interest, to be determined by the court.

(7) The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the limited liability company or the surviving entity, but all or any part of such costs and expenses may be apportioned and assessed as the court deems equitable against any or all of the dissenters who are parties to the proceeding, to whom the limited liability company or the surviving entity has made an offer to pay for the interests, if the court finds that the action of such dissenters in failing to accept such offer was arbitrary, vexatious or not in good faith. Such expenses shall include reasonable compensation for, and reasonable expenses of, the appraisers, but shall exclude the fees and expenses of counsel for, and experts employed by, any party. If the fair value of the interests, as determined, materially exceeds the amount which the limited liability company or the surviving entity offered to pay therefor, the court in its discretion may award to any dissenter who is a party to the proceeding such amount as the court determines to be reasonable compensation to any attorney or expert employed by the dissenter in the proceeding.

(8) The right of a dissenter to receive fair value for and the obligation to sell such interests as to which he seeks relief, and the right of the limited liability company or the surviving entity to purchase such interests and the obligation to pay the fair value of such interests, shall terminate if:

(a) The dissenter has not complied with this section, unless the limited liability company or the surviving entity waives, in writing, such noncompliance;

(b) The limited liability company abandons the merger or is finally enjoined or prevented from carrying it out, or the members rescind their adoption or approval of the merger;

(c) The dissenter withdraws his demand, with the consent of the limited liability company or the surviving entity; or

(d)1. The articles of organization or the regulations of the limited liability company in which the dissenter was a member does not provide a basis or method for determining and paying the dissenter the fair value of his interests.

2. The limited liability company or the surviving entity and the dissenter have not agreed upon the fair value of the dissenter's interests.

3. Neither the dissenter, the limited liability company, nor the surviving entity has filed or is joined in a complaint under subsection (5) within the 90-day period provided in subsection (5).

(9) Unless otherwise provided in the articles of organization or the regulations of the limited liability company in which the dissenter was a member, after the date the dissenter delivers the written demand for payment in accordance with subsection (3) until either the termination of the rights and obligations arising under subsection (3) or the purchase of the dissenter's interests by the limited liability company or the surviving entity, the dissenter shall be entitled only to payment as provided in this section and shall not be entitled to any other rights accruing from such interests, including voting or distribution rights. If the right to receive fair value is terminated other than by the purchase of the dissenter's interests by the limited liability company or the surviving entity, all rights of the dissenter as a member of the limited liability company shall be reinstated effective as of the date the dissenter delivered the written demand for payment, including the right to receive any intervening payment or other distribution with respect to the dissenter's interests in the limited liability company, or, if any such rights have expired or any such distribution other than a cash payment has been completed, in lieu thereof at the election of the surviving entity, the fair value thereof in cash as determined by the surviving entity as of the time of such expiration or completion, but without prejudice otherwise to any action or proceeding of the limited liability company that may have been taken by the limited liability company on or after the date the dissenter delivered the written demand for payment.

(10) A member who is entitled under this section to demand payment for his interests shall not have any right at law or in equity to challenge the validity of any merger that creates his entitlement to demand payment hereunder, or to have the merger set aside or rescinded, except with respect to compliance with the provisions of the limited liability company's articles of organization or regulations or if the merger is unlawful or fraudulent with respect to such member.

(11) Unless otherwise provided in the articles of organization or the regulations of the limited liability company in which the dissenter was a member, this section does not apply with respect to a plan of merger if, as of the date fixed for the determination of members entitled to notice of a plan of merger:

(a) The interests of the limited liability company were held of record by not fewer than 500 members; or

(b) The interests were registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System.

Section 6. Sections 620.201, 620.202, 620.203, 620.204, and 620.205, Florida Statutes, are created to read:

620.201 Merger of domestic limited partnership.

(1) As used in this section and ss. 620.202-620.205, the term "other business entity" includes a corporation, a limited liability company, a business trust or association, a real estate investment trust, a common law trust, an unincorporated business, a general partnership or a limited partnership but excluding a domestic limited partnership, or any other entity that is formed pursuant to the requirements of applicable law.

(2) Unless otherwise provided in the partnership agreement of a domestic limited partnership, pursuant to a plan of merger, a domestic limited partnership may merge with or into one or more domestic limited partnerships or other business entities formed, organized, or incorporated under the laws of this state or any other state, the United States, foreign country, or other foreign jurisdiction, if:

(a) Each domestic partnership that is a party to the merger complies with the applicable provisions of this chapter and complies with the terms of its partnership agreement.

(b) Each domestic limited liability company that is a party to the merger complies with the applicable provisions of chapter 608.

(c) Each domestic corporation that is a party to the merger complies with the applicable provisions of chapter 607.

(d) The merger is permitted by the laws of the state, country, or jurisdiction under which each other business entity that is a party to the merger is formed, organized, or incorporated, and each such other business entity complies with such laws in effecting the merger.

(3) The plan of merger shall set forth:

(a) The name of each domestic limited partnership and the name and jurisdiction of formation, organization, or incorporation of each other business entity planning to merge, and the name of the surviving or resulting domestic limited partnership or other business entity into which each other domestic limited partnership or other business entity plans to merge, which is hereinafter and in ss. 620.202-620.205 designated as the surviving entity.

(b) The terms and conditions of the merger.

(c) The manner and basis of converting the partnership interests of each domestic limited partnership that is a party to the merger and the partnership interests, interests, shares, obligations, or other securities of each other business entity that is a party to the merger into partnership interests, interests, shares, obligations, or other securities of the surviving entity or any other domestic limited partnership or other business entity or, in whole or in part, into cash or other property, and the manner and basis of converting rights to acquire the partnership interests of each domestic limited partnership that is a party to the merger and rights to acquire partnership interests, interests, shares, obligations, or other securities of each other business entity that is a party to the merger into rights to acquire partnership interests, interests, shares, obligations, or other securities of the surviving entity or any other domestic limited partnership or other business entity or, in whole or in part, into cash or other property.

(d) If a partnership is to be the surviving entity, the names and business addresses of the general partners of the surviving entity.

(e) If a limited liability company is to be the surviving entity, and management thereof is vested in one or more managers, the names and business addresses of such managers.

(f) All statements required to be set forth in the plan of merger by the laws under which each other business entity that is a party to merger is formed, organized, or incorporated.

(4) The plan of merger may set forth:

(a) If a domestic limited partnership is to be the surviving entity, any amendments to, or a restatement of, the certificate of limited partnership or partnership agreement of the surviving entity, and such amendments or restatement shall be effective on the effective date of the merger.

(b) The effective date of the merger, which may be on or after the date of filing the certificate of merger.

(c) A provision authorizing one or more of the domestic limited partnerships that are parties to the merger to abandon the proposed merger pursuant to s. 620.202(7).

(d) A statement of, or a statement of the method of determining, the "fair value," as defined in s. 620.205(1)(b), of a partnership interest in any domestic limited partnership that is a party to the merger.

(e) Any other provisions relating to the merger.

620.202 Action on plan of merger.—

(1) Unless otherwise provided in the partnership agreement of a domestic limited partnership, the plan of merger shall be approved in writing by all of the general partners of a domestic limited partnership that is a party to the merger. Unless the partnership agreement of a domestic limited partnership requires a greater vote, the plan of merger shall also be approved in writing by those limited partners who own more than a majority of the then current percentage or other interests in the profits of the domestic limited partnership owned by all of the limited partners, provided, unless the partnership agreement of the domestic limited partnership requires a greater vote, if there is more than one class or group of limited partners, the plan of merger shall be approved by those limited partners who own more than a majority of the then current percentage or other interests in the profits of the domestic limited partnership owned by the limited partners in each class or group.

(2) In addition to the approval required by subsection (1):

(a) If a domestic limited partnership is to be the surviving entity, no person shall, as a result of the merger, continue to be or become a general partner of the surviving entity, unless such person specifically consents in writing to continuing to be or to becoming, as the case may be, a general partner of the surviving entity, and unless such written consent is obtained from each such person who, as a result of the merger, would become a general partner of the surviving entity, such merger shall not become effective under s. 620.204.

(b) If a partnership other than a domestic limited partnership is to be the surviving entity, no partner of a domestic limited partnership that is a party to the merger shall, as a result of the merger, become a general partner of the surviving entity unless such partner specifically consents in writing to becoming a general partner of the surviving entity, and unless such written consent is obtained from each person who, as a result of the merger, would become a general partner of the surviving entity, such merger shall not become effective under s. 620.204. Any person providing such consent in writing shall be deemed to have voted in favor of the plan of merger for purposes of s. 620.205.

(3) All partners of each domestic limited partnership that is a party to the merger shall be given written notice of any meeting or other action with respect to the approval of a plan of merger as provided in subsection (4), not fewer than 30 or more than 60 days before the date of the meeting at which the plan of merger shall be submitted for approval by the partners of such limited partnership. However, if the plan of merger is submitted to the partners of the limited partnership for their written approval or other action without a meeting, such notification shall be given to each partner not fewer than 30 or more than 60 days before the effective date of the merger. Notwithstanding the foregoing, the notification required by this subsection may be waived in writing by the person or persons entitled to such notification.

(4) The notification required by subsection (3) shall be in writing and shall include:

(a) The date, time, and place of the meeting, if any, at which the plan of merger shall be submitted for approval by the partners of the domestic limited partnership, or, if the plan of merger will be submitted for written approval or by other action without a meeting, a statement to that effect.

(b) A copy or summary of the plan of merger.

(c) A clear and concise statement that, if the plan of merger is effected, partners dissenting therefrom may be entitled, if they comply with the provisions of s. 620.205 regarding the rights of dissenting partners, to be paid the fair value of their partnership interests, which shall be accompanied by a copy of s. 620.205.

(d) A statement of, or a statement of the method of determining, the "fair value," as defined in s. 620.205(1)(b), of an interest in the limited partnership as determined by the general partners of the limited partnership, which statement may consist of a reference to the applicable provisions of such limited partnership's partnership agreement that determine the fair value of an interest in the limited partnership for these purposes, and which shall constitute an offer by the limited partnership to purchase at such fair value any partnership interests of a "dissenter," as defined in s. 620.205(1)(a), unless and until such a dissenter's right to receive the fair value of his interests in the limited partnership are is terminated pursuant to s. 620.205(8).

(e) The date on which such notification was mailed or delivered to the partners.

(f) Any other information concerning the plan of merger.

(5) The notification required by subsection (3) shall be deemed to be given at the earliest of:

(a) The date such notification is received;

(b) Five days after the date such notification is deposited in the United States mail addressed to the partner at his address as it appears in the books and records of the limited partnership, with postage thereon prepaid;

(c) The date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or

(d) The date such notification is given in accordance with the provisions of the limited partnership's partnership agreement.

(6) A plan of merger may provide for the manner, if any, in which the plan of merger may be amended at any time before the effective date of the merger, except, after the approval of the plan of merger by the limited partners of a domestic limited partnership that is a party to the merger, the general partners of such domestic limited partnership shall not be authorized to amend the plan of merger to:

(a) Change the amount or kind of partnership interests, interests, shares, obligations, other securities, cash, rights, or any other property to be received by the limited partners of such domestic limited partnership in exchange for or on conversion of their partnership interests;

(b) If the surviving entity is a partnership, change any term of the partnership agreement of the surviving entity, except for changes that otherwise could be adopted by the general partners of the surviving entity;

(c) If the surviving entity is not a partnership, change any term of the articles of incorporation or comparable governing document of the surviving entity, except for changes that otherwise could be adopted by the board of directors or comparable representatives of the surviving entity; or

(d) Change any of the terms and conditions of the plan of merger if any such change, alone or in the aggregate, would materially and adversely affect the limited partners, or any class or group of limited partners, of such domestic limited partnership.

If an amendment to a plan of merger is made in accordance with such plan and articles of merger have been filed with the Department of State, amended articles of merger executed by the general partners of each domestic limited partnership and other business entity that is a party to the merger shall be filed with the Department of State prior to the effective date of the merger.

(7) Unless the domestic limited partnership's partnership agreement or the plan of merger provides otherwise, notwithstanding the prior approval of the plan of merger by any domestic limited partnership that is a party to the merger and at any time prior to the filing of articles of merger with the Department of State, the planned merger may be abandoned, subject to any contractual rights, by any such domestic limited partnership by the affirmative vote of all of its general partners, without further action by its limited partners, in accordance with the procedure set forth in the plan of merger or if none is set forth, in the manner determined by the general partners of such domestic limited partnership.

620.203 Articles of merger.—

(1) After a plan of merger is approved by each domestic limited partnership and other business entity that is a party to the merger, the surviving entity shall deliver articles of merger to the Department of State for filing, which articles shall be executed by the general partners of each domestic limited partnership and by each other business entity as required by applicable law, and which shall set forth:

(a) The plan of merger.

(b) A statement that the plan of merger was approved by each domestic partnership that is a party to the merger in accordance with the applicable provisions of this chapter, and, if applicable, a statement that the written consent of each person who, as a result of the merger, becomes a general partner of the surviving entity has been obtained pursuant to s. 620.202(2).

(c) A statement that the plan of merger was approved by each domestic corporation that is a party to the merger in accordance with the applicable provisions of chapter 607.

(d) A statement that the plan of merger was approved by each domestic limited liability company that is a party to the merger in accordance with the applicable provisions of chapter 608.

(e) A statement that the plan of merger was approved by each other business entity that is a party to the merger, other than partnerships, limited liability companies, and corporations formed, organized, or incorporated under the laws of this state, in accordance with the applicable laws of the state, country, or jurisdiction under which such other business entity is formed, organized, or incorporated.

(f) The effective date of the merger, which may be on or after the date of filing the articles of merger, provided, if the articles of merger do not provide for an effective date of the merger, the effective date shall be the date on which the articles of merger are filed.

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

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

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

3. A statement that the surviving entity has agreed to promptly pay to the dissenting partners of each domestic limited partnership that is a party to the merger the amount, if any, to which they are entitled under s. 620.205.

(2) A copy of the articles of merger, certified by the Department of State, may be filed in the office of the official who is the recording officer of each county in this state in which real property of a party to the merger other than the surviving entity is situated.

(3) Articles of merger shall act as a certificate of cancellation for purposes of s. 620.113 for a domestic limited partnership that is a party to the merger that is not the surviving entity and such partnership's certificate of limited partnership shall be canceled upon the effective date of the merger.

620.204 Effect of merger.—

(1) When a merger becomes effective:

(a) Every domestic limited partnership and other business entity that is a party to the merger merges into the surviving entity and the separate existence of every domestic limited partnership and other business entity that is a party to the merger except the surviving entity ceases.

(b) The title to all real estate and other property, or any interest therein, owned by each domestic limited partnership and other business entity that is a party to the merger is vested in the surviving entity without reversion or impairment and without any requirement to record any deed or other conveyance.

(c) The surviving entity shall thereafter be responsible and liable for all the liabilities and obligations of each domestic limited partnership and other business entity that is a party to the merger, including liabilities arising out of the rights of dissenters with respect to such merger under applicable law.

(d) Any claim existing or action or proceeding pending by or against any domestic limited partnership or other business entity that is a party to the merger may be continued as if the merger did not occur or the surviving entity may be substituted in the proceeding for the domestic limited partnership or other business entity which ceased existence.

(e) Neither the rights of creditors nor any liens upon the property of any domestic limited partnership or other business entity shall be impaired by such merger.

(f) If a general partner of a partnership formed or organized under the laws of this state or any other state, country, or jurisdiction that is a party to the merger is not a general partner of the surviving entity, the former general partner shall have no liability for obligations arising out of the rights of dissenters with respect to such merger under applicable law or for any obligation incurred after the effective date of the merger, except to the extent that a former creditor of the partnership in which the former general partner was a general partner extends credit to the surviving entity reasonably believing that the former general partner continued as a general partner of the surviving entity.

(g) If a domestic limited partnership is the surviving entity, the certificate of limited partnership and partnership agreement of such partnership in effect immediately prior to the time the merger becomes effective shall be the certificate of limited partnership and partnership agreement of the surviving entity, except as amended or restated to the extent provided in the plan of merger.

(h) The partnership interests, interests, shares, obligations, or other securities, and the rights to acquire partnership interests, membership interests, shares, obligations, or other securities, of each domestic limited partnership and other business entity that is a party to the merger shall be converted into partnership interests, interests, shares, obligations, or other securities, or rights to such securities, of the surviving entity or any other domestic limited partnership or other business entity or, in whole or in part, into cash or other property as provided in the plan of merger, and the former holders of partnership interests, interests, shares, obligations, or other securities, or rights to such securities, shall be entitled only to the rights provided in the plan of merger and to their rights as dissenters, if any, under s. 620.205, ss. 607.1301-607.1320, s. 608.4384, or other applicable law.

(2) Unless otherwise provided in the plan of merger, a merger of a domestic limited partnership, including a domestic limited partnership that is not the surviving entity, shall not require such domestic limited partnership to wind up its affairs under s. 620.159 or pay its liabilities and distribute its assets under s. 620.162.

620.205 Rights of dissenting partners.—

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

(a) "Dissenter" means a partner of a domestic limited partnership who is a recordholder of the partnership interests to which he seeks relief as of the date fixed for the determination of partners entitled to notice of a plan of merger, who does not vote such interests in favor of the plan of merger, and who exercises the right to dissent from the plan of merger when and in the manner required by this section.

(b) "Fair value," with respect to a dissenter's partnership interests, means the value of the partnership interests in the domestic limited partnership that is a party to a plan of merger as of the close of business of the day prior to the effective date of the merger to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the merger, unless such exclusion would be inequitable.

(2) Each partner of a domestic limited partnership that is a party to a merger shall have the right to be paid the fair value of his partnership interests as a dissenter as provided in this section.

(3) Not later than 20 days after the date on which the notification required by s. 620.202(3) is given to the partners, or if such notification was waived in writing by the dissenter, not later than 20 days after the date of such written waiver, the dissenter shall deliver to the limited partnership a written demand for payment to him of the fair value of the interests as to which he seeks relief that states his address, the number and class, if any, of those interests, and, at the election of the dissenter, the amount claimed by him as the fair value of the interests. The statement of fair market value by the dissenter, if any, shall constitute an offer by the dissenter to sell the partnership interests to the limited partnership for such amount. A dissenter may dissent as to less than all the partnership interests registered in his name. In such event, the dissenter's rights shall be determined as if the partnership interests as to which he has dissented and his remaining partnership interests were registered in the names of different partners. If the interests as to which a dissenter seeks relief are represented by certificates, the dissenter shall deposit such certificates with the limited partnership simultaneously with the delivery of the written demand for payment. Upon receiving a demand for payment from a dissenter who is a record holder of uncertificated interests, the limited partnership shall make an appropriate notation of the demand for payment in its records. The limited partnership may restrict the transfer of uncertificated interests from the date the dissenter's written demand for payment is delivered. A written demand for payment served on the domestic limited partnership in which the dissenter is a partner shall constitute service on the surviving entity.

(4) The written demand for payment required by subsection (3) shall be deemed to be delivered to the limited partnership at the earliest of:

(a) The date such written demand is received;

(b) Five days after the date such written demand is deposited in the United States mail addressed to the principal business office of the limited partnership, with postage thereon prepaid;

(c) The date shown on the return receipt, if such written demand is sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or

(d) The date such written demand is given in accordance with the provisions of the limited partnership's partnership agreement.

(5) Unless the partnership agreement of the limited partnership in which the dissenter is a partner provides a basis or method for determining and paying the fair value of the interests as to which the dissenter seeks relief, or unless the limited partnership or the surviving entity and the dissenter have agreed in writing as to the fair value of the interests as to which the dissenter seeks relief, the dissenter, the limited partnership, or the surviving entity, within 90 days after the dissenter delivers the written demand for payment to the limited partnership, may file an action in any court of competent jurisdiction in the county in this state where the registered office of the limited partnership is located or was located when the plan of merger was approved by its partners, or in the county in this state in which the principal office of the limited partnership that issued the partnership interests is located or was located when the plan of merger was approved by its partners, requesting a determination of the fair value of the dissenter's partnership interests. The court shall also determine whether each dissenter that is a party to such proceeding, as to whom the limited partnership or the surviving entity requests the court to make such determination, is entitled to receive payment of the fair value for his partnership interests. Other dissenters, within the 90-day period after a dissenter delivers a written demand to the partnership, may join such proceeding as plaintiffs or may be joined in any such proceeding as defendants, and any two or more such proceedings may be consolidated. If the limited partnership or surviving entity commences such a proceeding, all dissenters, whether or not residents of this state, other than dissenters who have agreed in writing with the limited partnership or the surviving entity as to the fair value of the partnership interests as to which such dissenters seek relief, shall be made parties to such action as an action against their partnership interests. The limited partnership or the surviving entity shall serve a copy of the initial pleading in such proceeding upon each dissenter who is a party to such proceeding and who is a resident of this state in the manner provided by law for the service of a summons and complaint and upon each such dissenter

who is not a resident of this state either by registered or certified mail and publication or in such manner as is permitted by law. The jurisdiction of the court in such a proceeding shall be plenary and exclusive. All dissenters who are proper parties to the proceeding are entitled to judgment against the limited partnership or the surviving entity for the amount of the fair value of their partnership interests as to which payment is sought hereunder. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as is specified in the order of their appointment or an amendment thereof. The limited partnership shall pay each dissenter the amount found to be due him within 10 days after final determination of the proceedings. Upon payment of the judgment, the dissenter shall cease to have any interest in the partnership interests as to which payment is sought hereunder.

(6) The judgment may, at the discretion of the court, include a fair rate of interest, to be determined by the court.

(7) The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the limited partnership or the surviving entity. However, all or any part of such costs and expenses may be apportioned and assessed as the court deems equitable against any or all of the dissenters who are parties to the proceeding, to whom the limited partnership or the surviving entity has made an offer to pay for the partnership interests, if the court finds that the action of such dissenters in failing to accept such offer was arbitrary, vexatious, or not in good faith. Such expenses shall include reasonable compensation for, and reasonable expenses of, the appraisers, but shall exclude the fees and expenses of counsel for, and experts employed by, any party. If the fair value of the partnership interests, as determined, materially exceeds the amount which the limited partnership or the surviving entity offered to pay therefor, the court in its discretion may award to any dissenter who is a party to the proceeding such amount as the court determines to be reasonable compensation to any attorney or expert employed by the dissenter in the proceeding.

(8) The right of a dissenter to receive fair value for and the obligation to sell such partnership interests as to which he seeks relief and the right of the domestic limited partnership or the surviving entity to purchase such interests and the obligation to pay the fair value of such interests shall terminate if:

(a) The dissenter has not complied with this section, unless the limited partnership or the surviving entity waives in writing such noncompliance;

(b) The limited partnership abandons the merger or is finally enjoined or prevented from carrying out the merger, or the partners rescind their adoption or approval of the merger;

(c) The dissenter withdraws his demand, with the consent of the limited partnership or the surviving entity; or

(d)1. The partnership agreement of the domestic limited partnership in which the dissenter was a partner does not provide a basis or method for determining and paying the dissenter the fair value of his partnership interests.

2. The limited partnership or the surviving entity and the dissenter have not agreed upon the fair value of the dissenter's partnership interests.

3. Neither the dissenter, the limited partnership nor the surviving entity has filed or is joined in a complaint under subsection (5) within the 90-day period provided in that subsection.

(9) Unless otherwise provided in the partnership agreement of the domestic limited partnership in which the dissenter was a partner, after the date the dissenter delivers the written demand for payment in accordance with subsection (3) until either the termination of the rights and obligations arising from it or the purchase of the dissenter's partnership interests by the limited partnership or the surviving entity, the dissenter shall be entitled only to payment as provided in this section and shall not be entitled to any other rights accruing from such interests, including voting or distribution rights. If the right to receive fair value is terminated other than by the purchase of the dissenter's partnership interests by the limited partnership or the surviving entity, all rights of the dissenter as a partner of the limited partnership shall be reinstated effective as of the date the dissenter delivered the written demand for payment, including the right to receive any intervening payment or other distribution with respect to the dissenter's interests in the limited partnership, or, if any such rights have expired or any such distribution other than a cash payment has been completed, in lieu thereof at the election of the surviving entity, the fair value thereof in cash as determined by the surviving entity as of the time of such expiration or completion, but without prejudice otherwise to any action or proceeding of the limited partnership that may have been taken by the limited partnership on or after the date the dissenter delivered the written demand for payment.

(10) A partner who is entitled under this section to demand payment for his partnership interests shall not have any right at law or in equity to challenge the validity of any merger that creates his entitlement to demand payment hereunder, or to have the merger set aside or rescinded, except with respect to compliance with the provisions of the limited partnership's partnership agreement or if the merger is unlawful or fraudulent with respect to such partner.

(11) Unless otherwise provided in the partnership agreement of the domestic limited partnership in which the dissenter was a partner, this section does not apply with respect to a plan of merger if, as of the date fixed for the determination of partners entitled to notice of a plan of merger:

(a) The partnership interests of the limited partnership were held of record by not fewer than 500 partners; or

(b) The partnership interests were registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to business entities; amending s. 607.0730, F.S.; removing 10-year limit on voting trusts; creating holding company formation by merger by certain corporations; amending s. 608.407, F.S.; reducing minimum number of members necessary to form a limited liability company; creating ss. 607.1108, 607.1109, 607.11101, F.S.; providing for mergers of domestic corporations and other business entities under certain circumstances; requiring a plan of merger; providing criteria; providing for articles of merger; providing for effect of merger; creating ss. 608.438, 608.4381, 608.4382, 608.4383, 608.4384, F.S.; providing for mergers of limited liability companies under certain circumstances; requiring a plan of merger; providing criteria; providing for action on a plan of merger; providing procedures; providing for articles of merger; providing for effect of merger; providing for rights of dissenting members; providing procedures; creating ss. 620.201, 620.202, 620.203, 620.204, 620.205, F.S.; providing for mergers of domestic limited partnerships under certain circumstances; requiring a plan of merger; providing criteria; providing for action on a plan of merger; providing procedures; providing for articles of merger; providing for effect of merger; providing for rights of dissenting partners; providing procedures;

Senators Grant and Harris offered the following amendments to **Amendment 1** which were moved by Senator Grant and adopted:

Amendment 1A—On page 12, lines 14-19 and on page 23, lines 8-13, delete those lines and insert:

(2) The title to all property other than real property or any interest therein, owned by each domestic corporation and other business entity that is a party to the merger is vested in the surviving entity without reversion or impairment. Title to real property or any interest therein shall be conveyed by the recordation of a deed with payment of applicable taxes thereon.

Amendment 1B—On page 41, lines 15-20, delete those lines and insert:

(b) The title to all property other than real property or any interest therein, owned by each domestic corporation and other business entity that is a party to the merger is vested in the surviving entity without reversion or impairment. Title to real property or any interest therein shall be conveyed by the recordation of a deed with payment of applicable taxes thereon.

Amendment 1 as amended was adopted.

Senator Klein moved the following amendments which were adopted:

Amendment 2 (with title amendment)—On page 1, line 21 through page 2, line 26, delete those lines and insert:

Section 1. Subsection (1) of section 220.02, Florida Statutes, is amended and subsection (11) is added to that section to read:

220.02 Legislative intent.—

(1) It is the intent of the Legislature in enacting this code to impose a tax upon all corporations, organizations, associations, and other artificial entities which derive from this state or from any other jurisdiction permanent and inherent attributes not inherent in or available to natural persons, such as perpetual life, transferable ownership represented by shares or certificates, and limited liability for all owners. It is intended that *any* limited liability *company that is classified as a partnership for federal income tax purposes and formed under chapter 608 or qualified to do business in this state as a foreign limited liability company not* ~~companies~~ be subject to the tax imposed by this code. It is the intent of the Legislature to subject such corporations and other entities to taxation hereunder for the privilege of conducting business, deriving income, or existing within this state. This code is not intended to tax, and shall not be construed so as to tax, any natural person who engages in a trade, business, or profession in this state under his or her own or any fictitious name, whether individually as a proprietorship or in partnership with others, *or as a member or a manager of a limited liability company classified as a partnership for federal income tax purposes*; any estate of a decedent or incompetent; or any testamentary trust. However, a corporation or other taxable entity which is or which becomes partners with one or more natural persons shall not, merely by reason of being a partner, exclude from its net income subject to tax its respective share of partnership net income. This statement of intent shall be given preeminent consideration in any construction or interpretation of this code in order to avoid any conflict between this code and the mandate in s. 5, Art. VII of the State Constitution that no income tax be levied upon natural persons who are residents and citizens of this state.

(11) Notwithstanding any other provision in this chapter, it is the intent of the Legislature that, except as otherwise provided under the Internal Revenue Code, for purposes of this chapter a "qualified subchapter S subsidiary," as that term is defined in s. 1361(b)(3) of the Internal Revenue Code, shall not be treated as a separate corporation or entity from the S corporation parent to which the subsidiary's assets, liabilities, income, deductions, and credits are attributed under s. 1361(b)(3) thereof.

(2) This section shall take effect upon this act becoming a law. The provisions of this section are intended to clarify the intent of the Legislature under existing law and are effective with respect to tax years beginning on or after January 1, 1997.

Section 2. (1) Subsection (4) is added to section 220.22, Florida Statutes, to read:

220.22 Returns; filing requirement.—

(4) For the year in which an election is made pursuant to s. 1361(b)(3) of the Internal Revenue Code, the qualified subchapter S subsidiary shall file an informational return with the department, which return shall be restricted to information identifying the subsidiary, the electing S corporation parent, and the effective date of the election.

(2) This section shall take effect upon this act becoming a law. The provisions of this section are intended to clarify the intent of the Legislature under existing law and are effective with respect to tax years beginning on or after January 1, 1997; however, no penalty shall be assessed for failure to file the information return required by this section if the return would have been due on or before the date this act becomes a law.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 4, after the second semicolon (;) insert: amending s. 220.02, F.S.; providing legislative intent regarding taxation of a "qualified subchapter S subsidiary"; amending s. 220.22, F.S.; requiring certain returns by such subsidiaries; providing retroactive application;

Amendment 3 (with title amendment)—On page 7, between lines 25 and 26, insert:

Section 5. Section 608.405, Florida Statutes, is amended to read:

608.405 Formation.—*One* ~~Two~~ or more persons may form a limited liability company.

Section 6. Section (2) of section 608.407, Florida Statutes, is amended to read:

608.407 Articles of organization.—

(2) An affidavit declaring that the limited liability company has at least *one member* ~~two members~~ and setting forth the amount of the cash and a description and agreed value of property other than cash contributed by the members and the amount anticipated to be contributed by the members shall accompany the articles of organization of a limited liability company.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 11 and insert: names; amending ss. 608.405 and 608.407, F.S.; reducing minimum number of members necessary to form a limited liability company; amending s. 608.471, F.S.; exempting

Amendment 4 (with title amendment)—On page 8, between lines 28 and 29, insert:

Section 6. *Subsections (2) and (3) of section 607.0122, section 607.0402, paragraph (b) of subsection (2) of section 607.1506, section 608.4061, subsections (2) and (3) of section 617.0122, section 617.0402, paragraph (a) of subsection (2) of section 617.1506, section 620.104, subsection (7) of section 620.182, and subsection (2) of section 620.784, Florida Statutes, are repealed.*

And the title is amended as follows:

On page 1, line 16, after the semicolon (;) insert: repealing ss. 607.0122(2) and (3), 607.0402, 607.1506(2)(b), 608.4061, 617.0122(2) and (3), 617.0402, 617.1506(2)(a), 620.104, 620.182(7), and 620.784(2), F.S., relating to corporation and partnership name reservation; conforming statutory provisions to the elimination of the name reservation program provided in the 1997-1998 General Appropriations Act;

On motion by Senator Klein, by two-thirds vote **SB 704** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

CS for SB 434—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.051, F.S.; providing an exemption for certain facilities, devices, fixtures, equipment, machinery, and structures used for pollution prevention or control in manufacturing, processing, compounding, or producing for sale certain items of personal property; providing requirements for qualification; providing an exemption for certain machinery, equipment, or materials purchased for the monitoring, prevention, abatement, or control of pollution or contaminants at privately owned and operated solid waste management facilities; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 434** to **CS for CS for HB 3229**.

Pending further consideration of **CS for SB 434** as amended, on motion by Senator Dyer, by two-thirds vote **CS for CS for HB 3229** was withdrawn from the Committee on Ways and Means.

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

CS for CS for HB 3229—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.051, F.S.; providing an exemption for certain facilities, equipment, and machinery used for pollution control or abatement associated with manufacturing activities, and for structures or equipment associated with replacement thereof; requiring compliance with permitted conditions of the Department of Environmental Protection; providing an exemption for equipment, machinery, and materials required by permit or law for the monitoring, prevention, abatement, or control of pollution at solid waste management facilities; providing an effective date.

—a companion measure, was substituted for **CS for SB 434** as amended and by two-thirds vote read the second time by title.

Senator Dyer moved the following amendment which was adopted:

Amendment 1—On page 2, lines 24 and 25, delete those lines and insert:

Section 2. This act shall take effect January 1, 1999.

On motion by Senator Dyer, by two-thirds vote **CS for CS for HB 3229** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

STATEMENT OF INTENT FOR CS FOR CS FOR HB 3229

This legislation is not intended in any way to limit the exemption for pollution control equipment that is necessary for the generation of steam or electricity under the JEA decision's integrated plant theory.

Buddy Dyer
District 14

SB 500—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing a tax exemption for industrial machinery and equipment purchased for use in expanding certain printing or publishing facilities; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 500** to **CS for HB 1273**.

Pending further consideration of **SB 500** as amended, on motion by Senator Burt, by two-thirds vote **CS for HB 1273** was withdrawn from the Committee on Ways and Means.

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

CS for HB 1273—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing a tax exemption for industrial machinery and equipment purchased for use in expanding certain printing facilities; providing an effective date.

—a companion measure, was substituted for **SB 500** as amended and by two-thirds vote read the second time by title. On motion by Senator Burt, by two-thirds vote **CS for HB 1273** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

CS for CS for SB 1512—A bill to be entitled An act relating to certified capital companies; amending s. 14.2015, F.S.; requiring the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor to administer tax credits; creating s. 288.99, F.S.; creating the "Certified Capital Company Act"; providing a short title; providing a purpose; providing definitions; providing certification procedures; providing deadlines; requiring an application fee; providing grounds for application denial or decertification; requiring the Department of Banking and Finance to enforce certification and decertification procedures; requiring certification reports filed with the Office of Tourism, Trade, and Economic Development; requiring an annual renewal fee; specifying investment benchmarks; specifying depositories for funds not invested in qualified businesses; providing a credit against premium tax liability; specifying effect of credit on retaliatory tax; providing an aggregate premium tax credit cap; providing a tax credit allocation formula; requiring forfeiture of tax credits under certain circumstances; providing for an annual report by each certified capital company; requiring the Office of Tourism, Trade, and Economic Development to review and verify annual reports; authorizing the Department of Revenue to audit and examine books of certified capital companies and investors; providing for distributions to debt holders; requiring the Department of Banking and Finance to conduct annual reviews of certified capital companies; providing requirements for distributions; providing decertification procedures; providing a cure period; providing recapture of tax credits under certain circumstances; providing a schedule for tax credit recapture and penalties; providing for transfer of tax credits; requiring the Office of Tourism, Trade, and Economic Development to annually report to the Governor and the Legislature; providing for application and renewal fees; providing rulemaking authority; providing appropriations; providing effective dates.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for SB 1512** to **CS for HB 1575**.

Pending further consideration of **CS for CS for SB 1512** as amended, on motion by Senator Latvala, by two-thirds vote **CS for HB 1575** was withdrawn from the Committee on Ways and Means.

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

CS for HB 1575—A bill to be entitled An act relating to certified capital companies; amending s. 14.2015, F.S.; requiring the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor to administer tax credits; creating s. 288.99, F.S.; creating the "Certified Capital Company Act"; providing a short title; providing a purpose; providing definitions; providing certification procedures; providing deadlines; requiring an application fee; providing grounds for application denial or decertification; requiring the Department of Banking and Finance to enforce certification and decertification procedures; requiring certification reports filed with the Office of Tourism, Trade, and Economic Development; requiring an annual renewal fee; specifying investment benchmarks; specifying depositories for funds not invested

in qualified businesses; providing a credit against premium tax liability; specifying effect of credit on retaliatory tax; providing an aggregate premium tax credit cap; providing a tax credit allocation formula; requiring forfeiture of tax credits under certain circumstances; providing for an annual report by each certified capital company; requiring the Office of Tourism, Trade, and Economic Development to review and verify annual reports; authorizing the Department of Revenue to audit and examine books of certified capital companies and investors; providing for distributions to debt holders; requiring the Department of Banking and Finance to conduct annual reviews of certified capital companies; providing requirements for distributions; providing decertification procedures; providing a cure period; providing recapture of tax credits under certain circumstances; providing a schedule for tax credit recapture and penalties; providing for transfer of tax credits; requiring the Office of Tourism, Trade, and Economic Development to annually report to the Governor and the Legislature; providing for application and renewal fees; providing rulemaking authority; providing appropriations; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 1512** as amended and by two-thirds vote read the second time by title. On motion by Senator Latvala, by two-thirds vote **CS for HB 1575** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

On motion by Senator Horne, by two-thirds vote **HB 3113** was withdrawn from the Committee on Ways and Means.

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

HB 3113—A bill to be entitled An act relating to community contribution tax credits; amending ss. 220.183 and 624.5105, F.S.; increasing the annual limitation on the amount of such credits that may be granted against the corporate income tax and insurance premium taxes; providing an effective date.

—a companion measure, was substituted for **CS for SB 192** and by two-thirds vote read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 3113** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

On motion by Senator Ostalkiewicz, by two-thirds vote **CS for CS for HB 315** was withdrawn from the Committees on Ways and Means; and Commerce and Economic Opportunities.

On motion by Senator Ostalkiewicz—

CS for CS for HB 315—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; revising the exemption for food and drinks; providing definitions; providing an exemption for certain foods, drinks, and other items provided to customers on a complimentary basis by a dealer who sells food products at retail; providing an exemption for foods and beverages donated by such dealers to certain organizations; revising provisions relating to the technical assistance advisory committee established to provide advice in determining taxability of foods and medicines; providing membership requirements; directing the Department of Revenue to develop guidelines for such determination and providing requirements with respect thereto; providing for use of the guidelines by the committee; providing for determination of the taxability of specific products by the department; authorizing the department to develop a central database with respect thereto; providing an effective date.

—a companion measure, was substituted for **CS for SB 1504** and read the second time by title.

Senator Ostalkiewicz moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 8, line 10 through page 9, line 24, delete those lines and insert:

(14) *TECHNICAL ASSISTANCE ADVISORY COMMITTEE.*—The department shall establish a technical assistance advisory committee with public and private sector members, *including representatives of both manufacturers and retailers,* to advise the Department of Revenue and the Department of Health ~~and Rehabilitative Services~~ in determining the taxability of specific products and product lines pursuant to subsection (1) and paragraph (2)(a). In determining taxability and in preparing a list of specific products and product lines *that* ~~which~~ are or are not taxable, the committee shall not be subject to the provisions of chapter 120. Private sector members shall not be compensated for serving on the committee.

Section 2. Subsection (1) of section 213.22, Florida Statutes, is amended to read:

213.22 Technical assistance advisements.—

(1) The department may issue informal technical assistance advisements to persons, upon written request, as to the position of the department on the tax consequences of a stated transaction or event, under existing statutes, rules, or policies. After the issuance of an assessment, a technical assistance advisement may not be issued to a taxpayer who requests an advisement relating to the tax or liability for tax in respect to which the assessment has been made, *except that a technical assistance advisement may be issued to a taxpayer who requests an advisement relating to the exemptions in s. 212.08(1) or (2) at any time.* Technical assistance advisements shall have no precedential value except to the taxpayer who requests the advisement and then only for the specific transaction addressed in the technical assistance advisement, unless specifically stated otherwise in the advisement. Any modification of an advisement shall be prospective only. A technical assistance advisement is not an order issued pursuant to s. 120.565 or s. 120.569 or a rule or policy of general applicability under s. 120.54. The provisions of s. 120.53(1) are not applicable to technical assistance advisements.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 15-23, delete those lines and insert: membership requirements; amending s. 213.22, F.S.; providing for the issuance of technical assistance advisements; providing an effective date.

On motion by Senator Ostalkiewicz, by two-thirds vote **CS for CS for HB 315** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Burt	Clary	Dudley
Bankhead	Campbell	Cowin	Dyer
Bronson	Casas	Crist	Forman
Brown-Waite	Childers	Diaz-Balart	Geller

Grant	Jones	Lee	Scott
Gutman	Kirkpatrick	McKay	Silver
Hargrett	Klein	Meadows	Sullivan
Harris	Kurth	Myers	Thomas
Holzendorf	Latvala	Ostalkiewicz	Turner
Horne	Laurent	Rossin	Williams

Nays—None

On motion by Senator Ostalkiewicz, by two-thirds vote **HB 4373** was withdrawn from the Committee on Ways and Means.

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

HB 4373—A bill to be entitled An act relating to the excise tax on documents; amending s. 201.09, F.S.; prescribing liability for the tax when a renewal note increases the unpaid balance or the original face amount of an original contract and obligation; providing that s. 3, ch. 97-123, Laws of Florida, which exempts from tax a renewal note evidencing a revolving obligation which does not increase the original face amount of the original contract and obligation, applies retroactively to certain renewal notes; providing effective dates.

—a companion measure, was substituted for **CS for SB 1082** and by two-thirds vote read the second time by title. On motion by Senator Ostalkiewicz, by two-thirds vote **HB 4373** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

SB 936—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; including certain nonprofit corporations that make and distribute recordings to blind or visually impaired persons within the definition of "religious institutions" for tax exemption purposes; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **SB 936** to **CS for HB 3395**.

Pending further consideration of **SB 936** as amended, on motion by Senator Harris, by two-thirds vote **CS for HB 3395** was withdrawn from the Committees on Ways and Means Subcommittee E (Finance and Tax); Ways and Means; and Commerce and Economic Opportunities.

On motion by Senator Harris—

CS for HB 3395—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; including certain nonprofit corporations that make and distribute recordings to blind or visually impaired persons, and certain nonprofit corporations that provide religious services and administration or missionary assistance for established places of worship, within the definition of "religious institutions" for tax exemption purposes; providing an effective date.

—a companion measure, was substituted for **SB 936** as amended and read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 7, between lines 19 and 20, insert:

Section 2. *The amount of $26,224 is hereby appropriated from the General Revenue Fund to the Bureau of Blind Services of the Department of Labor and Employment Security for completion of automation of the Talking Book Library. This is a non-recurring appropriation for fiscal year 1998-1999.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 11, after the semicolon (;) insert: providing an appropriation to the Bureau of Blind Services for specified purposes;

On motion by Senator Harris, by two-thirds vote **CS for HB 3395** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

On motion by Senator Diaz-Balart, by two-thirds vote **HJR 3151** was withdrawn from the Committees on Community Affairs; Ways and Means; and Rules and Calendar.

On motion by Senator Diaz-Balart—

HJR 3151—A joint resolution proposing an amendment to Section 6, Article VII of the State Constitution relating to an additional homestead tax exemption.

—a companion measure, was substituted for **SJR 246** and read the second time by title.

Senators Gutman and Casas offered the following amendment which was moved by Senator Gutman and adopted:

Amendment 1—On page 3, lines 11-28, delete those lines and insert: *by general law, does not exceed a specified amount established by general law. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.*

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

ADDITIONAL HOMESTEAD TAX EXEMPTION.—Proposing an amendment to the State Constitution, effective January 1, 1999, to authorize the Legislature to allow counties and municipalities to grant an additional homestead tax exemption not exceeding $25,000 to certain persons 65 years of age or older whose household income does not exceed a specified amount established by general law.

The vote was:

Yeas—18

Bronson	Dyer	Jones	Silver
Casas	Forman	Kirkpatrick	Thomas
Childers	Geller	Kurth	Turner
Clary	Grant	McKay	
Cowin	Gutman	Meadows	

Nays—13

Bankhead	Diaz-Balart	Lee	Rossin
Brown-Waite	Dudley	Myers	Sullivan
Campbell	Horne	Ostalkiewicz	Williams
Crist			

On motion by Senator Diaz-Balart, further consideration of **HJR 3151** as amended was deferred.

RECESS

On motion by Senator Bankhead, the Senate recessed at 1:28 p.m. to reconvene at 2:30 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:32 p.m. A quorum present—39:

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

On motion by Senator Bronson, the rules were waived and the Senate reverted to—

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 CS for SB 1088, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1088—A bill to be entitled An act relating to agriculture emergencies; amending s. 206.606, F.S.; distributing fuel sales tax deposited in the Fuel Tax Collection Trust Fund to the Agricultural Emergency Eradication Trust Fund; amending s. 206.608, F.S.; distributing State Comprehensive Enhanced Transportation System Tax deposited in the Fuel Tax Collection Trust Fund to the Agricultural Emergency Eradication Trust Fund; creating s. 206.609, F.S.; providing restrictions on the transfer of moneys to the Agricultural Emergency Eradication Trust Fund; requiring the Commissioner of Agriculture to give notice concerning the use of trust fund moneys; providing appropriations; providing a contingent effective date.

House Amendment 1—On page 1, between lines 20 and 21 of the bill, insert:

Section 1. *Notwithstanding any other legislation passed and either signed by the Governor or allowed to become law without signature to the contrary, the Legislature intends that this bill be its full and total intent, regardless of when it is presented to the Secretary of State.*

House Amendment 2—On page 5, line 16 remove from the bill: *$4,000,000* and insert in lieu thereof: *$1,000,000*

On motion by Senator Bronson, the Senate concurred in the House amendments.

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

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Sullivan

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 1434, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1434—A bill to be entitled An act relating to rulemaking authority with respect to environmental permitting (RAB); amending s. 161.052, F.S.; providing authority to adopt rules relating to coastal construction and excavation; amending s. 161.053, F.S.; authorizing the exemption of certain activities from permit requirements; providing authority to adopt rules relating to coastal construction and regulation on county basis; amending s. 403.813, F.S.; clarifying authority to implement certain exemptions without adoption of rules; providing an effective date.

House Amendment 1—On page 3, lines 16 through 17 remove from the bill: all of said lines and insert in lieu thereof:

(21) The department is authorized to adopt rules related to the following provisions of this section: establishment of coastal construction control lines; activities seaward of the coastal construction control line; exemptions; property owner agreements; delegation of the program; permitting programs; and violations and penalties.

House Amendment 2—On page 1, lines 21 through 22 remove from the bill: all of said lines and insert in lieu thereof:

(11) The department is authorized to adopt rules for the implementation of the following provisions of this section: excavation and construction; setback requirements; waivers or variances; exemptions; the removal of unauthorized structures or refilling of unauthorized excavations; and violations and penalties.

On motion by Senator Latvala, the Senate concurred in the House amendments.

SB 1434 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1460, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1460—A bill to be entitled An act relating to amusement rides; amending s. 616.242, F.S.; providing safety standards for amusement rides; providing for owner responsibility; providing scope; providing definitions; requiring adoption of specified standards and rules; prohibiting the operation of amusement rides without a permit and affidavit of compliance; providing for testing of amusement rides; requiring inspections; providing fees; providing insurance requirements; providing exemptions; prescribing inspections standards for amusement rides; authorizing employees of the Department of Agriculture and Consumer Services to inspect and investigate; requiring owners to inspect amusement rides; providing for the training of employees of amusement rides; prohibiting specified bungy operations; providing fees; providing for denial, suspension, and revocation of permits and inspection certificates; providing for issuance of orders, enforcement, and penalties; providing for liens for unpaid fees, fines, interest, and costs; amending ss. 212.08, 570.46, 616.13, F.S.; conforming provisions; providing an effective date.

House Amendment 1—On page 13, line 13 after the period (.) insert:
Furthermore, the permanent facilities must file an affidavit of the annual inspection required by paragraph (5)(b). Additionally, the Department of Agriculture and Consumer Services may consult annually with the permanent facilities regarding industry safety programs.

House Amendment 2 (with title amendment)—On page 21, line 12, through page 23, line 8, remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 23 and 24, remove from the title of the bill: all of said lines and insert in lieu thereof: enforcement, and penalties;

House Amendment 3—On page 14, line 13, delete said line and insert in lieu thereof:

9. Facilities described in s. 549.09(1)(a) when such facilities are operating cars, trucks, or motorcycles only.

House Amendment 4—On page 16, lines 15-17, remove from the bill: all of said lines

On motion by Senator Forman, the Senate concurred in the House amendments.

CS for SB 1460 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1574, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1574—A bill to be entitled An act relating to personnel and agencies of the legislative branch; 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; authorizing the presiding officers to waive fines imposed against lobbyists; 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.; renaming the Juvenile Justice Advisory Board; 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 for the Office of Legislative Services to assume rights, duties, and obligations of the Joint Legislative Management Committee with respect to existing contracts; transferring unexpended balances of appropriated funds; providing an effective date.

House Amendment 1—On page 8, lines 16 and 17, remove from the bill: all of said lines and insert in lieu thereof: to a hearing before the *General Counsel of the Office of Legislative Services* ~~Joint Legislative Management Committee~~, *who* ~~which~~

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

CS for SB 1574 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1706, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1706—A bill to be entitled An act relating to the care of elderly persons (RAB); amending s. 400.404, F.S., relating to facilities to be licensed; amending s. 400.424, F.S.; providing requirements for the contract executed between the licensee and the resident of an assisted living facility; authorizing the Department of Elderly Affairs to adopt rules; amending s. 400.427, F.S.; revising requirements for a facility with respect to obtaining surety bonds; authorizing the Department of

Elderly Affairs to adopt rules; creating s. 400.4275, F.S., relating to business records; amending s. 400.441, F.S., relating to rules; amending s. 400.442, F.S., relating to pharmacy and dietary services; amending s. 400.444, F.S., relating to construction requirements; amending s. 400.619, F.S., relating to licensure; amending s. 400.6196, F.S., relating to violations and penalties; amending s. 400.621, F.S., relating to rules for adult family care homes; amending s. 400.6211, F.S., relating to training; amending s. 409.212, F.S., relating to optional supplementation; providing an effective date.

House Amendment 1—remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Subsection (2) of section 400.404, Florida Statutes, is amended to read:

400.404 Facilities to be licensed; exemptions.—

(2) The following are exempt from this part:

(a) Any facility, institution, or other place operated by the Federal Government or any agency of the Federal Government.

(b) Any facility or part of a facility licensed under chapter 393 or chapter 394.

(c) Any home or facility approved by the United States Department of Veterans Affairs as a residential care home wherein care is provided exclusively to three or fewer veterans.

(d) Any facility that has been incorporated in this state for 50 years or more on or before July 1, 1983, and the board of directors of which is nominated or elected by the residents, until the facility is sold or its ownership is transferred; or any facility, with improvements or additions thereto, which has existed and operated continuously in this state for 60 years or more on or before July 1, 1989, is directly or indirectly owned and operated by a nationally recognized fraternal organization, is not open to the public, and accepts only its own members and their spouses as residents.

(e) Any facility certified under chapter 651, or a retirement community, may provide services authorized under this part or part IV of this chapter to its residents who live in single-family homes, duplexes, quadruplexes, or apartments located on the campus without obtaining a license to operate an assisted living facility if residential units within such buildings are used by residents who do not require staff supervision for that portion of the day when personal services are not being delivered and the owner obtains a home health license to provide such services. However, any building or distinct part of a building on the campus that is designated for persons who receive personal services and require supervision beyond that which is available while such services are being rendered must be licensed in accordance with this part. If a facility provides personal services to residents who do not otherwise require supervision and the owner is not licensed as a home health agency, the buildings or distinct parts of buildings where such services are rendered must be licensed under this part. A resident of a facility that obtains a home health license may contract with a home health agency of his or her choice, provided that the home health agency provides liability insurance and workers' compensation coverage for its employees. Facilities covered by this exemption may establish policies that give residents the option of contracting for services and care beyond that which is provided by the facility to enable them to age in place. For purposes of this section, a retirement community consists of a facility licensed under this part or under part II, and apartments designed for independent living located on the same campus.

(f) Any residential unit for independent living which is located within a facility certified under chapter 651, or any residential unit which is colocated with a nursing home licensed under part II or colocated with a facility licensed under this part in which services are provided through an outpatient clinic or a nursing home on an outpatient basis.

Section 2. Subsections (1), (2), (3), and (5) of section 400.424, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

400.424 Contracts.—

(1) The presence of each resident in a facility shall be covered by a contract, executed at the time of admission or prior thereto, between the licensee and the resident or his or her designee or legal representative. Each party to the contract shall be provided with a duplicate original thereof, and the licensee shall keep on file in the facility all such contracts. The licensee *may* ~~shall~~ not destroy or otherwise dispose of any such contract until 5 years after its expiration ~~or such longer period as may be provided in the rules of the department~~.

(2) Each contract *must* ~~shall~~ contain express provisions specifically setting forth the services and accommodations to be provided by the facility; the rates or charges; provision for at least 30 days' *written* notice of a rate increase; the rights, duties, and obligations of the residents, other than those specified in s. 400.428; and other matters *that* ~~which~~ the parties deem appropriate. Whenever money is deposited or advanced by a resident in a contract as security for performance of the contract agreement or as advance rent for other than the next immediate rental period:

(a) Such funds shall be *deposited* ~~held~~ in a banking institution in this state *that is*~~. Funds held shall be kept separate from the funds and property of the facility; shall be deposited in a bank savings association, trust company, or credit union located in this state and, if possible,~~ located, *if possible,* in the same *community* ~~district~~ in which the facility is located; shall *be kept separate from the funds and property of the facility; may* not be represented as part of the assets of the facility on financial statements; and shall be used, or otherwise expended, only for the account of the resident.

(b) The licensee shall, within 30 days of receipt of advance rent or a security deposit, notify the resident or residents in writing of the manner in which the licensee is holding the advance rent or security deposit and state the name and address of the depository where the moneys are being held. The licensee shall notify residents of the facility's policy on advance deposits.

(3)(a) The contract shall include a refund policy to be implemented at the time of a resident's transfer, discharge, or death. The refund policy shall provide that the resident or responsible party is entitled to a prorated refund based on the daily rate for any unused portion of payment beyond the termination date after all charges, including the cost of damages to the residential unit resulting from circumstances other than normal use, have been paid to the licensee. For the purpose of this paragraph, the termination date shall be the date the unit is vacated by the resident and cleared of all personal belongings. If the amount of belongings does not preclude renting the unit, the facility may clear the unit and charge the resident or his or her estate for moving and storing the items at a rate equal to the actual cost to the facility, not to exceed 20 percent of the regular rate for the unit, provided that 14 days' advance written notification is given. If the resident's possessions are not claimed within 45 days after notification, the facility may dispose of them. The contract shall also specify any other conditions under which claims will be made against the refund due the resident. Except in the case of death or a discharge due to medical reasons, the refunds shall be computed in accordance with the notice of relocation requirements specified in the contract. However, a resident may not be required to provide the licensee with more than 30 days' notice of termination. If after a contract is terminated, the facility intends to make a claim against a refund due the resident, the facility shall notify the resident or responsible party in writing of the claim and shall provide said party with a reasonable time period of no less than 14 calendar days to respond. The facility shall provide a refund to the resident or responsible party within 45 days after the transfer, discharge, or death of the resident. The agency shall impose a fine upon a facility that fails to comply with the refund provisions of the paragraph, which fine shall be equal to three times the amount due to the resident. One-half of the fine shall be remitted to the resident or his or her estate, and the other half to the Health Care Trust Fund to be used for the purpose specified in s. 400.418.

(b) If a licensee agrees to reserve a bed for a resident who is admitted to a medical facility, including, but not limited to, a nursing home, health care facility, or psychiatric facility, the resident or his or her responsible party shall notify the licensee of any change in status that would prevent the resident from returning to the facility. Until such notice is received, the agreed upon daily rate may be charged by the licensee.

(c) The purpose of any advance payment and a refund policy for such payment, including any advance payment for *housing,* meals, ~~lodging,~~ or personal services, shall be covered in the contract.

(5) *Neither the* ~~No~~ contract *nor*~~, or~~ any provision thereof *relieves*~~, shall be construed to relieve~~ any licensee of any requirement or obligation imposed upon it by this *part or rules adopted under this part* ~~act or by standards or rules in force pursuant thereto~~.

(8) The department may by rule clarify terms, establish procedures, clarify refund policies and contract provisions, and specify documentation as necessary to administer this section.

Section 3. Subsections (2), (3), and (7) of section 400.427, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

400.427 Property and personal affairs of residents.—

(2) A facility, or an owner, administrator, employee, or representative thereof, may not act as the guardian, trustee, or conservator for any resident of the *assisted living* facility or any of such resident's property. An owner, administrator, or staff member, or representative thereof, may not act as a competent resident's payee for social security, veteran's, or railroad benefits without the consent of the resident. Any facility whose owner, administrator, or staff, or representative thereof, serves as representative payee for any resident of the facility shall file a surety bond with the agency in an amount equal to twice the average monthly aggregate income or personal funds due to residents, or expendable for their account, which are received by a facility. Any facility whose owner, administrator, or staff, or a representative thereof, is granted power of attorney for any resident of the facility shall file a surety bond with the agency for each resident for whom such power of attorney is granted. The surety bond shall be in an amount equal to twice the average monthly income of the resident, plus the value of any *resident's* ~~other~~ property ~~of the resident, which income and property are~~ under the control of the attorney in fact. The bond shall be executed by the facility as principal and a *licensed* surety company ~~authorized and licensed to do business in the state as surety~~. The bond shall be conditioned upon the faithful compliance of the facility with this section and shall run to the agency for the benefit of any resident who suffers a financial loss as a result of the misuse or misappropriation by a facility of funds held pursuant to this subsection. Any surety company *that* ~~which~~ cancels or does not renew the bond of any licensee shall notify the agency in writing not less than 30 days in advance of such action, giving the reason for the cancellation or nonrenewal. ~~The agency, in cooperation with insurance companies, associations, and organizations representing facilities licensed under this part, and the Department of Insurance shall develop procedures to implement the bonding requirements of this subsection.~~ Any facility owner, administrator, or staff, or representative thereof, who is granted power of attorney for any resident of the facility shall, on a monthly basis, be required to provide the resident a written statement of any transaction made on behalf of the resident pursuant to this subsection, and a copy of such statement given to the resident shall be retained ~~in the facility~~ in each resident's file and available for *agency* inspection.

(3) A facility, upon mutual consent with the resident, shall provide for the safekeeping in the facility of personal effects not in excess of $500 and funds of the resident not in excess of $200 cash, *and*~~. A facility~~ shall keep complete and accurate records of all such funds and personal effects received ~~for safekeeping~~. *If* ~~When~~ a resident is absent from a facility for 24 hours or more, the facility may provide for the safekeeping of the resident's personal effects in excess of $500.

(7) In the event of the death of a resident, a licensee shall return all refunds, funds, and property held in trust to the resident's personal representative, if one has been appointed at the time the facility disburses such funds, and, if not, to the resident's spouse or adult next of kin named in a beneficiary designation form provided by the facility to the resident. *If* ~~In the event~~ the resident has no spouse or adult next of kin or such person cannot be located, funds due the resident shall be placed in an interest-bearing account, and all property held in trust by the facility shall be safeguarded until such time as the funds and property are disbursed pursuant to the Florida Probate Code. Such funds shall be kept separate from the funds and property of the facility and other residents of the facility. *If* ~~In the event~~ the funds of the deceased resident are not disbursed pursuant to ~~the provisions of~~ the Florida Probate Code within 2 years *after* ~~of~~ the resident's death, the funds shall be deposited in the Health Care Trust Fund *administered by the agency* ~~as provided in s. 400.418~~.

(8) The department may by rule clarify terms and specify procedures and documentation necessary to administer the provisions of this section relating to the proper management of residents' funds and personal property and the execution of surety bonds.

Section 4. Section 400.4275, Florida Statutes, is created to read:

400.4275 Business practice; personnel records; liability insurance.—The assisted living facility shall be administered on a sound financial basis that is consistent with good business practices.

(1) The administrator or owner of a facility shall maintain accurate business records that identify, summarize, and classify funds received and expenses disbursed and shall use written accounting procedures and a recognized accounting system.

(2) The administrator or owner of a facility shall maintain personnel records for each staff member which contain, at a minimum, documentation of background screening, if applicable, documentation of compliance with all training requirements of this part or applicable rule, and a copy of all licenses or certification held by each staff who performs services for which licensure or certification is required under this part or rule.

(3) The administrator or owner of a facility shall maintain liability insurance coverage that is in force at all times.

(4) The department may by rule clarify terms, establish requirements for financial records, accounting procedures, personnel procedures, insurance coverage, and reporting procedures, and specify documentation as necessary to implement the requirements of this section.

Section 5. Subsections (1) and (3) of section 400.441, Florida Statutes, are amended to read:

400.441 Rules establishing standards.—

(1) It is the intent of the Legislature that rules published and enforced pursuant to this section shall include criteria by which a reasonable and consistent quality of resident care and quality of life may be ensured and the results of such resident care may be demonstrated. Such rules shall also ensure a safe and sanitary environment that is residential and noninstitutional in design or nature. It is further intended that reasonable efforts be made to accommodate the needs and preferences of residents to enhance the quality of life in a facility. In order to provide safe and sanitary facilities and the highest quality of resident care accommodating the needs and preferences of residents, the department, in consultation with the agency, *the Department of Children and Family Services,* and the Department of Health ~~and Rehabilitative Services~~, shall adopt rules, policies, and procedures to administer this part, which must include reasonable and fair minimum standards in relation to:

(a) The *requirements for and* maintenance of facilities, not in conflict with the provisions of chapter 553, relating to plumbing, heating, lighting, ventilation, *living space,* and other housing conditions, which will ensure the health, safety, and comfort of residents and protection from fire hazard, including adequate provisions for fire alarm and other fire protection suitable to the size of the structure. Uniform firesafety standards shall be established and enforced by the State Fire Marshal in cooperation with the agency, the department, and the Department of Health ~~and Rehabilitative Services~~.

1. Evacuation capability determination.—

a. The provisions of the National Fire Protection Association, NFPA 101A, Chapter 5, 1995 edition, shall be used for determining the ability of the residents, with or without staff assistance, to relocate from or within a licensed facility to a point of safety as provided in the fire codes adopted herein. An evacuation capability evaluation for initial licensure shall be conducted within 6 months after the date of licensure. For existing licensed facilities that are not equipped with an automatic fire sprinkler system, the administrator shall evaluate the evacuation capability of residents at least annually. The evacuation capability evaluation for each facility not equipped with an automatic fire sprinkler system shall be validated, without liability, by the State Fire Marshal, by the local fire marshal, or by the local authority having jurisdiction over firesafety, before the license renewal date. If the State Fire Marshal, local fire marshal, or local authority having jurisdiction over firesafety has reason to believe that the evacuation capability of a facility as reported by the administrator may have changed, it may, with assistance

from the facility administrator, reevaluate the evacuation capability through timed exiting drills. Translation of timed fire exiting drills to evacuation capability may be determined:

(I) Three minutes or less: prompt.

(II) More than 3 minutes, but not more than 13 minutes: slow.

(III) More than 13 minutes: impractical.

b. The Office of the State Fire Marshal shall provide or cause the provision of training and education on the proper application of Chapter 5, NFPA 101A, 1995 edition, to its employees, to staff of the Agency for Health Care Administration who are responsible for regulating facilities under this part, and to local governmental inspectors. The Office of the State Fire Marshal shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after July 1, 1995, and as needed thereafter.

c. The Office of the State Fire Marshal, in cooperation with provider associations, shall provide or cause the provision of a training program designed to inform facility operators on how to properly review bid documents relating to the installation of automatic fire sprinklers. The Office of the State Fire Marshal shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after July 1, 1995, and as needed thereafter.

d. The administrator of a licensed facility shall sign an affidavit verifying the number of residents occupying the facility at the time of the evacuation capability evaluation.

2. Firesafety requirements.—

a. Except for the special applications provided herein, effective January 1, 1996, the provisions of the National Fire Protection Association, Life Safety Code, NFPA 101, 1994 edition, Chapter 22 for new facilities and Chapter 23 for existing facilities shall be the uniform fire code applied by the State Fire Marshal for assisted living facilities, pursuant to s. 633.022.

b. Any new facility, regardless of size, that applies for a license on or after January 1, 1996, must be equipped with an automatic fire sprinkler system. The exceptions as provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply to any new facility housing eight or fewer residents. On July 1, 1995, local governmental entities responsible for the issuance of permits for construction shall inform, without liability, any facility whose permit for construction is obtained prior to January 1, 1996, of this automatic fire sprinkler requirement. As used in this part, the term "a new facility" does not mean an existing facility that has undergone change of ownership.

c. Notwithstanding any provision of s. 633.022 or of the National Fire Protection Association, NFPA 101A, Chapter 5, 1995 edition, to the contrary, any existing facility housing eight or fewer residents is not required to install an automatic fire sprinkler system, nor to comply with any other requirement in Chapter 23 of NFPA 101, 1994 edition, that exceeds the firesafety requirements of NFPA 101, 1988 edition, that applies to this size facility, unless the facility has been classified as impractical to evacuate. Any existing facility housing eight or fewer residents that is classified as impractical to evacuate must install an automatic fire sprinkler system within the timeframes granted in this section.

d. Any existing facility that is required to install an automatic fire sprinkler system under this paragraph need not meet other firesafety requirements of Chapter 23, NFPA 101, 1994 edition, which exceed the provisions of NFPA 101, 1988 edition. The mandate contained in this paragraph which requires certain facilities to install an automatic fire sprinkler system supersedes any other requirement.

e. This paragraph does not supersede the exceptions granted in NFPA 101, 1988 edition or 1994 edition.

f. This paragraph does not exempt facilities from other firesafety provisions adopted under s. 633.022 and local building code requirements in effect before July 1, 1995.

g. A local government may charge fees only in an amount not to exceed the actual expenses incurred by local government relating to the installation and maintenance of an automatic fire sprinkler system in an existing and properly licensed assisted living facility structure as of January 1, 1996.

h. If a licensed facility undergoes major reconstruction or addition to an existing building on or after January 1, 1996, the entire building must be equipped with an automatic fire sprinkler system. Major reconstruction of a building means repair or restoration that costs in excess of 50 percent of the value of the building as reported on the tax rolls, excluding land, before reconstruction. Multiple reconstruction projects within a 5-year period the total costs of which exceed 50 percent of the initial value of the building at the time the first reconstruction project was permitted are to be considered as major reconstruction. Application for a permit for an automatic fire sprinkler system is required upon application for a permit for a reconstruction project that creates costs that go over the 50-percent threshold.

i. Any facility licensed before January 1, 1996, that is required to install an automatic fire sprinkler system shall ensure that the installation is completed within the following timeframes based upon evacuation capability of the facility as determined under subparagraph 1.:

(I) Impractical evacuation capability, 24 months.

