Journal of the Senate

Number 19—Regular Session **Thursday, April 22, 1999**

CONTENTS

CALL TO ORDER

The Senate was called to order by President Jennings at 9:30 a.m. A quorum present—40:

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Excused: Conferees periodically for the purpose of working on Transforming Florida Schools: Senator Cowin, Chairman; Senators Horne, Lee, Sullivan and Webster; Alternate: Senator McKay

PRAYER

The following prayer was offered by Kathleen Teague, Senate Employee:

Almighty God, we pause in these last hectic days of session to praise you and thank you for the many blessings you have given us as individuals, as a state and as a nation. We take comfort in the fact that you are always with us and guide us with your loving hand. Help us to accept that guidance.

We ask your blessings upon the elected men and women of this Senate who serve the citizens of this great state. Please give the Senators, their staffs and all the Senate staff the wisdom, patience and endurance they need to complete their work this session.

May the actions that you see and words that you hear throughout these proceedings today be acceptable to you, dear God. For there is no greater standard for which to strive. In your holy name, we pray. Amen.

PLEDGE

Senate Pages Eric Hoffman of Tallahassee and Laura Ruttner of Boca Raton, led the Senate in the pledge of allegiance to the flag of the United States of America.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator McKay, by two-thirds vote **SB 1984** and **CS for SB 2456** were withdrawn from the Committee on Governmental Oversight and Productivity; **CS for SB 682** and **CS for SB 2454** were withdrawn from the Committee on Commerce and Economic Opportunities; **CS for SB 706**, **SB 1172** and **SB 2544** were withdrawn from the Committee on Rules and Calendar; **CS for SB 2516** was withdrawn from the Committee on Agriculture and Consumer Services; **CS for SB 204**, **CS for SB 1348**, **CS for SB 1640**, **SB 2030** and **CS for SB 2404** were withdrawn from the Committee on Fiscal Policy.

On motion by Senator Cowin, by two-thirds vote **SB 1392**, **SB 1390** and **SB 2450** were withdrawn from the committees of reference and further consideration.

On motion by Senator Casas, by two-thirds vote **CS for SB 2224** was withdrawn from the Committee on Fiscal Policy.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 1986** was withdrawn from the committees of reference and further consideration.

On motion by Senator Holzendorf, by two-thirds vote **SB 1752** and **SB 2076** were withdrawn from the committees of reference and further consideration.

On motion by Senator King, by two-thirds vote **SB 2570**, **SB 2572**, **SB 2600**, **SJR 2610** and **SJR 2632** were withdrawn from the committees of reference and further consideration.

On motion by Senator Meek, by two-thirds vote **SB 1610**, **SB 2440**, **SB 1834** and **SB 1728** were withdrawn from the committees of reference and further consideration.

On motion by Senator McKay, by two-thirds vote **CS for SB 1596** was withdrawn from the Committee on Rules and Calendar; and **CS for SB 1066**, **SB 1586**, **CS for SB 1598**, **CS for SB 1664**, **CS for CS for SB 1924**, **SB 1984** and **CS for SB's 2152 and 1930** were withdrawn from the Committee on Fiscal Policy.

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator McKay, the rules were waived and the Special Order Calendar Subcommittee of the Committee on Rules and Calendar was granted permission to meet this day from 6:15 p.m. until completion.

MOTIONS

On motion by Senator McKay, a deadline of 7:00 p.m. this day was set for filing amendments to Bills on Third Reading and the Special Order Calendar to be considered Friday, April 23.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate amendment(s) to CS for HB's 751, 753 and 755 and requests the Senate to recede, or, failing to recede, that a conference committee be appointed.

The Speaker has appointed the following Representatives as conferees on the part of the House: Rep. Lynn, Chair, Reps. Diaz de la Portilla, Melvin, Feeney, and Roberts, and Rep. Logan, Alternate.

John B. Phelps, Clerk

CS for HB's 751, 753 and 755—A bill to be entitled An act relating to a high-quality education system; amending s. 229.0535, F.S.; revising provisions relating to the authority of the State Board of Education to enforce school improvement; creating s. 229.0537, F.S.; providing findings and intent language; requiring private school opportunity scholarships to be provided to certain public school students; providing student eligibility requirements; providing school district requirements; providing an alternative to accepting a state opportunity scholarship; providing private school eligibility criteria; providing student attendance requirements; providing parental involvement requirements; providing a district reporting requirement; providing for calculation of the amount and distribution of state opportunity scholarship funds; authorizing the adoption of rules; amending s. 229.512, F.S.; revising provisions relating to the authority of the Commissioner of Education regarding the implementation of the program of school improvement and education accountability; amending s. 229.555, F.S., relating to educational planning and information systems; revising to conform; amending s. 229.565, F.S.; eliminating the requirement that the Commissioner of Education designate program categories and grade levels for which performance standards are to be approved; amending s. 229.57, F.S.; revising the purpose of the student assessment program; revising provisions relating to participation in the National Assessment of Educational Progress; revising the statewide assessment program; revising requirements relating to the annual report of the results of the statewide assessment program; providing for the identification of schools by performance grade category according to student and school performance data; providing for the identification of school improvement ratings; increasing the authority that each school identified in a certain performance grade category has over the allocation of the school's total budget; authorizing the negotiation of a contract for annual assessment; providing contract requirements; assigning responsibility for local assessments in subjects and grade levels other than those included in the statewide assessment program; providing for funding based on school performance; amending s. 229.58, F.S.; removing a reference to the Florida Commission on Education Reform and Accountability; amending s. 229.591, F.S.; revising provisions relating to the system of school improvement and education accountability to reflect that students are not required to attend schools designated in a certain performance grade category; revising the state education goals; revising the duties of the Department of Education with regard to school improvement; amending s. 229.592, F.S., relating to the implementation of the state system of school improvement and education accountability; removing obsolete language; removing references to the Florida Commission on Education Reform and Accountability; deleting the requirement that the Commissioner of Education appear before the Legislature; revising duties of the Department of Education; revising duties of the State Board of Education; revising provisions relating to waivers from statutes; correcting cross references; repealing s. 229.593, F.S., relating to the Florida Commission on Education Reform and Accountability; repealing s. 229.594, F.S., relating to the powers and duties of the commission; amending s. 229.595, F.S., relating to the implementation of the state system of educational accountability for school-to-work transition; revising provisions relating to the assessment of readiness to enter the workforce; removing a reference to the Florida Commission on Education Reform and Accountability; amending s. 230.23, F.S., relating to powers and duties of school boards; revising provisions relating to the compensation and salary schedules of school employees; revising provisions relating to courses of study and other instructional aids to include the term "instructional materials"; revising school board duties regarding the implementation and enforcement of school improvement and accountability; revising policies regarding public disclosure; requiring school board adoption of certain policies; amending s. 231.29, F.S.; revising the assessment procedure for school district instructional, administrative, and supervisory personnel; amending s. 231.2905, F.S.; revising provisions of the Florida School Recognition Program relating to financial awards based on employee performance; revising initial criteria for identification of schools; amending s. 232.245, F.S.; relating to pupil progression; revising requirements relating to the provision of remedial instruction; providing requirements for the use of resources for remedial instruction; requiring the adoption of rules regarding pupil progression; eliminating requirements relating to student academic improvement plans; deleting duplicative requirements relating to mandatory remedial reading instruction; amending s. 228.053, F.S.; relating to developmental research schools; removing references to "Blueprint 2000"; correcting cross references; amending s. 228.054, F.S., relating to the Joint Developmental Research School Planning, Articulation, and Evaluation Committee; correcting a cross reference; amending s. 228.056, F.S.; conforming references to testing programs; amending s. 233.17, F.S., relating to the term of adoption of instructional materials; correcting cross references; amending s. 236.685, F.S., relating to educational funding accountability; correcting a cross reference; amending s. 20.15, F.S., relating to the creation of the Department of Education; removing a reference to the Florida Commission on Education Reform and Accountability; creating s. 236.08104, F.S.; establishing a supplemental academic instruction categorical fund; providing findings and intent; providing requirements for the use of funds; providing for dropout prevention program funding to be included in Group 1 FEFP programs; amending s. 236.013, F.S.; eliminating certain provisions relating to calculations of the equivalent of a full-time student; revising provisions relating to membership in programs scheduled for more than 180 days; amending s. 239.101, F.S., relating to career education; correcting cross references; amending s. 239.229, F.S., relating to vocational standards; correcting cross references; amending s. 240.529, F.S., relating to approval of teacher education programs; correcting a cross reference; creating s. 231. 002, F.S.; stating an intent to increase standards for the preparation, certification, and professional development of educators; directing the Department of Education to review statutes and rules governing certification to increase efficiency, rigor, and alternatives in the certification process; requiring a report; amending s. 24.121, F.S.; specifying conditions for withholding allocations from the Educational Enhancement Trust Fund; amending s. 229.592, F.S.; prohibiting the waiver of a required report of out-of-field teachers; amending s. 230.23, F.S., relating to district school board powers and duties; requiring certain performance-based pay for school administrators and instructional personnel; amending s. 231.02, F.S.; correcting a reference; amending s. 231.0861, F.S.; requiring the State Board of Education to approve criteria for selection of certain administrative personnel; authorizing school districts to contract with private entities for evaluation and training of such personnel; amending s. 231.085, F.S.; specifying principals' responsibilities for assessing performance of school personnel and implementing the Sunshine State Standards; amending s. 231.087, F.S.; requiring the State Board of Education to adopt rules governing the training of school district management personnel; providing for review and repeal of the Management Training Act; requiring recommendations; amending s. 231.09, F.S.; prescribing duties of instructional personnel; amending s. 231.096, F.S.; requiring a school board plan to ensure the competency of teachers with out-of-field teaching assignments; amending s. 231.145, F.S.; revising purpose to reflect increased requirements for certification; amending s. 231.15, F.S.; authorizing certification based on demonstrated competencies; requiring rules of the State Board of Education to specify certain competencies; requiring consultation with postsecondary education boards; amending s. 231.17, F.S.; revising prerequisites for certification; increasing the requirement that teachers know and use mathematics, technology, and intervention strategies with students; deleting alternative ways to demonstrate general knowledge competency; requiring demonstration of ability to maintain collaborative relationships with students' families; amending s. 231.1725, F.S.; providing legal protections for clinical field experience students; amending s. 231.174, F.S., relating to district programs for adding certification coverages; removing limitation to specific certification areas; amending s. 231.29, F.S.; revising assessment procedures for instructional personnel and school administrators; revising provisions relating to the probation of certain employees; amending s. 231.546, F.S.; specifying duties of the Education Standards Commission; amending s. 231.600, F.S.; prescribing the responsibilities of school district professional-development programs; amending s. 236.08106, F.S.; revising provisions of the Excellent Teaching Program; providing for withholding of wages to repay the certification fee subsidy owed the state by an employee who defaults; providing exceptions; authorizing the State Board of Education to adopt rules; amending s. 240.529, F.S.; requiring the Commissioner to appoint a Teacher Preparation Program Committee to recommend core curricula for state-approved teacher preparation programs and requiring the State Board of Education to adopt rules establishing uniform core curricula; revising criteria for initial and continuing approval of teacher-preparation programs; increasing the requirements for a student to enroll in and graduate from a teacher-education program; requiring preservice field experience programs to include supervised contact with lower achieving students; requiring annual reports of program performance; creating s. 231.6135, F.S.; establishing a statewide system for in-service professional development; authorizing professional development academies to meet human resource

development and education instruction training needs of educators, schools, and school districts; providing for organization and operation by public and private partners; providing for funding; specifying duties of the Commissioner of Education; repealing s. 231.601, F.S., relating to purpose of inservice training for instructional personnel; amending s. 230.23, F.S.; requiring school improvement plans to include additional issues; amending s. 230.2316, F.S.; specifying the elements of dropout prevention and academic intervention programs; revising the intent of the program; revising student eligibility and program criteria; revising reporting requirements for district evaluation; providing for applications by school districts to the Department of Education for grants to operate second chance schools; establishing grant and program requirements; providing for the generation of operating funds through programs of the Florida Education Finance Program; providing new requirements for students seeking to reenter traditional schools; amending s. 231.085, F.S.; requiring principals to ensure the accuracy and timeliness of school reports; requiring principals to provide staff training opportunities; creating s. 232.001, F.S.; allowing certain district school boards to implement pilot projects to raise the compulsory age of attendance for children; providing requirements for school boards that choose to participate in pilot projects; providing for the applicability of state law and State Board of Education rule; providing an exception from the provisions relating to a declaration of intent to terminate school enrollment; requiring a study; amending s. 232.09, F.S.; clarifying scope of reference to term "criminal prosecution"; amending s. 232.17, F.S.; providing legislative findings; placing responsibility on school district superintendents for enforcing attendance; establishing requirements for school board policies; revising the current steps for enforcing regular school attendance; requiring public schools to follow the steps; establishing the requirements for school principals, primary teachers, child study teams, and parents; providing for parents to appeal; allowing the superintendent to seek criminal prosecution for parental noncompliance; requiring the parent or guardian or the superintendent to file certain petitions involving ungovernable children in certain circumstances; requiring the superintendent to provide the court with certain evidence; allowing for court enforcement for children who refuse to comply; revising the notice requirements to parents, guardians, or others; eliminating a current condition for notice; eliminating the option for referral to case staffing committees; requiring the superintendent to take steps to bring about criminal prosecution and requiring related notice; authorizing superintendents to file truancy petitions; allowing for the return of absent children to additional locations; requiring parental notification; deleting certain provisions relating to escalating series of truancy activities; amending s. 232.19, F.S., relating to habitual truancy; authorizing superintendents to file truancy petitions; requiring that a court order for school attendance be obtained as a part of services; revising the requirements that must be met prior to filing a petition; amending s. 236.081, F.S.; amending procedures that must be followed in determining the annual allocation to each school district for operation; requiring the average daily attendance of the student membership to be calculated by school and by district; requiring the district's FTE membership to be adjusted by multiplying by the average daily attendance factor; amending s. 240.529, F.S.; providing the criteria for continued program approval; providing for the requirements for instructors in postsecondary teacher preparation programs who instruct or supervise preservice field experience courses or internships; eliminating the requirement related to a commitment to teaching in the public schools for a period of time; providing additional requirements for school district and instructional personnel who supervise or direct certain teacher preparation students; amending s. 984.03, F.S.; redefining the term "habitual truant"; requiring the state attorney or the appropriate jurisdictional agency to file a child-in-need-of-services petition in certain circumstances; eliminating the requirement for referral for evaluation; providing definitions for "truancy court" and "truancy petition"; creating s. 984.151, F.S.; providing procedure for truancy petitions; providing for truancy hearings and penalties; reenacting s. 24.121(5)(b) and (c), F.S., relating to the Educational Enhancement Trust Fund, s. 120.81(1)(b), F.S., relating to tests, test scoring criteria, or testing procedures, s. 228.056(9)(e), F.S., relating to charter schools, s. 228.0565(6)(b), (c), and (d), F.S., relating to deregulated public schools, s. 228.301(1), F.S., relating to test security, s. 229.551(1)(c) and (3), F.S., relating to educational management, s. 230.03(4), F.S., relating to school district management, control, operation, administration, and supervision, s. 231.24(3)(a), F.S., relating to the process for renewal of professional certificates, s. 231.36(3)(e) and (f), F.S., relating to contracts with instructional staff, supervisors, and principals, s. 232.2454(1), F.S., relating to district student performance standards, instruments, and assessment procedures, s. 232.246(5)(a) and (b), F.S., relating to general requirements for high school graduation, s. 232.248, F.S., relating to confidentiality of assessment instruments, s. 232.2481(1), F.S., relating to graduation and promotion requirements for publicly operated schools, s. 233.09(4), F.S., relating to duties of instructional materials committees, s. 233.165(1)(b), F.S., relating to the selection of instructional materials, s. 233.25(3)(b), F.S., relating to publishers and manufacturers of instructional materials, s. 236.685(6), F.S., relating to educational funding accountability, s. 239.101(7), F.S., relating to career education, s. 239.229(1) and (3), F.S., relating to vocational standards, s. 240.118(4), F.S., relating to postsecondary feedback of information to high schools, s. 240.529(1), F.S., relating to approval of teacher preparation programs, to incorporate references; providing rulemaking authority for the State Board of Education to ensure access for nonprofit professional teacher associations; providing for severability; providing effective dates.

On motion by Senator Cowin, the Senate refused to recede from the Senate amendments and acceded to the request for a conference committee.

CONFEREES APPOINTED

The President appointed the following Senators as conferees to the Conference Committee on CS for HB's 751, 753 and 755: Senator Cowin, Chairman; Senators Horne, Lee, Sullivan, Webster; Alternate: Senator McKay

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

SPECIAL ORDER CALENDAR

TRUST FUND BILLS

Consideration of **CS for SB 1734**, **CS for SB 1954**, **CS for SB 1960**, **CS for SB 1962**, **CS for SB 1964**, **CS for SB 1966**, **CS for SB 1968**, and **CS for SB's 2422 and 1952** was deferred.

GENERAL BILLS

Consideration of **CS for CS for SB 1566** and **CS for CS for SB 1560** was deferred.

On motion by Senator Carlton—

SB 178—A bill to be entitled An act relating to wireless emergency 911 telephone service; creating s. 365.172, F.S.; providing a short title; providing legislative findings, purposes, and intent; providing definitions; providing duties of the Department of Management Services; creating the Wireless 911 Board; providing duties and membership of the board; providing powers of the board; requiring the board to report to the Governor and the Legislature each year; requiring completion of a study for submission to the Governor and the Legislature; requiring the board to retain an independent accounting firm for certain purposes; providing a process for firm selection; imposing a monthly fee for certain 911 telephone service; providing a rate; providing for adjusting the rate; exempting the fee from state and local taxes; prohibiting local governments from imposing additional fees related to such service; providing procedures for collecting the fee and remitting the fee to the board; providing criteria for provision of certain services; prohibiting certain activities relating to wireless 911 telephone service; providing penalties; providing that the act does not preempt other laws that regulate providers of telecommunications service; providing an effective date.

—was read the second time by title.

The Committee on Comprehensive Planning, Local and Military Affairs recommended the following amendment which was moved by Senator Carlton and adopted:

Amendment 1 (094100)—On page 7, line 4, after "Counties" insert: *, of which at least one must be from a county with a population of 75,000 or less,*

Senator Carlton moved the following amendments which were adopted:

Amendment 2 (153062)—On page 4, delete lines 26-30 and insert:

(k) "Order" means:

1. The following orders and rules of the Federal Communications Commission issued in FCC Docket No. 94-102:

a. Order adopted on June 12, 1996, with an effective date of October 1, 1996, the amendments to Section 20.03 and the creation of Section 20.18 of Title 47 of the Code of Federal Regulations adopted by the Federal Communications Commission pursuant to such order.

b. Memorandum and Order No. FCC 97-402 adopted on December 23, 1997.

c. Order No. FCC DA 98-2323 adopted on November 13, 1998.

d. Order No. FCC 98-345 adopted December 31, 1998.

2. Orders and rules subsequently adopted by the Federal Communications Commission relating to the provision of wireless 911 services.

Amendment 3 (445500)—On page 9, line 7, after "*section*" insert: *including, but not limited to, consideration of emerging technology and related cost savings*

Amendment 4 (533294)—On page 9, line 20, delete "*29*" and insert: *28*

Amendment 5 (621836)(with title amendment)—On page 14, between lines 9 and 10, insert:

Section 2. *There is hereby appropriated to the Department of Management Services $18,711,000 from the Wireless Emergency Telephone System Trust Fund for the 1999-2000 Fiscal Year, to include, $8,607,060 for distribution to counties, $9,729,720 for distribution to 911 service providers, and $374,220 for Department of Management Services administrative costs.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 29, after the semicolon (;) insert: providing an appropriation;

Amendment 6 (625096)(with title amendment)—On page 14, between lines 9 and 10, insert:

Section 2. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

And the title is amended as follows:

On page 1, line 29, after the semicolon (;) insert: providing for severability;

Pursuant to Rule 4.19, **SB 178** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

SB 180—A bill to be entitled An act relating to public records; creating s. 365.174, F.S.; providing for the confidentiality of certain records relating to the identification of persons who request emergency services by accessing a 911 telephone number; providing for the confidentiality of certain information submitted to the Wireless 911 Advisory Board or the Department of Management Services by providers of wireless 911 services; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

—was read the second time by title.