(II) Slow evacuation capability, 48 months.

(III) Prompt evacuation capability, 60 months.

The beginning date from which the deadline for the automatic fire sprinkler installation requirement must be calculated is upon receipt of written notice from the local fire official that an automatic fire sprinkler system must be installed. The local fire official shall send a copy of the document indicating the requirement of a fire sprinkler system to the Agency for Health Care Administration.

j. It is recognized that the installation of an automatic fire sprinkler system may create financial hardship for some facilities. The appropriate local fire official shall, without liability, grant two 1-year extensions to the timeframes for installation established herein, if an automatic fire sprinkler installation cost estimate and proof of denial from two financial institutions for a construction loan to install the automatic fire sprinkler system are submitted. However, for any facility with a class I or class II, or a history of uncorrected class III, firesafety deficiencies, an extension must not be granted. The local fire official shall send a copy of the document granting the time extension to the Agency for Health Care Administration.

k. A facility owner whose facility is required to be equipped with an automatic fire sprinkler system under Chapter 23, NFPA 101, 1994 edition, as adopted herein, must disclose to any potential buyer of the facility that an installation of an automatic fire sprinkler requirement exists. The sale of the facility does not alter the timeframe for the installation of the automatic fire sprinkler system.

l. Existing facilities required to install an automatic fire sprinkler system as a result of construction-type restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted herein, or evacuation capability requirements shall be notified by the local fire official in writing of the automatic fire sprinkler requirement, as well as the appropriate date for final compliance as provided in this subparagraph. The local fire official shall send a copy of the document to the Agency for Health Care Administration.

m. Except in cases of life-threatening fire hazards, if an existing facility experiences a change in the evacuation capability, or if the local authority having jurisdiction identifies a construction-type restriction, such that an automatic fire sprinkler system is required, it shall be afforded time for installation as provided in this subparagraph.

~~n. There is created a study-work group consisting of representatives of the Office of the State Fire Marshal, Florida Fire Chiefs' Association, Florida Fire Marshals' Association, Florida Assisted Living Association, Florida Association of Homes for the Aging, Florida Health Care Association, Florida League of Cities, Florida Association of Counties, Florida State Firemen's Association, Building Officials' Association of Florida, the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services, and the Agency for Health Care~~

~~Administration. Each entity involved shall select its representative to the study-work group. The Florida Fire Chiefs' Association shall coordinate study-work group activities. The study-work group shall examine the National Fire Protection Association, NFPA 101, Chapter 23, 1994 edition, and shall report to the Legislature by December 31, 1995, its recommendations for firesafety standards that will provide a reasonable level of firesafety for the protection of assisted living facility residents without imposing unnecessary economic impact on facilities regulated under this part. Expenses incurred while participating in this study-work group activity shall be borne by the participants.~~

Facilities that are fully sprinkled and in compliance with other firesafety standards are not required to conduct more than one of the required fire drills between the hours of 11 p.m. and 7 a.m., per year. In lieu of the remaining drills, staff responsible for residents during such hours may be required to participate in a mock drill that includes a review of evacuation procedures. Such standards must be included or referenced in the rules adopted by the ~~department after consultation with the~~ State Fire Marshal. Pursuant to s. 633.022(1)(b), the State Fire Marshal is the final administrative authority for firesafety standards established and enforced pursuant to this section. All licensed facilities must have an annual fire inspection conducted by the local fire marshal or authority having jurisdiction.

(b) The preparation and annual update of a comprehensive emergency management plan. Such standards must be included in the rules adopted by the department after consultation with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including provision of emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; communication with families; and responses to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health ~~and Rehabilitative Services~~, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(c) The number, *training,* and qualifications of all personnel having responsibility for the care of residents. The rules must require adequate staff to provide for the safety of all residents. Facilities licensed for 17 or more residents are required to maintain an alert staff for 24 hours per day.

(d) All sanitary conditions within the facility and its surroundings~~, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof,~~ which will ensure the health and comfort of residents. The rules must clearly delineate the responsibilities of the agency's licensure *and survey* staff, ~~and the responsibilities of~~ the county health departments, *and the local authority having jurisdiction over fire safety* and ensure that inspections are not duplicative. The agency may collect fees for food service inspections conducted by the county health departments and transfer such fees to the Department of Health ~~and Rehabilitative Services~~.

(e) License application and license renewal, transfer of ownership, proper management of resident funds and personal property, surety bonds, resident contracts, refund policies, financial ability to operate, and facility and staff records.

(f)~~(e)~~ *Inspections, complaint investigations, moratoriums, classification of deficiencies,*

~~The~~ levying and enforcement of penalties, and use of income from fees and fines.

(g)~~(f)~~ The enforcement of the resident bill of rights specified in s. 400.428.

(h)~~(g)~~ The care and maintenance of residents, which must include, but is not limited to:

1. The supervision of residents;

2.~~1.~~ The provision of personal services;

3.~~2.~~ The provision of, or arrangement for, social and leisure activities;

4.~~3.~~ The arrangement for appointments and transportation to appropriate medical, dental, nursing, or mental health services, as needed by residents;

~~4. The provision of limited nursing services;~~

5. *The management of medication;* ~~The provision of extended congregate care services; and~~

6. *The nutritional needs of residents; and* ~~The provision of limited mental health services.~~

7. Resident records.

(i) Facilities holding a limited nursing, extended congregate care, or limited mental health license.

(j)~~(h)~~ The establishment of specific criteria to define appropriateness of *resident* admission and continued residency *in a facility holding a standard, limited nursing, extended congregate care, and limited mental health license.*

(k)~~(i)~~ The ~~definition and~~ use of physical or chemical restraints. The use of physical restraints is limited to half-bed rails as prescribed and documented by the resident's physician with the consent of the resident or, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact. The use of chemical restraints is limited to prescribed dosages of medications authorized by the resident's physician and must be consistent with the resident's diagnosis. Residents who are receiving medications that can serve as chemical restraints must be evaluated by their physician at least annually to assess:

1. The continued need for the medication.

2. The level of the medication in the resident's blood.

3. The need for adjustments in the prescription.

(3) The department shall submit a copy of proposed rules to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of substance for review and comment prior to the promulgation thereof.

(a) Rules promulgated by the department shall encourage the development of homelike facilities which promote the dignity, individuality, personal strengths, and decisionmaking ability of residents.

(b) The agency, in consultation with the department, may waive rules promulgated pursuant to this part in order to demonstrate and evaluate innovative or cost-effective congregate care alternatives which enable individuals to age in place. Such waivers may be granted only in instances where there is reasonable assurance that the health, safety, or welfare of residents will not be endangered. To apply for a waiver, the licensee shall submit to the agency a written description of the concept to be demonstrated, including goals, objectives, and anticipated benefits; the number and types of residents who will be affected, if applicable; a brief description of how the demonstration will be evaluated; and any other information deemed appropriate by the agency. Any facility granted a waiver shall submit a report of findings to the agency and the department within 12 months. At such time, the agency may renew or revoke the waiver or pursue any regulatory or statutory changes necessary to allow other facilities to adopt the same practices. *The department may by rule clarify terms and establish waiver application procedures, criteria for reviewing waiver proposals, and procedures for reporting findings, as necessary to implement this subsection.*

Section 6. Subsection (3) is added to section 400.442, Florida Statutes, to read:

400.442 Pharmacy and dietary services.—

(3) The department may by rule establish procedures and specify documentation as necessary to implement this section.

Section 7. Subsection (3) is added to section 400.444, Florida Statutes, to read:

400.444 Construction and renovation; requirements.—

(3) The department may adopt rules to establish procedures and specify the documentation necessary to implement this section.

Section 8. Subsections (3), (4), and (13) of section 400.619, Florida Statutes, are amended to read:

400.619 Licensure requirements.—

(3) Application for a license or annual license renewal to operate an adult family-care home must be made on a form provided by the agency, *signed under oath,* and must be accompanied by a licensing fee of $100 per year to offset the cost of training and education programs by the Department of Elderly Affairs for providers.

(4) Upon receipt of a *completed* license application *or license renewal,* and the fee, the agency *shall conduct a level 1 background screening as provided under chapter 435 on* ~~must check with the abuse registry and the Department of Law Enforcement concerning~~ the adult family-care home *provider* ~~applicant~~, *the designated relief person,* all adult household members, and all staff members. The agency shall ~~also~~ conduct an onsite visit to the home that is to be licensed.

(13) The department *may* ~~shall~~ adopt rules to *establish procedures, identify forms, specify documentation, and clarify terms, as necessary, to administer* ~~implement~~ this section.

Section 9. Section 400.6196, Florida Statutes, is amended to read:

400.6196 Violations; penalties.—

(1) In addition to any other liability or penalty provided by law, the agency may impose a civil penalty on a *provider according to the following classification* ~~person for~~:

(a) Class I violations are those conditions or practices related to the operation and maintenance of an adult family-care home or to the care of residents which the agency determines present an imminent danger to the residents or guests of the facility or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice that constitutes a class I violation must be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction. A class I deficiency is subject to an administrative fine in an amount not less that $500 and not exceeding $1,000 for each violation. A fine may be levied notwithstanding the correction of the deficiency.

(b) Class II violations are those conditions or practices related to the operation and maintenance of an adult family-care home or to the care of residents which the agency determines directly threaten the physical or emotional health, safety, or security of the residents, other than class I violations. A class II violation is subject to an administrative fine in an amount not less that $250 and not exceeding $500 for each violation. A citation for a class II violation must specify the time within which the violation is required to be corrected. If a class II violation is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(c) Class III violations are those conditions or practices related to the operation and maintenance of an adult family-care home or to the care of residents which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of residents, other than class I or class II violations. A class III violation is subject to an administrative fine in an amount not less than $100 and not exceeding $250 for each violation. A citation for a class III violation shall specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(d) Class IV violations are those conditions or occurrences related to the operation and maintenance of an adult family-care home, or related to the required reports, forms, or documents, which do not have the potential of negatively affecting the residents. A provider that does not correct a class IV violation within the time limit specified by the agency is subject to an administrative fine in an amount not less that $50 and not exceeding $100 for each violation. Any class IV violation that is corrected during the time the agency survey is conducted will be identified as an agency finding and not as a violation.

(2) The agency may impose an administrative fine for violations which do not qualify as class I, class II, class III, or class IV violations. The amount of the fine shall not exceed $250 for each violation or $2,000 in the aggregate. Unclassified violations include:

(a) Violating any term or condition of a license.~~; or~~

(b) Violating any rule adopted under *this part* ~~ss. 400.616-400.629~~.

(c) Failure to follow the criteria and procedures provided under part I of chapter 394 relating to the transportation, voluntary admission, and involuntary examination of adult family-care home residents.

(d) Exceeding licensed capacity.

(e) Providing services beyond the scope of the license.

(f) Violating a moratorium.

(3)~~(2)~~ Each day during which a violation occurs constitutes a separate *offense* ~~violation~~.

(4)~~(3)~~ In determining whether a penalty is to be imposed, and in fixing the amount of any penalty to be imposed, the agency must consider:

(a) The gravity of the violation.

(b) Actions taken by the provider to correct a violation.

(c) Any previous violation by the provider.

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

(5)~~(4)~~ As an alternative to or in conjunction with an administrative action against a provider, the agency may request a plan of corrective action that demonstrates a good faith effort to remedy each violation by a specific date, subject to the approval of the *agency* ~~department~~.

(6)~~(5)~~ The department shall set forth, by rule, *notice requirements and procedures for correction of deficiencies* ~~classifications of violations and civil penalties to be levied~~.

(7)~~(6)~~ Civil penalties paid by a provider must be deposited into the Department of Elderly Affairs Administrative Trust Fund and used to offset the expenses of departmental training and education for adult family-care home providers.

(8)~~(7)~~ The agency may impose an immediate moratorium on admissions to any adult family-care home if the agency finds that a condition in the home presents a threat to the health, safety, or welfare of its residents. *The department may by rule establish facility conditions that constitute grounds for imposing a moratorium and establish procedures for imposing and lifting a moratorium.*

Section 10. Section 400.621, Florida Statutes, is amended to read:

400.621 Rules and standards relating to adult family-care homes.—

(1) The department ~~shall~~, in consultation with the Department of Health, *the Department of Children and Family Services,* ~~and Rehabilitative Services~~ and the agency *shall,* by rule, establish minimum standards *to ensure* ~~and licensure procedures for adult family-care homes. The rules must, at a minimum:~~

~~(a) Provide for~~ the health, safety, and well-being of each resident in the adult family-care home. *The rules must address:*

(a) Requirements for the physical site of the facility and facility maintenance.

(b) Services that must be provided to all residents of an adult family-care home and standards for such services, which must include, but need not be limited to:

1. Room and board.

2. Assistance necessary to perform the activities of daily living.

3. Assistance necessary to administer medication.

4. Supervision of residents.

5. Health monitoring.

6. Social and leisure activities.

(c)~~(b)~~ *Standards and* ~~Provide~~ procedures for *license application and* annual license renewal, *advertising* ~~prevention of abuse~~, proper management of each resident's *funds and personal* property and personal affairs, *financial ability to operate, medication management,* inspections, *complaint investigations, and facility, staff, and resident* ~~and~~ records ~~and reports~~.

(d) Qualifications, training, standards, and responsibilities for providers and staff.

~~(c) Promote the growth of adult family-care homes as a component of a long-term care system.~~

~~(d) Promote the goal of aging in place.~~

(e) ~~Mandate~~ Compliance with chapter 419, *relating to community residential homes.*

(f) *Criteria and procedures for determining the appropriateness of a resident's placement and continued residency in* ~~Assure that~~ an adult family-care home ~~is the appropriate living arrangement for each resident~~. A resident who requires 24-hour nursing supervision may not be retained in an adult family-care home. A person who would not be an appropriate resident in any assisted living facility under s. 400.426 would not be an appropriate resident in an adult family-care home.

(g) *Procedures for providing notice and assuring* ~~Assure~~ the least possible disruption of residents' lives when *residents are relocated,* an adult family-care home is closed, *or the ownership of an adult family-care home is transferred.*

(h) ~~Provide~~ Procedures to protect the residents' rights as provided in s. 400.628.

(i) Procedures to promote the growth of adult family-care homes as a component of a long-term-care system.

(j) Procedures to promote the goal of aging in place for residents of adult family-care homes.

(2) *The department shall by rule provide minimum standards and procedures for emergencies.* Minimum firesafety standards shall be established and enforced by the State Fire Marshal in cooperation with the department and the agency. Such standards must be included in the rules adopted by the department after consultation with the State Fire Marshal and the agency.

~~(3) The department shall by rule establish standards for the adequate supervision of adult family-care residents.~~

(3)~~(4)~~ The provider of any adult family-care home that is in operation at the time any rules are adopted or amended under *this part* ~~ss. 400.616-400.629~~ may be given a reasonable time, not exceeding 6 months, within which to comply with *the* ~~those~~ new or revised rules and standards.

Section 11. Section 400.6211, Florida Statutes, is amended to read:

400.6211 Training and education programs.—

(1) The department ~~of Elderly Affairs~~ must provide training and education programs for all adult family-care home providers.

(2) Training and education programs must include~~, but are not limited to,~~ information relating to:

(a) State law and rules governing adult family-care homes, with emphasis on appropriateness of placement of residents *in an adult family-care home.*

(b) Identifying and reporting abuse, neglect, and exploitation.

(c) Identifying and meeting the special needs of aged persons and disabled adults.

(d) Monitoring the health of residents, including guidelines for prevention and care of pressure ulcers.

(3) Providers must complete the training and education program within a reasonable time determined by the department *by rule.* Failure to complete the training and education program within the time set by the department ~~is a violation of ss. 400.616-400.629 and~~ subjects the provider to revocation *or denial* of the license *under this part.*

(4) If the Department of *Children and Family Services* ~~Health and Rehabilitative Services~~, the agency, or the department determines that there are problems in an adult family-care home which could be reduced through specific training or education beyond that required under this section, the department may require the provider or staff to complete such training or education.

(5) The department shall specify by rule training and education programs, training requirements and the assignment of training responsibilities for staff, training procedures, and training fees as necessary to administer this section.

Section 12. Present subsections (3) and (4) of section 409.212, Florida Statutes, are redesignated as subsections (4) and (5), respectively, present subsection (4) is amended, and a new subsection (3) is added to that section, to read:

409.212 Optional supplementation.—

(3) Assisted living facilities, adult family-care homes, family placement, or any other specialized living arrangement accepting residents who receive optional supplementation payments must comply with the requirements of 42 U.S.C. s. 1382e(e).

(4)~~(3)~~ In addition to the amount of optional supplementation provided by the state, a person may receive additional supplementation from third parties to contribute to his or her cost of care. Additional supplementation may be provided under the following conditions:

(a) Payments shall be made to the assisted living facility, or to the operator of an adult family-care home, family placement, or other special living arrangement, on behalf of the person and not directly to the optional state supplementation recipient.

(b) Contributions made by third parties shall be entirely voluntary and shall not be a condition of providing proper care to the client.

(c) The additional supplementation shall not exceed two times the provider rate recognized under the optional state supplementation program.

(d) Rent vouchers issued pursuant to a federal, state, or local housing program may be issued directly to a recipient of optional state supplementation.

(5)~~(4)~~ When contributions are made in accordance with the provisions of subsection *(4)*~~(3)~~, the department shall not count such supplements as income to the client for purposes of determining eligibility for, or computing the amount of, optional state supplementation benefits, nor shall the department increase an optional state supplementation payment to offset the reduction in Supplemental Security Income benefits that will occur because of the third-party contribution.

Section 13. This act shall take effect July 1 of the year in which enacted.

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

CS for SB 1706 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has adopted SCR 2536, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SCR 2536—A concurrent resolution amending Joint Rules 1, 3, and 4 of the Joint Rules of the Legislature.

House Amendment 1—On page 17, lines 12 and 13, remove from the bill: all of said lines and insert in lieu thereof: request for a hearing on the matter before the *General Counsel of the Office of Legislative Services* ~~Joint Legislative Management~~

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

SCR 2536 as amended was adopted, ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Sullivan

SPECIAL ORDER CALENDAR, continued

The Senate resumed consideration of—

HJR 3151—A joint resolution proposing an amendment to Section 6, Article VII of the State Constitution relating to an additional homestead tax exemption.

—which was previously considered and amended this day.

RECONSIDERATION OF AMENDMENT

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

HJR 3151—A joint resolution proposing an amendment to Section 6, Article VII of the State Constitution relating to an additional homestead tax exemption.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 6 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election, and, if approved, shall take effect January 1, 1999:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the exemption shall be increased to a total of twenty-five thousand dollars of the assessed value of the real estate for each school district levy. By general law and subject to conditions specified therein, the exemption for all other levies may be increased up to an amount not exceeding ten thousand dollars of the assessed value of the real estate if the owner has attained age sixty-five or is totally and permanently disabled and if the owner is not entitled to the exemption provided in subsection (d).

(d) By general law and subject to conditions specified therein, the exemption shall be increased to a total of the following amounts of assessed value of real estate for each levy other than those of school districts: fifteen thousand dollars with respect to 1980 assessments; twenty thousand dollars with respect to 1981 assessments; twenty-five thousand dollars with respect to assessments for 1982 and each year thereafter. However, such increase shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This subsection shall stand repealed on the effective date of any amendment to section 4 which provides for the assessment of homestead property at a specified percentage of its just value.

(e) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(f) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding twenty-five thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

ADDITIONAL HOMESTEAD TAX EXEMPTION.—Proposing an amendment to the State Constitution, effective January 1, 1999, to authorize the Legislature to allow counties and municipalities to grant an additional homestead tax exemption not exceeding $25,000 to certain persons 65 years of age or older whose household income does not exceed a specified amount.

On motion by Senator Diaz-Balart, by two-thirds vote **HJR 3151** was read the third time in full, passed by the required constitutional three-

fifths vote of the membership and was certified to the House. The vote on passage was:

Yeas—34

Madam President	Crist	Holzendorf	Myers
Bankhead	Diaz-Balart	Horne	Ostalkiewicz
Bronson	Dudley	Jones	Rossin
Brown-Waite	Dyer	Kirkpatrick	Scott
Burt	Geller	Klein	Silver
Campbell	Grant	Laurent	Sullivan
Casas	Gutman	Lee	Turner
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—5

Childers	Kurth	Thomas	Williams
Forman			

SPECIAL GUEST

Senators Horne, Bankhead and Holzendorf introduced Christy Neuman, "Miss Florida", who was present in the gallery.

On motion by Senator Dudley—

CS for SB 570—A bill to be entitled An act relating to assessments on health care entities; amending s. 395.701, F.S.; exempting outpatient radiation therapy services provided by certain hospitals from the annual assessment on net operating revenues of such hospitals; amending s. 395.7015, F.S.; exempting freestanding radiation therapy centers from the annual assessment on net operating revenues of certain health care entities; revising the assessment; providing an effective date.

—was read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 4, lines 20-28, delete those lines and insert:

(a) The assessment shall be equal to 1.5 percent of the annual net operating revenues of health care entities.

And the title is amended as follows:

On page 1, lines 10 and 11, delete "revising the assessment;"

Senator Burt moved the following amendment which was adopted:

Amendment 2 (with title amendment)—On page 6, between lines 28 and 29, insert:

Section 3. *It is the intent of the Legislature to evaluate the implications of an Adult Heart Transplant Program in this state. The Senate Committee on Ways and Means, the Senate Health Care Committee, the House of Representatives Health Care Services Committee, and the House of Representatives Fiscal Responsibility Council shall analyze the short and long term public policy and cost implications of implementing a state-sponsored Adult Heart Transplant Program. The report shall consider all direct and ancillary costs associated with providing comprehensive care associated with an adult heart transplant. The report shall also include the alternatives of implementing this program through the Medicaid program and on a non-Medicaid basis. The report shall be presented to the Social Services Estimating Conference, which shall review and certify the cost estimates. Thereafter, the report and the findings of the Social Services Estimating Conference shall be presented to the President of the Senate and the Speaker of the House of Representatives by September 1, 1998. The agency may submit a budget amendment in accordance with the provisions of chapter 216, Florida Statutes, for the purpose of implementing an Adult Heart Transplant Program in fiscal year 1998-1999.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 11, after the semicolon (;) insert: providing legislative intent to evaluate the implication of an Adult Heart Transplant Program in this state; providing for a report by legislative committees; providing parameters for the report; providing for the report to be presented to the Social Services Estimating Conference; providing for review and certification of the cost estimates by the conference;

Pursuant to Rule 4.19, **CS for SB 570** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 640** was deferred.

CS for CS for SB 882—A bill to be entitled An act relating to funding for beach management; amending s. 161.088, F.S.; providing a legislative declaration that beach restoration and renourishment projects are in the public interest and shall be funded in a specified manner; amending s. 161.091, F.S.; providing for funding of the state's beach management plan through the Ecosystem Management and Restoration Trust Fund; providing that designated funds be deposited in the trust fund and that funds in the trust fund be used to fully implement the beach management plan prior to being used for any other purpose; amending s. 161.101, F.S.; authorizing the Department of Environmental Protection to implement regional components of the beach management plan, to enter into agreements to cost-share and coordinate such activity, and to sponsor or cosponsor beach management demonstration projects; providing criteria to be considered in determining annual funding priorities for beach management projects; providing for reductions in local sponsors' cost shares; amending s. 161.161, F.S.; providing for regional components of the statewide beach management plan; providing for submission of funding recommendations to the Legislature; deleting obsolete provisions; amending s. 201.15, F.S.; providing for appropriation of certain documentary stamp tax revenues to the trust fund for purposes of beach preservation and repair; providing an appropriation; amending s. 163.335, F.S.; providing legislative intent for the scope of activities included in community redevelopment; amending s. 163.340, F.S.; redefining the terms "blighted area," "community redevelopment," and "community redevelopment area"; amending s. 163.360, F.S.; requiring additional findings before approval of certain community redevelopment plans; creating s. 163.336, F.S.; providing legislative intent; providing for the geographical location of a pilot project; providing for pilot project administration; providing exemptions to certain coastal construction requirements; providing for the scheduled expiration of these provisions; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for CS for SB 882** to **CS for HB 3427**.

Pending further consideration of **CS for CS for SB 882** as amended, on motion by Senator Sullivan, by two-thirds vote **CS for HB 3427** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motion by Senator Sullivan—

CS for HB 3427—A bill to be entitled An act relating to funding for beach management; amending s. 161.088, F.S.; providing a legislative declaration that beach restoration and renourishment projects are in the public interest and shall be funded in a specified manner; amending s. 161.091, F.S.; providing for funding of the state's beach management plan through the Ecosystem Management and Restoration Trust Fund; providing that designated funds be deposited in the trust fund and that funds in the trust fund be used to fully implement the beach management plan prior to being used for any other purpose; amending s. 161.101, F.S.; authorizing the Department of Environmental Protection to implement regional components of the beach management plan, to enter into agreements to cost-share and coordinate such activity, and to sponsor or cosponsor beach management demonstration projects; providing criteria to be considered in determining annual funding priorities for beach management projects; providing for reductions in local sponsors' cost shares; amending s. 161.161, F.S.; providing for regional components of the statewide beach management plan; providing for submission of funding recommendations to the Legislature; deleting obsolete provisions; amending s. 201.15, F.S.; providing for appropriation of certain documentary stamp tax revenues to the trust fund for purposes of

beach preservation and repair; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 882** as amended and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **CS for HB 3427** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

SB 1582—A bill to be entitled An act relating to weapons and firearms; creating s. 790.233, F.S.; prohibiting a person who has been issued a currently effective final injunction against committing acts of domestic violence from possessing any firearm or ammunition; providing penalties; providing an exception for law enforcement officers; amending s. 741.30, F.S.; requiring that a final injunction for protection against domestic violence indicate that possessing any firearm or ammunition is prohibited; amending s. 741.31, F.S.; providing that it is a first degree misdemeanor to violate a final injunction by possessing a firearm or ammunition; providing an exception for law enforcement officers; amending s. 901.15, F.S.; providing for arrest without warrant under certain circumstances when there is probable cause to believe that the person has committed a crime in violation of specified provisions prohibiting possession of firearm or ammunition by person restrained by final injunction from committing acts of domestic violence; amending s. 790.06, F.S., relating to issuance by the Department of State of license to carry a concealed weapon or firearm; revising qualifications for such license to include restrictions that the applicant has not had adjudication of guilt withheld or imposition of sentence suspended for committing a misdemeanor crime of domestic violence within a specified period and is not enjoined from committing acts of domestic violence or repeat violence; requiring denial or revocation of such license under specified circumstances; requiring that the department suspend such license, or the processing of the license application, if the licensee or applicant is issued an injunction against committing acts of domestic violence or acts of repeat violence; amending s. 790.065, F.S.; removing obsolete provisions; requiring that the Department of Law Enforcement determine if a potential buyer or transferee of a firearm has been convicted of a misdemeanor crime of domestic violence or had adjudication of guilt withheld or imposition of sentence suspended for committing a misdemeanor crime of domestic violence; providing an effective date.

—was read the second time by title.

Two amendments were adopted and one amendment to **SB 1582** failed.

Pending further consideration of **SB 1582** as amended, on motion by Senator Kurth, by two-thirds vote **CS for CS for HB 679** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Kurth—

CS for CS for HB 679—A bill to be entitled An act relating to weapons and firearms; creating s. 790.233, F.S.; prohibiting a person who has been issued a currently effective final injunction against committing acts of domestic violence from possessing any firearm or ammunition; providing penalties; providing an exception for law enforcement officers; amending s. 741.30, F.S.; requiring that a final injunction for protection against domestic violence indicate that possessing any firearm or ammunition is prohibited; amending s. 741.31, F.S.; providing that it is a first degree misdemeanor to violate a final injunction by possessing a firearm or ammunition; providing an exception for law enforcement officers; amending s. 901.15, F.S.; providing for arrest without warrant under certain circumstances when there is probable cause to believe that the person has committed a crime in violation of specified provisions prohibiting possession of firearm or ammunition by person restrained by final injunction from committing acts of domestic violence; amending s. 790.06, F.S., relating to issuance by the Department of State of license to carry a concealed weapon or firearm; revising qualifications for such license to include restrictions that the applicant has not had adjudication of guilt withheld or imposition of sentence suspended for committing a misdemeanor crime of domestic violence within a specified period and is not enjoined from committing acts of domestic violence or repeat violence; requiring denial or revocation of such license under specified circumstances; requiring that the department suspend such license, or the processing of the license application, if the licensee or applicant is issued an injunction against committing acts of domestic violence or acts of repeat violence; amending s. 790.065, F.S.; removing obsolete provisions; requiring that the Department of Law Enforcement determine if a potential buyer or transferee of a firearm has been convicted of a misdemeanor crime of domestic violence or had adjudication of guilt withheld or imposition of sentence suspended for committing a misdemeanor crime of domestic violence; providing an effective date.

—a companion measure, was substituted for **SB 1582** as amended and read the second time by title. On motion by Senator Kurth, by two-thirds vote **CS for CS for HB 679** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Madam President	Crist	Harris	Laurent
Bankhead	Diaz-Balart	Holzendorf	Meadows
Brown-Waite	Dyer	Horne	Rossin
Burt	Forman	Jones	Silver
Campbell	Geller	Kirkpatrick	Sullivan
Casas	Grant	Klein	Thomas
Childers	Gutman	Kurth	Turner
Clary	Hargrett	Latvala	Williams

Nays—4

Bronson	Cowin	Ostalkiewicz	Scott

On motion by Senator Brown-Waite, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

Consideration of **CS for SB 190** was deferred.

HB 3217—A bill to be entitled An act relating to the privatization of foster care and related services; amending s. 409.1671, F.S.; providing legislative intent; defining the terms "privatize," "related services," and "eligible lead community-based provider"; requiring the Department of Children and Family Services to develop a plan to accomplish statewide privatization within a specified time period and to submit the plan to the Governor and to designated legislative officials by a specified date; providing plan requirements; requiring the department to state whether and why privatization cannot be accomplished in a particular district or portion of a district and how the department will address the obstacles to privatization; providing for legal services; requiring that child welfare legal services be provided by specified providers; providing for case management responsibilities; providing for quality assurance; providing requirements for and restrictions upon funding for privatization; creating s. 415.5071, F.S.; providing for a model program for child protective investigative services, to be initiated in specified districts; requiring the department to contract with sheriffs in those districts; providing responsibilities of the department; requiring a report; providing for funding; providing for the creation of a specified committee which shall submit a required report; providing an effective date.

—was read the third time by title.

On motion by Senator Brown-Waite, **HB 3217** was passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Cowin

SENATOR BURT PRESIDING

On motion by Senator Kirkpatrick, by two-thirds vote **CS for HB 3619** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

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

CS for HB 3619—A bill to be entitled An act relating to computers; creating s. 14.025, F.S., relating to the Governor; recognizing the potential computer problems that may occur in state agencies due to the date change necessitated by the year 2000; authorizing the Governor to reassign resources in the event of a likely computer failure; authorizing the Administration Commission to reassign resources if an agency headed by the Governor and Cabinet or a Cabinet officer is likely to experience a computer failure; requiring the reassignment of resources to conform with the law governing budget amendments; requiring the reassignment of personnel to conform with the law governing employee interchanges; requiring legislative approval if a reassignment of resources is necessary for more than 90 days; authorizing legislative veto of the reassignment of state resources; providing for repeal of the powers granted to the Governor; amending ss. 112.24 and 112.27, F.S., relating to employee interchange programs; clarifying that state agencies may exchange employees; creating s. 282.4045, F.S.; providing legislative findings relating to the adequacy of the state's actions to prevent year 2000 computer failures; protecting the state and units of local government against legal actions that result from a year 2000 computer date calculation failure; providing an effective date.

—a companion measure, was substituted for **CS for SB 1162** and by two-thirds vote read the second time by title.

Senator Kirkpatrick moved the following amendment:

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

Section 1. Section 14.025, Florida Statutes, is created to read:

14.025 Executive powers for year 2000 computer remediation.—

(1) In the event the Governor believes that a computer system may fail related to the impending date change necessitated by the year 2000, or in the event of a computer system failure related to the date change necessitated by the year 2000, the Governor may reassign resources, including personnel, from one or more agencies or departments to the agency with the projected or actual computer system failure. If this agency is under the control of the Governor, and the agencies affected by the reassignment of resources also are under the control of the Governor, the actions and decisions of the Governor with respect to the reassignment of resources are final. If the transfer is from an agency under the control of the Governor to an agency under the control of the Governor and Cabinet or the transfer is from an agency under the control of the Governor and Cabinet to an agency under the control of the Governor, the recommendation by the Governor shall be forwarded to the Administration Commission for approval.

(2) If a year 2000 computer system failure occurs, or is predicted to occur, in an agency under the control of the Governor and Cabinet, and the Governor recommends the reassignment of resources, including personnel, from an agency under the control of the Governor and Cabinet, such recommendation by the Governor shall be forwarded to the Administration Commission for approval.

(3) If a year 2000 computer system failure occurs, or is predicted to occur, in an agency under the control of a Cabinet officer, and the Governor recommends the reassignment of resources, including personnel, from an agency under the control of a Cabinet officer, such recommendation by the Governor shall be forwarded to the Administration Commission for approval.

(4) Notwithstanding ss. 216.292 and 216.351, or any other law to the contrary, moneys reassigned related to a predicted or actual year 2000 computer system failure must be transferred as specified by s. 216.177. The Governor shall follow the process in part II of chapter 112 in transferring personnel among affected agencies. The transfer of personnel or moneys for more than 90 days must have the concurrence of the President of the Senate, the Speaker of the House of Representatives, and a majority of the members of each of the House and Senate fiscal committees.

(5) The Legislature may, by concurrent resolution, terminate the reassignment of state resources made pursuant to this section.

(6) This section is repealed July 1, 2000.

Section 2. Section 112.24, Florida Statutes, is amended to read:

112.24 Intergovernmental transfer and interchange of public employees.—To encourage economical and effective utilization of public employees in this state, the temporary assignment of employees among agencies of government, both state and local, and including school districts and public institutions of higher education is authorized under terms and conditions set forth in this section. State agencies, municipalities, and political subdivisions are authorized to enter into employee interchange agreements with *other state agencies,* the Federal Government, ~~with~~ another state, *a* ~~with another~~ municipality, or *a* political subdivision including a school district, or with a public institution of higher education. State agencies are also authorized to enter into employee interchange agreements with private institutions of higher education and other nonprofit organizations under the terms and conditions provided in this section. In addition, the Governor or the Governor and Cabinet may enter into employee interchange agreements with *a state agency,* the Federal Government, ~~with~~ another state, ~~with~~ a municipality, or *a* political subdivision including a school district, or with a public institution of higher learning to fill, subject to the requirements of chapter 20, appointive offices which are within the executive branch of government and which are filled by appointment by the Governor or the Governor and Cabinet. Under no circumstances shall employee interchange agreements be utilized for the purpose of assigning individuals to participate in political campaigns. Duties and responsibilities of interchange employees shall be limited to the mission and goals of the agencies of government.

(1) Details of an employee interchange program shall be the subject of an agreement, which may be extended or modified, between a sending party and a receiving party. State agencies shall report such agreements and any extensions or modifications thereto to the Department of Management Services.

(2) The period of an individual's assignment or detail under an employee interchange program shall not exceed 2 years. Upon agreement of the sending party and the receiving party and under the same or modified terms, an assignment or detail of 2 years may be extended by 3 months. However, agreements relating to faculty members of the State University System may be extended biennially upon approval by the Department of Management Services. If the appointing agency is the Governor or the Governor and Cabinet, the period of an individual's assignment or detail under an employee interchange program shall not exceed 2 years plus an extension of 3 months or the number of years left in the term of office of the Governor, whichever is less.

(3) Salary, leave, travel and transportation, and reimbursements for an employee of a sending party that is participating in an interchange program shall be handled as follows:

(a) An employee of a sending party who is participating in an interchange agreement may be considered as on detail to regular work assignments of the sending party or in a leave status from the sending party except that the receiving agency shall pay the salary and benefits of such employee during the time, in excess of 1 week, that the employee is working for the receiving agency. However, an employee of a sending party who is participating in an interchange agreement pursuant to s. 10, chapter 91-429, Laws of Florida, shall be considered as on detail to regular work assignments of the sending party, and the sending party shall reimburse the receiving agency for the salary and benefits and expenses of such employee and any other direct costs of conducting the inspections during the time the employee is working for the receiving agency.

1. If on detail, an employee shall receive the same salary and benefits as if he or she were not on detail and shall remain the employee of the sending party for all purposes except that supervision during the period of detail may be governed by the interchange agreement.

2. If on leave, an employee shall have the same rights, benefits, and obligations as other employees in a leave status subject to exceptions provided in rules for state employees issued by the department or the rules or other decisions of the governing body of the municipality or political subdivision.

(b) The assignment of an employee of a state agency either on detail or on leave of absence may be made without reimbursement by the receiving party for the travel and transportation expenses to or from the place of the assignment or for the pay and benefits, or a part thereof, of the employee during the assignment.

(c) If the rate of pay for an employee of an agency of the state on temporary assignment or on leave of absence is less than the rate of pay he or she would have received had the employee continued in his or her regular position, such employee is entitled to receive supplemental pay from the sending party in an amount equal to such difference.

(d) Any employee who participates in an exchange under the terms of this section who suffers disability or death as a result of personal injury arising out of and in the course of an exchange, or sustained in performance of duties in connection therewith, shall be treated, for the purposes of the sending party's employee compensation program, as an employee who sustained injury in the performance of duty, but shall not receive benefits under such program for any period for which the employee is entitled to, and elects to receive, similar benefits under the receiving party's employee compensation program.

(e) A sending party in this state may, in accordance with the travel regulations of such party, pay the travel expenses of an employee who is assigned to a receiving party on either detail or leave basis, but shall not pay the travel expenses of such an employee incurred in connection with work assignments at the receiving party. If the assignment or detail will exceed 8 months, travel expenses may include expenses to transport immediate family, household goods, and personal effects to and from the location of the receiving party. If the period of assignment is 3 months or less, the sending party may pay a per diem allowance to the employee on assignment or detail.

(4)(a) When any agency, municipality, or political subdivision of this state acts as a receiving party, an employee of the sending party who is assigned under authority of this section may be given appointments by the receiving party covering the periods of such assignments, with compensation to be paid from the receiving party's funds, or without compensation, or be considered to be on detail to the receiving party.

(b) Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving party.

(c) During the period of an assignment, the employee who is detailed to the receiving party shall not by virtue of such detail be considered an employee of the receiving party, except as provided in paragraph (d), nor shall the employee be paid a wage or salary by the receiving party. The supervision of an employee during the period of the detail may be governed by agreement between the sending party and the receiving party. A detail of an employee to a state agency may be made with or without reimbursement to the sending party by the receiving party for the pay and benefits, or a part thereof, of the employee during the period of the detail.

(d) If the sending party of an employee assigned to an agency, municipality, or political subdivision of this state fails to continue making the employer's contribution to the retirement, life insurance, and health benefit plans for that employee, the receiving party of this state may make the employer's contribution covering the period of the assignment or any part thereof.

(e) Any employee of a sending party assigned in this state who suffers disability or death as a result of personal injury arising out of and in the course of such assignment, or sustained in the performance of duties in connection therewith, shall be treated for the purpose of the receiving party's employee compensation program, as an employee who has sustained injury in the performance of duty, but shall not receive benefits under such program for any period for which he or she elects to receive similar benefits as an employee under the sending party's employee compensation program.

(f) A receiving party in this state may, in accordance with the travel regulations of such party, pay travel expenses of persons assigned thereto during the period of such assignments on the same basis as if they were regular employees of the receiving party.

(5) An agency may enter into agreements with private institutions of higher education in this state as the sending or receiving party as specified in subsections (3) and (4).

Section 3. Subsection (1) of section 112.27, Florida Statutes, is amended to read:

112.27 Authority to interchange employees.—

(1) Any department, agency, or instrumentality of the state is authorized to participate in a program of interchange of employees with departments, agencies, or instrumentalities of the *state, the* federal government, or another state, as a sending or receiving agency.

Section 4. Section 282.4045, Florida Statutes, is created to read:

282.4045 Immunity for state agencies and units of local government for year 2000 computer date calculation failures.—The State of Florida, its agencies, and any unit of local government shall be immune from damages consistent with s. 768.28. For purposes of this section, the state's agencies or instrumentalities shall be deemed to include any public or private university school of medicine that is part of a public or private university supported in whole or in part by state funds and that has an affiliation with a local government or state instrumentality under which the medical school's computer system or systems, or diagnostic or therapeutic equipment dependent upon date logic, are used to provide clinical patient care services to the public.

Section 5. *No new information technology projects shall be established with funding releases unless the agency plan for year 2000 work is on schedule or ahead of schedule for the two most recent reporting periods of the Agency Year 2000 Progress Report. Such status shall be certified by the year 2000 project officer.*

Section 6. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to computers; creating s. 14.025, F.S., relating to the Governor; recognizing the potential computer problems that may occur in state agencies due to the date change necessitated by the year 2000; authorizing the Governor to reassign resources in the event of a likely computer failure; authorizing the Administration Commission to reassign resources if an agency headed by the Governor and Cabinet or a Cabinet officer is likely to experience a computer failure; requiring the reassignment of resources to conform with the law governing budget amendments; requiring the reassignment of personnel to conform with the law governing employee interchanges; requiring legislative approval if a reassignment of resources is necessary for more than 90 days; authorizing legislative veto of the reassignment of state resources; providing for repeal of the powers granted to the Governor; amending ss. 112.24 and 112.27, F.S., relating to employee interchange programs; clarifying that state agencies may exchange employees; creating s. 282.4045, F.S.; providing legislative findings relating to the adequacy of the state's actions to prevent year 2000 computer failures; protecting the state and units of local government against legal actions that result from a year 2000 computer date calculation failure; providing an effective date.

On motion by Senator Kirkpatrick, further consideration of **CS for HB 3619** with pending **Amendment 1** was deferred.

Consideration of **CS for CS for HB 4181**, **HB 367**, **CS for CS for SB 2258** and **CS for SB 2074** was deferred.

CS for SB 28—A bill to be entitled An act providing for the relief of Frank Roster; providing an appropriation to reimburse him for injuries suffered due, in part, to the negligence of the Department of Transportation; providing an effective date.

—was read the third time by title.

On motion by Senator Forman, **CS for SB 28** was passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea to Nay—Ostalkiewicz

CS for CS for HB 4181—A bill to be entitled An act relating to a statewide unified building code; amending ss. 468.621, F.S.; providing an additional ground for certain disciplinary actions; amending ss. 471.033, 481.225, 481.2251, and 481.325, F.S.; providing for additional fines for certain violations of the Florida Building Code; amending s. 468.602, F.S.; clarifying application of an exemption for certain persons; amending ss. 468.609, 468.627, 471.017, 471.019, 481.215, 481.313, 489.115, 489.1455, and 489.5335, F.S.; requiring certificateholders, licensees, or registrants to prove completion of certain education requirements relating to the Florida Building Code; providing certain core curriculum or continuing education requirements for certain license, certificate, or registration renewals; authorizing certain licensing boards to require certain specialized or advanced education courses; creating s. 455.2286, F.S.; requiring the Department of Business and Professional Regulation to implement an automated information system for certain purposes; providing requirements relating to such system; amending s. 489.103, F.S.; exempting certain residential structures from certain construction contracting requirements; amending s. 489.117, F.S.; clarifying certain information provision requirements for local jurisdictions relating to specialty contractor licensure and discipline; amending s. 489.513, F.S.; requiring local jurisdictions to provide certain information to certain licensing boards; requiring such boards to maintain and provide such information through an automated information system; providing for local responsibility for imposing certain disciplinary action; authorizing imposition of penalties by ordinance; amending s. 489.517, F.S.; requiring certificateholders or registrants to provide proof of completion of certain education courses; authorizing the electrical contractors' licensing board to require certain education courses; amending s. 489.533, F.S.; revising a ground for certain disciplinary action; amending s. 553.06, F.S.; requiring the Florida Building Commission to adopt the State Plumbing Code; amending s. 553.19, F.S.; requiring the commission to adopt certain electrical standards as part of the Florida Building Code and to revise and maintain such standards; amending s. 553.71, F.S.; revising certain definitions; renaming the Board of Building Codes and Standards as the Florida Building g Commission; amending s. 553.72, F.S.; revising legislative intent; amending s. 553.73, F.S.; providing for adoption of the Florida Building Code to replace the State Minimum Building Codes; providing for legislative approval; providing purposes; requiring the Florida Building Commission to adopt the code; providing requirements and criteria for the code; providing for resolution of conflicts between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code; providing requirements; providing for local technical amendments to the code; providing procedures and requirements; providing limitations; requiring counties to establish compliance review boards for certain purposes; providing requirements; authorizing local governments to adopt amendments to the code; providing requirements; providing procedures for challenges by affected parties; providing for appeals; requiring the commission to update the code periodically; authorizing the commission to adopt technical amendments to the code under certain circumstances; providing requirements; providing for exempting certain buildings, structures, and facilities from the code; specifying nonapplication of the code under certain circumstances; prohibiting administration or enforcement of the code for certain purposes; amending s. 553.74, F.S.; replacing the State Board of Building Codes and Standards with the Florida Building Commission; providing for additional membership; providing for continuation of terms of existing board members; amending ss. 553.75, 553.76, and 553.77, F.S., to conform; providing additional powers of the commission; requiring commission staff to attend certain meetings; requiring the commission to develop and publish descriptions of roles and responsibilities of certain persons; authorizing the commission to provide plans review and approval of certain public buildings; creating s. 553.781, F.S.; providing for licensee accountability; authorizing local jurisdictions to impose fines and order certain disciplinary action for certain violations of the Florida Building Code; providing for challenges to such actions; requiring the Department of Business and Professional Regulation and local jurisdictions to report such disciplinary actions; providing for disposition and use of such fines; providing construction; providing for suspension of certain permitting privileges under certain circumstance; amending s. 553.79, F.S., to conform; authorizing owners of certain buildings to designate such buildings as threshold buildings for certain purposes; providing for local government enforcement of the Florida Building Code under certain circumstances; amending s. 553.80, F.S.; authorizing certain additional permit fees and reinspection fees under certain circumstances; requiring certain agencies to provide support to local governments for certain purposes; specifying certain code enforcement requirements for state universities, community colleges, and public school districts; preserving authority of certain local governments to enforce code requirements; providing construction; creating s. 553.841, F.S.; providing for establishing a building code training program; providing requirements; providing criteria; authorizing the Florida Building Commission to enter into contracts for certain purposes; requiring the assistance and participation of certain state agencies; creating s. 553.842, F.S.; providing for a system for product evaluation and approval; providing requirements; providing procedures; providing for challenging, review, and appeal of certain evaluations; authorizing the commission to charge fees for certain certifications and reviews; providing exceptions; amending s. 553.905, F.S.; exempting certain HVAC equipment from additional insulation requirements; amending s. 633.01, F.S.; authorizing the Department of Insurance to issue declaratory statements of certain firesafety codes; creating s. 633.0215, F.S.; requiring the Department of Insurance to adopt certain fire prevention and life safety codes; providing requirements; providing for temporary effect of local amendments to such codes; providing providing procedures for adopting or rescinding local amendments to such codes; requiring the department to update such codes periodically; providing for technical amendments to such codes; providing exceptions to application of such codes for certain purposes; amending s. 633.025, F.S.; specifying adoption by local jurisdictions of certain firesafety codes; authorizing local jurisdictions to adopt more stringent firesafety standards under certain circumstances; providing procedures; providing limitations; deleting obsolete provisions; amending s. 633.085, F.S.; clarifying certain inspection duties of the State Fire Marshal; amending s. 633.72, F.S.; specifying cooperation between the Florida Fire Code Advisory Council and the Florida Building Commission under certain circumstances; requiring administrative staff of the State Fire Marshal to attend certain meetings and coordinate efforts for consistency between certain codes; amending ss. 125.69, 161.54, 161.56, 162.21, 166.0415, 489.127, 489.131, 489.531, 489.537, 500.459, 553.18, and 627.351, F.S., to conform; requiring the Florida Building Commission to submit the Florida Building Code to the Legislature for approval; requiring the commission to recommend changes to the law to conform to adoption of the Florida Building Code; providing for future repeal of local amendments to certain building codes; providing for readoption; requiring the State Fire Marshal, the Florida Building Commission, and the Commissioner of Education to establish a select committee for certain purposes; providing for committee membership; providing duties of the committee; requiring a report to the Legislature; requiring the Department of Management Services to conduct a pilot project to study the effects of installing an ozonation

water treatment system for a cooling tower on state buildings; requiring a report to the Legislature; repealing s. 471.003(2)(f), F.S., relating to engineering faculty exemption from registration requirements; repealing s. 489.539, F.S., relating to adoption of electrical standards; repealing s. 553.73(5), F.S., relating to a presumption of compliance with certain building code requirements; providing for future repeal of s. 489.120, F.S., relating to an automated information system; providing for future repeal of s. 489.129(1)(d), F.S., relating to disciplinary action for knowing violations of building codes; providing for future repeal of parts I, II, and III of chapter 553, F.S., relating to the Florida Plumbing Control Act, the Florida Electrical Code, and glass standards; providing appropriations; providing effective dates.

—was read the third time by title.

On motion by Senator Clary, **CS for CS for HB 4181** was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Gutman

HB 367—A bill to be entitled An act relating to education; creating the "Florida Maximum Class Size Study Act"; requiring school districts to reduce the teacher-to-student ratio in certain schools; requiring the Department of Education to conduct a study of the efficacy of class size reductions; providing legislative goals; providing an effective date.

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

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

Amendment 2—On page 1, lines 15, 16, and 30 and on page 2, line 9, delete "*1998-1999*" and insert: *1999-2000*

On motion by Senator Campbell, **HB 367** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

CS for HB 3085—A bill to be entitled An act relating to Palm Beach County; providing for the relief of Kimberly L. Gonzalez; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of the Palm Beach County Sheriff's Department; providing an effective date.

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

On motion by Senator Meadows, **CS for HB 3085** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Cowin

The Senate resumed consideration of—

CS for HB 3619—A bill to be entitled An act relating to computers; creating s. 14.025, F.S., relating to the Governor; recognizing the potential computer problems that may occur in state agencies due to the date change necessitated by the year 2000; authorizing the Governor to reassign resources in the event of a likely computer failure; authorizing the Administration Commission to reassign resources if an agency headed by the Governor and Cabinet or a Cabinet officer is likely to experience a computer failure; requiring the reassignment of resources to conform with the law governing budget amendments; requiring the reassignment of personnel to conform with the law governing employee interchanges; requiring legislative approval if a reassignment of resources is necessary for more than 90 days; authorizing legislative veto of the reassignment of state resources; providing for repeal of the powers granted to the Governor; amending ss. 112.24 and 112.27, F.S., relating to employee interchange programs; clarifying that state agencies may exchange employees; creating s. 282.4045, F.S.; providing legislative findings relating to the adequacy of the state's actions to prevent year 2000 computer failures; protecting the state and units of local government against legal actions that result from a year 2000 computer date calculation failure; providing an effective date.

—which was previously considered this day. Pending **Amendment 1** by Senator Kirkpatrick was adopted.

On motion by Senator Kirkpatrick, by two-thirds vote **CS for HB 3619** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

HB 1019—A bill to be entitled An act relating to marriage; creating ss. 741.0305, 741.0306, and 741.0307, F.S., the "Marriage Preparation and Preservation Act of 1998"; providing legislative findings and purpose; requiring the creation of a handbook pertaining to the rights and responsibilities under Florida law of marital partners; amending s. 741.0306, F.S., to provide criteria to be contained in the handbook; amending s. 741.04, F.S.; providing that verification that both parties contemplating marriage have obtained and read the information contained in the handbook created pursuant to s. 741.0307, F.S., is a condi-

tion precedent to issuance of a marriage license; amending s. 741.05, F.S., to conform; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; designating such course as the parent education and family stabilization course; providing legislative findings and purpose; authorizing the court in any action between parents in which the custody or support of a minor child is an issue to order parties to attend the family education and stabilization course if the court finds attendance to be in the best interests of the child or children; providing procedures and guidelines for required attendance; requiring parties to file proof of compliance with the court; authorizing a course fee; authorizing each judicial circuit to establish a registry of course providers and sites; authorizing the court to grant exemption from required course attendance; providing parent education and family stabilization course curriculum; providing qualifications and duties of course providers; amending s. 232.246, F.S.; including marriage and relationship education within the life management skills credit required for graduation from high school; amending s. 28.101, F.S.; providing an additional charge for petition for a dissolution of marriage; providing for deposit of such funds in the Family Courts Trust Fund; amending s. 25.388, F.S.; providing an additional source of funding for the Family Courts Trust Fund; providing an effective date.

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

On motion by Senator Rossin, **HB 1019** as amended was passed and certified to the House. The vote on passage was:

Yeas—36

Bankhead	Diaz-Balart	Horne	Meadows
Bronson	Dudley	Jones	Myers
Brown-Waite	Dyer	Kirkpatrick	Ostalkiewicz
Burt	Forman	Klein	Rossin
Campbell	Geller	Kurth	Scott
Childers	Grant	Latvala	Sullivan
Clary	Gutman	Laurent	Thomas
Cowin	Hargrett	Lee	Turner
Crist	Harris	McKay	Williams

Nays—1

Silver

Consideration of **CS for CS for SB's 2024 and 2648**, **SJR 1008** and **CS for SB 1338** was deferred.

CS for CS for SB 2258—A bill to be entitled An act relating to education; amending s. 231.02, F.S., relating to qualifications of district school system personnel; deleting certain provisions relating to background check; amending s. 231.096, F.S.; revising provisions relating to teaching out-of-field; amending s. 231.15, F.S.; providing State Board of Education duties relating to teacher certification; amending s. 231.17, F.S.; revising provisions relating to qualification for a temporary certificate; amending s. 231.1725, F.S.; deleting provisions relating to employment of noncertificated teachers in critical teacher shortage areas; amending s. 231.261, F.S.; providing rulemaking authority of the Education Practices Commission; amending s. 231.263, F.S.; clarifying provisions relating to the recovery network program for educators; amending s. 231.47, F.S.; conforming a cross-reference; amending s. 231.546, F.S., relating to the Education Standards Commission; deleting duties relating to teacher education centers; amending s. 231.600, F.S.; revising requirements of the school district professional development system; amending s. 231.625, F.S.; deleting provisions relating to a teacher referral and recruitment center; requiring establishment of a teacher recruitment and retention services office; amending s. 231.6255, F.S.; revising provisions relating to the Christa McAuliffe Ambassador for Education Program; creating s. 231.63, F.S.; creating the Florida Educator Hall of Fame; providing for nominations, recommendations, and selection of members; amending s. 20.15, F.S.; creating additional divisions of the Department of Education; amending s. 231.262, F.S.; providing a show-cause process for violations of probation imposed by the Education Practices Commission; amending s. 231.28, F.S.; providing a show-cause process for violation of an order of the Education Practices Commission; providing authority for additional penalties; amending s. 236.081, F.S.; providing for a supplemental capping calculation for those districts whose weighted FTE enrollment is over the weighted FTE ceiling established in the annual appropriations act; providing a procedure for such calculation; repealing s. 236.081(8), F.S., which provides for a caps adjustment supplement for group 2 programs when there are funds remaining in the Florida Education Finance Program appropriation; amending s. 236.25, F.S.; conforming a cross-reference; amending s. 229.57, F.S.; authorizing the Commissioner of Education to establish criteria for exempting a student from taking certain parts of the high school competency test; repealing s. 231.613, F.S., relating to inservice training institutes; amending s. 24.121, F.S.; deleting obsolete provisions; amending s. 229.58, F.S.; revising provisions governing the membership of school advisory councils; amending s. 229.591, F.S.; revising education goals with respect to postsecondary institutions; creating pilot programs for deregulated public schools in a maximum of six counties; providing an effective date.

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

Amendments were considered and adopted to conform **CS for CS for SB 2258** to **HB 4837**.

Pending further consideration of **CS for CS for SB 2258** as amended, on motion by Senator Cowin, by two-thirds vote **HB 4837** was withdrawn from the Committees on Education; and Ways and Means.

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

HB 4837—A bill to be entitled An act relating to the procedure to be used to calculate funding for students enrolled in group 2 of the Florida Education Finance Program; amending s. 236.081, F.S.; providing for a supplemental capping calculation for those districts whose weighted FTE enrollment is over the weighted FTE ceiling established in the annual appropriations act; providing procedure for such calculation; repealing s. 236.081(8), F.S., which provides for a caps adjustment supplement for group 2 programs when there are funds remaining in the Florida Education Finance Program appropriation; amending s. 236.25, F.S.; correcting a reference; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 2258** as amended and by two-thirds vote read the second time by title.

Senator Horne moved the following amendment which was adopted:

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

Section 1. Subsection (2) of section 231.02, Florida Statutes, is amended to read:

231.02 Qualifications of personnel.—

(2)(a) Instructional and noninstructional personnel who are hired to fill positions requiring direct contact with students in any district school system or laboratory school shall, upon employment, file a complete set of fingerprints taken by an authorized law enforcement officer or an employee of the school or district who is trained to take fingerprints. These fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. ~~School districts which have authorized terminal access to the Florida Crimes Information Telecommunications Network or the National Crime Information Center may use this equipment for the background check required by this subsection.~~ Such new employees shall be on probationary status pending fingerprint processing and determination of compliance with standards of good moral character. Employees found through fingerprint processing to have been convicted of a crime involving moral turpitude shall not be employed in any position requiring direct contact with students. Probationary employees terminated because of their criminal record shall have the right to appeal such decisions. The cost of the fingerprint processing may be borne by the school board or the employee.

~~(b) Any provision of law notwithstanding, by January 1, 1997, for personnel currently required to be certified under s. 231.17, and January 1, 1998, for all other personnel currently employed by any district school system or any other public school who have not been fingerprinted and screened in the same manner outlined in paragraph (a) shall submit a complete set of fingerprints taken by an authorized law enforcement~~

~~officer or an employee of the school or district who is trained to take fingerprints. The fingerprints shall be submitted to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for federal processing. School districts which have authorized terminal access to the Florida Crimes Telecommunications Network or the National Crime Information Center may use that equipment for the background check required by this paragraph. Employees found through fingerprint processing to have been convicted of a crime involving moral turpitude shall not be employed in any position requiring direct contact with students. The cost of the fingerprint processing may be borne by the school district or the individual employee at a cost not to exceed $24.00. Any additional cost shall be borne by the Department of Education. Each local school board and laboratory school shall develop policies necessary for the implementation of this subsection. The Commissioner of Education shall provide guidelines regarding standards of good moral character for use in the development of these policies. Within these standards, the lack of good moral character shall be defined as having been convicted of a crime involving moral turpitude.~~

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

Section 2. Section 231.096, Florida Statutes, is amended to read:

231.096 Teacher teaching out-of-field; assistance.—Each school district shall have a plan to assist any teacher teaching out-of-field, and priority consideration *in professional development activities* shall be given to teachers who are teaching out-of-field ~~in summer inservice institutes~~. ~~A district may include in its annual summer inservice institute plan a section that provides for institutes in instructional areas identified as district critical teacher shortage areas and approved by the Department of Education.~~

Section 3. Section 231.15, Florida Statutes, is amended to read:

231.15 Positions for which certificates required.—

(1) The State Board of Education shall have authority to classify school services, *designate the certification subject areas, establish competencies and certification requirements for all school-based personnel,* and ~~to~~ prescribe rules in accordance with which the professional, temporary, and part-time certificates shall be issued by the Department of Education to *applicants* ~~school employees~~ who meet the standards prescribed by such rules for their class of service. Each person employed or occupying a position as school supervisor, principal, teacher, library media specialist, school counselor, athletic coach, or other position in which the employee serves in an instructional capacity, in any public school of any district of this state shall hold the certificate required by law and by rules of the state board in fulfilling the requirements of the law for the type of service rendered. However, the state board shall adopt rules authorizing school boards to employ selected noncertificated personnel to provide instructional services in the individuals' fields of specialty or to assist instructional staff members as teacher aides. Each person who is employed and renders service as an athletic coach in any public school in any district of this state shall hold a valid part-time, temporary, or professional certificate. Each person employed as a school nurse shall hold a license to practice nursing in the state, and each person employed as a school physician shall hold a license to practice medicine in the state. The provisions of this subsection shall not apply to any athletic coach who renders service in a voluntary capacity and who is not employed by any public school of any district in this state.

(2) A commissioned or noncommissioned military officer who is an instructor of junior reserve officer training shall be exempt from requirements for teacher certification, except for the filing of fingerprints pursuant to s. *231.02* ~~231.1712~~, if he or she meets the following qualifications:

(a) Is retired from active military duty with at least 20 years of service and draws retirement pay or is retired, or transferred to retired reserve status, with at least 20 years of active service and draws retirement pay or retainer pay.

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

(c) Has an exemplary military record.

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

Section 4. Paragraph (c) of subsection (3) of section 231.17, Florida Statutes, is amended to read:

231.17 Official statements of eligibility and certificates granted on application to those meeting prescribed requirements.—

(3) TEMPORARY CERTIFICATE.—

(c) To qualify for a temporary certificate, the applicant must:

1. File a written statement under oath that the applicant subscribes to and will uphold the principles incorporated in the Constitutions of the United States and of the State of Florida.

2. Be at least 18 years of age.

3. Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, *as defined by state board rule. Credits and degrees awarded by a newly created Florida state institution that is part of the State University System shall be considered as granted by an accredited institution of higher learning during the first 2 years of course offerings while accreditation is gained. Degrees from foreign institutions, or degrees from other institutions of higher learning that are in the accreditation process, may be validated by a process established in state board rule. Once accreditation is gained, the institution shall be considered as accredited beginning with the 2-year period prior to the date of accreditation.* The bachelor's or higher degree may not be required in areas approved in rule by the State Board of Education as nondegreed areas. Each applicant seeking initial certification must have attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study. The applicant may document the required education by submitting official transcripts from institutions of higher education or by authorizing the direct submission of such official transcripts through established electronic network systems.

~~4. Meet such academic and professional requirements based on credentials certified by standard institutions of higher learning, including any institutions of higher learning in this state accredited by an accrediting association that is a member of the Commission on Recognition of Postsecondary Accreditation, as prescribed by the state board.~~

4.~~5.~~ Be competent and capable of performing the duties, functions, and responsibilities of a teacher.

5.~~6.~~ Be of good moral character.

Rules adopted pursuant to this section shall provide for the review and acceptance of credentials from foreign institutions of higher learning.

Section 5. Section 231.1725, Florida Statutes, is amended to read:

231.1725 Employment of substitute teachers, teachers of adult education, *and* nondegreed teachers of career education*; students performing clinical field experience*~~, and noncertificated teachers in critical teacher shortage areas~~.—

(1) Notwithstanding the provisions of ss. 231.02, 231.15, *and* 231.17, ~~and 231.172~~ or any other provision of law or rule to the contrary, each school board shall establish the minimal qualifications for:

(a) Substitute teachers to be employed pursuant to s. 231.47. The qualifications shall require the filing of a complete set of fingerprints in the same manner as required by s. 231.02.

(b) Part-time and full-time teachers in adult education programs. The qualifications shall require the filing of a complete set of fingerprints in the same manner as required by s. 231.02. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.

(c) Part-time and full-time nondegreed teachers of vocational programs. Qualifications shall be established for agriculture, business, health occupations, family and consumer sciences, industrial, marketing, and public service education teachers, based primarily on successful

occupational experience rather than academic training. The qualifications for such teachers shall require:

1. The filing of a complete set of fingerprints in the same manner as required by s. 231.02. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.

2. Documentation of education and successful occupational experience including documentation of:

a. A high school diploma or the equivalent.

b. Completion of 6 years of full-time successful occupational experience or the equivalent of part-time experience in the teaching specialization area. Alternate means of determining successful occupational experience may be established by the school board.

c. Completion of career education training conducted through the local school district inservice master plan.

d. For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students. This training may be completed through coursework from a standard institution or an approved district teacher education program.

e. Demonstration of successful teaching performance.

~~(d) Part-time and full-time noncertificated teachers in critical teacher shortage areas. The qualifications shall require the filing of fingerprints in the same manner as required by s. 231.02 and shall be based on academic training in the essential generic and specialization competencies of the instructional assignment. The school board shall be responsible for determining critical teacher shortage areas within the school district. Each school board shall annually report the number, qualifications, and areas of assignment of all noncertificated teachers employed pursuant to this paragraph during each school year.~~

(2) Substitute, adult education, and nondegreed career education teachers ~~and noncertificated teachers in critical teacher shortage areas~~ who are employed pursuant to this section shall have the same rights and protection of laws as certified teachers.

Section 6. Paragraph (d) of subsection (7) of section 231.261, Florida Statutes, is amended to read:

231.261 Education Practices Commission; organization.—

(7) The duties and responsibilities of the commission are to:

(d) Have rulemaking authority pursuant to chapter 120 *to establish procedures for operations and administration, disciplinary proceedings, indexing, implementation of orders, and retention of records, and to establish disciplinary guidelines.*

Section 7. Subsections (9) and (12) of section 231.263, Florida Statutes, are amended to read:

231.263 Recovery network program for educators.—

(9) An approved treatment provider must disclose to the recovery network program all information in its possession which relates to a person's impairment and participation in the treatment program. Information obtained under this subsection is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is necessary to promote the rehabilitation of impaired *educators* ~~teachers~~ and to protect the privacy of treatment program participants. The failure to provide such information to the program is grounds for withdrawal of approval of a treatment provider. Medical records provided to the program may not be disclosed to any other person, except as authorized by law.

(12) The State Board of Education shall include in the fees established pursuant to *s. 231.30* ~~s. 231.15(3)~~ an amount sufficient to implement the provisions of this section. The state board shall by rule establish procedures and additional standards for:

(a) Approving treatment providers, including appropriate qualifications and experience, amount of reasonable fees and charges, and quality and effectiveness of treatment programs provided.

(b) Admitting eligible persons to the program.

(c) Evaluating impaired persons by the recovery network program.

Section 8. Section 231.47, Florida Statutes, is amended to read:

231.47 Substitute teachers.—Each school board shall adopt rules prescribing the compensation of, and the procedure for employment of, substitute teachers. Such procedure for employment shall include, but not be limited to, the filing of a complete set of fingerprints as required in s. *231.02* ~~231.1712~~.

Section 9. Subsection (1) of section 231.546, Florida Statutes, is amended to read:

231.546 Education Standards Commission; powers and duties.—

(1) The Education Standards Commission shall have the duty to:

(a) Recommend to the state board desirable standards relating to programs and policies for the development, certification and certification extension, improvement, and maintenance of competencies of educational personnel, including teacher interns.

(b) Recommend to the state board standards for approval of preservice teacher education programs.

(c) Plan and conduct an annual review of human resources studies regarding teaching personnel and report the findings to the state board.

(d) Recommend to the state board objective, independently verifiable standards of measurement and evaluation of teaching competence.

(e) Recommend to the state board alternative ways to demonstrate qualifications for certification which assure fairness and flexibility while protecting against incompetence.

~~(f) Recommend to the state board the most feasible locations for teacher education centers from proposals submitted by school districts and universities.~~

~~(g) Recommend to the state board guidelines for the expenditure of funds for teacher education centers and approval of teacher education center programs.~~

(f)~~(h)~~ Recommend critical state priorities for preservice and inservice teacher training such as understanding diverse student populations, working in a changing workplace, and understanding subject matter and instruction. The commission shall recommend standards for measuring evidence of training in these priorities for continuing program approval for preservice teacher education, initial teacher certification and certificate renewal, and staff development activities.

(g)~~(i)~~ Evaluate the progress of school community professional development systems as provided in s. 231.600.

(h)~~(j)~~ Perform such other duties as may be required to achieve the purposes of this section and s. 231.545.

Section 10. Paragraph (b) of subsection (4) and subsection (6) of section 231.600, Florida Statutes, are amended to read:

231.600 School Community Professional Development Act.—

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

(b) Each district school board shall consult with teachers and representatives of college and university faculty, community agencies, and other interested citizen groups to establish policy and procedures to guide the operation of the district professional development program. The professional development system must:

1. Require that schools identify student needs that can be met by improved professional performance, and assist schools in making these identifications;

2. Provide training *activities coupled with followup support that is* ~~and other professional development~~ appropriate to accomplish district-level and school-level improvement goals and standards; and

3. Provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs.

(6) The Department of Education shall design methods by which the state and district school boards may evaluate and improve the professional development system. The evaluation must include an annual assessment of data that indicate progress or lack of progress of *all* students ~~whose needs were identified as most critical to improved professional development, including needs of students with disabilities, students having limited proficiency in English, and low-achieving student populations~~. If the review of data indicates an achievement level that is unusual, the department may investigate the causes of the success or lack of success, may provide technical assistance, and may require the school district to employ a different approach to professional development. The department shall report annually to the State Board of Education and the Legislature any school district that, in the determination of the department, has failed to provide an adequate professional development system. This report must include the results of the department's investigation and of any intervention provided.

Section 11. Section 231.625, Florida Statutes, is amended to read:

231.625 Teacher ~~shortage~~ recruitment and *retention* ~~referral~~.—

(1) The Department of Education, ~~through the Center for Career Development Services,~~ in cooperation with teacher organizations, ~~and~~ district personnel *offices, and colleges of education* ~~directors~~, shall ~~expand its career information system to~~ concentrate on the recruitment of qualified teachers ~~in teacher shortage areas~~.

(2) The Department of Education~~, through the Center for Career Development Services,~~ shall establish a teacher ~~referral and~~ recruitment *and retention services office* ~~center~~ which shall:

(a) Advertise teacher positions in targeted states ~~with declining student enrollments~~.

(b) Advertise in major newspapers, national professional publications, and other professional publications and in ~~graduate~~ schools of education.

(c) Utilize *state and* ~~a~~ nationwide toll-free *numbers* ~~number and a central post office box~~.

(d) Develop standardized resumes for teacher applicant data.

(e) Conduct periodic communications with district ~~superintendents and~~ personnel directors regarding ~~new~~ applicants.

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

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

(h) Publish and distribute information pertaining to *employment opportunities, application procedures, teacher certification, and* teacher salaries ~~and benefits for beginning and continuing teachers~~.

(i) *Provide* ~~Publish~~ information related to alternative certification procedures.

(j) Develop and sponsor the *Florida* Future Educator of America *Program* ~~clubs~~ throughout the state.

(k) Review and recommend to the Legislature and school districts incentives for attracting teachers to this state.

(3) The *Office of Teacher Recruitment and Retention Services* ~~teacher referral and recruitment center~~, in cooperation with ~~teacher organizations and~~ district personnel *offices* ~~directors~~, shall sponsor *a* ~~an annual~~ job fair in a central part of the state to match in-state educators and out-of-state educators with teaching opportunities in this state.

Section 12. Section 231.6255, Florida Statutes, is amended to read:

231.6255 Christa McAuliffe Ambassador for Education Program.—

(1) The Legislature recognizes that Florida *continues to face teacher shortages* ~~faces a severe shortage of teachers~~ and that fewer young people consider teaching as a career. It is the intent of the Legislature to promote the positive and rewarding aspects of being a teacher, to encourage more individuals to become teachers, and to provide annual sabbatical support for outstanding Florida teachers to serve as goodwill ambassadors for education. The Legislature further wishes to honor the memory of Christa McAuliffe, who epitomized the challenge and inspiration that teaching can be.

(2) There is established the Christa McAuliffe Ambassador for Education Program to provide salary, travel, and other related expenses annually for an outstanding Florida teacher to promote the positive aspects of teaching as a career. The goals of the program are to:

(a) Enhance the stature of teachers and the teaching profession.

(b) Promote the importance of quality education and teaching for our future.

(c) Inspire and attract talented ~~young~~ people to become teachers.

(d) Provide information regarding Florida's scholarship and loan programs related to teaching.

(e) Promote the teaching profession within community and business groups.

(f) Provide information ~~regarding Florida's alternative certification program~~ to retired military personnel and other individuals who might consider teaching as a second career.

(g) Work with and represent the *Office of Teacher Recruitment and Retention Services* ~~teacher referral and recruitment center~~, as needed.

(h) Work with and encourage the efforts of school *and* district teachers of the year.

(i) Support the activities of the *Florida* Future *Educator* ~~Teacher~~ of America *Program* ~~clubs~~.

(j) Represent Florida teachers at business, trade, education, and other conferences and meetings.

(k) Promote the teaching profession in other ways related to the teaching responsibilities, background experiences, and aspirations of the Ambassador for Education.

(3) The Teacher of the Year shall serve as the Ambassador for Education~~, except that for the first 2 years, Florida's NASA Teachers in Space shall also serve as Ambassadors for Education~~. If the Teacher of the Year is unable to serve as the Ambassador for Education, the first runner-up shall serve in his or her place. *The Department of Education* ~~Each district school board~~ shall establish application and selection procedures for determining an annual teacher of the year. *Applications and selection criteria shall be developed and distributed annually by the Department of Education to all school districts.* The Commissioner of Education shall establish a selection committee which assures representation from teacher organizations, administrators, and parents to select the Teacher of the Year and Ambassador for Education from among the district teachers of the year. ~~Selection criteria shall be developed and distributed annually to all school districts.~~

(4)(a) The Department of Education *and the Office of Teacher Recruitment and Retention Services*~~, through the Center for Career Development Services and in conjunction with the teacher referral and recruitment center,~~ shall administer the program.

(b) The Commissioner of Education shall pay an annual salary, fringe benefits, travel costs, and other costs associated with administering the program.

(c) The Ambassador for Education shall serve for 1 year, from July 1 to June 30, and shall be assured of returning to his or her teaching position upon completion of the program. The ambassador will not have a break in creditable or continuous service or employment for the period of time in which he or she participates in the program.

Section 13. Section 231.63, Florida Statutes, is created to read:

231.63 Florida Educator Hall of Fame.—

(1) It is the intent of the Legislature to recognize and honor those persons, living or dead, who have made significant contributions to education in this state.

(2)(a) There is hereby established the Florida Educator Hall of Fame. The Florida Educator Hall of Fame shall be located in an area on the Plaza Level of the Capitol Building.

(b) The Florida Education Foundation shall make a recommendation for the design and theme for the Florida Educator Hall of Fame. The Commissioner of Education, in consultation with the Secretary of Management Services, shall approve the foundation's recommendation.

(c) Each person who is selected as a member shall have a plaque placed in the Florida Educator Hall of Fame. The plaque shall designate the member's particular discipline or contribution and shall set forth vital information relating to the member. Each member shall also receive a standardized memento of the member's selection.

(3) The Florida Education Foundation shall accept nominations annually for persons to be recommended as members of the Florida Educator Hall of Fame. Floridians who have made a significant contribution to education in this state, as determined and documented by the Florida Education Foundation, shall be eligible for membership. The foundation shall recommend to the Commissioner of Education persons to be named as members of the Florida Educator Hall of Fame.

(4) In the first year, the Commissioner of Education shall name no more than 10 members to the Florida Educator Hall of Fame. Thereafter, the commissioner shall name no more than four members to the Florida Educator Hall of Fame in any 1 year.

(5) The Commissioner of Education and the Florida Education Foundation shall develop and adopt written policies to carry out the purposes of this section, including procedures to accept nominations, make recommendations for selection of members, provide recipient's travel expenses, and provide funding for the Florida Educator Hall of Fame.

(6) The Commissioner of Education may annually request an appropriation from the Legislature sufficient to carry out the purposes of this section. The Florida Education Foundation may also provide funds to cover any or all expenses related to the Florida Educator Hall of Fame.

Section 14. Subsection (3) of section 20.15, Florida Statutes, is amended to read:

20.15 Department of Education.—There is created a Department of Education.

(3) DIVISIONS.—

~~(a)~~ The following divisions of the Department of Education are established:

(a)~~1.~~ Division of Community Colleges.

(b)~~2.~~ Division of Public Schools and Community Education.

(c)~~3.~~ Division of Universities.

(d)~~4.~~ Division of Workforce Development.

(e)~~5.~~ Division of Human Resource Development.

(f) Division of Administration.

(g) Division of Financial Services.

(h) Division of Support Services.

~~(b) The Commissioner of Education is authorized to establish within the Department of Education a Division of Administration.~~

Section 15. Present subsection (7) of section 231.262, Florida Statutes, is redesignated as subsection (8) and a new subsection (7) is added to that section to read:

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

(7) Violations of the provisions of probation shall result in an order to show cause issued by the Clerk of the Education Practices Commission. Upon failure of the probationer, at the time and place stated in the order, to show cause satisfactorily to the Education Practices Commission why a penalty for violating probation should not be imposed, the Education Practices Commission shall impose whatever penalty is appropriate as established in s. 231.28(6). Any probation period will be tolled when an order to show cause has been issued until the issue is resolved by the Education Practices Commission.

Section 16. Subsection (1) of section 231.28, Florida Statutes, is amended and subsection (6) is added to that section to read:

231.28 Education Practices Commission; authority to discipline.—

(1) The Education Practices Commission shall have authority to suspend the teaching certificate of any person as defined in s. 228.041(9) or (10) for a period of time not to exceed 3 years, thereby denying that person the right to teach for that period of time, after which the holder may return to teaching as provided in subsection (4); to revoke the teaching certificate of any person, thereby denying that person the right to teach for a period of time not to exceed 10 years, with reinstatement subject to the provisions of subsection (4); to revoke permanently the teaching certificate of any person; to suspend the teaching certificate, upon order of the court, of any person found to have a delinquent child support obligation; or to impose any other penalty provided by law, provided it can be shown that such person:

(a) Obtained the teaching certificate by fraudulent means;

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

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

(d) Has had a teaching certificate revoked in another state;

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

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

(g) Has breached a contract, as provided in s. 231.36(2);

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

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

(j) Has otherwise violated the provisions of law, the penalty for which is the revocation of the teaching certificate*; or*~~.~~

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

(6) When an individual violates the provisions of a settlement agreement enforced by a final order of the Education Practices Commission an order to show cause may be issued by the Clerk of the Commission. The order shall require the individual to appear before the commission to show cause why further penalties should not be levied against the individual's certificate pursuant to the authority provided to the Education Practices Commission in subsection (1). The Education Practices Commission shall have the authority to fashion further penalties under the authority of subsection (1) as deemed appropriate when the show cause order is responded to by the individual.

Section 17. Subsection (8) of section 236.081, Florida Statutes, is repealed, and paragraph (d) of subsection (1), paragraphs (a) and (b) of subsection (4), subsection (9), and paragraph (a) of subsection (10) of that section, as amended by chapter 97-380, Laws of Florida, are amended to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the

substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(d) Annual allocation calculation.—

1. The Department of Education is authorized and directed to review all district programs and enrollment projections and calculate a maximum total weighted full-time equivalent student enrollment for each district for the K-12 FEFP.

2. Maximum enrollments calculated by the department shall be derived from enrollment estimates used by the Legislature to calculate the FEFP. If two or more districts enter into an agreement under the provisions of s. 230.23(4)(d), after the final enrollment estimate is agreed upon, the amount of FTE specified in the agreement, not to exceed the estimate for the specific program as identified in paragraph (c), may be transferred from the participating districts to the district providing the program.

3. As part of its calculation of each district's maximum total weighted full-time equivalent student enrollment, the department shall establish separate enrollment ceilings for each of two program groups. Group 1 shall be composed of grades K-3, grades 4-8, and grades 9-12. Group 2 shall be composed of students in exceptional student education programs, students-at-risk programs, all basic programs other than the programs in group 1, and all vocational programs in grades 7-12.

a. The weighted enrollment ceiling for group 2 programs shall be calculated by multiplying the final enrollment conference estimate for each program by the appropriate program weight. The weighted enrollment ceiling for program group 2 shall be the sum of the weighted enrollment ceilings for each program in the program group, plus the increase in weighted full-time equivalent student membership from the prior year for clients of the Department of Children and Family Services and the Department of Juvenile Justice.

b. If, for any calculation of the FEFP, the weighted enrollment for program group 2, derived by multiplying actual enrollments by appropriate program weights, exceeds the enrollment ceiling for that group, the following procedure shall be followed to reduce the weighted enrollment for that group to equal the enrollment ceiling:

(I) The weighted enrollment ceiling for each program in the program group shall be subtracted from the weighted enrollment for that program derived from actual enrollments.

(II) If the difference calculated under sub-sub-subparagraph (I) is greater than zero for any program, a reduction proportion shall be computed for the program by dividing the absolute value of the difference by the total amount by which the weighted enrollment for the program group exceeds the weighted enrollment ceiling for the program group.

(III) The reduction proportion calculated under sub-sub-subparagraph (II) shall be multiplied by the total amount of the program group's enrollment over the ceiling as calculated under sub-sub-subparagraph (I).

(IV) The prorated reduction amount calculated under sub-sub-subparagraph (III) shall be subtracted from the program's weighted enrollment. For any calculation of the FEFP, the enrollment ceiling for group 1 shall be calculated by multiplying the actual enrollment for each program in the program group by its appropriate program weight.

c. For program group 2, the weighted enrollment ceiling shall be a number not less than the sum obtained by:

(I) Multiplying the sum of reported FTE for all programs in the program group that have a cost factor of 1.0 or more by 1.0, and

(II) By adding this number to the sum obtained by multiplying the projected FTE for all programs with a cost factor less than 1.0 by the actual cost factor.

4. Following completion of the weighted enrollment ceiling calculation as provided in subparagraph 3., a supplemental capping calculation shall be employed for those districts that are over their weighted enrollment ceiling. For each such district, the total reported unweighted FTE enrollment for group 2 programs shall be compared with the total appropriated unweighted FTE enrollment for group 2 programs. If the total reported unweighted FTE for group 2 is greater than the appropriated unweighted FTE, then the excess unweighted FTE up to the unweighted FTE transferred from group 2 to group 1 for each district by the Public School FTE Estimating Conference shall be funded at a weight of 1.0 and added to the funded weighted FTE computed in subparagraph 3. This adjustment shall be calculated beginning with the third calculation of the 1998-1999 FEFP.

(4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs shall be calculated as follows:

(a) Estimated taxable value calculations.—

1.a. Not later than 2 working days prior to July 19, the Department of Revenue shall certify to the Commissioner of Education its most recent estimate of the taxable value for school purposes in each school district and the total for all school districts in the state for the current calendar year based on the latest available data obtained from the local property appraisers. Not later than July 19, the commissioner shall compute a millage rate, rounded to the next highest one one-thousandth of a mill, which, when applied to 95 percent of the estimated state total taxable value for school purposes, would generate the prescribed aggregate required local effort for that year for all districts. The commissioner shall certify to each district school board the millage rate, computed as prescribed in this subparagraph, as the minimum millage rate necessary to provide the district required local effort for that year.

b. For the 1997-1998 fiscal year only, the General Appropriations Act may direct the computation of the statewide adjusted aggregate amount for required local effort for all school districts collectively from ad valorem taxes to ensure that no school district's revenue from required local effort millage will produce more than 90 percent of the district's total Florida Education Finance Program calculation, and the adjustment of the required local effort millage rate of each district that produces more than 90 percent of its total Florida Education Finance Program entitlement to a level that will produce only 90 percent of its total Florida Education Finance Program entitlement. This sub-subparagraph is repealed on July 1, 1998, unless enacted in other legislation.

2. As revised data are received from property appraisers, the Department of Revenue shall amend the certification of the estimate of the taxable value for school purposes. The Commissioner of Education, in administering the provisions of subparagraph *(9)*~~(10)~~(a)2., shall use the most recent taxable value for the appropriate year.

(b) Final calculation.—

1. The Department of Revenue shall, upon receipt of the official final assessed value of property from each of the property appraisers, certify to the commissioner the taxable value total for school purposes in each school district, subject to the provisions of paragraph (d). The commissioner shall use the official final taxable value for school purposes for each school district in the final calculation of the annual K-12 Florida Education Finance Program allocations.

2. For the purposes of this paragraph, the official final taxable value for school purposes shall be the taxable value for school purposes on which the tax bills are computed and mailed to the taxpayers, adjusted to reflect final administrative actions of value adjustment boards and judicial decisions pursuant to part I of chapter 194. By September 1 of each year, the Department of Revenue shall certify to the commissioner the official prior year final taxable value for school purposes. For each county that has not submitted a revised tax roll reflecting final value adjustment board actions and final judicial decisions, the Department of Revenue shall certify the most recent revision of the official taxable value for school purposes. The certified value shall be the final taxable value for school purposes and no further adjustments shall be made, except those made pursuant to subparagraph *(9)*~~(10)~~(a)2.

(8)~~(9)~~ QUALITY ASSURANCE GUARANTEE.—The Legislature may annually in the General Appropriations Act determine a percentage increase in funds per K-12 weighted FTE as a minimum guarantee to each school district. The guarantee shall be calculated from prior year base funding per weighted FTE student which shall include the adjusted FTE dollars as provided in subsection *(9)*~~(10)~~, quality guarantee funds, and actual nonvoted discretionary local effort from taxes. From the base funding per weighted FTE, the increase shall be calculated for the current year. The current year funds from which the guarantee shall be determined shall include the adjusted FTE dollars as provided in subsection *(9)*~~(10)~~ and potential nonvoted discretionary local effort from taxes. A comparison of current year funds per weighted FTE to prior year funds per weighted FTE shall be computed. For those school districts which have less than the legislatively assigned percentage increase, funds shall be provided to guarantee the assigned percentage increase in funds per weighted FTE student. Should appropriated funds be less than the sum of this calculated amount for all districts, the commissioner shall prorate each district's allocation. This provision shall be implemented to the extent specifically funded.

(9)~~(10)~~ TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT FOR CURRENT OPERATION.—The total annual state allocation to each district for current operation for the K-12 FEFP shall be distributed periodically in the manner prescribed in the General Appropriations Act.

(a) The basic amount for current operation for the K-12 FEFP as determined in subsection (1), multiplied by the district cost differential factor as determined in subsection (2), plus the amount for the sparsity supplement as determined in subsection (6), the decline in full-time equivalent students as determined in subsection (7), and the quality assurance guarantee as determined in subsection *(8)*~~(9)~~, less the required local effort as determined in subsection (4). If the funds appropriated for the purpose of funding the total amount for current operation as provided in this paragraph are not sufficient to pay the state requirement in full, the department shall prorate the available state funds to each district in the following manner:

1. Determine the percentage of proration by dividing the sum of the total amount for current operation, as provided in this paragraph for all districts collectively, and the total district required local effort into the sum of the state funds available for current operation and the total district required local effort.

2. Multiply the percentage so determined by the sum of the total amount for current operation as provided in this paragraph and the required local effort for each individual district.

3. From the product of such multiplication, subtract the required local effort of each district; and the remainder shall be the amount of state funds allocated to the district for current operation.

Section 18. Subsection (1) of section 236.25, Florida Statutes, is amended to read:

236.25 District school tax.—

(1) If the district school tax is not provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, each school board desiring to participate in the state allocation of funds for current operation as prescribed by s. 236.081*(9)*~~(10)~~ shall levy on the taxable value for school purposes of the district, exclusive of millage voted under the provisions of s. 9(b) or s. 12, Art. VII of the State Constitution, a millage rate not to exceed the amount certified by the commissioner as the minimum millage rate necessary to provide the district required local effort for the current year, pursuant to s. 236.081(4)(a)1. In addition to the required local effort millage levy, each school board may levy a nonvoted current operating discretionary millage. The Legislature shall prescribe annually in the appropriations act the maximum amount of millage a district may levy. The millage rate prescribed shall exceed zero mills but shall not exceed the lesser of 1.6 mills or 25 percent of the millage which is required pursuant to s. 236.081(4), exclusive of millage levied pursuant to subsection (2).

Section 19. Paragraph (c) of subsection (3) of section 229.57, Florida Statutes, is amended to read:

229.57 Student assessment program.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner is directed to design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools. The program must be designed, as far as possible, so as not to conflict with ongoing district assessment programs and so as to use information obtained from district programs. Pursuant to the statewide assessment program, the commissioner shall:

(c) Develop and implement a student achievement testing program as part of the statewide assessment program, to be administered at designated times at the elementary, middle, and high school levels to measure reading, writing, and mathematics. The testing program must be designed so that:

1. The tests measure student skills and competencies adopted by the state board as specified in paragraph (a). The tests must measure and report student proficiency levels in reading, writing, and mathematics. Other content areas may be included as directed by the commissioner. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators and the public.

2. The tests are criterion-referenced and include, to the extent determined by the commissioner, items that require the student to produce information or perform tasks in such a way that the skills and competencies he or she uses can be measured.

3. Each testing program, whether at the elementary, middle, or high school level, includes a test of writing in which students are required to produce writings which are then scored by appropriate methods.

4. A score is designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. All 11th grade students take a high school competency test developed by the state board to test minimum student performance skills and competencies in reading, writing, and mathematics. The test must be based on the skills and competencies adopted by the state board pursuant to paragraph (a). Upon recommendation of the commissioner, the state board shall designate a passing score for each part of the high school competency test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. *The commissioner may establish criteria whereby a student who successfully demonstrates proficiency in either reading or mathematics or both may be exempted from taking the corresponding section of the high school competency test or the college placement test.* A student must earn a passing score *or have been exempted from* ~~on~~ each part *of the high school competency test in order* ~~taken~~ to qualify for a regular high school diploma. The school districts shall provide appropriate remedial instruction to students who do not pass part of the competency test.

6. Participation in the testing program is mandatory for all students, except as otherwise prescribed by the commissioner. The commissioner shall recommend rules to the state board for the provision of test adaptations and modifications of procedures as necessary for students in exceptional education programs and for students who have limited English proficiency.

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

The commissioner may design and implement student testing programs for any grade level and subject area, based on procedures designated by the commissioner to monitor educational achievement in the state.

Section 20. Paragraph (d) of subsection (5) of section 24.121, Florida Statutes, is amended to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(5)

(d) ~~Beginning July 1, 1993,~~ No funds shall be released for any purpose from the Educational Enhancement Trust Fund to any school district in which one or more schools do not have an approved school improvement plan pursuant to s. 230.23(16).

Section 21. Paragraph (a) of subsection (1) of section 229.58, Florida Statutes, is amended to read:

229.58 District and school advisory councils.—

(1) ESTABLISHMENT.—

(a) The school board shall establish an advisory council for each school in the district, and shall develop procedures for the election and appointment of advisory council members. A majority of the members of each school advisory council must be persons who are not employed by the school board. Each advisory council shall be composed of the principal and an appropriately balanced number of teachers, education support employees, students, parents, and other business and community citizens who are representative of the ethnic, racial, and economic community served by the school.~~, provided that~~ Vocational-technical center and high school advisory councils shall include students, and middle and junior high school advisory councils may include students. *School advisory councils of vocational-technical and adult education centers are not required to include parents as members.* Council members representing teachers, education support employees, students, and parents shall be elected by their respective peer groups at the school in a fair and equitable manner as follows:

1. Teachers shall be elected by teachers.

2. Education support employees shall be elected by education support employees.

3. Students shall be elected by students.

4. Parents shall be elected by parents.

The school board shall establish procedures for use by schools in selecting business and community members. Such procedures shall include means of ensuring wide notice of vacancies and for taking input on possible members from local business, chambers of commerce, community and civic organizations and groups, and the public at large. The school board shall review the membership composition of each advisory council. Should the school board determine that the membership elected by the school is not representative of the ethnic, racial, and economic community served by the school, the board shall appoint additional members to achieve proper representation. Although schools should be strongly encouraged to establish school advisory councils, any school district that has a student population of 10,000 or fewer may establish a district advisory council which shall include at least one duly elected teacher from each school in the district. For the purposes of school advisory councils and district advisory councils, the term "teacher" shall include classroom teachers, certified student services personnel, and media specialists. For purposes of this paragraph, "education support employee" means any person employed by a school who is not defined as instructional or administrative personnel pursuant to s. 228.041 and whose duties require 20 or more hours in each normal working week.

Section 22. Paragraph (f) of subsection (3) of section 229.591, Florida Statutes, is amended to read:

229.591 Comprehensive revision of Florida's system of school improvement and education accountability.—

(3) EDUCATION GOALS.—The state as a whole shall work toward the following goals:

(f) Teachers and staff.—The schools, district, *all postsecondary institutions,* and state ensure professional teachers and staff.

Section 23. *Deregulated Public Schools.—*

(1) PILOT PROGRAM.—To provide public schools the same flexibility and accountability afforded charter schools, pilot programs for deregulated public schools shall be conducted in two large, two medium-sized, and two small school districts. For the 1998-1999 school year, no more than six schools per district, to include no more than two high schools, two middle schools, and two elementary schools, may participate in the flexibility program. The following districts are authorized to conduct pilot program in 1998-1999: Palm Beach, Pinellas, Seminole, Leon, Walton, and Citrus Counties.

(2) PURPOSE.—The purpose of the pilot program for deregulated public schools shall be to:

(a) Improve student learning.

(b) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as academically low achieving.

(c) Encourage the use of different and innovative learning methods.

(d) Increase choice of learning opportunities for students.

(e) Establish a new form of accountability for schools.

(f) Require the measurement of learning outcomes and create innovative measurement tools.

(g) Make the school the unit for improvement.

(h) Relieve schools of paperwork and procedures that are required by the state and the district for purposes other than health, safety, equal opportunity, fiscal accountability and documentation of student achievement.

(3) PROPOSAL.—

(a) A proposal to be a deregulated school must be developed by the school principal and the school advisory council. A majority of the members of the school advisory council must approve the proposal, and the principal and the school advisory council chairman must sign the proposal. At least 50 percent of the teachers employed at the school must approve the proposal. The school must conduct a survey to show parental support for the proposal.

(b) A district school board shall receive and review all proposals for a deregulated public school during July and August. A district school board must by a majority vote approve or deny a proposal no later than 30 days after the proposal is received. If a proposal is denied, the district school board must, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the proposal.

(c) The Department of Education may provide technical assistance to an applicant upon written request.

(d) The terms and conditions for the operation of a deregulated public school shall be set forth in the proposal. The school district shall not impose unreasonable rules or regulations that violate the intent of giving schools greater flexibility to meet educational goals.

(4) ELIGIBLE STUDENTS.—

(a) A deregulated school shall be open to all students residing in the school's attendance boundaries as determined by the school district.

(b) The deregulated public school shall have maximum flexibility to enroll students under the school district open enrolled plan.

(5) REQUIREMENTS.—Like other public schools, a deregulated public school shall:

(a) Be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) Not charge tuition or fees, except those fees normally charged by other public schools.

(c) Meet all applicable state and local health, safety, and civil rights requirements.

(d) Not violate the antidiscrimination provisions of s. 228.2001.

(e) Be subject to an annual financial audit in a manner similar to that of other public schools in the district.

(6) ELEMENTS OF THE PROPOSAL.—The major issues involving the operation of a deregulated public school shall be considered in advance and written into the proposal.

(a) The proposal shall address, and criteria for approval of the proposal shall be based, on:

1. The school's mission and the students to be served.

2. The focus of the curriculum, the instructional methods to be used, and any distinctive instructional techniques to be employed.

3. The current baseline standard of achievement and the outcomes to be achieved and the method of measurement that will be used.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the school. Students in deregulated and flexible public schools shall, at a minimum, participate in the statewide assessment program.

5. In secondary schools, a method for determining that a student has satisfied the requirements for graduation in s. 232.246.

6. A method for resolving conflicts between the school and the district.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct.

8. The ways by which the school's racial/ethnic balance reflects the community it serves or reflects the racial/ethnic range of other public schools in the same school district.

9. The financial and administrative management of the school including a statement of the areas in which the school will have administrative and fiscal autonomy and the areas in which the school will follow school district fiscal and administrative policies.

10. The manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

11. The qualifications to be required of the teachers.

(b) The school shall make annual progress reports to the district, which upon verification shall be forwarded to the Commissioner of Education at the same time as other annual school accountability reports. The report shall contain at least the following information:

1. The school's progress towards achieving the goals outlined in its proposal.

2. The information required in the annual school report pursuant to section 229.592, Florida Statutes.

3. Financial records of the school, including revenues and expenditures.

4. Salary and benefit levels of school employees.

(c) A school district shall ensure that the proposal is innovative and consistent with the state education goals established by section 229.591, Florida Statutes.

(d) Upon receipt of the annual report required by paragraph (b), the Department of Education shall provide to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives with a copy of each report and an analysis and comparison of the overall performance of students, to include all students in deregulated public schools whose scores are counted as part of the norm-referenced assessment tests, versus comparable public school students in the district as determined by norm-referenced assessment tests currently administered in the school district, and, as appropriate, the Florida Writes Assessment Test, the High School Competency Test, and other assessments administered pursuant to section 229.57(3), Florida Statutes.

(7) EXEMPTION FROM STATUTES.—

(a) A deregulated public school shall operate in accordance with its proposal and shall be exempt from all statutes of the Florida School Code, except those pertaining to civil rights and student health, safety, and welfare, or as otherwise required by this section. A deregulated public school shall not be exempt from the following statutes: chapter 119, relating to public records, and section 286.011, Florida Statutes, relating to public meetings and records, public inspection, and penalties. The school district, upon request of a deregulated public school, may apply to the Commissioner of Education for a waiver of provisions of chapters 230 through 239 which are applicable to deregulated public schools under this section, except that the provisions of chapters 236 or 237 shall not be eligible for waiver if the waiver would affect funding allocations or create inequity in public school funding. The commissioner may grant the waiver if necessary to implement the school program.

(b) Teachers employed by or under contract to a deregulated public school shall be certified as required by chapter 231. A deregulated public school may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as teacher aides in the same manner as defined in chapter 231. A deregulated public school may not employ an individual to provide instructional services or to serve as a teacher aide if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. The qualifications of teachers shall be disclosed to parents.

(c) A deregulated public school shall employ or contract with employees who have been fingerprinted as provided in section 231.02, Florida Statutes.

(8) REVENUE.—Students enrolled in a deregulated public school, shall be funded in a basic program or a special program, in the same manner as students enrolled in other public schools in the school district.

(9) LENGTH OF SCHOOL YEAR.—A deregulated public school shall provide instruction for at least the number of days required by law for other public schools, and may provide instruction for additional days.

(10) FACILITIES.—A deregulated public school shall utilize facilities which comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to section 235.26, Florida Statutes, or with applicable state minimum building codes pursuant to chapter 553 and state minimum fire protection codes pursuant to section 633.025, Florida Statutes, as adopted by the authority in whose jurisdiction the facility is located.

Section 24. *Section 231.613, Florida Statutes, is repealed.*

Section 25. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: An act relating to education; amending s. 231.02, F.S., relating to qualifications of district school system personnel; deleting certain provisions relating to background check; amending s. 231.096, F.S.; revising provisions relating to teaching out-of-field; amending s. 231.15, F.S.; providing State Board of Education duties relating to teacher certification; amending s. 231.17, F.S.; revising provisions relating to qualification for a temporary certificate; amending s. 231.1725, F.S.; deleting provisions relating to employment of noncertificated teachers in critical teacher shortage areas; amending s. 231.261, F.S.; providing rulemaking authority of the Education Practices Commission; amending s. 231.263, F.S.; clarifying provisions relating to the recovery network program for educators; amending s. 231.47, F.S.; conforming a cross-reference; amending s. 231.546, F.S., relating to the Education Standards Commission; deleting duties relating to teacher education centers; amending s. 231.600, F.S.; revising requirements of the school district professional development system; amending s. 231.625, F.S.; deleting provisions relating to a teacher referral and recruitment center; requiring establishment of a teacher recruitment and retention services office; amending s. 231.6255, F.S.; revising provisions relating to the Christa McAuliffe Ambassador for Education Program; creating s. 231.63, F.S.; creating the Florida Educator Hall of Fame; providing for nominations, recommendations, and selection of members; amending s. 20.15, F.S.; creating additional divisions of the Department of Education; amending s. 231.262, F.S.; providing a show-cause process for violations of probation imposed by the Education Practices Commission; amending s. 231.28, F.S.; providing a show-cause process for violation of an order of the Education Practices Commission; providing authority for additional penalties; amending s. 236.081, F.S.; providing for a supplemental capping calculation for those districts whose weighted FTE enrollment is over the

weighted FTE ceiling established in the annual appropriations act; providing a procedure for such calculation; repealing s. 236.081(8), F.S., which provides for a caps adjustment supplement for group 2 programs when there are funds remaining in the Florida Education Finance Program appropriation; amending s. 236.25, F.S.; conforming a cross-reference; amending s. 229.57, F.S.; authorizing the Commissioner of Education to establish criteria for exempting a student from taking certain parts of the high school competency test; repealing s. 231.613, F.S., relating to inservice training institutes; amending s. 24.121, F.S.; deleting obsolete provisions; amending s. 229.58, F.S.; revising provisions governing the membership of school advisory councils; amending s. 229.591, F.S.; revising education goals with respect to postsecondary institutions; creating pilot programs for deregulated public schools in a maximum of six counties; providing an effective date.

On motion by Senator Cowin, by two-thirds vote **HB 4837** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Consideration of **CS for SB's 312 and 2298** was deferred.

CS for HB 4027—A bill to be entitled An act relating to regional water supply authorities; amending s. 120.52, F.S.; providing that a member government is not considered a party in administrative proceedings under certain conditions; amending s. 373.1963, F.S.; revising criteria for governance of the West Coast Regional Water Supply Authority and its member governments under interlocal agreements; declaring legislative intent to supersede other laws; repealing s. 373.1963(5), F.S., relating to a process for review of a consumptive use permit; amending s. 682.02, F.S.; providing for the arbitration of certain controversies concerning water use; amending s. 768.28, F.S.; allowing an authority to indemnify its member governments; providing an effective date.

—was read the third time by title.

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

Amendment 1 (with title amendment)—On page 10, between lines 2 and 3, insert:

Section 5. *(1)(a) The Miami River Commission is hereby established as the official coordinating clearinghouse for all public policy and projects related to the Miami River to unite all governmental agencies, businesses, and residents in the area to speak with one voice on river issues, to develop coordinated plans, priorities, programs, projects, and budgets that might substantially improve the river area, and to act as the principal advocate and watchdog to ensure that river projects are funded and implemented in a proper and timely manner.*

(b) The commission may seek and receive funding to further its coordinating functions regarding river improvement projects of the commission. Nothing in this act affects or supersedes the regulatory authority of any governmental agency or any local government and any responsibilities of any governmental entity relating to the Miami River shall remain with such respective governmental entity. However, the commission may accept any specifically defined coordinating authority or functions delegated to the commission by any governmental entity, through a memorandum of understanding or other legal instrument. The commission shall use powers of persuasion to achieve its objectives through the process of building a consensus work plan and through widespread publication of regular progress reports.

(2) The Miami River Commission shall consist of:

(a) A policy committee comprised of the Governor, the chair of the Dade delegation, the chair of the governing board of the South Florida Water Management District, the Miami-Dade County State Attorney, the Mayor of Miami, the Mayor of Miami-Dade County, a commissioner of the City of Miami Commission, a commissioner of the Miami-Dade County Commission, the chair of the Miami River Marine Group, the chair of the Marine Council, the Executive Director of the Downtown Development Authority, and the chair of the Greater Miami Chamber of Commerce; two neighborhood representatives, selected from the Spring Garden Neighborhood Association, the Grove Park Neighborhood Association, and the Miami River Neighborhood Enhancement Corporation, one neighborhood representative to be appointed by the city commission and one neighborhood representative to be appointed by the county commission, each selected from a list of 3 names submitted by each such organization; one representative from an environmental or civic association, appointed by the Governor; and three members-at-large, who shall be persons who have a demonstrated history of involvement on the Miami River through business, residence, or volunteer activity, one appointed by the Governor, one appointed by the city commission, and one appointed by the county commission. All members shall be voting members. The committee shall also include a member of the United States Congressional delegation and the Captain of the Port of Miami as a representative of the United States Coast Guard, as nonvoting, ex officio members. The policy committee may meet monthly, but shall meet at least quarterly.

(b) A managing director who has the responsibility to implement plans and programs.

(c) A working group consisting of all governmental agencies that have jurisdiction in the Miami River area, as well as representatives from business and civic associations.

(3) The policy committee shall have the following powers and duties:

(a) Consolidate existing plans, programs, and proposals into a coordinated strategic plan for improvement of the Miami River and surrounding areas, addressing environmental, economic, social, recreational, and aesthetic issues. The committee shall monitor the progress on each element of such plan and shall revise the plan regularly.

(b) Prepare an integrated financial plan using the different jurisdictional agencies available for projected financial resources. The committee shall monitor the progress on each element of such plan and revise the plan regularly.

(c) Provide technical assistance and political support as needed to help implement each element of the strategic and financial plans.

(d) Accept any specifically defined coordinating authority or function delegated to the committee by any level of government through a memorandum of understanding or other legal instrument.

(e) Publicize a semiannual report describing accomplishments of the commission and each member agency, as well as the status of each pending task. The committee shall distribute the report to the City and County Commissions and Mayors, the Governor, chair of the Dade County delegation, stakeholders and the local media.

(f) Seek grants from public and private sources and receive grant funds to provide for the enhancement of its coordinating functions and activities and administer contracts that achieve these goals.

(g) Coordinate a joint planning area agreement between the Department of Community Affairs, the city, and the county under the provisions of s. 163.3177(11)(a),(b), and (c), Florida Statutes.

(h) Provide a forum for exchange of information and facilitate the resolution of conflicts.

(i) Act as a clearinghouse for public information and conduct public education programs.

(j) Establish the Miami River working group, appoint members to the group, and organize subcommittees, delegate tasks, and seek council from

members of the working group as necessary to carry out the powers and duties listed in this subsection.

(k) Elect officers and adopt rules of procedure as necessary to carry out the powers and duties listed above and solicit appointing authorities to name replacements for policy committee members who do not participate on a regular basis.

(l) Hire the managing director, who shall be authorized to represent the commission and to implement all policies, plans, and programs of the commission. The committee shall employ any additional staff necessary to assist the managing director.

Section 6. *(1) No item, motion, directive, or policy position that would impact or in any way diminish levels of currently permitted commercial activity on the Miami River or riverfront properties shall be adopted by the Miami River Commission unless passed by a unanimous vote of the appointed members of the commission then in office.*

(2) No item, motion, directive, or policy position suggesting, proposing, or otherwise promoting additional taxes, fees, charges, or any other financial obligation on owners of riverfront property or shipping companies or operators shall be adopted by the Miami River Commission unless passed by a unanimous vote of all appointed members of the commission then in office.

Section 7. *The Miami River Commission shall terminate July 1, 2003, unless the Legislature, in a review of the creation, operation, and accomplishments of the Miami River Commission during the 2003 Regular Session, determines that the commission should be continued and reenacts provisions providing for its continuation.*

And the title is amended as follows:

On page 1, line 18, insert: prohibiting the adoption of certain actions by the commission unless by a required minimum vote; providing for future termination of the commission pending legislative review of reenactment;

On motion by Senator Latvala, **CS for HB 4027** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Lee

CS for SB 190—A bill to be entitled An act relating to worthless checks; creating s. 832.09, F.S.; providing for the suspension of a driver's license with respect to certain persons who do not fulfill an agreement for a bad check diversion program or against whom a warrant or capias is issued in a worthless check case; amending s. 322.251, F.S.; providing for notification; providing for conditions for reinstatement; providing a fee; directing the Department of Highway Safety and Motor Vehicles and the Department of Law Enforcement to develop and implement a plan; amending s. 322.142, F.S.; allowing the Department of Highway Safety and Motor Vehicles to sell copies of certain records of the department; creating s. 832.10, F.S.; providing for the use of private debt collectors; providing an effective date.

—as amended April 27 was read the third time by title.

Amendments were considered and adopted to conform **CS for SB 190** to **HB 3275**.

Pending further consideration of **CS for SB 190** as amended, on motion by Senator McKay, by two-thirds vote **HB 3275** was withdrawn from the Committees on Transportation; and Ways and Means.

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

HB 3275—A bill to be entitled An act relating to worthless checks; creating s. 832.09, F.S.; providing for the suspension of a driver's license with respect to certain persons against whom a warrant or capias is issued in a worthless check case; creating s. 832.10, F.S.; providing for the state attorney to use a private debt collector or independent contractor for 90 days to collect worthless checks; providing for the case to be referred back to the state attorney if the worthless check is not collected in the time allowed; creating s. 832.10, F.S.; providing an alternative to the bad check diversion program; providing fees for collection; amending s. 322.251, F.S.; providing for notification; providing for conditions for reinstatement; providing a fee; directing the Department of Highway Safety and Motor Vehicles and the Department of Law Enforcement to develop and implement a plan; amending s. 322.142, relating to records of the Department of Highway Safety and Motor Vehicles; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for SB 190** as amended and by two-thirds vote read the second time by title.

Senator Crist moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 5, between lines 29 and 30, insert:

Section 6. Subsection (3) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(3)(a) Except as otherwise provided in this section, $60 for all moving violations not requiring a mandatory appearance.

(b) For moving violations involving unlawful speed, the fines are as follows:

For speed exceeding the limit by:	Fine:
1-5 m.p.h	*Warning*
6-9 ~~1-9~~ m.p.h.	$ 25
10-14 m.p.h.	$100
15-19 m.p.h.	$125
20-29 m.p.h.	$150
30 m.p.h. and above	$250

(c) *Notwithstanding paragraph (b),* a person cited for exceeding the speed limit *by up to 5 m.p.h.* in a legally posted school zone *will be fined $50. A person exceeding the speed limit in a school zone will be assessed a fine double the amount listed in paragraph (b).*

(d) A person cited for exceeding the speed limit in ~~or~~ a posted construction zone will be assessed a fine double the amount listed in paragraph (b). *The fine shall be doubled for construction zone violations only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction.*

(e)~~(d)~~ If a violation of s. 316.1301 or s. 316.1303 results in an injury to the pedestrian or damage to the property of the pedestrian, an additional fine of up to $250 must be assessed. This amount must be distributed pursuant to s. 318.21.

Section 7. Subsection (3) of section 320.07, Florida Statutes, is amended to read:

320.07 Expiration of registration; annual renewal required; penalties.—

(3) The operation of any motor vehicle without having attached thereto a registration license plate and validation stickers, or the use of any mobile home without having attached thereto a mobile home sticker, for the current registration period shall subject the owner thereof, if he or she is present, or, if the owner is not present, the operator thereof to the following penalty provisions:

(a) Any person whose motor vehicle or mobile home registration has been expired for a period of 6 months or less shall be subject to the penalty provided in s. 318.14.

(b) Any person whose motor vehicle or mobile home registration has been expired for more than 6 months shall upon a first offense be subject to the penalty provided in s. 318.14.

(c)~~(b)~~ Any person whose motor vehicle or mobile home registration has been expired for more than 6 months *shall upon a second or subsequent offense be* ~~is~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d)~~(c)~~ However, no operator shall be charged with a violation of this subsection if the operator can show, pursuant to a valid lease agreement, that the vehicle had been leased for a period of 30 days or less at the time of the offense.

Section 8. Subsections (1) and (2) of section 322.26, Florida Statutes, are amended to read:

322.26 Mandatory revocation of license by department.—The department shall forthwith revoke the license or driving privilege of any person upon receiving a record of such person's conviction of any of the following offenses:

(1)*(a) Murder resulting from the operation of a motor vehicle, DUI manslaughter where the conviction represents a subsequent DUI-related conviction, or a fourth violation of s. 316.193 or former s. 316.1931. For such cases, the revocation of the driver's license or driving privilege shall be permanent.*

(b) Manslaughter resulting from the operation of a motor vehicle.

(2) Driving a motor vehicle or being in actual physical control thereof, or entering a plea of nolo contendere, said plea being accepted by the court and said court entering a fine or sentence to a charge of driving, while under the influence of alcoholic beverages or a substance controlled under chapter 893, or being in actual physical control of a motor vehicle while under the influence of alcoholic beverages or a substance controlled under chapter 893. In any case where DUI manslaughter occurs *and the person has no prior convictions for DUI-related offenses,* the revocation of the license or driving privilege shall be permanent, except as provided for in s. 322.271(4).

Section 9. Paragraph (b) of subsection (1) and subsection (4) of section 322.271, Florida Statutes, are amended to read:

322.271 Authority to modify revocation, cancellation, or suspension order.—

(1)

(b) A person whose driving privilege has been revoked under s. 322.27(5) may, upon expiration of 12 months from the date of such revocation, petition the department for *reinstatement* ~~restoration~~ of his or her driving privilege. Upon such petition and after investigation of the person's qualification, fitness, and need to drive, the department shall hold a hearing pursuant to chapter 120 to determine whether the driving privilege shall be *reinstated* ~~restored~~ on a restricted basis solely for business or employment purposes.

(4) Notwithstanding the provisions of s. 322.28(2)(e), a person whose driving privilege has been permanently revoked because he or she ~~has been convicted four times of violating s. 316.193 or former s. 316.1931 or because he or she~~ has been convicted of DUI manslaughter in violation of s. 316.193 *and has no prior convictions for DUI-related offenses* may, upon the expiration of 5 years after the date of such revocation or the expiration of 5 years after the termination of any term of incarceration under s. 316.193 or former s. 316.1931, whichever date is later, petition the department for reinstatement of his or her driving privilege.

(a) Within 30 days after the receipt of such a petition, the department shall afford the petitioner an opportunity for a hearing. At the hearing, the petitioner must demonstrate to the department that he or she:

1. Has not been arrested for a drug-related offense during the 5 years preceding the filing of the petition;

2. Has not driven a motor vehicle without a license for at least 5 years prior to the hearing;

3. Has been drug-free for at least 5 years prior to the hearing; and

4. Has completed a DUI program licensed by the department.

(b) At such hearing, the department shall determine the petitioner's qualification, fitness, and need to drive. Upon such determination, the department may, in its discretion, reinstate the driver's license of the petitioner. Such reinstatement must be made subject to the following qualifications:

1. The license must be restricted for employment purposes for not less than 1 year; and

2. Such person must be supervised by a DUI program licensed by the department and report to the program for such supervision and education at least four times a year or additionally as required by the program for the remainder of the revocation period. Such supervision shall include evaluation, education, referral into treatment, and other activities required by the department.

(c) Such person must assume the reasonable costs of supervision. If such person fails to comply with the required supervision, the program shall report the failure to the department, and the department shall cancel such person's driving privilege.

(d) If, after reinstatement, such person is convicted of an offense for which mandatory revocation of his or her license is required, the department shall revoke his or her driving privilege.

(e) The department shall adopt rules regulating the providing of services by DUI programs pursuant to this section.

Section 10. Paragraph (e) of subsection (2) of section 322.28, Florida Statutes, is amended, present subsections (3), (4), (6), and (8) of that section are redesignated as subsections (4), (5), (7), and (9), respectively, present subsection (5) of that section is redesignated as subsection (6) and amended, and a new subsection (3) is added to that section, to read:

322.28 Period of suspension or revocation.—

(2) In a prosecution for a violation of s. 316.193 or former s. 316.1931, the following provisions apply:

(e) The court shall permanently revoke the driver's license or driving privilege of a person who has been convicted four times for violation of s. 316.193 or former s. 316.1931 or a combination of such sections. The court shall permanently revoke the driver's license or driving privilege of any person who has been convicted of DUI manslaughter in violation of s. 316.193. If the court has not permanently revoked such *driver's* license or *driving* privilege within 30 days after imposing sentence, the department shall permanently revoke the *driver's* license or *driving* privilege pursuant to this paragraph. No driver's license or driving privilege may be issued or granted to any such person. This paragraph applies only if at least one of the convictions for violation of s. 316.193 or former s. 316.1931 was for a violation that occurred after July 1, 1982. For the purposes of this paragraph, a conviction for violation of former s. 316.028, former s. 316.1931, or former s. 860.01 is also considered a conviction for violation of s. 316.193. Also, a conviction of driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, or any other similar alcohol-related or drug-related traffic offense outside this state is considered a conviction for the purposes of this paragraph.

(3) The court shall permanently revoke the driver's license or driving privilege of a person who has been convicted of murder resulting from the operation of a motor vehicle. No driver's license or driving privilege may be issued or granted to any such person.

(4)~~(3)~~ Upon the conviction of a person for a violation of s. 322.34, the license or driving privilege, if suspended, shall be suspended for 3 months in addition to the period of suspension previously imposed and, if revoked, the time after which a new license may be issued shall be delayed 3 months.

(5)~~(4)~~ If, in any case arising under this section, a licensee, after having been given notice of suspension or revocation of his or her license

in the manner provided in s. 322.251, fails to surrender to the department a license theretofore suspended or revoked, as required by s. 322.29, or fails otherwise to account for the license to the satisfaction of the department, the period of suspension of the license, or the period required to elapse after revocation before a new license may be issued, shall be extended until, and shall not expire until, a period has elapsed after the date of surrender of the license, or after the date of expiration of the license, whichever occurs first, which is identical in length with the original period of suspension or revocation.

(6)~~(5)~~(a) Upon a conviction for a violation of s. 316.193(3)*(c)2., involving serious bodily injury*, a conviction of manslaughter resulting from the operation of a motor vehicle, or a conviction of vehicular homicide, the court shall revoke the driver's license of the person convicted for a minimum period of 3 years ~~if death to any other person resulted from the operation of a motor vehicle by such driver~~. *In the event that a conviction under s. 316.193(3)(c)2., involving serious bodily injury, is also a subsequent conviction as described under paragraph (2)(a), the court shall revoke the driver's license or driving privilege of the person convicted for the period applicable as provided in paragraph (2)(a) or paragraph (2)(e).*

(b) If the period of revocation was not specified by the court at the time of imposing sentence or within 30 days thereafter, the department shall revoke the driver's license for the minimum period applicable under paragraph (a) or, for a subsequent conviction, for the minimum period applicable under paragraph (2)(a) or paragraph (2)(e).

(7)~~(6)~~ No administrative suspension of a driving privilege under s. 322.2615 shall be stayed upon a request for review of the departmental order that resulted in such suspension and, except as provided in former s. 322.261, no suspension or revocation of a driving privilege shall be stayed upon an appeal of the conviction or order that resulted therein.

(8)~~(7)~~ In a prosecution for a violation of s. 316.172(1), and upon a showing of the department's records that the licensee has received a second conviction within a period of 5 years from the date of a prior conviction of s. 316.172(1), the department shall, upon direction of the court, suspend the driver's license of the person convicted for a period of not less than 90 days nor more than 6 months.

Section 11. Section 322.283, Florida Statutes, is created to read:

322.283 Commencement of period of suspension or revocation for incarcerated offenders.—

(1) When the court in a criminal traffic case orders the defendant to serve a term of incarceration or imprisonment and also suspends or revokes the defendant's driver's license as a result of the offense, the period of suspension or revocation shall commence upon the defendant's release from incarceration. For purposes of calculating the defendant's eligibility for reinstatement of his or her driver's license or driving privilege under this section, the date of the defendant's release from incarceration shall be deemed the date the suspension or revocation period was imposed.

(2) For defendants convicted of a criminal traffic offense and sentenced to imprisonment with the Department of Corrections, the Department of Corrections shall notify the Department of Highway Safety and Motor Vehicles of the date of the defendant's release from prison or other state correctional facility. For defendants convicted of a criminal traffic offense and sentenced to incarceration within the jurisdictional county jail or other correctional facility operated by the jurisdictional county, the sheriff of the jurisdictional county wherein the defendant is incarcerated shall notify the Department of Highway Safety and Motor Vehicles of the date of the defendant's release from the county jail or other correctional facility. The notification of a defendant's release from incarceration shall be on a form approved by the Department of Highway Safety and Motor Vehicles. This subsection applies only to those defendants who have had their driver's license or driving privilege suspended or revoked as a result of the offense for which they are incarcerated or imprisoned.

Section 12. Subsection (2) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(2) Any person whose driver's license or driving privilege has been canceled, suspended, or revoked as provided by law, except persons defined in s. 322.264, who, knowing of such cancellation, suspension, or revocation, drives any motor vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked, upon:

(a) A first conviction is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A second conviction is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A third or subsequent conviction is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The element of knowledge is satisfied if the person has been previously cited as provided in subsection (1); or the person admits to knowledge of the cancellation, suspension, or revocation; or the person received notice as provided in subsection (4). *There shall be a rebuttable presumption that the knowledge requirement is satisfied if a judgment or order as provided in subsection (4) appears in the department's records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.*

Section 13. Section 322.341, Florida Statutes, is created to read:

322.341 Driving while license permanently revoked.—Any person whose driver's license or driving privilege has been permanently revoked pursuant to s. 322.26 or s. 322.28 and who drives a motor vehicle upon the highways of this state is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 14. Effective July 1, 2000, subsections (6) and (7) of section 627.733, Florida Statutes, are amended to read:

627.733 Required security.—

(6) The Department of Highway Safety and Motor Vehicles shall suspend, after due notice and an opportunity to be heard, the registration ~~and driver's license~~ of any owner or registrant of a motor vehicle with respect to which security is required under this section and s. 324.022:

(a) Upon its records showing that the owner or registrant of such motor vehicle did not have in full force and effect when required security complying with the terms of this section; or

(b) Upon notification by the insurer to the Department of Highway Safety and Motor Vehicles, in a form approved by the department, of cancellation or termination of the required security.

(7)(a) Any operator or owner whose ~~driver's license or~~ registration has been suspended pursuant to this section or s. 316.646 may effect its reinstatement upon compliance with the requirements of this section and upon payment to the Department of Highway Safety and Motor Vehicles of a nonrefundable reinstatement fee of $150 for the first reinstatement. Such reinstatement fee shall be $250 for the second reinstatement and $500 for each subsequent reinstatement during the 3 years following the first reinstatement. Any person reinstating her or his insurance under this subsection must also secure noncancelable coverage as described in s. 627.7275(2) and present to the appropriate person proof that the coverage is in force on a form promulgated by the Department of Highway Safety and Motor Vehicles, such proof to be maintained for 2 years. If the person does not have a second reinstatement within 3 years after her or his initial reinstatement, the reinstatement fee shall be $150 for the first reinstatement after that 3-year period. ~~In the event that a person's license and registration are suspended pursuant to this section or s. 316.646, only one reinstatement fee shall be paid to reinstate the license and the registration.~~ All fees shall be collected by the Department of Highway Safety and Motor Vehicles at the time of reinstatement. The Department of Highway Safety and Motor Vehicles shall issue proper receipts for such fees and shall promptly deposit those fees in the Highway Safety Operating Trust Fund. One-third of the fee collected under this subsection shall be distributed from the Highway Safety Operating Trust Fund to the local government entity or state agency which employed the law enforcement officer or the recovery agent who seizes a license plate pursuant to s. 324.201 or to s. 324.202. Such funds may be used by the local government entity or state agency for any authorized purpose.

(b) One-third of the fee collected for the seizure of a license plate by a recovery agent shall be paid to the recovery agent, and the balance

shall remain in the Highway Safety Operating Trust Fund and be distributed pursuant to s. 321.245.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 24, delete "providing an effective date." and insert: amending s. 318.18, F.S.; rescinding the fine for speeds exceeding the limit by 1-5 m.p.h. and replacing the fine with a warning; providing that fines for construction zone speed violations shall be doubled only under certain circumstances; amending s. 320.07, F.S.; revising penalties for expiration of registration; amending s. 322.26, F.S.; providing for permanent revocation of a driver's license for murder resulting from the operation of a motor vehicle, DUI manslaughter where the conviction represents a subsequent DUI-related conviction, or four or more DUI violations; amending s. 322.271, F.S.; providing for petition for reinstatement under certain circumstances; amending s. 322.28, F.S.; revising provisions with respect to the period of suspension or revocation; conforming current provisions to the act; creating s. 322.283, F.S.; providing for the commencement of the period of suspension or revocation for incarcerated offenders; providing for notification to the Department of Highway Safety and Motor Vehicles; amending s. 322.34, F.S.; providing that the element of knowledge with respect to the suspension, revocation, cancellation, or disqualification is satisfied when certain notice is sent; creating s. 322.341, F.S.; providing penalties for driving while a license is permanently revoked; amending s. 627.733, F.S.; deleting a provision for revoking the driver's license of an owner or registrant of a motor vehicle who does not provide required security for that vehicle; providing effective dates.

On motion by Senator McKay, by two-thirds vote **HB 3275** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

CS for CS for HB 4141—A bill to be entitled An act relating to water resources; creating s. 373.45923, F.S.; providing legislative findings and intent; authorizing the South Florida Water Management District to participate as local sponsor for the Restudy of the Central and Southern Florida Project; providing duties of the Joint Legislative Committee on Everglades Oversight; providing for public hearings; providing reporting requirements; providing for project cooperation agreements; providing for legislative authorization; providing an effective date.

—was read the third time by title.

On motion by Senator Laurent, **CS for CS for HB 4141** was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—1

Forman

Vote after roll call:

Yea—Gutman

CS for SB's 312 and 2298—A bill to be entitled An act relating to water resource management; amending s. 373.016, F.S.; providing legislative policy relating to state and regional water resource management; encouraging use of water from sources nearest the area of need; providing an exception; amending s. 373.196, F.S.; clarifying legislative intent that water resource development is a function of the water management districts; amending s. 373.1962, F.S.; providing an exemption for water supply authorities under certain circumstances from certain factors for consumptive use permits; amending s. 373.223, F.S.; directing the Department of Environmental Protection or water management district governing board to consider certain factors when determining the public interest for the transport and use of water across county boundaries or outside the watershed; amending s. 373.229, F.S.; requiring additional information in permit applications for proposed transport and use of water pursuant to s. 373.223(2), F.S.; reenacting s. 373.536(5)(c), F.S.; clarifying intent with respect to language inadvertently omitted by legislative action; amending ss. 373.036, 373.209, 373.226, 373.421, F.S.; correcting cross-references; providing an effective date.

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

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

Amendment 1—On page 5, line 17, delete "*(a)*" and insert: *(b)*

Amendment 2—On page 2, line 25, delete "*(f)*" and insert: *(g)*

Amendment 3—On page 4, line 1, delete "*(f)*" and insert: *(g)*

Amendment 4—On page 4, line 29, delete "*paragraph (c)*" and insert: *subsection (1)(c)*

On motion by Senator Brown-Waite, **CS for SB's 312 and 2298** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

CS for SB 2542—A bill to be entitled An act relating to wastewater treatment systems; amending s. 381.0065, F.S.; revising guidelines and procedures for granting variances for such systems; revising membership of the department's variance review and advisory committee; providing criteria for use of guttering; amending s. 381.0068, F.S.; revising duties and procedures of the department's technical review and advisory panel; providing an effective date.

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

An amendment was considered and adopted to conform **CS for SB 2542** to **HB 4475**.

Pending further consideration of **CS for SB 2542** as amended, on motion by Senator Laurent, by two-thirds vote **HB 4475** was withdrawn from the Committees on Community Affairs and Health Care.

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

HB 4475—A bill to be entitled An act relating to wastewater treatment systems; amending s. 381.0064, F.S., relating to continuing education courses for persons installing or servicing septic tanks; amending s. 381.0065, F.S.; revising guidelines and procedures for granting variances for such systems; revising membership of the department's variance review and advisory committee; providing criteria for use of guttering; amending s. 381.0068, F.S.; revising duties and procedures of the department's technical review and advisory panel; providing an effective date.

—a companion measure, was substituted for **CS for SB 2542** as amended and by two-thirds vote read the second time by title. On motion by Senator Laurent, by two-thirds vote **HB 4475** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

CS for SB 2060—A bill to be entitled An act relating to the Legal Immigrant's Temporary Income Bridge Program; amending s. 10, ch. 97-259, Laws of Florida; providing that unused program funds for the current fiscal year may be used for food stamps for legal immigrants who are in the naturalization and citizenship process or in the process of seeking an exemption thereto and who are children, recipients of Supplemental Security Income, or persons of a specified age; providing an appropriation; providing an effective date.

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

On motion by Senator Gutman, **CS for SB 2060** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

THE PRESIDENT PRESIDING

On motion by Senator Burt, by two-thirds vote **CS for HB 4135** was withdrawn from the Committees on Education; and Ways and Means.

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

CS for HB 4135—A bill to be entitled An act relating to education; authorizing the creation of charter technical career centers; prescribing powers and duties of the Commissioner of Education, the Department of Education, participating district school boards, and community college district boards of trustees, with respect to charter technical career centers; prescribing powers and duties of charter technical career centers and their boards of directors; providing for funding; prescribing rights and duties of employees of centers and of district school board employees and community college employees working at charter technical career centers; providing for revocation of a charter; providing for rules; amending s. 121.021, F.S.; redefining the terms "covered group" and "employer" with respect to the Florida Retirement System to include charter technical career centers; amending s. 121.051, F.S.; providing for optional participation in the Florida Retirement System by employees of charter technical career centers; amending s. 121.1122, F.S.; including charter technical career centers with a group for the purchase of certain retirement credit; amending s. 236.081, F.S.; providing for calculating changes in school district funding resulting from a drop in enrollment based on student transfers to a charter technical career center; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for SB 2074** and by two-thirds vote read the second time by title. On motion by Senator Burt, by two-thirds vote **CS for HB 4135** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

SPECIAL ORDER CALENDAR, continued

On motion by Senator Scott, by two-thirds vote **HB 4785** was withdrawn from the Committees on Regulated Industries; and Ways and Means.

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

HB 4785—A bill to be entitled An act relating to telecommunications services; amending s. 364.025, F.S.; providing duties and responsibilities of the Florida Public Service Commission to assist the Legislature in establishing a permanent universal service mechanism; requiring the commission to select a cost proxy model; providing for the calculation of small local exchange companies' costs to provide basic service; providing legislative determinations; directing the commission to make recommendations relating to fair and reasonable basic local telecommunications service rates; providing criteria; requiring a report to the Legislature; requiring local exchange companies to provide certain information to the commission; requiring the provision of discounted rates for services for certain subscribers; amending s. 364.163, F.S.; providing a cap for certain rates; requiring reductions in certain rates; providing legislative findings; requiring the commission to study the provision of telecommunications service to multi-tenant environments; requiring a report to the Legislature; requiring the commission to conduct workshops; requiring the commission to consider promotion of a competitive telecommunications market to end users; providing duties of the Public Service Commission relating to its consumer education program; creating part III of chapter 364, F.S.; providing a short title; providing definitions; requiring the commission to adopt rules to prevent unauthorized changing of certain services; providing requirements; providing requirements for billing practices; amending s. 364.051, F.S.; delaying the date for removing the cap on certain rates; amending s. 364.161, F.S.; requiring local exchange telecommunications companies to timely provide certain services; requiring the commission to maintain a file of certain complaints; requiring inclusion of certain information in the commission's annual report to the Legislature on competition; amending ss. 166.231 and 203.01, F.S.; requiring the Public Service Commission to publish certain rates for commonly used services; amending s. 364.02, F.S.; revising a definition; amending s. 364.336, F.S.; providing for deducting certain amounts from gross operating revenues for certain purposes; amending s. 364.337, F.S.; requiring provision of 911 service at certain levels; subjecting intrastate interexchange telecommunications companies to certain access to records provisions; deleting provisions relating to certain deductions from gross operating revenues; amending s. 364.339,

F.S.; including residential tenants in shared tenant service provisions; providing an appropriation; providing effective dates.