The Committee on Comprehensive Planning, Local and Military Affairs recommended the following amendment which was moved by Senator Carlton and failed:

Amendment 1 (731864)—On page 3, line 9, delete "_____" and insert: 178

Senator Carlton moved the following amendment which was adopted:

Amendment 2 (601922)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Section 365.174, Florida Statutes, is created to read:*

365.174 Proprietary confidential business information.—

(1) All proprietary confidential business information submitted by a provider to the board or the department, including the name and billing or service addresses of service subscribers, and trade secrets as defined by s. 812.081, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Statistical abstracts of information collected by the board or the department may be released or published, but only in a manner that does not identify or allow identification of subscribers or their service numbers or of revenues attributable to any provider.

(2) As used in this section, "proprietary confidential business information" means customer lists, customer numbers, and other related information, technology descriptions, technical information, or trade secrets, including trade secrets as defined in s. 812.081, and the actual or developmental costs of E911 systems that are developed, produced, or received internally by a provider or by a provider's employees, directors, officers, or agents.

(3) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 1, 2004, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. *The Legislature finds that it is a public necessity that trade secret information and proprietary confidential business information be kept confidential when held by the board or the department pursuant to their authority under ss. 365.172 and 365.173. Disclosure of trade secret or proprietary confidential business information in an agency's possession would negatively impact the business interest of those providing an agency such information by damaging them in the marketplace, and those entities and individuals disclosing such trade secret or proprietary confidential business information would hesitate to cooperate with that agency, which would impair the effective and efficient administration of governmental functions. Further, disclosure of such trade secret or proprietary confidential business information would impair competition in the wireless telecommunications service industry. Thus, the public and private harm in disclosing trade secret or proprietary confidential business information significantly outweighs any public benefit derived from disclosure, and the public's ability to scrutinize and monitor agency action is not diminished by nondisclosure of trade secret or proprietary confidential business information.*

Section 3. This act shall take effect on the same date as Senate Bill 178 or similar legislation, relating to wireless emergency 911 telephone service, takes effect, if such legislation is adopted in the same legislative session or an extension thereof.

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 records; creating s. 365.174, F.S.; providing an exemption from public records requirements for certain proprietary confidential business information submitted to the Wireless 911 Board or the Department of Management Services by providers of wireless 911 services; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

Pursuant to Rule 4.19, **SB 180** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

SB 182—A bill to be entitled An act relating to trust funds; creating s. 365.173, F.S.; creating the Wireless Emergency Telephone System

Fund within the Department of Management Services; providing criteria for the fund; providing for distribution and use of moneys in the fund; requiring the Auditor General to annually audit the fund; requiring a report; providing a contingent effective date.

—was read the second time by title.

The Committee on Comprehensive Planning, Local and Military Affairs recommended the following amendment which was moved by Senator Carlton and adopted:

Amendment 1 (573894)—On page 4, line 5, delete "_____" and insert: 178

Senator Carlton moved the following amendment which was adopted:

Amendment 2 (453724)(with title amendment)—On page 1, line 23, delete "*appropriated to*" and insert: *to be expended by*

And the title is amended as follows:

On page 1, line 6, delete "distribution and"

Pursuant to Rule 4.19, **SB 182** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Brown-Waite—

CS for SB 1614—A bill to be entitled An act relating to sentencing; amending s. 893.135, F.S.; redefining the offense of trafficking in cannabis; defining the term "cannabis plant"; providing mandatory minimum prison terms and mandatory fine amounts for trafficking in cannabis, cocaine, illegal drugs, phencyclidine, methaqualone, amphetamine, or flunitrazepam; providing for sentencing pursuant to the Criminal Punishment Code of offenders convicted of trafficking in specified quantities of cannabis; removing weight caps for various trafficking offenses; providing that an offender who is sentenced to a mandatory minimum term upon conviction of trafficking in specified quantities of cannabis, cocaine, illegal drugs, phencyclidine, methaqualone, amphetamine, or flunitrazepam is not eligible for gain time or certain discretionary early-release mechanisms prior to serving the mandatory minimum sentence; providing exceptions; providing penalties; amending s. 921.0024, F.S., relating to the worksheet computations for the Criminal Punishment Code; revising requirements for the court in applying a sentencing multiplier for drug-trafficking offenses; authorizing state attorneys to reduce or suspend any trafficking offense if substantial assistance is provided; reenacting s. 397.451(7), F.S., relating to the prohibition against dissemination of state funds to service providers convicted of certain offenses, s. 782.04(4)(a), F.S., relating to murder, s. 893.1351(1), F.S., relating to lease or rent for the purpose of trafficking in a controlled substance, s. 903.133, F.S., relating to the prohibition against bail on appeal for certain felony convictions, s. 907.041(4)(b), F.S., relating to pretrial detention and release, s. 921.0022(3)(g), (h), and (i), F.S., relating to the Criminal Punishment Code offense severity ranking chart, s. 921.142(2), F.S., relating to sentencing for capital drug trafficking felonies, s. 943.0585, F.S., relating to court-ordered expunction of criminal history records, and s. 943.059, F.S., relating to court-ordered sealing of criminal history records, to incorporate the amendment in references; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1614** was placed on the calendar of Bills on Third Reading.

On motion by Senator Clary—

CS for SB 1848—A bill to be entitled An act relating to educational facilities; amending s. 235.056, F.S.; requiring certain plans to be prepared by an appropriate design professional; amending s. 235.0155, F.S.; revising the fee for prototype plans usage; amending s. 235.15, F.S.; requiring validation of certain surveys; amending s. 235.2155, F.S.; revising School Infrastructure Thrift awards and related uses; amending s. 235.216, F.S. authorizing enhanced School Infrastructure Thrift Awards; specifying eligibility criteria; repealing s. 235.186, F.S., relating to effort index grants; amending ss. 235.175, 235.185, 235.188, 235.217, 235.218, F.S.; conforming provisions; deleting obsolete provisions; amending s. 235.211, F.S.; revising plan review requirements; amending s. 235.212, F.S.; specifying areas exempt from operable glazing; amending s. 235.31, F.S.; revising review authority of contracts; amending s. 46 of ch. 97-384, Laws of Florida, relating to appropriations for School Infrastructure Thrift Program awards and effort index grants; limiting the appropriation to such awards; deleting funding for and references to effort index grants; amending s. 235.061; providing for the adoption of standards for relocatable classrooms; amending s. 404.056, F.S.; revising requirements related to radon testing; repealing s. 235.186, F.S., relating to effort index grants for school district facilities work program projects; repealing s. 235.4355, F.S., relating to SMART Schools Small County Assistance Program for Fiscal Year 1998-1999; providing an effective date.

—was read the second time by title.

MOTION

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

Senators Clary and Diaz-Balart offered the following amendment which was moved by Senator Clary and adopted:

Amendment 1 (324144)(with title amendment)—On page 5, line 29 through page 19, line 3, delete those lines and insert:

(5) EFFORT INDEX GRANTS.—It is the purpose of the Legislature to create s. 235.186, in order to provide grants from state funds to assist school districts that have provided a specified level of local effort funding ~~and still have a need to build new student stations and associated core facility space to meet student membership requirements in K-12 programs. Districts must utilize state funds in accordance with statutory requirements and obligate from among all eligible sources an amount that is equivalent to the potential available for construction from PECO funds, capital outlay and debt service bond proceeds, Classrooms First funds, and the one-half cent local option school sales surtax. Effort index grants will be based upon recommendation of the SMART Schools Clearinghouse.~~

(6) SCHOOL INFRASTRUCTURE THRIFT (SIT) PROGRAM AWARDS.—It is the purpose of the Legislature to convert the SIT Program established in ss. 235.2155 and 235.216 to an incentive award program to encourage functional, frugal facilities and practices. ~~Districts that find ways to reduce the cost of, or eliminate the need for, constructing educational facilities can receive SIT Program awards equal to 50 percent of the amount saved. In addition, districts may submit new schools to receive a SIT Program SMART school of the year recognition award. SIT Program awards will be based upon recommendation of the SMART Schools Clearinghouse and may be used for any authorized capital expenditure.~~

Section 5. Section 235.186, Florida Statutes, 1998 Supplement, is amended to read:

235.186 Effort index grants for school district facilities ~~work program projects.~~—

(1) The Legislature hereby allocates for effort index grants the sum of $300 million from the funds appropriated from the Educational Enhancement Trust Fund by section 46 of chapter 97-384, Laws of Florida, contingent upon the sale of school capital outlay bonds. From these funds, the Commissioner of Education shall allocate to the four school districts deemed eligible for an effort index grant by the SMART Schools Clearinghouse the sums of $7,442,890 to the Clay County School District, $62,755,920 to the Dade County School District, $1,628,590 to the Hendry County School District, and $414,950 to the Madison County School District. The remaining funds shall be allocated among the remaining district school boards that qualify for an effort index grant by meeting the local capital outlay effort criteria in paragraph (a) or paragraph (b).

(a) Between July 1, 1995, and June 30, 1999, the school district received direct proceeds from the one-half-cent sales surtax for public school capital outlay authorized by s. 212.055(7) or from the local government infrastructure sales surtax authorized by s. 212.055(2).

(b) The school district met two of the following criteria:

1. Levied the full 2 mills of nonvoted discretionary capital outlay authorized by s. 236.25(2) during 1995-1996, 1996-1997, 1997-1998, and 1998-1999.

2. Levied a cumulative voted millage for capital outlay and debt service equal to 2.5 mills for fiscal years 1995 through 1999.

3. Received proceeds of school impact fees greater than $500 per dwelling unit which were in effect on July 1, 1998.

4. Received direct proceeds from either the one-half-cent sales surtax for public school capital outlay authorized by s. 212.055(7) or from the local government infrastructure sales surtax authorized by s. 212.055(2).

(2) It is the intent of the Legislature that this program be administered as nearly as is practicable in the same manner as the capital outlay program authorized under s. 9(d), Art. XII of the State Constitution. Each district school board's share of the appropriation for the effort index grants must be calculated according to the following formula using the same basis as the Classrooms First allocation formula, but the share of each district shall, at a minimum, be at least equal to the amount required for all payments of the district relating to bonds issued by the state on its behalf:

(a) Twenty-five percent of the appropriation shall be prorated to the districts based on each district's percentage of base capital outlay full-time-equivalent membership; and 65 percent shall be based on each district's percentage of growth capital outlay full-time-equivalent membership as specified for the allocation of funds from the Public Education Capital Outlay and Debt Service Trust Fund by s. 235.435(3).

(b) Ten percent of the appropriation must be allocated among district school boards according to the allocation formula in s. 235.435(1)(a).

(2) A district school board shall expend the funds received under this section only to:

(a) Construct, renovate, remodel, repair, or maintain educational facilities; or

(b) Pay debt service on bonds issued under this section, the proceeds of which must be expended for new construction, remodeling, renovation, and major repairs. Bond proceeds shall be expended first for providing permanent classroom facilities and related auxiliary facilities. Bond proceeds may not be expended for any other facilities until all unmet needs for permanent classrooms and auxiliary facilities as defined in s. 235.011 have been satisfied.

However, if more than 9 percent of a district's total square feet is more than 50 years old, the district must spend at least 25 percent of its allocation on the renovation, major repair, or remodeling of existing schools, except that districts having fewer than 10,000 full-time equivalent students are exempt from this requirement.

(3) Each district school board that pledges moneys under paragraph (2)(b) shall notify the Department of Education of its election at a time set by the department; however, the initial notification shall be by July 1, 1999. The Department of Education shall review the proposal of each district school board for compliance with this section and shall forward all approved proposals to the Division of Bond Finance with a request to issue bonds on behalf of the approved school districts.

(4) A district school board that chooses to pledge allocations from the Classrooms First Program for the issuance of bonds must encumber those bond proceeds before pledging funds for the payment of debt service on bonds issued pursuant to this section.

(5) A school district may receive a distribution for use pursuant to paragraph (2)(a) only if the district school board certifies to the Commissioner of Education that the district has no unmet need for permanent classroom facilities in its 5-year capital outlay work plan. If the work plan contains such unmet needs, the district must use its distribution for the payment of bonds under paragraph (2)(b). If the district does not require its full bonded distribution to eliminate such unmet needs, it may bond only that portion of its allocation necessary to meet the needs.

~~(1) PROJECT REVIEW; ELIGIBILITY. Annually, the SMART Schools Clearinghouse established pursuant to s. 235.217 shall review the adopted district facilities work program of each district to ensure compliance with the provisions of s. 235.185 and to determine the district's eligibility to receive an effort index grant for local school facilities projects pursuant to this section. Projects identified in a district facilities work program which are eligible to receive an effort index grant shall be limited to those projects which provide new student stations and associated core facility space to meet student membership requirements in K-12 programs. Effort index grants shall not be provided to replace relocatable classrooms which meet standards.~~

~~(2) COMPUTATION OF REQUIRED LOCAL EFFORT AMOUNT FOR DISTRICT EFFORT INDEX. Prior to a school district being eligible to receive an effort index grant pursuant to this section, the clearinghouse shall certify that the district agreed to expend, from among all eligible sources, an amount that is equivalent to the amount of funds projected to be available during the period covered by the district facilities work program from the following four sources for eligible basic capital outlay expenditures described in subsection (4):~~

~~(a) Public Education Capital Outlay and Debt Service Trust Fund moneys for construction pursuant to s. 235.42.~~

~~(b) The maximum potential bond proceeds available from the School District and Community College District Capital Outlay and Debt Service Trust Fund.~~

~~(c) Proceeds from the Classrooms First Program authorized in s. 235.187.~~

~~(d) One-half cent local option school sales surtax, pursuant to s. 212.055(7), if fully levied over the 5-year period.~~

~~(3) ELIGIBLE REVENUE SOURCES FOR REQUIRED LOCAL EFFORT. Expenditures from eligible revenues which may be counted toward a district's required local effort shall be limited to:~~

~~(a) Public Education Capital Outlay and Debt Service Trust Fund distributions for construction pursuant to s. 235.42.~~

~~(b) School District and Community College District Capital Outlay and Debt Service Trust Fund distributions.~~

~~(c) Direct proceeds from the half-cent local option school sales surtax authorized in s. 212.055(7).~~

~~(d) Direct proceeds from the local government infrastructure sales surtax authorized in s. 212.055(2).~~

~~(e) Direct proceeds from the 2-mill discretionary capital outlay levy authorized in s. 236.25.~~

~~(f) Direct proceeds from district voted millage for capital outlay purposes as authorized in s. 9, Art. VII of the State Constitution.~~

~~(g) School Infrastructure Thrift (SIT) Program awards received pursuant to ss. 235.2155 and 235.216.~~

~~(h) Classrooms First Program proceeds received pursuant to s. 235.187.~~

~~(i) Private donations.~~

~~(j) Grants from local governments or not-for-profit organizations.~~

~~(4) COMPUTATION OF BASIC DISTRICT CAPITAL OUTLAY EXPENDITURES ELIGIBLE FOR INCLUSION IN CALCULATION FOR EFFORT INDEX GRANTS.~~

~~(a) When reviewing a district facilities work program, the clearinghouse shall calculate the district's planned basic capital outlay expenditures that may be eligible for an effort index grant. For each district, this calculation shall consist of:~~

~~1. Expenditures for district capital outlay projects described in subsection (1).~~

~~2. Expenditures for debt service payments for outstanding capital outlay bonds sold to finance new construction, remodeling, renovation, or major repair of educational facilities.~~

~~3. Expenditures for scheduled payments on outstanding certificates of participation used to finance new construction, remodeling, renovation, or major repair of educational facilities.~~

~~Expenditures relating to the replacement of relocatable classrooms that meet standards shall not qualify as expenditures eligible for inclusion in the calculation for effort index grants.~~

~~(b) The computation of basic district capital outlay expenditures eligible for inclusion in the clearinghouse's calculation for effort index grants for projects initiated after July 1, 1997, shall be based upon the actual cost per student station or the cost per student station calculated pursuant to s. 235.435(6), whichever is less.~~

~~(5) ALLOCATION OF EFFORT INDEX GRANTS FOR DISTRICT FACILITIES.—~~

~~(a) If the calculated district obligation is equal to or greater than the calculated required effort amount for the eligible expenditures, the district shall be eligible for an effort index grant, to be determined by the clearinghouse by calculating need from the actual cost per student station or the cost per student station pursuant to s. 235.435(6), whichever is less, plus debt service payments for new construction, remodeling, renovation, or major repair of educational facilities less the calculated required effort amount.~~

~~(b) Annually by November 1, the clearinghouse shall report to the Governor and the Legislature on the amount required to fully fund effort index grants for each of the following 5 years.~~

~~(c) Districts demonstrating inability to finance eligible projects in their district facilities work programs after meeting the requirements in subsection (2) may be eligible to receive effort index grants, subject to legislative appropriations for this purpose.~~

~~(d) If legislative appropriations are insufficient to fully fund the eligible total statewide qualified effort index grants as calculated by the clearinghouse, priority consideration shall be given to providing effort index grants to those districts based upon:~~

~~1. The extent to which they have exceeded the district effort index in subsection (2); and~~

~~2. The extent to which they have maximized their revenue generating potential from the district effort index in subsection (2) through the purchase of certificates of participation, the sale of bonds, or other appropriate long-term financing.~~

Section 6. Subsection (4) of section 235.211, Florida Statutes, is amended to read:

235.211 Educational facilities contracting and construction techniques.—

(4) Except as otherwise provided in this section and s. 481.229, the services of a registered architect must be used for the development of plans for the erection, enlargement, or alteration of any educational facility. The services of a registered architect are not required for a minor renovation project for which the construction cost is less than $50,000 or for the placement or hookup of relocatable educational facilities that conform with standards adopted under s. 235.26(2) and (3). However, boards must provide compliance with building code requirements and ensure that these structures are adequately anchored for wind resistance as required by law. Boards are encouraged to consider the reuse of existing construction documents or design criteria packages where such reuse is feasible and practical. Notwithstanding s. 287.055, a board may purchase the architectural services for the design of educational or ancillary facilities under an existing contract agreement for professional services held by a school board in the State of Florida, provided that the purchase is to the economic advantage of the purchasing board, the services conform to the standards prescribed by rules of the Commissioner of Education, and such reuse is not without notice to, and permission from, the architect of record whose plans or design criteria are being reused. ~~The department shall review these~~ Plans *shall be reviewed* for compliance with the state requirements for educational facilities. Rules adopted under this section must establish uniform prequalification, selection, bidding, and negotiation procedures applicable to construction management contracts and the design-build process. This section does not supersede any small, woman-owned or minority-owned business enterprise preference program adopted by a board. Except as otherwise provided in this section, the negotiation procedures applicable to construction management contracts and the design-build process must conform to the requirements of s. 287.055. A board may not modify any rules regarding construction management contracts or the design-build process.

Section 7. Paragraph (a) of subsection (3) and subsections (7) and (8) of section 235.2155, Florida Statutes, 1998 Supplement, are amended to read:

235.2155 School Infrastructure Thrift Program Act.—

(3) The SIT Program is designed as:

(a) An incentive program to reward districts for:

1. Savings realized through functional, frugal construction.

2. Savings realized through the operation of charter schools in non-school-district facilities *during the 1996-1997, 1997-1998, and 1998-1999 school years*.