—a companion measure, was substituted for **CS for SB 640** and by two-thirds vote read the second time by title.

Senator Forman moved the following amendment which failed:

Amendment 1—On page 8, line 10, after the period (.) insert: *The Public Service Commission is directed to determine, after notice and an opportunity for hearing, whether or not charges for intrastate switched access and other services are set above costs and whether or not such charges are providing an implicit subsidy of residential basic local telecommunications service rates in this state.*

SENATOR BANKHEAD PRESIDING

On motion by Senator Scott, by two-thirds vote **HB 4785** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bronson	Dyer	Kirkpatrick	Rossin
Brown-Waite	Forman	Klein	Scott
Burt	Geller	Kurth	Silver
Campbell	Grant	Latvala	Sullivan
Casas	Gutman	Laurent	Thomas
Childers	Hargrett	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	
Crist	Horne	Myers	
Dudley	Jones	Ostalkiewicz	

Nays—None

Consideration of **CS for SB 336** and **CS for SB 440** was deferred.

SB 1950—A bill to be entitled An act relating to retirement; amending s. 121.1122, F.S.; authorizing members of the Florida Retirement System to purchase credit for certain in-state service in nonpublic educational institutions; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendment:

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

Section 1. Paragraph (d) is added to subsection (3), paragraph (e) is added to subsection (8), and subsection (9) of section 112.363, Florida Statutes, is amended, to read:

112.363 Retiree health insurance subsidy.—

(3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

(d) Beginning January 1, 1999, each eligible retiree or, if the retiree is deceased, his or her beneficiary who is receiving a monthly benefit from such retiree's account and who is a spouse, or a person who meets the definition of joint annuitant in s. 121.021(28), shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by $5; however, no eligible retiree or such beneficiary may receive a subsidy payment of more than $150 or less than $50. If there are multiple beneficiaries, the total payment must not be greater than the payment to which the retiree was entitled.

(8) CONTRIBUTIONS.—For purposes of funding the insurance subsidy provided by this section:

(e) Beginning July 1, 1998, the employer of each member of a state-administered retirement plan shall contribute 0.94 percent of gross compensation each pay period. Such contributions shall be submitted to the Division of Retirement and deposited in the Retiree Health Insurance Subsidy Trust Fund.

(9) BENEFITS.—Subsidy payments shall be payable under the retiree health insurance subsidy program only to participants in the program or their beneficiaries, *beginning with the month the division receives certification of coverage for health insurance for the eligible retiree or beneficiary. If the division receives such certification at any time during the 6 months after retirement benefits commence, the retiree health insurance subsidy shall be paid retroactive to the effective retirement date. If, however, the division receives such certification 7 or more months after commencement of benefits, the retroactive retiree health insurance subsidy payment will cover a maximum of 6 months.* Such subsidy payments shall not be subject to assignment, execution, or attachment or to any legal process whatsoever.

Section 2. Paragraph (b) of subsection (2) of section 121.011, Florida Statutes, is amended to read:

121.011 Florida Retirement System.—

(2) CONSOLIDATION OF EXISTING SYSTEMS AND LAWS.—

(b) The chapters or retirement system laws named in paragraph (a) are hereby consolidated as separate instruments appended to the "Florida Retirement System Act" established by this chapter, and the administration of said chapters or retirement systems shall be consolidated with the administration of the Florida Retirement System established by this chapter *and the Florida Retirement System shall assume all liabilities related to the payment of benefits to members and their beneficiaries.*

Section 3. Effective July 1, 1998, subsections (22), (24), (28), (29), and (30) of section 121.021, Florida Statutes, are amended, and subsections (45) through (54) are added to said section, to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(22) "Compensation" means the monthly salary paid a member by his or her employer for work performed arising from that employment.~~, including~~

(a) Compensation shall include:

1. Overtime payments paid from a salary fund.~~, except that:~~

2. Accumulated annual leave payments.

3. Payments in addition to the employee's base rate of pay if all the following apply:

a. The payments are paid according to a formal written policy that applies to all eligible employees equally;

b. The policy provides that payments shall commence no later than the 11th year of employment;

c. The payments are paid for as long as the employee continues his or her employment; and

d. The payments are paid at least annually.

4. Amounts withheld for tax sheltered annuities or deferred compensation programs, or any other type of salary reduction plan authorized under the Internal Revenue Code.

5. Payments made in lieu of a permanent increase in the base rate of pay, whether made annually or in 12 or 26 equal payments within a 12-month period, when the member's base pay is at the maximum of his or her pay range. When a portion of a member's annual increase raises his or her pay range and the excess is paid as a lump sum payment, such lump sum payment shall be compensation for retirement purposes.

(b)~~(a)~~ Under no circumstances shall compensation include*:*

1. Fees paid professional persons for special or particular services or include salary payments made from a faculty practice plan operated by

rule of the Board of Regents for eligible clinical faculty at the University of Florida and the University of South Florida*; or*~~.~~

2. Any bonuses or other payments prohibited from inclusion in the member's average final compensation and defined in subsection (47).

(c)~~(b)~~ For all purposes under this chapter, the member's compensation or gross compensation contributed as employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code shall be deemed to be the compensation or gross compensation which the member would receive if he or she were not participating in such program and shall be treated as compensation for retirement purposes under this chapter. Any public funds otherwise paid by an employer into an employee's salary reduction, deferred compensation, or tax-sheltered annuity program on or after July 1, 1990 (the date as of which all employers were notified in writing by the division to cease making contributions to the System Trust Fund based on such amounts), shall be considered a fringe benefit and shall not be treated as compensation for retirement purposes under this chapter. However, if an employer was notified in writing by the division to cease making such contributions as of a different date, that employer shall be subject to the requirements of said written notice.

(d)~~(c)~~ For any person who first becomes a member on or after July 1, 1996, compensation for any plan year shall not include any amounts in excess of the s. 401(a)(17), Internal Revenue Code limitation (as amended by the Omnibus Budget Reconciliation Act of 1993), which limitation of $150,000 effective July 1, 1996, shall be adjusted as required by federal law for qualified government plans and shall be further adjusted for changes in the cost of living in the manner provided by s. 401(a)(17)(B), Internal Revenue Code. For any person who first became a member prior to July 1, 1996, compensation for all plan years beginning on or after July 1, 1990, shall not include any amounts in excess of the compensation limitation (originally $200,000) established by s. 401(a)(17), Internal Revenue Code prior to the Omnibus Budget Reconciliation Act of 1993, which limitation shall be adjusted for changes in the cost of living since 1989, in the manner provided by s. 401(a)(17) of the Internal Revenue Code of 1991. This limitation, which has been part of the Florida Retirement System since plan years beginning on or after July 1, 1990, shall be adjusted as required by federal law for qualified government plans.

(24) "Average final compensation" means the average of the 5 highest fiscal years of compensation for creditable service prior to retirement, termination, or death. For in-line-of-duty disability benefits, if less than 5 years of creditable service have been completed, the term "average final compensation" means the average annual compensation of the total number of years of creditable service. Each year used in the calculation of average final compensation shall commence on July 1.

(a) The average final compensation shall include:

1. Accumulated annual leave payments, not to exceed 500 hours; and

2. All payments defined as compensation in subsection (22).

(b) The average final compensation shall not include:

1. Compensation paid to professional persons for special or particular services;

2. Payments for accumulated sick leave made due to retirement or termination;

3. Payments for accumulated annual leave in excess of 500 hours;

4. Bonuses as defined in subsection (47);

5. Third party payments made on and after July 1, 1990; or

6. Fringe benefits (for example, automobile allowances or housing allowances). ~~The payment for accumulated sick leave, accumulated annual leave in excess of 500 hours, and bonuses, whether paid as salary or otherwise, shall not be used in the calculation of the average final compensation.~~

(28) "Joint annuitant" ~~or "dependent beneficiary"~~ means any person designated by the member to receive a retirement benefit upon the member's death who is ~~either~~:

(a) The spouse of the member;

(b) The member's natural or adopted child who is under age 25, or is physically or mentally disabled and incapable of self-support, regardless of age; or any person other than the spouse for whom the member is the legal guardian, provided that such person is under age 25 and is financially dependent for no less than one-half of his or her support from the member at retirement or at the time of death of such member, whichever occurs first; or

(c) A parent or grandparent, or a person age 25 or older for whom the member is the legal guardian, provided that such parent, grandparent, or other person is financially dependent for no less than one-half of his or her support from the member at retirement or at time of the death of such member, whichever occurs first.

(29) "Normal retirement date" means the first day of any month following the date a member attains one of the following statuses:

(a) *If a Regular Class member, the member:*

1. Completes 10 or more years of creditable service and attains age 62; *or*

2.~~(b)~~ Completes 30 years of creditable service, *regardless of age,* which may include a maximum of 4 years of military service credit *as*~~, so~~ long as such credit is not claimed under any other system.~~, regardless of age;~~

(b)~~(c)~~ If a Special Risk *Class* member, *the member*:

1. Completes 10 or more years of creditable service *in the Special Risk Class* and attains age 55;

2. Completes 25 years of creditable service *in the Special Risk Class*, regardless of age; or

3. Completes 25 years of creditable service *and attains age 52*, which *service* may include a maximum of 4 years of military service credit *as long as such credit is not claimed under any other system and the remaining years are in the Special Risk Class.*~~, and attains age 52; or~~

(c)~~(d)~~ If a Senior Management Service Class member, *the member*:

1. Completes 7 years of creditable service in the Senior Management Service Class and attains age 62; or

2. Completes 30 years of *any* creditable service, *regardless of age,* which may include a maximum of 4 years of military service credit *as long as such credit is not claimed under any other system; or*~~, regardless of age.~~

(d) If an Elected State County Officers' Class member, the member:

1. Completes 8 years of creditable service in the Elected State and County Officers' Class and attains age 62; or

2. Completes 30 years of any creditable service, regardless of age, which may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system.

"Normal retirement age" is attained on the "normal retirement date."

(30) "Early retirement date" means the first day of the month following the date a member *becomes vested* ~~completes 10 years of creditable service~~ and elects to receive retirement benefits in accordance with this chapter. Such benefits shall be based on average monthly compensation and creditable service as of the member's early retirement date, and the benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which the early retirement date precedes his or her normal retirement date as provided in s. 121.091(3).

(45) "Vested" or "vesting" means the guarantee that a member is eligible to receive a future retirement benefit upon completion of the required years of creditable service for the employee's class of membership even though the member may have terminated covered employment before reaching normal or early retirement date. Being vested does not entitle a member to a disability benefit based on a disability caused by an injury or disease that occurs after termination of covered employment.

(46) "Beneficiary" means the joint annuitant or any other person, organization, estate, or trust fund designated by the member to receive a retirement benefit, if any, which may be payable upon the member's death.

(47) "Bonus" means a payment made in addition to an employee's regular or overtime salary. A bonus is usually nonrecurring, does not increase the employee's base rate of pay, and includes no commitment for payment in a subsequent year. Such payments are not considered compensation. Effective July 1, 1989, employers may not report such payments to the division as salary, and may not make retirement contributions on such payments.

(a) A payment is a bonus if any of the following circumstances apply:

1. The payment is not made according to a formal written policy that applies to all eligible employees equally.

2. The payment commences later than the 11th year of employment.

3. The payment is not based on permanent eligibility.

4. The payment is made less frequently than annually.

(b) Bonuses shall include, but not be limited to, the following:

1. Exit bonus or severance pay.

2. Longevity payments in conformance with the provisions of paragraph (a).

3. Salary increases granted pursuant to an employee's agreement to retire, including increases paid over several months or years prior to retirement.

4. Payments for accumulated overtime or compensatory time, reserve time, or holiday time worked, if not made within 11 months of the month in which the work was performed.

5. Quality Instruction Incentives Program (QUIIP) Payments.

6. Lump sum payments in recognition of employees' accomplishments.

(48) "Accumulated annual leave payment" means any payment, made either during an employee's employment or at termination or retirement, for leave accrued during such employee's career, which leave was intended for, but never utilized by the employee for, his or her personal use. General leave, which may be used for both sickness and vacation, is considered accumulated annual leave. When leave is initially accrued separately as annual leave or sick leave and is later combined into a consolidated leave account, only the payment for that portion of the account which represents annual leave shall be considered as compensation. If any single lump-sum annual leave payment, made at anytime during a member's employment, exceeds 500 hours, only a maximum of 500 hours of such annual leave payment shall be considered as compensation.

(49) "Accumulated sick leave payment" means leave accrued during an employee's career which was intended for use in the event of sickness, injury, or other health problems of a member or his or her family. General leave which may be used for both sickness and vacation is not considered sick leave. When leave is initially accrued separately as annual leave or sick leave and is later combined into a consolidated leave account, the payment for that portion of the account which represents sick leave shall not be considered compensation.

(50) "Independent contractor" means an individual who is not subject to the control and direction of the employer for whom work is being performed, with respect not only to what shall be done but to how it shall be done. If the employer has the right to exert such control, an employee-employer relationship exists, and, for purposes of this chapter, the person is an employee and not an independent contractor. The division shall adopt rules providing criteria for determining whether an individual is an employee or an independent contractor.

(51) "Previous service" means the number of years, complete months, and any fractional part of a month, as recognized and credited by an employer and approved by the administrator, of service under one of the retirement systems established by this chapter, chapter 122, former chapter 123, chapter 238, or chapter 321, on which the required contributions were paid at the member's termination of employment, and for which the member has received no refund of contributions.

(52) "Regularly established position" is defined as follows:

(a) In a state agency, the term means a position which is authorized and established pursuant to law and is compensated from a salaries appropriation pursuant to s. 216.011(1)(x)1. and 2., or an established position which is authorized pursuant to s. 216.262(1)(a) and (b) and is compensated from a salaries account as provided by rule.

(b) In a local agency (district school board, county agency, community college, city, or special district), the term means a regularly established position which will be in existence for a period beyond 6 consecutive months, except as provided by rule.

(53) "Temporary position" is defined as follows:

(a) In a state agency, the term means an employment position which is compensated from an other personal services (OPS) account, as provided for in s. 216.011(1)(x).

(b) In a local agency, the term means an employment position which will exist for less than 6 consecutive months, or other employment position as determined by rule of the division, regardless of whether it will exist for 6 consecutive months or longer.

(54) "Work year" means the period of time an employee is required to work to receive a full year of retirement credit, as provided by rule.

Section 4. Subsection (3) of section 121.031, Florida Statutes, is amended to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(3) The administrator shall cause an actuarial study of the system to be made at least once every *year beginning July 1, 1998* ~~2 years~~ and shall report the results of such study to the Legislature by February 1 prior to the next legislative session. Such study shall, at a minimum, conform to the requirements of s. 112.63, with the following exceptions and additions:

(a) The valuation of plan assets shall be based on a 5-year averaging methodology such as that specified in the United States Department of Treasury Regulations, 26 C.F.R. s. 1.412(c)(2)-1, or a similar accepted approach designed to attenuate fluctuations in asset values.

(b) The study shall include a narrative explaining the changes in the covered group over the period between actuarial valuations and the impact of those changes on actuarial results.

(c) When substantial changes in actuarial assumptions have been made, the study shall reflect the results of an actuarial assumption as of the current date based on the assumptions utilized in the prior actuarial report.

(d) The study shall include an analysis of the changes in actuarial valuation results by the factors generating those changes. Such analysis shall reconcile the current actuarial valuation results with those results from the prior valuation.

(e) The study shall include measures of funding status and funding progress designed to facilitate the assessment of trends over several actuarial valuations with respect to the overall solvency of the system. Such measures shall be adopted by the division and shall be used consistently in all actuarial valuations performed on the system.

Section 5. Paragraphs (a) and (c) of subsection (7) of section 121.052, Florida Statutes, are amended to read:

121.052 Membership class of elected ~~state and county~~ officers.—

(7) CONTRIBUTIONS.—

(a) The following table states the required retirement contribution rates for members of the Elected ~~State and County~~ Officers' Class and

their employers in terms of a percentage of the member's gross compensation. A change in a contribution rate is effective with the first salary paid on or after the beginning date of the change. Contributions shall be made or deducted as may be appropriate for each pay period and are in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund. *The contribution rate changes made in this subsection are for the period July 1, 1998 through June 30, 1999 only.*

Dates of Contribution Rate Changes	Members	Employers
July 1, 1972, through September 30, 1977		
Legislators	8%	8%
All Other Members	8%	8%
October 1, 1977, through September 30, 1978		
Legislators	8%	8%
All Other Members	4%	12%
October 1, 1978, through September 30, 1979		
Legislators	8%	10.57%
All Other Members	4%	16.78%
October 1, 1979, through September 30, 1981		
Legislators	8%	10.57%
Governor, Lt. Governor, Cabinet Officers	4%	16.78%
All Other Members	0%	20.78%
July 1, 1981, through June 30, 1984		
County Elected Officers	0%	19.30%
July 1, 1984, through September 30, 1984		
County Elected Officers	0%	20.25%
October 1, 1981, through September 30, 1984		
Legislators	0%	19.30%
Governor, Lt. Governor, Cabinet Officers	0%	21.03%
State Attorneys, Public Defenders	0%	20.95%
Justices, Judges	0%	22.55%
October 1, 1984, through September 30, 1986		
Legislators	0%	10.98%
Governor, Lt. Governor, Cabinet Officers	0%	10.98%
State Attorneys, Public Defenders	0%	10.98%
Justices, Judges	0%	21.79%
County Elected Officers	0%	16.97%
October 1, 1986, through December 31, 1988		
Legislators	0%	11.50%
Governor, Lt. Governor, Cabinet Officers	0%	11.50%
State Attorneys, Public Defenders	0%	11.50%
Justices, Judges	0%	20.94%
County Elected Officers	0%	17.19%
January 1, 1989, through December 31, 1989		
Legislators	0%	13.70%
Governor, Lt. Governor, Cabinet Officers	0%	13.70%
State Attorneys, Public Defenders	0%	13.70%
Justices, Judges	0%	22.58%
County Elected Officers	0%	18.44%
January 1, 1990, through December 31, 1990		
Legislators	0%	15.91%
Governor, Lt. Governor, Cabinet Officers	0%	15.91%
State Attorneys, Public Defenders	0%	15.91%
Justices, Judges	0%	24.22%
County Elected Officers	0%	19.71%
January 1, 1991, through December 31, 1991		
Legislators	0%	17.73%
Governor, Lt. Governor, Cabinet Officers	0%	17.73%
State Attorneys, Public Defenders	0%	17.73%
Justices, Judges	0%	26.63%
County Elected Officers	0%	23.32%
January 1, 1992, through December 31, 1992		
Legislators	0%	19.94%
Governor, Lt. Governor, Cabinet Officers	0%	19.94%
State Attorneys, Public Defenders	0%	19.94%
Justices, Judges	0%	28.27%
County Elected Officers	0%	24.59%
January 1, 1993, through December 31, 1993		
Legislators	0%	22.14%
Governor, Lt. Governor, Cabinet Officers	0%	22.14%
State Attorneys, Public Defenders	0%	22.14%
Justices, Judges	0%	29.91%
County Elected Officers	0%	25.84%
January 1, 1994, through December 31, 1994		
Legislators	0%	22.65%
Governor, Lt. Governor, Cabinet Officers	0%	22.65%
State Attorneys, Public Defenders	0%	22.65%
Justices, Judges	0%	30.52%
County Elected Officers	0%	26.07%
January 1, 1995, through December 31, 1995		
Legislators	0%	22.80%
Governor, Lt. Governor, Cabinet Officers	0%	22.80%
State Attorneys, Public Defenders	0%	22.80%
Justices, Judges	0%	30.21%
County Elected Officers	0%	27.48%
January 1, 1996, through June 30, 1996		
Legislators	0%	22.90%
Governor, Lt. Governor, Cabinet Officers	0%	22.90%
State Attorneys, Public Defenders	0%	22.90%
Justices, Judges	0%	30.15%
County Elected Officers	0%	27.54%
~~Effective~~ July 1, 1996, *through June 30, 1998*		
Legislators	0%	23.07%
Governor, Lt. Governor, Cabinet Officers	0%	23.07%
State Attorneys, Public Defenders	0%	23.07%
Justices, Judges	0%	29.55%
County Elected Officers	0%	27.33%
Effective July 1, 1998		
Legislators	*0%*	*19.48%*
Governor, Lt. Governor, Cabinet Officers	*0%*	*19.48%*
State Attorneys, Public Defenders	*0%*	*19.48%*
Justices, Judges	*0%*	*19.88%*
County elected officers	*0%*	*23.51%*

(c) The following table states the required employer contribution on behalf of each member of the Elected ~~State and County~~ Officers' Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:

Dates of Contribution Rate Changes	Contribution Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1993	0.48%
January 1, 1994, through December 31, 1994	0.56%
~~Effective~~ January 1, 1995, *through June 30, 1998*	0.66%
Effective July 1, 1998	*0.94%*

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

Section 6. Paragraph (b) of subsection (1) and paragraphs (a) and (c) of subsection (3) of section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(b)1. Except as provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class shall be compulsory for the president of each community college, the manager of each participating city or county, and all appointed district school superintendents. Effective January 1, 1994, additional positions may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

a. Positions to be included in the class shall be designated by the local agency employer. Notice of intent to designate positions for inclusion in the class shall be published once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected, as provided in chapter 50.

b. One nonelective full-time position may be designated for each local agency employer reporting to the Division of Retirement; for local agencies with *100* ~~200~~ or more regularly established positions, additional nonelective full-time positions may be designated, not to exceed *1* ~~0.5~~ percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policy-making position filled by an employee who is not subject to continuing contract and serves at the pleasure of the local agency employer without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. In lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class pursuant to the provisions of subparagraph 1. may withdraw from the Florida Retirement System altogether and participate in a lifetime monthly annuity program which may be provided by the employing agency. The cost to the employer for such annuity shall equal the normal cost portion of the contributions required in the Senior Management Service Class. The employer providing such annuity shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Senior Management Service Class contribution rate. The decision to participate in such local government annuity shall be irrevocable for as long as the employee holds a position eligible for the annuity. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Senior Management Service Class shall not be earned after such withdrawal. Such members shall not be eligible to participate in the Senior Management Service Optional Annuity Program.

(3)(a) The following table states the required retirement contribution rates for members of the Senior Management Service Class and their employers in terms of a percentage of the member's gross compensation. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. Contributions shall be made for each pay period and are in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund. *The contribution rate changes made in this subsection are for the period July 1, 1998 through June 30, 1999 only.*

Dates of Contribution Rate Changes	Members	Employers
February 1, 1987, through December 31, 1988	0%	13.88%
January 1, 1989, through December 31, 1989	0%	14.95%
January 1, 1990, through December 31, 1990	0%	16.04%
January 1, 1991, through December 31, 1991	0%	18.39%
January 1, 1992, through December 31, 1992	0%	19.48%
January 1, 1993, through December 31, 1993	0%	20.55%
January 1, 1994, through December 31, 1994	0%	23.07%
January 1, 1995, through December 31, 1995	0%	23.88%
January 1, 1996, through June 30, 1996	0%	24.14%
~~Effective~~ July 1, 1996, *through June 30, 1998*	0%	21.58%
Effective July 1, 1998, through June 30, 1999	*0%*	*22.06%*

(c) The following table states the required employer contribution on behalf of each member of the Senior Management Service Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:

Dates of Contribution Rate Changes	Contribution Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1993	0.48%
January 1, 1994, through December 31, 1994	0.56%
~~Effective~~ January 1, 1995, *through June 30, 1998*	0.66%
Effective July 1, 1998, through June 30, 1999	*0.94%*

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

Section 7. Subsections (1) and (4) of section 121.071, Florida Statutes, are amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(1) The following tables state the required retirement contribution rates for members of the Regular Class, Special Risk Class, or Special Risk Administrative Support Class and their employers in terms of a percentage of the member's gross compensation. A change in a contribution rate is effective with the first salary paid on or after the beginning date of the change. Contributions shall be made or deducted as may be appropriate for each pay period and are in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund. *The contribution rate changes made in this subsection are for the period July 1, 1998 through June 30, 1999 only.*

(a) Retirement contributions for regular members are as follows:

Dates of Contribution Rate Changes	Members	Employers
December 1, 1970, through December 31, 1974, for state agencies, state universities, community colleges, and district school boards	4%	4%
December 1, 1970, through September 30, 1975, for all other local government agencies	4%	4%
January 1, 1975, through September 30, 1978, for state agencies and state universities	0%	9%
January 1, 1975, through July 31, 1978, for community colleges and district school boards	0%	9%
October 1, 1975, through September 30, 1978, for all other local government agencies	0%	9%

Dates of Contribution Rate Changes	Members	Employers
August 1, 1978, through September 30, 1981, for community colleges and district school boards	0%	9.1%
October 1, 1978, through September 30, 1981, for all other agencies	0%	9.1%
October 1, 1981, through September 30, 1984	0%	10.93%
October 1, 1984, through September 30, 1986	0%	12.24%
October 1, 1986, through December 31, 1988	0%	13.14%
January 1, 1989, through December 31, 1989	0%	13.90%
January 1, 1990, through December 31, 1990	0%	14.66%
January 1, 1991, through December 31, 1991	0%	15.72%
January 1, 1992, through December 31, 1992	0%	16.51%
January 1, 1993, through December 31, 1993	0%	17.27%
January 1, 1994, through December 31, 1994	0%	17.10%
January 1, 1995, through December 31, 1995	0%	16.91%
January 1, 1996, through June 30, 1996	0%	17.00%
~~Effective~~ July 1, 1996, *through June 30, 1998*	0%	16.77%
Effective July 1, 1998, through June 30, 1999	*0%*	*12.19%*

(b) Retirement contributions for special risk members are as follows:

Dates of Contribution Rate Changes	Members	Employers
December 1, 1970, through September 30, 1974	6%	6%
October 1, 1974, through December 31, 1974, for state agencies, state universities, community colleges, and district school boards	8%	8%
October 1, 1974, through September 30, 1975, for all other local government agencies	8%	8%
January 1, 1975, through September 30, 1978, for state agencies, state universities, community colleges, and district school boards	0%	13%
October 1, 1975, through September 30, 1978, for other local government agencies	0%	13%
October 1, 1978, through September 30, 1981	0%	13.95%
October 1, 1981, through September 30, 1984	0%	13.91%
October 1, 1984, through September 30, 1986	0%	14.67%
October 1, 1986, through December 31, 1988	0%	15.11%
January 1, 1989, through December 31, 1989	0%	17.50%
January 1, 1990, through December 31, 1990	0%	19.90%
January 1, 1991, through December 31, 1991	0%	25.52%
January 1, 1992, through December 31, 1992	0%	26.35%
January 1, 1993, through December 31, 1993	0%	27.14%
January 1, 1994, through December 31, 1994	0%	27.03%
January 1, 1995, through December 31, 1995	0%	26.83%
January 1, 1996, through June 30, 1996	0%	26.84%
~~Effective~~ July 1, 1996, *through June 30, 1998*	0%	26.44%
Effective July 1, 1998 through June 30, 1999	*0%*	*14.53%*

(c) Retirement contributions for special risk administrative support members are as follows:

Dates of Contribution Rate Changes	Members	Employers
July 1, 1982, through September 30, 1984	0%	11.14%
October 1, 1984, through September 30, 1986	0%	13.09%
October 1, 1986, through December 31, 1988	0%	15.44%
January 1, 1989, through December 31, 1989	0%	14.76%
January 1, 1990, through December 31, 1990	0%	14.09%
January 1, 1991, through December 31, 1991	0%	20.16%
January 1, 1992, through December 31, 1992	0%	19.51%
January 1, 1993, through December 31, 1993	0%	18.83%
January 1, 1994, through December 31, 1994	0%	18.59%
January 1, 1995, through December 31, 1995	0%	17.81%
January 1, 1996, through June 30, 1996	0%	17.80%
~~Effective~~ July 1, 1996, *through June 30, 1998*	0%	17.20%
Effective July 1, 1998, through June 20, 1999	*0%*	*6.48%*

(4) The following table states the required employer contribution on behalf of each member of the Regular Class, Special Risk Class, or Special Risk Administrative Support Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:

Dates of Contribution Rate Changes	Contribution Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1993	0.48%
January 1, 1994, through December 31, 1994	0.56%
~~Effective~~ January 1, 1995, *through June 30, 1998*	0.66%
Effective July 1, 1998, through June 30, 1999	*0.94%*

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

Section 8. Subsection (2), paragraph (d) of subsection (6), paragraph (a) of subsection (7), and subsection (8) of section 121.091, Florida Statutes, are amended, paragraphs (f) and (g) of subsection (7) of said section are redesignated as paragraphs (g) and (h), respectively, and a new paragraph (f) is added to said subsection, to read:

121.091 Benefits payable under the system.—No benefits shall be paid under this section unless the member has terminated employment as provided in s. 121.021(39) and a proper application has been filed in the manner prescribed by the division.

(2) BENEFITS PAYABLE FOR DUAL NORMAL RETIREMENT AGES.—In the event a member accumulates retirement benefits to commence at different normal retirement ages by virtue of having performed duties for an employer which would entitle him or her to benefits as both a ~~regular member and special risk~~ member *of the Special Risk Class and a member of either the Regular Class, Senior Management Service Class, or Elected Officers' Class*, the amount of benefits payable shall be computed separately with respect to each such age and the sum of such computed amounts shall be paid as provided in this section.

(6) OPTIONAL FORMS OF RETIREMENT BENEFITS AND DISABILITY RETIREMENT BENEFITS.—

(d) A member who elects the option in subparagraph (a)3. or subparagraph (a)4. shall, on a form provided for that purpose, designate a joint annuitant to receive the benefits which continue to be payable upon the death of the member. After benefits have commenced under the option in subparagraph (a)3. or subparagraph (a)4., *the following shall apply:*

1. A retired member may change his or her designation of a joint annuitant only twice. If such a retired member desires to change his or her designation of a joint annuitant, he or she shall file with the division a notarized "change of joint annuitant" form and shall notify the former joint annuitant in writing of such change. Upon receipt of a completed change of joint annuitant form, the division shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's first designated joint annuitant to any such change shall not be required.

2. In the event of the dissolution of marriage of a retired member and a joint annuitant, such member may make an election to nullify the joint annuitant designation of the former spouse, unless there is an existing qualified domestic relations order preventing such action. The member shall file with the division a written, notarized nullification which shall be effective on the first day of the next month following receipt by the division. Benefits shall be paid as if the former spouse predeceased the member. A member who makes such an election may not reverse the nullification but may designate a new joint annuitant in accordance with subparagraph 1.

(7) DEATH BENEFITS.—

(a) If the employment of a member is terminated by reason of his or her death prior to the completion of 10 years of creditable service, *except as provided in paragraph (f),* there shall be payable to his or her designated beneficiary the member's accumulated contributions.

(f) Notwithstanding any other provisions in this chapter to the contrary and upon application to the administrator, an eligible joint annuitant, of a member whose employment is terminated by death within 1 year of such member satisfying the service requirements for vesting and retirement eligibility, shall be permitted to purchase only the additional service credit necessary to vest and qualify for retirement benefits by one of the following methods:

1. Such eligible joint annuitant may use the deceased member's accumulated hours of annual, sick, and compensatory leave to purchase additional creditable service, on an hour by hour basis, provided that such deceased member's accumulated leave is sufficient to cover the additional months required. For each month of service credit needed prior to the final month, credit for the total number of work hours in that month must be purchased, using an equal number of the deceased member's accumulated leave hours. Service credit required for the final month in which the deceased member would have become vested shall be awarded upon the purchase of 1 hour of credit. Such eligible joint annuitant shall pay the contribution rate in effect at the time of purchase of the deceased member's class of membership, multiplied by such member's monthly salary at the time of death. The accumulated leave payment used in the average final compensation shall not include that portion of the payment that represents any leave hours used in the purchase of such creditable service.

2. Such eligible joint annuitant may purchase additional months of creditable service, up to a maximum of 1 year, for any periods of out-of-state service as provided in s. 121.1115, or in-state service as provided in s. 121.1122, that the deceased member would have been eligible to purchase prior to his or her death.

Service purchased under this paragraph shall be added to the creditable service of the member and used to vest for retirement eligibility, and shall be used in the calculation of any benefits which may be payable to the eligible joint annuitant. Any benefits paid in accordance with this paragraph shall only be made prospectively.

(8) DESIGNATION OF BENEFICIARIES.—Each member may, on a form provided for that purpose, signed and filed with the division, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary who shall receive the benefits, if any, which may be payable in the event of the member's death pursuant to the provisions of this chapter. If no beneficiary is named in the manner provided above, or if no beneficiary designated by the member survives the member, the beneficiary shall be the spouse of the deceased, if living. If the member's spouse is not alive at his or her death, the beneficiary shall be the living children of the member. If no children survive, the beneficiary shall be the member's father or mother, if living; otherwise, the beneficiary shall be the member's estate. The beneficiary most recently designated by a member on a form or letter filed with the division shall be the beneficiary entitled to any benefits payable at the time of the member's death, except benefits shall be paid as provided in paragraph (7)(d) when death occurs in the line of duty. *Notwithstanding any other provisions in this subsection to the contrary, for a member who dies prior to his or her effective date of retirement on or after January 1, 1999, the spouse at the time of death shall be the member's beneficiary unless such member designates a different beneficiary as provided herein subsequent to the member's most recent marriage.*

Section 9. Subsection (1) of section 121.1122, Florida Statutes, is amended to read:

121.1122 Purchase of retirement credit for in-state public service and in-state service in accredited nonpublic, ~~nonsectarian~~ schools and colleges, including charter schools.—Effective January 1, 1998, a member of the Florida Retirement System may purchase creditable service for periods of certain public or nonpublic, ~~nonsectarian~~ employment performed in this state, as provided in this section.

(1) PURCHASE OF RETIREMENT CREDIT AUTHORIZED.—Subject to the provisions of subsections (2) and (3), a member of the Florida Retirement System may purchase up to 5 years of retirement credit for:

(a) Periods of public employment in this state; or

(b) Periods of employment in charter schools or in any nonpublic, ~~nonsectarian~~ school or college in this state that is accredited by the Southern Association of Colleges and Schools.

Credit for 1 year of such service may be purchased for each year of creditable service a member completes under the Florida Retirement System.

Section 10. Section 121.121, Florida Statutes, is amended to read:

121.121 ~~Future service to include~~ Authorized leaves of absence.—

(1) A member may purchase creditable service for ~~Future service of any member as defined in s. 121.021(21) shall also include~~ up to 2 work years of ~~creditable service for~~ authorized leaves of absence if:

(a)~~(1)~~ The member has completed a minimum of 10 years of creditable service, excluding periods of leave of absence;

(b)~~(2)~~ The leave of absence is authorized in writing by the employer of the member and approved by the administrator;

(c)~~(3)~~ The member returns to active employment performing service with a Florida Retirement System employer in a regularly established position immediately upon termination of the leave of absence and remains on the employer's payroll for 1 calendar month, except that a member who retires on disability while on a medical leave of absence shall not be required to return to employment; and

(d)~~(4)~~ The member makes the required contributions for service credit during the leave of absence, which shall be 8 percent until January 1, 1975, and 9 percent thereafter of his or her rate of monthly compensation in effect immediately prior to the commencement of such leave for each month of such period, plus 4 percent interest until July 1, 1975, and 6.5 percent interest thereafter on such contributions, compounded annually each June 30 from the due date of the contribution to date of payment. Effective July 1, 1980, any leave of absence purchased pursuant to this section shall be at the contribution rates specified in s. 121.071 in effect at the time the leave is granted for the class of membership from which the leave of absence was granted; however, any member who purchased leave-of-absence credit prior to July 1, 1980, for a leave of absence from a position in a class other than the regular membership class, may pay the appropriate additional contributions plus compound interest thereon and receive creditable service for such leave of absence in the membership class from which the member was granted the leave of absence.

(2) A member who is required to resign his or her office as a subordinate officer, deputy sheriff, or police officer because he or she is a candidate for a public office which is currently held by his or her superior officer who is also a candidate for reelection to the same office, in accordance with s. 99.012(5), shall, upon return to covered employment, be eligible to purchase retirement credit for the period between his or her date of resignation and the beginning of the term of office for which he or she was a candidate as a leave of absence without pay, as provided in subsection (1).

Section 11. Subsection (3) of section 121.122, Florida Statutes, is amended to read:

121.122 Renewed membership in system.—Except as provided in s. 121.053, effective July 1, 1991, any retiree of a state-administered retirement system who is employed in a regularly established position with a covered employer shall be enrolled as a compulsory member of the Regular Class of the Florida Retirement System or, effective July 1, 1997, any retiree of a state-administered retirement system who is employed in a position included in the Senior Management Service Class shall be enrolled as a compulsory member of the Senior Management Service Class of the Florida Retirement System as provided in s. 121.055, and shall be entitled to receive an additional retirement benefit, subject to the following conditions:

(3) Such member shall be entitled to purchase additional retirement credit in the Regular Class *or the Senior Management Service Class, as applicable,* for any postretirement service performed in a regularly established position *as follows:*

(a) For regular class service prior to July 1, 1991, by paying the Regular Class applicable employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund*; or*

(b) For Senior Management Service Class prior to June 1, 1997, as provided in s. 121.055(1)(h).

The contribution for postretirement service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, shall be the difference between such contribution and the total applicable contribution for the period being claimed, plus interest. The employer of such member may pay the applicable employer contribution in lieu of the member.

Section 12. Subsection (5) of section 121.30, Florida Statutes, is amended to read:

121.30 Statements of purpose and intent and other provisions required for qualification under the Internal Revenue Code of the United States.—Any other provisions in this chapter to the contrary notwithstanding, it is specifically provided that:

(5) No benefit payable hereunder for any limitation year shall exceed the maximum amount, including cost-of-living adjustments, allowable by law for qualified pension plans under applicable provisions of the Internal Revenue Code of the United States. *In the event of any participation of a Florida Retirement System member in any other plan that is maintained by the participating employer, benefits that accrue under the Florida Retirement System shall be considered primary for any aggregate limitation applicable under s. 415 of the Internal Revenue Code.*

Section 13. Section 121.133, Florida Statutes, is created to read:

121.133 Cancellation of uncashed warrants.—Notwithstanding the provisions of s. 17.26 or s. 717.123 to the contrary, effective July 1, 1998, if any state warrant issued by the Comptroller for the payment of retirement benefits from the Florida Retirement System Trust Fund, or any other pension trust fund administered by the division, is not presented for payment within 1 year after the last day of the month in which it was originally issued, the Comptroller shall cancel the benefit warrant and credit the amount of the warrant to the Florida Retirement System Trust Fund or other pension trust fund administered by the division, as appropriate. The Division of Retirement may provide for issuance of a replacement warrant when deemed appropriate.

Section 14. Paragraph (b) of subsection (12) of section 121.40, Florida Statutes, is amended to read:

121.40 Cooperative extension personnel at the Institute of Food and Agricultural Sciences; supplemental retirement benefits.—

(12) CONTRIBUTIONS.—

(b) The monthly contributions required to be paid pursuant to paragraph (a) on the gross monthly salaries, from all sources with respect to such employment, paid to those employees of the institute who hold both state and federal appointments and who participate in the federal Civil Service Retirement System shall be as follows:

Dates of Contribution Rate Changes	Percentage Due
July 1, 1985, through December 31, 1988	6.68%
January 1, 1989, through December 31, 1993	6.35%
January 1, 1994, through December 31, 1994	6.69%
January 1, 1995, through June 30, 1996	6.82%
~~Effective~~ July 1, 1996, *through June 30,1998*	5.64%
Effective July 1, 1998, through June 30, 1999	*7.17%*

Section 15. *Sections 121.0505 and 121.0516, Florida Statutes, are repealed.*

Section 16. *The Executive Director of the State Board of Administration and the Director of the Division of Retirement shall undertake a comprehensive review of the assumptions and contribution rate structure underpinning the operation of the Florida Retirement System. By March 1, 1999, the State Board of Administration and the division shall submit to the Board of Trustees of the State Board of Administration, the President of the Senate, and the Speaker of the House of Representatives a report which shall contain the following elements:*

(1) The method of development of actuarial assumptions and their application.

(2) The relevance of present assumptions in light of patterns of recruitment, retention, and retirement.

(3) The investment and economic market in which the Florida Retirement System, and similarly constituted systems, operate.

(4) Prospective conditions in economic forecasts within a reasonable degree of estimation which may affect investment performance, workforce, and salary trends.

The State Board of Administration and the Division of Retirement may, at their discretion, utilize the services of the Office of Economic and Demographic Research and may also convene a working group of affected principals for use in the development of the study proposed in this section. The President of the Senate and the Speaker of the House of Representatives may each appoint two legislative members to the working group.

Section 17. *(1) The changes to the retirement contribution rates for the Florida Retirement System included in this act are the result of the 1997 Actuarial Valuation of the Florida Retirement System, as recommended by the consulting actuaries and subsequently modified by the special actuarial study of April 20, 1998. These changes shall remain in effect until the rates are further amended or until the rates are adjusted as provided in subsection (2).*

(2) The rate adjustments set forth in this act are in addition to all other changes to such contribution rates which are separately enacted into law and applicable on July 1, 1998. With respect to such other changes, the Division of Statutory Revision of the Joint Legislative Management Committee shall edit the statutes as necessary to adjust the contribution rate percentages listed in sections 121.052(7)(a), 121.055(3)(a), and 121.071(1), Florida Statutes, as appropriate. Pursuant to section 11.242(5)(i), Florida Statutes, this section shall be omitted from publication in the Florida statutes or any revision or supplement thereof.

Section 18. *The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and are managed, administered, and funded in an actuarially sound manner, as required by s. 14, Art. X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.*

Section 19. *In editing manuscript for the next edition of the official Florida Statutes, the Statutory Revision Division of the Joint Legislative Management Committee, or its successor, shall change "Elected State and County Officers' Class" to "Elected Officers' Class" wherever the same appears in chapter 121.*

Section 20. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Florida Retirement System; amending s. 112.363, F.S.; increasing the retiree health insurance subsidy payment and the contribution rate; providing for retroactive payments under certain circumstances; amending s. 121.011, F.S.; clarifying benefits payable under existing systems; amending s. 121.021, F.S.; revising and adding definitions; amending s. 121.031, F.S.; providing an annual valuation of the Florida Retirement System; amending ss. 121.052, 121.055, and 121.071, F.S.; modifying the statutory limit on the number of nonelective full-time positions that may be designated by a local agency employer for inclusion in the Senior Management Service Class; changing contribution rates for specified classes and subclasses of the system and for the retiree health insurance subsidy; amending s. 121.091, F.S.; providing for benefit computations using dual retirement ages for service in the Senior Management Service Class and the Elected Officer's Class; providing for nullification of a joint annuitant designation in the event of dissolution of marriage; providing for purchase of additional service credit using a deceased member's accumulated leave, out-of-state service, or in-state service under certain circumstances; specifying that a member's spouse at the time of death shall be the member's beneficiary under certain circumstances; providing a directive to statute editors; amending s. 121.1122, F.S.; deleting reference to nonsectarian schools and colleges; amending s. 121.121, F.S.; providing for eligibility to purchase retirement credit for certain leaves of absence; amending s. 121.122, F.S.; allowing members with renewed membership in the Senior Management Service Class to purchase additional retirement credit for certain postretirement service; amending s. 121.30, F.S.; conforming to the Internal Revenue Code; creating s. 121.133, F.S.; providing intent; requiring the Comptroller to cancel any benefit warrant issued from the Florida Retirement System Trust Fund, or from certain other pension trust funds, if such warrants are not presented within a specified timeframe; providing that such funds shall be transferred and recredited to specified trust funds; providing for issuance of replacement warrants; amending s. 121.40, F.S.; changing contribution rates for the supplemental retirement plan for the Institute of Food and Agricultural Sciences at the University of Florida; repealing ss. 121.0505 and 121.0516, F.S.; relating to duplicative contribution rates; providing for a report to the Board of Trustees of the State Board of Administration, the President of the Senate, and the Speaker of the House of Representatives on the Florida Retirement System; directing the Division of Statutory Revision to make described adjustments to the statutes with respect to contribution rates; providing a finding of important state interest; providing effective dates.

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

Amendment 1A (with title amendment)—On page 40, between lines 22 and 23, insert:

Section 20. *On or within 6 months before a member of the Florida Retirement System's 62nd birthday, the Division of Retirement shall provide notification at the member's last known address that the member is eligible for retirement benefits.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 43, line 6, after the semicolon (;) insert: directing the Division of Retirement to notify members of their eligibility for benefits when they reach age 62;

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

Amendment 1B (with title amendment)—On page 40, between lines 22 and 23, insert:

Section 1. *(1) There is created the Florida Defined Contribution Retirement Study Commission for the purpose of advising the Legislature and the Governor on measures in the formulation and implementation of an optional portable retirement program.*

(a) The commission shall consist of 20 members, as follows:

1. Two legislators appointed by the President of the Senate;

2. Two legislators appointed by the Speaker of the House of Representatives;

3. One employee of the Governors Office of Planning and Budgeting, appointed by the Governor;

4. The President of the Senate and the Speaker of the House of Representatives shall appoint the following commission members based upon the recommendations of each of the respective employer or employee member organizations:

a. Three members representing the financial services industry, to include a provider of mutual funds, a provider of insurance/annuity products, and a provider from a financial services company;

b. One member representing the Division of Retirement;

c. One member representing the State Board of Administration;

d. One member representing municipality members of the Florida Retirement System;

e. Two members representing counties, one representing the employer, and one representing the non-managerial, nonsupervisory employees;

f. Four members representing education, one school board member, one superintendent or administrator, and two teachers;

g. One member representing state employees;

h. One representing the special risk class of the Florida Retirement System;

i. One member representing Special District members of the Florida Retirement System.

(2) The Commission shall be co-chaired by one Representative and one Senator.

(3) It is the duty of the commission to:

(a) Review existing defined benefit and defined contribution pension plans, taking into consideration:

1. The proper relationship of employer and employee contributions to any alternate plan;

2. Any effects on the existing retirement plan resulting from implementation of a new retirement plan, including, but not limited to:

a. Vesting rights and portability options;

b. Other factors influencing the demand for either program; and

c. Considering the effect of implementing the optional defined contribution plan, including affect on unfunded accrued liabilities of existing defined benefit plans.

3. Review of a study performed by the Florida Retirement System on credit for transferring funds from the existing retirement plan to an optional retirement plan.

(b) Recommend and address:

1. The role and obligations for educating employees regarding the differences and advantages of the two plans, and regarding their investment choices;

2. Program administration and its cost, and who shall bear the cost; and

3. The offering of plans independently, or as a group.

(4) The commission shall make its recommendation in an official report, adopted by the commission and transmitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 1999.

(5) Commission members shall be appointed by June 1, 1998 and shall convene to organize immediately after the appointments have been completed.

(6) Members of the commission shall service without compensation. Members of the commission shall be entitled to receive reimbursement for travel and per diem as provided in section 112.061, Florida Statutes, while carrying out official business of the commission.

(7) The commission shall hold meetings when deemed necessary.

Section 2. *The Division of Retirement shall furnish funds necessary for the completion of the study.*

And the title is amended as follows:

On page 43, lines 6 and 7, delete those lines and insert: important state interest; creating the Florida Defined Contribution Retirement Study Commission; providing for membership; providing powers and duties of the commission; providing an effective date.

WHEREAS, pursuant to chapter 97-296, Laws of Florida, the Workforce 2000 Study Commission complete a comprehensive study comparing employee benefits in the public and private sectors, and

WHEREAS, the appropriate application of a defined contribution plan in the Florida Retirement System might enable a more efficient use of public tax dollars while providing additional choices for the workforce, and

WHEREAS, the initiative to create a defined benefit retirement plan for members of the Florida Retirement System can be accomplished through a review of all the components of public-employee compensation, and

WHEREAS, the proper relationship of salary and benefit compensation is acritical issue in personnel administration policies in the public sector, NOW, THEREFORE,

On motion by Senator Burt, further consideration of **SB 1950** with pending **Amendment 1** as amended was deferred.

Consideration of **CS for SB 2014** was deferred.

CS for SB 452—A bill to be entitled An act relating to the Florida Mobile Home Act; amending s. 723.003, F.S.; revising the definition of "pass-through charge"; amending s. 723.012, F.S.; clarifying pass-through charges for vacant lots or undeveloped phases; providing for amendment to the prospectus; amending s. 723.078, F.S., relating to bylaws of homeowners' associations; revising provisions relating to the number of members which constitutes a quorum; providing an effective date.

—was read the second time by title.

Senator Latvala offered the following amendment which was moved by Senator Brown-Waite and adopted:

Amendment 1—On page 1, line 31 through page 2, line 2, delete those lines and insert: *undeveloped phases, and any property of the park owner not available for use as recreational or common facilities by the mobile home owner.*

On motion by Senator Brown-Waite, by two-thirds vote **CS for SB 452** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

On motion by Senator Gutman, by two-thirds vote **HB 4365** was withdrawn from the Committee on Health Care.

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

HB 4365—A bill to be entitled An act relating to acupuncture; amending s. 457.102, F.S.; defining the term "acupuncture"; amending s. 457.103, F.S.; revising the membership of the Board of Acupuncture; amending s. 457.105, F.S.; revising the licensing requirements for acupuncturists; amending s. 457.116, F.S.; prohibiting certain acts; providing penalties; providing an effective date.

—a companion measure, was substituted for **CS for SB 2282** and by two-thirds vote read the second time by title.

Senator Gutman moved the following amendment which was adopted:

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

Section 1. Subsection (1) of section 457.102, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

457.102 Definitions.—As used in this chapter:

(1) "Acupuncture" means a form of primary health care, based on traditional Chinese medical concepts *and modern Oriental medical techniques*, that employs acupuncture diagnosis and treatment, as well as

adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include, but not be limited to, the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body.

(6) "Oriental medicine" means the use of acupuncture, electro-acupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies.

Section 2. Subsection (1) of section 457.103, Florida Statutes, is amended to read:

457.103 Board of Acupuncture; membership; appointment and terms.—

(1) The Board of Acupuncture is created within the department and shall consist of *seven* ~~five~~ members, to be appointed by the Governor and confirmed by the Senate. *Five* ~~Three~~ members of the board must be licensed Florida acupuncturists. Two members must be laypersons who are not and who have never been acupuncturists or members of any closely related profession. Members shall be appointed for 4-year terms or for the remainder of the unexpired term of a vacancy.

Section 3. Subsection (2) of section 457.105, Florida Statutes, is amended to read:

457.105 Licensure qualifications and fees.—

(2) A person may become licensed to practice acupuncture if the person applies to the department and:

(a) Is 18 years of age or older;

(b) Has completed 60 college credits from an accredited postsecondary institution as a prerequisite to enrollment in an authorized 3-year course of study in acupuncture *and Oriental medicine*, and has completed a 3-year course of study in acupuncture *and Oriental medicine*, and effective July 31, 2001, a 4-year course of study in acupuncture *and Oriental medicine*, which meets standards established by the board by rule, which standards include, *but are not limited to*, successful completion of academic courses in western anatomy, western physiology, western pathology, ~~and~~ western biomedical terminology, *first aid, and cardiopulmonary resuscitation (CPR)*. However, any person who enrolled in an authorized course of study in acupuncture before August 1, 1997, must have completed only a 2-year course of study which meets standards established by the board by rule, which standards must include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, and western pathology;

(c) Has successfully completed a board-approved national certification process, is actively licensed in a state that has examination requirements that are substantially equivalent to or more stringent than those of this state, or passes an examination administered by the department, which examination tests the applicant's competency and knowledge of the practice of acupuncture. At the request of any applicant, oriental nomenclature for the points shall be used in the examination. The examination shall include a practical examination of the knowledge and skills required to practice acupuncture, covering diagnostic and treatment techniques and procedures; and

(d) Pays the required fees set by the board by rule not to exceed the following amounts:

1. Examination fee: $500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.

2. Application fee: $300.

3. Reexamination fee: $500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.

4. Initial biennial licensure fee: $400, if licensed in the first half of the biennium, and $200, if licensed in the second half of the biennium.

Section 4. Subsection (3) of section 457.107, Florida Statutes, is amended to read:

457.107 Renewal of licenses; continuing education.—

(3) The board shall by rule prescribe continuing education requirements, not to exceed 30 hours biennially, as a condition for renewal of a license. ~~The criteria for such programs or courses shall be approved by the board. In order to meet continuing education requirements, prior approval by the board of such programs or courses is required.~~ All education programs that contribute to the advancement, extension, or enhancement of professional skills and knowledge related to the practice of acupuncture, whether conducted by a nonprofit or profitmaking entity, are eligible for approval. *The continuing professional education requirements must be in acupuncture or Oriental-medicine subjects, including, but not limited to, anatomy, biological sciences, adjunctive therapies, sanitation and sterilization, emergency protocols, and diseases.* The board shall have the authority to set a fee, not to exceed $100, for each continuing education provider ~~or program submitted for approval~~. *The licensee shall retain in his or her records the certificates of completion of continuing professional education requirements to prove compliance with this subsection. The board may request such documentation without cause from applicants who are selected at random. All national and state acupuncture and Oriental-medicine organizations and acupuncture and Oriental-medicine schools are approved to provide continuing professional education in accordance with this subsection.*

Section 5. Section 457.116, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 457.116, F.S., for present text.)

(1) A person may not:

(a) Practice acupuncture unless the person is licensed under ss. 457.101-457.118;

(b) Use, in connection with his or her name or place of business, any title or description of services which incorporates the words "acupuncture," "acupuncturist," "certified acupuncturist," "licensed acupuncturist," "Oriental medical practitioner"; the letters "L.Ac.," "R.Ac.," "A.P.," or "D.O.M."; or any other words, letters, abbreviations, or insignia indicating or implying that he or she practices acupuncture unless he or she is a holder of a valid license issued pursuant to ss. 457.101-457.118;

(c) Present as his or her own the license of another;

(d) Knowingly give false or forged evidence to the board or a member thereof;

(e) Use or attempt to use a license that has been suspended, revoked, or placed on inactive or delinquent status;

(f) Employ any person who is not licensed pursuant to ss. 457.101-457.118 to engage in the practice of acupuncture; or

(g) Conceal information relating to any violation of ss. 457.101-457.118.

(2) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to Oriental medicine; amending s. 457.102, F.S.; revising definitions relating to the regulation of acupuncture; defining the term "Oriental medicine"; amending s. 457.103, F.S.; revising membership of the Board of Acupuncture; amending s. 457.105, F.S.; revising qualifications for licensure to practice acupuncture; conforming terminology; amending s. 457.107, F.S.; revising continuing education programs and approvals; amending s. 457.116, F.S.; revising grounds for disciplinary action and prohibited acts; providing penalties; providing an effective date.

THE PRESIDENT PRESIDING

On motion by Senator Gutman, by two-thirds vote **HB 4365** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

RECONSIDERATION OF BILL

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

HB 4475—A bill to be entitled An act relating to wastewater treatment systems; amending s. 381.0064, F.S., relating to continuing education courses for persons installing or servicing septic tanks; amending s. 381.0065, F.S.; revising guidelines and procedures for granting variances for such systems; revising membership of the department's variance review and advisory committee; providing criteria for use of guttering; amending s. 381.0068, F.S.; revising duties and procedures of the department's technical review and advisory panel; providing an effective date.

—passed this day.

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

Amendment 1—In title, on page 1, lines 3-11, delete those lines and insert: systems; amending s. 381.0064, F.S.; authorizing the Department of Health to establish certain continuing education requirements by rule; amending s. 381.0065, F.S.; revising guidelines and procedures for granting variances for onsite sewage treatment and disposal systems; revising membership of the department's variance review and advisory committee; providing system criteria for use in conjunction with structural gutters; providing system criteria for use in certain floodways; amending s. 381.0068, F.S., revising duties and procedures of the department's technical review and advisory panel; amending s. 489.551, F.S.; authorizing certain plumbers to qualify as master septic tank contractors; amending 489.554, F.S.; authorizing the department to prescribe by rule the method of approval of certain continuing education courses, including minimum annual registration renewal requirements; amending s. 489.555, F.S.; revising the guidelines regarding the certification of septic tank contractor partnerships and corporations; providing an effective date.

On motion by Senator Laurent, **HB 4475** as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

RECONSIDERATION OF BILL

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

HB 367—A bill to be entitled An act relating to education; creating the "Florida Maximum Class Size Study Act"; requiring school districts to reduce the teacher-to-student ratio in certain schools; requiring the Department of Education to conduct a study of the efficacy of class size reductions; providing legislative goals; providing an effective date.

—as amended passed this day.

On motion by Senator Campbell, by two-thirds vote the Senate reconsidered the vote by which **HB 367** was read the third time.

On motion by Senator Campbell, the Senate reconsidered the vote by which **Amendment 2** was adopted. **Amendment 2** was withdrawn.

On motion by Senator Campbell, by two-thirds vote **HB 367** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

MOTION

On motion by Senator Bankhead, the rules were waived and time of recess was extended until 8:00 p.m.

CS for SB 2480—A bill to be entitled An act relating to a residential public education facility; amending s. 230.23162, F.S.; requiring the facility authorized to be constructed by the Alternative Education Institute to be operated by the Department of Juvenile Justice and the Hillsborough County School Board; providing for transfer of ownership from the institute to the State of Florida; providing duties of the Department of Management Services; providing student eligibility; providing for funding; providing an effective date.

—was read the second time by title.

Senator Lee moved the following amendment which was adopted:

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

Section 1. *Notwithstanding any other provision of law, the Alternative Education Institute is abolished.*

Section 2. Section 230.23162, Florida Statutes, as renumbered from section 985.402 and amended by chapter 97-382, Laws of Florida, is amended to read:

(Substantial rewording of section. See s. 230.23162, F.S., for present text.)

230.23162 Residential public education facility.—

(1) Ownership of the facility and related assets authorized under former s. 985.402, is transferred to the Department of Management Services. The Department of Management Services shall direct change orders in existing construction contracts necessary to complete construction to the extent necessary to stabilize assets and prepare the facility for

future utilization. The Department of Management Services shall provide administrative, site inspection, and security services as necessary to carry out the provisions of this section. The Department of Management Services shall have access to all state funds previously appropriated to the Alternative Education Institute for this purpose.

(2)(a) A working group is formed to develop a plan for the use of the facility and to develop a request for proposals or request for information for operation of the program by a private contractor. The working group shall be composed of eight members: one member each from the Department of Education, Department of Juvenile Justice, and Department of Children and Family Services; one member appointed by the President of the Senate; one member appointed by the Speaker of the House; one representative of the 13th judicial circuit of Hillsborough County, to be appointed by the Chief Circuit Judge; one representative of the Hillsborough School District, and one representative from local law enforcement to be appointed by the Sheriff of Hillsborough County. The Department of Education shall provide administrative support for the working group.

(b) The group shall assess needs of categories of clients served by the member agencies in evaluating possible uses for the facility in meeting the needs of the clients. The group shall identify client categories that may be served through the use of the facility, shall outline a program structure, and shall make further recommendations, including a proposed private provider for implementation. The group should consider previous recommendations for use of the facility, and shall specifically consider the viability of prior proposals submitted for use of the facility in the fiscal year 1997-1998. The group shall be formed and activated when this act becomes law. The group shall make a recommendation to the President of the Senate and the Speaker of the House of Representatives, no later than October 1, 1998, and shall be disbanded upon that date.

(3) The Department of Management Services shall survey state agencies, and shall invite bids and proposals from state agencies, local government agencies, federal agencies, and the private sector for use or disposition of the facility and related assets, no later than June 15, 1998. Notwithstanding any law to the contrary, the Department of Management Services shall set a deadline for receipt of bids and proposals of not less than 3 months after the invitation for bids and proposals is advertised. By October 1, 1998, the Department of Management Services shall evaluate all bids and proposals and make a recommendation to the President of the Senate and the Speaker of the House of Representatives regarding proposed uses for the facility, taking into account local and state interests and concerns.

(4) Upon receipt and review of the recommendations from the working group and the Department of Management Services, the President of the Senate and the Speaker of the House of Representatives shall make a final determination regarding use or disposition of the facility and related assets. However, any such determination must take into account local and state concerns and interests. The President of the Senate, and the Speaker of the House of Representatives shall notify the Governor of their determination.

Section 3. *There is appropriated to the Florida Department of Education for fiscal year 1998-1999 from the General Revenue Fund the sum of $50,000 to carry out the provisions of this act.*

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

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Alternative Education Institute; amending s. 230.23162, F.S.; abolishing the institute; transferring the institute to the Department of Management Services; providing duties of the Department of Management Services; establishing a working group to develop a plan for use of the facility; requiring a report; requiring the department to provide services and make a recommendation for the disposition of the facility taking account of local and state concerns; providing an appropriation; providing an effective date.

On motion by Senator Lee, by two-thirds vote **CS for SB 2480** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

On motion by Senator Silver—

CS for CS for SB 1074—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.055, F.S.; adding assistant state attorneys, assistant statewide prosecutors, and assistant public defenders to the Senior Management Service Class of the Florida Retirement System; authorizing the state courts to pay Select Exempt benefits to judicial assistants; providing an effective date.

—was read the second time by title.

Senator Silver moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 3, between lines 11 and 12, insert:

Section 3. *There is hereby appropriated to the Department of Legal Affairs, $116,166 from the General Revenue Fund for six months' funding of salary rate increases within the Office of Statewide Prosecution during fiscal year 1998-1999.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 9, after the semicolon (;) insert: providing an appropriation;

Amendment 2—On page 3, line 12, delete "October 1, 1998" and insert: June 1, 1999

Pursuant to Rule 4.19, **CS for CS for SB 1074** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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

CS for SB 2014—A bill to be entitled An act relating to the WAGES Program; creating s. 414.155, F.S.; providing a relocation assistance program for families receiving or eligible to receive WAGES Program assistance; providing responsibilities of the Department of Children and Family Services and the Department of Labor and Employment Security; providing for a relocation plan and for monitoring of the relocation; requiring agreements restricting application for temporary cash assistance for a specified period; providing exceptions; requiring repayment of temporary cash assistance provided under certain circumstances, and reduced eligibility for future assistance; providing rulemaking authority for the Department of Children and Family Services and the Department of Labor and Employment Security; providing legislative intent with respect to encouraging the employment of participants in the WAGES Program; requiring the Office of Tourism, Trade, and Economic Development to certify to the President of the Senate and the Speaker of the House of Representatives the amount of taxes and the economic benefit generated by the restaurant industry from employing WAGES participants and to add that amount to the total amount of certain beverage taxes and penalties paid during a specified calendar year; providing for the repeal of s. 561.501, F.S., relating to the surcharge on the sale of alcoholic beverages, if the total amount of the surcharge exceeds a specified figure; providing an effective date.

—which was previously considered and amended April 23.

Pending further consideration of **CS for SB 2014** as amended, on motion by Senator Bankhead, by two-thirds vote **CS for HB 4147** was withdrawn from the Committees on Commerce and Economic Opportunities; and Ways and Means.

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

CS for HB 4147—A bill to be entitled An act relating to the WAGES Program; creating s. 414.155, F.S.; providing a relocation assistance program for families receiving or eligible to receive WAGES Program assistance; providing responsibilities of the Department of Children and Family Services and the Department of Labor and Employment Security; providing for a relocation plan and for monitoring of the relocation; requiring agreements restricting application for temporary cash assistance for a specified period; providing exceptions; requiring repayment of temporary cash assistance provided under certain circumstances, and reduced eligibility for future assistance; providing authority for rules; providing legislative intent with respect to employment of WAGES recipients by the food and beverage industry; requiring the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor to annually certify the total number of specified WAGES recipients; requiring the Department of Business and Professional Regulation to annually recalculate and reduce the surcharge on the sale of alcoholic beverages for consumption on the premises; providing a formula for such recalculation; requiring the department to adopt procedures and establish rules; creating s. 290.00651, F.S.; directing the Office of Tourism, Trade, and Economic Development to designate a pilot project area within an enterprise zone; providing qualifications for such area; providing that certain businesses in such pilot project area are eligible for tax credits; prescribing application criteria and procedures governing such tax credits; providing rulemaking authority; requiring a review by the Office of Program Policy Analysis and Government Accountability; providing for future repeal and revocation of designation as an enterprise zone pilot project area; providing an effective date.

—a companion measure, was substituted for **CS for SB 2014** as amended and by two-thirds vote read the second time by title. On motion by Senator Bankhead, by two-thirds vote **CS for HB 4147** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

Consideration of **CS for SB 2342** was deferred.

CS for SB 2172—A bill to be entitled An act relating to public assistance; providing legislative intent and findings; providing for demonstration projects to be implemented which require drug screening and possibly drug testing for individuals who apply for temporary assistance or services under the "Work and Gain Economic Self-sufficiency (WAGES) Act"; providing for expiration of the demonstration projects unless reauthorized by the Legislature; directing the Department of Children and Family Services to implement the demonstration projects in specified local WAGES coalitions; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; providing that, if a parent is deemed ineligible due to a failure of a drug test, the eligibility of the children of the parent will not be affected; requiring the department to provide for substance abuse treatment programs for certain persons; giving the Department of Children and Family Services rulemaking authority; specifying circumstances resulting in termination of temporary assistance or services; requiring the department and the local WAGES coalitions to evaluate the demonstration projects and report to the WAGES Program State Board of Directors and the Legislature; providing that, in the event of conflict, federal requirements and regulations control; providing an effective date.

—was read the second time by title.