(7) Awards from the SIT Program shall be made by the commissioner from funds appropriated by the Legislature. *An award funded by an appropriation from the General Revenue Fund* ~~and~~ may be used for any lawful capital outlay expenditure. *An award funded by an appropriation of the proceeds of bonds issued pursuant to s. 235.2195 may be used only for bondable capital outlay projects.*

~~(8)(a) For each award to a school district pursuant to paragraph (3)(a) that is recommended by the SMART Schools Clearinghouse, the commissioner may award up to 50 percent of the savings realized from the district's frugality.~~

~~(b) For each award to a school district pursuant to paragraph (3)(b) that is recommended by the SMART Schools Clearinghouse, the commissioner may present a trophy or plaque and a cash award to the school.~~

Section 8. Subsections (2) and (3) of section 235.216, Florida Statutes, 1998 Supplement, are amended to read:

235.216 SIT Program award eligibility; maximum cost per student station of educational facilities; frugality incentives; recognition awards.—

(2) ~~Beginning with the 1997-1998 fiscal year,~~ A school district may seek an award from the SIT Program, pursuant to *this section and* s. 235.2155, based on the district's:

(a) New construction of educational facilities if the cost per student station is less than:

1. $11,600 for an elementary school,

2. $13,300 for a middle school, or

3. $17,600 for a high school,

(1997) as adjusted annually by the Consumer Price Index. The award shall be up to 50 percent of such savings, as recommended by the SMART Schools Clearinghouse.

(b) Operation of charter schools in non-school-district facilities. SIT Program awards pursuant to this paragraph shall be as recommended by the SMART Schools Clearinghouse. After the initial award, the recommendation must be based on savings realized from proportionate district increase in such charter school enrollment in excess of original enrollment, and the award shall be up to 50 percent of such savings.

(3) Beginning with the 1998-1999 fiscal year, a school district may seek a SMART school of the year recognition award for building the highest quality functional, frugal school. *The commissioner may present a trophy or plaque and a cash award to the school recommended by the SMART Schools Clearinghouse for a SMART school of the year recognition award.*

Section 9. Paragraphs (c), (d), and (e) of subsection (1), and paragraph (b) of subsection (3), of section 235.217, Florida Statutes, 1998 Supplement, are amended to read:

235.217 SMART (Soundly Made, Accountable, Reasonable, and Thrifty) Schools Clearinghouse.—

(1)

~~(c) Members of the clearinghouse shall be appointed no later than November 28, 1997, and shall convene for their first meeting no later than December 1, 1997.~~

(c)~~(d)~~ The clearinghouse is assigned to the Department of Management Services for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the department, except as otherwise provided in chapters 110, 255, and 287 for agencies of the executive branch.

(d)~~(e)~~ The clearinghouse may adopt rules necessary to carry out its duties, including, but not limited to, rules relating to design and performance standards, the SMART Schools Design Directory, project delivery process, and prioritization of *SIT Program* awards.

(3) The clearinghouse shall:

(b) Prioritize school district SIT Program awards ~~and effort index grants~~ based on a review of the district facilities work programs and proposed construction projects.

Section 10. Paragraph (a) of subsection (1) of section 235.212, Florida Statutes, is amended to read:

235.212 Low-energy use design; solar energy systems; swimming pool heaters.—

(1)(a) Passive design elements and low-energy usage features shall be included in the design and construction of new educational facilities. Operable glazing consisting of at least 5 percent of the floor area shall be placed in each classroom located on the perimeter of the building. *Operable glazing is not required*~~, except~~ in *community colleges*, auxiliary facilities, music rooms, gyms, locker and shower rooms, special laboratories requiring special climate control, and large group instruction areas having a capacity of more than 100 persons.

Section 11. Paragraph (a) of subsection (1) of section 235.31, Florida Statutes, 1998 Supplement, is amended to read:

235.31 Advertising and awarding contracts; prequalification of contractor.—

(1)(a) As soon as practicable after any bond issue has been voted upon and authorized or funds have been made available for the construction, remodeling, renovation, demolition, or otherwise for the improvement, of any educational or ancillary plant, and after plans for the work have been approved, the board, if competitively bidding the project pursuant to s. 235.211, after advertising the same in the manner prescribed by law or rule, shall award the contract for the building or improvements to the lowest responsible bidder. However, if after taking all deductive alternates, the bid of the lowest responsible bidder exceeds the construction budget for the project established at the phase III submittal, the board may declare an emergency. After stating the reasons why an emergency exists, the board may negotiate the construction contract or modify the contract, including the specifications, with the lowest responsible bidder and, if the contract is modified, shall resubmit the documents to the *authorized review authority* ~~department~~ for review *to confirm that the project remains in compliance with building and fire codes*. The board may reject all bids received and may readvertise, calling for new bids.

Section 12. Subsection (3) of section 235.218, Florida Statutes, 1998 Supplement, is amended to read:

235.218 School district facilities work program performance and productivity standards; development; measurement; application.—

(3) The clearinghouse shall conduct ongoing evaluations of district educational facilities program performance and productivity, using the measures adopted under this section. If, using these measures, the clearinghouse finds that a district failed to perform satisfactorily, the clearinghouse must recommend *to the district school board* actions to be taken to improve the district's performance. ~~A district that refuses to follow the recommended actions may be denied an effort index grant.~~

Section 13. Subsection (1) of section 235.061, Florida Statutes, 1998 Supplement, is amended to read:

235.061 Standards for relocatables used as classroom space; inspections.—

(1) The Commissioner of Education shall adopt rules establishing standards for relocatables intended for long-term use as classroom space at a public elementary school, middle school, or high school. "Long-term use" means the use of relocatables at the same educational plant for a period of 4 years or more. These rules must be implemented by July 1, 1998, and each relocatable acquired by a district school board after the effective date of the rules and intended for long-term use must comply with the standards. The rules shall require that, by July 1, 2001, relocatables that fail to meet the standards may not be used as classrooms. The standards shall protect the health, safety, and welfare of occupants by requiring compliance with the Uniform Building Code for Public Educational Facilities or other locally adopted state minimum building codes to ensure the safety and stability of construction and onsite installation; fire and moisture protection; air quality and ventilation; appropriate wind resistance; and compliance with the requirements of the Americans with Disabilities Act of 1990. If appropriate, the standards must also require relocatables to provide access to the same technologies available to similar classrooms within the main school facility and, if appropriate, to be accessible by adequate covered walkways. *By July 1, 2003, the commissioner shall adopt standards for all relocatables intended for long-term use as classrooms.* A relocatable that is subject to this section and does not meet the standards shall not be reported as providing satisfactory student stations in the Florida Inventory of School Houses.

Section 14. Subsection (5) of section 404.056, Florida Statutes, 1998 Supplement, is amended to read:

404.056 Environmental radiation standards and programs; radon protection.—

(5) MANDATORY TESTING.—All public and private school buildings or school sites housing students in kindergarten through grade 12; all state-owned, state-operated, state-regulated, or state-licensed 24-hour care facilities; and all state-licensed day care centers for children or minors *which are located in counties designated within the Department of Community Affairs' Florida Radon Protection Map Categories as "Intermediate" or "Elevated Radon Potential"* shall be measured to determine the level of indoor radon, using measurement procedures established by the department. *Testing shall be completed within the first year of construction in 20 percent of the habitable first floor spaces within any of the regulated buildings.* Initial measurements shall be completed and reported to the department by July 1, *of the year the building is opened for occupancy. Follow-up testing must be completed in 5 percent of the habitable first floor spaces within any of the regulated buildings after the building has been occupied for 5 years, and results must be reported to the department by July 1 of the 5th year of occupancy. After radon measurements have been made twice, regulated buildings need not undergo further testing unless significant structural changes occur. Where fill soil is required for the construction of a regulated building, initial testing of fill soil must be performed using measurement procedures established by the department, and the results must be reported to the department prior to construction.* ~~1990, and repeated measurements shall be performed and reported to the department at 5-year intervals. Test results, prior to the effective date of this act, may be accepted by the department as long as the tests conducted meet the standards for testing promulgated by the department, and the school or care facility certifies this in writing to the department.~~ The provisions of paragraph (3)(c) as to confidentiality shall not apply to this subsection. No funds collected pursuant to s. 553.721 shall be used to carry out the provisions of this subsection.

Section 15. Section 46 of chapter 97-384, Laws of Florida, is amended to read:

Section 46. There is hereby appropriated to the Department of Education for fiscal year 1997-1998 the sum of $150 million from the General Revenue Fund and, contingent upon the sale of 1997 school capital outlay bonds pursuant to s. 235.2195, Florida Statutes, the sum of $450 million from the Educational Enhancement Trust Fund. The purpose of this appropriation is to fund School Infrastructure Thrift (SIT) Program awards pursuant to the provisions of ss. 235.2155 and 235.216, Florida Statutes, and effort index grants pursuant to the provisions of s.

235.186, Florida Statutes. The maximum amount of funds authorized for effort index grant awards ~~through June 30, 1998,~~ is *$300* ~~$70~~ million. Effort index grants shall only be funded from the Educational Enhancement Trust Fund appropriation authorized in this section. The funds appropriated in this section shall not be subject to the provisions of s. 216.301, Florida Statutes.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 7 through page 2, line 2, delete those lines and insert: amending s. 235.15, F.S.; requiring validation of certain surveys; amending s. 235.175, F.S.; deleting formula for School Infrastructure Thrift awards and effort index grants; amending s. 235.186, F.S.; allocating certain funds for effort index grants; revising the eligibility criteria and allocation formula for effort index grants; amending s. 235.2155, F.S.; revising School Infrastructure Thrift awards and related uses; amending s. 235.216, F.S. authorizing enhanced School Infrastructure Thrift Awards; specifying eligibility criteria; amending ss. 235.217, 235.218, F.S.; conforming provisions; deleting obsolete provisions; amending s. 235.211, F.S.; revising plan review requirements; amending s. 235.212, F.S.; specifying areas exempt from operable glazing; amending s. 235.31, F.S.; revising review authority of contracts; amending s. 235.061, F.S.; providing for the adoption of standards for relocatable classrooms; amending s. 404.056, F.S.; revising requirements related to radon testing; amending s. 46 of ch. 97-384, Laws of Florida, relating to appropriations for School Infrastructure Thrift Program awards and effort index grants; specifying the amount authorized for effort index grants; repealing s. 235.4355,

Senator McKay moved the following amendment which was adopted:

Amendment 2 (431564)(with title amendment)—On page 19, between lines 3 and 4, insert:

Section 18. Subsection (3) of section 235.26, Florida Statutes, 1998 Supplement, is amended to read:

235.26 State Uniform Building Code for Public Educational Facilities Construction.—The Commissioner of Education shall adopt a uniform statewide building code for the planning and construction of public educational and ancillary plants by district school boards and community college district boards of trustees. The code must be entitled the State Uniform Building Code for Public Educational Facilities Construction. Included in this code must be flood plain management criteria in compliance with the rules and regulations in 44 C.F.R. parts 59 and 60, and subsequent revisions thereto which are adopted by the Federal Emergency Management Agency. Wherever the words "Uniform Building Code" appear, they mean the "State Uniform Building Code for Public Educational Facilities Construction." It is not a purpose of the Uniform Building Code to inhibit the use of new materials or innovative techniques; nor may it specify or prohibit materials by brand names. The code must be flexible enough to cover all phases of construction so as to afford reasonable protection for the public safety, health, and general welfare. The department may secure the service of other state agencies or such other assistance as it finds desirable in revising the code.

(3) ENFORCEMENT BY BOARD.—It is the responsibility of each district school board and community college district board of trustees to ensure that all plans and educational and ancillary plants meet the standards of the Uniform Building Code and to provide for the enforcement of this code in the areas of its jurisdiction. Each board shall provide for the proper supervision and inspection of the work. Each board may employ a chief building official or inspector and such other inspectors, who have been certified by the department or certified pursuant to chapter 468, and such personnel as are necessary to administer and enforce the provisions of this code. Boards may also utilize local building department inspectors who are certified by the department to enforce this code. Plans or facilities that fail to meet the standards of the Uniform Building Code may not be approved. *When planning for and constructing an educational, auxiliary, or ancillary facility, a district school board must use construction materials and systems that meet standards adopted pursuant to subsection (2)(f)5. If the planned or actual construction of a facility deviates from the adopted standards, the district school board must, at a public hearing, quantify and compare the costs of constructing the facility with the proposed deviations and in compliance with the adopted standards and the Uniform Building Code. The board must explain the reason for the proposed deviations and compare how the total construction costs and projected life-cycle costs of the facility or component system of the facility would be affected by implementing the proposed deviations rather than using materials and systems that meet the adopted standards. The provisions of this paragraph do apply to educational, auxiliary, and ancillary facility projects commenced on or after July 1, 1999.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 2, after the semicolon (;) insert: amending s. 235.26, F.S.; requiring district school boards to comply with certain standards for construction materials and systems based on life-cycle costs; providing an exception; requiring a public hearing;

Pursuant to Rule 4.19, **CS for SB 1848** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell—

CS for SB 2280—A bill to be entitled An act relating to the Department of Management Services; amending s. 20.22, F.S.; transferring functions of the Divisions of State Group Insurance and Retirement to the department; abolishing the Florida State Group Insurance Council; amending ss. 110.1227, 110.123, 110.12315, 110.1232, 110.1234, 110.161, 112.05, 112.3173, 112.352, 112.354, 112.356, 112.358, 112.361, 112.362, 112.363, 112.63, 112.64, 112.658, 112.665, 121.025, 121.027, 121.031, 121.051, 121.0511, 121.0515, 121.052, 121.055, 121.071, 121.081, 121.091, 121.101, 121.111, 121.133, 121.135, 121.136, 121.1815, 121.1905, 121.192, 121.193, 121.22, 121.23, 121.24, 121.30, 121.35, 121.40, 121.45, 122.02, 122.03, 122.05, 122.06, 122.07, 122.08, 122.10, 122.12, 122.13, 122.15, 122.16, 122.23, 122.30, 122.34, 122.351, 175.032, 175.111, 175.121, 175.1215, 175.261, 175.341, 175.351, 175.361, 175.401, 185.02, 185.09, 185.10, 185.105, 185.221, 185.23, 185.35, 185.37, 185.50, 189.412, 215.20, 215.28, 215.50, 238.01, 238.02, 238.03, 238.05, 238.07, 238.08, 238.09, 238.10, 238.11, 238.12, 238.14, 238.15, 238.171, 238.181, 238.32, 240.3195, 250.22, 321.17, 321.19, 321.191, 321.202, 321.203, 321.2205, 413.051, 633.382, 650.02, F.S., to conform to the restructuring of the department by this act; requiring executive departments to report information on boards, commissions, and similar entities to the department, along with recommendations for continuance, abolition, or revision; requiring the department to report that information to the Governor and the Legislature; providing an effective date.

—was read the second time by title.

Senator Thomas moved the following amendment which was adopted:

Amendment 1 (271546)(with title amendment)—On page 2, line 8, insert:

Section 1. *Subsection (3) of section 20.37, Florida Statutes, is repealed.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete lines 2 and 3 and insert: An act relating to governmental reorganization; repealing s. 20.37(3), F.S., which provides for the location of the headquarters of the Department of Veterans' Affairs; amending s. 20.22, F.S.; transferring

Senator Burt moved the following amendment which was adopted:

Amendment 2 (321388)(with title amendment)—On page 6, line 13 through page 10, line 29, delete those lines and insert:

Section 2. Section 110.1227, Florida Statutes, 1998 Supplement, is amended to read:

110.1227 Florida Employee Long-Term-Care Plan Act.—

(1) The Legislature finds that state expenditures for long-term-care services continue to increase at a rapid rate and that the state faces increasing pressure in its efforts to meet the long-term-care needs of the public.

(2)~~(a)~~ It is the intent of the Legislature that the *Department of Management Services* ~~Division of State Group Insurance~~ and the Department of Elderly Affairs *provide an opportunity for public employees to purchase* ~~implement a self-funded or fully insured,~~ voluntary, long-term-care *insurance by means of payroll deduction* ~~plan for public employees and their families~~.

(3)~~(b)~~ The Department of Elderly Affairs and the *Department of Management Services* ~~Division of State Group Insurance~~ shall jointly *review* ~~design the plan to provide~~ long-term-care *insurance offerings to identify those that represent the best value* coverage for public employees, ~~and~~ family members of public employees*, and retirees. The Department of Management Services shall review all fully insured proposals submitted to it by qualified vendors who have submitted responses to ITN #102A prior to February 23, 1999. Upon review of the proposals, the Department of Management Services may award a contract to the vendor that the department deems to represent the best value to public employees, family members of public employees, and retirees.* ~~The Division of State Group Insurance and the Department of Elderly Affairs shall enter into an interagency agreement defining their roles with regard to plan development and design. Joint planning expenses shall be shared to the extent that funded planning activities are consistent with the goals of the department and the division. Eligible plan participants must include active and retired officers and employees of all branches and agencies of state and local government and their spouses, children, stepchildren, parents, and parents-in-law; active and retired federal employees residing in the state and their spouses, children, stepchildren, parents, and parents-in-law residing in the state; and the surviving spouses, children, stepchildren, parents, and parents-in-law of such deceased officers and employees, whether active or retired at the time of death.~~

~~(c) This act in no way affects the Division of State Group Insurance's authority pursuant to s. 110.123.~~

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

~~(a) "Department" means the Department of Elderly Affairs.~~

~~(b) "Division" means the Division of State Group Insurance.~~

~~(c) "Self-funded" means that plan benefits and costs are funded from contributions made by or on behalf of participants and trust fund investment revenue.~~

~~(d) "Plan" means the Florida Employee Long-Term-Care Plan.~~

~~(3) The division and the department shall, in consultation with public employers and employees and representatives from unions and associations representing state, university, local government, and other public employees, establish and supervise the implementation and administration of a self-funded or fully insured long-term-care plan entitled "Florida Employee Long-Term-Care Plan."~~

~~(a) The division and the department shall, in consultation with the department, the Department of Management Services, and the Department of Insurance, contract for actuarial, professional-administrator, and other services for the Florida Employee Long-Term-Care Plan.~~

~~(b) When contracting for a professional administrator, the division shall consider, at a minimum, the entity's previous experience and expertise in administering group long-term-care self-funded plans or long-term-care insurance programs; the entity's demonstrated ability to perform its contractual obligations in the state and in other jurisdictions; the entity's projected administrative costs; the entity's capability to adequately provide service coverage, including a sufficient number of experienced and qualified personnel in the areas of marketing, claims processing, recordkeeping, and underwriting; the entity's accessibility to public employees and other qualified participants; and the entity's financial soundness and solvency.~~

~~(c) Any contract with a professional administrator entered into by the division must require that the state be held harmless and indemnified for any financial loss caused by the failure of the professional administrator to comply with the terms of the contract.~~

~~(d) The division shall explore innovations in long-term-care financing and service delivery with regard to possible future inclusion in the plan. Such innovative financing and service-delivery mechanisms may include managed long-term care and plans that set aside assets with regard to eligibility for Medicaid-funded long-term-care services in the same proportion that private long-term-care insurance benefits are used to pay for long-term care.~~

~~(4) The division and the department shall coordinate, directly or through contract, marketing of the plan. Expenses related to such marketing shall be reimbursed from funds of the plan.~~

~~(5) The division shall contract with the State Board of Administration for the investment of funds in the Florida Employee Long-Term-Care Plan reserve fund. Plan funds are not state funds. The moneys shall be held by the State Board of Administration on behalf of enrollees and invested and disbursed in accordance with a trust agreement approved by the division and the State Board of Administration and in accordance with the provisions of ss. 215.44-215.53. Moneys in the reserve fund may be used only for the purposes specified in the agreement.~~

~~(6) A Florida Employee Long-Term-Care Plan Board of Directors is created, composed of seven members who shall serve 2-year terms, to be appointed as follows:~~

~~(a) The secretary of the Department of Elderly Affairs shall appoint a member who is a plan participant.~~

~~(b) The Insurance Commissioner shall appoint an actuary.~~

~~(c) The Attorney General shall appoint an attorney licensed to practice law in this state.~~

~~(d) The Governor shall appoint three members from a broad cross-section of the residents of this state.~~

~~(e) The division shall appoint a member.~~

~~(7) The board of directors of the Florida Long-Term-Care Plan shall:~~

~~(a) Prepare an annual report of the plan, with the assistance of an actuarial consultant, to be submitted to the Speaker of the House of Representatives, the President of the Senate, the Governor, and the Minority Leaders of the Senate and the House of Representatives.~~

~~(b) Approve the appointment of an executive director jointly recommended by the division and the department to serve as the chief administrative and operational officer of the Florida Employee Long-Term-Care Plan.~~

~~(c) Approve the terms of the division's third-party administrator contract.~~

~~(d) Implement such other policies and procedures as necessary to assure the soundness and efficient operation of the plan.~~

~~(8) Members of the board may not receive a salary, but may be reimbursed for travel, per diem, and administrative expenses related to their duties. Board expenses and costs for the annual report and other administrative expenses must be borne by the plan. State funds may not be contributed toward costs associated with board members or their activities conducted on behalf of and for the benefit of plan beneficiaries.~~

And the title is amended as follows:

On page 1, line 29, after the semicolon (;) insert: revising the Florida Employee Long-Term-Care Plan Act; requiring the Department of Management Services and the Department of Elderly Affairs to provide for long-term-care insurance through payroll deduction; requiring the Department of Management Services to review proposals; authorizing the department to award a contract;

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 3 (931346)(with title amendment)—On page 30, between lines 2 and 3, insert:

Section 4. Effective upon this act becoming a law, paragraph (e) is added to subsection (2) of section 110.12315, Florida Statutes, to read:

110.12315 Prescription drug program.—

(2)

(e) The Division of State Group Insurance may not implement a prior-authorization program or a restricted-formulary program that restricts a non-HMO enrollee's access to prescription drugs beyond the provisions of paragraph (b) related specifically to generic equivalents for prescriptions and the provisions of paragraph (d) related specifically to starter-dose programs or the dispensing of long-term maintenance medications. The prior-authorization program expanded pursuant to section 8 of the 1998-1999 General Appropriations Act is terminated. If this paragraph conflicts with any General Appropriations Act or any act implementing a General Appropriations Act, the Legislature intends that the provisions of this paragraph shall prevail.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 5, after the semicolon (;) insert: prohibiting the Division of State Group Insurance within the department from restricting access to prescription drugs for certain enrollees under the state employees' prescription drug program;

Senator Lee moved the following amendment:

Amendment 4 (615646)(with title amendment)—On page 164, between lines 25 and 26, insert:

Section 112. Section 230.23162, Florida Statutes, 1998 Supplement, is amended to read:

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.