Senator Holzendorf moved the following amendment which was adopted:

Amendment 1—On page 5, lines 13-22, delete those lines and insert:

(1) From the funds appropriated in Specific Appropriations 361, Grants and Aid - Community Substance Abuse Services, and 1892, Grants and Aid - WAGES Coalitions, the Department of Children and Family Services and the WAGES Program State Board of Directors, in consultation with the Department of Labor and Employment Security, shall provide a substance-abuse-treatment program for a person who fails a drug test conducted under this act and is eligible to receive temporary assistance or services under the WAGES Program. The Department of Children and Family Services shall provide for a retest at the end of the treatment period. Failure to pass the retest will result in the termination of temporary assistance or services provided under chapter 414, Florida Statutes, and of any right to appeal the termination. Implementation of this project is subject to the availability of funding.

On motion by Senator Holzendorf, further consideration of **CS for SB 2172** as amended was deferred.

SB 404—A bill to be entitled An act relating to jails; amending s. 951.23, F.S.; providing a criminal penalty for refusing to obey jail rules and regulations; providing an effective date.

—was read the second time by title.

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

Amendment 1 (with title amendment)—On page 1, lines 13-16, delete those lines and insert:

(11) Any inmate in any jail who knowingly and willfully refuses to obey any rule or regulation governing the conduct of inmates as provided in the Florida Model Jail Standards, pursuant to subsection (4), on three or more occasions while being subject

And the title is amended as follows:

On page 1, line 4, after "regulations" insert: on three or more occasions

Senator Bronson moved the following amendment which was adopted:

Amendment 2 (with title amendment)—On page 1, lines 13-20, delete those lines and insert:

(11)(a) Any prisoner in a county or municipal detention facility who knowingly and willfully refuses on three or more occasions to obey or comply with any rule governing the conduct of prisoners commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Such punishment must be in addition to any sentence he or she may be serving. A prisoner may be charged with, convicted of, and sentenced for a violation of this subsection in addition to any other criminal offense committed while detained in a county or municipal detention facility.

(b) Upon a prisoner's classification in a county or municipal detention facility, he or she must be provided with a printed copy of the rules governing the conduct of prisoners. Translation assistance must be provided, as needed.

(c) As used in this subsection, the term "rules governing the conduct of prisoners" means any of the rules relating to order and discipline provided in the Florida Model Jail Standards, adopted pursuant to subsection (4) and effective on October 1, 1997.

And the title is amended as follows:

On page 1, line 4, delete "and regulations;" and insert: ; requiring that a printed copy of rules be provided to prisoners; providing a definition;

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

Amendment 3 (with title amendment)—On page 1, line 8, insert:

Section 1. *(1) The following trust funds and fund accounts are terminated on July 1, 1998:*

(a) Within the state courts system:

1. Appellate Opinion Distribution Trust Fund, SAMAS number 222215.

2. Working Capital Trust Fund, SAMAS number 222792.

(b) Within the Department of Corrections:

1. Hurricane Andrew Recovery and Rebuilding Trust Fund, SAMAS number 702205.

2. Working Capital Trust Fund, SAMAS number 702792.

(2) All current balances remaining in, and all revenues of, the trust funds and fund accounts terminated by this act shall be transferred to the General Revenue Fund.

(3) For each trust fund or fund account terminated by this act, the state courts system or Department of Corrections, as applicable, shall pay any outstanding debts or obligations of the terminated fund or account as soon as practicable, and the Comptroller shall close out and remove the terminated fund or account from the various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 2. Section 216.272, Florida Statutes, is amended to read:

216.272 Working Capital Trust Funds.—

(1) There are hereby created Working Capital Trust Funds for the purpose of providing sufficient funds for the operation of data processing centers, which may include the creation of a reserve account within the Working Capital Trust Fund to pay for future information technology resource acquisitions as appropriated by the Legislature. Such funds shall be created from moneys budgeted for data processing services and equipment by those agencies~~, and the judicial branch,~~ to be served by the data processing center.

(2) The funds so allocated shall be in an amount sufficient to finance the center's operation; however, each agency ~~or judicial branch~~ served by the center shall contribute an amount equal to its proportionate share of cost of operating such data processing center. Each agency~~, or the judicial branch,~~ utilizing the services of the data processing center shall pay such moneys into the appropriate Working Capital Trust Fund on a quarterly basis or such other basis as may be determined by the Executive Office of the Governor ~~or the Chief Justice as appropriate~~.

Section 3. Section 945.215, Florida Statutes, is amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(1) *INMATE WELFARE TRUST FUND; DEPARTMENT OF CORRECTIONS.*—

(a) *The Inmate Welfare Trust Fund constitutes a trust held by the department for the benefit and welfare of offenders under the jurisdiction of the Department of Corrections. Funds shall be credited to the trust fund as follows:*

1. All *funds* ~~moneys~~ held in any auxiliary, canteen, welfare, or similar fund in any *correctional facility operated directly by the department* ~~state institution under the jurisdiction of the Department of Corrections shall be deposited in the Inmate Welfare Trust Fund of the department, which fund is created in the State Treasury, to be appropriated annually by the Legislature and deposited in the Department of Corrections Grants and Donations Trust Fund~~.

2. All net proceeds from operating inmate canteens, vending machines used primarily by inmates, hobby shops, and other such facilities; however, *funds necessary to* ~~moneys budgeted by the department for the~~ purchase ~~of~~ items for resale at *inmate* canteens *and* ~~or~~ vending machines must be deposited into local bank accounts designated by the department. ~~The department shall submit to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year a report that documents the receipts and expenditures, including a verification of telephone commissions, from the Inmate Welfare Trust Fund for the previous fiscal year. The report must present this information by program, by institution, and by type of receipt.~~

3. All proceeds from contracted telephone commissions. The department shall develop and update, as necessary, administrative procedures to verify that:

a. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

b. Persons who accept collect calls from inmates are charged the contracted rate; and

c. The department receives the contracted telephone commissions.

4. Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization; however, the department shall not accept any donation from, or on behalf of, any individual inmate.

5. Repayment of the one-time sum of $500,000 appropriated in fiscal year 1996-1997 from the Inmate Welfare Trust Fund for correctional work programs pursuant to s. 946.008.

6. All proceeds from:

a. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate:

b. Disciplinary fines imposed against inmates;

c. Forfeitures of inmate earnings; and

d. Unexpended balances in individual inmate trust fund accounts of less than $1.

7. All interest earnings and other proceeds derived from investments of funds deposited in the trust fund. In the manner authorized by law for fiduciaries, the secretary of the department, or the secretary's designee, may invest any funds in the trust fund when it is determined that such funds are not needed for immediate use.

(b) *Funds* ~~Beginning with the legislative appropriation for fiscal year 1995-1996 and thereafter, the money~~ in the Inmate Welfare Trust Fund must be used exclusively *for the following purposes at correctional facilities operated directly by the department*:

1. To *operate inmate canteens and vending machines, including purchasing* ~~purchase~~ items for resale at ~~the~~ inmate canteens *and* ~~or~~ vending machines, ~~maintained at the correctional facilities;~~

~~2.~~ *employing* ~~To employ~~ personnel and inmates to manage, supervise, and operate *inmate* ~~the~~ canteens and vending machines, ~~at the correctional facilities;~~

~~3.~~ *and covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *operating* ~~the operation of~~ inmate canteens and vending machines;

2.~~4.~~ To employ personnel to manage and supervise the proceeds from telephone commissions;

3. To develop, implement, and maintain the medical copayment accounting system;

4.~~5.~~ ~~To employ personnel for correctional education~~ To provide literacy programs, vocational training *programs*, and *educational* ~~academic~~

programs that comply with standards of the Department of Education, *including employing personnel and covering other*~~;~~

~~6. For~~ operating and fixed capital *outlay* expenses associated with *providing such programs* ~~the delivery to inmates of literacy programs, vocational training, and academic programs that comply with standards of the Department of Education~~;

5.~~7.~~ *To operate inmate chapels, faith-based programs, visiting pavilions, libraries, and law libraries, including employing personnel and covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *operating* ~~the operation of~~ inmate chapels, *faith-based programs, visiting pavilions,* libraries, and *law libraries* ~~visiting pavilions~~;

~~8. To employ personnel to operate the libraries, chapels, and visiting pavilions;~~

6.~~9.~~ *To provide* for expenses associated with various inmate clubs;

7.~~10.~~ *To provide* for expenses associated with legal services for inmates;

8.~~11.~~ ~~To employ personnel~~ To provide inmate substance abuse treatment *programs* and transition and life skills training programs, *including employing personnel*~~;~~ and

~~12.~~ *covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *providing such programs* ~~the delivery of inmate substance abuse treatment and transition and life skills training programs~~.

(c) The *Legislature shall annually appropriate the funds deposited in the Inmate Welfare Trust Fund. It is the intent of the Legislature that* total annual expenditures for *providing literacy programs, vocational training programs, and educational programs exceed the combined* ~~items listed in subparagraphs 5. and 6. must exceed the~~ total annual expenditures for *operating inmate chapels, faith-based programs, visiting pavilions, libraries, and law libraries, covering expenses associated with inmate clubs, and providing inmate substance abuse treatment programs and transition and life skills training programs* ~~items listed in subparagraphs 7. through 12~~.

(d) Funds in the Inmate Welfare Trust Fund or any other fund may not be used to purchase cable television service, to rent or purchase videocassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreation purposes. This paragraph does not preclude the purchase or rental of electronic or audiovisual equipment for inmate training or educational programs. ~~The department shall develop administrative procedures to verify that contracted telephone commissions are being received, that persons who have accepted collect calls from inmates are being charged the contracted rate, and that contracted telephone companies are accurately and completely recording and reporting all inmate telephone calls made.~~

~~(e) There shall be deposited in the Inmate Welfare Trust Fund all net proceeds from the operation of canteens, vending machines, hobby shops, and other such facilities and any moneys that may be assigned by the inmates or donated to the department by the general public or an inmate service organization for deposit in the fund. However, the department shall refuse to accept any donations from or on behalf of any individual inmate. The moneys of the fund shall constitute a trust held by the department for the benefit and welfare of the inmates of the institutions under the jurisdiction of the department.~~

~~(d) There shall be deposited in the Inmate Welfare Trust Fund such moneys as constitute repayment of the one-time sum appropriated pursuant to s. 946.008.~~

~~(e) Any contraband found upon, or in the possession of, any inmate in any institution under the jurisdiction of the department shall be confiscated and liquidated, and the proceeds thereof shall be deposited in the Inmate Welfare Trust Fund of the department.~~

~~(f) The secretary of the department or the secretary's designee may invest in the manner authorized by law for fiduciaries any money in the Inmate Welfare Trust Fund of the department that in his or her opinion is not necessary for immediate use, and the interest earned and other increments derived from such investments made pursuant to this section shall be deposited in the Inmate Welfare Trust Fund of the department.~~

(e)~~(g)~~ Items for resale at ~~the~~ inmate canteens *and* ~~or~~ vending machines maintained at the correctional facilities shall be priced comparatively with like items for retail sale at fair market prices.

(f)~~(h)~~ Notwithstanding any other provision of law, inmates with sufficient balances in their individual inmate bank trust fund accounts, after all debts against the account are satisfied, shall be allowed to request a weekly draw of up to $45 to be expended for personal use on canteen *and vending machine* items.

(g) The department shall annually compile a report that specifically documents Inmate Welfare Trust Fund receipts and expenditures. This report shall be compiled at both the statewide and institutional levels. The department must submit this report for the previous fiscal year by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives and to the Executive Office of the Governor.

(2) *PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND; PRIVATE CORRECTIONAL FACILITIES.—*

(a) For purposes of this subsection, privately operated institutions or private correctional facilities are those correctional facilities under contract with the department pursuant to chapter 944 or the Correctional Privatization Commission pursuant to chapter 957.

(b)1. The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities shall be deposited in the Privately Operated Institutions Inmate Welfare Trust Fund.

2. Funds in the Privately Operated Institutions Inmate Welfare Trust Fund shall be expended only pursuant to legislative appropriation.

(c) The Correctional Privatization Commission shall annually compile a report that documents Privately Operated Institutions Inmate Welfare Trust Fund receipts and expenditures at each private correctional facility. This report must specifically identify receipt sources and expenditures. The Correctional Privatization Commission shall compile this report for the prior fiscal year and shall submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.

(3) EMPLOYEE BENEFIT TRUST FUND; DEPARTMENT OF CORRECTIONS.—

(a) The department may establish an Employee Benefit Trust Fund. Trust fund sources may be derived from any of the following:

1.~~(a)~~ Proceeds of vending machines or other such services not intended for use by inmates.

2.~~(b)~~ Donations, except donations by, or on behalf of, an individual inmate.

3.~~(c)~~ Additional trust funds and grants which may become available.

(b) Funds from the Employee Benefit Trust Fund ~~Such fund shall be maintained and audited separately and apart from the Inmate Welfare Trust Fund. Portions of the fund~~ may be used to construct, *operate, and maintain* training and recreation facilities at *correctional facilities for the exclusive use of department employees* ~~respective institutions~~. Such facilities *are* ~~shall be~~ the property of the department and *must* ~~shall~~ provide the maximum benefit to *all* interested employees, *regardless of gender* ~~of both sexes, including teachers, clerical staff, medical and psychological services personnel, and officers and administrators~~.

Section 4. Paragraph (d) of subsection (2) of section 944.803, Florida Statutes, is amended to read:

944.803 Faith-based programs for inmates.—

(2) It is the intent of the Legislature that the Department of Corrections and the private vendors operating private correctional facilities shall continuously:

(d) Fund through the use of ~~the~~ inmate welfare trust *funds* ~~fund~~ pursuant to s. 945.215 an adequate number of chaplains and support

staff to operate *faith-based* ~~chaplaincy~~ programs in ~~state~~ correctional institutions.

Section 5. Section 945.31, Florida Statutes, is amended to read:

945.31 Restitution and other payments.—The department may establish bank accounts outside the State Treasury for the purpose of collecting and disbursing restitution and other court-ordered payments from persons in its custody or under its supervision, and may collect an administrative processing fee in an amount equal to 4 percent of the gross amounts of such payments. Such administrative processing fee shall be deposited in the department's *Operating* ~~Grants and Donations~~ Trust Fund and shall be used to offset the cost of the department's services.

Section 6. Section 945.76, Florida Statutes, is amended to read:

945.76 Certification and monitoring of batterers' intervention programs; fees.—

(1) Pursuant to s. 741.32, the Department of Corrections is authorized to assess and collect*:*

(a) An annual certification *fee* ~~fees~~ not to exceed $300 for the certification and monitoring of *batterers' intervention* programs ~~certified by the Department of Corrections' Office of Certification and Monitoring of Batterers' Intervention Programs and~~.

(b) An annual certification fee not to exceed $200 for the certification and monitoring of assessment personnel providing direct services to persons who:

1.~~(a)~~ Are ordered by the court to participate in a domestic violence prevention program;

2.~~(b)~~ Are adjudged to have committed an act of domestic violence as defined in s. 741.28;

3.~~(c)~~ Have an injunction entered for protection against domestic violence; or

4.~~(d)~~ Agree to attend a program as part of a diversion or pretrial intervention agreement by the offender with the state attorney.

(2) All persons required by the court to attend domestic violence programs certified by the Department of Corrections' Office of Certification and Monitoring of Batterers' Intervention Programs shall pay an additional $30 fee for each 29-week program to the Department of Corrections.

(3) The *fees assessed and collected under this section* ~~fee~~ shall be deposited in the *department's Operating* ~~Grants and Donations~~ Trust Fund ~~to be used by the department~~ to fund the cost of certifying and monitoring batterers' intervention programs.

Section 7. Subsection (7) of section 944.10, Florida Statutes, is amended to read:

944.10 Department of Corrections to provide buildings; sale and purchase of land; contracts to provide services and inmate labor.—

(7) The department may enter into contracts with federal, state, or local governmental entities or subdivisions to provide services and inmate labor for the construction of buildings, parks, roads, any detention or commitment facilities, or any other project deemed to be appropriate by the Department of Corrections, which may include, but is not limited to, the planning, design, site acquisition or preparation, management, or construction of such projects. The department may charge fees for providing such services. All fees collected must be placed in the *Correctional Work Program* ~~Grants and Donations~~ Trust Fund.

Section 8. Subsection (2) of section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(2) Any person being electronically monitored by the department as a result of placement on community control shall be required to pay a $1-per-day surcharge in addition to the cost of supervision fee as directed by the sentencing court. The surcharge shall be deposited in the *Operating* ~~Grants and Donations~~ Trust Fund to be used by the department for purchasing and maintaining electronic monitoring devices.

Section 9. Subsection (10) of section 951.23, Florida Statutes, is amended to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(10) Nothing in this section prohibits the governing board of a county or municipality to enter into an agreement with the Department of Corrections authorizing the department to inspect the local detention facilities under the jurisdiction of the governing body. A governing board of a county or municipality may enter into such agreements with the department upon consultation with the sheriff if the sheriff operates the detention facility. The inspections performed by the department shall be consultatory in nature and for the purpose of advising the local governing bodies concerning compliance with the standards adopted by the detention facility's chief correctional officer. Such agreements must include, but are not limited to, provisions for the physical and operational standards that were adopted by the chief correctional officer of the detention facility, the manner and frequency of inspections to be conducted by the department, whether such inspections are to be announced or unannounced by the department, the type of access the department may have to the detention facility, and the amount of payment by the local governing body, if any, for the services rendered by the department. Inspections and access to local detention facilities shall not interfere with custody of inmates or the security of the facilities as determined by the chief correctional officer of each facility. Any fees collected by the department pursuant to such agreements must be deposited into the *Operating* ~~Grants and Donations~~ Trust Fund and shall be used to pay the cost of the services provided by the department to monitor local detention facilities pursuant to such agreements. This subsection shall be repealed effective October 1, 1999.

Section 10. *There is appropriated $550,000 from the Inmate Welfare Trust Fund to the Department of Corrections for the New Horizon Community Mental Health Center's Family Intervention, Preservation, and Support Program for fiscal year 1998-1999.*

Section 11. *There is appropriated $770,000 from the Inmate Welfare Trust Fund to the Department of Corrections for the fixed capital outlay needs of the AGAPE program in Dade County, including the purchase of new housing units and renovations to existing AGAPE facilities, for fiscal year 1998-1999.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to corrections; terminating specified trust funds and fund accounts within the state courts system and the Department of Corrections; providing for the transfer of current balances to general revenue, the paying of outstanding debts and obligations, and the removal of the terminated funds and accounts from the various state accounting systems; modifying provisions relating to specified trust funds and fund accounts within the state courts system and the Department of Corrections; amending s. 216.272, F.S., relating to Working Capital Trust Funds used to fund data processing centers; removing reference to the judicial branch; amending s. 945.215, F.S.; providing sources of funds and purposes of the Inmate Welfare Trust Fund, the Privately Owned Institutions Inmate Welfare Trust Fund, and the Employee Benefit Trust Fund within the department; providing for annual appropriation of funds deposited in the Inmate Welfare Trust Fund; requiring certain annual reports; amending s. 944.803, F.S., relating to faith-based programs for inmates; revising a reference, to conform; amending s. 945.31, F.S.; providing for deposit of the department's administrative processing fee in the department's Operating Trust Fund; amending s. 945.76, F.S.; revising provisions relating to fees for certification and monitoring of batterers' intervention programs; providing for deposit of such fees in the department's Operating Trust Fund; amending s. 944.10, F.S.; providing for deposit of contractual service and inmate labor fees in the Correctional Work Program Trust Fund; amending s. 948.09, F.S.; providing for deposit of the electronic monitoring surcharge in the department's Operating Trust Fund; amending s. 951.23, F.S.; providing for deposit of fees collected pursuant to local detention facility inspection agreements in the department's Operating Trust Fund; amending s. 951.23,

On motion by Senator Bronson, further consideration of **SB 404** with pending **Amendment 3** was deferred.

On motion by Senator Forman—

CS for CS for SB 714—A bill to be entitled An act relating to health quality assurance; amending s. 112.0455, F.S., relating to the Drug-Free Workplace Act; requiring background screening for an applicant for licensure of certain laboratories; authorizing the use of certain body hair for drug testing; creating s. 381.60225, F.S.; requiring background screening for an applicant for certification to operate an organ procurement organization, a tissue bank, or an eye bank; amending s. 383.302, F.S., relating to the regulation of birth centers; revising definitions to reflect the transfer of regulatory authority from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending s. 383.305, F.S.; requiring background screening for an applicant for licensure of a birth center; amending ss. 383.308, 383.309, 383.31, 383.312, 383.313, 383.318, 383.32, 383.324, 383.325, 383.327, 383.33, 383.331, F.S., relating to the regulation of birth centers; conforming provisions to reflect the transfer of regulatory authority to the Agency for Health Care Administration; amending s. 390.015, F.S.; requiring background screening for an applicant for licensure of an abortion clinic; amending s. 391.206, F.S.; requiring background screening for an applicant for licensure to operate a pediatric extended care center; amending s. 393.063, F.S., relating to developmental disabilities; providing a definition; amending s. 393.067, F.S.; requiring background screening for an applicant for licensure to operate an intermediate care facility for the developmentally disabled; amending s. 394.4787, F.S., relating to the regulation of mental health facilities; conforming a cross-reference to changes made by the act; amending s. 394.67, F.S., relating to community alcohol, drug abuse, and mental health services; revising definitions; amending s. 394.875, F.S.; requiring background screening for an applicant for licensure of a crisis stabilization unit or residential treatment facility; amending ss. 394.876, 394.877, 394.878, 394.879, 394.90, 394.902, 394.903, 394.904, 394.907, F.S., relating to the regulation of mental health facilities; conforming provisions to reflect the transfer of regulatory authority to the Agency for Health Care Administration; amending s. 395.002, F.S., relating to hospital licensing and regulation; providing definitions; creating s. 395.0055, F.S.; requiring background screening for an applicant for licensure of a facility operated under ch. 395, F.S.; amending s. 395.0199, F.S.; requiring background screening for an applicant for registration as a utilization review agent; amending s. 400.051, F.S.; conforming a cross-reference; amending s. 400.071, F.S.; requiring background screening for an applicant for licensure of a nursing home; amending s. 400.411, F.S.; requiring background screening for an applicant for licensure of an assisted living facility; amending ss. 400.414, 400.417, 400.4174, 400.4176, F.S., relating to the regulation of assisted living facilities; providing additional grounds for denial, revocation, or suspension of a license; requiring background screening for employees hired on or after a specified date; amending ss. 400.461, F.S., relating to the regulation of home health agencies; conforming a cross-reference; amending s. 400.471, F.S.; requiring background screening for an applicant for licensure of a home health agency; amending s. 400.506, F.S.; requiring background screening for an applicant for licensure of a nurse registry; amending s. 400.555, F.S.; requiring background screening for an applicant for licensure of an adult day care center; amending s. 400.556, F.S., relating to disciplinary actions against adult day care center licensees; making noncompliance with background screening requirements a basis for disciplinary action; amending s. 400.557, F.S., relating to renewal of an adult day care center license; requiring an affidavit of compliance with background screening requirements when a license is renewed; creating s. 400.5572, F.S.; requiring background screening for employees of an adult day care center hired on or after a specified date; amending s. 400.606, F.S.; requiring background screening for an applicant for licensure of a hospice; creating s. 400.6065, F.S.; providing requirements for background screening of hospice employees; amending s. 400.607, F.S., relating to disciplinary actions against a hospice license; making noncompliance with background screening requirements a basis for disciplinary action; amending s. 400.619, F.S.; revising background screening requirements for an applicant for licensure of an adult family care home; providing screening requirements for designated relief persons; deleting agency authority to take disciplinary action against an adult family-care-home license; revising rulemaking authority; creating s. 400.6194, F.S.; providing for disciplinary action against an adult family-care-home license; making noncompliance with screening requirements a basis for disciplinary action; amending s. 400.801, F.S.; requiring background screening for an applicant for licensure of a home for special services; amending s. 400.805, F.S.; requiring background screening for an applicant for licensure of a transitional living facility; amending s. 430.04, F.S.; providing duties and responsibilities of the Department of Elderly Affairs; requiring the department to take disciplinary action against an area agency on aging for failure to implement and maintain a department-approved grievance resolution procedure; amending s. 455.654, F.S., relating to referring health care providers; conforming cross-references to changes made by the act; amending s. 468.505, F.S., relating to disciplinary action against certain medical professionals and activities exempt from regulation; updating provisions and conforming cross-references; amending s. 483.101, F.S.; requiring background screening for an applicant for licensure of a clinical laboratory; amending s. 483.106, F.S., relating to a certificate of exemption; correcting terminology; amending s. 483.30, F.S.; requiring background screening for an applicant for licensure of a multiphasic health testing center; repealing s. 455.661, F.S., which provides for licensure of designated health care services; providing appropriations and authorizing positions; providing for applicability of background screening requirements; providing for future repeal; providing for a review of certain background screening requirements; providing an effective date.

—was read the second time by title.

Senator Myers moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 5, line 31, insert:

Section 1. Subsection (1) of section 381.0035, Florida Statutes, is amended to read:

381.0035 Educational course on human immunodeficiency virus and acquired immune deficiency syndrome; employees and clients of certain health care facilities.—

(1) The Department of Health shall require all employees and clients of facilities licensed under chapters 393, 394, and 397 and employees of facilities licensed under chapter 395 and parts II, III, IV, and VI of chapter 400 to complete, biennially, a continuing educational course on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome with an emphasis on appropriate behavior and attitude change. Such instruction shall include information on current Florida law and its impact on testing, confidentiality of test results, and treatment of patients *and any protocols and procedures applicable to human immunodeficiency counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25*.

Section 2. Subsections (2), (3), (4), (5), and (8) of section 381.004, Florida Statutes, are amended, and subsection (6) of that section is reenacted, to read:

381.004 Testing for human immunodeficiency virus.—

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

(a) "HIV test" means a test ordered after July 6, 1988, to determine the presence of the antibody or antigen to human immunodeficiency virus or the presence of human immunodeficiency virus infection.

(b) "HIV test result" means a laboratory report of a human immunodeficiency virus test result entered into a medical record on or after July 6, 1988, or any report or notation in a medical record of a laboratory report of a human immunodeficiency virus test. As used in this section, the term "HIV test result" does not include test results reported to a health care provider by a patient.

(c) "Significant exposure" means:

1. Exposure to blood or body fluids through needlestick, instruments, or sharps;

2. Exposure of mucous membranes to visible blood or body fluids, to which universal precautions apply according to the National Centers for Disease Control and Prevention, including, without limitations, the following body fluids:

a. Blood.

b. Semen.

c. Vaginal secretions.

d. Cerebro-spinal fluid (CSF).

e. Synovial fluid.

f. Pleural fluid.

g. Peritoneal fluid.

h. Pericardial fluid.

i. Amniotic fluid.

j. Laboratory specimens that contain HIV (e.g., suspensions of concentrated virus); or

3. Exposure of skin to visible blood or body fluids, especially when the exposed skin is chapped, abraded, or afflicted with dermatitis or the contact is prolonged or involving an extensive area.

(d) "Preliminary HIV test" means an antibody screening test, such as the enzyme-linked immunosorbent assays (ELISAs) or the Single-Use Diagnostic System (SUDS).

(e)~~(d)~~ "Test subject" or "subject of the test" means the person upon whom an HIV test is performed, or the person who has legal authority to make health care decisions for the test subject.

(3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(a) No person in this state shall *order* ~~perform~~ a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in paragraph (i). Informed consent shall be preceded by an explanation of the right to confidential treatment of information identifying the subject of the test and the results of the test to the extent provided by law. *Information shall also be provided on the fact that a positive HIV test result will be reported to the county health department with sufficient information to identify the test subject and on the availability and location of sites at which anonymous testing is performed. As required in paragraph (4)(c), each county health department shall maintain a list of sites at which anonymous testing is performed, including the locations, phone numbers, and hours of operation of the sites.* Consent need not be in writing provided there is documentation in the medical record that the test has been explained and the consent has been obtained.

(b) Except as provided in paragraph (i), informed consent must be obtained from a legal guardian or other person authorized by law when the person:

1. Is not competent, *is incapacitated,* or is otherwise unable to make an informed judgment; or

2. Has not reached the age of majority, except as provided in s. 384.30.

(c) *The person ordering the test or that person's designee shall ensure that all reasonable efforts are made to notify the test subject of his or her test result. Notification of a person with a positive test result shall include information on the availability of appropriate medical and support services, on the importance of notifying partners who may have been exposed, and on preventing transmission of HIV. Notification of a person with a negative test result shall include, as appropriate, information on preventing the transmission of HIV. When testing occurs in a hospital emergency department, detention facility, or other facility and the test subject has been released before being notified of positive test results, informing the county health department for that department to notify the test subject fulfills this responsibility.* ~~No person shall order a test without making available to the person tested, prior to the test, information regarding measures for the prevention of, exposure to, and transmission of human immunodeficiency virus. At the time an HIV test is ordered, the person ordering the test shall schedule a return visit with the test subject for the purpose of disclosing the test results and conducting posttest counseling as described in paragraph (e).~~

(d) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted *except in the following situations:*~~.~~

1. ~~However,~~ Preliminary test results may be released to licensed physicians or the medical *or nonmedical* personnel subject to the significant exposure for purposes of subparagraphs *(h)10.,* ~~(i)10. and~~ 11., *and 12.*

2. Preliminary test results may be released to health care providers and to the person tested when decisions about medical care or treatment of the person tested cannot await the results of confirmatory testing. Positive preliminary HIV test results shall not be characterized to the patient as a diagnosis of HIV infection. Justification for the use of preliminary test results must be documented in the medical record by the health care provider who ordered the test. This subparagraph does not authorize the release of preliminary test results for the purpose of routine identification of HIV-infected individuals or when HIV testing is incidental to the preliminary diagnosis or care of a patient. Corroborating or confirmatory testing must be conducted as followup to a positive preliminary test. Results shall be communicated to the patient according to statute regardless of the outcome. Except as provided in this section, test results are confidential and exempt from the provisions of s. 119.07(1).

~~(e) Except as otherwise provided, no test result shall be revealed to the person upon whom the test was performed without affording that person the immediate opportunity for individual, face-to-face counseling about:~~

~~1. The meaning of the test results;~~

~~2. The possible need for additional testing;~~

~~3. Measures for the prevention of the transmission of the human immunodeficiency virus infection;~~

~~4. The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;~~

~~5. The benefits of locating and counseling any individual by whom the infected individual may have been exposed to the human immunodeficiency virus infection and any individual whom the infected individual may have exposed to such human immunodeficiency virus infection; and~~

~~6. The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in subparagraph 5.~~

~~Telephonic posttest counseling shall be permitted when reporting the HIV test results of a home access HIV test that is approved by the United States Food and Drug Administration and analyzed by a laboratory certified under the federal Clinical Laboratory Improvement Amendments of 1988 or licensed under part I of chapter 483.~~

(e)~~(f)~~ Except as provided in this section, the identity of any person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). No person who has obtained or has knowledge of a test result pursuant to this section may disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of such a test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative.

2. Any person, including third-party payors, designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative. The test subject may in writing authorize the disclosure of the test subject's HIV test results to third party payors, who need not be specifically identified, and to other persons to whom the test subject subsequently issues a general release of medical information. A general release without such prior written authorization is not sufficient to release HIV test results.

3. An authorized agent or employee of a health facility or health care provider if the health facility or health care provider itself is authorized to obtain the test results, the agent or employee participates in the administration or provision of patient care or handles or processes specimens of body fluids or tissues, and the agent or employee has a need to know such information. The department shall adopt a rule defining which persons have a need to know pursuant to this subparagraph.

4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment. For purposes of this subparagraph, health care providers shall include licensed health care professionals employed by or associated with state, county, or municipal detention facilities when such health care professionals are acting exclusively for the purpose of providing diagnoses or treatment of persons in the custody of such facilities.

5. The department, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law.

6. A health facility or health care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to July 6, 1988, for the purpose of artificial insemination.

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews pursuant to chapters 395 and 766.

8. Authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information.

9. A person allowed access by a court order which is issued in compliance with the following provisions:

a. No court of this state shall issue such order unless the court finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records.

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially in documents not filed with the court.

c. Before granting any such order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party.

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

10. A person allowed access by order of a judge of compensation claims of the Division of Workers' Compensation of the Department of Labor and Employment Security. A judge of compensation claims shall not issue such order unless he or she finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means.

11. Those employees of the department or of child-placing or child-caring agencies or of family foster homes, licensed pursuant to s. 409.175, who are directly involved in the placement, care, control, or custody of such test subject and who have a need to know such information; adoptive parents of such test subject; or any adult custodian, any adult relative, or any person responsible for the child's welfare, if the test subject was not tested under subparagraph (b)2. and if a reasonable attempt has been made to locate and inform the legal guardian of a test result. The department shall adopt a rule to implement this subparagraph.

12. Those employees of residential facilities or of community-based care programs that care for developmentally disabled persons, pursuant to chapter 393, who are directly involved in the care, control, or custody of such test subject and who have a need to know such information.

13. A health care provider involved in the delivery of a child can note the mother's HIV test results in the child's medical record.

14.~~12.~~ Medical personnel *or nonmedical personnel* who have been subject to a significant exposure during the course of medical practice or in the performance of professional duties, or individuals who are the subject of the significant exposure as provided in subparagraphs *(h)10.*, ~~(i)10. and~~ 11., *and 13.*

15. The medical examiner shall disclose positive HIV test results to the department in accordance with rules for reporting and controlling the spread of disease.

(f)~~(g)~~ Except as provided in this section, the identity of a person upon whom a test has been performed is confidential and exempt from the provisions of s. 119.07(1). No person to whom the results of a test have been disclosed may disclose the test results to another person except as authorized by this subsection and by ss. 951.27 and 960.003. Whenever disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within 10 days, except that this notice shall not be required for disclosures made pursuant to subparagraphs *(e)3.* ~~(f)3.~~ and 4.

(g)~~(h)~~ Human immunodeficiency virus test results contained in the medical records of a hospital licensed under chapter 395 may be released in accordance with s. 395.3025 without being subject to the requirements of subparagraph *(e)2.* ~~(f)2.~~, subparagraph *(e)9.* ~~(f)9.~~, or paragraph *(f)* ~~(g)~~; provided the hospital has obtained written informed consent for the HIV test in accordance with provisions of this section.

(h)~~(i)~~ Notwithstanding the provisions of paragraph (a), informed consent is not required:

1. When testing for sexually transmissible diseases is required by state or federal law, or by rule including the following situations:

a. HIV testing pursuant to s. 796.08 of persons convicted of prostitution or of procuring another to commit prostitution.

b. Testing for HIV by a medical examiner in accordance with s. 406.11.

2. Those exceptions provided for blood, plasma, organs, skin, semen, or other human tissue pursuant to s. 381.0041.

3. For the performance of an HIV-related test by licensed medical personnel in bona fide medical emergencies when the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment to the person being tested and the patient is unable to consent, as supported by documentation in the medical record. *Notification of test results in accordance with paragraph (c)* ~~Posttest counseling~~ is required.

4. For the performance of an HIV-related test by licensed medical personnel for medical diagnosis of acute illness where, in the opinion of the attending physician, obtaining informed consent would be detrimental to the patient, as supported by documentation in the medical record, and the test results are necessary for medical diagnostic purposes to provide appropriate care or treatment to the person being tested. *Notification of test results in accordance with paragraph (c)* ~~Posttest counsel-~~

~~ing~~ is required if it would not be detrimental to the patient. This subparagraph does not authorize the routine testing of patients for HIV infection without informed consent.

5. When HIV testing is performed as part of an autopsy for which consent was obtained pursuant to s. 872.04.

6. For the performance of an HIV test upon a defendant pursuant to the victim's request in a prosecution for any type of sexual battery where a blood sample is taken from the defendant voluntarily, pursuant to court order for any purpose, or pursuant to the provisions of s. 775.0877, s. 951.27, or s. 960.003; however, the results of any HIV test performed shall be disclosed solely to the victim and the defendant, except as provided in ss. 775.0877, 951.27, and 960.003.

7. When an HIV test is mandated by court order.

8. For epidemiological research pursuant to s. 381.0032, for research consistent with institutional review boards created by 45 C.F.R. part 46, or for the performance of an HIV-related test for the purpose of research, if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

9. When human tissue is collected lawfully without the consent of the donor for corneal removal as authorized by s. 732.9185 or enucleation of the eyes as authorized by s. 732.919.

10. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice and where a blood sample is *available that was* taken from that individual voluntarily by medical personnel for other purposes. "Medical personnel" includes a licensed or certified health care professional; an employee of a health care professional, health care facility, or blood bank; and a paramedic or emergency medical technician as defined in s. 401.23.

a. Prior to performance of an HIV test on a voluntarily obtained blood sample, the individual from whom the blood was obtained shall be requested to consent to the performance of the test and to the release of the results. The individual's refusal to consent and all information concerning the performance of an HIV test and any HIV test result shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.

b. Reasonable attempts to locate the individual and to obtain consent shall be made and all attempts must be documented. If the individual cannot be found, an HIV test may be conducted on the available blood sample. If the individual does not voluntarily consent to the performance of an HIV test, the individual shall be informed that an HIV test will be performed, and counseling shall be furnished as provided in this section. However, HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel.

c. Costs of any HIV test of a blood sample performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel.

d. In order to utilize the provisions of this subparagraph, the medical personnel must either be tested for HIV pursuant to this section or provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample is not available, the medical personnel or the employer of such person acting on behalf of the employee may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.

11. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice of the medical personnel while the medical personnel provides emergency medical treatment to the individual; or who comes into contact with nonmedical personnel in such a way that a significant exposure has occurred while the nonmedical personnel provides emergency medical assistance during a medical emergency. For the purposes of this subparagraph, a medical emergency means an emergency medical condition outside of a hospital or health care facility that provides physician care. The test may be performed only during the course of treatment for the medical emergency.

a. An individual who is capable of providing consent shall be requested to consent to an HIV test prior to the testing. The individual's refusal to consent, and all information concerning the performance of an HIV test and its result, shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.

b. HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel or nonmedical personnel, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.

c. Costs of any HIV test performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel.

d. In order to utilize the provisions of this subparagraph, the medical personnel or nonmedical personnel shall be tested for HIV pursuant to this section or shall provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample was not obtained during treatment for the medical emergency, the medical personnel, the employer of the medical personnel acting on behalf of the employee, or the nonmedical personnel may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.

12. For the performance of an HIV test by the medical examiner upon a deceased individual who is the source of a significant exposure to medical personnel or nonmedical personnel who provided emergency medical assistance and who expired or could not be resuscitated during treatment for the medical emergency.

13.~~12.~~ For the performance of an HIV-related test medically indicated by licensed medical personnel for medical diagnosis of a hospitalized infant as necessary to provide appropriate care and treatment of the infant when, after a reasonable attempt, a parent cannot be contacted to provide consent. The medical records of the infant shall reflect the reason consent of the parent was not initially obtained. Test results ~~and posttest counseling~~ shall be provided to the parent when the parent is located.

14. For the performance of HIV testing conducted to monitor the clinical progress of a patient previously diagnosed to be HIV positive.

15. For the performance of repeated HIV testing conducted to monitor possible conversion from a significant exposure.

(4) COUNTY HEALTH DEPARTMENT NETWORK OF VOLUNTARY HUMAN IMMUNODEFICIENCY VIRUS TESTING PROGRAMS.—

(a) The Department of Health shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each ~~county~~ health department established under the provisions of part I of chapter 154. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate.

(b) Each county health department shall have the ability to provide counseling and testing for human immunodeficiency virus to each patient who receives services and shall offer such testing on a voluntary basis to each patient who presents himself or herself for services in a public health program designated by the State Health Officer by rule.

(c) Each county health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on both an anonymous and confidential basis. Counseling provided to a patient tested on both an anonymous and confidential basis shall include informing the patient of the availability of partner-notification services, the benefits of such services, and the confidentiality protections available as part of such services. The Department of Health or its designated agent shall continue to provide for anonymous testing through an alternative testing site program with sites throughout all areas of the state. Each county health department shall maintain a list of anonymous testing sites. The list shall include the locations, phone numbers, and hours of operation of the sites and shall be disseminated to all persons and programs offering human immunodeficiency virus testing within the service area of the county health department, including physicians licensed under chapter 458 or chapter 459. Except as provided in this section, the identity of a person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1).

(d) The result of a serologic test conducted under the auspices of the Department of Health shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS; REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM REGISTRATION.—No county health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immune deficiency syndrome~~, acquired immune deficiency syndrome related complex,~~ or human immunodeficiency virus status without first registering with the Department of Health, *reregistering each year,* complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program must be directed by a person with a minimum number of contact hours of experience in the counseling of persons with acquired immune deficiency syndrome~~, acquired immune deficiency syndrome related complex,~~ or human immunodeficiency virus infection, as established by the Department of Health by rule.

(b) The program must have all medical care supervised by a physician licensed under the provisions of chapter 458 or chapter 459.

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of chapter 483.

(d) The program must meet all the informed consent criteria contained in subsection (3).

(e) The program must provide *the opportunity for* pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior.

(f) The program must provide supplemental corroborative testing on all positive test results before the results of any positive test are provided to the patient. Except as provided in this section, the identity of any person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1).

(g) The program must provide *the opportunity for* face-to-face posttest counseling on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others.

(h) Each person providing posttest counseling to a patient with a positive test result shall receive specialized training, to be specified by rule of the department, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate.

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and posttest counseling, the program must provide a complete list of all such charges to the patient and the Department of Health.

(j) Nothing in this subsection shall be construed to require a facility licensed under chapter 483 or a person licensed under the provisions of chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 466, or chapter 467 to register with the Department of Health if he or she does not advertise or hold himself or herself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(k) The department shall deny, suspend, or revoke the registration of any person or agency that violates this section, or any rule adopted under this section, constituting an emergency affecting the immediate health, safety, and welfare of a person receiving service.

(6) PENALTIES.—

(a) Any violation of this section by a facility or licensed health care provider shall be a ground for disciplinary action contained in the facility's or professional's respective licensing chapter.

(b) Any person who violates the confidentiality provisions of this section and s. 951.27 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(8) MODEL PROTOCOL FOR COUNSELING AND TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS.—The Department of Health shall develop, *by rule,* a model protocol consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus. *The protocol shall include criteria for evaluating a patient's risk for human immunodeficiency virus infection and for offering human immunodeficiency virus testing, on a voluntary basis, as a routine part of primary health care or admission to a health care facility. The Department of Health shall ensure that the protocols developed under this section are made available to health care providers.*

Section 3. Section 384.25, Florida Statutes, is amended to read:

384.25 Reporting required.—

(1) Each person who makes a diagnosis of or treats a person with a sexually transmissible disease and each laboratory that performs a test for a sexually transmissible disease which concludes with a positive result shall report such facts as may be required by the department by rule, within a time period as specified by rule of the department, but in no case to exceed 2 weeks.

(2) The department shall adopt rules specifying the information required in and a minimum time period for reporting a sexually transmissible disease. In adopting such rules, the department shall consider the need for information, protections for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. To ensure the confidentiality of persons infected with the human immunodeficiency virus (HIV), reporting of HIV infection and acquired immune deficiency syndrome (AIDS) must

be conducted using the HIV/AIDS Reporting System (HARS) developed by the Centers for Disease Control and Prevention of the United States Public Health Service.

(3) The department shall require reporting of physician diagnosed cases of AIDS based upon diagnostic criteria from the Centers for Disease Control and Prevention.

(4) The department may require physician and laboratory reporting of HIV infection. However, only reports of HIV infection identified on or after the effective date of the rule developed by the department pursuant to this subsection shall be accepted. The reporting may not affect or relate to anonymous HIV testing programs conducted pursuant to s. 381.004(4) or to university-based medical research protocols as determined by the department.

(5) After notification of the test subject under subsection (4), the department may, with the consent of the test subject, notify school superintendents of students and school personnel whose HIV tests are positive.

(6) The department shall by February 1 of each year submit to the Legislature an annual report relating to all information obtained pursuant to this section.

~~(7) The rules adopted by the department pursuant to this section shall specify the protocols for the reporting required or permitted by subsection (3) or subsection (4). The protocol developed for implementation of subsection (4) shall include, but need not be limited to, information to be given to a test subject during pretest counseling, including:~~

~~(a) The fact that a positive HIV test result may be reported to the county health department with sufficient information to identify the test subject and the availability and location of anonymous testing sites; and~~

~~(b) The partner notification services available through the county health departments, the benefits of such services, and the confidentiality protections available as part of such services.~~

(7)~~(8)~~ Each person who violates the provisions of this section or the rules adopted hereunder may be fined by the department up to $500 for each offense. The department shall report each violation of this section to the regulatory agency responsible for licensing each health care professional and each laboratory to which these provisions apply.

Section 4. Subsection (1) of section 455.604, Florida Statutes, is amended to read:

455.604 Requirement for instruction for certain licensees on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) The appropriate board shall require each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; part II, part III, or part V of chapter 468; or chapter 486 to complete a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, ~~and~~ treatment of patients, *and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25*.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to health care; amending s. 381.0035, F.S.; requiring certain information related to HIV testing and counseling to be included in HIV educational courses; amending s. 381.004, F.S.; requiring informed consent before an HIV test may be ordered; requiring certain information to be provided when informed consent is sought; providing requirements with respect to notification and release of test results; authorizing certain disclosures of test results; providing for court orders for testing in specified circumstances; providing for emergency action against a registration; providing requirements for model protocols; providing penalties; amending s. 384.25, F.S.; deleting provisions relating to protocols and to notification to school superintendents; amending s. 455.604, F.S.; requiring certain information related to HIV testing to be included in HIV educational courses for certain licensed professions;

Senator Forman moved the following amendments which were adopted:

Amendment 2—On page 84, line 1 through page 97, line 4, delete those lines and insert:

Section 38. Section 400.411, Florida Statutes, is amended to read:

400.411 Initial application for license; provisional license.—

(1) Application for *a* license shall be made to the agency on forms furnished by it and shall be accompanied by the appropriate license fee. ~~The application shall contain sufficient information, as required by rules of the department, to establish that the applicant can provide adequate care.~~

(2) The applicant may be an individual owner, a corporation, a partnership, a firm, an association, or a governmental entity.

(3)~~(2)~~ The application *must* ~~shall~~ be *signed by the applicant* under oath and *must* ~~shall~~ contain the following:

(a) The name, address, date of birth, and social security number of the applicant and the name by which the facility is to be known. ~~Pursuant thereto:~~

~~1.~~ If the applicant is a firm, partnership, or association, the application shall contain the name, address, date of birth, and social security number of every member thereof.

~~2.~~ If the applicant is a corporation, the application shall contain *the corporation's* ~~its~~ name and address;~~,~~ the name, address, date of birth, and social security number of each of its directors and officers;~~,~~ and the name and address of each person having at least a *5-percent ownership* ~~10-percent~~ interest in the corporation.

(b) The name and address of any professional service, firm, association, partnership, or corporation that is to provide goods, leases, or services to the facility ~~for which the application is made,~~ if a *5-percent* ~~10-percent~~ or greater *ownership* interest in the service, firm, association, partnership, or corporation is owned by a person whose name must be listed on the application under paragraph (a).

(c) ~~Information that provides a source to establish the suitable character, financial stability, and competency of the applicant and of each person specified in the application under subparagraph (a)1. or subparagraph (a)2. who has at least a 10-percent interest in the firm, partnership, association, or corporation and, if applicable, of the administrator, including~~ The name and address of any long-term care facility with which the applicant, ~~or~~ administrator, *or financial officer* has been affiliated through ownership or employment within 5 years of the date of *this license* ~~the~~ application ~~for a license~~; and a signed affidavit disclosing any financial or ownership interest that the applicant, or any *person listed in paragraph (a)* ~~principal, partner, or shareholder thereof~~, holds or has held within the last 5 years in any ~~other~~ facility licensed under this part, or in any other entity licensed by *this* ~~the~~ state or another state to provide health or residential care, which facility or entity closed or ceased to operate as a result of financial problems, *or has had a receiver appointed or a license denied, suspended or revoked, or was subject to a moratorium on admissions, or has had an injunctive proceeding initiated against it*.

(d) A description and explanation of any exclusions, permanent suspensions, or terminations of the applicant from the Medicare or Medicaid programs. Proof of compliance with disclosure of ownership and control interest requirements of the Medicaid or Medicare programs shall be accepted in lieu of this submission.

(e)~~(d)~~ The names and addresses of ~~other~~ persons of whom the agency may inquire as to the character, ~~and~~ reputation, *and financial responsibility* of the *owner* ~~applicant~~ and, if *different from the applicant,* ~~applicable, of~~ the administrator *and financial officer*.

~~(e) The names and addresses of other persons of whom the agency may inquire as to the financial responsibility of the applicant.~~

(f) Identification of all other homes or facilities, including the addresses and the license or licenses under which they operate, if applicable, which are *currently* operated by the applicant *or administrator* and which provide housing, meals, and personal services to *residents* ~~adults~~.

~~(g) Such other reasonable information as may be required by the agency to evaluate the ability of the applicant to meet the responsibilities entailed under this part.~~

(g)~~(h)~~ The location of the facility for which a license is sought and documentation, signed by the appropriate local government official, which states that the applicant has met local zoning requirements.

(h)~~(i)~~ The name, address, date of birth, social security number, education, and experience of the administrator*, if different from the applicant*.

(4)~~(3)~~ The applicant shall furnish satisfactory proof of financial ability to operate and conduct the facility in accordance with the requirements of this part. *A certificate of authority, pursuant to chapter 651, may be provided as proof of financial ability.* ~~An applicant applying for an initial license shall submit a balance sheet setting forth the assets and liabilities of the owner and a statement projecting revenues, expenses, taxes, extraordinary items, and other credits or charges for the first 12 months of operation of the facility.~~

(5)~~(4)~~ If the applicant *is a continuing care facility certified under* ~~offers continuing care agreements, as defined in~~ chapter 651*, a copy of the facility's* ~~proof shall be furnished that the applicant has obtained a~~ certificate of authority *must be provided* ~~as required for operation under that chapter~~.

(6)~~(5)~~ The applicant shall provide proof of liability insurance *as defined in s. 624.605*.

(7)~~(6)~~ *If the applicant is a community residential home, the applicant must provide proof that it has met* the requirements specified in chapter 419 ~~shall apply to community residential homes zoned single-family or multifamily~~.

(8)~~(7)~~ The applicant must provide the agency with proof of legal right to occupy the property. ~~This proof may include, but is not limited to, copies of recorded warranty deeds, or copies of lease or rental agreements, contracts for deeds, quitclaim deeds, or other such documentation.~~

(9)~~(8)~~ The applicant must furnish proof that the facility has received a satisfactory firesafety inspection. The local ~~fire marshal or other~~ authority having jurisdiction *or the State Fire Marshal* must conduct the inspection within 30 days after ~~the~~ written request by the applicant. ~~If an authority having jurisdiction does not have a certified firesafety inspector, the State Fire Marshal shall conduct the inspection.~~

(10) The applicant must furnish documentation of a satisfactory sanitation inspection of the facility by the county health department.

(11) The applicant must furnish proof of compliance with level 2 background screening as required under s. 400.4174.

(12)~~(9)~~ A provisional license may be issued to an applicant making initial application for licensure or making application for a change of ownership. A provisional license shall be limited in duration to a specific period of time not to exceed 6 months, as determined by the agency.

(13)~~(10)~~ *A* ~~No~~ county or municipality *may not* ~~shall~~ issue an occupational license *that* ~~which~~ is being obtained for the purpose of operating a facility regulated under this part without first ascertaining that the applicant has been licensed to operate such facility at the specified location or locations by the agency. The agency shall furnish to local agencies responsible for issuing occupational licenses sufficient instruction for making *such* ~~the above-required~~ determinations.

Section 39. Section 400.414, Florida Statutes, is amended to read:

400.414 Denial, revocation, or suspension of license; imposition of administrative fine; grounds.—

(1) The agency may deny, revoke, or suspend *any* ~~a~~ license issued under this part, or impose an administrative fine in the manner provided in chapter 120, *for*~~. At the chapter 120 hearing, the agency shall prove by a preponderance of the evidence that its actions are warranted.~~

~~(2)~~ any of the following actions by *an assisted living* ~~a~~ facility*, any person subject to level 2 background screening under s. 400.4174, or facility* ~~or its~~ employee ~~shall be grounds for action by the agency against a licensee~~:

(a) An intentional or negligent act seriously affecting the health, safety, or welfare of a resident of the facility.

(b) The determination by the agency that ~~the facility owner or administrator is not of suitable character or competency, or that~~ the owner lacks the financial ability, to provide continuing adequate care to residents~~, pursuant to the information obtained through s. 400.411, s. 400.417, or s. 400.434~~.

(c) Misappropriation or conversion of the property of a resident of the facility.

(d) Failure to follow the criteria and procedures provided under part I of chapter 394 relating to the transportation, voluntary admission, and involuntary examination of a facility resident.

(e) *One or more class I, three or more class II, or* five or more repeated or recurring identical or similar class III violations *that are similar or identical to violations* ~~of this part~~ which were identified by the agency *within the last 2 years* ~~during the last biennial inspection, monitoring visit, or complaint investigation and which, in the aggregate, affect the health, safety, or welfare of the facility residents~~.

(f) A determination that a person subject to level 2 background screening under s. 400.4174(1) does not meet the screening standards of s. 435.04 or that the facility is retaining an employee subject to level 1 background screening standards under s. 400.4174(2) who does not meet the screening standards of s. 435.03 and for whom exemptions from disqualification have not been provided by the agency.

(g)~~(f)~~ A confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, which has been upheld following a chapter 120 hearing or a waiver of such proceedings where the perpetrator is an employee, volunteer, administrator, or owner, or otherwise has access to the residents of a facility, and the *owner or* administrator has not taken action to remove the perpetrator. Exemptions from disqualification may be granted as set forth in s. 435.07. No administrative action may be taken against the facility if the perpetrator is granted an exemption.

(h)~~(g)~~ Violation of a moratorium.

(i)~~(h)~~ Failure of *the license applicant,* the licensee during relicensure, or ~~failure of~~ a licensee that holds *a provisional* ~~an initial or change of ownership~~ license~~,~~ to meet minimum license ~~standards or the~~ requirements of ~~rules adopted under~~ this part *or related rules, at the time of license application or renewal.*

(j)~~(i)~~ A fraudulent statement *or omission of any material fact* on an application for a license or any other document required by the agency*, including the submission of a license application that conceals the fact that any board member, officer, or person owning 5 percent or more of the facility may not meet the background screening requirements of s. 400.4174, or that the applicant has been excluded, permanently suspended, or terminated from the Medicaid or Medicare programs* ~~that is signed and notarized~~.

(k)~~(j)~~ An intentional or negligent life-threatening act in violation of the uniform firesafety standards for assisted living facilities or other firesafety standards ~~established by the State Fire Marshal,~~ that threatens the health, safety, or welfare of a resident of a facility, as communicated to the agency by the ~~State Fire Marshal, a~~ local ~~fire marshal, or other~~ authority having jurisdiction *or the State Fire Marshal.*

(l) Exclusion, permanent suspension, or termination from the Medicare or Medicaid programs.

(m) Knowingly operating any unlicensed facility or providing without a license any service that must be licensed under this chapter.

Administrative proceedings challenging agency action under this subsection shall be reviewed on the basis of the facts and conditions that resulted in the agency action.

~~(3) Proceedings brought under paragraphs (2)(a), (c), (e), and (j) shall not be subject to de novo review.~~

(2)~~(4)~~ Upon notification by the ~~State Fire Marshal,~~ local ~~fire marshal, or other~~ authority having jurisdiction *or by the State Fire Marshal,* the agency may deny or revoke the license of *an assisted living* ~~a~~ facility that fails to correct cited fire code violations ~~issued by the State Fire Marshal, a local fire marshal, or other authority having jurisdiction,~~ that affect or threaten the health, safety, or welfare of a resident of a facility.

(3) The agency may deny a license to any applicant or to any officer or board member of an applicant who is a firm, corporation, partnership, or association or who owns 5 percent or more of the facility, if the applicant, officer, or board member has or had a 25-percent or greater financial or ownership interest in any other facility licensed under this part, or in any entity licensed by this state or another state to provide health or residential care, which facility or entity during the 5 years prior to the application for a license closed due to financial inability to operate; had a receiver appointed or a license denied, suspended, or revoked; was subject to a moratorium on admissions; had an injunctive proceeding initiated against it; or has an outstanding fine assessed under this chapter.

(4) The agency shall deny or revoke the license of an assisted living facility that has two or more class I violations that are similar or identical to violations identified by the agency during a survey, inspection, monitoring visit, or complaint investigation occurring within the previous 2 years.

~~(5) The agency may deny a license to an applicant who owns 25 percent or more of, or operates, a facility which, during the 5 years prior to the application for a license, has had a license denied, suspended, or revoked pursuant to subsection (2), or, during the 2 years prior to the application for a license, has had a moratorium imposed on admissions, has had an injunctive proceeding initiated against it, has had a receiver appointed, was closed due to financial inability to operate, or has an outstanding fine assessed under this part.~~

(5)~~(6)~~ An action taken by the agency to suspend, deny, or revoke a facility's license under this part, in which the agency claims that the facility owner or an employee of the facility has threatened the health, safety, or welfare of a resident of the facility~~, shall, upon receipt of the facility's request for a hearing,~~ be heard by the Division of Administrative Hearings of the Department of Management Services within 120 days after *receipt of the facility's* ~~the~~ request for a hearing, unless that time *limitation* ~~period~~ is waived by both parties. The administrative law judge must render a decision within 30 days after *receipt of a proposed recommended order* ~~the hearing~~.

(6)~~(7)~~ The agency shall provide to the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, on a monthly basis, a list of those *assisted living* facilities *that* ~~which~~ have had their licenses denied, suspended, or revoked or *that* ~~which~~ are involved in an appellate proceeding pursuant to s. 120.60 related to the denial, suspension, or revocation of a license.

(7) Agency notification of a license suspension or revocation, or denial of a license renewal, shall be posted and visible to the public at the facility.

Section 40. Section 400.417, Florida Statutes, is amended to read:

400.417 Expiration of license; renewal; conditional license.—

(1) Biennial licenses ~~issued for the operation of a facility~~, unless sooner suspended or revoked, shall expire ~~automatically~~ 2 years from the date of issuance. *Limited nursing, extended congregate care, and limited mental health licenses shall expire at the same time as the facility's standard license, regardless of when issued.* The agency shall notify the facility by certified mail *at least* 120 days prior to ~~the~~ expiration ~~of the license~~ that *a renewal license* ~~relicensure~~ is necessary to continue operation. Ninety days prior to the expiration date, an application for renewal shall be submitted to the agency. ~~A license shall be renewed upon the filing of an application on forms furnished by the agency if the applicant has first met the requirements established under this part and all rules promulgated under this part.~~ The failure to file a timely *renewal* application shall result in a late fee charged to the facility in an amount equal to 50 percent of the *current* fee. ~~in effect on the last preceding regular renewal date. Late fees shall be deposited into the Health Care Trust Fund as provided in s. 400.418. The facility shall file with the application satisfactory proof of ability to operate and conduct the facility in accordance with the requirements of this part.~~

(2) A license shall be renewed within 90 days upon the timely filing of an application on forms furnished by the agency and the provision of satisfactory proof of ability to operate and conduct the facility in accordance with the requirements of this part and adopted rules, including ~~An applicant for renewal of a license must furnish~~ proof that the facility has received a satisfactory firesafety inspection, conducted by the local ~~fire marshal or other~~ authority having jurisdiction *or the State Fire Marshal,* within the preceding 12 months *and an affidavit or compliance with the background screening requirements of s. 400.4174.*

(3) An applicant for renewal of a license who has complied ~~on the initial license application~~ with the provisions of s. 400.411 with respect to proof of financial ability to operate shall not be required to provide *further* proof ~~of financial ability on renewal applications~~ unless the facility or any other facility owned or operated in whole or in part by the same person ~~or business entity~~ has demonstrated financial instability as *provided under s. 400.447(2)* ~~evidenced by bad checks, delinquent accounts, or nonpayment of withholding taxes, utility expenses, or other essential services~~ or unless the agency suspects that the facility is not financially stable as a result of the annual survey or complaints from the public or a report from the State Long-Term Care Ombudsman Council. Each facility *must* ~~shall~~ report to the agency any adverse court action concerning the facility's financial viability, within 7 days after its occurrence. The agency shall have access to books, records, and any other financial documents maintained by the facility to the extent necessary to *determine the facility's financial stability* ~~carry out the purpose of this section~~. A license for the operation of a facility shall not be renewed if the licensee has any outstanding fines assessed pursuant to this part which are in final order status.

(4)~~(2)~~ A licensee against whom a revocation or suspension proceeding is pending at the time of license renewal may be issued a conditional license effective until final disposition by the agency ~~of such proceeding~~. If judicial relief is sought from the final disposition, the court having jurisdiction may issue a conditional license for the duration of the judicial proceeding.

(5)~~(3)~~ A conditional license may be issued to an applicant for license renewal *if* ~~when~~ the applicant fails to meet all standards and requirements for licensure. A conditional license issued under this subsection shall be limited in duration to a specific period of time not to exceed 6 months, as determined by the agency, and shall be accompanied by an *agency-approved* ~~approved~~ plan of correction.

(6) When an extended care or limited nursing license is requested during a facility's biennial license period, the fee shall be prorated in order to permit the additional license to expire at the end of the biennial license period. The fee shall be calculated as of the date the additional license application is received by the agency.

Section 41. Section 400.4174, Florida Statutes, is amended to read:

400.4174 *Background screening; exemptions;* reports of abuse in facilities.—

(1)(a) Level 2 background screening must be conducted on each of the following persons, who shall be considered employees for the purposes of conducting screening under chapter 435:

1. The facility owner if an individual; the administrator; and the financial officer.

2. An officer or board member if the facility owner is a firm, corporation, partnership, or association, or any person owning 5 percent or more of the facility if the agency has probable cause to believe that such person has been convicted of any offense prohibited by s. 435.04. For each officer, board member, or person owning 5 percent or more who has been convicted of any such offense, the facility shall submit to the agency a description and explanation of the conviction at the time of license application. This subparagraph does not apply to a board member of a not-for-profit corporation or organization if the board member serves solely in a

voluntary capacity, does not regularly take part in the day-to-day operational decisions of the corporation or organization, receives no remuneration for his or her services, and has no financial interest and has no family members with a financial interest in the corporation or organization, provided that the board member and facility submit a statement affirming that the board member's relationship to the facility satisfies the requirements of this subparagraph.

(b) Proof of compliance with level 2 screening standards which has been submitted within the previous 5 years to meet any facility or professional licensure requirements of the agency or the Department of Health satisfies the requirements of this subsection, provided that such proof is accompanied, under penalty of perjury, by an affidavit of compliance with the provisions of chapter 435. Proof of compliance with the background screening requirements of the Department of Insurance for applicants for a certificate of authority to operate a continuing care retirement community under chapter 651, submitted within the last 5 years, satisfies the Department of Law Enforcement and Federal Bureau of Investigation portions of a level 2 background check.

(c) The agency may grant a provisional license to a facility applying for an initial license when each individual required by this subsection to undergo screening has completed the abuse registry and Department of Law Enforcement background checks, but has not yet received results from the Federal Bureau of Investigation, or when a request for an exemption from disqualification has been submitted to the agency pursuant to s. 435.07, but a response has not been issued.

(2) The owner or administrator of an assisted living facility must conduct level 1 background screening, as set forth in chapter 435, on all employees hired on or after October 1, 1998, who perform personal services as defined in s. 400.402(16). The agency may exempt an individual from employment disqualification as set forth in chapter 435. Such persons shall be considered as having met this requirement if:

(a) Proof of compliance with level 1 screening requirements obtained to meet any professional license requirements in this state is provided and accompanied, under penalty of perjury, by a copy of the person's current professional license and an affidavit of current compliance with the background screening requirements.

(b) The person required to be screened has been continuously employed in the same type of occupation for which the person is seeking employment without a breach in service which exceeds 180 days, and proof of compliance with the level 1 screening requirement which is no more than 2 years old is provided. Proof of compliance shall be provided directly from one employer or contractor to another, and not from the person screened. Upon request, a copy of screening results shall be provided by the employer retaining documentation of the screening to the person screened.

(c) The person required to be screened is employed by a corporation or business entity or related corporation or business entity that owns, operates, or manages more than one facility or agency licensed under chapter 400, and for whom a level 1 screening was conducted by the corporation or business entity as a condition of initial or continued employment.

(3) When an employee, volunteer, administrator, or owner of a facility *is the subject of* ~~has~~ a confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, ~~or child abuse or neglect, as defined in s. 415.503,~~ and the protective investigator knows that the individual is an employee, volunteer, administrator, or owner of a facility, the agency shall be notified of the confirmed report.

Section 42. Section 400.4176, Florida Statutes, is amended to read:

400.4176 Notice of change of administrator.—If, during the period for which a license is issued, the owner changes administrators, the owner must notify the agency of the change within *10* ~~45~~ days ~~thereof~~ and ~~must~~ provide documentation *within 90 days* that the new administrator has completed the applicable core educational requirements under s. 400.452. Background screening shall be completed on any new administrator ~~to establish that the individual is of suitable character~~ as specified in *s. 400.4174* ~~ss. 400.411(2)(c) and 400.456~~.

Amendment 3—On page 113, line 13 through page 118, line 20, delete those lines and insert:

Section 53. Section 400.619, Florida Statutes, is amended to read:

400.619 Licensure *application and renewal* ~~requirements~~.—

(1) Each person who intends to be ~~a provider of~~ an adult family-care home *provider* must *apply for* ~~obtain~~ a license from the agency ~~before caring for a disabled adult or an aged person in the adult family-care home. Such application must be made~~ at least 90 days before the applicant intends to operate the adult family-care home.

(2) A person who intends to be ~~a provider of~~ an adult family-care home *provider* must own or rent and live in the adult family-care home that is to be licensed.

(3) Application for a license or annual license renewal ~~to operate an adult family-care home~~ must be made on a form provided by the agency, *signed under oath,* and must be accompanied by a licensing fee of $100 per year ~~to offset the cost of training and education programs by the Department of Elderly Affairs for providers~~.

(4) Upon receipt of a license application *or license renewal,* and the fee, the agency *shall initiate level 1 background screening as provided under chapter 435 on* ~~must check with the abuse registry and the Department of Law Enforcement concerning~~ the adult family-care home *provider, the designated relief person* ~~applicant~~, all adult household members, and all staff members. The agency shall also conduct an onsite visit to the home that is to be licensed.

(a) Proof of compliance with level 1 screening standards which has been submitted within the previous 5 years to meet any facility or professional licensure requirements of the agency or the Department of Health satisfies the requirements of this subsection. Such proof must be accompanied, under penalty of perjury, by a copy of the person's current professional license and an affidavit of current compliance with the background screening requirements.

(b) The person required to be screened must have been continuously employed in the same type of occupation for which the person is seeking employment without a breach in service that exceeds 180 days, and proof of compliance with the level 1 screening requirement which is no more than 2 years old must be provided. Proof of compliance shall be provided directly from one employer or contractor to another, and not from the person screened. Upon request, a copy of screening results shall be provided to the person screened by the employer retaining documentation of the screening.

(5) The application must be accompanied by a description and explanation of any exclusions, permanent suspensions, or terminations of the applicant from participation in the Medicaid or Medicare programs or any other governmental health care or health insurance program.

(6) Unless the adult family-care home is a community residential home subject to chapter 419, the applicant must provide documentation, signed by the appropriate governmental official, that the home has met local zoning requirements for the location for which the license is sought.

(7)~~(5)~~ Access to a licensed adult family-care home must be provided at reasonable times for the appropriate officials of the department, the Department of Health, *the Department of Children and Family Services* ~~and Rehabilitative Services~~, the agency, and the State Fire Marshal, who are responsible for the development and maintenance of fire, health, sanitary, and safety standards, to inspect the facility to assure compliance with these standards. In addition, access to a licensed adult family-care home must be provided at reasonable times for the long-term care ombudsman council.

(8)~~(6)~~ A license is effective for 1 year after the date of issuance unless revoked sooner. Each license must state the name of the provider, the address of the home to which the license applies, and the maximum number of residents of the home. *Failure to timely file a license renewal application shall result in a late fee equal to 50 percent of the license fee.* ~~A license may be issued with or without restrictions governing the residents or care offered in the adult family-care home.~~

(9)~~(7)~~ A license is not transferable or applicable to any location or person other than the location *and* ~~or~~ person indicated on the *license* ~~application for licensure~~.

(10)~~(8)~~ The licensed maximum capacity of each adult family-care home is based on the service needs of the residents and the capability

of the provider to meet the needs of the residents. Any relative who lives in the adult family-care home and who is ~~an aged person or~~ a disabled adult *or frail elder* must be included in that limitation.

(11)~~(9)~~ Each adult family-care home must designate at least one licensed space for a resident receiving optional state supplementation ~~as defined in s. 409.212~~. The Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall specify by rule the procedures to be followed for referring residents who receive optional state supplementation to adult family-care homes. Those homes licensed as adult foster homes or assisted living facilities prior to January 1, 1994, that convert to adult family-care homes, are exempt from *this* ~~the~~ requirement ~~of designating one space for a resident receiving optional state supplementation~~.

(12)~~(10)~~ The agency may issue a conditional license to a provider for the purpose of bringing the adult family-care home into compliance with licensure requirements. A conditional license must be limited to a specific period, not exceeding 6 months~~, as determined by the department, in consultation with the agency~~. The department shall, by rule, establish criteria for *issuing* conditional licenses.

~~(11) The agency may deny, suspend, or revoke a license for any of the following reasons:~~

~~(a) A confirmed report, obtained under s. 415.1075, of abuse, neglect, or exploitation, or conviction of a crime related to abuse, neglect, or exploitation.~~

~~(b) A proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c).~~

~~(c) An intentional or negligent act materially affecting the health, safety, or welfare of the adult family-care home residents.~~

~~(d) A violation of ss. 400.616-400.629 or rules adopted under ss. 400.616-400.629, including the failure to comply with any restrictions specified in the license.~~

~~(e) Submission of fraudulent or inaccurate information to the agency.~~

~~(f) Conviction of a felony involving violence to a person.~~

~~(g) Failure to pay a civil penalty assessed under this part.~~

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

(14)~~(13)~~ The department shall adopt rules to implement this section.

Section 54. Section 400.6194, Florida Statutes, is created to read:

400.6194 Denial, revocation, or suspension of a license.—The agency may deny, suspend, or revoke a license for any of the following reasons:

(1) Failure of any of the persons required to undergo background screening under s. 400.619 to meet the level 1 screening standards of s. 435.03, unless an exemption from disqualification has been provided by the agency.

(2) An intentional or negligent act materially affecting the health, safety, or welfare of the adult family-care home residents.

(3) Submission of fraudulent information or omission of any material fact on a license application or any other document required by the agency.

(4) Failure to pay an administrative fine assessed under this part.

(5) A violation of this part or adopted rules which results in conditions or practices that directly threaten the physical or emotional health, safety, or welfare of residents.

(6) Failure to correct cited fire code violations that threaten the health, safety, or welfare of residents.

(7) Failure to submit a completed initial license application or to complete an application for license renewal within the specified timeframes.

(8) Exclusion, permanent suspension, or termination of the provider from the Medicare or Medicaid program.

Amendment 4 (with title amendment)—On page 140, between lines 18 and 19, insert:

Section 65. *Pursuant to section 216.262, Florida Statutes, the Florida Department of Law Enforcement is granted authority to establish positions in excess of the total authorized positions upon submission of a proper request to the Administration Commission. These positions shall be established with funding from the department's Law Enforcement Operating Trust Fund and shall be used to process the increased workload of conducting the criminal history records checks authorized under this section. These positions will be earmarked by the department, and, at such time as they are no longer needed, may be placed in a reserve status for future use.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 5, line 22, after the semicolon (;) insert: authorizing certain positions in excess of those otherwise authorized; providing funding;

Pursuant to Rule 4.19, **CS for CS for SB 714** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for CS for SB 1760—A bill to be entitled An act relating to unemployment compensation; amending s. 1, ch. 97-29, Laws of Florida; extending for an additional year a temporary reduction in certain contribution rates for specified employers; amending 443.101, F.S.; clarifying provisions relating to disqualification for benefits; amending s. 443.111, F.S.; extending for an additional year a temporary increase in the maximum weekly and yearly benefit amounts for unemployment compensation benefits; specifying benefit years; amending s. 443.036, F.S.; providing an alternative base period to be used in calculating benefits in specified circumstances; providing an effective date.

—was read the second time by title.

Senator McKay moved the following amendments which were adopted:

Amendment 1—On page 2, line 18 and on page 3, line 2, delete "*10* ~~17~~" and insert: 17

Amendment 2 (with title amendment)—On page 5, lines 3-29, delete section 4 and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 13-16, delete those lines and insert: years; providing an effective date.

On motion by Senator McKay, by two-thirds vote **CS for CS for SB 1760** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

The Senate resumed consideration of—

CS for SB 2172—A bill to be entitled An act relating to public assistance; providing legislative intent and findings; providing for demonstration projects to be implemented which require drug screening and possibly drug testing for individuals who apply for temporary assistance or services under the "Work and Gain Economic Self-sufficiency (WAGES) Act"; providing for expiration of the demonstration projects unless reauthorized by the Legislature; directing the Department of Children and Family Services to implement the demonstration projects in specified local WAGES coalitions; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; providing that, if a parent is deemed ineligible due to a failure of a drug test, the eligibility of the children of the parent will not be affected; requiring the department to provide for substance abuse treatment programs for certain persons; giving the Department of Children and Family Services rulemaking authority; specifying circumstances resulting in termination of temporary assistance or services; requiring the department and the local WAGES coalitions to evaluate the demonstration projects and report to the WAGES Program State Board of Directors and the Legislature; providing that, in the event of conflict, federal requirements and regulations control; providing an effective date.

—which was previously considered and amended this day.

Pending further consideration of **CS for SB 2172** as amended, on motion by Senator Holzendorf, by two-thirds vote **CS for CS for HB 271** was withdrawn from the Committees on Children, Families and Seniors; Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Holzendorf—

CS for CS for HB 271—A bill to be entitled An act relating to public assistance; creating s. 414.103, F.S.; providing for drug testing under the "Work and Gain Economic Self-sufficiency (WAGES) Act" for illegal use of controlled substances; providing legislative intent and findings; directing the Department of Children and Family Services to implement a program to screen and test WAGES Program applicants; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; requiring the department to provide a rehabilitation treatment program for certain persons; specifying circumstances resulting in termination of temporary assistance or services; providing limitations; providing for rules; providing an effective date.

—a companion measure, was substituted for **CS for SB 2172** as amended and read the second time by title.

Senator Holzendorf moved the following amendment:

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

Section 1. *Legislative intent and findings.—*

(1) It is the intent of the Legislature that the provisions of this act enhance the employability of participants in the WAGES Program through drug screening, testing, and treatment.

(2) The Legislature finds that there is a perception on the part of employers that the individuals who receive temporary assistance or services under the WAGES Program are likely to use drugs, and that such perception adds to the difficulties such individuals have in securing employment.

(3) The Legislature also finds that the failure of individuals to achieve the independence provided by gainful employment results in welfare costs that burden the state's taxpayers.

(4) The Legislature further finds that drug use adversely effects a significant portion of the workforce, which results in billions of dollars of lost productivity each year and poses a threat to the safety of the workplace and to public safety and security.

(5) In balancing the interests of taxpayers, participants in the WAGES Program, and potential employers against the interests of those who will be screened and tested under this act, the Legislature finds that drug screening, testing, and treatment as provided for in this act are in the greater interests of all concerned.

Section 2. *Drug testing and screening program; procedures.—*

(1) The Department of Children and Family Services, in consultation with local WAGES coalitions 3 and 8, shall develop and, as soon as possible after January 1, 1999, implement a demonstration project in WAGES regions 3 and 8 to screen each applicant and test applicants for temporary cash assistance provided under chapter 414, Florida Statutes, who the department has reasonable cause to believe, based on the screening, engage in illegal use of controlled substances. Unless reauthorized by the Legislature, this demonstration project expires June 30, 2001. As used in this act, the term "applicant" means an individual who first applies for assistance or services under the WAGES Program. Screening and testing for the illegal use of controlled substances is not required if the individual reapplies during any continuous period in which the individual receives assistance or services. However, an individual may volunteer for drug testing and treatment if funding is available.

(2) Under the demonstration project the Department of Children and Family Services shall:

(a) Provide notice of drug screening and the potential for possible drug testing to each applicant at the time of application. The notice must advise the applicant that drug screening and possibly drug testing will be conducted as a condition for receiving temporary assistance or services under chapter 414, Florida Statutes, and shall specify the assistance or services that are subject to this requirement. The notice must also advise the applicant that a prospective employer may require the applicant to submit to a pre-employment drug test. The applicant shall be advised that the required drug screening and possible drug testing may be avoided if the applicant does not apply for or receive assistance or services. The drug screening and testing program is not applicable in child-only cases.

(b) Develop a procedure for drug screening and conducting drug testing of applicants for temporary assistance or services under the WAGES Program.

(c) Provide a procedure to advise each person to be tested, before the test is conducted, that he or she may, but is not required to, advise the agent administering the test of any prescription or over-the-counter medication he or she is taking.

(d) Require each person to be tested to sign a written acknowledgment that he or she has received and understood the notice and advice provided under paragraphs (a) and (c).

(e) Provide a procedure to assure each person being tested a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state's need to ensure the reliability of the sample.

(f) Specify circumstances under which a person who fails a drug test has the right to take one or more additional tests.

(g) Provide a procedure for appealing the results of a drug test by a person who fails a test and for advising the appellant that he or she may, but is not required to, advise appropriate staff of any prescription or over-the-counter medication he or she has been taking.

(h) Notify each person who fails a drug test of the local substance abuse treatment programs that may be available to such person.

Section 3. *Children.—*

(1) If a parent is deemed ineligible for cash assistance due to the failure of a drug test under this act, his or her dependent child's eligibility for cash assistance is not affected.

(2) If a parent is deemed ineligible for cash assistance due to the failure of a drug test, an appropriate protective payee will be established for the benefit of the child.

(3) If the parent refuses to cooperate in establishing an appropriate protective payee for the child, the Department of Children and Family Services will appoint one.

Section 4. *Treatment.—*

(1) Subject to the availability of funding, the Department of Children and Family Services shall provide a substance-abuse-treatment program

for a person who fails a drug test conducted under this act and is eligible to receive temporary assistance or services under the WAGES Program. The department shall provide for a retest at the end of the treatment period. Failure to pass the retest will result in the termination of temporary assistance or services provided under chapter 414, Florida Statutes, and of any right to appeal the termination.

(2) The Department of Children and Family Services shall develop rules regarding the disclosure of information concerning applicants who enter treatment, including the requirement that applicants sign a consent to release information to the Department of Children and Family Services or the Department of Labor and Employment Security, as necessary, as a condition of entering the treatment program.

(3) The Department of Children and Family Services may develop rules for assessing the status of persons formerly treated under this act who reapply for assistance or services under the WAGES act as well as the need for drug testing as a part of the reapplication process.

Section 5. *Evaluations and recommendations.—*

(1) The Department of Children and Family Services, in conjunction with the local WAGES coalitions in service areas 3 and 8, shall conduct a comprehensive evaluation of the demonstration projects operated under this act. By January 1, 2000, the department, in conjunction with the local WAGES coalitions involved, shall report to the WAGES Program State Board of Directors and to the Legislature on the status of the initial implementation of the demonstration projects and shall specifically describe the problems encountered and the funds expended during the first year of operation.

(2) By January 1, 2001, the department, in conjunction with the local WAGES coalitions involved, shall provide a comprehensive evaluation to the WAGES Program State Board of Directors and to the Legislature, which must include:

(a) The impact of the drug screening and testing program on employability, job placement, job retention, and salary levels of program participants.

(b) Recommendations, based in part on a cost and benefit analysis, as to the feasibility of expanding the program to other local WAGES service areas, including specific recommendations for implementing such expansion of the program.

Section 6. *In the event of a conflict between the implementation procedures described in this program and federal requirements and regulations, federal requirements and regulations shall control.*

Section 7. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to public assistance; providing legislative intent and findings; providing for demonstration projects to be implemented which require drug screening and possibly drug testing for individuals who apply for temporary assistance or services under the "Work and Gain Economic Self-sufficiency (WAGES) Act"; providing for expiration of the demonstration projects unless reauthorized by the Legislature; directing the Department of Children and Family Services to implement the demonstration projects in specified local WAGES coalitions; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; providing that, if a parent is deemed ineligible due to a failure of a drug test, the eligibility of the children of the parent will not be affected; requiring the department to provide for substance abuse treatment programs for certain persons; giving the Department of Children and Family Services rulemaking authority; specifying circumstances resulting in termination of temporary assistance or services; requiring the department and the local WAGES coalitions to evaluate the demonstration projects and report to the WAGES Program State Board of Directors and the Legislature; providing that, in the event of conflict, federal requirements and regulations control; providing an effective date.

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

Amendment 1A (with title amendment)—On page 6, between lines 9 and 10, insert:

Section 7. *From the funds appropriated in Specific Appropriations 361, Grants and Aid - Community Substance Abuse Services, and 1892, Grants and Aid - WAGES Coalitions, the Department of Children and Family Services and the WAGES Program State Board of Directors, in consultation with the Department of Labor and Employment Security, shall provide a substance abuse treatment program for a person who fails a drug test conducted under this act and is eligible to receive temporary assistance or services under the WAGES Program. The Department of Children and Family Services shall provide for a retest at the end of the treatment period. Failure to pass the retest will result in the termination of temporary assistance or services provided under chapter 414, Florida Statutes, and of any right to appeal the termination. Implementation of this project is subject to the availability of funding.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 19, after the semicolon (;) insert: providing for a substance abuse treatment program, subject to the availability of funding;

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

Amendment 1B (with title amendment)—On page 6, delete line 10 and insert:

Section 7. Paragraph (b) of subsection (1) and paragraph (c) of subsection (9) of section 61.13, Florida Statutes, are amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(1)

(b) Each order for child support shall contain a provision for health insurance for the minor child when the insurance is reasonably available. Insurance is reasonably available if either the obligor or obligee has access at a reasonable rate to group insurance. The court may require the obligor either to provide health insurance coverage or to reimburse the obligee for the cost of health insurance coverage for the minor child when coverage is provided by the obligee. In either event, the court shall apportion the cost of coverage, *and any noncovered medical, dental, and prescription medication expenses of the child,* to both parties by adding the cost to the basic obligation determined pursuant to s. 61.30(6). *The court may order that payment of uncovered medical, dental, and prescription medication expenses of the minor child be made directly to the payee on a percentage basis.*

(9)

(c) Beginning July 1, 1997, in any subsequent Title IV-D child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, *the court of competent jurisdiction shall* ~~the tribunal may~~ deem state due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry pursuant to paragraph (a). Beginning October 1, 1998, in any subsequent non-Title IV-D child support enforcement action between the parties, the same requirements for service shall apply.

Section 8. Section 61.1301, Florida Statutes, is amended to read:

61.1301 Income deduction *orders*.—

(1) *ISSUANCE IN CONJUNCTION WITH* ~~REQUIREMENT FOR INCOME DEDUCTION AS PART OF~~ AN ORDER ESTABLISHING, ENFORCING, OR MODIFYING AN OBLIGATION FOR ALIMONY OR CHILD SUPPORT.—

(a) Upon the entry of an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support, *other than a temporary order,* the court shall *enter a separate order* ~~include provisions~~ for income deduction *if one has not been entered* ~~of the alimony and/or child support in the order~~. Copies of the orders

shall be served on the obligee and obligor. *If* the order establishing, enforcing, or modifying the obligation *directs* ~~shall direct~~ that payments be made through the depository,~~.~~ the court shall provide to the depository a copy of the order establishing, enforcing, or modifying the obligation. If the obligee is a *recipient of Title* IV-D *services* ~~applicant~~, the court shall furnish to the *Title* IV-D agency a copy of the *income deduction* order *and the order* establishing, enforcing, or modifying the obligation.

1. *The obligee or, in Title IV-D cases, the Title IV-D agency may implement income deduction after receiving a copy of an order from the court under this paragraph or a forwarding agency under UIFSA, URESA, or RURESA by issuing an income deduction notice to the payor.*

2. The income deduction notice must state that it is based upon a valid support order and that it contains an income deduction requirement or upon a separate income deduction order. The income deduction notice must contain the notice to payor provisions specified by paragraph (2)(e). The income deduction notice must contain the following information from the income deduction order upon which the notice is based: the case number, the court that entered the order, and the date entered.

3. Payors shall deduct support payments from income, as specified in the income deduction notice, in the manner provided under paragraph (2)(e).

4. In non-Title IV-D cases, the income deduction notice must be accompanied by a copy of the support order upon which the notice is based. In Title IV-D cases, upon request of a payor, the Title IV-D agency shall furnish the payor a copy of the income deduction order. ~~The income deduction shall be implemented by serving an income deduction notice upon the payor.~~

5.~~2.~~ If a support order entered before *January 1, 1994,* ~~October 1, 1996,~~ in a non-Title IV-D case does not specify income deduction, income deduction may be initiated upon a delinquency without the need for any amendment to the support order or any further action by the court. In such case the obligee may implement income deduction by serving a notice of delinquency on the obligor as provided for under paragraph (f).

(b) ~~Provisions for income deduction.~~ The *income deduction* order ~~entered pursuant to paragraph (a)~~ shall:

1. Direct a payor to deduct from all income due and payable to an obligor the amount required by the court to meet the obligor's support obligation including any attorney's fees or costs owed and forward the deducted amount pursuant to the order.

2. State the amount of arrearage owed, if any, and direct a payor to withhold an additional 20 percent or more of the periodic amount specified in the order establishing, enforcing, or modifying the obligation, until full payment is made of any arrearage, attorney's fees and costs owed, provided no deduction shall be applied to attorney's fees and costs until the full amount of any arrearage is paid;

3. Direct a payor not to deduct in excess of the amounts allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended;

4. Direct whether a payor shall deduct all, a specified portion, or no income which is paid in the form of a bonus or other similar one-time payment, up to the amount of arrearage reported in the income deduction notice or the remaining balance thereof, and forward the payment to the governmental depository. For purposes of this subparagraph, "bonus" means a payment in addition to an obligor's usual compensation and which is in addition to any amounts contracted for or otherwise legally due and shall not include any commission payments due an obligor; and

5. In Title IV-D cases, direct a payor to provide to the court depository the date on which each deduction is made.

(c) The income deduction *order* is effective immediately unless the court upon good cause shown finds that *the* income deduction *order* shall be effective upon a delinquency in an amount specified by the court but not to exceed 1 month's payment, *pursuant to the order establishing, enforcing, or modifying the obligation*. In order to find good cause, the court must at a minimum make written findings that:

1. Explain why implementing immediate income deduction would not be in the child's best interest;

2. There is proof of timely payment of the previously ordered obligation without an income deduction order in cases of modification; and

3.a. There is an agreement by the obligor to advise the IV-D agency and court depository of any change in payor and health insurance; or

b. There is a signed written agreement providing an alternative arrangement between the obligor and the obligee and, at the option of the IV-D agency, by the IV-D agency in IV-D cases in which there is an assignment of support rights to the state, reviewed and entered in the record by the court.

(d) The income deduction *order* shall be effective *as long as the order upon which it is based is effective or* until further order of the court.

(e) Statement of obligor's rights. When the court orders the income deduction to be effective immediately, the court shall furnish to the obligor a statement of his or her rights, remedies, and duties in regard to the income deduction *order*. The statement shall state:

1. All fees or interest which shall be imposed.

2. The total amount of income to be deducted for each pay period until the arrearage, if any, is paid in full and shall state the total amount of income to be deducted for each pay period thereafter. The amounts deducted may not be in excess of that allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

3. That the income deduction *order* ~~notice~~ applies to current and subsequent payors and periods of employment.

4. That a copy of the income deduction *order or, in Title IV-D cases, the income deduction* notice will be served on the obligor's payor or payors.

5. That enforcement of the income deduction *order* ~~notice~~ may only be contested on the ground of mistake of fact regarding the amount owed pursuant to the order establishing, enforcing, or modifying the obligation, the arrearages, or the identity of the obligor, *the payor, or the obligee*.

6. That the obligor is required to notify the obligee and, when the obligee is receiving IV-D services, the IV-D agency within 7 days of changes in the obligor's address, payors, and the addresses of his or her payors.

(f) Notice of delinquency. *If a support order was entered before January 1, 1994, or* ~~When~~ the court orders the income deduction to be effective upon a delinquency as provided in ~~subparagraph (a)2. or~~ paragraph (c), the obligee *or, in Title IV-D cases, the Title IV-D agency* may enforce the income deduction by serving a notice of delinquency on the obligor *under this subsection*.

1. The notice of delinquency shall state:

a. The terms of the order establishing, enforcing, or modifying the obligation.

b. The period of delinquency and the total amount of the delinquency as of the date the notice is mailed.

c. All fees or interest which may be imposed.

d. The total amount of income to be deducted for each pay period until the arrearage, and all applicable fees and interest, is paid in full and shall state the total amount of income to be deducted for each pay period thereafter. The amounts deducted may not be in excess of that allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

e. That the income deduction *order* ~~notice~~ applies to current and subsequent payors and periods of employment.

f. That a copy of the notice of delinquency will be served on the obligor's payor or payors, together with a copy of the income deduction *order or, in Title IV-D cases, the income deduction* notice, unless the obligor applies to the court to contest enforcement of the income deduction. The application shall be filed within 15 days after the date the notice of delinquency was served.

g. That enforcement of the income deduction *order* ~~notice~~ may only be contested on the ground of mistake of fact regarding the amount owed pursuant to the order establishing, enforcing, or modifying the obligation, the amount of arrearages, or the identity of the obligor*, the payor, or the obligee*.

h. That the obligor is required to notify the obligee of the obligor's current address and current payors and of the address of current payors. All changes shall be reported by the obligor within 7 days. If the IV-D agency is enforcing the order, the obligor shall make these notifications to the agency instead of to the obligee.

2. The failure of the obligor to receive the notice of delinquency does not preclude subsequent service of the income deduction *order or, in Title IV-D cases, the income deduction notice* on the obligor's payor. A notice of delinquency which fails to state an arrearage does not mean that an arrearage is not owed.

(g) At any time, any party, including the IV-D agency, may apply to the court to:

1. Modify, suspend, or terminate the income deduction *order* ~~notice~~ in accordance with a modification, suspension, or termination of the support provisions in the underlying order; or

2. Modify the amount of income deducted when the arrearage has been paid.

(2) ENFORCEMENT OF INCOME DEDUCTION *ORDERS*.—

(a) The obligee or his or her agent shall serve an income deduction *order and notice to payor, or, in Title IV-D cases, the Title IV-D agency shall issue an income deduction* notice, and in the case of a delinquency a notice of delinquency, on the obligor's payor unless the obligor has applied for a hearing to contest the enforcement of the income deduction pursuant to paragraph (c).

(b)1. Service by or upon any person who is a party to a proceeding under this section shall be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties.

2. Service upon an obligor's payor or successor payor under this section shall be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48.

(c)1. The obligor, within 15 days after service of a notice of delinquency, may apply for a hearing to contest the enforcement of the income deduction on the ground of mistake of fact regarding the amount owed pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support, the amount of the arrearage, or the identity of the obligor*, the payor, or the obligee*. The obligor shall send a copy of the pleading to the obligee and, if the obligee is receiving IV-D services, to the IV-D agency. The timely filing of the pleading shall stay ~~the~~ service of an income deduction *order or, in Title IV-D cases, income deduction* notice on all payors of the obligor until a hearing is held and a determination is made as to whether enforcement of the income deduction order is proper. The payment of a delinquent obligation by an obligor upon *entry* ~~issuance~~ of an income deduction *order* ~~notice~~ shall not preclude service of the income deduction *order or, in Title IV-D cases, an income deduction* notice on the obligor's payor.

2. When an obligor timely requests a hearing to contest enforcement of *an* income deduction *order*, the court, after due notice to all parties and the IV-D agency if the obligee is receiving IV-D services, shall hear the matter within 20 days after the application is filed. The court shall enter an order resolving the matter within 10 days after the hearing. A copy of this order shall be served on the parties and the IV-D agency if the obligee is receiving IV-D services. If the court determines that ~~service of an~~ income deduction ~~notice~~ is proper, it shall specify the date the income deduction *order* ~~notice~~ must be served on the obligor's payor.

(d) When a court determines that an income deduction *order* ~~notice~~ is proper pursuant to paragraph (c), the obligee or his or her agent shall cause a copy of the notice of delinquency to be served on the obligor's payors. A copy of the income deduction *order or, in Title IV-D cases, income deduction* notice, and in the case of a delinquency a notice of delinquency, shall also be furnished to the obligor.

(e) *Notice to payor and* income deduction notice. The *notice to payor or, in Title IV-D cases,* income deduction notice shall contain only information necessary for the payor to comply with the order providing for income deduction. The notice shall:

1. Provide the obligor's social security number.

2. Require the payor to deduct from the obligor's income the amount specified in the ~~order providing for~~ income deduction *order*, and in the case of a delinquency the amount specified in the notice of delinquency, and to pay that amount to the obligee or to the depository, as appropriate. The amount actually deducted plus all administrative charges shall not be in excess of the amount allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b);

3. Instruct the payor to implement income deduction no later than the first payment date which occurs more than 14 days after the date the income deduction notice was served on the payor, and the payor shall conform the amount specified in the income deduction order *or, in Title IV-D cases, income deduction notice* to the obligor's pay cycle;

4. Instruct the payor to forward, within 2 days after each date the obligor is entitled to payment from the payor, to the obligee or to the depository the amount deducted from the obligor's income, a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction *order or, in Title IV-D cases, income deduction* notice, and the specific date each deduction is made. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of the obligee;

5. Specify that if a payor fails to deduct the proper amount from the obligor's income, the payor is liable for the amount the payor should have deducted, plus costs, interest, and reasonable attorney's fees;

6. Provide that the payor may collect up to $5 against the obligor's income to reimburse the payor for administrative costs for the first income deduction and up to $2 for each deduction thereafter;

7. State that the *notice to payor or, in Title IV-D cases,* income deduction notice, and in the case of a delinquency the notice of delinquency, are binding on the payor until further notice by the obligee, IV-D agency, or the court or until the payor no longer provides income to the obligor;

8. Instruct the payor that, when he or she no longer provides income to the obligor, he or she shall notify the obligee and shall also provide the obligor's last known address and the name and address of the obligor's new payor, if known; and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of to the obligee. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order;

9. State that the payor shall not discharge, refuse to employ, or take disciplinary action against an obligor because of *the requirement for* ~~an~~ income deduction ~~notice~~ and shall state that a violation of this provision subjects the payor to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction ~~notice~~, if any alimony or child support obligation is owing. If no alimony or child support obligation is owing, the penalty shall be paid to the obligor;

10. State that an obligor may bring a civil action in the courts of this state against a payor who refuses to employ, discharges, or otherwise disciplines an obligor because of ~~an~~ income deduction ~~notice~~. The obligor is entitled to reinstatement and all wages and benefits lost, plus reasonable attorney's fees and costs incurred;

11. Inform the payor that the *requirement for* income deduction ~~notice~~ has priority over all other legal processes under state law pertaining to the same income and that payment, as required by the *notice to payor or* income deduction notice, is a complete defense by the payor against any claims of the obligor or his or her creditors as to the sum paid;

12. Inform the payor that, when the payor receives *notices to payor or* income deduction notices requiring that the income of two or more obligors be deducted and sent to the same depository, the payor may combine the amounts that are to be paid to the depository in a single

payment as long as the payments attributable to each obligor are clearly identified; and

13. Inform the payor that if the payor receives more than one *notice to payor or* income deduction notice against the same obligor, the payor shall contact the court *or, in Title IV-D cases, the Title IV-D agency* for further instructions. Upon being so contacted, the court *or, in Title IV-D cases when all the cases upon which the notices are based are Title IV-D cases, the Title IV-D agency* shall allocate amounts available for income deduction as provided in subsection (4).

(f) At any time *an* income deduction *order* is being enforced, the obligor may apply to the court for a hearing to contest the continued enforcement of the income deduction on the same grounds set out in paragraph (c), with a copy to the obligee and, in IV-D cases, to the IV-D agency. The application does not affect the continued enforcement of the income deduction until the court enters an order granting relief to the obligor. The obligee or the IV-D agency is released from liability for improper receipt of moneys pursuant to *an* income deduction *order* upon return to the appropriate party of any moneys received.

(g) An obligee or his or her agent shall enforce *an* income deduction *order* against an obligor's successor payor who is located in this state in the same manner prescribed in this section for the enforcement of an income deduction order against a payor.

(h)1. When *an* income deduction *order* is to be enforced against a payor located outside the state, the obligee who is receiving IV-D services or his or her agent shall promptly request the agency responsible for income deduction in the other state to enforce the income deduction *order*. The request shall contain all information necessary to enforce the income deduction *order*, including the amount to be periodically deducted, a copy of the order establishing, enforcing, or modifying the obligation, and a statement of arrearages, if applicable.

2. When the IV-D agency is requested by the agency responsible for income deduction in another state to enforce *an* income deduction *order* against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency in the other state, the IV-D agency shall act promptly pursuant to the applicable provisions of this section.

3. When an obligor who is subject to *an* income deduction *order* enforced against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency responsible for income deduction in another state terminates his or her relationship with his or her payor, the IV-D agency shall notify the agency in the other state and provide it with the name and address of the obligor and the address of any new payor of the obligor, if known.

4.a. The procedural rules and laws of this state govern the procedural aspects of income deduction whenever the agency responsible for income deduction in another state requests the enforcement of an income deduction order in this state.

b. Except with respect to when withholding must be implemented, which is controlled by the state where the order establishing, enforcing, or modifying the obligation was entered, the substantive law of this state shall apply whenever the agency responsible for income deduction in another state requests the enforcement of an income deduction in this state.

c. When the IV-D agency is requested by an agency responsible for income deduction in another state to implement income deduction against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency in the other state or when the IV-D agency in this state initiates an income deduction request on behalf of an obligee receiving IV-D services in this state against a payor in another state, *pursuant to this section or the Uniform Interstate Family Support Act*, the IV-D agency shall file the interstate income deduction documents, or an affidavit of such request when the income deduction documents are not available, with the depository and if the IV-D agency in this state is responding to a request from another state, provide copies to the payor and obligor in accordance with subsection (1). The depository created pursuant to s. 61.181 shall accept the interstate income deduction documents or affidavit and shall establish an account for the receipt and disbursement of child support or child support and alimony payments and advise the IV-D agency of the account number in writing within 2 days after receipt of the documents or affidavit.

(i) Certified copies of payment records maintained by a depository shall, without further proof, be admitted into evidence in any legal proceeding in this state.

(j)1. A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of *an* income deduction *order*. An employer who violates this subsection is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction ~~order~~, if any alimony or child support is owing. If no alimony or child support is owing, the penalty shall be paid to the obligor.

2. An employee may bring a civil action in the courts of this state against an employer who refuses to employ, discharges, or otherwise disciplines an employee because of *an* income deduction *order*. The employee is entitled to reinstatement and all wages and benefits lost plus reasonable attorney's fees and costs incurred.

(k) When a payor no longer provides income to an obligor, he or she shall notify the obligee and, if the obligee is a IV-D applicant, the IV-D agency and shall also provide the obligor's last known address and the name and address of the obligor's new payor, if known. A payor who violates this subsection is subject to a civil penalty not to exceed $250 for the first violation or $500 for a subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction *order*.

(3) It is the intent of the Legislature that this section may be used to collect arrearages in child support payments or in alimony payments which have been accrued against an obligor.

(4) When there is more than one income deduction notice against the same obligor, the ~~court shall allocate~~amounts available for income deduction *must be allocated* among all obligee families as follows:

(a) For computation purposes, ~~the court shall convert~~ all obligations *must be converted* to a common payroll frequency and ~~determine~~ the percentage of deduction allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended, *must be determined*. ~~The court shall determine~~ The amount of income available for deduction *is determined* by multiplying that percentage ~~figure~~ by the obligor's net income ~~and determine the sum of all of the support obligations~~.

(b) If the *total monthly support obligation to all families is less than the amount of income available for deduction, the full amount of each obligation must be deducted.* ~~sum of the support obligations is less than the amount of income available for deduction, the court shall order that the full amount of each obligation shall be deducted.~~

(c) If the *total monthly support obligation to all families is greater than the amount of income available for deduction, the amount of the deduction must be prorated, giving priority to current support, so that each family is allocated a percentage of the amount deducted. The percentage to be allocated to each family is determined by dividing each current support obligation by the total of all current support obligations. If the total of all current support obligations is less than the income available for deduction, and past due support is owed to more than one family, then the remainder of the available income must be prorated so that each family is allocated a percentage of the remaining income available for deduction. The percentage to be allocated to each family is determined by dividing each past-due support obligation by the total of all past-due support obligations.* ~~sum of the support obligations is greater than the amount of income available for deduction, the court shall determine a prorated percentage for each support obligation by dividing each obligation by the sum total of all the support obligations. The court shall then determine the prorated deduction amount for each support obligation by multiplying the prorated percentage for each support obligation by the amount of income available for deduction. The court shall then order that the resultant amount for each support obligation shall be deducted from the obligor's income.~~

Section 9. Section 63.181, Florida Statutes, is amended to read:

61.181 Central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; fees.—

(1) The office of the clerk of the court shall operate a depository unless the depository is otherwise created by special act of the Legislature or unless, prior to June 1, 1985, a different entity was established to perform such functions. The department shall, no later than July 1, 1998, extend participation in the federal child support cost reimbursement program to the central depository in each county, to the maximum extent possible under existing federal law. The depository shall receive reimbursement for services provided under a cooperative agreement with the department as provided by federal law.

(2)(a) The depository shall impose and collect a fee on each payment made for receiving, recording, reporting, disbursing, monitoring, or handling alimony or child support payments as required under this section, which fee shall be a flat fee based, to the extent practicable, upon estimated reasonable costs of operation. The fee shall be reduced in any case in which the fixed fee results in a charge to any party of an amount greater than 3 percent of the amount of any support payment made in satisfaction of the amount which the party is obligated to pay, except that no fee shall be less than $1 nor more than $5 per payment made. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay.

(b)1. For the period of July 1, 1992, through June 30, 1999, the fee imposed in paragraph (a) shall be increased to 4 percent of the support payments which the party is obligated to pay, except that no fee shall be more than $5.25. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay. Notwithstanding the provisions of s. 145.022, 75 percent of the additional revenues generated by this paragraph shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund administered by the department as provided in subparagraph 2. These funds shall be used exclusively for the development, implementation, and operation of an automated child support enforcement collections system to be operated by the depositories. The department shall contract with the Florida Association of Court Clerks ~~and Comptrollers~~ and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include, but not be limited to, the provision of on-line electronic transfer of information to the IV-D agency as otherwise required by this chapter. Each depository created under this section shall fully participate in the automated child support enforcement collection system on or before July 1, 1997, and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks ~~and Comptrollers~~ and the department. ~~The department may at its discretion exempt a depository from compliance with full participation in the automated child support enforcement collection system.~~

2. No later than December 31, 1996, moneys to be remitted to the department by the depository shall be done daily by electronic funds transfer and calculated as follows:

a. For each support payment of less than $33, 18.75 cents.

b. For each support payment between $33 and $140, an amount equal to 18.75 percent of the fee charged.

c. For each support payment in excess of $140, 18.75 cents.

3. Prior to June 30, 1995, the depositories and the department shall provide the Legislature with estimates of the cost of continuing the collection and maintenance of information required by this act.

4. The fees established by this section shall be set forth and included in every order of support entered by a court of this state which requires payment to be made into the depository.

(3)(a) The depository shall collect and distribute all support payments paid into the depository to the appropriate party. On or after July 1, 1998, if a payment *on a Title IV-D case* is made which is not accompanied by the required transaction fee, the depository shall not deduct any moneys from the support payment for payment of the fee. Nonpayment of the required fee shall be considered a delinquency, and when the total of fees and costs which are due but not paid exceeds $50, the judgment by operation of law process set forth in s. 61.14(6)(a) shall become applicable and operational. As part of its collection and distribution functions, the depository shall maintain records listing:

1. The obligor's name, address, social security number, place of employment, and any other sources of income.

2. The obligee's name, address, and social security number.

3. The amount of support due as provided in the court order.

4. The schedule of payment as provided in the court order.

5. The actual amount of each support payment received, the date of receipt, the amount disbursed, and the recipient of the disbursement.

6. The unpaid balance of any arrearage due as provided in the court order.

7. Other records as necessary to comply with federal reporting requirements.

(b) The depository may require a payor or obligor to complete an information form, which shall request the following about the payor or obligor who provides payment by check:

1. Full name, address, and home phone number.

2. Driver's license number.

3. Social security number.

4. Name, address, and business phone number of obligor's employer.

5. Date of birth.

6. Weight and height.

7. Such other information as may be required by the State Attorney if prosecution for an insufficient check becomes necessary.

If the depository requests such information, and a payor or obligor does not comply, the depository may refuse to accept personal checks from the payor or obligor.

(c) Parties using the depository for support payments shall inform the depository of changes in their names or addresses. An obligor shall, additionally, notify the depository of all changes in employment or sources of income, including the payor's name and address, and changes in the amounts of income received. Notification of all changes shall be made in writing to the depository within 7 days of a change.

(d) When custody of a child is relinquished by a custodial parent who is entitled to receive child support moneys from the depository to a licensed or registered long-term care child agency, that agency may request from the court an order directing child support payments which would otherwise be distributed to the custodial parent be distributed to the agency for the period of custody of the child by the agency. Thereafter, payments shall be distributed to the agency as if the agency were the custodial parent until further order of the court.

(4) The depository shall provide to the IV-D agency, at least once a month, a listing of IV-D accounts which identifies all delinquent accounts, the period of delinquency, and total amount of delinquency. The list shall be in alphabetical order by name of obligor, shall include the obligee's name and case number, and shall be provided at no cost to the IV-D agency.

(5) The depository shall accept a support payment tendered in the form of a check drawn on the account of a payor or obligor, unless the payor or obligor has previously remitted a check which was returned to the depository due to lack of sufficient funds in the account. If the payor or obligor has had a check returned for this reason, the depository shall accept payment by cash, cashier's check, or money order, or may accept a check upon deposit by the payor or obligor of an amount equal to 1 month's payment. Upon payment by cash, cashier's check, or money order, the depository shall disburse the proceeds to the obligee within 2 working days. Payments drawn by check on the account of a payor or obligor shall be disbursed within 4 working days. Notwithstanding the provisions of s. 28.243, the administrator of the depository shall not be personally liable if the check tendered by the payor or obligor is not paid by the bank.

(6) Certified copies of payment records maintained by a depository shall without further proof be admitted into evidence in any legal proceeding in this state.

(7) The depository shall provide to the Title IV-D agency the date provided by a payor, as required in s. 61.1301, for each payment received and forwarded to the agency. If no date is provided by the payor, the depository shall provide the date of receipt by the depository and shall report to the Title IV-D agency those payors who fail to provide the date the deduction was made.

(8) On or before July 1, 1994, the depository shall provide information required by this chapter to be transmitted to the Title IV-D agency by on-line electronic transmission pursuant to rules promulgated by the Title IV-D agency.

(9) If the increase in fees as provided by paragraph (2)(b) expires or is otherwise terminated, the depository shall not be required to provide the Title IV-D agency the date provided by a payor as required by s. 61.1301.

(10) Compliance with the requirements of this section shall be included as part of the annual county audit required pursuant to s. 11.45.

(11) The Office of Program Policy Analysis and Government Accountability shall conduct a program audit of the central child support enforcement depositories operating pursuant to this section. This audit shall include, but not be limited to, an analysis of current and pending federal requirements for the child support enforcement depository and a review of the adequacy of the present depository and funds distribution system to meet those requirements; a cost analysis of the current system; and a review of all strategies, including federal reimbursement, distribution of funds by the local depository, and privatization, to increase efficiency in payment processing. The audit must be completed and a report must be submitted to the Senate and the House of Representatives before December 1, 1996. This subsection shall not affect the implementation of any other parts of this section.

(12) The Office of Program Policy Analysis and Government Accountability is directed to evaluate the Dade County Child Support Enforcement demonstration project administered by the state attorney for the eleventh judicial circuit, and the Manatee County Child Support Enforcement demonstration project administered by the clerk of the circuit court. The office shall report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives, no later than January 1, 1999.

Section 10. Paragraph (a) of subsection (1) and subsections (8) and (17) of section 61.30, Florida Statutes, are amended to read:

61.30 Child Support guidelines; retroactive child support.—

(1)(a) The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact shall order as child support in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter. The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount, after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent. The trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding~~, or a specific finding on the record,~~ explaining why ordering payment of such guideline amount would be unjust or inappropriate.

(8) Health insurance costs resulting from coverage ordered pursuant to s. 61.13(1)(b), *and any noncovered medical, dental, and prescription medication expenses of the child,* shall be added to the basic obligation *unless these expenses have been ordered to be separately paid on a percentage basis*. After the health insurance costs are added to the basic obligation, any moneys prepaid by the noncustodial parent for *health-related costs* ~~health insurance~~ for the child or children of this action shall be deducted from that noncustodial parent's child support obligation for that child or those children.

(17) In an initial determination of child support, whether in a paternity action, dissolution of marriage action, or petition for support during the marriage, the court has discretion to award child support retroactive to the date when the parents did not reside together in the same household with the child, *not to exceed a period of 24 months preceding the filing of the petition,* regardless of whether that date precedes the filing of the petition. In determining the retroactive award in such cases, the court shall consider the following:

(a) The court shall apply the guidelines in effect at the time of the hearing subject to the obligor's demonstration of his or her actual income, as defined by s. 61.30(2), during the retroactive period. Failure of the obligor to so demonstrate, shall result in the court using the obligor's income at the time of the hearing, in computing child support for the retroactive period.

(b) All actual payments made by the noncustodial parent to the custodial parent or the child or third parties for the benefit of the child throughout the proposed retroactive period.

(c) The court should consider an installment payment plan for the payment of retroactive child support.

Section 11. Subsection (4) of section 69.041, Florida Statutes, is amended to read:

69.041 State named party; lien foreclosure, suit to quiet title.—

(4)(a) The Department of Revenue has the right to participate in the disbursement of funds remaining in the registry of the court after distribution pursuant to s. 45.031(7). The department shall participate in accordance with applicable procedures in any mortgage foreclosure action in which the department has a duly filed tax warrant, *or interests under a lien arising from a judgment, order, or decree for child support,* against the subject property and with the same priority, regardless of whether a default against the department has been entered for failure to file an answer or other responsive pleading.

(b) *With respect to a duly filed tax warrant,* paragraph (a) applies only to mortgage foreclosure actions initiated on or after July 1, 1994, and to those mortgage foreclosure actions initiated before July 1, 1994, in which no default has been entered against the Department of Revenue before July 1, 1994. *With respect to mortgage foreclosure actions initiated based upon interests under a lien arising from a judgment, order, or decree for child support, paragraph (a) applies only to mortgage foreclosure actions initiated on or after July 1, 1998, and to those mortgage foreclosure actions initiated before July 1, 1998, in which no default has been entered against the Department of Revenue before July 1, 1998.*

Section 12. Subsection (4) of section 319.24, Florida Statutes, is amended to read:

319.24 Issuance in duplicate; delivery; liens and encumbrances.—

(4) If the owner of the motor vehicle or mobile home, as shown on the title certificate, or the director of the state child support enforcement program, *or the director's designee,* desires to place a second or subsequent lien or encumbrance against the motor vehicle or mobile home when the title certificate is in the possession of the first lienholder, the owner shall send a written request to the first lienholder by certified mail, and such first lienholder shall forward the certificate to the department for endorsement. If the title certificate is in the possession of the owner, the owner shall forward the certificate to the department for endorsement. The department shall return the certificate to either the first lienholder or to the owner, as indicated in the notice of lien filed by the first lienholder, after endorsing the second or subsequent lien on the certificate and on the duplicate. If the first lienholder or owner fails, neglects, or refuses to forward the certificate of title to the department within 10 days from the date of the owner's or the director's *or designee's* request, the department, on the written request of the subsequent lienholder or an assignee thereof, shall demand of the first lienholder the return of such certificate for the notation of the second or subsequent lien or encumbrance.

Section 13. Subsection (4) of section 319.32, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to said section to read:

319.32 Fees; service charges; disposition.—

(4) The department shall charge a fee of $7 for each lien placed on a motor vehicle by the state child support enforcement program pursuant to s. 319.24.

Section 14. Subsection (2) of section 372.561, Florida Statutes, is amended to read:

372.561 Issuance of licenses to take wild animal life or freshwater aquatic life; costs; reporting.—

(2) The commission shall issue licenses and permits to take wild animal life or freshwater aquatic life upon proof by the applicant for licensure that she or he is entitled to such license or permit. The commission shall establish the forms for such licenses and permits. *Each applicant for a license, permit, or authorization shall provide the applicant's social security number on the application form. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement and use by the commission, and as otherwise provided by law.*

Section 15. The introductory paragraph of section 372.57, Florida Statutes, is amended to read:

372.57 Licenses and permits; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization and paid the fees hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license, permit, or authorization shall authorize the person to whom it is issued to take game, freshwater fish, or fur-bearing animals in accordance with law and commission rules. Such license, permit, or authorization is not transferable. Each license or permit must bear on its face in indelible ink the name of the person to whom it is issued and other information requested by the commission. Such license, permit, or authorization issued by the commission or any agent must be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license, permit, or authorization to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. A positive form of identification is required when using an authorization, a lifetime license, a 5-year license, or when otherwise required by the license or permit. The lifetime licenses and 5-year licenses provided herein shall be embossed with the name, date of birth, the date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany all applications for a lifetime license for residents 12 years of age and younger. *Each applicant for a license, permit, or authorization shall provide the applicant's social security number on the application form. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D child support enforcement program and use by the commission, and as otherwise provided by law.*

Section 16. Section 372.574, Florida Statutes, is amended to read:

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

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

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

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

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

(d) A subagent may sell licenses and permits as are determined by the tax collector at such specific locations within the county and in states contiguous to Florida as will best serve the public interest and convenience in obtaining licenses and permits. The commission may uniformly prohibit subagents from selling certain licenses or permits.

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

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

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

(h) A subagent shall submit payment for and report the sale of licenses and permits to the tax collector as prescribed by the tax collector but no less frequently than monthly.

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

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

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

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

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

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

(e) A subagent may charge and receive as his or her compensation 50 cents for each license or permit sold. This charge is in addition to the sum required by law to be collected for the sale and issuance of each license or permit. In addition, no later than July 1, 1997, a subagent fee for the sale of licenses over the telephone by credit card shall be established by competitive bid procedures which are overseen by the Game and Fresh Water Fish Commission.

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

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

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

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

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

Section 17. Subsection (1) of section 382.008, Florida Statutes, is amended to read:

382.008 Death and fetal death registration.—

(1) A certificate for each death and fetal death which occurs in this state shall be filed on a form prescribed by the department with the local registrar of the district in which the death occurred within 5 days after such death and prior to final disposition, and shall be registered by such registrar if it has been completed and filed in accordance with this chapter or adopted rules. *The certificate shall include the decedent's social security number, if available. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement and as otherwise provided by law.* In addition, each certificate of death or fetal death:

(a) If requested by the informant, shall include aliases or "also known as" (AKA) names of a decedent in addition to the decedent's name of record. Aliases shall be entered on the face of the death certificate in the space provided for name if there is sufficient space. If there is not sufficient space, aliases may be recorded on the back of the certificate and shall be considered part of the official record of death;

(b) If the place of death is unknown, shall be registered in the registration district in which the dead body or fetus is found within 5 days after such occurrence; and

(c) If death occurs in a moving conveyance, shall be registered in the registration district in which the dead body was first removed from such conveyance.

Section 18. Section 382.013, Florida Statutes, is amended to read:

382.013 Birth registration.—A certificate for each live birth that occurs in this state shall be filed within 5 days after such birth with the local registrar of the district in which the birth occurred and shall be registered by the local registrar if the certificate has been completed and filed in accordance with this chapter and adopted rules. *The information regarding registered births shall be used for comparison with information in the state case registry, as defined in chapter 61.*

(1) FILING.—

(a) If a birth occurs in a hospital, birth center, or other health care facility, or en route thereto, the person in charge of the facility shall be responsible for preparing the certificate, certifying the facts of the birth, and filing the certificate with the local registrar. Within 48 hours after the birth, the physician, midwife, or person in attendance during or immediately after the delivery shall provide the facility with the medical information required by the birth certificate.

(b) If a birth occurs outside a facility and the child is not taken to the facility within 3 days after delivery, the certificate shall be prepared and filed by one of the following persons in the indicated order of priority:

1. The physician or midwife in attendance during or immediately after the birth.

2. In the absence of persons described in subparagraph 1., any other person in attendance during or immediately after the birth.

3. In the absence of persons described in subparagraph 2., the father or mother.

4. In the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

(c) If a birth occurs in a moving conveyance and the child is first removed from the conveyance in this state, the birth shall be filed and registered in this state and the place to which the child is first removed shall be considered the place of birth.

(d) At least one of the parents of the child shall attest to the accuracy of the personal data entered on the certificate in time to permit the timely registration of the certificate.

(e) If a certificate of live birth is incomplete, the local registrar shall immediately notify the health care facility or person filing the certificate and shall require the completion of the missing items of information if they can be obtained prior to issuing certified copies of the birth certificate.

(f) Regardless of any plan to place a child for adoption after birth, the information on the birth certificate as required by this section must be as to the child's birth parents unless and until an application for a new birth record is made under s. 63.152.

(2) PATERNITY.—

(a) If the mother is married at the time of birth, the name of the husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(b) If the husband of the mother dies while the mother is pregnant but before the birth of the child, the name of the deceased husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(c) If the mother is not married at the time of birth, the name of the father may not be entered on the birth certificate without the execution of a consenting affidavit signed by both the mother and the person to be named as the father. *After giving notice orally or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor, any rights afforded due to minority status, and responsibilities that arise from signing an acknowledgment of paternity,* the facility shall provide the mother and the person to be named as the father with the affidavit, as well as information provided by the Title IV-D agency established pursuant to s. 409.2557, regarding the benefits of voluntary establishment of paternity. Upon request of the mother and the person to be named as the father, the facility shall assist in the execution of the affidavit.

(d) If the paternity of the child is determined by a court of competent jurisdiction as provided under s. 382.015, the name of the father and the surname of the child shall be entered on the certificate in accordance with the finding and order of the court. If the court fails to specify a surname for the child, the surname shall be entered in accordance with subsection (3).

(e) If the father is not named on the certificate, no other information about the father shall be entered on the certificate.

(3) NAME OF CHILD.—

(a) If the mother is married at the time of birth, the mother and father whose names are entered on the birth certificate shall select the given names and surname of the child if both parents have custody of the child, otherwise the parent who has custody shall select the child's name.

(b) If the mother and father whose names are entered on the birth certificate disagree on the surname of the child and both parents have custody of the child, the surname selected by the father and the surname selected by the mother shall both be entered on the birth certificate, separated by a hyphen, with the selected names entered in alphabetical order. If the parents disagree on the selection of a given name, the given name may not be entered on the certificate until a joint agreement that lists the agreed upon given name and is notarized by both parents is submitted to the department, or until a given name is selected by a court.

(c) If the mother is not married at the time of birth, the *parent* ~~person~~ who will have custody of the child shall select the child's given name and surname.

(d) If multiple names of the child exceed the space provided on the face of the birth certificate they shall be listed on the back of the certificate. Names listed on the back of the certificate shall be part of the official record.

(e) Unless the child is of undetermined parentage under subsection (4), the child's given surname or, if the child's given surname is hyphenated, one of the names in that hyphenated surname must be the surname of the child's mother or the child's father as entered on the birth certificate under subsection (2).

(4) UNDETERMINED PARENTAGE.—A birth certificate shall be registered for every child of undetermined parentage showing all known or approximate facts relating to the birth. To assist in later determination, information concerning the place and circumstances under which

the child was found shall be included on the portion of the birth certificate relating to marital status and medical details. In the event the child is later identified to the satisfaction of the department, a new birth certificate shall be prepared which shall bear the same number as the original birth certificate, and the original certificate shall be sealed and filed, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be opened to inspection by, nor shall certified copies of the same be issued except by court order to, any person other than the registrant if of legal age.

(5) DISCLOSURE.—The original certificate of live birth shall contain all the information required by the department for legal, social, and health research purposes. However, all information concerning parentage, marital status, and medical details shall be confidential and exempt from the provisions of s. 119.07(1), except for health research purposes as approved by the department, nor shall copies of the same be issued except as provided in s. 382.025.

Section 19. Subsection (3) is added to section 409.2557, Florida Statutes, to read:

409.2557 State agency for administering child support enforcement program.—

(3) Specific rulemaking authority.-- The department has the authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement all laws administered by the department in its capacity as the Title IV-D agency for this state including, but not limited to, the following:

(a) background screening of department employees and applicants, including criminal records checks;

(b) confidentiality and retention of department records; access to records; record requests;

(c) department trust funds;

(d) federal funding procedures;

(e) agreements with law enforcement and other state agencies; National Crime Information Center (NCIC) access; Parent Locator Service access;

(f) written agreements entered into between the department and child support obligors in establishment, enforcement, and modification proceedings;

(g) procurement of services by the department, pilot programs, and demonstration projects;

(h) management of cases by the department involving any documentation or procedures required by federal or state law, including but not limited to, cooperation; review and adjustment; audits; interstate actions; diligent efforts for service of process;

(i) department procedures for orders for genetic testing; subpoenas to establish, enforce or modify orders; increasing the amount of monthly obligations to secure delinquent support; suspending or denying driver's and professional licenses and certificates; fishing and hunting license suspensions; suspending vehicle and vessel registrations, screening applicants for new or renewal licenses, registrations, or certificates; income deduction; credit reporting and accessing; tax refund intercepts; passport denials; liens; financial institution data matches; expedited procedures; medical support; and all other responsibilities of the department as required by state or federal law;

(j) collection and disbursement of child support and alimony payments by the department as required by federal law; collection of genetic testing costs and other costs awarded by the court;

(k) report information to and receive information from other agencies and entities;

(l) provide location services, including accessing from and reporting to federal and state agencies;

(m) privatizing location, establishment, enforcement, modification and other functions;

(n) state case registry;

(o) state disbursement unit; and

(p) all other responsibilities of the department as required by state or federal law;

Section 20. Section 409.2558, Florida Statutes, is created to read:

409.2558 Child support distribution and disbursement.—The department shall distribute and disburse child support payments collected in Title IV-D cases in accordance with 42 U.S.C. s. 657 and regulations adopted thereunder by the Secretary of the United States Department of Health and Human Services.

Section 21. Section 409.2559, Florida Statutes, is created to read:

409.2559 State disbursement unit.—The department shall establish and operate a state disbursement unit by October 1, 1999, as required by 42 U.S.C. s. 654(27).

Section 22. Subsection (1) of section 409.2561, Florida Statutes, is amended to read:

409.2561 *Child support obligations when public assistance is paid* ~~Public assistance payments; reimbursement of obligation to department~~; assignment of rights; subrogation; medical and health insurance information.—

(1) Any payment of public assistance money made to, or for the benefit of, any dependent child creates an obligation in an amount equal to the amount of public assistance paid. *In accordance with 42 U.S.C. s. 657, the state shall retain amounts collected only to the extent necessary to reimburse amounts paid to the family as assistance by the state.* If there has been a prior court order or final judgment of dissolution of marriage establishing an obligation of support, the obligation is limited to the amount provided by such court order or decree. ~~pursuant to the applicable child support guidelines in s. 61.30.~~ The obligor shall discharge the reimbursement obligation. If the obligor fails to discharge the reimbursement obligation, the department may apply for a contempt order to enforce reimbursement for support furnished. The extraordinary remedy of contempt is applicable in child support enforcement cases because of the public necessity for ensuring that dependent children be maintained from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through the public assistance program. If there is no prior court order establishing an obligation of support, the court shall establish the liability of the obligor, if any, for reimbursement of public assistance moneys paid~~, by applying the child support guidelines in s. 61.30 for the public assistance period.~~ Priority shall be given to establishing continuing reasonable support for the dependent child. The department may apply for modification of a court order on the same grounds as either party to the cause and shall have the right to settle and compromise actions brought pursuant to law.

Section 23. Subsections (8) and (9) of section 409.2564, Florida Statutes, are amended to read:

409.2564 Actions for support.—

(8) The director of the Title IV-D agency, or the director's designee, is authorized to subpoena *from any person* financial and other information ~~from any person~~ necessary to establish, modify, or enforce a child support order. ~~The agency is authorized to impose a fine for failure to comply with the subpoena.~~

(a) For the purpose of any investigation under this chapter, any designated employee may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence and require the production of any matter which is relevant to the *child support enforcement* investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

(b) Prior to *making application to the court for an order compelling compliance with a subpoena* ~~imposition of a fine~~, the department shall issue a written notification of noncompliance. Failure to comply within 15 days *after* ~~of~~ receipt of the written notification without good cause may result in the ~~agency taking the following actions:~~

~~1. Imposition of an administrative fine of not more than $500;~~

~~2. The~~ application by the Title IV-D agency to the circuit court for an order compelling compliance with the subpoena. The person who is determined to be in noncompliance with the subpoena shall be liable for reasonable attorney's fees and costs associated with the department bringing this action upon showing by the department that the person failed to comply with the request without good cause.

~~(c) All fines collected pursuant to this section shall be made payable to the Child Support Enforcement Application Fee and Program Revenue Trust Fund.~~

(9) In cases in which support is subject to an assignment as *provided under 45 C.F.R. s. 301.1* ~~required under s. 409.2561(2)~~, the Title IV-D agency shall, upon providing notice to the obligor and obligee, direct the obligor or other payor to change the payee to the appropriate depository.

Section 24. Subsection (1) of section 409.25641, Florida Statutes, is amended to read:

409.25641 Procedures for processing *automated administrative* ~~interstate~~ enforcement requests.—

(1) *The Title IV-D agency shall use automated administrative enforcement in response to a request from another state to enforce a support order and shall promptly report the results of enforcement action to the requesting state. "Automated administrative enforcement" means the use of automated data processing to search state databases and determine whether information is available regarding the parent who owes a child support obligation.* ~~The Title IV-D agency shall respond within 5 business days to a request from another state to enforce a support order.~~

Section 25. Section 409.25658, Florida Statutes, is created to read:

409.25658 Use of unclaimed property for past-due child support.—

(1) In a joint effort to facilitate the collection and payment of past-due child support, the Department of Revenue, in cooperation with the Department of Banking and Finance, shall identify persons owing child support collected through a court who are presumed to have abandoned property held by the Department of Banking and Finance.

(2) The department shall periodically provide the Department of Banking and Finance with an electronic file of child support obligors who owe past-due child support. The Department of Banking and Finance shall conduct a data match of the file against all apparent owners of abandoned property under chapter 717 and provide the resulting match list to the department.

(3) Upon receipt of the data match list, the department shall provide to the Department of Banking and Finance the obligor's last known address. The Department of Banking and Finance shall follow the notification procedures under s. 717.118.

(4) Prior to paying an obligor's approved claim, the Department of Banking and Finance shall notify the department that such claim has been approved. Upon confirmation that the Department of Banking and Finance has approved the claim, the department shall immediately send a notice by certified mail to the obligor, with a copy to the Department of Banking and Finance, advising the obligor of the department's intent to intercept the approved claim up to the amount of the past-due child support, and informing the obligor of the obligor's right to request a hearing under chapter 120. The Department of Banking and Finance shall retain custody of the property until a final order has been entered and any appeals thereon have been concluded. If the obligor fails to request a hearing, the department shall enter a final order instructing the Department of Banking and Finance to transfer to the department the property in the amount stated in the final order. Upon such transfer, the Department of Banking and Finance shall be released from further liability related to the transferred property.

(5) The provisions of this section provide a supplemental remedy and the department may use this remedy in conjunction with any other method of collecting child support.

Section 26. Section 409.2567, Florida Statutes, is amended to read:

409.2567 Services to individuals not otherwise eligible.—All child support services provided by the department shall be made available on behalf of all dependent children. Services shall be provided upon acceptance of public assistance or upon proper application filed with the department. The department shall adopt rules to provide for the payment of a $25 application fee from each applicant who is not a public assistance recipient. The application fee shall be deposited in the Child Support Enforcement Application and *Program Revenue* ~~User Fee~~ Trust Fund within the Department of Revenue to be used for the Child Support Enforcement Program. The obligor is responsible for all administrative costs, as defined in s. 409.2554. The court shall order payment of administrative costs without requiring the department to have a member of the bar testify or submit an affidavit as to the reasonableness of the costs. An attorney-client relationship exists only between the department and the legal services providers in Title IV-D cases. The attorney shall advise the obligee in Title IV-D cases that the attorney represents the agency and not the obligee. In Title IV-D cases, any costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the nonprevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay such costs and fees. In any case where the court does not award all costs, the court shall state in the record its reasons for not awarding the costs. The Department of Revenue shall not be considered a party for purposes of this section; however, fees may be assessed against the department pursuant to s. 57.105(1). The department shall submit a monthly report to the Governor and the chairs of the *Health and Human Services Fiscal* ~~Appropriations~~ Committee of the House of Representatives and the Ways and Means Committee of the Senate specifying the funds identified for collection from the noncustodial parents of children receiving temporary assistance and the amounts actually collected.

Section 27. Subsection (4) is added to section 409.2572, Florida Statutes, to read:

409.2572 Cooperation.—

(4) The Title IV-D agency shall determine whether an applicant for or recipient of public assistance for a dependent child has good cause for failing to cooperate with the Title IV-D agency as required by this section.

Section 28. Section 409.2575, Florida Statutes, is amended to read:

409.2575 Liens on motor vehicles and vessels.—

(1) The director of the state IV-D program, *or the director's designee,* may cause a lien for unpaid and delinquent support to be placed upon motor vehicles, as defined in chapter 320, and upon vessels, as defined in chapter 327, that are registered in the name of an obligor who is delinquent in support payments, if the title to the property is held by a lienholder, in the manner provided in chapter 319 or chapter 328. Notice of lien shall not be mailed unless the delinquency in support exceeds $600.

(2) If the first lienholder fails, neglects, or refuses to forward the certificate of title to the appropriate department as requested pursuant to s. 319.24 or s. 328.15, the director of the IV-D program, *or the director's designee,* may apply to the circuit court for an order to enforce the requirements of s. 319.24 or s. 328.15, whichever applies.

Section 29. Paragraph (c) of subsection (3) of section 409.2576, Florida Statutes, is amended to read:

409.2576 State Directory of New Hires; definitions; furnishing reports and data; matches to state registry; service of deduction notices; national registry; disclosure of information; rulemaking authority.—

(3) EMPLOYERS TO FURNISH REPORTS.—

(c) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement *and those programs listed in subsection (9).*

(9) DISCLOSURE OF INFORMATION.—

(a) New hire information shall be disclosed to the state agency administering the following programs for the purposes of determining eligibility under those programs:

1. Any state program funded under part A of Title IV of the Social Security Act;

2. The Medicaid program under Title XIX of the Social Security Act;

3. The unemployment compensation program under s. 3304 of the Internal Revenue Code of 1954;

4. The food stamp program under the Food Stamp Act of 1977; and

5. Any state program under a plan approved under Title I (Old-Age Assistance for the Aged), Title X (Aid to the Blind), Title XIV (Aid to the Permanently and Totally Disabled), or Title XVI (Aid to the Aged, Blind, or Disabled; Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act.