(a) The Department of Management Services shall continue to work with contractors to weatherize, close in, and stabilize the facility, protect the assets, and resolve any claims regarding the facility.

(b) The Department of Management Services should continue to facilitate interest by private entities or public entities capable of serving as either owner, occupant, or fiscal agent for a public-private partnership. Any entity, public, private, or a public-private partnership, must meet all of the criteria specified in the revised Department of Management Services Request for Proposal dated August 21, 1998, and issued pursuant to chapter 98-209, Laws of Florida.

(2) The Department of Management Services, in cooperation with the relevant state agencies, is directed to continue to receive and evaluate proposals for the use or transfer of the facility described in subsection (1) and, after taking into account local and state concerns and interests, may make a final disposition for use or transfer of such facility, subject to the notice, review, and objection procedures of s. 216.177.

(a) The Department of Management Services shall continue to invite public-agency proposals and related funding requests, from either state or local agencies, to provide an education program for nonadjudicated youth, and also to continue to encourage other proposals and funding requests consistent with state and local community needs and concerns.

(b) Upon request, the Department of Management Services shall continue to work with project proposers who submitted proposals, and an addendum to proposals, to the working group pursuant to chapter 98-209, Laws of Florida.

(c) In considering proposals, the Department of Management Services and the Legislature shall take into account local and state interests and concerns.

~~(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 of Representatives; 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.~~

~~(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 the 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 working group created under this section regarding proposed uses for the facility, taking into account local and state interests and concerns.~~

~~(4) Taking into consideration the recommendation of the Department of Management Services, and local and state concerns and interests, the working group shall, no later than November 1, 1998, make a final determination for the use or disposition of the facility and related assets planned, constructed, acquired, and equipped pursuant to Specific Appropriation 2012A of the 1994-1995 General Appropriations Act, and shall be disbanded upon that date. Such determination shall be subject to the notice, review, and objection procedures of s. 216.177. If the final determination made by the working group is objected to under s. 216.177, the final determination for the facility and related assets shall be made by the Legislature during the 1999 Regular Session.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 29, following the semicolon (;) insert: amending s. 230.23162, F.S.; directing the department to seek proposals for the use or transfer of a specified state facility; requiring the department to take steps to preserve the facility;

Senator Lee moved the following amendment to **Amendment 4** which was adopted:

Amendment 4A (154884)—On page 2, line 20, after the period (.) insert: *Any unexpended balance of funds appropriated from Specific Appropriation 2012A of chapter 94-357, Laws of Florida, remaining after dry-in and stabilization may be expended, consistent with the provisions of this section, for completion of the facility in connection with the disposition or transfer of the facility.*

Amendment 4 as amended was adopted.

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 5 (792332)(with title amendment)—On page 165, delete line 4 and insert:

Section 113. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1999.

And the title is amended as follows:

On page 2, delete line 5 and insert: Legislature; providing effective dates.

Senator Campbell moved the following amendments which were adopted:

Amendment 6 (210898)(with title amendment)—On page 96, line 3 through page 120, line 16, delete all of sections 64 through 81 and redesignate subsequent sections.

And the title is amended as follows:

On page 1, delete lines 19-22 and insert: 122.351, 189.412,

Amendment 7 (494376)—On page 17, line 20 through page 19, line 11, delete those lines and insert:

2. The *department* ~~division~~ shall contract with health maintenance organizations *seeking* to participate in the state group insurance program through a request for proposal *or other procurement process, as developed by the Department of Management Services and determined to be appropriate.* ~~based upon a premium and a minimum benefit package as follows:~~

a. *The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule* ~~A minimum benefit package to be provided by a participating HMO~~ shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; and other benefits as may be required by the *department* ~~division~~. Additional services may be provided subject to the contract between the *department* ~~division~~ and the HMO.

b. *The department may establish* ~~a~~ uniform ~~schedule for~~ deductibles, ~~and~~ copayments, *or coinsurance schedules* ~~may be established~~ for all participating *HMO plans* ~~HMOs~~.

c. *The department may require detailed information from each health maintenance organization participating in the procurement process, including information pertaining to organizational status, experience in providing pre-paid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as the department determines appropriate.* ~~Based upon the minimum benefit package and copayments and deductibles contained in sub-subparagraphs a. and b., the division shall issue a request for proposal for all HMOs which are interested in participating in the state group insurance program. Upon receipt of all proposals, the division may, as it deems appropriate, enter into contract negotiations with HMOs submitting bids. As part of the request for proposal process, the division may require detailed financial data from each HMO which participates in the bidding process for the purpose of determining the financial stability of the HMO.~~

d. ~~In determining which HMOs to contract with, the division shall, at a minimum, consider: each proposed contractor's previous experience and expertise in providing prepaid health benefits; each proposed contractor's historical experience in enrolling and providing health care services to participants in the state group insurance program; the cost of the premiums; the plan's ability to adequately provide service coverage and administrative support services as determined by the division; plan benefits in addition to the minimum benefit package; accessibility to providers; and the financial solvency of the plan.~~ Nothing shall preclude the *department* ~~division~~ from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the *department* ~~division~~ determines *that* the plan *offers high value to enrollees* ~~has the best overall benefit package for the service areas involved. However, no HMO shall be eligible for a contract if the HMO's retiree Medicare premium exceeds the retiree rate as set by the division for the state group health insurance plan~~.

e. The *department* ~~division~~ may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the *department* ~~division~~ receives, the number of state employees in the service area, *or* ~~and~~ any unique geographical characteristics of the service area. The *department* ~~division~~ shall establish by rule service areas throughout the state.

Amendment 8 (051694)—On page 20, line 27 through page 21, line 15, delete those lines and insert:

6. *Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the division shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.* ~~Any HMO participating in the state group insurance program shall, upon the request of the division, submit to the division standardized data for the purpose of comparison of the appropriateness, quality, and efficiency of care provided by the HMO. Such standardized data shall include: membership profiles; inpatient and outpatient utilization by age and sex, type of service, provider type, and facility; and emergency care experience. Requirements and timetables for submission of such standardized data and such other data as the division deems necessary to evaluate the performance of participating HMOs shall be adopted by rule.~~

7. The *department may establish and direct with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include, supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs* ~~division shall, after consultation with representatives from each of the unions representing state and university employees, establish a comprehensive package of insurance benefits including, but not limited to, supplemental health and life coverage, dental care, long-term care, and vision care to allow state employees the option to choose the benefit plans which best suit their individual needs~~.

Amendment 9 (251948)(with title amendment)—On page 30, line 3 through page 32, line 18, delete those lines and insert:

Section 4. Section 110.12315, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 110.12315, F.S., for present text.)

110.12315 Prescription drug program.—The state employees' prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and implementing legislation, subject to the following conditions:

(1) The Department of Management Services shall allow prescriptions written by health care providers under the plan to be filled by any licensed pharmacy pursuant to contractual claims-processing provisions. Nothing in this section may be construed as prohibiting a mail order prescription drug program distinct from the service provided by retail pharmacies.

(2) In providing for reimbursement of pharmacies for prescription medicines dispensed to members of the state group health insurance plan and their dependents under the state employees' prescription drug program:

(a) Retail pharmacies participating in the program must be reimbursed at a uniform rate and subject to uniform conditions, according to the terms and conditions of the plan.

(b) There shall be a 30-day supply limit for prescription card purchases and a 90-day supply limit for mail order or mail order prescription drug purchases.

(c) The current pharmacy dispensing fee remains in effect.

(3) The Department of Management Services shall establish the reimbursement schedule for prescription pharmaceuticals dispensed under

the program. Reimbursement rates for a prescription pharmaceutical must be based on the cost of the generic equivalent drug if a generic equivalent exists, unless the physician prescribing the pharmaceutical clearly states on the prescription that the brand name drug is medically necessary or that the drug product is included on the formulary of drug products that may not be interchanged as provided in chapter 465, in which case reimbursement must be based on the cost of the brand name drug as specified in the reimbursement schedule adopted by the Department of Management Services.

(4) The Department of Management Services shall conduct a prescription utilization review program. In order to participate in the state employees' prescription drug program, retail pharmacies dispensing prescription medicines to members of the state group health insurance plan or their covered dependents, or to subscribers or covered dependents of a health maintenance organization plan under the state group insurance program, shall make their records available for this review.

(5) The Department of Management Services shall implement such additional cost-saving measures and adjustments as may be required to balance program funding within appropriations provided, including a trial or starter dose program and dispensing of long-term-maintenance medication in lieu of acute therapy medication.

(6) Participating pharmacies must use a point-of-sale device or an online computer system to verify a participant's eligibility for coverage. The state is not liable for reimbursement of a participating pharmacy for dispensing prescription drugs to any person whose current eligibility for coverage has not been verified by the state's contracted administrator or by the Department of Management Services.

And the title is amended as follows:

On page 2, line 5, after the semicolon (;) insert: amending s. 110.12315, F.S.; substantially revising the state employees' prescription drug program;

Pursuant to Rule 4.19, **CS for SB 2280** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Rossin—

CS for CS for SB 2426—A bill to be entitled An act relating to legislative oversight of governmental programs; amending ss. 11.42, 11.45, F.S.; defining the term "operational audit"; revising the duties of the Auditor General; requiring district school boards to conduct certain financial audits; transferring the Division of Public Assistance Fraud from the Auditor General to the Department of Law Enforcement; transferring, renumbering, and amending s. 11.50, F.S.; conforming provisions to the transfer of the Division of Public Assistance Fraud; amending ss. 402.3015, 414.33, 414.34, 414.39, 414.40, 951.28, F.S.; conforming provisions to the transfer of the Division of Public Assistance Fraud; amending ss. 373.589, 195.096, 232.44, 946.516, 283.31, F.S.; revising the duties of the Auditor General; providing for audits by independent certified public accountants; amending s. 944.719, F.S.; transferring duties from the Auditor General to the Office of Program Policy Analysis and Government Accountability; amending ss. 11.511, 11.513, F.S.; revising the duties of the Office of Program Policy Analysis and Government Accountability; amending ss. 112.3187, 112.3188, 112.31895, F.S.; eliminating the Public Counsel's responsibilities associated with the Whistle-blower's Act; transferring such responsibilities to the Florida Commission on Human Relations; amending s. 985.401, F.S.; providing for the composition of the Juvenile Justice Accountability Board; reassigning the board from the Joint Legislative Auditing Committee to the Department of Juvenile Justice; amending s. 218.502, F.S.; redefining the term "local governmental entity"; repealing s. 284.50(4), F.S., which provides for the Auditor General to audit state agency loss-prevention programs; repealing s. 475.045(1)(f), F.S., which provides for the Auditor General to audit the financial transactions of the Florida Real Estate Commission Education and Research Foundation; repealing s. 985.07, F.S., which provides for the Auditor General to examine some information-sharing efforts; amending s. 760.06, F.S.; authorizing the Florida Commission on Human Relations to receive and coordinate whistleblowers' complaints; providing an effective date.

—was read the second time by title.

Senator Rossin moved the following amendments which were adopted:

Amendment 1 (173248)(with title amendment)—On page 2, line 24, insert:

Section 1. Subsection (4) of section 11.13, Florida Statutes, 1998 Supplement, is amended to read:

11.13 Compensation of members.—

(4) Each member of the Legislature shall be entitled to receive a monthly allowance for intradistrict expenses in an amount set annually by the President of the Senate for members of the Senate and the Speaker of the House of Representatives for members of the House ~~not later than November 1 for the next fiscal year~~. In setting the amount, the costs of maintaining a legislative district office *or offices* that *provide* ~~provides~~ an appropriate level of constituent services shall be considered. The procedure for disbursement of the monthly intradistrict expense allowed shall be set from time to time by the Office of Legislative Services, with the approval of the President of the Senate and the Speaker of the House of Representatives or their respective designees. Such expenses shall be a proper expense of the Legislature and shall be disbursed from the appropriation for legislative expense. The expenses provided under this subsection shall not include any travel and per diem reimbursed under subsections (2) and (3) or the rules of either house.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 3, after the semicolon (;) insert: amending s. 11.13, F.S.; revising requirements for setting the allowance for intradistrict expenses for members of the Legislature;

Amendment 2 (125090)—On page 3, delete line 4 and insert: *the President of the Senate and the Speaker of the House of Representatives* ~~the Legislative Auditing Committee~~, shall adopt and administer

Amendment 3 (203440)—On page 7, delete lines 20-24 and insert:

(3)(a)1. The Auditor General shall annually make financial audits of the accounts and records of all state agencies, as defined in this section, of all district school boards *in counties with populations of*

Amendment 4 (764484)—On page 15, delete lines 9 and 10 and insert: ~~governmental entity audits~~. *The Auditor General, in consultation with the Department of Education, shall develop a*

Amendment 5 (095360)—On page 20, delete lines 9-11 and insert: *determine if the local governmental entity should be subject to further state action. If the committee determines that the local governmental entity should be subject to further*

Amendment 6 (093180)—On page 33, delete line 21 and insert: amended to read:

Amendment 7 (181942)—On page 34, delete lines 1 and 2 and insert: the *joint* policies and procedures of *the President of the Senate and the Speaker of the House of Representatives* ~~the Legislative Auditing Committee~~, and may remove these personnel. The staff must be

Amendment 8 (901338)—On page 34, delete lines 8-14 and insert:

~~(6) The director, with the consent of the Legislative Auditing Committee, may enter into contracts on behalf of the Office of Program Policy Analysis and Government Accountability.~~

(6) The director, with the consent of the President of

Pursuant to Rule 4.19, **CS for CS for SB 2426** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Grant—

CS for SB 1334—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; amending s. 35.06, F.S.; increasing the

number of judges in specified district courts of appeal; prohibiting the judicial nominating commission from seeking applications or advertising for nominations to fill specified vacancies before a certain date; providing effective dates.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1334** to **HB 1877**.

Pending further consideration of **CS for SB 1334** as amended, on motion by Senator Grant, by two-thirds vote **HB 1877** was withdrawn from the Committees on Judiciary and Fiscal Policy.

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

HB 1877—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; amending s. 35.06, F.S.; increasing the number of judges in specified district courts of appeal; requiring the judicial nominating commission to make nominations to fill specified vacancies by a certain date; providing effective dates.

—a companion measure, was substituted for **CS for SB 1334** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 1877** was placed on the calendar of Bills on Third Reading.