(b) New hire information shall be disclosed to the state agencies operating employment security and workers' compensation programs for the purposes of administering such programs.

Section 30. Paragraph (b) of subsection (2) and subsection (3) of section 409.2578, Florida Statutes, are amended to read:

409.2578 Access to employment information; administrative fine.—

(2) Prior to imposition of a fine, the department shall issue a written notification of noncompliance. Failure to comply with the request within 15 days of receipt of the written notification without good cause may result in the agency taking the following actions:

(b) The application by the Title IV-D agency or its designee, to the circuit court for an *order* ~~court~~ compelling compliance. The person who is determined to be in noncompliance with the request shall be liable for reasonable attorney's fees and costs associated with the department bringing this action upon showing by the department that the person failed to comply with the request without good cause.

(3) All fines collected pursuant to this section shall be made payable to the Child Support Enforcement Application ~~Fee~~ and Program Revenue Trust Fund.

Section 31. Subsections (1), (3), (4), and (5) of section 409.2579, Florida Statutes, are amended to read:

409.2579 Safeguarding Title IV-D case file information.—

(1) Information concerning applicants for or recipients of Title IV-D child support services is confidential and exempt from the provisions of s. 119.07(1). The use or disclosure of such information by the IV-D program is limited to purposes directly connected with:

(a) The administration of the plan or program approved under part A, part B, part D, part E, or part F of Title IV; under Title II, Title X, Title XIV, Title XVI, Title XIX, or Title XX; or under the supplemental security income program established under Title XVI of the Social Security Act;

(b) Any investigation, prosecution, or criminal or civil proceeding connected with the administration of any such plan or program;

(c) The administration of any other federal or federally assisted program which provides service or assistance, in cash or in kind, directly to individuals on the basis of need; ~~and~~

(d) Reporting to an appropriate agency or official, information on known or suspected instances of physical or mental injury, child abuse, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement activity under circumstances which indicate that the child's health or welfare is threatened thereby*; and*~~.~~

(e) Mandatory disclosure of identifying and location information as provided in s. 61.13(9) by the IV-D program when providing Title IV-D services.

(3) As required by federal law, 42 U.S.C. s. 654*(26),* upon notice that such an order exists, the IV-D program shall not disclose information on the whereabouts of one party *or the child* to the other party against whom a protective order with respect to the former party *or the child* has been entered.

(4) As required by federal law, 42 U.S.C. s. 654*(26),* the IV-D program shall not disclose information on the whereabouts of one party *or the child* to another *person* ~~party~~ if the program has reason to believe that the release of information *to that person* may result in physical or emotional harm to the ~~former~~ party *or the child*.

(5) The Department of *Revenue* ~~Children and Family Services~~ is authorized to establish, by rule, procedures to implement this section.

(6) Any person who willfully and knowingly violates any of the provisions of this section is guilty of a misdemeanor of the first degree punishable as provided in s. 775.082 or s. 775.083.

Section 32. Subsection (7) of section 414.095, Florida Statutes, is amended to read:

414.095 Determining eligibility for the WAGES Program.—

(7) CHILD SUPPORT ENFORCEMENT.—As a condition of eligibility for *public* ~~temporary cash~~ assistance, the family must cooperate with the state agency responsible for administering the child support enforcement program in establishing the paternity of the child, if the child is born out of wedlock, and in obtaining support for the child or for the parent or caretaker relative and the child. Cooperation is defined as:

(a) Assisting in identifying and locating a noncustodial parent and providing complete and accurate information on that parent;

(b) Assisting in establishing paternity; and

(c) Assisting in establishing, modifying, or enforcing a support order with respect to a child of a family member.

This subsection does not apply if the state agency that administers the child support enforcement program determines that the parent or caretaker relative has good cause for failing to cooperate.

Section 33. Paragraph (a) of subsection (1) of section 414.32, Florida Statutes, is amended to read:

414.32 Prohibitions and restrictions with respect to food stamps.—

(1) COOPERATION WITH CHILD SUPPORT ENFORCEMENT AGENCY.—

(a) A parent or caretaker relative who receives temporary cash assistance or food stamps on behalf of a child under 18 years of age who has an absent parent is ineligible for food stamps unless the parent or caretaker relative cooperates with the state agency that administers the child support enforcement program in establishing the paternity of the child, if the child is born out of wedlock, and in obtaining support for the child or for the parent or caretaker relative and the child. This paragraph does not apply if the state agency that administers the child support enforcement program determines that the parent or caretaker relative has good cause for failing to cooperate ~~in establishing the paternity of the child~~.

Section 34. Paragraph (b) of subsection (3) of section 443.051, Florida Statutes, is amended to read:

443.051 Benefits not alienable; exception, child support intercept.—

(3) EXCEPTION, CHILD SUPPORT INTERCEPT.—

(b) The division shall deduct and withhold from any unemployment compensation otherwise payable to an individual who owes child support obligations:

1. The amount specified by the individual to the division to be deducted and withheld under this section;

2. The amount determined pursuant to an agreement submitted to the division under s. 454(20)(B)(i) of the Social Security Act by the state or local child support enforcement agency; or

3. Any amount otherwise required to be deducted and withheld from such unemployment compensation through legal process as defined in *s. 459* ~~s. 462(e)~~ of the Social Security Act.

Section 35. Subsection (2) of section 443.1715, Florida Statutes, is amended to read:

443.1715 Disclosure of information; confidentiality.—

(2) DISCLOSURE OF INFORMATION.—Subject to such restrictions as the division prescribes by rule, information declared confidential under this section may be made available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of a system of public employment offices, or the Bureau of Internal Revenue of the United States Department of the Treasury, or the Florida Department of Revenue and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a job-preparatory or career education or training program. The division shall on a quarterly basis, furnish the National Directory of New Hires with *information* ~~extracts of the reports required under s. 303(a)(6) of the Social Security Act (42 U.S.C. s. 503) to be made to the Secretary of Labor~~ concerning the wages and unemployment compensation paid to individuals, by such dates, in such format and containing such information as the Secretary of Health and Human Services shall specify in regulations. Upon request therefor, the division shall furnish any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter. Except as otherwise provided by law, the receiving agency must retain the confidentiality of such information as provided in this section. The division may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter and may in connection with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in s. 3305(c) of the federal Internal Revenue Code.

Section 36. Subsection (9) of section 455.213, Florida Statutes, is amended to read:

455.213 General licensing provisions.—

(9) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement *and use by the Department of Business and Professional Regulation, and as otherwise provided by law*.

Section 37. Section 741.04, Florida Statutes, is amended to read:

741.04 Marriage license issued.—No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her an affidavit in writing, signed by both parties to the marriage, providing the social security numbers *or other identification numbers* of each party, made and subscribed before some person authorized by law to administer an oath, reciting the true and correct ages of such parties; unless both such parties shall be over the age of 18 years, except as provided in s. 741.0405; and unless one party is a male and the other party is a female. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. *However, when an individual is not a citizen of the United States and does not have a social security number, alien registration documentation, or other proof of immigration registration from the United States Immigration and Naturalization Service that contains the individual's alien admission number or alien file number, or such other documents as the state determines constitutes reasonable evidence indicating a satisfactory immigration status, shall be provided in lieu of the social security number.* Disclosure of social security numbers *or other identification numbers* obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

Section 38. Subsection (2) of section 742.032, Florida Statutes, is amended to read:

742.032 Filing of location information.—

(2) Beginning July 1, 1997, in any subsequent Title IV-D child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the *court of competent jurisdiction shall* ~~tribunal may~~ deem state due process requirements for notice and service of process to be met with respect to the party upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry under subsection (1). Beginning October 1, 1998, in any subsequent non-Title IV-D child support enforcement action between the parties, the same requirements for service shall apply.

Section 39. Subsection (6) of section 61.14, Florida Statutes, is amended to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(6)(a)1. When support payments are made through the local depository, any payment or installment of support which becomes due and is unpaid under any support order is delinquent; and this unpaid payment or installment, and all other costs and fees herein provided for, become, after notice to the obligor and the time for response as set forth in this subsection, a final judgment by operation of law, which has the full force, effect, and attributes of a judgment entered by a court in this state for which execution may issue. *No deduction shall be made by the local depository from any payment made for costs and fees accrued in the judgment by operation of law process under paragraph (b) until the total amount of support payments due the obligee under the judgment has been paid.*

2. A certified copy of the support order and a certified statement by the local depository evidencing a delinquency in support payments constitute evidence of the final judgment under this paragraph.

3. The judgment under this paragraph is a final judgment as to any unpaid payment or installment of support which has accrued up to the time either party files a motion with the court to alter or modify the support order, and such judgment may not be modified by the court. The court may modify such judgment as to any unpaid payment or installment of support which accrues after the date of the filing of the motion to alter or modify the support order. This subparagraph does not prohibit the court from providing relief from the judgment pursuant to Florida Rule of Civil Procedure 1.540.

(b)1. When an obligor is 15 days delinquent in making a payment or installment of support, the local depository shall serve notice on the obligor informing him or her of:

a. The delinquency and its amount.

b. An impending judgment by operation of law against him or her in the amount of the delinquency and all other amounts which thereafter become due and are unpaid, together with costs and a fee of $5, for failure to pay the amount of the delinquency.

c. The obligor's right to contest the impending judgment and the ground upon which such contest can be made.

d. The local depository's authority to release information regarding the delinquency to one or more credit reporting agencies.

2. The local depository shall serve the notice by mailing it by first class mail to the obligor at his or her last address of record with the local depository. If the obligor has no address of record with the local depository, service shall be by publication as provided in chapter 49.

3. When service of the notice is made by mail, service is complete on the date of mailing.

(c) Within 15 days after service of the notice is complete, the obligor may file with the court that issued the support order, or with the court in the circuit where the local depository which served the notice is located, a motion to contest the impending judgment. An obligor may contest the impending judgment only on the ground of a mistake of fact regarding an error in whether a delinquency exists, in the amount of the delinquency, or in the identity of the obligor.

(d) The court shall hear the obligor's motion to contest the impending judgment within 15 days after the date of the filing of the motion. Upon the court's denial of the obligor's motion, the amount of the delinquency and all other amounts which thereafter become due, together with costs

and a fee of $5, become a final judgment by operation of law against the obligor. The depository shall charge interest at the rate established in s. 55.03 on all judgments for child support.

(e) If the obligor fails to file a motion to contest the impending judgment within the time limit prescribed in paragraph (c) and fails to pay the amount of the delinquency and all other amounts which thereafter become due, together with costs and a fee of $5, such amounts become a final judgment by operation of law against the obligor at the expiration of the time for filing a motion to contest the impending judgment.

(f)1. Upon request of any person, the local depository shall issue, upon payment of a fee of $5, a payoff statement of the total amount due under the judgment at the time of the request. The statement may be relied upon by the person for up to 30 days from the time it is issued unless proof of satisfaction of the judgment is provided.

2. When the depository records show that the obligor's account is current, the depository shall record a satisfaction of the judgment upon request of any interested person and upon receipt of the appropriate recording fee. Any person shall be entitled to rely upon the recording of the satisfaction.

3. The local depository, at the direction of the department, or the obligee in a non-IV-D case, may partially release the judgment as to specific real property, and the depository shall record a partial release upon receipt of the appropriate recording fee.

4. The local depository is not liable for errors in its recordkeeping, except when an error is a result of unlawful activity or gross negligence by the clerk or his or her employees.

Section 40. Section 61.046, Florida Statutes, is amended to read:

61.046 Definitions.—As used in this chapter:

(1) "Business day" means any day other than a Saturday, Sunday, or legal holiday.

(2) "Clerk of Court Child Support Collection System" or "CLERC System" means the automated system established pursuant to s. 61.181(2)(b)1., integrating all clerks of court and depositories and through which payment data and State Case Registry data is transmitted to the department's automated child support enforcement system.

(3)~~(1)~~ "Custodial parent" or "primary residential parent" means the parent with whom the child maintains his or her primary residence.

(4)~~(2)~~ "Department" means the Department of Revenue.

(5)~~(3)~~ "Depository" means the central governmental depository established pursuant to s. 61.181, *created by special act of the Legislature or other entity established before June 1, 1985, to perform depository functions and* to receive, record, report, disburse, monitor, and otherwise handle alimony and child support payments *not otherwise required to be processed by the State Disbursement Unit.*

(6) "Federal Case Registry of Child Support Orders" means the automated registry of support order abstracts and other information established and maintained by the United States Department of Health and Human Services as provided by 42 U.S.C. s. 653(h).

(7)~~(4)~~ "Income" means any form of payment to an individual, regardless of source, including, but not limited to: wages, salary, commissions and bonuses, compensation as an independent contractor, worker's compensation, disability benefits, annuity and retirement benefits, pensions, dividends, interest, royalties, trusts, and any other payments, made by any person, private entity, federal or state government, or any unit of local government. United States Department of Veterans Affairs disability benefits and unemployment compensation, as defined in chapter 443, are excluded from this definition of income except for purposes of establishing an amount of support.

(8)~~(5)~~ "IV-D" means services provided pursuant to Title IV-D of the Social Security Act, 42 U.S.C. *ss. 651 et seq* ~~s. 1302~~.

(9)~~(6)~~ "Local officer" means an elected or appointed constitutional or charter government official including, but not limited to, the state attorney and clerk of the circuit court.

(10)~~(7)~~ "Noncustodial parent" means the parent with whom the child does not maintain his or her primary residence.

(11)~~(8)~~ "Obligee" means the person to whom payments are made pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support.

(12)~~(9)~~ "Obligor" means a person responsible for making payments pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support.

(13)~~(10)~~ "Payor" means an employer or former employer or any other person or agency providing or administering income to the obligor.

(14)~~(11)~~ "Shared parental responsibility" means a court-ordered relationship in which both parents retain full parental rights and responsibilities with respect to their child and in which both parents confer with each other so that major decisions affecting the welfare of the child will be determined jointly.

(15)~~(12)~~ "Sole parental responsibility" means a court-ordered relationship in which one parent makes decisions regarding the minor child.

(16)~~(13)~~ "State Case Registry" means *the automated* ~~a~~ registry maintained by the Title IV-D agency, *containing records of each Title IV-D case and of each support order established or modified in the state on or after October 1, 1998. Such records shall consist of data elements as required by the United States Secretary of Health and Human Services.* ~~for information related to paternity and child support orders for Title IV-D. Beginning October 1, 1998, information related to non-Title IV-D cases established or modified in the state shall be maintained in the registry.~~

(17) "State Disbursement Unit" means the unit established and operated by the Title IV-D agency to provide one central address for collection and disbursement of child support payments made in cases enforced by the department pursuant to Title IV-D of the Social Security Act and in cases not being enforced by the department in which the support order was initially issued in this state on or after January 1, 1994, and in which the obligor's child support obligation is being paid through income deduction order.

(18) "Support order" means a judgment, decree, or order, whether temporary or final, issued by a court of competent jurisdiction for the support and maintenance of a child which provides for monetary support, health care, arrearages, or past support.

Section 41. Subsections (1) and (2) and paragraph (a) of subsection (3) of section 61.181, Florida Statutes, are amended to read:

61.181 Central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; fees.—

(1) The office of the clerk of the court shall operate a depository unless the depository is otherwise created by special act of the Legislature or unless, prior to June 1, 1985, a different entity was established to perform such functions. The department shall, no later than July 1, 1998, extend participation in the federal child support cost reimbursement program to the central depository in each county, to the maximum extent possible under existing federal law. The depository shall receive reimbursement for services provided under a cooperative agreement with the department *pursuant to s. 61.1826. Each depository shall participate in the State Disbursement Unit and shall implement all statutory and contractual duties imposed on the State Disbursement Unit. Each depository shall receive from and transmit to the State Disbursement Unit required data through the Clerk of Court Child Support Enforcement Collection System. Payments on non-Title IV-D cases without income deduction orders shall not be sent to the State Disbursement Unit* ~~as provided by federal law~~.

(2)(a) *For payments not required to be processed through the State Disbursement Unit,* the depository shall impose and collect a fee on each payment made for receiving, recording, reporting, disbursing, monitoring, or handling alimony or child support payments as required under this section, which fee shall be a flat fee based, to the extent practicable, upon estimated reasonable costs of operation. The fee shall be reduced in any case in which the fixed fee results in a charge to any party of an amount greater than 3 percent of the amount of any support payment

made in satisfaction of the amount which the party is obligated to pay, except that no fee shall be less than $1 nor more than $5 per payment made. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay.

(b)1. For the period of July 1, 1992, through June 30, *2002* ~~1999~~, the fee imposed in paragraph (a) shall be increased to 4 percent of the support payments which the party is obligated to pay, except that no fee shall be more than $5.25. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay. Notwithstanding the provisions of s. 145.022, 75 percent of the additional revenues generated by this paragraph shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund administered by the department as provided in subparagraph 2. These funds shall be used exclusively for the development, implementation, and operation of *the Clerk of the Court* ~~an automated~~ Child Support Enforcement *Collection* ~~Collections~~ System to be operated by the depositories, *including the automation of civil case information necessary for the State Case Registry*. The department shall contract with the Florida Association of Court Clerks ~~and Comptrollers~~ and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include, but not be limited to, the provision of on-line electronic transfer of information to the IV-D agency as otherwise required by this chapter. *The department's obligation to fund the automation of the depositories is limited to the state share of funds available in the Clerk of the Court Child Support Enforcement Collection System Trust Fund.* Each depository created under this section shall fully participate in the *Clerk of the Court* ~~automated~~ Child Support Enforcement Collection System ~~on or before July 1, 1997,~~ and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks ~~and Comptrollers~~ and the department. ~~The department may at its discretion exempt a depository from compliance with full participation in the automated child support enforcement collection system.~~

2. No later than December 31, 1996, moneys to be remitted to the department by the depository shall be done daily by electronic funds transfer and calculated as follows:

a. For each support payment of less than $33, 18.75 cents.

b. For each support payment between $33 and $140, an amount equal to 18.75 percent of the fee charged.

c. For each support payment in excess of $140, 18.75 cents.

3. Prior to June 30, 1995, the depositories and the department shall provide the Legislature with estimates of the cost of continuing the collection and maintenance of information required by this act.

4. The fees established by this section shall be set forth and included in every order of support entered by a court of this state which requires payment to be made into the depository.

(3)(a) *For payments not required to be processed through the State Disbursement Unit,* the depository shall collect and distribute all support payments paid into the depository to the appropriate party. On or after July 1, 1998, if a payment is made *on a Title IV-D case* which is not accompanied by the required transaction fee, the depository shall not deduct any moneys from the support payment for payment of the fee. Nonpayment of the required fee shall be considered a delinquency, and when the total of fees and costs which are due but not paid exceeds $50, the judgment by operation of law process set forth in s. 61.14(6)(a) shall become applicable and operational. As part of its collection and distribution functions, the depository shall maintain records listing:

1. The obligor's name, address, social security number, place of employment, and any other sources of income.

2. The obligee's name, address, and social security number.

3. The amount of support due as provided in the court order.

4. The schedule of payment as provided in the court order.

5. The actual amount of each support payment received, the date of receipt, the amount disbursed, and the recipient of the disbursement.

6. The unpaid balance of any arrearage due as provided in the court order.

7. Other records as necessary to comply with federal reporting requirements.

Section 42. Section 61.1824, Florida Statutes, is created to read:

61.1824 State Disbursement Unit.—

(1) The State Disbursement Unit is hereby created and shall be operated by the Department of Revenue or by a contractor responsible directly to the department. The State Disbursement Unit shall be responsible for the collection and disbursement of payments for:

(a) All child support cases enforced by the department pursuant to Title IV-D of the Social Security Act; and

(b) All child support cases not being enforced by the department pursuant to Title IV-D of the Social Security Act in which the initial support order was issued in this state on or after January 1, 1994, and in which the obligor's child support obligation is being paid through income deduction.

(2) The State Disbursement Unit must be operated in coordination with the department's child support enforcement automated system in Title IV-D cases.

(3) The State Disbursement Unit shall perform the following functions:

(a) Disburse all receipts from intercepts, including, but not limited to, United States Internal Revenue Service, unemployment compensation, lottery, and administrative offset intercepts.

(b) Provide employers and payors with one address to which all income deduction collections are sent.

(c) When there is more than one income deduction order being enforced against the same obligor by the payor, allocate the amounts available for income deduction in the manner set forth in s. 61.1301.

(d) To the extent feasible, use automated procedures for the collection and disbursement of support payments, including, but not limited to, having procedures for:

1. Receipt of payments from obligors, employers, other states and jurisdictions, and other entities.

2. Timely disbursement of payments to obligees, the department, and other state Title IV-D agencies.

3. Accurate identification of payment source and amount.

4. Furnishing any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent, except that in cases described in paragraph (1)(b), prior to the date the State Disbursement Unit becomes fully operational, the State Disbursement Unit shall not be required to convert and maintain in automated form records of payments kept pursuant to s. 61.181.

(e) Information regarding disbursement must be transmitted in the following manner:

1. In Title IV-D cases, the State Disbursement Unit shall transmit, in an electronic format as prescribed by the department, all required information to the department on the same business day the information is received from the employer or other source of periodic income, if sufficient information identifying the payee is provided. The department shall determine distribution allocation of a collection and shall electronically transmit that information to the State Disbursement Unit, whereupon the State Disbursement Unit shall disburse the collection. The State Disbursement Unit may delay the disbursement of payments toward arrearages until the resolution of any timely appeal with respect to such arrearages. The State Disbursement Unit may delay the disbursement of Title IV-D collections until authorization by the Title IV-D agency has been received.

2. In non-Title IV-D cases payment information is not transmitted to the department. The State Disbursement Unit may delay the disbursement of payments toward arrearages until the resolution of any timely appeal with respect to such arrearages.

(f) Reconcile all cash receipts and all disbursements daily and provide the department with a daily reconciliation report in a format as prescribed by the department.

(g) Disburse child support payments to foreign countries as may be required.

(h) Receive and convert child support payments made in foreign currency.

(i) Remit to the department payments for costs due the department.

(j) Handle insufficient funds payments, claims of lost or stolen checks, and stop payment orders.

(k) Issue billing notices and statements of account, in accordance with federal requirements, in a format and frequency prescribed by the department to persons who pay and receive child support in Title IV-D cases.

(l) Provide the department with a weekly report that summarizes and totals all financial transaction activity.

(m) Provide toll-free access to customer assistance representatives and an automated voice response system that will enable the parties to a child support case to obtain payment information.

(4) For cases in which the obligor or payor fails to submit payment directly to the central address provided by the State Disbursement Unit, the depositories shall have procedures for accepting a support payment tendered in the form of cash or a check drawn on the account of a payor or obligor, unless the payor or obligor has previously remitted a check which was returned to the depository due to lack of sufficient funds in the account. If the payor or obligor has had a check returned for this reason, the depository shall accept payment by cash, cashier's check, or money order, or may accept a check upon deposit by the payor or obligor of an amount equal to 1 month's payment. Upon payment by cash, cashier's check, or money order, the depository shall remit the payment to the State Disbursement Unit within 1 business day after receipt.

(5) Obligees receiving payments through the State Disbursement Unit shall inform the State Disbursement Unit of changes in their names and addresses. Notification of all changes must be made directly to the State Disbursement Unit within 7 business days after a change. In Title IV-D cases, the State Disbursement Unit shall transmit the information to the department, in an electronic format prescribed by the department, within 1 business day after receipt.

Section 43. Section 61.1825, Florida Statutes, is created to read:

61.1825 State Case Registry.—

(1) The Department of Revenue or its agent shall operate and maintain a State Case Registry as provided by 42 U.S.C. s. 654A. The State Case Registry must contain records for:

(a) Each case in which services are being provided by the department as the state's Title IV-D agency; and

(b) By October 1, 1998, each support order established or modified in the state on or after October 1, 1998, in which services are not being provided by the Title IV-D agency.

The department shall maintain that part of the State Case Registry that includes support order information for Title IV-D cases on the department's child support enforcement automated system.

(2) By October 1, 1998, for each support order established or modified by a court of this state on or after October 1, 1998, the depository for the court that enters the support order in a non-Title IV-D case shall provide, in an electronic format prescribed by the department, the following information to that component of the State Case Registry that receives, maintains, and transmits support order information for non-Title IV-D cases:

(a) The name of the obligor, obligee, and child or children;

(b) The social security number of the obligor, obligee, and child or children;

(c) The date of birth of the obligor, obligee, and child or children;

(d) Whether a family violence indicator is present or if a court order has been entered against a party in a domestic violence or protective action;

(e) The date the support order was established or modified;

(f) The case identification number, which is the two-digit numeric county code followed by the civil circuit case number:

(g) The federal information processing system numeric designation for the county and state where the support order was established or modified; and

(h) Any other data as may be required by the United States Secretary of Health and Human Services.

(3) The depository, using standardized data elements, shall provide the support order information required by subsection (2) to the entity that maintains the non-Title IV-D support order information for the State Case Registry at a frequency and in a format prescribed by the department.

(4) The entity that maintains State Case Registry information for non-Title IV-D cases shall make the information available to the department in a readable and searchable electronic format that is compatible with the department's automated child support enforcement system.

(5) State Case Registry information must be transmitted electronically to the Federal Case Registry of Child Support Orders by the department in a manner and frequency prescribed by the United States Secretary of Health and Human Services.

Section 44. Section 61.1826, Florida Statutes, is created to read:

61.1826 Procurement of services for State Disbursement Unit and the non-Title IV-D component of the State Case Registry; contracts and cooperative agreements; penalties; withholding payment.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that the clerks of court play a vital role, as essential participants in the establishment, modification, collection, and enforcement of child support, in securing the health, safety, and welfare of the children of this state. The Legislature further finds and declares that:

(a) It is in the state's best interest to preserve the essential role of the clerks of court in disbursing child support payments and maintaining official records of child support orders entered by the courts of this state.

(b) As official recordkeeper for matters relating to court-ordered child support, the clerks of court are necessary parties to obtaining, safeguarding, and providing child support payment and support order information.

(c) As provided by the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the state must establish and operate a State Case Registry in full compliance with federal law by October 1, 1998, and a State Disbursement Unit by October 1, 1999.

(d) Noncompliance with federal law could result in a substantial loss of federal funds for the state's child support enforcement program and the temporary assistance for needy families welfare block grant.

(e) The potential loss of substantial federal funds poses a direct and immediate threat to the health, safety, and welfare of the children and citizens of the state and constitutes an emergency for purposes of s. 287.057(3)(a).

(f) The clerks of court maintain the official payment record of the court for amounts received, payments credited, arrearages owed, liens attached, and current mailing addresses of all parties, payor, obligor, and payee.

(g) The clerks of court have established a statewide Clerk of Court Child Support Enforcement Collection System for the automation of all payment processing using state and local government funds as provided under s. 61.181(2)(b)1.

(h) The Legislature acknowledges the improvements made by and the crucial role of the Clerk of the Court Child Support Enforcement Collection System in speeding payments to the children of Florida.

(i) There is no viable alternative to continuing the role of the clerks of court in collecting, safeguarding, and providing essential child support payment information.

For these reasons, the Legislature hereby directs the Department of Revenue, subject to the provisions of subsection (6), to contract with the Florida Association of Court Clerks and each depository to perform duties with respect to the operation and maintenance of a State Disbursement Unit and the non-Title IV-D component of the State Case Registry as further provided by this section.

(2) COOPERATIVE AGREEMENTS.—Each depository shall enter into a standard cooperative agreement with the department for participation in the State Disbursement Unit and the non-Title IV-D component of the State Case Registry through the Clerk of Court Child Support Enforcement Collection System within 60 days after the effective date of this section. The cooperative agreement shall be a uniform document, mutually developed by the department and the Florida Association of Court Clerks, that applies to all depositories and complies with all state and federal requirements. Each depository shall also enter into a written agreement with the Florida Association of Court Clerks and the department within 60 days after the effective date of this section that requires each depository to participate fully in the State Disbursement Unit and the non-Title IV-D component of the State Case Registry.

(3) CONTRACT.—The Florida Association of Court Clerks shall enter into a written contract with the department that fully complies with all federal and state laws within 60 days after the effective date of this section. The contract shall be mutually developed by the department and the Florida Association of Court Clerks. As required by s. 287.057 and 45 C.F.R. s. 74.43, any subcontracts entered into by the Florida Association of Court Clerks, except for a contract between the Florida Association of Court Clerks and its totally owned subsidiary corporation, must be procured through competitive bidding.

(4) COOPERATIVE AGREEMENT AND CONTRACT TERMS.—The contract between the Florida Association of Court Clerks and the department, and cooperative agreements entered into by the depositories and the department, must contain, but are not limited to, the following terms:

(a) The initial term of the contract and cooperative agreements is for 5 years. The subsequent term of the contract and cooperative agreements is for 3 years, with the option of two 1-year renewal periods, at the sole discretion of the department.

(b) The duties and responsibilities of the Florida Association of Court Clerks, the depositories, and the department.

(c) Under s. 287.058(1)(a), all providers and subcontractors shall submit to the department directly, or through the Florida Association of Court Clerks, a report of monthly expenditures in a format prescribed by the department and in sufficient detail for a proper preaudit and postaudit thereof.

(d) All providers and subcontractors shall submit to the department directly, or through the Florida Association of Court Clerks, management reports in a format prescribed by the department.

(e) All subcontractors shall comply with chapter 280, as may be required.

(f) Federal financial participation for eligible Title IV-D expenditures incurred by the Florida Association of Court Clerks and the depositories shall be at the maximum level permitted by federal law for expenditures incurred for the provision of services in support of child support enforcement in accordance with 45 C.F.R., part 74 and Federal Office of Management and Budget Circulars A-87 and A-122 and based on an annual cost allocation study of each depository. The depositories shall submit directly, or through the Florida Association of Court Clerks, claims for Title IV-D expenditures monthly to the department in a standardized format as prescribed by the department. The Florida Association of Court Clerks shall contract with a certified public accounting firm, selected by the Florida Association of Court Clerks and the department, to audit and certify quarterly to the department all claims for expenditures submitted by the depositories for Title IV-D reimbursement.

(g) Upon termination of the contracts between the department and the Florida Association of Court Clerks or the depositories, the Florida Association of Court Clerks, its agents, and the depositories shall assist the department in making an orderly transition to a private vendor.

(h) Interest on late payment by the department shall be in accordance with s. 215.422.

If either the department or the Florida Association of Court Clerks objects to a term of the standard cooperative agreement or contract specified in subsections (2) and (3), the disputed term or terms shall be presented jointly by the parties to the Attorney General or the Attorney General's designee, who shall act as special master. The special master shall resolve the dispute in writing within 10 days. The resolution of a dispute by the special master is binding on the department and the Florida Association of Court Clerks.

(5) PERFORMANCE REVIEWS.—As provided by this subsection, the Office of Program Policy Analysis and Government Accountability shall conduct comprehensive performance reviews of the State Disbursement Unit and State Case Registry. In addition to the requirements of chapter 11, the review must include, but not be limited to, an analysis of state and federal requirements, the effectiveness of the current system in meeting those requirements; a cost analysis of the State Disbursement Unit and the non-Title IV-D component of the State Case Registry; a review and comparison of available alternative methodologies as utilized by other states; and a review of all strategies, including privatization, to increase the efficiency and cost effectiveness of the State Disbursement Unit and the non-Title IV-D component of the State Case Registry. A review must be completed and a written report submitted to the Governor, President of the Senate, and the Speaker of the House of Representatives by October 1, 1999, pertaining to the State Case Registry and October 1, 2000, pertaining to the State Disbursement Unit, and every 2 years thereafter beginning October 1, 2002, pertaining to both the State Case Registry and the State Disbursement Unit.

(6) CONTRACT TERMINATION.—If any of the following events occur, the department may discontinue its plans to contract, or terminate its contract, with the Florida Association of Court Clerks and the depositories upon 30 days' written notice by the department and may, through competitive bidding, procure services from a private vendor to perform functions necessary for the department to operate the State Disbursement Unit and the non-Title IV-D component of the State Case Registry with a minimum amount of disruption in service to the children and citizens of the state:

(a) Receipt by the department of final notice by the United States Secretary of Health and Human Services or the secretary's designee that the contractual arrangement between the department, the Florida Association of Court Clerks, and the depositories, does not satisfy federal requirements for a State Disbursement Unit or a State Case Registry and that the state's Title IV-D State Plan will not be approved, or that federal Title IV-D funding is not made available to fund the non-Title IV-D component of the State Case Registry or the State Disbursement Unit;

(b) The Florida Association of Court Clerks, a depository or any subcontractor fails to comply with any material contractual term or state or federal requirement;

(c) The non-Title IV-D component of the State Case Registry is not established and operational, consistent with the terms of the contract, by October 1, 1998; or

(d) The State Disbursement Unit is not established and operational, consistent with the terms of the contract, by October 1, 1999.

If either event specified in paragraph (a) occurs, the depositories are relieved of all responsibilities and duties under this chapter relating to Title IV-D payment processing and data transmission to the department.

(7) PARTICIPATION BY DEPOSITORIES.—

(a) Each depository shall participate in the non-Title IV-D component of the State Case Registry by using an automated system compatible with the department's automated child support enforcement system.

(b) For participation in the State Disbursement Unit, each depository shall:

1. Use the CLERC System;

2. Receive electronically and record payment information from the State Disbursement Unit for each support order entered by the court.

(8) TITLE IV-D PROGRAM INCOME.—Pursuant to 45 C.F.R. s. 304.50, all transaction fees and interest income realized by the State Disbursement Unit constitute and must be reported as program income under federal law and must be transmitted to the Title IV-D agency for deposit in the Child Support Enforcement Application and Program Revenue Trust Fund.

(9) PENALTIES.—All depositories must participate in the State Disbursement Unit and the non-Title IV-D component of the State Case Registry as provided in this chapter. If a depository fails to comply with this requirement or with any material contractual term or other state or federal requirement, the failure constitutes misfeasance which subjects the county officer or officers responsible for the depository to suspension under Article IV of the State Constitution. The department shall report any continuing acts of misfeasance by a depository to the Governor and Cabinet, and to the Florida Association of Court Clerks.

(10) WITHHOLDING PAYMENT UNDER CONTRACTS.—If the Florida Association of Court Clerks, its agent, a subcontractor, or a depository does not comply with any material contractual term or state or federal requirement, the department may withhold funds otherwise due under the individual contract with the Florida Association of Court Clerks or the individual cooperative agreement with the depository, or both, at the department's election, to enforce compliance. The department shall provide written notice of noncompliance before withholding funds. Within 10 business days after receipt of written notification of noncompliance, the department must be provided with a written proposed corrective action plan. Within 10 business days after receipt of a corrective action plan, the department shall accept the plan or allow 5 business days within which a revised plan may be submitted. Upon the department's acceptance of a corrective action plan, the agreed-upon plan must be fully completed within 30 business days unless a longer period is permitted by the department. If a proposed corrective action plan is not submitted, is not accepted, or is not fully completed, any funds withheld by the department for noncompliance are forfeited to the department. Withholding or forfeiture of funds may be contested by filing a petition or request for a hearing under the applicable provisions of chapter 120. For the purposes of this section, no party to a dispute involving less than $5,000 in withheld or forfeited funds is deemed to be substantially affected by the dispute or to have a substantial interest in the decision resolving the dispute.

Section 45. *Subsection (1) and paragraph (b) of subsection (2) of section 382.013, Florida Statutes, as amended by chapter 97-170, Laws of Florida, is hereby repealed.*

Section 46. This act shall take effect July 1, 1998, except that section 1 shall take effect October 1, 1998.

And the title is amended as follows:

On page 6, line 18 through page 7, line 19, delete those lines and insert: A bill to be entitled An act relating to social welfare; providing legislative intent and findings; providing for demonstration projects to be implemented which require drug screening and possibly drug testing for individuals who apply for temporary assistance or services under the "Work and Gain Economic Self-sufficiency (WAGES) Act"; providing for expiration of the demonstration projects unless reauthorized by the Legislature; directing the Department of Children and Family Services to implement the demonstration projects in specified local WAGES coalitions; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; providing that, if a parent is deemed ineligible due to a failure of a drug test, the eligibility of the children of the parent will not be affected; requiring the department to provide for substance abuse treatment programs for certain persons; giving the Department of Children and Family Services rulemaking authority; specifying circumstances resulting in termination of temporary assistance or services; requiring the department and the local WAGES coalitions to evaluate the demonstration projects and report to the WAGES Program State Board of Directors and the Legislature; providing that, in the event of conflict, federal requirements and regulations control; amending s. 61.13, F.S.; requiring child support orders to apportion certain medical expenses; providing requirements for notice and service of process; amending s. 61.1301, F.S.; revising provisions relating to income deduction orders and notices; amending s. 61.181, F.S.; requiring evaluation of certain child support enforcement demonstration projects; requiring a report; amending s. 61.30, F.S.; requiring certain information to accompany child support determinations; providing a limitation on retroactive awards; amending s. 69.041, F.S.; authorizing Department of Revenue participation in mortgage foreclosures based upon interests in a child support lien; amending ss. 319.24 and 409.2575, F.S.; authorizing the director of the state child support enforcement program to delegate certain responsibilities with respect to motor vehicle liens; amending s. 319.32, F.S.; providing a fee for motor vehicle liens; amending ss. 372.561 and 372.57, F.S.; requiring applicants for certain game and freshwater fish licenses to provide social security numbers; amending s. 372.574, F.S.; providing for confidentiality of records contained in records of subagents; amending s. 382.008, F.S.; requiring death and fetal death registrations to include social security numbers, if available; restricting use of such numbers; amending s. 382.013, F.S.; providing for certain use of birth registration information; providing certain notice relating to paternity affidavits; amending s. 409.2557, F.S.; providing specific rulemaking authority; creating s. 409.2558, F.S.; providing for the department's distribution and disbursement of child support payments; creating s. 409.2559, F.S.; providing for establishment of a state disbursement unit; amending s. 409.2561, F.S., relating to child support obligations when public assistance is paid; amending s. 409.2564, F.S., relating to subpoenas in child support actions; providing for challenges; providing for enforcement; providing for fines; amending s. 409.25641, F.S.; providing for processing of automated administrative enforcement requests; creating s. 409.25658, F.S.; providing for use of certain unclaimed property for past-due child support; providing duties of the department and the Department of Banking and Finance; providing for notice and hearings; amending ss. 409.2567, 409.2578, and 443.051, F.S.; correcting and conforming references; amending ss. 409.2572, 414.095, and 414.32, F.S.; providing for determinations of good cause for failure to cooperate with the child support enforcement agency; amending ss. 409.2576 and 455.213, F.S.; clarifying conditions for disclosure of social security numbers; amending s. 409.2579, F.S.; revising provisions which limit or prohibit disclosure of the identity and whereabouts of certain persons; providing a penalty; amending s. 443.1715, F.S., relating to disclosure of wage and unemployment compensation information; amending s. 741.04, F.S., relating to information required for issuance of a marriage license; amending s. 742.032, F.S., relating to requirements for notice and service of process; amending s. 61.14, F.S.; prohibiting deductions by local depositories for certain costs and fees until the total due the obligee has been paid; amending s. 61.046, F.S.; revising definitions; amending s. 61.181, F.S.; providing for processing of certain central depository payments through the Department of Revenue's State Disbursement Unit; continuing a fee through a specified date; providing for the use of funds; creating s. 61.1824, F.S.; providing for a State Disbursement Unit; providing responsibilities; creating s. 61.1825, F.S.; providing for operation of a State Case Registry; providing requirements; creating s. 61.1826, F.S.; providing legislative findings; providing for department cooperative agreements and contracts for operation of the State Disbursement Unit and the non-Title IV-D component of the State Case Registry; providing contract requirements; providing for performance reviews; requiring a report; providing for termination of contracts under specified conditions; providing for report of program income; providing penalties; authorizing the department to withhold funds for noncompliance with contractual terms; requiring notice; providing for a corrective action plan; repealing s. 382.013(1) and (2)(b), F.S., as amended by ch. 97-170, Laws of Florida, to clarify legislative intent with respect to conflicting enactments; providing effective dates.

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for HB 271** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 1060** was deferred.

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

SB 1950—A bill to be entitled An act relating to retirement; amending s. 121.1122, F.S.; authorizing members of the Florida Retirement System to purchase credit for certain in-state service in nonpublic educational institutions; providing an effective date.

—which was previously considered this day. Pending **Amendment 1** as amended by Senator Burt was adopted.

Pending further consideration of **SB 1950** as amended, on motion by Senator Burt, by two-thirds vote **CS for CS for HB 3491** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

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

CS for CS for HB 3491—A bill to be entitled An act relating to the Florida Retirement System; amending s. 112.363, F.S.; increasing the retiree health insurance subsidy payment and the contribution rate; providing for retroactive payments under certain circumstances; amending s. 121.011, F.S.; clarifying benefits payable under existing systems; amending s. 121.021, F.S.; revising and adding definitions; amending ss. 121.052, 121.055, and 121.071, F.S.; modifying the statutory limit on the number of nonelective full-time positions that may be designated by a local agency employer for inclusion in the Senior Management Service Class; changing contribution rates for specified classes and subclasses of the system and for the retiree health insurance subsidy; amending s. 121.091, F.S.; providing for benefit computations using dual retirement ages for service in the Senior Management Service Class and the Elected Officer's Class; providing for nullification of a joint annuitant designation in the event of dissolution of marriage; providing for purchase of additional service credit using a deceased member's accumulated leave, out-of-state service, or in-state service under certain circumstances; specifying that a member's spouse at the time of death shall be the member's beneficiary under certain circumstances; providing a directive to statute editors; amending s. 121.1122, F.S.; deleting reference to nonsectarian schools and colleges; amending s. 121.121, F.S.; providing for eligibility to purchase retirement credit for certain leaves of absence; amending s. 121.122, F.S.; allowing members with renewed membership in the Senior Management Service Class to purchase additional retirement credit for certain postretirement service; amending s. 121.30, F.S.; conforming to the Internal Revenue Code; creating s. 121.133, F.S.; providing intent; requiring the Comptroller to cancel any benefit warrant issued from the Florida Retirement System Trust Fund, or from certain other pension trust funds, if such warrants are not presented within a specified timeframe; providing that such funds shall be transferred and recredited to specified trust funds; providing for issuance of replacement warrants; amending s. 121.40, F.S.; changing contribution rates for the supplemental retirement plan for the Institute of Food and Agricultural Sciences at the University of Florida; repealing ss. 121.0505 and 121.0516, F.S.; relating to duplicative contribution rates; directing the Division of Statutory Revision to make described adjustments to the statutes with respect to contribution rates; providing a finding of important state interest; providing effective dates.

—a companion measure, was substituted for **SB 1950** as amended and by two-thirds vote read the second time by title.

Senator Burt moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 40, between lines 12 and 13, insert:

Section 18. *The Executive Director of the State Board of Administration and the Director of the Division of Retirement shall undertake a comprehensive review of the assumptions and contribution rate structure underpinning the operation of the Florida Retirement System. By March 1, 1999, the State Board of Administration and the division shall submit to the Board of Trustees of the State Board of Administration, the President of the Senate, and the Speaker of the House of Representatives a report which shall contain the following elements:*

(1) The method of development of actuarial assumptions and their application.

(2) The relevance of present assumptions in light of patterns of recruitment, retention, and retirement.

(3) The investment and economic market in which the Florida Retirement System, and similarly constituted systems, operate.

(4) Prospective conditions in economic forecasts within a reasonable degree of estimation which may affect investment performance, workforce, and salary trends.

The State Board of Administration and the Division of Retirement may, at their discretion, utilize the services of the Office of Economic and Demographic Research and may also convene a working group of affected principals for use in the development of the study proposed in this section. The President of the Senate and the Speaker of the House of Representatives may each appoint two legislative members to the working group.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 30, after the semicolon (;) insert: relating to duplicative contribution rates; providing for a report to the Board of Trustees of the State Board of Administration, the President of the Senate, and the Speaker of the House of Representatives on the Florida Retirement System;

On motion by Senator Burt, by two-thirds vote **CS for CS for HB 3491** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

SENATOR BANKHEAD PRESIDING

CS for SB 1924—A bill to be entitled An act relating to aquaculture; amending s. 253.72, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.06, F.S.; authorizing issuance of additional special activity licenses; authorizing permit consolidation procedures; providing activity license terms; amending s. 370.081, F.S.; revising provisions relating to the importation of nonindigenous marine plants and animals; amending s. 370.10, F.S.; authorizing the harvesting or possession of saltwater species for experimental, scientific, education, and exhibition purposes; amending s. 370.16, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.26, F.S.; defining the term "marine aquaculture facility" and revising definition of the term "marine aquaculture product"; authorizing delegation of regulatory authority for certain aquaculture facilities; amending s. 372.6672, F.S.; removing obsolete provisions relating to state-sanctioned sales of alligator hides; amending s. 372.6673, F.S.; providing for a portion of the fees assessed for alligator egg collection permits to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 372.6674, F.S.; providing for a portion of the fees assessed for alligator hide validation tags to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 373.046, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 403.814, F.S.; clarifying provisions relating to aquaculture general permits; amending s. 597.005, F.S.; providing for a list of prioritized research needs; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1924** to **CS for HB 3673**.

Pending further consideration of **CS for SB 1924** as amended, on motion by Senator Bronson, by two-thirds vote **CS for HB 3673** was withdrawn from the Committees on Agriculture; Natural Resources; and Ways and Means.

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

CS for HB 3673—A bill to be entitled An act relating to aquaculture; amending s. 253.72, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.027, F.S.; providing an exception to rulemaking authority of the Marine Fisheries Commission with respect to

specified marine life; providing that marine aquaculture producers shall be regulated by the Department of Agriculture and Consumer Services; amending s. 370.06, F.S.; revising provisions relating to issuance and renewal of saltwater products licenses and special activity licenses; authorizing issuance of special activity licenses for the use of special gear or equipment, the importation and possession of sturgeon, and the harvest of certain shellfish; authorizing permit consolidation procedures; amending s. 370.081, F.S.; revising provisions relating to the importation of nonindigenous marine plants and animals; amending s. 370.10, F.S.; authorizing the harvesting or possession of saltwater species for experimental, scientific, education, and exhibition purposes; amending s. 370.16, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.26, F.S.; relating to aquaculture definitions; defining the term "marine product facility" and revising definition of the term "marine aquaculture product"; deleting requirements of an Aquaculture Section in the Department of Environmental Protection; providing duties of the Department of Agriculture and Consumer Services; authorizing delegation of regulatory authority for certain aquaculture facilities; amending s. 372.0225, F.S.; revising responsibilities of the Division of Fisheries of the Game and Fresh Water Fish Commission relating to freshwater organisms; amending s. 372.65, F.S.; authorizing exemption for freshwater fish dealer's license; amending s. 372.6672, F.S.; removing obsolete language relating to state-sanctioned sales of alligator hides; amending s. 372.6673, F.S.; providing for a portion of the fees assessed for alligator egg collection permits to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 372.6674, F.S.; providing for a portion of the fees assessed for alligator hide validation tags to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 373.046, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 373.406, F.S.; providing exemption for management and storage of surface water; amending s. 403.0885, F.S.; providing exemptions from the state National Pollutant Discharge Elimination System program; amending s. 403.814, F.S.; revising and clarifying provisions relating to aquaculture general permits; amending s. 597.002, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 597.003, F.S.; expanding the powers and duties of the Department of Agriculture and Consumer Services relating to regulation of aquaculture; amending s. 597.004, F.S.; revising provisions relating to aquaculture certificate of registration; providing for shellfish and nonshellfish certification; providing for rules, waiver of liability, compliance, and reports; amending s. 597.005, F.S.; providing for a list of prioritized research needs; providing an effective date.

—a companion measure, was substituted for **CS for SB 1924** as amended and by two-thirds vote read the second time by title.

Senator Laurent moved the following amendment which was adopted:

Amendment 1—On page 28, lines 10-12, delete those lines and insert: by the department pursuant to s. 369.25 shall also be *subject to the requirements of this subsection* ~~issued an aquaculture certificate of registration~~.

On motion by Senator Bronson, by two-thirds vote **CS for HB 3673** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Burt

THE PRESIDENT PRESIDING

On motion by Senator Gutman—

CS for SB 772—A bill to be entitled An act relating to criminal mischief; amending s. 806.13, F.S.; authorizing the aggregation of the value of damage to separate properties in determining the grade of the offense for criminal mischief in which the damage occurred during one scheme or course of conduct; providing an effective date.

—was read the second time by title.

Senators Kirkpatrick and Dudley offered the following amendment which was moved by Senator Kirkpatrick and adopted:

Amendment 1 (with title amendment)—On page 2, between lines 28 and 29, insert:

Section 2. Section 810.14, Florida Statutes, is created to read:

810.14 Voyeurism prohibited; penalties.—

(1) A person commits the offense of voyeurism when he or she, with lewd, lascivious, or indecent intent, secretly observes, photographs, films, videotapes, or records another person when such other person is located in a dwelling, structure, or conveyance and such location provides a reasonable expectation of privacy.

(2) A person may be convicted of and sentenced separately for a violation of this section and for any other criminal offense, including, but not limited to, burglary, trespass, or loitering.

(3) A person who violates this section commits:

(a) A misdemeanor of the first degree for the first violation, punishable as provided in s. 775.082 or s. 775.083.

(b) A felony of the third degree for a second or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2-8, delete those lines and insert: An act relating to criminal justice; amending s. 806.13, F.S.; authorizing the aggregation of the value of damage to separate properties in determining the grade of the offense for criminal mischief in which the damage occurred during one scheme or course of conduct; creating s. 810.14, F.S.; prohibiting a person from secretly observing or committing other acts against another person with lewd, lascivious, or indecent intent when the other person is in a location that provides a reasonable expectation of privacy; providing that a person may be convicted and sentenced separately for the voyeurism offense and for any other criminal offense; providing for criminal penalties; providing an effective date.

Pursuant to Rule 4.19, **CS for SB 772** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Silver, by two-thirds vote **HB 3971** was withdrawn from the Committees on Health Care; and Banking and Insurance.

On motion by Senator Silver—

HB 3971—A bill to be entitled An act relating to health facilities authorities; amending s. 154.209, F.S.; providing that an accounts receivable program in which an authority participates on behalf of a health facility may include the financing of accounts receivable acquired by the facility from other not-for-profit health care corporations, regardless of affilliation or location; providing an effective date.

—a companion measure, was substituted for **CS for SB 1060** and read the second time by title.

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, delete line 2 and insert: *health facilities, whether or not*

And the title is amended as follows:

On page 1, lines 8 and 9, delete those lines and insert: from other health facilities, regardless of affiliation or

Senator Sullivan moved the following amendment which was adopted:

Amendment 2 (with title amendment)—On page 2, between lines 5 and 6, insert:

Section 2. Paragraph (o) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this chapter.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1986, as amended, which owns and operates a Florida television station, at least 90 percent of the programming of which station consists of programs of a religious nature, and the financial support for which, exclusive of receipts for broadcasting from other nonprofit organizations, is predominantly from contributions from the general public. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1986, as amended, which provides regular religious services to Florida state prisoners and which from its own established physical place of worship, operates a ministry providing worship and services of a charitable nature to the community on a weekly basis.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of or rehabilitation of persons from alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer staff to organizations designated as charitable institutions under this sub-subparagraph; nonprofit organizations the sole or primary purpose of which is to coordinate, network, or link other institutions designated as charitable institutions under this sub-subparagraph with those persons, animals, or organizations in need of their services; and nonprofit national, state, district, or other governing, coordinating, or administrative organizations the sole or primary purpose of which is to represent or regulate the customary activities of other institutions designated as charitable institutions under this sub-subparagraph. Notwithstanding any other requirement of this section, any blood bank that relies solely upon volunteer donations of blood and tissue, that is licensed under chapter 483, and that qualifies as tax exempt under s. 501(c)(3) of the Internal Revenue Code constitutes a charitable institution and is exempt from the tax imposed by this chapter. Sales to a health system *foundation*, qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1986, as amended, which filed an application for exemption with the department prior to *November 15, 1997* ~~April 5, 1997~~, and which application is subsequently approved, shall be exempt as to any unpaid taxes on purchases made from *November 14, 1990* ~~January 1, 1994~~, to *December 31, 1997* ~~June 1, 1997~~.

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or nonprofit private schools which conduct regular classes and courses of study accepted for continuing education credit by a Board of the Division of Medical Quality Assurance of the Department of Business and Professional Regulation or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association. Nonprofit libraries, art galleries, performing arts centers that provide educational programs to school children, which programs involve performances or other educational activities at the performing arts center and serve a minimum of 50,000 school children a year, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members. The term "educational institutions" also includes a nonprofit educational cable consortium which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations which hold a valid consumer certificate of exemption and

which are either an educational institution as defined in this sub-subparagraph, or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code.

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: amending s. 212.08, F.S.; providing an exemption from sales tax for sales to a health system foundation during specified years;

On motion by Senator Silver, by two-thirds vote **HB 3971** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

CS for SB 440—A bill to be entitled An act relating to pari-mutuel wagering; reviving and reenacting s. 550.09515, F.S., relating to thoroughbred horse taxes; reviving and reenacting s. 550.2625, F.S., relating to thoroughbred horse purses; amending s. 550.615, F.S.; providing that certain permitholders are required or authorized to make broadcast signals available to other permitholders; amending s. 26 of chapter 96-364, Laws of Florida, abrogating the expiration of certain amendments to ss. 550.09515, 550.2625, F.S.; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Scott:

Amendment 1 (with title amendment)—On page 9, between lines 6 and 7, insert:

Section 5. Section 550.6308, Florida Statutes, is created to read:

550.6308 Limited intertrack wagering license.—In recognition of the economic importance of the thoroughbred breeding industry to this state, its positive impact on tourism, and of the importance of a permanent thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.

(1) Upon application to the division on or before January 31 of each year, any person that is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01, that has conducted at least 15 days of thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years, and that has conducted at least 1 day of non-wagering thoroughbred racing in this state, with a purse structure of at least $250,000 per year for 2 consecutive years before such application, shall be issued a license to conduct intertrack wagering for thoroughbred racing for up to 21 days in connection with thoroughbred sales, to conduct intertrack wagering at such permanent sales facility between November 1 and May 8, to conduct intertrack wagering at such permanent sales facility between May 9 and October 31 at such times and on such days as any thoroughbred, jai alai, or a greyhound permitholder in the same county is not conducting live performances, and to conduct intertrack wagering under the provisions of this subsection during the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet that is conducted before November 1 and after May 8, subject to conditions set forth in this section but no more than one such license may be issued and no such license may be issued for a facility located within 50 miles of any thoroughbred permitholder's track.

(2) If more than one application is submitted for such license, the division shall determine which applicant shall be granted the license. In making its determination, the division shall grant the license to the applicant demonstrating superior capabilities, as measured by the length of time the applicant has been conducting thoroughbred sales within this state or elsewhere, the applicant's total volume of thoroughbred horse sales, within this state or elsewhere, the length of time the applicant has maintained a permanent thoroughbred sales facility in this state, and the quality of the facility.

(3) The applicant must comply with the provisions of ss. 550.125 and 550.1815.

(4) Intertrack wagering under this section may be conducted only on thoroughbred horse racing.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 12, after the semicolon (;) insert: creating s. 550.6308, F.S.; providing for issuance of a limited intertrack wagering license;

Senator Casas moved the following substitute amendment:

Amendment 2 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsections (1) and (5) of section 550.01215, Florida Statutes, are amended to read:

550.01215 License application; periods of operation; bond, conversion of permit.—

(1) Each permitholder shall annually, during the period between December 15 and January 4, file in writing with the division its application for a license to conduct performances during the next state fiscal year. Each application shall specify the number, dates, and starting times of all performances which the permitholder intends to conduct. It shall also specify which performances will be conducted as charity or scholarship performances. In addition, each application for a license shall include, for each permitholder which elects to operate a cardroom, the dates and periods of operation the permitholder intends to operate the cardroom or, for each thoroughbred permitholder which elects to receive or rebroadcast out-of-state races *after 7 p.m.* ~~between the hours of 7 p.m. and 10 p.m.~~, the dates for all performances which the permitholder intends to conduct. Permitholders shall be entitled to amend their applications through February 28.

(5) *Except as provided in s. 550.5251 for thoroughbred racing,* the division shall issue each license no later than March 15. Each permitholder shall operate all performances at the date and time specified on its license. The division shall have the authority to approve minor changes in racing dates after a license has been issued. The division may approve changes in racing dates after a license has been issued when there is no objection from any operating permitholder located within 50 miles of the permitholder requesting the changes in operating dates. In the event of an objection, the division shall approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates. In making the determination to change racing dates, the division shall take into consideration the impact of such changes on state revenues.

Section 2. Subsection (2) of section 550.0951, F.S., is amended to read:

550.0951 Payment of daily license fee and taxes.—

(2) ADMISSION TAX.—

(a) An admission tax equal to 15 percent of the admission charge for entrance to the permitholder's facility and grandstand area, or 10 cents,

whichever is greater, is imposed on each person attending a horserace, dograce, or jai alai game. The permitholder shall be responsible for collecting the admission tax.

(b) No admission tax under this chapter or chapter 212 shall be imposed on any free passes or complimentary cards issued to persons for which there is no cost to the person for admission to pari-mutuel events. ~~An admission tax is imposed on any free passes or complimentary cards issued to guests by permitholders in an amount equal to the tax imposed on the regular and usual admission charge for entrance to the permitholder's facility and grandstand area.~~

(c) A permitholder may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the racetrack, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other permitholders for the use of their officers and officials. The permitholder shall file with the division a list of all persons to whom tax-free passes are issued *under this paragraph*.

Section 3. Notwithstanding subsection (5) of section 550.09515, Florida Statutes, as created by section 1 of chapter 93-123, Laws of Florida, and notwithstanding section 26 of chapter 96-364, Laws of Florida, section 550.09515, Florida Statutes, shall not stand repealed on July 1, 1998, but is revived, reenacted, and amended to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(1) Pari-mutuel wagering at thoroughbred horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Thoroughbred horse permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the thoroughbred horse industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between thoroughbred horse permitholders based upon their ability to operate under such regulation and tax system and at different periods during the year.

(2)(a) Notwithstanding the provisions of s. 550.0951(3)(a), the tax on handle for live thoroughbred horse performances shall be subject to the following:

1. The tax on handle per performance for live thoroughbred performances is 2.25 percent of handle for performances conducted during the period beginning on January 3 and ending March 16; *.20* ~~.70~~ percent of handle for performances conducted during the period beginning March 17 and ending May 22; and 1.5 percent of handle for performances conducted during the period beginning May 23 and ending January 2.

2. If any thoroughbred permitholder conducts performances during more than one time period or if performances are conducted during more than one period at any facility, the tax on handle per performance is double the sum of the tax percentages for the periods in which performances are being conducted, except:

a. Pursuant to s. 550.01215, two permitholders, by mutual written agreement, may agree to the operation by one of them in the other permitholder's tax period for up to 3 days, if the 3 days are either the first 3 days or the last 3 days of the racing period in which the permitholders intend to operate.

b. If, on March 31 of any year, there is no permitholder holding a license for operating any one of the three race periods set forth in this section or if the permitholder who is licensed to operate in any period fails to operate for 10 consecutive days, a permitholder already licensed to operate in another period may apply for and be issued a license to operate the period in question, in addition to the period already licensed.

c. Two permitholders who operated in different periods in the preceding fiscal year may, by mutual written agreement, switch periods for the current racing season, even if it results in either permitholder or the facility of a permitholder being operated in two different periods.

However, any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million is authorized to conduct live performances at any time of the year and shall pay 0.5 percent on live handle per performance.

3. For the period beginning on April 1 and ending May 23 during the state fiscal year 1992-1993, any permitholder which has operated less than 51 racing days in the last 18 months may operate said period and pay 1.25 percent tax on live handle per performance. In the event this provision takes effect after April 1, 1993, it shall be construed to apply retroactively from April 1, 1993, through May 23, 1993.

4. In the event any licenses have been issued to any thoroughbred permitholders for racing dates prior to April 26, 1993, then, notwithstanding the provisions of s. 550.525(2), amendments may be filed to the racing dates up to May 1, 1993.

(b) For purposes of this section, the term "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(3)(a) The permit of a thoroughbred horse permitholder who does not pay tax on handle for live thoroughbred horse performances for a full schedule of live races during any 2 consecutive state fiscal years shall be void and shall escheat to and become the property of the state unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate and pay tax on handle.

(b) In order to maximize the tax revenues to the state, the division shall reissue an escheated thoroughbred horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit shall not apply to the reissuance of an escheated thoroughbred horse permit. As specified in the application and upon approval by the division of an application for the permit, the new permitholder shall be authorized to operate a thoroughbred horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all thoroughbred horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

(5) Notwithstanding the provisions of s. 550.0951(3)(c), the tax on handle for intertrack wagering on rebroadcasts of simulcast horseraces is 2.4 percent of the handle; provided however, that if the guest track is a throughbred track located more than 35 miles from the host track, the host track shall pay a tax of .5 percent of the handle, and additionally the host track shall pay to the guest track 1.9 percent of the handle to be used by the guest track solely for purses. The tax shall be deposited into the General Revenue Fund.

Section 4. Effective July 1, 2000, paragraph (a) of subsection (2) of section 550.09515, Florida Statutes, is amended to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(2)(a) Notwithstanding the provisions of s. 550.0951(3)(a), the tax on handle for live thoroughbred horse performances shall be subject to the following:

1. The tax on handle per performance for live thoroughbred performances is 2.25 percent of handle for performances conducted during the period beginning on January 3 and ending March 16; *.70* ~~.20~~ percent of handle for performances conducted during the period beginning March 17 and ending May 22; and 1.5 percent of handle for performances conducted during the period beginning May 23 and ending January 2.

~~2. If any thoroughbred permitholder conducts performances during more than one time period or if performances are conducted during more than one period at any facility, the tax on handle per performance is~~

~~double the sum of the tax percentages for the periods in which performances are being conducted, except:~~

~~a. Pursuant to s. 550.01215, two permitholders, by mutual written agreement, may agree to the operation by one of them in the other permitholder's tax period for up to 3 days, if the 3 days are either the first 3 days or the last 3 days of the racing period in which the permitholders intend to operate.~~

~~b. If, on March 31 of any year, there is no permitholder holding a license for operating any one of the three race periods set forth in this section or if the permitholder who is licensed to operate in any period fails to operate for 10 consecutive days, a permitholder already licensed to operate in another period may apply for and be issued a license to operate the period in question, in addition to the period already licensed.~~

~~c. Two permitholders who operated in different periods in the preceding fiscal year may, by mutual written agreement, switch periods for the current racing season, even if it results in either permitholder or the facility of a permitholder being operated in two different periods.~~

2. However, any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million is authorized to conduct live performances at any time of the year and shall pay 0.5 percent on live handle per performance.

~~3. For the period beginning on April 1 and ending May 23 during the state fiscal year 1992-1993, any permitholder which has operated less than 51 racing days in the last 18 months may operate said period and pay 1.25 percent tax on live handle per performance. In the event this provision takes effect after April 1, 1993, it shall be construed to apply retroactively from April 1, 1993, through May 23, 1993.~~

~~4. In the event any licenses have been issued to any thoroughbred permitholders for racing dates prior to April 26, 1993, then, notwithstanding the provisions of s. 550.525(2), amendments may be filed to the racing dates up to May 1, 1993.~~

Section 5. Paragraph (d) of subsection (3) of section 550.2625, Florida Statutes, is amended to read:

550.2625 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.—

(3) Each horseracing permitholder conducting any thoroughbred race under this chapter, including any intertrack race taken pursuant to ss. 550.615-550.6305 or any interstate simulcast taken pursuant to s. 550.3551(3) shall pay a sum equal to 0.75 percent on all pari-mutuel pools conducted during any such race for the payment of breeders' and stallion awards as authorized in this section. This subsection also applies to all Breeder's Cup races conducted outside this state taken pursuant to s. 550.3551(3). On any race originating live in this state which is broadcast out-of-state to any location at which wagers are accepted pursuant to s. 550.3551(2), the host track is required to pay 3.3 percent of the gross revenue derived from such out-of-state broadcasts as breeders' and stallion awards. The Florida Thoroughbred Breeders' Association is authorized to receive these payments from the permitholders and make payments of awards earned. The Florida Thoroughbred Breeders' Association has the right to withhold up to 10 percent of the permitholder's payments under this section as a fee for administering the payments of awards and for general promotion of the industry. The permitholder shall remit these payments to the Florida Thoroughbred Breeders' Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the division as prescribed by the division. With the exception of the 10-percent fee, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account, and such payments together with any interest earned shall be used exclusively for the payment of breeders' awards and stallion awards in accordance with the following provisions:

(d) In order for an owner of the sire of a thoroughbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Thoroughbred Breeders' Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state *during the period of time between February 1 and June 15 of each year* or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state *during the period of time between February 1 and June 15 of any year* for any reason, other than exclusively for prescribed medical treatment, *as approved by the Florida Thoroughbred Breeders' Association* renders the owner or owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Thoroughbred Breeders' Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

Section 6. Notwithstanding section 26 of chapter 96-364, Laws of Florida, subsection (2) of section 550.2625, Florida Statutes, shall not stand repealed on July 1, 1998, but is revived, reenacted, and amended to read:

550.2625 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.—

(2) Each permitholder conducting a horserace meet is required to pay from the takeout withheld on pari-mutuel pools a sum for purses in accordance with the type of race performed.

(a) A permitholder conducting a thoroughbred horse race meet under this chapter must pay from the takeout withheld a sum not less than 7.5 percent of all contributions to pari-mutuel pools conducted during the race meet as purses. In addition to the 7.5 percent minimum purse payment, permitholders conducting live thoroughbred performances shall be required to pay as additional purses .375 percent of live handle for performances conducted during the period beginning on January 3 and ending March 16; .225 percent for performances conducted during the period beginning March 17 and ending May 22; and .6 percent for performances conducted during the period beginning May 23 and ending January 2. Except that any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million is not subject to this additional purse payment. A permitholder authorized to conduct thoroughbred racing may withhold from the handle an additional amount equal to 1 percent on exotic wagering for use as owners' awards, and may withhold from the handle an amount equal to 2 percent on exotic wagering for use as overnight purses. No permitholder may withhold in excess of 20 percent from the handle without withholding the amounts set forth in this subsection.