On motion by Senator Casas—

CS for CS for SB 1270—A bill to be entitled An act relating to motor vehicles and highway safety; amending s. 233.063, F.S.; revising the distribution of driver's license fee revenues for driver education programs; amending s. 316.063, F.S.; revising provisions to refer to a "traffic crash" rather than an "accident"; providing a noncriminal traffic infraction for obstructing traffic under certain circumstances; amending s. 316.1958, F.S.; restricting the issuance of disabled parking citations under certain circumstances; amending s. 316.1975, F.S.; revising provisions with respect to unattended motor vehicles; amending s. 316.211, F.S.; providing for compliance with certain federal safety standards with respect to equipment for motorcycle and moped riders; amending s. 316.520, F.S.; providing that it is a noncriminal traffic infraction punishable as a moving violation to violate load limits on vehicles; amending s. 316.640, F.S.; authorizing the Florida Highway Patrol to employ certain persons as traffic accident investigation officers; providing for certain powers and duties; providing for the employment of parking enforcement specialists by airport authorities; amending s. 318.14, F.S.; conforming cross-references to changes made by the act; amending s. 318.15, F.S.; including reference to the tax collector with respect to the collection of certain service fees for reinstatement of a suspended driver's license; amending s. 318.36, F.S.; providing judicial immunity for civil traffic infraction hearing officers; amending s. 319.14, F.S.; including reference to short-term and long-term lease vehicles; providing definitions; providing penalties; amending s. 319.23, F.S.; revising application requirements for a certificate of title; deleting references to collectible vehicles; amending s. 319.30, F.S.; revising provisions with respect to dismantling, destroying, or changing the identity of a motor vehicle or mobile home; amending s. 320.01, F.S.; defining the term "agricultural products" for purposes of ch. 320, F.S.; amending s. 320.023, F.S.; revising audit requirements with respect to voluntary contributions on the application form for a motor vehicle registration; amending s. 320.03, F.S.; revising the distribution formula with respect to a fee charged for the Florida Real Time Vehicle Information System; amending s. 320.04, F.S.; authorizing a service charge on vessel decals issued from an automated vending facility or printer dispenser machine; amending s. 320.055, F.S.; revising provisions with respect to registration periods; amending s. 320.06, F.S.; authorizing the department to issue manufacturer license plates; repealing s. 320.065, F.S., relating to the registration of certain rental trailers for hire and semitrailers used to haul agricultural products; amending s. 320.0657, F.S.; revising provisions with respect to fleet license plates; providing fees; amending s. 320.08, F.S., relating to license fees; deleting references to certain collectible vehicles; providing a fee for manufacturer license plates; amending s. 320.08056, F.S.; revising the license plate annual use fee for the Challenger license plate; repealing s. 320.08058(2)(f), F.S., which provides for the repeal of the Challenger license plate; amending s. 320.08058, F.S.; revising provisions relating to the design of the Florida Salutes Veterans license plate; authorizing the Department of Veterans' Affairs to use moneys from the license plate fee to promote and market the plate; amending s. 320.084, F.S.; deleting obsolete provisions; amending s. 320.086, F.S.; revising provisions governing the issuance of license plates for certain historical motor vehicles; reenacting s. 320.072(2)(g), F.S., relating to the fee imposed on motor vehicle registrations, to incorporate the amendment to s. 320.086, F.S., in references thereto; amending s. 320.13, F.S.; providing an alternative method of registration for manufacturer license plates; prohibiting the use of dealer license plates for specified purposes; amending s. 320.131, F.S.; authorizing agents or Florida licensed dealers to issue temporary license tags when such tags are not specifically authorized; providing penalties with respect to certain violations concerning temporary tags; amending s. 320.1325, F.S.; revising provisions with respect to registration for the temporarily employed; amending s. 320.27, F.S.; revising provisions governing the denial, suspension, or revocation of motor vehicle dealer licenses; amending s. 320.30, F.S.; providing for the forfeiture of a motor vehicle; providing for confiscation and sale of such vehicles; amending s. 321.06, F.S.; authorizing the department to employ certain traffic accident investigation officers; amending s. 322.08, F.S.; deleting provisions with respect to certain applications made by persons who hold an out-of-state driver license; amending s. 322.081, F.S.; revising audit requirements with respect to voluntary contributions on the driver's license application; amending s. 322.1615, F.S.; revising provisions with respect to a learner's driver's license; amending s. 322.2615, F.S.; revising provisions with respect to suspension of a license; amending s. 322.28, F.S.; revising requirements for the period of suspension or revocation of a driver's license; amending s. 322.34, F.S.; conforming a cross-reference to changes made by the act; amending s. 325.2135, F.S.; directing the Department of Highway Safety and Motor Vehicles to enter into a contract for a motor vehicle inspection program; amending s. 325.214, F.S.; changing the motor vehicle inspection fee; amending s. 327.031, F.S.; providing for the denial or cancellation of a vessel registration when payment for registration is made by a dishonored check; amending s. 327.11, F.S.; providing for a replacement vessel registration; amending s. 327.23, F.S.; providing for a temporary certificate of registration for a vessel by certain out-of-state residents; amending s. 327.25, F.S.; revising provisions with respect to transfer of ownership and registration of vessels; creating s. 327.255, F.S.; providing for the duties of tax collectors with respect to vessel registration; providing fees; creating s. 327.256, F.S.; providing procedures for advanced vessel registration renewal; amending s. 328.01, F.S.; revising provisions with respect to application for a certificate of title for a vessel; amending s. 328.11, F.S.; increasing the time period for application for a reissuance of a certificate of title; amending s. 328.15, F.S.; providing requirements with respect to certain second liens on vessels; increasing the fee for recording a notice of lien; providing requirements with respect to satisfaction of a lien on a vessel; providing penalties for failure to comply; amending s. 328.16, F.S.; providing requirements with respect to liens; creating s. 328.165, F.S.; providing for cancellation of certificates; amending s. 713.78, F.S.; revising requirements relating to liens for recovering, towing, or storing vehicles and undocumented vessels; providing an exemption from the requirement of an inventory of personal property found in a motor vehicle to be removed from the scene of an accident under certain circumstances; amending ss. 732.9215, 732.9216, F.S.; conforming cross-references to changes made by the act; amending s. 812.014, F.S.; providing prohibition on a theft of gasoline while in a motor vehicle; amending s. 832.06, F.S.; revising provisions with respect to prosecution for worthless checks given to the tax collector for certain licenses or taxes; amending s. 932.701, F.S.; redefining the term "contraband article," and reenacting ss. 705.101(6), 932.704(4), F.S., relating to forfeiture of contraband article, to incorporate said amendment in references; amending s. 324.201, F.S.; deleting the requirement that recovery agents notify law enforcement of a license plate seizure; amending s. 324.202, F.S.; expanding into additional counties a pilot project that authorizes a recovery agent or recovery agency to seize the license plate of a motor vehicle following suspension of the vehicle's registration or suspension of the driver's license of the owner or operator of the vehicle for failing to maintain personal injury protection; requiring that the department provide procedures for paying fees; amending s. 627.733, F.S.; deleting payment of a fee to recovery agents; amending s. 318.18, F.S.; changing the date by which electronic transmission of certain data must be commenced; amending s. 322.245, F.S.; changing the time within which the failure of a person to pay child support must be reported; repealing s. 14 of ch. 98-223, Laws of Florida, relating to required security for the operation of a motor vehicle; providing an effective date.

—was read the second time by title.

Senator Webster moved the following amendment which was adopted:

Amendment 1 (284464)(with title amendment)—On page 49, between lines 18 and 19, insert:

Section 35. *Subsection (11) of section 320.8249, Florida Statutes, is repealed.*

Section 36. Subsection (2) of section 320.8325, Florida Statutes, is amended to read:

320.8325 Mobile homes and park trailers; tie-down requirements; minimum installation standards; injunctions; penalty.—

(2) The department shall promulgate rules and regulations setting forth *uniform* ~~minimum~~ standards for the manufacture or installation of anchors, tie-downs, over-the-roof ties, or other reliable methods of securing mobile homes or park trailers when over-the-roof ties are not suitable due to factors such as unreasonable cost, design of the mobile home or park trailer, or potential damage to the mobile home or park trailer. *No entity, other than the department, has authority to amend these uniform standards.* Such devices required under this section, when properly installed, shall cause the mobile home or park trailer to resist wind overturning and sliding. In promulgating such rules and regulations, the department may make such discriminations regarding mobile home or park trailer tie-down requirements as are reasonable when factors such as age, location, and practicality of tying down a mobile home or park trailer are considered.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 12, after the semicolon (;) insert: repealing s. 320.8249(11), F.S., which provides for an exemption from installer licensing; amending s. 320.8325, F.S.; providing for uniform standards;

Senator Klein moved the following amendment which was adopted:

Amendment 2 (280704)—On page 58, delete line 15 and insert:

Section 44. Effective July 1, 2000, section 324.202, Florida Statutes, is

Senator Latvala moved the following amendments which were adopted:

Amendment 3 (334984)—On page 60, delete lines 26-28 and insert: ~~a motor vehicle inspection program, the department may issue a request for proposal and~~ *The department may extend the current emissions inspection program contracts for a period of time sufficient to implement new contracts resulting from competitive proposals, and shall* enter *into and implement* one or more contracts *by June 30, 2000,* for a biennial inspection program

Amendment 4 (413388)—On page 61, line 26, delete "*$20*" and insert: *$19*

Pursuant to Rule 4.19, **CS for CS for SB 1270** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Saunders—

SB 1036—A bill to be entitled An act relating to pharmacy practice; creating s. 465.0075, F.S.; authorizing licensure of pharmacists by endorsement and providing requirements therefor, including a fee; providing an effective date.

—was read the second time by title.

The Committee on Health, Aging and Long-Term Care recommended the following amendment which was moved by Senator Saunders:

Amendment 1 (894842)—On page 1, line 25 through page 2, line 7, delete those lines and insert: *the required examination not more than 15 years prior to application;*

(c)1. Has submitted evidence of the active licensed practice of pharmacy in another jurisdiction for at least 2 of the immediately preceding 5 years or evidence of successful completion of either board-approved postgraduate training or a board-approved clinical competency examination within the year preceding the filing of an application for licensure. For purposes of this paragraph, "active licensed practice of pharmacy" means that practice of pharmacy by pharmacists, including those employed by any governmental entity in community or public health, as defined by this chapter, and those on the active teaching faculty of an accredited pharmacy school; or

2. Has completed an internship meeting the requirements of s. 465.007(1)(c) within the two years immediately preceding application; and

(d) Has obtained a passing score on the pharmacy jurisprudence portions of the licensure examination as required by board rule.

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

Amendment 1A (905276)—On page 1, line 22, delete "*5*" and insert: *4*

The question recurred on **Amendment 1** which was adopted.

Senator Campbell moved the following amendment which was adopted:

Amendment 2 (615664)—On page 1, line 25, delete "*15*" and insert: "*10*"

RECONSIDERATION OF AMENDMENT

On motion by Senator McKay, the Senate reconsidered the vote by which **Amendment 2** was adopted. **Amendment 2** failed.

Senator McKay moved the following amendment which was adopted:

Amendment 3 (051048)—On page 2, between lines 18 and 19, insert:

(4) The department shall not issue a license by endorsement to any applicant whose license to practice pharmacy has been suspended or revoked in another state or to any applicant who is currently the subject of any disciplinary proceeding in another state.

Senator Saunders moved the following amendment which was adopted:

Amendment 4 (784942)—On page 2, lines 5-7, delete "*, and those on the active teaching faculty of an accredited pharmacy school*"

Pursuant to Rule 4.19, **SB 1036** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator McKay—

CS for CS for SB 802—A bill to be entitled An act relating to education; amending s. 231.40, F.S.; providing for payment into pretax annuities for accumulated sick leave to certain employees of district school systems; limiting the amount of pay certain employees of district school systems may receive for unused sick leave upon termination of employment; amending s. 231.481, F.S.; limiting the amount of pay certain employees of district school systems may earn for unused vacation leave upon termination of employment; amending s. 240.343, F.S.; providing for community college district boards of trustees to adopt rules allowing payment for unused sick leave into pretax retirement accounts; limiting the amount of pay certain employees of community college districts may receive for unused sick leave upon termination of employment; providing an effective date.

—was read the second time by title.

Senator McKay moved the following amendment which was adopted:

Amendment 1 (611664)—In title, on page 1, line 21, insert:

WHEREAS, the taxpayers of Florida are faced with a $2 billion unfunded liability for the payment of accrued leave in the public education sector, and

WHEREAS, this financial burden is shared among all the taxpayers in the state, and

WHEREAS, a redirection of our state education focus must include a discussion of the appropriation combination of salary and benefits, and

WHEREAS, an investment in the classroom for future generations of citizens must balance the interest and needs of children with the interest and needs of educators and taxpayers, and

WHEREAS, the Legislature finds that in 1992-1993, the total amount of terminal pay provided to administrative employees was approximately $8.4 million (29.3 percent of all terminal pay), and, on average, administrative employees received terminal pay in amounts equal to 67 percent of their annual salary, and

WHEREAS, the Legislature finds that in 1992-1993, the total amount of terminal pay provided to support staff was approximately $13 million (20.7 percent of all terminal pay), and on average, support staff received terminal pay in amounts equal to 24 percent of their annual salary, and

WHEREAS, the Legislature finds that the total terminal pay for sick leave for school board employees in 1995-1996 was $23,979,970.45; in 1996-1997 the cost was $33,082,494.47; in 1997-1998 the cost was $27,364,388.59, and

WHEREAS, the Legislature finds that a 1993 report by three Senate committees noted that the school district and community college terminal sick leave payment schedules were more generous than the terminal leave payment schedule for state employees, and the report recommended that the terminal sick leave payments remain more generous for instructional staff than for administrative and other noninstructional employees, and

WHEREAS, the Legislature concludes that in order to better serve the funding needs for educating the children of Florida, terminal pay for sick leave must be addressed in an expeditious manner, NOW, THEREFORE,

Pursuant to Rule 4.19, **CS for CS for SB 802** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for SB 1978—A bill to be entitled An act relating to automobile insurance; amending s. 627.739, F.S.; allowing insureds to elect multiple personal injury protection policy limitations; deleting requirement that insurers offer certain limitations; allowing insureds to receive appropriate premium reductions; requiring notice; creating s. 627.7277, F.S.; requiring insurers to give the policyholders notice of the renewal premium; providing for continuation of policy coverage at existing rates if the insurer fails to comply; providing an effective date.

—was read the second time by title.

Senator Thomas moved the following amendments which were adopted:

Amendment 1 (644866)—On page 1, delete lines 17-19 and insert:

Section 1. Section 627.739, Florida Statutes, is amended to read:

Amendment 2 (841296)—On page 2, delete lines 4-16 and insert:

(2) Insurers shall offer to each applicant and to each policyholder, upon the renewal of an existing policy, deductibles, in amounts of $250, $500, $1,000, and $2,000, such amount to be deducted from the benefits otherwise due each person subject to the deduction. However, this subsection shall not be applied to reduce the amount of any benefits received in accordance with s. 627.736(1)(c).

~~(3) Insurers shall offer coverage wherein, at the election of the named insured, all benefits payable under 42 U.S.C. s. 1395, the federal "Medicare" program, or to active or retired military personnel and their dependent relatives shall be deducted from those benefits otherwise payable pursuant to s. 627.736(1).~~

(3)~~(4)~~ Insurers shall offer coverage wherein, at the election of the named insured, the benefits for loss of gross income and loss of earning capacity described in s. 627.736(1)(b) shall be excluded.

(4) The named insured shall not be prevented from electing a deductible under subsection (2) and modified coverage under subsection (3). Each election made by the named insured under this section shall result in an appropriate reduction of premium associated with that election.

(5) All such offers shall be made in clear and

Senator Lee moved the following amendment which was adopted:

Amendment 3 (314854)—On page 3, delete lines 14-17 and insert: *renewal premium for the policy.*

Senators Campbell, Brown-Waite, Silver and Myers offered the following amendment which was moved by Senator Campbell:

Amendment 4 (334910)(with title amendment)—On page 3, delete lines 24-26 and insert:

Section 3. Section 627.7406, Florida Statutes, is created to read:

627.7406 Prohibited billing by brokers.—Charges for magnetic resonance imaging (MRI) or computed tomography (CT) scan services covered by a policy of motor vehicle insurance shall be unenforceable against the recipient of such services, an insurer, a third-party payor, and any other person or entity unless such charges are billed and collected by the 100-percent owner or the 100-percent lessee of the equipment used to perform such services. Such owner or lessee may be an individual, a corporation, a partnership, or any other entity and any of its 100-percent-owned affiliates and subsidiaries. For purposes of this section, "lessee" means a long-term lessee under a capital or operating lease but does not include a part-time lessee. This section does not apply to billing and collection by a hospital, a hospital management company, or a hospital and physician management company. This section also does not apply to billing and collection by a physician management company whose MRI and CT scan services are ancillary to the physician practices managed, a debt collection agency, or an entity that has contracted with an insurer or third-party payor to obtain a discounted rate for such MRI and CT scan services, provided such entity does not retain for its services more than 25 percent of the amount remitted to such 100-percent owner or lessee.

Section 4. This act shall take effect July 1, 1999, and sections 1 and 2 shall apply to policies issued or renewed on or after July 1, 2000.

And the title is amended as follows:

On page 1, line 13, after the semicolon (;) insert: creating s. 627.7406, F.S.; providing for unenforceability against certain persons or entities of charges for certain medical services under certain circumstances; providing a definition; providing a limitation; providing an exception;

POINT OF ORDER

Senator Clary raised a point of order that pursuant to Rule 7.1 **Amendment 4** was not germane to the bill.

The President referred the point and the amendment to Senator John McKay, Chairman of the Committee on Rules and Calendar.

Senator Rossin moved the following amendment which was adopted:

Amendment 5 (645586)(with title amendment)—On page 3, between lines 23 and 24, insert:

Section 3. Subsection (7) of section 627.7295, Florida Statutes, 1998 Supplement, is amended to read:

627.7295 Motor vehicle insurance contracts.—

(7) A policy of private passenger motor vehicle insurance or a binder for such a policy may be initially issued in this state only if the insurer or agent has collected from the insured an amount equal to 2 months'

premium. An insurer, agent, or premium finance company may not directly or indirectly take any action resulting in the insured having paid from the insured's own funds an amount less than the 2 months' premium required by this subsection. This subsection applies without regard to whether the premium is financed by a premium finance company or is paid pursuant to a periodic payment plan of an insurer or an insurance agent. This subsection does not apply if an insured or member of the insured's family is renewing or replacing a policy or a binder for such policy written by the same insurer or a member of the same insurer group. This subsection does not apply to an insurer that issues private passenger motor vehicle coverage primarily to active duty or former military personnel or their dependents. This subsection does not apply if *all* ~~the~~ policy *payments are* ~~is~~ paid pursuant to a payroll deduction plan or an automatic electronic funds transfer payment plan *from the policyholder, provided that the first policy payment is made by cash, cashier's check, or a money order. This subsection and subsection (4) do not apply if all policy payment to an insurer are paid pursuant to an automatic electronic funds transfer payment plan from an agent or a managing general agent and if the policy includes, at a minimum, personal injury protection pursuant to ss. 627.730-627.7405; motor vehicle property damage liability pursuant to s. 627.7275; and bodily injury liability in at least the amount of $10,000 because of bodily injury to, or death of, one person in any one accident and in the amount of $20,000 because of bodily injury to, or death of, two or more persons in any one accident.* This subsection and subsection (4) do not apply if an insured has had a policy in effect for at least 6 months, the insured's agent is terminated by the insurer that issued the policy, and the insured obtains coverage on the policy's renewal date with a new company through the terminated agent.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 13, after the semicolon (;) insert: amending s. 627.7295, F.S.; providing inapplicability of the section in specified circumstances;

On motion by Senator Diaz-Balart, further consideration of **CS for SB 1978** with pending point of order and **Amendment 4** was deferred.

On motion by Senator Jones—

CS for SB 2100—A bill to be entitled An act relating to juveniles; amending s. 39.013, F.S.; providing for circuit court jurisdiction in dependency proceedings until the child reaches a specified age; providing for an annual review during the time a child remains in the custody of or under the supervision of the Department of Children and Family Services; amending s. 409.145, F.S.; deleting a requirement that foster care services be terminated upon a child's leaving an educational program; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2100** was placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

CS for SB 284—A bill to be entitled An act relating to children and families; amending s. 39.01, F.S.; including references to great-grandparents in definitions relating to dependent children; amending s. 39.509, F.S.; providing for great-grandparents visitation rights; amending ss. 39.801 and 63.0425, F.S.; providing for a great-grandparent's right to adopt; amending s. 61.13, F.S.; providing for great-grandparents visitation rights and standing with regard to evaluating custody arrangements; amending s. 63.172, F.S.; conforming references relating to great-grandparental visitation rights under ch. 752, F.S.; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 284** was placed on the calendar of Bills on Third Reading.

On motion by Senator Forman—

SB 750—A bill to be entitled An act relating to child care facilities; creating the "Jeremy Fiedelholtz Safe Day Care Act"; amending s. 402.319, F.S.; providing a penalty for making misrepresentations to certain persons regarding licensure or operation of a child care facility or family day care home; providing a penalty for negligence or intentional act and the parent or guardian relied on a misrepresentation; amending s. 921.0022, F.S.; providing for ranking of violations on the offense severity ranking chart; providing an effective date.

—was read the second time by title.

Senator Forman moved the following amendment which was adopted:

Amendment 1 (192678)(with title amendment)—On page 8, delete line 15 and insert:

Section 4. Subsection (2) of section 110.151, Florida Statutes, is amended to read:

110.151 State officers' and employees' child care services.—

(2) Child care programs may be located in state-owned office buildings, educational facilities and institutions, custodial facilities and institutions, and, with the consent of the President of the Senate and the Speaker of the House of Representatives, in buildings or spaces used for legislative activities. In addition, centers may be located in privately owned buildings conveniently located to the place of employment of those officers and employees to be served by the centers. If a child care program is located in a state-owned office building, educational facility or institution, or custodial facility or institution, or in a privately owned building leased by the state, a portion of the service provider's rental fees for child care space may be waived by the sponsoring agency in accordance with the rules of the Department of Management Services. *Additionally,* the sponsoring state agency may be responsible for the maintenance, utilities, and other operating costs associated with the ~~physical facility of the~~ child care center.

Section 5. This act shall take effect October 1, 1999, except that this section and section 4 of this act shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, delete line 13 and insert: ranking chart; amending s. 110.151, F.S.; providing duties for state agencies sponsoring child care programs for children and dependents of state officers and employees; providing effective dates.

Pursuant to Rule 4.19, **SB 750** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Diaz-Balart—

SB 242—A bill to be entitled An act relating to mental health; directing the Department of Children and Family Services to develop cooperative agreements with local agencies for diverting from the criminal justice system to the civil mental health system persons with mental illness arrested for a misdemeanor; directing the Louis de la Parte Florida Mental Health Institute at the University of South Florida to report to the Legislature on cost-effective diversion strategies; directing the Department of Law Enforcement and the Department of Children and Family Services to jointly review training curricula for law enforcement officers and to recommend improvements to the Legislature; directing the Department of Children and Family Services to contract with the Louis de la Parte Florida Mental Health Institute to review court jurisdiction over persons with mental illness who are arrested for or convicted of a misdemeanor and to recommend policy changes to the Legislature; directing the district forensic coordinators in the Department of Children and Family Services to assess the provision of in-jail mental health services and report to the Legislature; directing the Louis de la Parte Florida Mental Health Institute to evaluate the specialized mental health court in Broward County and report findings and recommendations to the Legislature; directing the Department of Children and Family Services to prepare a single report by a specified date; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Cowin moved the following amendment which was adopted:

Amendment 1 (380168)—On page 2, delete lines 16-19 and insert: *mental illness who are arrested for a misdemeanor. Persons who have been convicted of a violation of chapter 794, chapter 800, chapter 827, or chapter 847, Florida Statutes, or convicted of a similar offense in a*

Pursuant to Rule 4.19, **SB 242** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

RECESS

On motion by Senator McKay, the Senate recessed at 12:03 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:08 p.m. A quorum present—40:

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

SPECIAL ORDER CALENDAR, continued

CS for CS for SB 660—A bill to be entitled An act relating to foster care and related services; amending s. 409.1671, F.S.; providing that the department transfer to the lead agency documented federal funds earned by the agency in excess of the amount specified in the contract; providing that the earned federal funds be used for providing additional child welfare services; providing that the contract be amended to permit expenditure of federal funds; specifying that an agency that provides foster care and related services pursuant to s. 409.1671, F.S., under contract with the Department of Children and Family Services is an instrumentality of the state; providing limitations on certain tort actions brought against the provider; requiring providers to procure liability insurance coverage; declaring legislative intent with respect to payment of claims; providing an effective date.

—was read the second time by title.

Senators Brown-Waite and Diaz-Balart offered the following amendment which was moved by Senator Brown-Waite:

Amendment 1 (782172)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (8) of section 216.136, Florida Statutes, 1998 Supplement, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.—

(a) Duties.—The Child Welfare System Estimating Conference shall develop *such official* ~~the following~~ information relating to the child welfare system *of the state, including forecasts of child welfare caseloads, as the conference determines is needed for the state planning and budgeting system. Such official information may include, but is not limited to*:

1. Estimates and projections of the number of initial and additional reports of child abuse, abandonment, or neglect made to the central abuse hotline maintained by the Department of Children and Family Services as established in s. 39.201(4). *Projections may take into account other factors that may influence the number of future reports to the abuse hotline.*

2. Estimates and projections of the number of children who are alleged to be victims of child abuse, abandonment, or neglect and are in need of *emergency shelter, foster care, residential group care, adoptive services, or other appropriate care* ~~placement in a shelter~~.

In addition, the conference shall develop other official information relating to the child welfare system of the state which the conference determines is needed for the state planning and budgeting system. The Department of Children and Family Services shall provide information on the child welfare system requested by the Child Welfare System Estimating Conference, or individual conference principals, in a timely manner.

(b) Principals.—The Executive Office of the Governor, the coordinator of the Office of Economic and Demographic Research, and professional staff who have forecasting expertise from the Department of Health and Rehabilitative Services, the Senate, and the House of Representatives, or their designees, are the principals of the Child Welfare System Estimating Conference. The principal representing the Executive Office of the Governor shall preside over sessions of the conference.

Section 2. Section 409.1671, Florida Statutes, 1998 Supplement, is amended to read:

409.1671 Foster care and related services; privatization.—

(1)(a) It is the intent of the Legislature that the Department of Children and Family Services shall privatize the provision of foster care and related services statewide. *It is further the Legislature's intent to encourage communities and other stakeholders in the well-being of children to participate in assuring that children are safe and well-nurtured. However, while recognizing that some local governments are presently funding certain foster care and related services programs and may choose to expand such funding in the future, the Legislature does not intend by its privatization of foster care and related services that any county, municipality, or special district be required to assist in funding programs that previously have been funded by the state.* As used in this section, the term "privatize" means to contract with competent, community-based agencies. The department shall submit a plan to accomplish privatization statewide, through a competitive process, phased in over a 3-year period beginning January 1, 2000. This plan is to be submitted by July 1, 1999, to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the minority leaders of both houses. This plan must be developed with local community participation, including, but not limited to, input from community-based providers that are currently under contract with the department to furnish community-based foster care and related services, and must include a methodology for determining and transferring all available funds, including federal funds that the provider is eligible for and agrees to earn and that portion of general revenue funds which is currently associated with the services that are being furnished under contract. *Notwithstanding the provisions of s. 215.425, all documented federal funds earned for the current fiscal year by the department and community-based agencies which exceed the amount appropriated by the Legislature shall be distributed to all entities that contributed to the excess earnings based on a schedule and methodology developed by the department and approved by the Executive Office of the Governor. Distribution shall be pro rata based on total earnings and shall be made only to those entities that contributed to excess earnings. Excess earnings of community-based agencies shall be used only in the district in which they were earned. Additional state funds appropriated by the Legislature for community-based agencies or made available pursuant to the budgetary amendment process described in s. 216.177 shall be transferred to the community-based agencies. The department shall amend a community-based agency's contract to permit expenditure of the funds. The distribution program applies only to entities that were under privatization contracts as of July 1, 1999. This program is authorized for a period of 3 years beginning July 1, 1999, and ending June 30, 2002. The Office of Program Policy Analysis and Government Accountability shall review this program and report to the Legislature by December 31, 2001. The review shall assess the program to determine how the additional resources were used, the number of additional clients served, the improvements in quality of service attained, the performance outcomes associated with the additional resources, and the feasibility of continuing or expanding this program.* The methodology must provide for the transfer of funds appropriated and budgeted for all services and programs that have been incorporated into the project, including all management, capital (including current furniture and equipment), and administrative funds to accomplish the transfer of these programs. This methodology must address expected workload and at least the 3 previous years' experience in expenses and workload. With respect to any district or portion of a district in which privatization

cannot be accomplished within the 3-year timeframe, the department must clearly state in its plan the reasons the timeframe cannot be met and the efforts that should be made to remediate the obstacles, which may include alternatives to total privatization, such as public-private partnerships. As used in this section, the term "related services" means family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, postplacement supervision, permanent foster care, and family reunification. Unless otherwise provided for, beginning in fiscal year 1999-2000, either the state attorney or the Office of the Attorney General shall provide child welfare legal services, pursuant to chapter 39 and other relevant provisions, in Sarasota, Pinellas, Pasco, *Broward,* and Manatee Counties. Such legal services shall commence and be effective, as soon as determined reasonably feasible by the respective state attorney or the Office of the Attorney General, after the privatization of associated programs and child protective investigations has occurred. When a private nonprofit agency has received case management responsibilities, transferred from the state under this section, for a child who is sheltered or found to be dependent and who is assigned to the care of the privatization project, the agency may act as the child's guardian for the purpose of registering the child in school if a parent or guardian of the child is unavailable and his or her whereabouts cannot reasonably be ascertained. The private nonprofit agency may also seek emergency medical attention for such a child, but only if a parent or guardian of the child is unavailable, his or her whereabouts cannot reasonably be ascertained, and a court order for such emergency medical services cannot be obtained because of the severity of the emergency or because it is after normal working hours. However, the provider may not consent to sterilization, abortion, or termination of life support. If a child's parents' rights have been terminated, the nonprofit agency shall act as guardian of the child in all circumstances.

(b) As used in this section, the term "eligible lead community-based provider" means a single agency with which the department shall contract for the provision of child protective services in a community that is no smaller than a county. To compete for a privatization project, such agency must have:

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

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

3. The ability to provide directly, or contract for through a local network of providers, all necessary child protective services.

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

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

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

(c)1. The Legislature finds that the state has traditionally provided foster care services to children who have been the responsibility of the state. As such, foster children have not had the right to recover for injuries beyond the limitations specified in s. 768.28. The Legislature has determined that foster care and related services need to be privatized pursuant to this section and that the provision of such services is of paramount importance to the state. The purpose for such privatization is to increase the level of safety, security, and stability of children who are or become the responsibility of the state. One of the components necessary to secure a safe and stable environment for such children is that private providers maintain liability insurance. As such, insurance needs to be available and remain available to nongovernmental foster care and related services providers without the resources of such providers being significantly reduced by the cost of maintaining such insurance.

2. The Legislature further finds that, by requiring the following minimum levels of insurance, children in privatized foster care and related services will gain increased protection and rights of recovery in the event of injury than provided for in s. 768.28.

(d) Any eligible lead community-based provider, as defined in paragraph (b), or its employees or officers, except as otherwise provided in paragraph (e), must, as a part of its contract, obtain a minimum of $1 million per claim/$3 million per incident in general liability insurance coverage. In any tort action brought against such an eligible lead community-based provider, net economic damages shall be limited to $1 million per claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In any tort action brought against such an eligible lead community-based provider, noneconomic damages shall be limited to $200,000 per claim. This paragraph does not preclude the filing of a claims bill pursuant to s. 768.28 by the claimant for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76. The lead community-based provider shall not be liable in tort for the acts or omissions of its subcontractors or the officers, agents, or employees of its subcontractors.

(e) The liability of an eligible lead community-based provider described in this section shall be exclusive and in place of all other liability of such provider. The same immunities from liability enjoyed by such providers shall extend as well to each employee of the provider when such employee is acting in furtherance of the provider's business. Such immunities shall not be applicable to a provider or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death or such acts proximately cause such injury or death; nor shall such immunities be applicable to employees of the same provider when each is operating in the furtherance of the provider's business, but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a provider shall also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties. Culpable negligence is defined as reckless indifference or grossly careless disregard of human life.

(f) Any subcontractor of an eligible lead community-based provider, as defined in paragraph (b), which is a direct provider of foster care and related services to children and families, and its employees or officers, except as otherwise provided in paragraph (e), must, as a part of its contract, obtain a minimum of $1 million per claim/$3 million per incident in general liability insurance coverage. In any tort action brought against such subcontractor, net economic damages shall be limited to $1 million per claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In any tort action brought against such subcontractor, noneconomic damages shall be limited to $200,000 per claim. This paragraph does not preclude the filing of a claims bill pursuant to section s. 768.28 by the claimant for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76.

(g) The liability of a subcontractor of an eligible lead community-based provider that is a direct provider of foster care and related services as described in this section shall be exclusive and in place of all other liability of such provider. The same immunities from liability enjoyed by such subcontractor provider shall extend as well to each employee of the subcontractor when such employee is acting in furtherance of the subcontractor's business. Such immunities shall not be applicable to a subcontractor or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death or such acts proximately cause such injury or death; nor shall such immunities be applicable to employees of the same subcontractor when each is operating in the furtherance of the subcontractor's business, but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a subcontractor shall also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties. Culpable negligence is defined as reckless indifference or grossly careless disregard of human life.

(h) The Legislature is cognizant of the increasing costs of goods and services each year and recognizes that fixing a set amount of compensation actually has the effect of a reduction in compensation each year. Accordingly, the conditional limitations on damages in this section shall be increased at the rate of 5 percent each year, prorated from the effective date of this paragraph to the date at which damages subject to such limitations are awarded by final judgment or settlement.

(2)*(a)* The department may contract for the delivery, administration, or management of protective services, the services specified in subsection (1) relating to foster care, and other related services or programs, as appropriate. The department shall retain responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(b) Persons employed by the department in the provision of foster care and related services whose positions are being privatized pursuant to this statute shall be given hiring preference by the provider, if provider qualifications are met.

(3)(a) The department shall establish a quality assurance program for privatized services. The quality assurance program may be performed by a national accrediting organization such as the Council on Accreditation of Services for Families and Children, Inc. (COA) or the Council on Accreditation of Rehabilitation Facilities (CARF). The department shall develop a request for proposal for such oversight. This program must be developed and administered at a statewide level. The Legislature intends that the department be permitted to have limited flexibility to use funds for improving quality assurance. To this end, effective January 1, 2000, the department may transfer up to 0.125 percent of the total funds from categories used to pay for these contractually provided services, but the total amount of such transferred funds may not exceed $300,000 in any fiscal year. When necessary, the department may establish, in accordance with s. 216.177, additional positions that will be exclusively devoted to these functions. Any positions required under this paragraph may be established, notwithstanding ss. 216.262(1)(a) and 216.351. The department, in consultation with the community-based agencies that are undertaking the privatized projects, shall establish minimum thresholds for each component of service, consistent with standards established by the Legislature. Each program operated under contract with a community-based agency must be evaluated annually by the department. The department shall submit an annual report regarding quality performance, outcome measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, the minority leader of each house of the Legislature, and the Governor no later than January 31 of each year for each project in operation during the preceding fiscal year.

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

(4)*(a)* The community-based agency must comply with statutory requirements and agency rules in the provision of contractual services. Each foster home, therapeutic foster home, emergency shelter, or other placement facility operated by the community-based agency or agencies must be licensed by the Department of Children and Family Services under chapter 402 or this chapter. Each community-based agency must be licensed as a child-caring or child-placing agency by the department under this chapter. The department, in order to eliminate or reduce the number of duplicate inspections by various program offices, shall coordinate inspections required pursuant to licensure of agencies under this section.

(b) Substitute care providers who are licensed under s. 409.175 and have contracted with a lead agency authorized under this section shall also be authorized to provide registered or licensed family day care under s. 402.313, if consistent with federal law and if the home has met:

1. The requirements of s. 402.313; and

2. The requirements of s. 402.281 and has received Gold Seal Quality Care designation.

(c) A dually licensed home under this section shall be eligible to receive both the foster care board rate and the subsidized child care rate for the same child only if care is provided 24 hours a day. The subsidized child care rate shall be no more than the approved full-time rate.

(5) Beginning January 1, 1999, and continuing at least through *June 30, 2000* ~~December 31, 1999~~, the Department of Children and Family Services shall privatize all foster care and related services in district 5 while continuing to contract with the current model programs in districts 1, 4, and 13, and in subdistrict 8A, and shall expand the subdistrict 8A pilot program to incorporate Manatee County. Planning for the district 5 privatization shall be done by providers that are currently under contract with the department for foster care and related services and shall be done in consultation with the department. A lead provider of the district 5 program shall be competitively selected, must demonstrate the ability to provide necessary comprehensive services through a local network of providers, and must meet criteria established in this section. Contracts with organizations responsible for the model programs must include the management and administration of all privatized services specified in subsection (1). However, the department may use funds for contract management only after obtaining written approval from the Executive Office of the Governor. The request for such approval must include, but is not limited to, a statement of the proposed amount of such funds and a description of the manner in which such funds will be used. If the community-based organization selected for a model program under this subsection is not a Medicaid provider, the organization shall be issued a Medicaid provider number pursuant to s. 409.907 for the provision of services currently authorized under the state Medicaid plan to those children encompassed in this model and in a manner not to exceed the current level of state expenditure.

(6) Each district and subdistrict that participates in the model program effort or any future privatization effort as described in this section must thoroughly analyze and report the complete direct and indirect costs of delivering these services through the department and the full cost of privatization, including the cost of monitoring and evaluating the contracted services.

Section 3. Subsection (24) is added to section 409.906, Florida Statutes, 1998 Supplement, to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Optional services may include:

(24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency for Health Care Administration, in consultation with the Department of Children and Family Services, may establish a targeted case-management pilot project in those counties identified by the Department of Children and Family Services and for the community-based child welfare project in Sarasota and Manatee counties, as authorized under s. 409.1671. These projects shall be established for the purpose of determining the impact of targeted case management on the child welfare program and the earnings from the child welfare program. Results of the pilot projects shall be reported to the Child Welfare Estimating Conference and the Social Services Estimating Conference established under s. 216.136. The number of projects may not be increased until requested by the Department of Children and Family Services, recommended by the Child Welfare Estimating Conference and the Social Services Estimating Conference, and approved by the Legislature. The covered group of individuals who are eligible to receive targeted case management include children who are eligible for Medicaid; who are between the ages of birth through 21; and who are under protective supervision or postplacement supervision, under foster-care supervision, or in shelter care or foster care. The number of individuals who are eligible to receive targeted case management shall be limited to the number for whom the Department of Children and Family Services has available matching funds to cover the costs. The general revenue funds required to match the funds for services provided by the community-based child welfare projects are limited to funds available for services described under s. 409.1671. The Department of Children and Family Services may transfer the general revenue matching funds as billed by the Agency for Health Care Administration.

Section 4. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other*

provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

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 foster care and related services; amending s. 216.136, F.S.; requiring the Child Welfare System Estimating Conference to include forecasts of child welfare caseloads within the information it generates; providing for inclusion of additional classes of children in need of care among estimates; amending s. 409.1671, F.S.; providing that the Legislature does not intend to require local governments to fund foster care and related services previously funded by the state; providing for distribution of documented federal funds in excess of amounts appropriated by the Legislature; providing uses for such funds; providing for a review of the distribution program and a report; designating Broward County for either the state attorney or Attorney General to provide child welfare legal services; requiring community-based providers and their subcontractors to obtain certain liability insurance; prescribing limits on liability; prescribing immunity of employees of providers and their subcontractors; defining the term "culpable negligence"; declaring legislative intent with respect to inflationary increases in liability amounts; providing for hiring preference for state employees; prescribing requirements for preschool foster homes; changing the date for privatization of foster care and related services in district 5; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to establish a targeted case-management pilot project within certain counties; providing for the pilot project to determine the impact of targeted case-management services; providing for eligibility for coverage under the pilot project; providing certain limitations on funding; providing for severability; providing an effective date.

Senator Brown-Waite moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (264434)—On page 3, delete lines 9-15 and insert: *governments are presently funding portions of certain foster care and related services programs and may choose to expand such funding in the future, the Legislature does not intend by its privatization of foster care and related services that any county, municipality, or special district be required to assist in funding programs that previously have been funded by the state. Nothing in this paragraph prohibits any county, municipality, or special district from future voluntary funding participation in foster care and related services.* As used in this section, the term "privatize" means

On motion by Senator Brown-Waite, further consideration of **CS for CS for SB 660** with pending **Amendment 1** as amended was deferred.

On motion by Senator Clary—

SB 1642—A bill to be entitled An act relating to the Medikids program; amending s. 409.8132, F.S.; eliminating restrictions on MediPass participation in the Medikids program; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1642** was placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala—

CS for SB 232—A bill to be entitled An act relating to health care; amending s. 641.3903, F.S.; providing that certain actions by a health maintenance organization against a provider based on the provider's communication of certain information to a patient are unfair or deceptive practices; amending s. 641.315, F.S.; requiring certain written notice in order to terminate certain provider contracts; providing limitations on the use of such notice; amending s. 641.51, F.S.; providing for continued care of subscribers when certain provider contracts are terminated; providing for applicability of the act; providing an effective date.

—was read the second time by title.