(b)1. A permitholder conducting a harness horse race meet under this chapter must pay to the purse pool from the takeout withheld a purse requirement that totals an amount not less than 8 percent of all contributions to pari-mutuel pools conducted during the race meet. An amount not less than 7.5 percent of the total handle shall be paid from this purse pool as purses.

2. An amount not to exceed 0.5 percent of the total handle on all harness horse races that are subject to the purse requirement of subparagraph 1., must be available for use to provide medical, dental, surgical, life, funeral, or disability insurance benefits for occupational licensees who work at tracks in this state at which harness horse races are conducted. Such insurance benefits must be paid from the purse pool specified in subparagraph 1. An annual plan for payment of insurance benefits from the purse pool, including qualifications for eligibility, must be submitted by the Florida Standardbred Breeders and Owners Association for approval to the division. An annual report of the implemented plan shall be submitted to the division. All records of the Florida Standardbred Breeders and Owners Association concerning the administration of the plan must be available for audit at the discretion of the division to determine that the plan has been implemented and administered as authorized. If the division finds that the Florida Standardbred Breeders and Owners Association has not complied with the provisions of this section, the division may order the association to cease and desist from administering the plan and shall appoint the division as temporary administrator of the plan until the division reestablishes administration of the plan with the association.

(c) A permitholder conducting a quarter horse race meet under this chapter shall pay from the takeout withheld a sum not less than 6

percent of all contributions to pari-mutuel pools conducted during the race meet as purses.

(d) The division shall adopt reasonable rules to ensure the timely and accurate payment of all amounts withheld by horserace permitholders regarding the distribution of purses, owners' awards, and other amounts collected for payment to owners and breeders. Each permitholder that fails to pay out all moneys collected for payment to owners and breeders shall, within 10 days after the end of the meet during which the permitholder underpaid purses, deposit an amount equal to the underpayment into a separate interest-bearing account to be distributed to owners and breeders in accordance with division rules.

(e) An amount equal to 8.5 percent of the purse account generated through intertrack wagering and interstate simulcasting will be used for Florida Owners' Awards as set forth in subsection (3). Any thoroughbred permitholder with an average blended takeout which does not exceed 20 percent and with an average daily purse distribution excluding sponsorship, entry fees, and nominations exceeding $225,000 is exempt from the provisions of this *paragraph* ~~subsection~~.

Section 7. Subsection (4) of section 550.5251, Florida Statutes, is amended to read:

550.5251 Florida thoroughbred racing; certain permits; operating days.—

(4) A thoroughbred racing permitholder may not begin any race later than 7 p.m. However, any thoroughbred permitholder in a county in which the authority for cardrooms has been approved by the board of county commissioners may elect not to operate a cardroom when conducting live races during its current race meet and instead to receive and rebroadcast out-of-state races *after the hour* ~~between the hours~~ of 7 p.m. ~~and 10 p.m.~~ on any day during which the permitholder conducts live races. However, such permitholder may not engage in both operating a cardroom and receiving or rebroadcasting out-of-state races after 7 p.m. Permitholders shall be required to elect between either operating a cardroom or engaging in simulcasting after 7 p.m. at the time of submitting its application for its annual license pursuant to *this section* ~~s.~~ ~~550.01215~~.

Section 8. Subsection (11) of section 550.615, Florida Statutes, is amended to read:

550.615 Intertrack wagering.—

(11) Notwithstanding any other provision of this section, any thoroughbred permitholder that conducts performances during the period beginning May 23 and ending January 2 *or during the period beginning January 3 and ending March 16* must make available any live pari-mutuel event conducted and any simulcast pari-mutuel event received by such permitholder to any thoroughbred permitholder that conducts performances during the period beginning March 17 and ending May 22, and such guest permitholder is authorized to accept wagers on such signals. Notwithstanding s. 550.0951(3)(c), the tax on wagers accepted by the guest permitholder on such events shall be 2 percent, *but such amount shall be retained by the host track as compensation for lost revenues and purses. At least 50 percent of the amount retained shall be paid as purses at the host track*. This subsection applies only to thoroughbred permitholders located in any area of the state where there are three or more thoroughbred permitholders within 25 miles of each other.

Section 9. *Effective July 1, 2000, subsection (11) of s. 550.615, Florida Statutes, is repealed.*

Section 10. Paragraphs (a) and (g) of subsection (9) of section 550.6305, Florida Statutes, are amended to read:

550.6305 Intertrack wagering; guest track payments; accounting rules.—

(9) A host track that has contracted with an out-of-state horse track to broadcast live races conducted at such out-of-state horse track pursuant to s. 550.3551(5) may broadcast such out-of-state races to any guest track and accept wagers thereon in the same manner as is provided in s. 550.3551.

(a) For purposes of this section, "net proceeds" means the amount of takeout remaining after the payment of state taxes, *purses required pursuant to s. 550.0951(3)(c)1.*, the cost to the permitholder required to be paid to the out-of-state horse track, ~~and~~ breeders' awards paid to the Florida Thoroughbred Breeders' Association and the Florida Standardbred Breeders and Owners Association, to be used as set forth in s. 550.625(2)(a) and (b), *and the deduction of any amount retained pursuant to s. 550.615(11).*

(g)1. Any thoroughbred permitholder which accepts wagers on a simulcast signal must make the signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345.

2. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in s. 550.615(6). Such guest permitholders are authorized to accept wagers on such simulcast signal, notwithstanding any other provision of this chapter to the contrary.

3. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in s. 550.615(9). Such guest permitholders are authorized to accept wagers on such simulcast signals for a number of performances not to exceed that which constitutes a full schedule of live races for a quarter horse permitholder pursuant to s. 550.002(11), notwithstanding any other provision of this chapter to the contrary, except that the restrictions provided in s. 550.615(9)(a) apply to wagers on such simulcast signals.

No thoroughbred permitholder shall be required to continue to rebroadcast a simulcast signal to any in-state permitholder if the average per performance gross receipts returned to the host permitholder over the preceding 30-day period were less than $100. *Subject to the provisions of s. 550.615(4),* as a condition of receiving rebroadcasts of thoroughbred simulcast signals under this paragraph, a guest permitholder must accept intertrack wagers on all live races conducted by *all then-operating thoroughbred permitholders* ~~a thoroughbred permitholder located in a county where there are only three permits, one for thoroughbred, one for greyhound, and one for jai alai~~.

Section 11. Section 550.6308, Florida Statutes, is created to read:

550.6308 Limited intertrack wagering license.—In recognition of the economic importance of the thoroughbred breeding industry to this state, its positive impact on tourism, and of the importance of a permanent thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.

(1) Upon application to the division on or before January 31 of each year, any person that is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01, that has conducted at least 15 days of thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years, and that has conducted at least 1 day of nonwagering thoroughbred racing in this state, with a purse structure of at least $250,000 per year for 2 consecutive years before such application, shall be issued a license to conduct intertrack wagering for thoroughbred racing for up to 21 days in connection with thoroughbred sales, to conduct intertrack wagering at such permanent sales facility between November 1 and May 8, to conduct intertrack wagering at such permanent sales facility between May 9 and October 31 at such times and on such days as any thoroughbred, jai alai, or a greyhound permitholder in the same county is not conducting live performances, and to conduct intertrack wagering under the provisions of this subsection during the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet that is conducted before November 1 and after May 8, subject to conditions set forth in this section but no more than one such license may be issued and no such license may be issued for a facility located within 50 miles of any thoroughbred permitholder's track.

(2) If more than one application is submitted for such license, the division shall determine which applicant shall be granted the license. In making its determination, the division shall grant the license to the applicant demonstrating superior capabilities, as measured by the length of time the applicant has been conducting thoroughbred sales within this

state or elsewhere, the applicant's total volume of thoroughbred horse sales, within this state or elsewhere, the length of time the applicant has maintained a permanent thoroughbred sales facility in this state, and the quality of the facility.

(3) The applicant must comply with the provisions of ss. 550.125 and 550.1815.

(4) Intertrack wagering under this section may be conducted only on thoroughbred horse racing.

Section 12. Section 550.72, Florida Statutes, is created to read:

550.72 Department of State; City of Hialeah; Study of Hialeah Park; appropriation; duties and responsibilities; taxation.—

(1) The Department of State, in conjunction with the office of the mayor of the City of Hialeah, is hereby directed to undertake a comprehensive study of the feasibility of state or municipal ownership of Hialeah Park and its operation of a limited race meet pursuant to this section. All references to the "Department" for purposes of this section shall mean the Secretary of State.

(2)(a) There is hereby appropriated the sum of $185,000 from the Pari-Mutuel Wagering Trust Fund to the department. Such funds shall be expended solely and exclusively for a review, analysis, and report to the Senate, the House of Representatives, and the Governor in regard to the feasibility of state or municipal ownership of the property known as Hialeah Park located in Hialeah, Florida and the pari-mutuel permit held by Hialeah, Inc. The report shall contain the following information:

1. A financial analysis as to the cost of operating the facility as a racetrack, including year-round maintenance expenses.

2. An analysis of other compatible uses for the property, including, but not limited to, amusement, retail shopping development, recreational use, or a museum, that would operate in conjunction with a racetrack, operating a limited racing meet and simulcast program.

3. A recommendation of future revenues that the property could generate.

4. A recommendation as to its future operation and financing.

5. Such other necessary information in regard to the overall health of the thoroughbred industry as will be required to complete the analysis, review, and report to the Senate, the House of Representatives, and the Governor.

(b) The department shall also obtain an appraisal of the land and facilities known as Hialeah Park and the pari-mutuel permit held by Hialeah, Inc. utilizing the information filed in accordance with the provisions of s. 550.125, provided the appraiser shall have no ex parte communications with any party holding a pari-mutuel permit until the conclusion of the appraisal, at which time the appraisal shall become a public record, and available for inspection by all parties. This appraisal shall be completed by November 15, 1998.

(c) None of the funds appropriated pursuant to paragraph (a) shall be expended by the department for any salaries of employees of the department; however, nothing contained herein shall be interpreted to prevent the department from contracting with individuals to oversee, on behalf of the department and the office of the mayor of the City of Hialeah, the means to properly carry out the duties and responsibilities set out in this section.

(d) The analysis, review, and report shall receive at least one public hearing. A final recommendation shall be filed with the Speaker of the House, the President of the Senate, the Governor and the Mayor of the City of Hialeah. Such recommendation shall contain a definitive recommendation by January 31, 1999 as to the following:

1. What part of the property is determined to be necessary and essential for conducting a live racing meet in conjunction with the simulcast program.

2. The projected capital cost of purchase of the property determined in subparagraph 1. and the pari-mutuel permit.

3. A recommendation as to a method of paying the projected capital cost.

(3) In the conduct of the duties and responsibilities set out herein, the department and all employees, agents, and others shall be subject to the provisions of chapter 119, provided that the confidentiality of the appraisal and communications with such appraiser shall be governed by paragraph (b) of subsection (2) and provided the appraiser shall have no ex parte communications with any party holding a pari-mutuel permit until the conclusion of the appraisal at which time the appraisal shall become a public record.

Section 13. *Sections 550.2425 and 550.655, Florida Statutes, are repealed.*

Section 14. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 3-13, delete those lines and insert: amending s. 550.01215, F.S.; revising language with respect to periods of operation for certain permitholders; amending s. 550.0951, F.S.; providing that no admission tax shall be imposed on any free passes or complimentary cards for admission to pari-mutuel events; reviving, reenacting, and amending s. 550.09515, F.S., relating to thoroughbred horse taxes; revising the tax on handle and additional purse payment requirements for certain guest thoroughbred permitholders; amending s. 550.09515, F.S.; amending thoroughbred horse taxes; repealing increased tax requirements for certain thoroughbred permitholders operating in multiple tax periods; deleting obsolete language; amending s. 550.2625, F.S.; revising eligibility requirements with respect to stallion awards; reenacting s. 550.2625(2), F.S., relating to horseracing purse payment requirements and purse accounts used for Florida Owners' Awards; amending s. 550.5251, F.S.; revising the hours of operation for thoroughbred racing permitholders; amending s. 550.615, F.S.; providing for the retention of tax revenues by a thoroughbred permitholder conducting specified intertrack wagering; providing for certain purse payments; repealing subsection (11) of s. 550.615, F.S.; requiring certain intertrack wagering broadcasts; amending s. 550.6305, F.S.; revising language with respect to intertrack wagering and guest track payments; creating s. 550.6308, F.S.; providing for a limited intertrack wagering license; creating s. 550.72, F.S.; directing a study of the feasibility of state or municipal ownership of Hialeah Race Course; providing an appropriation; repealing s. 550.2425, F.S., relating to a racing laboratory at horse racetrack facilities; repealing s. 550.655, F.S., relating to backside medical and health benefits; providing effective dates.

Senator Geller moved the following amendment to **Amendment 2** which failed:

Amendment 2A (with title amendment)—On page 14, line 28 through page 15, line 17, delete section 8 and redesignate subsequent sections.

And the title is amended as follows:

On page 22, lines 22-26, delete those lines and insert: permitholders; repealing subsections

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

On motion by Senator Scott, by two-thirds vote **CS for SB 440** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

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

Nays—1

Ostalkiewicz

On motion by Senator Bankhead, by two-thirds vote **HB 4831** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Bankhead—

HB 4831—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 110.108, 110.123, 120.57, 154.04, 215.196, 216.292, 217.045, 217.11, 230.23, 255.102, 255.249, 255.25, 255.25001, 255.253, 255.254, 255.255, 255.257, 255.258, 255.31, 255.45, 255.451, 255.502, 255.503, 255.504, 255.505, 255.506, 255.507, 255.508, 255.509, 255.51, 255.511, 255.513, 255.514, 255.515, 255.517, 255.518, 255.52, 255.521, 255.522, 255.523, 265.001, 265.002, 265.2865, 272.03, 272.04, 272.05, 272.06, 272.07, 272.08, 272.09, 272.12, 272.121, 272.122, 272.124, 272.16, 272.185, 273.055, 281.02, 281.03, 281.04, 281.05, 281.06, 281.08, 281.09, 282.102, 282.103, 282.104, 282.105, 282.1095, 282.111, 283.30, 283.32, 284.33, 287.012, 287.017, 287.022, 287.032, 287.042, 287.045, 287.055, 287.056, 287.057, 287.058, 287.073, 287.083, 287.09451, 287.131, 287.15, 287.16, 287.161, 287.19, 288.15, 288.18, 318.21, 334.0445, 364.515, 365.171, 376.10, 395.1031, 401.013, 401.015, 401.018, 401.024, 403.7065, and 946.515, Florida Statutes, pursuant to the directive of the Legislature in s. 4, ch. 97-296, Laws of Florida, to substitute a reference to the Department of Management Services for all references in the Florida Statutes to any division, bureau, or other unit of the Department of Management Services, except for references to the Division of Administrative Hearings, the Division of Retirement, or commissions.

—a companion measure, was substituted for **SB 1300** and read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 4831** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

Consideration of **SB 1302** was deferred.

CS for SB 2484—A bill to be entitled An act relating to fire prevention and control; amending s. 633.021, F.S.; defining the term "fire extinguisher"; amending s. 633.061, F.S.; requiring an individual or organization that hydrotests fire extinguishers and preengineered systems to obtain a permit or license from the State Fire Marshal; revising the services that may be performed under certain licenses and permits issued by the State Fire Marshal; providing additional application requirements; providing requirements for obtaining an upgraded license; amending ss. 633.065, 633.071, F.S.; providing requirements for installing and inspecting fire suppression equipment; amending s. 633.162, F.S.; prohibiting an owner, officer, or partner of a company from applying for licensure if the license held by the company is suspended or revoked; revising the grounds upon which the State Fire Marshal may deny, revoke, or suspend a license or permit; providing restrictions on activities of former licenseholders and permittees; amending s. 633.171, F.S.; revising the prohibition against rendering a fire extinguisher or preengineered system inoperative to conform to changes made by the act; amending s. 633.547, F.S.; providing the State Fire Marshal authority to suspend and revoke certificates; providing restrictions on the activities of former certificateholders whose certificates are suspended or revoked; amending s. 489.105, F.S., relating to contracting; conforming a cross-reference to changes made by the act; providing an effective date.

—was read the second time by title.

Senator Geller moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 22, after line 31, insert:

Section 9. Subsection (28) is added to section 489.505, Florida Statutes, to read:

489.505 Definitions.—As used in this part:

(28) "Fire alarm system agent" means a person:

(a) Who is employed by a licensed fire alarm contractor or certified unlimited electrical contractor;

(b) Who is performing duties which are an element of an activity that constitutes fire alarm system contracting requiring certification under this part; and

(c) Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling onsite, or monitoring a fire alarm system for compensation.

Section 10. Section 489.5185, Florida Statutes, is created to read:

489.5185 Fire alarm system agents.—

(1) A certified unlimited electrical contractor or licensed fire alarm contractor may not employ a person to perform the duties of a fire alarm system agent unless the person:

(a) Is at least 18 years of age or has evidence of a court-approved declaration of emancipation.

(b) Has successfully completed a minimum of 18 hours of initial training, to include basic fire alarm system technology in addition to related training in National Fire Protection Association (NFPA) codes and standards and access control training. Such training must be from a board-approved provider, and the employee or applicant for employment must provide proof of successful completion to the licensed employer. The board, by rule, shall establish criteria for the approval of training courses and providers. The board shall approve qualified providers that conduct training in other than the English language. The board shall establish a fee for the approval of training providers, not to exceed $200, and a fee for the approval of courses at $25 per credit hour, not to exceed $100 per course.

(c) Has not been convicted within the last 3 years of a crime that directly relates to the business for which employment is being sought. Although the employee is barred from operating as a fire alarm system agent for 3 years subsequent to his or her conviction, the employer shall be supplied the information regarding any convictions occurring prior to that time, and the employer may at his or her discretion consider an earlier conviction to be a bar to employment as a fire alarm system agent. To ensure that this requirement has been met, a certified unlimited electrical contractor or licensed fire alarm contractor must obtain from the Florida Department of Law Enforcement a completed fingerprint and criminal background check for each applicant for employment as a fire alarm system agent or for each individual currently employed on the effective date of this act as a fire alarm system agent.

(d) Has not been committed for controlled substance abuse or been found guilty of a crime under chapter 893 or any similar law relating to controlled substances in any other state within the 3-year period immediately preceding the date of application for employment, or immediately preceding the effective date of this act for an individual employed as a fire alarm system agent on that date, unless the person establishes that he or she is not currently abusing any controlled substance and has successfully completed a rehabilitation course.

(2)(a) Any applicant for employment as a fire alarm system agent, or any individual employed as a fire alarm system agent on the effective date of this act, who has completed alarm system agent or burglar alarm system agent training prior to the effective date of this act in a board-certified program is not required to take additional training in order to comply with the initial training requirements of this section.

(b) A state-certified electrical contractor, a state-certified fire alarm system contractor, a state-registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, or an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications is not required to complete the training required for fire alarm system agents. A state-registered electrical contractor is not required to complete the training required for fire alarm system agents, so long as he or she is only doing electrical work up to the alarm panel.

(c) A nonsupervising employee working as a helper or apprentice under the direct, onsite, continuous supervision of a state-certified electrical contractor, a state-registered electrical contractor, a state-certified fire alarm system contractor, a state-registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, or a qualified fire alarm system agent is not required to complete the training otherwise required and is not required to be 18 years of age or older.

(d) A burglar alarm system agent employed by a licensed fire alarm contractor or certified unlimited electrical contractor who has fulfilled all requirements of s. 489.518 prior to the effective date of this act is not required to complete the initial training required by this section for fire alarm system agents.

(3) An applicant for employment as a fire alarm system agent may commence employment, or an individual employed as a fire alarm system agent on the effective date of this act may continue employment, pending completion of both the training and the fingerprint and criminal background checks required by this section, for a period not to exceed 90 days after the date of application for employment or 90 days after the effective date of this act for individuals employed as fire alarm system agents on that date. However, the person must work under the direction and control of a sponsoring certified unlimited electrical contractor or licensed fire alarm contractor until completion of both the training and the fingerprint and criminal background checks. If an applicant or an individual employed on the effective date of this act does not complete the training or receive satisfactory fingerprint and criminal background checks within the 90-day period, the employment must be terminated immediately.

(4)(a) A certified unlimited electrical contractor or licensed fire alarm contractor must furnish each of his or her fire alarm system agents with an identification card.

(b) The card shall follow a board-approved format, to include a picture of the agent; shall specify at least the name of the holder of the card and the name and license number of the certified unlimited electrical contractor or licensed fire alarm contractor; and shall be signed by both the contractor and the holder of the card. Each identification card shall be valid for a period of 2 years after the date of issuance. The identification card must be in the possession of the fire alarm system agent while engaged in fire alarm system agent duties.

(c) Each person to whom an identification card has been issued is responsible for the safekeeping thereof, and may not loan, or allow any other person to use or display, the identification card.

(d) Each identification card must be renewed every 2 years and in a board-approved format to show compliance with the 6 hours of continuing education necessary to maintain certification as a fire alarm system agent.

(5) Each fire alarm system agent must receive 6 hours of continuing education on fire alarm system installation and repair every 2 years from a board-approved sponsor of training and through a board-approved training course.

(6) Failure to comply with any of the provisions of this section shall be grounds for disciplinary action against the contractor pursuant to s. 489.533.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 4, after the semicolon (;) insert: amending s. 489.505, F.S.; defining the term "fire alarm system agent" for purposes of electrical and alarm system contracting; creating s. 489.5185, F.S.; providing requirements for fire alarm system agents, including specified training and fingerprint and criminal background checks; providing for fees for approval of training providers and courses; providing applicability to applicants, current employees, and various licensees; requiring an identification card and providing requirements therefor; providing continuing education requirements; providing disciplinary penalties;

On motion by Senator Geller, by two-thirds vote **CS for SB 2484** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

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

Nays—1

Ostalkiewicz

Vote after roll call:

Nay to Yea—Ostalkiewicz

MOTIONS

On motion by Senator Bankhead, the rules were waived and time of recess was extended until completion of motions and announcements.

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 Thursday, April 30.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

Senate Resolutions 2728—2730—Not referenced.

By Senator Williams—

SB 2732—A bill to be entitled An act relating to the Cedar Key Water and Sewer District in Levy County; codifying laws governing the independent special district; establishing revised district boundaries; revising the elections procedure for district commissioners; revising the name of the district; repealing chapters 63-1569, 75-426, 76-416, 80-531, and 87-528, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Latvala—

SB 2734—A bill to be entitled An act relating to Pinellas County; amending chapter 75-491, Laws of Florida, as amended; providing that property not receiving any benefits from the Pinellas Park Water Management District may be removed from the district by amendment to its charter; removing provisions which provide a method for deletion of taxable property from the district's tax rolls if over 50 percent of the property drains outside the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 2504 which he approved on April 28, 1998.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 1273, CS for CS for HB's 3249 and 3305, CS for CS for HB 3351, HB 4081, HB 4103, HB 4365, CS for HB 4413, HB 4743, HB 4837; has passed as amended CS for HB 193, CS for HB 1575, HB 3113, CS for CS for HB 3229, HB 3275, CS for CS for HB 3491, HB 3513, HB 3543, CS for HB 3619, HB 3649, CS for HB 3673, HB 3769, HB 3851, HB 3857, HB 3859, HB 3963, HB 3967, HB 4097, HB 4099, HB 4127, HB 4133, CS for HB 4135, CS for HB 4147, HB 4243, HB 4253, HB 4289, HB 4307, HB 4323, HB 4325, HB 4349, HB 4373, CS for CS for HB 4407, HB 4465, HB 4469, HB 4475, HB 4505, HB 4531, HB 4545, HB 4691, HB 4785, HB 4795, HB 4797, HB 4821 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Finance and Taxation; and Representative Barreiro and others—

CS for HB 1273—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing a tax exemption for industrial machinery and equipment purchased for use in expanding certain printing facilities; providing an effective date.

—was referred to the Committee on Ways and Means.

By the Committees on Finance and Taxation; Business Development and International Trade; and Representative Fasano and others—

CS for CS for HB's 3249 and 3305—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; revising the activities that constitute a manufacturing function for purposes of the sales tax exemption on certain uses of electricity; exempting the sale of steam energy used in manufacturing; providing a threshold for electricity use; providing a presumption with respect to the proportion of nonexempt use for electricity use that falls below the threshold; deleting a requirement that the electricity be separately metered; revising the applicability of the exemption; providing an effective date.

—was referred to the Committee on Ways and Means.

By the Committees on Finance and Taxation; Colleges and Universities; and Representative Fasano and others—

CS for CS for HB 3351—A bill to be entitled An act relating to corporate income tax; amending s. 220.15, F.S., which provides for apportionment of adjusted federal income for corporate income tax purposes; providing that the property factor fraction shall not include property certified as dedicated to research and development pursuant to sponsored research conducted through certain universities; providing a definition; providing that the payroll factor shall not include compensation paid to employees certified as dedicated to such activities; providing that no such activities shall cause a corporation not otherwise subject to corporate income tax to be subject to said tax; providing limitations; providing for rules; requiring a report; providing an effective date.

—was referred to the Committee on Ways and Means.

By Representative Culp and others—

HB 4081—A bill to be entitled An act relating to Hillsborough County; authorizing the board of county commissioners of Hillsborough County to provide by ordinance for liens in favor of all operators of hospitals in Hillsborough County and in favor of Hillsborough County when it pays for medical care, treatment, or maintenance of qualifying residents of the county upon all causes of action, suits, claims, counterclaims, and demands accruing to persons to whom care, treatment, or maintenance is furnished by such hospital or is paid for by Hillsborough County on behalf of a qualifying resident of the county, or accruing to the legal representatives of such persons, and upon all judgments, settlements, and settlement agreements entered into by virtue thereof on account of illness, injury, deformity, infirmity, abnormality, disease, or pregnancy giving rise to such causes of action, suits, claims, counterclaims, demands, judgments, settlements, or settlement agreements, and which necessitated such care, treatment, or maintenance; authorizing the board of county commissioners of Hillsborough County to provide by ordinance for the attachment, perfection, priority, and enforcement of such liens and for such procedural and other matters as may be necessary or appropriate to carry out the purposes of the ordinance; requiring the ordinance to provide identical remedies to the hospitals and the County Indigent Health Care Plan; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Chestnut—

HB 4103—A bill to be entitled An act relating to Alachua County; codifying and reenacting chapters 85-376 and 87-529, Laws of Florida, relating to the Alachua County Library District; repealing chapters 85-376 and 87-529, Laws of Florida, and s. 2 of chapter 90-501, Laws of Florida, relating to the Alachua County Library District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Kelly—

HB 4365—A bill to be entitled An act relating to acupuncture; amending s. 457.102, F.S.; defining the term "acupuncture"; amending s. 457.103, F.S.; revising the membership of the Board of Acupuncture; amending s. 457.105, F.S.; revising the licensing requirements for acupuncturists; amending s. 457.116, F.S.; prohibiting certain acts; providing penalties; providing an effective date.

—was referred to the Committee on Health Care.

By the Committees on General Government Appropriations; Finance and Taxation; and Representative Starks and others—

CS for HB 4413—A bill to be entitled An act relating to administration of revenue laws; amending s. 192.001, F.S.; restricting applicability of the definition of "computer software" for purposes of imposing ad valorem taxes; amending s. 199.052, F.S.; requiring banks and financial organizations filing annual intangible personal property tax returns for their customers to file information using machine-sensible media; amending s. 212.0515, F.S.; eliminating the requirement that persons selling food or beverages to operators for resale through vending machines report to the Department of Revenue quarterly; amending s. 212.054, F.S.; removing provisions which specify when a dealer outside a county which adopts or revises a discretionary sales surtax who makes sales within that county must begin to collect the surtax; prescribing the effective date of an increase or decrease in the rate of any discretionary sales surtax and revising the termination date; providing requirements with respect to notice to the department by a county or school board imposing, terminating, revising, or proposing to impose, terminate, or revise, a surtax, and specifying effect of failure to provide notice; amending s. 212.055, F.S.; removing provisions which allow a nonuniform effective date for the local government infrastructure surtax, small

county surtax, indigent care surtax, small county indigent care surtax, and school capital outlay surtax; amending s. 125.2801, F.S.; correcting a reference; amending ss. 212.097 and 212.098, F.S.; redefining "new business" for purposes of the urban high-crime area job tax credit and the rural job tax credit; amending s. 212.11, F.S.; providing requirements relating to sales tax returns filed through electronic data interchange; amending s. 212.12, F.S.; revising provisions relating to the dealer's credit for collecting sales tax; specifying that the credit is also for the filing of timely returns; authorizing the department to deny, rather than reduce, the credit if an incomplete return is filed; revising the definition of "incomplete return"; amending s. 212.17, F.S.; providing that the department shall prescribe the format for filing returns through electronic data interchange and specifying that failure to use the format does not relieve a dealer from the payment of tax; amending s. 213.755, F.S.; defining "payment" and "return" for purposes of revenue laws administered by the department; amending s. 213.053, F.S., relating to confidentiality of information obtained by the department and sharing of such information; revising provisions relating to applicability of said section; amending s. 213.0535, F.S.; revising provisions relating to frequency of exchange of information by certain participants in the Registration Information Sharing and Exchange Program; amending s. 213.21, F.S.; revising provisions that authorize the department to delegate to the executive director authority to approve a settlement or compromise of tax liability, to increase the limit on the amount of tax reduction with respect to which such delegation may be made; specifying a time period for which the department may settle and compromise tax and interest due when a taxpayer voluntarily self-discloses a tax liability and authorizing further settlement and compromise under certain circumstances; amending s. 213.28, F.S.; revising qualifications of certified public accountants contracting with the department to perform audits; amending s. 213.67, F.S.; providing that a person who receives a notice to withhold with respect to property of a delinquent taxpayer and who disposes of such property during the effective period of the notice is liable for the taxpayer's indebtedness under certain circumstances; providing that such notice remains in effect while a taxpayer's contest of an intended levy is pending; providing that a financial institution receiving such notice has a right of setoff for certain debit card transactions; requiring persons who receive such notice to notify the department of assets of the delinquent taxpayer subsequently coming into their possession and prohibiting disposal of such assets; specifying that a notice of levy to such persons be by registered mail; authorizing the department to bring an action to compel compliance with notices issued under said section; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; amending s. 220.02, F.S.; providing legislative intent regarding taxation of a "qualified subchapter S subsidiary"; amending s. 220.22, F.S.; requiring certain returns by such subsidiaries; providing retroactive application; providing effective dates.

—was referred to the Committee on Ways and Means.

By Representative Jones—

HB 4743—A bill to be entitled An act relating to Pinellas County and municipalities in Pinellas County; authorizing the Board of County Commissioners of Pinellas County for unincorporated areas and for the boards of the municipalities within Pinellas County to provide by ordinance for liens in favor of all operators of hospitals in Pinellas County and in favor of Pinellas County when it pays for medical care, treatment, or maintenance of qualifying residents of the county and hospitals within such municipalities, respectively, upon all causes of action, suits, claims, counterclaims, and demands accruing to persons to whom care, treatment, or maintenance is furnished by such hospital or is paid for by Pinellas County on behalf of a qualifying resident of the county or accruing to legal representatives of such persons, and upon all judgments, settlements, and settlement agreements entered into by virtue thereof on account of illness, injury, deformity, infirmity, abnormality, disease, or pregnancy giving rise to such causes of action, suits, claims, counterclaims, demands, judgments, settlements, or settlement agreements, and which necessitates such care, treatment, or maintenance; authorizing the Board of County Commissioners of Pinellas County and the board of the Pinellas County municipalities to provide by ordinance for the attachment, perfection, priority, and enforcement of such liens and for such procedural and other matters as may be necessary or appropriate to carry out the purposes of said ordinances; providing that the lien be limited to the greater of either the worker's compensation rate in effect on the effective date of this act or the nongovernmental, commercial health insurance or managed care contractual rate applicable to the injured person at the time medical care or treatment was rendered plus the amounts for which the patient is personally responsible; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Education Appropriations and Representative Sublette and others—

HB 4837—A bill to be entitled An act relating to the procedure to be used to calculate funding for students enrolled in group 2 of the Florida Education Finance Program; amending s. 236.081, F.S.; providing for a supplemental capping calculation for those districts whose weighted FTE enrollment is over the weighted FTE ceiling established in the annual appropriations act; providing procedure for such calculation; repealing s. 236.081(8), F.S., which provides for a caps adjustment supplement for group 2 programs when there are funds remaining in the Florida Education Finance Program appropriation; amending s. 236.25, F.S.; correcting a reference; providing an effective date.

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

By the Committee on Finance and Taxation; and Representative Lynn and others—

CS for HB 193—A bill to be entitled An act relating to credits against taxes; amending s. 220.02, F.S.; providing the order of credits against the corporate income tax or franchise tax; amending s. 220.03, F.S.; revising the definition of "child care facility startup costs" and defining "operation of a child care facility"; amending s. 220.12, F.S.; revising the definition of a taxpayer's net income for corporate income tax purposes to delete the deduction of child care facility startup costs; creating s. 220.19, F.S.; authorizing a credit against the corporate income tax for child care facility startup costs and operation, and for payment of an employee's child care costs; providing limitations; requiring a recipient to refund a portion of tax credits received under certain conditions; providing eligibility and application requirements; providing for administration by the Department of Revenue; providing for future expiration; defining "corporation"; creating s. 624.5107, F.S.; authorizing a credit against insurance premium taxes for child care facility startup costs and operation, and for payment of an employee's child care costs; providing definitions; providing limitations; requiring a recipient to refund a portion of tax credits received under certain conditions; providing eligibility and application requirements; providing for administration by the Department of Revenue; providing for future expiration; providing an effective date.

—was referred to the Committee on Ways and Means.

By the Committee on Financial Services and Representative Feeney and others—

CS for HB 1575—A bill to be entitled An act relating to certified capital companies; amending s. 14.2015, F.S.; requiring the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor to administer tax credits; creating s. 288.99, F.S.; creating the "Certified Capital Company Act"; providing a short title; providing a purpose; providing definitions; providing certification procedures; providing deadlines; requiring an application fee; providing grounds for application denial or decertification; requiring the Department of Banking and Finance to enforce certification and decertification procedures; requiring certification reports filed with the Office of Tourism, Trade, and Economic Development; requiring an annual renewal fee; specifying investment benchmarks; specifying depositories for funds not invested in qualified businesses; providing a credit against premium tax liability; specifying effect of credit on retaliatory tax; providing an aggregate premium tax credit cap; providing a tax credit allocation formula; requiring forfeiture of tax credits under certain circumstances; providing for an annual report by each certified capital company; requiring the Office

of Tourism, Trade, and Economic Development to review and verify annual reports; authorizing the Department of Revenue to audit and examine books of certified capital companies and investors; providing for distributions to debt holders; requiring the Department of Banking and Finance to conduct annual reviews of certified capital companies; providing requirements for distributions; providing decertification procedures; providing a cure period; providing recapture of tax credits under certain circumstances; providing a schedule for tax credit recapture and penalties; providing for transfer of tax credits; requiring the Office of Tourism, Trade, and Economic Development to annually report to the Governor and the Legislature; providing for application and renewal fees; providing rulemaking authority; providing appropriations; providing effective dates.

—was referred to the Committee on Ways and Means.

By Representative Fuller and others—

HB 3113—A bill to be entitled An act relating to community contribution tax credits; amending ss. 220.183 and 624.5105, F.S.; increasing the annual limitation on the amount of such credits that may be granted against the corporate income tax and insurance premium taxes; providing an effective date.

—was referred to the Committee on Ways and Means.

By the Committees on Finance and Taxation; Environmental Protection; and Representative Thrasher and others—

CS for CS for HB 3229—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.051, F.S.; providing an exemption for certain facilities, equipment, and machinery used for pollution control or abatement associated with manufacturing activities, and for structures or equipment associated with replacement thereof; requiring compliance with permitted conditions of the Department of Environmental Protection; providing an exemption for equipment, machinery, and materials required by permit or law for the monitoring, prevention, abatement, or control of pollution at solid waste management facilities; providing an effective date.

—was referred to the Committee on Ways and Means.

By Representative Arnall and others—

HB 3275—A bill to be entitled An act relating to worthless checks; creating s. 832.09, F.S.; providing for the suspension of a driver's license with respect to certain persons against whom a warrant or capias is issued in a worthless check case; creating s. 832.10, F.S.; providing for the state attorney to use a private debt collector or independent contractor for 90 days to collect worthless checks; providing for the case to be referred back to the state attorney if the worthless check is not collected in the time allowed; creating s. 832.10, F.S.; providing an alternative to the bad check diversion program; providing fees for collection; amending s. 322.251, F.S.; providing for notification; providing for conditions for reinstatement; providing a fee; directing the Department of Highway Safety and Motor Vehicles and the Department of Law Enforcement to develop and implement a plan; amending s. 322.142, relating to records of the Department of Highway Safety and Motor Vehicles; providing an appropriation; providing an effective date.

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

By the Committees on Finance and Taxation; Governmental Operations; and Representative Boyd and others—

CS for CS for HB 3491—A bill to be entitled An act relating to the Florida Retirement System; amending s. 112.363, F.S.; increasing the retiree health insurance subsidy payment and the contribution rate; providing for retroactive payments under certain circumstances; amending s. 121.011, F.S.; clarifying benefits payable under existing systems; amending s. 121.021, F.S.; revising and adding definitions; amending ss. 121.052, 121.055, and 121.071, F.S.; modifying the statutory limit on the number of nonelective full-time positions that may be designated by a local agency employer for inclusion in the Senior Management Service Class; changing contribution rates for specified classes and subclasses of the system and for the retiree health insurance subsidy; amending s. 121.091, F.S.; providing for benefit computations using dual retirement ages for service in the Senior Management Service Class and the Elected Officer's Class; providing for nullification of a joint annuitant designation in the event of dissolution of marriage; providing for purchase of additional service credit using a deceased member's accumulated leave, out-of-state service, or in-state service under certain circumstances; specifying that a member's spouse at the time of death shall be the member's beneficiary under certain circumstances; providing a directive to statute editors; amending s. 121.1122, F.S.; deleting reference to nonsectarian schools and colleges; amending s. 121.121, F.S.; providing for eligibility to purchase retirement credit for certain leaves of absence; amending s. 121.122, F.S.; allowing members with renewed membership in the Senior Management Service Class to purchase additional retirement credit for certain postretirement service; amending s. 121.30, F.S.; conforming to the Internal Revenue Code; creating s. 121.133, F.S.; providing intent; requiring the Comptroller to cancel any benefit warrant issued from the Florida Retirement System Trust Fund, or from certain other pension trust funds, if such warrants are not presented within a specified timeframe; providing that such funds shall be transferred and recredited to specified trust funds; providing for issuance of replacement warrants; amending s. 121.40, F.S.; changing contribution rates for the supplemental retirement plan for the Institute of Food and Agricultural Sciences at the University of Florida; repealing ss. 121.0505 and 121.0516, F.S.; relating to duplicative contribution rates; directing the Division of Statutory Revision to make described adjustments to the statutes with respect to contribution rates; providing a finding of important state interest; providing effective dates.

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

By Representative Livingston—

HB 3513—A bill to be entitled An act relating to the Lee County Hyacinth Control District, an independent 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; providing 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 for the repeal of all special acts relating to 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 Representative Livingston—

HB 3543—A bill to be entitled An act relating to the Bonita Springs Fire Control and Rescue District, Lee County; providing for a codification of special laws relating to the Bonita Springs Fire Control and Rescue District pursuant to s. 191.015, F.S.; providing legislative intent; codifying reenacting and amending all prior special acts; creating and establishing a fire control and rescue district in said county and fixing the boundaries of district; providing for a governing body; prescribing the powers of the board; authorizing the board to establish and maintain emergency medical services and equipment; authorizes the board to make rules and regulations; providing procedure for adopting a budget, giving the board the power to tax; providing procedure for assessing and

collecting taxes; limiting tax collector's responsibility; providing for payment of expenses; requiring the treasurer to post a bond; providing that such act shall be construed liberally; providing for severability; providing for the repeal of chapters 65-1828, 68-90, 69-1242, 81-414, 96-500, and 96-545, Laws of Florida, and section 6 of 87-447, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Governmental Operations and Representative Culp and others—

CS for HB 3619—A bill to be entitled An act relating to computers; creating s. 14.025, F.S., relating to the Governor; recognizing the potential computer problems that may occur in state agencies due to the date change necessitated by the year 2000; authorizing the Governor to reassign resources in the event of a likely computer failure; authorizing the Administration Commission to reassign resources if an agency headed by the Governor and Cabinet or a Cabinet officer is likely to experience a computer failure; requiring the reassignment of resources to conform with the law governing budget amendments; requiring the reassignment of personnel to conform with the law governing employee interchanges; requiring legislative approval if a reassignment of resources is necessary for more than 90 days; authorizing legislative veto of the reassignment of state resources; providing for repeal of the powers granted to the Governor; amending ss. 112.24 and 112.27, F.S., relating to employee interchange programs; clarifying that state agencies may exchange employees; creating s. 282.4045, F.S.; providing legislative findings relating to the adequacy of the state's actions to prevent year 2000 computer failures; protecting the state and units of local government against legal actions that result from a year 2000 computer date calculation failure; providing an effective date.

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

By Representative Fuller and others—

HB 3649—A bill to be entitled An act relating to the City of Jacksonville Beach, Duval County; amending chapter 27643, Laws of Florida, 1951, as amended, the Employees' Retirement System of the City of Jacksonville Beach; specifying that benefits may be payable to a participant's Deferred Retirement Option Program; specifying that the option selection for payment of benefits shall be final at the time a benefit payment is assigned to the Deferred Retirement Option Program; specifying death benefits applicable to Deferred Retirement Option Program participants; providing overview of the Deferred Retirement Option Program; providing eligibility criteria; providing for procedures for election of participation; providing for benefits payable; providing for death benefits; providing limitations on employment after participation; specifying contribution rates; specifying that Deferred Retirement Option Program participation does not exempt such participants from the forfeiture of benefits under the provisions of s. 112.3173, F.S.; providing for administration of the program; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Agriculture and Representative Bronson—

CS for HB 3673—A bill to be entitled An act relating to aquaculture; amending s. 253.72, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.027, F.S.; providing an exception to rulemaking authority of the Marine Fisheries Commission with respect to specified marine life; providing that marine aquaculture producers shall be regulated by the Department of Agriculture and Consumer Services; amending s. 370.06, F.S.; revising provisions relating to issuance and renewal of saltwater products licenses and special activity licenses; authorizing issuance of special activity licenses for the use of special gear or equipment, the importation and possession of sturgeon, and the harvest of certain shellfish; authorizing permit consolidation procedures; amending s. 370.081, F.S.; revising provisions relating to the importation of nonindigenous marine plants and animals; amending s. 370.10, F.S.; authorizing the harvesting or possession of saltwater species for experimental, scientific, education, and exhibition purposes; amending s. 370.16, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.26, F.S.; relating to aquaculture definitions; defining the term "marine product facility" and revising definition of the term "marine aquaculture product"; deleting requirements of an Aquaculture Section in the Department of Environmental Protection; providing duties of the Department of Agriculture and Consumer Services; authorizing delegation of regulatory authority for certain aquaculture facilities; amending s. 372.0225, F.S.; revising responsibilities of the Division of Fisheries of the Game and Fresh Water Fish Commission relating to freshwater organisms; amending s. 372.65, F.S.; authorizing exemption for freshwater fish dealer's license; amending s. 372.6672, F.S.; removing obsolete language relating to state-sanctioned sales of alligator hides; amending s. 372.6673, F.S.; providing for a portion of the fees assessed for alligator egg collection permits to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 372.6674, F.S.; providing for a portion of the fees assessed for alligator hide validation tags to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 373.046, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 373.406, F.S.; providing exemption for management and storage of surface water; amending s. 403.0885, F.S.; providing exemptions from the state National Pollutant Discharge Elimination System program; amending s. 403.814, F.S.; revising and clarifying provisions relating to aquaculture general permits; amending s. 597.002, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 597.003, F.S.; expanding the powers and duties of the Department of Agriculture and Consumer Services relating to regulation of aquaculture; amending s. 597.004, F.S.; revising provisions relating to aquaculture certificate of registration; providing for shellfish and nonshellfish certification; providing for rules, waiver of liability, compliance, and reports; amending s. 597.005, F.S.; providing for a list of prioritized research needs; providing an effective date.

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

By Representative Futch—

HB 3769—A bill to be entitled An act relating to Barefoot Bay Recreation District, Brevard County; providing for the issuance of a special alcoholic beverage license to a mobile home park recreation district operating within Brevard County; providing restrictions; 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 Representative Bradley—

HB 3851—A bill to be entitled An act relating to Pinellas County; providing a short title; providing background and purpose of the act; providing for the annexation of certain small enclaves within the municipalities of Pinellas County; providing for the act to apply to a specified type of enclave; providing prerequisites for annexation; requiring the governing body of a municipality to provide certain incentives within the area to be annexed; providing for certain exemptions; providing for expiration of specified provisions of the act; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Sindler and others—

HB 3857—A bill to be entitled An act relating to the City of Orlando and Orange County; repealing chapter 55-31098, Laws of Florida, relating to the number of licenses which may be granted for the sale of

intoxicating beverages therein; providing a grandfather clause; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Livingston—

HB 3859—A bill to be entitled An act relating to Lee County and the City of Fort Myers; providing for the annexation of the enclaves known as "Dunbar" and "Belle Vue" by interlocal agreement between the city and county, subject to approval by referendum; providing for procedures for adoption of the agreement and for a referendum; providing for authority for assumption of municipal service duties and transfer of infrastructure; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Saunders—

HB 3963—A bill to be entitled An act relating to the City of Marco Island, Collier County; amending chapter 97-367, Laws of Florida; providing for waiver of s. 218.23(1), F.S., relating to eligibility for participation in state revenue sharing beyond the minimum entitlement, and s. 218.26(3), F.S., relating to calculation of apportionment factors, for additional fiscal years; providing 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 Representative Spratt—

HB 3967—A bill to be entitled An act relating to Central County Water Control District in Hendry County; amending chapter 70-702, Laws of Florida, as amended; requiring that two of the five supervisors of the district be elected by a vote of qualified electors residing in the district and establishing qualifications and procedures therefor; changing the annual meeting date; requiring payment of special assessments as a condition for voting at an annual meeting; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 4097—A bill to be entitled An act relating to the West Parkland Water Management District, Broward County; repealing chapter 75-353, Laws of Florida, which creates the West Parkland Water Management District, to abolish the West Parkland Water Management District; transferring all obligations and assets to the City of Parkland; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 4099—A bill to be entitled An act relating to the Central Broward Water Control District, Broward County; amending section 4g. of charter; deleting the provision for expense reimbursement; amending section 4j. of charter, to provide for assumption of office at the first regular meeting following the election; amending section 7 of charter, to provide for an organizational meeting annually at the first regular meeting following the first Tuesday after the first Monday in November; deleting obsolete provisions; codifying the Charter of the Central Broward Water Control District, an independent special district; codifying chapter 61-1439, Laws of Florida, as amended; consolidating amendments thereto contained in this act and chapters 65-1006, 67-1002, 69-528, 70-479, 71-388, 72-486, 79-432, 80-462, 82-268, 85-388, 86-359, 86-363, 87-506, 88-523, 91-350, 94-426, and 96-536, Laws of Florida; repealing chapters 61-1439, 65-1006, 67-1002, 69-528, 70-479, 71-388, 72-486, 79-432, 80-462, 82-268, 85-388, 86-359, 86-363, 87-506, 88-523, 91-350, 94-426, and 96-536, Laws of Florida; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Jacobs—

HB 4127—A bill to be entitled An act relating to the Delray Beach Downtown Development Authority, Palm Beach County; amending chapter 71-604, Laws of Florida, as amended, by amending the Delray Beach Downtown Development Authority area description to provide for inclusion of properties west of Swinton Avenue westward of the current Downtown Development Authority area to include those properties lying approximately south of N.W. 1st Street, and properties lying north of S.W. 1st Street, bounded generally on the west by Interstate 95, all such properties lying within the municipal boundaries of the City of Delray Beach; providing for seven members on the board for the Delray Beach Downtown Development Authority; providing that four members of the Board of Directors of the Delray Beach Downtown Development Authority shall be owners of realty within the Downtown Area, a lessee required by the lease to pay taxes, or a director, officer, or managing agent of an owner or of a lessee thereof so required to pay taxes thereon; requiring at least four affirmative votes of the authority to take any action; authorizing the authority to actively participate in plans and programs to encourage economic development and the promotion of downtown; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Boyd—

HB 4133—A bill to be entitled An act relating to the City of Ceder Key, Levy County; repealing chapter 69-929, Laws of Florida, and replacing same with a new charter; providing for the powers and duties of the city commission; providing for appointment of administrative officials; establishing special provisions; providing a transition schedule; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Community Colleges and Career Prep; and Representative Lynn and others—

CS for HB 4135—A bill to be entitled An act relating to education; authorizing the creation of charter technical career centers; prescribing powers and duties of the Commissioner of Education, the Department of Education, participating district school boards, and community college district boards of trustees, with respect to charter technical career centers; prescribing powers and duties of charter technical career centers and their boards of directors; providing for funding; prescribing rights and duties of employees of centers and of district school board employees and community college employees working at charter technical career centers; providing for revocation of a charter; providing for rules; amending s. 121.021, F.S.; redefining the terms "covered group" and "employer" with respect to the Florida Retirement System to include charter technical career centers; amending s. 121.051, F.S.; providing for optional participation in the Florida Retirement System by employees of charter technical career centers; amending s. 121.1122, F.S.; including

charter technical career centers with a group for the purchase of certain retirement credit; amending s. 236.081, F.S.; providing for calculating changes in school district funding resulting from a drop in enrollment based on student transfers to a charter technical career center; providing an appropriation; providing an effective date.

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

By the Committee on Children and Family Empowerment; and Representative Littlefield and others—

CS for HB 4147—A bill to be entitled An act relating to the WAGES Program; creating s. 414.155, F.S.; providing a relocation assistance program for families receiving or eligible to receive WAGES Program assistance; providing responsibilities of the Department of Children and Family Services and the Department of Labor and Employment Security; providing for a relocation plan and for monitoring of the relocation; requiring agreements restricting application for temporary cash assistance for a specified period; providing exceptions; requiring repayment of temporary cash assistance provided under certain circumstances, and reduced eligibility for future assistance; providing authority for rules; providing legislative intent with respect to employment of WAGES recipients by the food and beverage industry; requiring the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor to annually certify the total number of specified WAGES recipients; requiring the Department of Business and Professional Regulation to annually recalculate and reduce the surcharge on the sale of alcoholic beverages for consumption on the premises; providing a formula for such recalculation; requiring the department to adopt procedures and establish rules; creating s. 290.00651, F.S.; directing the Office of Tourism, Trade, and Economic Development to designate a pilot project area within an enterprise zone; providing qualifications for such area; providing that certain businesses in such pilot project area are eligible for tax credits; prescribing application criteria and procedures governing such tax credits; providing rulemaking authority; requiring a review by the Office of Program Policy Analysis and Government Accountability; providing for future repeal and revocation of designation as an enterprise zone pilot project area; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; and Ways and Means.

By Representative Ziebarth—

HB 4243—A bill to be entitled An act relating to Volusia County; amending chapter 95-462, Laws of Florida, changing the uniform municipal election and qualification dates; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Harrington—

HB 4253—A bill to be entitled An act relating to Charlotte County; codifying, reenacting, amending, and repealing chapters 65-1357, 70-628, 73-430, 74-453, 84-405, 84-406, 88-479, and 91-399, Laws of Florida; creating and establishing the Charlotte County Airport Authority, an independent special district; providing for membership; authorizing the County of Charlotte and its incorporated municipalities to contract with the airport authority; providing for the government, jurisdiction, powers, franchises, and privileges of the airport authority; deleting obsolete provisions; repealing all prior special acts relating to the Charlotte County Development Authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 4289—A bill to be entitled An act relating to the Town of Davie, Broward County; extending and enlarging the corporate limits of the Town of Davie to include specified unincorporated lands within said corporate limits, under certain conditions; providing for redefining the town limits; providing for an agreement between the owner of the property and the Town Council; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Culp and others—

HB 4307—A bill to be entitled An act relating to the City of Tampa, Hillsborough County, and particularly to the City Pension Fund for Firefighters and Police Officers in the City of Tampa; enabling an increase in the accrual of benefits from 2 percent to 2.5 percent for additional years of service after 26 years; providing for pension benefits after 20 years of service without reduction upon separation; providing for a Deferred Retirement Option Program; providing for additional benefits; providing for contribution rates; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Warner—

HB 4323—A bill to be entitled An act relating to Palm Beach County; amending ch. 93-367, Laws of Florida, as amended; revising provisions relating to employees of the Palm Beach County Sheriff; revising procedures for appeal of disciplinary actions and complaints against employees of the sheriff; providing that certain monetary emoluments be based on performance for employees at the rank of captain or its civilian equivalent; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Horan—

HB 4325—A bill to be entitled An act relating to Monroe County; amending chapter 97-348, Laws of Florida, relating to the charter of Islamorada, Village of Islands; revising transition provisions relating to state shared revenues to extend waivers of applicable revenue sharing eligibility requirements and to authorize the usage of millage levied by the Monroe County Mosquito Control District for purposes of meeting the minimum amount of revenue required to be raised for revenue sharing eligibility; clarifying legislative intent regarding the referendum required to effectuate the charter, which referendum was concluded on November 4, 1997, with the required majority of voters approving the charter; adopting nunc pro tunc the effective dates in chapter 97-348, Laws of Florida, in connection with the clarification of legislative intent; declaring the charter to be effective pursuant to its terms and conditions; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Horan—

HB 4349—A bill to be entitled An act relating to Monroe County; amending chapter 76-441, Laws of Florida, as amended, relating to the Florida Keys Aqueduct Authority; providing for certain matters regarding the construction, acquisition, and maintaining of a wastewater system for the collection, treatment, and disposal of wastewater in Monroe County; providing for certain matters with respect to the purchase of property by the Florida Keys Aqueduct Authority; providing for notifica-

tion to the public of the availability of the Florida Keys Aqueduct Authority's annual audit; amending certain provisions relating to the issuance of bonds; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Flanagan and others—

HB 4373—A bill to be entitled An act relating to the excise tax on documents; amending s. 201.09, F.S.; prescribing liability for the tax when a renewal note increases the unpaid balance or the original face amount of an original contract and obligation; providing that s. 3, ch. 97-123, Laws of Florida, which exempts from tax a renewal note evidencing a revolving obligation which does not increase the original face amount of the original contract and obligation, applies retroactively to certain renewal notes; providing effective dates.

—was referred to the Committee on Ways and Means.

By the Committees on Finance and Taxation; Governmental Operations; and Representative Byrd and others—

CS for CS for HB 4407—A bill to be entitled An act relating to tax on sales, use, and other transactions; providing a short title; providing that no tax levied under ch. 212, F.S., shall be collected on sales of clothing with a value of $50 or less during specified periods in August 1998 and January 1999; providing a definition; excluding sales within a theme park or entertainment complex or public lodging establishment; providing for rules; providing an effective date.

—was referred to the Committee on Ways and Means.

By Representative Rayson—

HB 4465—A bill to be entitled An act relating to Broward County; providing for notice of water or sewer rate changes to residents served outside of municipal boundaries within Broward County; providing for a public hearing; 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 Representative Rayson—

HB 4469—A bill to be entitled An act relating to the South Broward Drainage District, Broward County; codifying the district's charter, chapter 67-904, Laws of Florida, as amended; providing that South Broward Drainage District is an independent special district; providing that all officers and employees of the district on the effective date of this act shall continue to hold their respective offices until their successors are elected or appointed; changing name of district manager to district director; revising obsolete agency and department references; providing for the district's plan for the drainage and reclamation of lands within the district to remain in full force and effect; deleting interest rate provisions which conflict with section 31 of district's charter; deleting provision authorizing assessment of a tax on lands within the district which belong to the county, school district, or other political subdivisions; providing for deletion of obsolete or no longer required proceedings; revising inconsistent provisions; adding a brief description of sections of district charter which are not described; repealing all prior special acts of the Legislature relating to the South Broward Drainage District except as stated; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Alexander and others—

HB 4475—A bill to be entitled An act relating to wastewater treatment systems; amending s. 381.0064, F.S., relating to continuing education courses for persons installing or servicing septic tanks; amending s. 381.0065, F.S.; revising guidelines and procedures for granting variances for such systems; revising membership of the department's variance review and advisory committee; providing criteria for use of guttering; amending s. 381.0068, F.S.; revising duties and procedures of the department's technical review and advisory panel; providing an effective date.

—was referred to the Committees on Community Affairs and Health Care.

By Representative Minton—

HB 4505—A bill to be entitled An act relating to the Lake Worth Drainage District, Palm Beach County; providing for codification of special laws regarding special districts, relating to the Lake Worth Drainage District, a body corporate existing under the laws of the State of Florida and existing and operating in Palm Beach County pursuant to chapter 61-1747, Laws of Florida, as amended; codifying and reenacting chapter 61-1747, Laws of Florida; chapter 63-616, Laws of Florida; chapter 63-618, Laws of Florida; chapter 67-867, Laws of Florida; chapter 71-830, Laws of Florida; chapter 75-472, Laws of Florida; chapter 81-460, Laws of Florida; chapter 82-353, Laws of Florida; chapter 83-493, Laws of Florida; chapter 84-496, Laws of Florida; chapter 87-521, Laws of Florida; Section 5(1)(b) of chapter 90-416, Laws of Florida; chapter 90-480, Laws of Florida; and chapter 96-478, Laws of Florida; providing for repeal of chapter 61-1747, Laws of Florida, as amended; providing for repeal of prior special acts relating to the Lake Worth Drainage District; providing 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 Representative Gay—

HB 4531—A bill to be entitled An act relating to Lee, Charlotte, Sarasota, and Manatee Counties; providing for codification of special laws regarding special districts pursuant to chapter 97-255, Laws of Florida, relating to the West Coast Inland Navigation District, a special tax district of the State of Florida composed of the Counties of Lee, Charlotte, Sarasota, and Manatee; providing legislative intent, and codifying and reenacting chapter 23770, Laws of Florida, 1947; chapters 27289 and 27290, Laws of Florida, 1951; chapter 28542, Laws of Florida, 1953; chapter 30074, Laws of Florida, 1955; chapter 57-467, Laws of Florida; chapter 59-756, Laws of Florida; chapter 61-1590, Laws of Florida; chapter 77-494, Laws of Florida; sections 2, 3, 4, and 5 of chapter 79-435, Laws of Florida; chapter 81-337, Laws of Florida; section 5 of chapter 85-200, Laws of Florida; and section 5 of chapter 86-286, Laws of Florida; providing additional powers; providing for the repeal of section 8 of chapter 90-264, Laws of Florida; providing for repeal of all prior special acts related to the West Coast Inland Navigation District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Natural Resources; and Rules and Calendar.

By Representative Clemons—

HB 4545—A bill to be entitled An act relating to Bay County; amending chapter 67-1099, Laws of Florida, as amended, relating to the codification, re-creation, reestablishment, and organization of an airport district in Bay County, to be designated as the Panama City-Bay County Airport and Industrial District; re-creating the Board of Directors as the governing body; providing for its government, jurisdiction, expansion of powers, franchises, and privileges, including the creation of an

independent airport police department, with full police powers; repealing chapters 67-1099 and 69-834, Laws of Florida, prior special acts relating to the airport authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Wiles—

HB 4691—A bill to be entitled An act relating to Flagler Estates Road and Water Control District, St. Johns and Flagler Counties, an independent special district, created under chapter 298, Florida Statutes; reenacting by codified charter all special acts for the district relating to the creation, organization, authority, landowners' meeting quorum, notification of landowners' meeting, and boundaries of the road and water control district; providing for the subsequent repeal of all individual special acts pertaining to the district including chapters 81-481, 82-294, 83-509, 87-502, and 89-505, Laws of Florida, and in furtherance of the purposes and intent of chapter 298, Florida Statutes, to include substantive changes to clarify the powers and duties of the district by defining the road authority; authorizing the district to make its surplus real property available to the public for passive use; permitting the district to enter into lease or interlocal agreements with other governmental entities for the operation and/or maintenance of such passive use areas within the district boundaries; providing 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 the Committee on Utilities and Communications; and Representative Arnall—

HB 4785—A bill to be entitled An act relating to telecommunications services; amending s. 364.025, F.S.; providing duties and responsibilities of the Florida Public Service Commission to assist the Legislature in establishing a permanent universal service mechanism; requiring the commission to select a cost proxy model; providing for the calculation of small local exchange companies' costs to provide basic service; providing legislative determinations; directing the commission to make recommendations relating to fair and reasonable basic local telecommunications service rates; providing criteria; requiring a report to the Legislature; requiring local exchange companies to provide certain information to the commission; requiring the provision of discounted rates for services for certain subscribers; amending s. 364.163, F.S.; providing a cap for certain rates; requiring reductions in certain rates; providing legislative findings; requiring the commission to study the provision of telecommunications service to multi-tenant environments; requiring a report to the Legislature; requiring the commission to conduct workshops; requiring the commission to consider promotion of a competitive telecommunications market to end users; providing duties of the Public Service Commission relating to its consumer education program; creating part III of chapter 364, F.S.; providing a short title; providing definitions; requiring the commission to adopt rules to prevent unauthorized changing of certain services; providing requirements; providing requirements for billing practices; amending s. 364.051, F.S.; delaying the date for removing the cap on certain rates; amending s. 364.161, F.S.; requiring local exchange telecommunications companies to timely provide certain services; requiring the commission to maintain a file of certain complaints; requiring inclusion of certain information in the commission's annual report to the Legislature on competition; amending ss. 166.231 and 203.01, F.S.; requiring the Public Service Commission to publish certain rates for commonly used services; amending s. 364.02, F.S.; revising a definition; amending s. 364.336, F.S.; providing for deducting certain amounts from gross operating revenues for certain purposes; amending s. 364.337, F.S.; requiring provision of 911 service at certain levels; subjecting intrastate interexchange telecommunications companies to certain access to records provisions; deleting provisions relating to certain deductions from gross operating revenues; amending s. 364.339, F.S.; including residential tenants in shared tenant service provisions; providing an appropriation; providing effective dates.

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

By Representative Rayson—

HB 4795—A bill to be entitled An act relating to the Cities of Deerfield Beach and Pompano Beach, Broward County; extending and enlarging the corporate limits of such cities to include specific unincorporated lands within the corporate limits of said cities; providing for transfer of public roads and rights-of-way, and responsibilities thereof; providing exceptions; providing applicability with regard to the Broward County Work Release Facility; prohibiting modification of land use designation and zoning regulations under certain circumstances; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 4797—A bill to be entitled An act relating to Broward County; amending chapter 97-371, Laws of Florida; extending the corporate limits of the cities of Pembroke Pines, Davie, Cooper City, and Weston; providing for the annexation of the unincorporated area known as Southwest Ranches; providing for amendment to the legal description of Southwest Ranches and surrounding areas and Sunshine Acres and surrounding areas; providing for incorporation of a new municipality; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Arnall—

HB 4821—A bill to be entitled An act relating to St. Johns County; creating the Town of Ponte Vedra Beach; providing legislative intent; providing municipal boundaries and municipal powers; providing a council-manager form of government; providing for election of a town council; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for compensation and expenses; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, distribution, and recording of technical codes; providing a limitation upon employment of town council members; providing certain interference with town employees shall constitute malfeasance in office; establishing the fiscal year; providing for adoption of annual budget and appropriation; providing amendments for supplemental, reduction, and transfer of appropriations; providing for limitations; providing for appointment of charter offices, including a town manager and town attorney; providing for removal, compensation, and filling of vacancies; providing qualifications, powers, and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing for initiative and referenda; providing the town a transitional schedule and procedures for first election; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for a transition agreement between St. Johns County and Town of Ponte Vedra Beach; providing for interim municipal services; providing for disposition of existing special districts; providing for the grandfathering in of existing land uses and zoning for certain property owners; providing land descriptions of the town; providing for future amendments of the charter; providing for standards of conduct in office; providing for severability; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

RETURNING MESSAGES—FINAL ACTION

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 42, SB 66, CS for SB 228, SB 282, SB 304, CS for SB 314, CS for SB 592, CS for SB 608, SB 756, CS for SB 818, SB 854, CS for CS for SB's 1124, 2048 and 1120, CS for SB 1164, CS for SB 1202, CS for SB 1204, CS for CS for SB 1366, CS for SB 1430, CS for SB 1540, SB 1750, CS for SB 2000, CS for SB 2128 and SB 2316.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has failed to pass CS for SB 152.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments(s) and passed CS for HB 105, CS for HB 319, CS for HB 1125, CS for HB's 3089 and 171, HB 3125, CS for CS for HB 3229, HB 3239, CS for HB 3585, CS for HB 3661, HB 3889, HB 3951, CS for HB 4035 and HB 4167, as amended.

John B. Phelps, Clerk

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 28 was corrected and approved.

CO-SPONSORS

Senators Casas—SJR 246; Cowin—SB 404, CS for SB 1992; Dudley—SJR 246; Forman—SB 936; Klein—CS for CS for SB 714, CS for SB 1872, CS for SB 2068; Lee—CS for SB 710; Meadows—CS for SB 1540; Turner—CS for CS for SB 1576

Senator Gutman was recorded as a prime sponsor of SJR 246.

RECESS

On motion by Senator Bankhead, the Senate recessed at 8:05 p.m. to reconvene at 9:00 a.m., Thursday, April 30.