The Committee on Health, Aging and Long-Term Care recommended the following amendments which were moved by Senator Latvala and adopted:

Amendment 1 (260520)—On page 2, delete lines 17 and 18 and insert: *term "health care provider" means a physician licensed under ch. 458, ch. 459, ch. 460, or ch. 461, or a dentist licensed under chapter 466.*

Amendment 2 (071620)—On page 3, line 18, delete "*after*" and insert: *before*

Senator Thomas moved the following amendment:

Amendment 3 (031352)(with title amendment)—On page 3, between lines 19 and 20, insert:

Section 4. Paragraph (h) of subsection (3) of section 110.123, Florida Statutes, 1998 Supplement, is amended to read:

110.123 State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(h)1. A person eligible to participate in the state group health insurance plan may be authorized by rules adopted by the division, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The division shall contract with health maintenance organizations to participate in the state group insurance program through a request for proposal based upon a premium and a minimum benefit package as follows:

a. A minimum benefit package to be provided by a participating HMO shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; and other benefits as may be required by the division. Additional services may be provided subject to the contract between the division and the HMO.

b. A uniform schedule for deductibles and copayments may be established for all participating HMOs.

c. Based upon the minimum benefit package and copayments and deductibles contained in sub-subparagraphs a. and b., the division shall issue a request for proposal for all HMOs which are interested in participating in the state group insurance program. Upon receipt of all proposals, the division may, as it deems appropriate, enter into contract negotiations with HMOs submitting bids. As part of the request for proposal process, the division may require detailed financial data from each HMO which participates in the bidding process for the purpose of determining the financial stability of the HMO.

d. In determining which HMOs to contract with, the division shall, at a minimum, consider: each proposed contractor's previous experience and expertise in providing prepaid health benefits; each proposed contractor's historical experience in enrolling and providing health care services to participants in the state group insurance program; the cost of the premiums; the plan's ability to adequately provide service coverage and administrative support services as determined by the division; plan benefits in addition to the minimum benefit package; accessibility to providers; and the financial solvency of the plan. Nothing shall preclude the division from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the division determines the plan has the best overall benefit package for the service areas involved. However, no HMO shall be eligible for a contract if the HMO's retiree Medicare premium exceeds the retiree rate as set by the division for the state group health insurance plan.

e. The division may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the division receives, the number of state employees in the service area, and any unique geographical characteristics of the service area. The division shall establish by rule service areas throughout the state.

f. All persons participating in the state group insurance program who are required to contribute towards a total state group health premium shall be subject to the same dollar contribution regardless of whether the enrollee enrolls in the state group health insurance plan or in an HMO plan.

3. The division is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The division may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.

4. In addition to contracting pursuant to subparagraph 2., the division shall enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25 percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health and Human Services excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the division in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The division is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a. through d. prior to the open enrollment period for state employees. The division is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal process described in subparagraph 2.

5. All enrollees in the state group health insurance plan or any health maintenance organization plan shall have the option of changing to any other health plan which is offered by the state within any open enrollment period designated by the division. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 9 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care was initiated, to continue care and coverage until completion of postpartum care. This does not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days after termination of a contract are effective only if agreed to by both parties.

7.~~6.~~ Any HMO participating in the state group insurance program shall, upon the request of the division, submit to the division standardized data for the purpose of comparison of the appropriateness, quality, and efficiency of care provided by the HMO. Such standardized data shall include: membership profiles; inpatient and outpatient utilization by age and sex, type of service, provider type, and facility; and emergency care experience. Requirements and timetables for submission of such standardized data and such other data as the division deems necessary to evaluate the performance of participating HMOs shall be adopted by rule.

8.~~7.~~ The division shall, after consultation with representatives from each of the unions representing state and university employees, establish a comprehensive package of insurance benefits including, but not limited to, supplemental health and life coverage, dental care, long-term care, and vision care to allow state employees the option to choose the benefit plans which best suit their individual needs.

a. Based upon a desired benefit package, the division shall issue a request for proposal for health insurance providers interested in participating in the state group insurance program, and the division shall issue a request for proposal for insurance providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the division may enter into contract negotiations with insurance providers submitting bids or negotiate a specially designed benefit package. Insurance providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the division in the supplemental insurance benefit plan established by the division without participating in a request for proposal, submitting bids, negotiating contracts, or negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans.

b. Pursuant to the applicable provisions of s. 110.161, and s. 125 of the Internal Revenue Code of 1986, the division shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 13, after the semicolon (;) insert: amending s. 110.123, F.S.; requiring the state-contracted health maintenance organization to provide an enrollee with continued access to a treating health care provider who loses provider status under the program; providing limitations; providing applicability;

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

Amendment 3A (025446)—On page 5, line 26, delete "*after*" and insert: *before*

Amendment 3 as amended was adopted.

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 4 (364514)(with title amendment)—On page 3, between lines 19 and 20, insert:

Section 4. Effective July 1, 1999, and applicable to policies and contracts issued or renewed on or after that date, subsections (2) and (3) of section 641.31, Florida Statutes, are amended to read:

641.31 Health maintenance contracts.—

(2) The rates charged by any health maintenance organization to its subscribers shall not be excessive, inadequate, or unfairly discriminatory *or follow a rating methodology that is inconsistent, indeterminate, or ambiguous or encourages misrepresentation or misunderstanding.* The department, in accordance with generally accepted actuarial practice as applied to health maintenance organizations, may define by rule what constitutes excessive, inadequate, or unfairly discriminatory rates and may require whatever information it deems necessary to determine that a rate or proposed rate meets the requirements of this subsection.

(3)(a) If a health maintenance organization desires to amend any contract with its subscribers or any certificate or member handbook, or desires to ~~change any rate charged for the contract or to~~ change any basic health maintenance contract, certificate, grievance procedure, or member handbook form, or application form where written application is required and is to be made a part of the contract, or printed amendment, addendum, rider, or endorsement form or form of renewal certificate, it may do so, upon filing with the department the proposed change *or*~~,~~ amendment~~, or change in rates~~. Any proposed change shall be effective immediately, subject to disapproval by the department. Following receipt of notice of such disapproval or withdrawal of approval, no health maintenance organization shall issue or use any form ~~or rate~~ disapproved by the department or as to which the department has withdrawn approval.

(b) Any change in the rate *is subject to paragraph (d) and* requires at least 30 days' advance written notice to the subscriber. In the case of a group member, there may be a contractual agreement with the health maintenance organization to have the employer provide the required notice to the individual members of the group.

(c)~~(b)~~ The department shall disapprove any form filed under this subsection, or withdraw any previous approval thereof, if the form:

1. Is in any respect in violation of, or does not comply with, any provision of this part or rule adopted thereunder.

2. Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

3. Has any title, heading, or other indication of its provisions which is misleading.

4. Is printed or otherwise reproduced in such a manner as to render any material provision of the form substantially illegible.

5. Contains provisions which are unfair, inequitable, or contrary to the public policy of this state or which encourage misrepresentation.

~~6. Charges rates that are determined by the department to be inadequate, excessive, or unfairly discriminatory, or the rating methodology followed by the health maintenance organization is determined by the department to be inconsistent, indeterminate, ambiguous, or encouraging misrepresentation or misunderstanding. Use of the rating methodology must be discontinued immediately upon disapproval unless the health maintenance organization seeks administrative relief. If a new rating methodology is filed with the department, the premiums determined by such newly filed rating methodology may apply prospectively only to new or renewal business written on or after the effective date of the responsive filing made by the health maintenance organization.~~

6.~~7.~~ Excludes coverage for human immunodeficiency virus infection or acquired immune deficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of such contract, for human immunodeficiency virus infection or acquired immune deficiency syndrome which are different than those which apply to any other sickness or medical condition.

(d) Any change in rates charged for the contract must be filed with the department not less than 30 days in advance of the effective date. At the expiration of such 30 days, the rate filing shall be deemed approved unless prior to such time the filing has been affirmatively approved or disapproved by order of the department. The approval of the filing by the department constitutes a waiver of any unexpired portion of such waiting period. The department may extend by not more than an additional 15 days the period within which it may so affirmatively approve or disapprove any such filing, by giving notice of such extension before expiration of the initial 30-day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such filing shall be deemed approved.

(e)~~(c)~~ It is not the intent of this subsection to restrict unduly the right to modify rates in the exercise of reasonable business judgment.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 13, following the semicolon (;) insert: amending s. 641.31, F.S.; revising the procedures and standards for rate changes made by an organization; deleting current provisions that allow rate changes to be implemented immediately upon filing with the Department of Insurance, subject to disapproval; requiring rate changes to be filed with the department a specified time period prior to use; providing that a filing is deemed approved after a certain time period absent affirmative approval or disapproval by the department; making conforming changes;

Pursuant to Rule 4.19, **CS for SB 232** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Myers—

SB 976—A bill to be entitled An act relating to autism; providing for clinical trials to be conducted on the use of the drug Secretin by a nonprofit provider; requiring a report; providing an appropriation; providing an effective date.

—was read the second time by title.

The Committee on Health, Aging and Long-Term Care recommended the following amendment which was moved by Senator Myers and adopted:

Amendment 1 (813596)—On page 1, line 25, after "*clinical trials*" insert: *, approved by a federally–sanctioned institutional review board within the teaching hospital,*

Pursuant to Rule 4.19, **SB 976** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

SB 148—A bill to be entitled An act relating to school-entry health and vision examinations; amending s. 232.0315, F.S.; requiring children who enter public or nonpublic schools in this state to present evidence of having received a comprehensive vision examination; providing an exemption; deleting provisions relating to rulemaking authority with respect to medical examinations; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendment which was moved by Senator Cowin:

Amendment 1 (435758)(with title amendment)—On page 1, delete lines 23-30 and insert: examination *and a certification of having passed a school-entry vision screening or of having taken a comprehensive vision examination and analysis after failing a vision screening. The required health examination and vision test must have been* performed within 1 year prior to enrollment in school. The school board of each district, and the governing authority of each nonpublic school, may establish a policy which permits a student up to 30 school days to present a certification of a school-entry health examination *and up to 120 days to present a certification of a school-entry vision screening and, if required, a certification of a comprehensive vision*

And the title is amended as follows:

On page 1, line 6, after "evidence of" insert: having passed a vision screening or

On motion by Senator Cowin, further consideration of **SB 148** with pending **Amendment 1** was deferred.

On motion by Senator Campbell, by two-thirds vote **HB 79** was withdrawn from the Committees on Criminal Justice and Fiscal Policy.

On motion by Senator Campbell—

HB 79—A bill to be entitled An act relating to motor vehicle airbags; providing a short title; providing definitions; requiring any person engaged in the business of purchasing, selling, or installing salvaged airbags to maintain a record of any purchase, sale, or installation of a salvaged airbag; specifying required information; providing for inspection and disclosure of such records; requiring any person who sells or

installs a salvaged airbag to disclose to the purchaser that the airbag is salvaged; prohibiting certain activities; providing penalties; providing an effective date.

—a companion measure, was substituted for **CS for SB 244** and read the second time by title.

Pursuant to Rule 4.19, **HB 79** was placed on the calendar of Bills on Third Reading.

On motion by Senator Lee—

CS for SB's 54 and 902—A bill to be entitled An act relating to criminal law; creating s. 90.4051, F.S.; prohibiting consideration of evidence of a defendant's voluntary intoxication to determine the existence of a mental state that is an element of a crime; creating s. 775.0852, F.S.; requiring that an enhanced penalty be imposed if the victim of a felony is related by lineal consanguinity to the defendant or is the defendant's legal guardian; providing an effective date.

—was read the second time by title.

An amendment was considered and failed and an amendment was considered and adopted to conform **CS for SB's 54 and 902** to **CS for HB's 421 and 485**.

Pending further consideration of **CS for SB's 54 and 902** as amended, on motion by Senator Lee, by two-thirds vote **CS for HB's 421 and 485** was withdrawn from the Committees on Criminal Justice and Fiscal Policy.

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

CS for HB's 421 and 485—A bill to be entitled An act relating to evidence; providing that evidence of voluntary intoxication is not admissible for certain purposes; providing an exception; providing an effective date.

—a companion measure, was substituted for **CS for SB's 54 and 902** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **CS for HB's 421 and 485** was placed on the calendar of Bills on Third Reading.

SENATOR BURT PRESIDING

On motion by Senator Campbell, by two-thirds vote **CS for HB 49** was withdrawn from the Committee on Criminal Justice.

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

CS for HB 49—A bill to be entitled An act relating to criminal use of personal identification information; creating s. 817.568, F.S.; providing definitions; providing that a person who willfully and without authorization uses, or possesses with intent to use, personal identification information concerning an individual without previously obtaining the individual's consent commits either the offense of fraudulent use of personal identification information or the offense of harassment by use of personal identification information, depending on specified circumstances; providing penalties; providing for nonapplicability of the new provisions to specified law enforcement activities; providing for restitution, including attorney's fees and costs, to the victim; providing for prosecution by the state attorney or the statewide prosecutor; reenacting s. 464.018(1)(d), F.S., relating to disciplinary actions for violations of the Nurse Practice Act, s. 772.102(1)(a), F.S., relating to definition of "criminal activity" with respect to the Civil Remedies for Criminal Practices Act, and s. 895.02(1)(a), F.S., relating to definition of "racketeering activity," to provide for incorporation of said new section in references to ch. 817, F.S.; providing an effective date.

—a companion measure, was substituted for **CS for SB's 286, 722 and 1074** and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **CS for HB 49** was placed on the calendar of Bills on Third Reading.

Consideration of **SB 730** was deferred.

On motion by Senator Campbell, by two-thirds vote **CS for HB 11** was withdrawn from the Committees on Criminal Justice and Fiscal Policy.

On motion by Senator Campbell—

CS for HB 11—A bill to be entitled An act relating to arrests; amending s. 901.02, F.S., relating to issuance of arrest warrants; providing that a warrant is issued at the time it is signed by the magistrate; providing that the court may issue a warrant for the defendant's arrest under specified circumstances when a complaint has been filed charging the commission of a misdemeanor only and the summons issued to the defendant is returned unserved; creating s. 901.36, F.S.; prohibiting a person who has been arrested or lawfully detained by a law enforcement officer from giving a false name or otherwise falsely identifying himself or herself to the law enforcement officer or county jail personnel; providing penalties; providing for an increased penalty if a person is adversely affected by the unlawful use of the person's name or other identification; permitting the adversely affected person to obtain court orders to correct public records under specified circumstances; authorizing issuance of such court orders by the sentencing court; providing for restitution orders; providing an effective date.

—a companion measure, was substituted for **CS for SB 738** and read the second time by title.

Pursuant to Rule 4.19, **CS for HB 11** was placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala, by two-thirds vote **CS for HB 183** was withdrawn from the Committees on Criminal Justice and Fiscal Policy.

On motion by Senator Latvala—

CS for HB 183—A bill to be entitled An act relating to sentencing; amending s. 775.085, F.S.; reclassifying penalties relating to offenses evidencing prejudice; amending s. 794.023, F.S.; reclassifying offenses involving multiple perpetrators of sexual battery; providing an effective date.

—a companion measure, was substituted for **CS for SB 912** and read the second time by title.

Pursuant to Rule 4.19, **CS for HB 183** was placed on the calendar of Bills on Third Reading.

On motion by Senator Silver—

SB 1178—A bill to be entitled An act relating to the juvenile justice continuum; creating s. 985.3065, F.S.; authorizing a law enforcement agency or school district to establish a prearrest diversion program in cooperation with the state attorney; providing that a child may be required to surrender his or her driver's license under the program; authorizing the state attorney to notify the Department of Highway Safety and Motor Vehicles to suspend the driver's license of a child who fails to comply with the requirements of the prearrest diversion program; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1178** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 748** was deferred.

On motion by Senator Meek—

CS for SB 370—A bill to be entitled An act relating to domestic violence; amending s. 741.31, F.S.; providing that it is unlawful for a person subject to an injunction for protection against domestic violence to refuse to surrender any firearm or ammunition in his or her custody,

or to interfere with or obstruct a law enforcement officer enforcing the injunction; providing a penalty; amending s. 787.04, F.S.; providing that it is unlawful for any noncustodial parent or respondent subject to an injunction for protection against domestic violence to lead, take, entice, or remove a minor from the custodial parent or any child care provider or other person entrusted by the custodial parent with the care of the minor or to conceal the location of the minor, in violation of the injunction; providing a penalty; reenacting s. 901.15(6), F.S., relating to when an arrest is made by a law enforcement officer without a warrant to incorporate said amendment in a reference; providing an effective date.

—was read the second time by title.

Senator Meek moved the following amendment which was adopted:

Amendment 1 (591456)(with title amendment)—On page 5, between lines 12 and 13, insert:

Section 4. Section 938.14, Florida Statutes, is created to read:

938.14 Additional court costs in domestic violence cases.—

(1) When a person pleads guilty or nolo contendere to, or is found guilty or convicted of, regardless of adjudication, an act of domestic violence as defined in s. 741.28, there shall be imposed on the person as a cost in the case, in addition to any other cost or penalty required to be imposed by law, a court cost in the sum of $36. This additional court cost shall be assessed against the person unless specifically waived by the court on the record.

(2) The clerk of the court shall collect the respective $36 assessments for court costs provided for in this section and, on a monthly basis, transfer the moneys collected to the State Treasury for deposit in the designated account of the Domestic Violence Trust Fund for disbursement in accordance with s. 741.01(2).

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 22, after the semicolon (;) insert: creating s. 938.14, F.S.; providing for imposition of an additional mandatory court cost upon a person found to have committed an act of domestic violence; providing for waiver of the court cost; providing for collection by the clerk of the court; providing for deposit of such court costs in the Domestic Violence Trust Fund; providing for certain disbursements in accordance with specified provisions relating to funding of domestic violence centers;

Pursuant to Rule 4.19, **CS for SB 370** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

SB 1182—A bill to be entitled An act relating to medical treatment of violent wounds; amending s. 790.24, F.S.; requiring medical personnel to report life-threatening wounds to the sheriff; providing penalties; providing an effective date.

—was read the second time by title.

Senator Silver moved the following amendment:

Amendment 1 (955534)(with title amendment)—On page 1, delete lines 12-20 and insert:

790.24 Report of medical treatment of *certain injuries* ~~gunshot wounds~~; penalty for failure to report.—Any physician, nurse, or employee thereof and any employee of a hospital, sanitarium, clinic, or nursing home knowingly treating any person suffering from a gunshot wound or *life-threatening injuries* ~~other wound~~ indicating *an act of* violence, or receiving a request for such treatment, shall report the same immediately to the sheriff's department of the county in which said treatment is administered or request therefor received. *This section does not affect any requirement that a person has to report abuse pursuant to chapter 39 or chapter 415.* Any such person

And the title is amended as follows:

On page 1, line 5, delete “wounds” and insert: injuries

On motion by Senator Silver, further consideration of **SB 1182** with pending **Amendment 1** was deferred.

On motion by Senator Brown-Waite, the Senate resumed consideration of—

CS for CS for SB 660—A bill to be entitled An act relating to foster care and related services; amending s. 409.1671, F.S.; providing that the department transfer to the lead agency documented federal funds earned by the agency in excess of the amount specified in the contract; providing that the earned federal funds be used for providing additional child welfare services; providing that the contract be amended to permit expenditure of federal funds; specifying that an agency that provides foster care and related services pursuant to s. 409.1671, F.S., under contract with the Department of Children and Family Services is an instrumentality of the state; providing limitations on certain tort actions brought against the provider; requiring providers to procure liability insurance coverage; declaring legislative intent with respect to payment of claims; providing an effective date.

—with pending **Amendment 1** as amended by Senator Brown-Waite.

Senator Jones moved the following amendments to **Amendment 1** which were adopted:

Amendment 1B (734038)(with title amendment)—On page 16, between lines 15 and 16, insert:

Section 5. Subsections (2) and (7) of section 39.013, Florida Statutes, 1998 Supplement, are amended to read:

39.013 Procedures and jurisdiction; right to counsel.—

(2) The circuit court shall have exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated pursuant to this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was in the physical or legal custody of no person when the event or condition occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age, *and may retain jurisdiction of such individual until he or she reaches 21 years of age.*

(7) For any child who remains in the custody or under the supervision of the department, the court shall, within the 6-month period before the child's 18th birthday, hold a hearing to review the progress of the child while in the custody or under the supervision of the department. *Thereafter, an annual review shall be conducted during the time the child remains in the custody of or under the supervision of the department.*

Section 6. Paragraph (b) of subsection (3) of section 409.145, Florida Statutes, 1998 Supplement, is amended to read:

409.145 Care of children.—

(3)

(b) The services of the foster care program shall continue for those individuals 18 to 21 years of age only for the period of time the individual is continuously enrolled in high school, in a program leading to a high school equivalency diploma as defined in s. 229.814, or in a full-time career education program. Services *may* ~~shall~~ be terminated upon completion of or withdrawal or permanent expulsion from high school, the program leading to a high school equivalency diploma, or the full-time career education program, *subject to the review of the juvenile court.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 18, line 2, after the semicolon (;) insert: amending s. 39.013, F.S.; providing for circuit court jurisdiction in dependency proceedings until the child reaches a specified age; providing for an annual review during the time a child remains in the custody of or under the supervision of the Department of Children and Family Services; amending s. 409.145, F.S.; deleting a requirement that foster care services be terminated upon a child's leaving an educational program;

Amendment 1C (062424)(with title amendment)—On page 16, between lines 15 and 16, insert:

Section 5. Section 39.4085, Florida Statutes, is created to read:

39.4085 Legislative findings and declaration of intent for goals for dependent children.—The Legislature finds and declares that the design and delivery of child welfare services should be directed by the principle that the health and safety of children should be of paramount concern and, therefore, establishes the following goals for children in shelter or foster care:

(1) To receive a copy of this act and have it fully explained to them when they are placed in the custody of the department.

(2) To enjoy individual dignity, liberty, pursuit of happiness, and the protection of their civil and legal rights as persons in the custody of the state.

(3) To have their privacy protected, have their personal belongings secure and transported with them, and, unless otherwise ordered by the court, have uncensored communication, including receiving and sending unopened communications and having access to a telephone.

(4) To have personnel providing services who are sufficiently qualified and experienced to assess the risk children face prior to removal from their homes and to meet the needs of the children once they are in the custody of the department.

(5) To remain in the custody of their parents or legal custodians unless and until there has been a determination by a qualified person exercising competent professional judgment that removal is necessary to protect their physical, mental, or emotional health or safety.

(6) To have a full risk, health, educational, medical and psychological screening and, if needed, assessment and testing upon adjudication into foster care; and to have their photograph and fingerprints included in their case management file.

(7) To be referred to and receive services, including necessary medical, emotional, psychological, psychiatric and educational evaluations and treatment, as soon as practicable after identification of the need for such services by the screening and assessment process.

(8) To be placed in a home with no more than one other child, unless they are part of a sibling group.

(9) To be placed away from other children known to pose a threat of harm to them, either because of their own risk factors or those of the other child.

(10) To be placed in a home where the shelter or foster caregiver is aware of and understands the child's history, needs, and risk factors.

(11) To be the subject of a plan developed by the counselor and the shelter or foster caregiver to deal with identified behaviors that may present a risk to the child or others.

(12) To be involved and incorporated, where appropriate, in the development of the case plan, to have a case plan which will address their specific needs, and to object to any of the provisions of the case plan.

(13) To receive meaningful case management and planning that will quickly return the child to his or her family or move the child on to other forms of permanency.

(14) To receive regular communication with a caseworker, at least once a month, which shall include meeting with the child alone and conferring with the shelter or foster caregiver.

(15) To enjoy regular visitation, at least once a week, with their siblings unless the court orders otherwise.

(16) To enjoy regular visitation with their parents, at least once a month, unless the court orders otherwise.

(17) To receive a free and appropriate education; minimal disruption to their education and retention in their home school, if appropriate; referral to the child study team; all special educational services, including, where appropriate, the appointment of a parent surrogate; the sharing of all necessary information between the school board and the department, including information on attendance and educational progress.

(18) To be able to raise grievances with the department over the care they are receiving from their caregivers, caseworkers, or other service providers.

(19) To be heard by the court, if appropriate, at all review hearings.

(20) To have a guardian ad litem appointed to represent, within reason, their best interests and, where appropriate, an attorney ad litem appointed to represent their legal interests; the guardian ad litem and attorney ad litem shall have immediate and unlimited access to the children they represent.

(21) To have all their records available for review by their guardian ad litem and attorney ad litem if they deem such review necessary.

(22) To organize as a group for purposes of ensuring that they receive the services and living conditions to which they are entitled and to provide support for one another while in the custody of the department.

(23) To be afforded prompt access to all available state and federal programs, including, but not limited to: Early Periodic Screening, Diagnosis, and Testing (EPSDT) services, developmental services programs, Medicare and supplemental security income, Children's Medical Services, and programs for severely emotionally disturbed children.

The provisions of this section establish goals and not rights. Nothing in this section shall be interpreted as requiring the delivery of any particular service or level of service in excess of existing appropriations. No person shall have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. Nothing herein shall require the expenditure of funds to meet the goals established herein except funds specifically appropriated for such purpose.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 18, line 2, after "severability;" insert: creating s. 39.4085, F.S.; providing legislative intent; specifying goals in support of a "Bill of Rights," specifying the rights of dependent children in shelter or foster care; clarifying that the establishment of goals does not create rights; prohibiting certain causes of action;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for SB 660** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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

CS for SB 2280—A bill to be entitled An act relating to the Department of Management Services; amending s. 20.22, F.S.; transferring functions of the Divisions of State Group Insurance and Retirement to the department; abolishing the Florida State Group Insurance Council; amending ss. 110.1227, 110.123, 110.12315, 110.1232, 110.1234, 110.161, 112.05, 112.3173, 112.352, 112.354, 112.356, 112.358, 112.361, 112.362, 112.363, 112.63, 112.64, 112.658, 112.665, 121.025, 121.027, 121.031, 121.051, 121.0511, 121.0515, 121.052, 121.055, 121.071, 121.081, 121.091, 121.101, 121.111, 121.133, 121.135, 121.136, 121.1815, 121.1905, 121.192, 121.193, 121.22, 121.23, 121.24, 121.30, 121.35, 121.40, 121.45, 122.02, 122.03, 122.05, 122.06, 122.07, 122.08, 122.10, 122.12, 122.13, 122.15, 122.16, 122.23, 122.30, 122.34, 122.351, 175.032, 175.111, 175.121, 175.1215, 175.261, 175.341, 175.351, 175.361, 175.401, 185.02, 185.09, 185.10, 185.105, 185.221, 185.23, 185.35, 185.37, 185.50, 189.412, 215.20, 215.28, 215.50, 238.01, 238.02, 238.03, 238.05, 238.07, 238.08, 238.09, 238.10, 238.11, 238.12, 238.14,

238.15, 238.171, 238.181, 238.32, 240.3195, 250.22, 321.17, 321.19, 321.191, 321.202, 321.203, 321.2205, 413.051, 633.382, 650.02, F.S., to conform to the restructuring of the department by this act; requiring executive departments to report information on boards, commissions, and similar entities to the department, along with recommendations for continuance, abolition, or revision; requiring the department to report that information to the Governor and the Legislature; providing an effective date.

—which was previously considered and amended this day.

RECONSIDERATION OF AMENDMENTS

On motion by Senator Campbell, the Senate reconsidered the vote by which **Amendment 3** was adopted. **Amendment 3** was withdrawn.

On motion by Senator Campbell, the Senate reconsidered the vote by which **Amendment 9** was adopted.

Senator Brown-Waite moved the following amendment to **Amendment 9** which was adopted:

Amendment 9A (285572)(with title amendment)—On page 3, line 22, insert:

Section 5. *The Department of Management Services may not implement a prior-authorization program or a restricted-formulary program that restricts a non-HMO enrollee's access to prescription drugs beyond the provisions of section 110.12315(3), Florida Statutes, as amended by act, which relate specifically to generic equivalents for prescriptions and the provisions of section 110.12315(5), Florida Statutes, as amended by this act, which relate specifically to starter-dose programs or the dispensing of long-term maintenance medications. The prior-authorization program expanded pursuant to section 8 of the 1998-1999 General Appropriations Act is terminated. If this section conflicts with any General Appropriations Act or any act implementing a General Appropriations Act, the Legislature intends that the provisions of this section shall prevail.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 30, after the semicolon (;) insert: prohibiting the Department of Management Services from restricting access to prescription drugs for certain enrollees under the state employees' prescription drug program;

Amendment 9 as amended was adopted.

Pursuant to Rule 4.19, **CS for SB 2280** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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

SB 1182—A bill to be entitled An act relating to medical treatment of violent wounds; amending s. 790.24, F.S.; requiring medical personnel to report life-threatening wounds to the sheriff; providing penalties; providing an effective date.

—with pending **Amendment 1** by Senator Silver.

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

Amendment 1A (300868)—On page 1, delete lines 17-22 and insert:

790.24 Report of medical treatment of *certain* ~~gunshot~~ wounds; penalty for failure to report.—Any physician, nurse, or employee thereof and any employee of a hospital, sanitarium, clinic, or nursing home knowingly treating any person suffering from a gunshot wound or *life-threatening injury* ~~other wound~~ indicating *an act of* violence, or

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **SB 1182** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Meek, by two-thirds vote **HB 391** was withdrawn from the Committees on Criminal Justice and Fiscal Policy.

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

HB 391—A bill to be entitled An act relating to criminal justice information; amending s. 943.053, F.S.; providing each office of the Public Defender on-line access to criminal records which are not exempt from disclosure and not confidential under law; providing an effective date.

—a companion measure, was substituted for **SB 730** and by two-thirds vote read the second time by title.

On motion by Senator Meek, further consideration of **HB 391** was deferred.

On motion by Senator Diaz-Balart—

CS for SB 748—A bill to be entitled An act relating to pretrial detention; amending s. 907.041, F.S.; permitting the court to order pretrial detention under specified circumstances when it finds a substantial probability that a defendant committed the charged crime of DUI manslaughter as defined by s. 316.193, F.S., relating to driving under the influence, and that the defendant poses the threat of harm to the community; specifying certain conditions that would support a finding that the defendant poses the threat of harm to the community; reenacting s. 790.065(2)(c), F.S., relating to sale and delivery of firearms, s. 943.0585, F.S., relating to court-ordered expunction of criminal history records, and s. 943.059, F.S., relating to court-ordered sealing of criminal history records, to incorporate such amendment in references; providing an effective date.

—was read the second time by title.

Senator Diaz-Balart moved the following amendment:

Amendment 1 (870426)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *This act may be cited as the "Trooper Robert Smith Act."*

Section 2. Section 907.041, Florida Statutes, is amended to read:

907.041 Pretrial detention and release.—

(1) LEGISLATIVE INTENT.—It is the policy of this state that persons committing serious criminal offenses, posing a threat to the safety of the community or the integrity of the judicial process, or failing to appear at trial be detained upon arrest. However, persons found to meet specified criteria shall be released under certain conditions until proceedings are concluded and adjudication has been determined. The Legislature finds that this policy of pretrial detention and release will assure the detention of those persons posing a threat to society while reducing the costs for incarceration by releasing, until trial, those persons not considered a danger to the community who meet certain criteria. It is the intent of the Legislature that the primary consideration be the protection of the community from risk of physical harm to persons.

(2) RULES OF PROCEDURE.—Procedures for pretrial release determinations shall be governed by rules adopted by the Supreme Court.

(3) RELEASE ON NONMONETARY CONDITIONS.—It is the intent of the Legislature to create a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release. Such person shall be released on monetary conditions only if it is determined that such monetary conditions are necessary to assure the presence of the person at trial or at other proceedings, to protect the community from risk of physical harm to persons, to assure the presence of the accused at trial, or to assure the integrity of the judicial process.

(4) PRETRIAL DETENTION.—

(a) As used in this subsection, "dangerous crime" means any of the following:

1. Arson;

2. Aggravated assault;

3. Aggravated battery;

4. Illegal use of explosives;

5. Child abuse or aggravated child abuse;

6. Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;

7. Hijacking;

8. Kidnapping;

9. Homicide;

10. Manslaughter;

11. Sexual battery;

12. Robbery;

13. Carjacking;

14. Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;

15. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;

16. Burglary of a dwelling;

17. Stalking and aggravated stalking;

18. Act of domestic violence as defined in s. 741.28; and

19. Attempting or conspiring to commit any such crime; and home-invasion robbery.

(b) The court may order pretrial detention if it finds a substantial probability, based on a defendant's past and present patterns of behavior, the criteria in s. 903.046, and any other relevant facts, that *any of the following circumstances exist*:

1. The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;

2. The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no condition of release will reasonably prevent the obstruction of the judicial process;

3. The defendant is charged with trafficking in controlled substances as defined by s. 893.135, that there is a substantial probability that the defendant has committed the offense, and that no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings; ~~or~~

4. The defendant is charged with DUI manslaughter, as defined by s. 316.193, and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions that would support a finding by the court pursuant to this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:

a. The defendant has previously been convicted of any crime under s. 316.193, or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;

b. The defendant was driving with a suspended driver's license when the charged crime was committed; or

c. The defendant has previously been found guilty of, or has had adjudication of guilt withheld for, driving while the defendant's driver's license was suspended or revoked in violation of s. 322.34;

5.~~4.~~ The defendant poses the threat of harm to the community. The court may so conclude if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons. ~~In addition, the court must find that at least one of the following conditions is present:~~

~~a. The defendant has previously been convicted of a crime punishable by death or life imprisonment.~~

~~b. The defendant has been convicted of a dangerous crime within the 10 years immediately preceding the date of his or her arrest for the crime presently charged.~~

6.~~c.~~ The defendant *was* ~~is~~ on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time ~~of~~ the current *offense was committed; or* ~~arrest.~~

7. The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial.

(c) Due to the dangerous or violent nature of the offenses described in paragraphs (a) and (b), public funds may not be used to subsidize release of a person charged with such an offense.

(d)~~(c)~~ When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency shall promptly notify the state attorney of the arrest and shall provide the state attorney with such information as the arresting agency has obtained relative to:

1. The nature and circumstances of the offense charged;

2. The nature of any physical evidence seized and the contents of any statements obtained from the defendant or any witness;

3. The defendant's family ties, residence, employment, financial condition, and mental condition; and

4. The defendant's past conduct and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.

(e)~~(d)~~ When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain such defendant, prior to the filing by the state attorney of a motion seeking pretrial detention, for a period not to exceed 24 hours.

(f)~~(e)~~ ~~The court shall order detention only after a pretrial detention hearing.~~ The *pretrial detention* hearing shall be held within 5 days of the filing by the state attorney of a complaint to seek pretrial detention. The defendant may request a continuance. No continuance shall be for longer than 5 days unless there are extenuating circumstances. The defendant may be detained pending the hearing. The state attorney shall be entitled to one continuance for good cause.

(g)~~(f)~~ The state attorney has the burden of showing the need for pretrial detention.

(h)~~(g)~~ The defendant is entitled to be represented by counsel, to present witnesses and evidence, and to cross-examine witnesses. The court may admit relevant evidence without complying with the rules of evidence, but evidence secured in violation of the United States Constitution or the Constitution of the State of Florida shall not be admissible. No testimony by the defendant shall be admissible to prove guilt at any other judicial proceeding, but such testimony may be admitted in an action for perjury, based upon the defendant's statements made at the pretrial detention hearing, or for impeachment.

(i)~~(h)~~ The pretrial detention order of the court shall be based solely upon evidence produced at the hearing and shall contain findings of fact and conclusions of law to support it. The order shall be made either in writing or orally on the record. The court shall render its findings within 24 hours of the pretrial detention hearing.

~~(i) If ordered detained pending trial pursuant to subparagraph (b)4., the defendant may not be held for more than 90 days. Failure of the state to bring the defendant to trial within that time shall result in the defendant's release from detention, subject to any conditions of release, unless the trial delay was requested or caused by the defendant or his or her counsel.~~

(j) A defendant convicted at trial following the issuance of a pretrial detention order shall have credited to his or her sentence, if imprisonment is imposed, the time the defendant was held under the order, pursuant to s. 921.161.

(k) The defendant shall be entitled to dissolution of the pretrial detention order whenever the court finds that a subsequent event has eliminated the basis for detention.

(l) Nothing in this section shall be construed to require the filing of a motion for pretrial detention as a condition precedent to detaining the defendant if the defendant is brought before the court for a bail hearing. Notwithstanding paragraph (e), the state may orally move for pretrial detention any time a defendant is before the court for a bail hearing.

Section 3. For the purpose of incorporating the amendment to section 907.041, Florida Statutes, in references thereto, the following sections or subdivisions of Florida Statutes, or Florida Statutes, 1998 Supplement, are reenacted to read:

790.065 Sale and delivery of firearms.—

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a dangerous crime as specified in s. 907.041(4)(a) or for any of the following enumerated offenses:

a. Criminal anarchy under ss. 876.01 and 876.02.

b. Extortion under s. 836.05.

c. Explosives violations under s. 552.22(1) and (2).

d. Controlled substances violations under chapter 893.

e. Resisting an officer with violence under s. 843.01.

f. Weapons and firearms violations under this chapter.

g. Treason under s. 876.32.

h. Assisting self-murder under s. 782.08.

i. Sabotage under s. 876.38.

j. Stalking or aggravated stalking under s. 784.048.

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, "working hours" means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.

3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.

4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.

5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.

6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.

7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:

a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or

b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.

8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each petition to a court to expunge a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for expunction issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never previously been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such an expunction to the best of his or her knowledge or belief and does not have any other petition to expunge or any petition to seal pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to petitioning the court to expunge a criminal history record, a person seeking to expunge a criminal history record shall apply to the department for a certificate of eligibility for expunction. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

(a) Has obtained, and submitted to the department, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates:

1. That an indictment, information, or other charging document was not filed or issued in the case.

2. That an indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction.

3. That the criminal history record does not relate to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041, where the defendant was found guilty of, or pled guilty or nolo contendere to any such offense, or that the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, such an offense as a delinquent act, without regard to whether adjudication was withheld.

(b) Remits a $75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has submitted to the department a certified copy of the disposition of the charge to which the petition to expunge pertains.

(d) Has never previously been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(e) Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.

(f) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(g) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to expunge pertains.

(h) Is not required to wait a minimum of 10 years prior to being eligible for an expunction of such records because all charges related to the arrest or criminal activity to which the petition to expunge pertains were dismissed prior to trial, adjudication, or the withholding of adjudication. Otherwise, such criminal history record must be sealed under this section, former s. 893.14, former s. 901.33, or former s. 943.058 for at least 10 years before such record is eligible for expunction.

(3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

(a) In judicial proceedings under this section, a copy of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to expunge.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to expunge to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to expunge entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of an order to expunge which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to expunge. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to expunge entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to expunge when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or such order does not otherwise comply with the requirements of this section.

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

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

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s.

393.063(14), s. 394.4572(1), s. 397.451, s. 402.302(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.1075(4), s. 985.407, or chapter 400; or

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

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

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

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

(1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each petition to a court to seal a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for sealing issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never previously been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such a sealing to the best of his or her knowledge or belief and does not have any other petition to seal or any petition to expunge pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to petitioning the court to seal a criminal history record, a person seeking to seal a criminal history record shall apply to the department for a certificate of eligibility for sealing. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for sealing. The department shall issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record provided that such person:

(a) Has submitted to the department a certified copy of the disposition of the charge to which the petition to seal pertains.

(b) Remits a $75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has never previously been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(d) Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

(e) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(f) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to seal pertains.

(3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

(a) In judicial proceedings under this section, a copy of the completed petition to seal shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to seal.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and to the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to seal to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to seal entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of any order to seal which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the

order to seal. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to seal entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to seal when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or when such order does not comply with the requirements of this section.

(e) An order sealing a criminal history record pursuant to this section does not require that such record be surrendered to the court, and such record shall continue to be maintained by the department and other criminal justice agencies.

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

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

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, s. 402.302(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

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

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

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

Section 4. *Rules 3.131 and 3.132, Florida Rules of Criminal Procedure, are hereby repealed to the extent that they are inconsistent with this act.*

Section 5. Section 903.31, Florida Statutes, is amended to read:

903.31 Canceling the bond.—

(1) Within 10 business days after the conditions of a bond have been satisfied or the forfeiture discharged or remitted, the court shall order the bond canceled and, if the surety has attached a certificate of cancellation to the original bond, shall furnish an executed certificate of cancellation to the surety without cost. An adjudication of guilt or innocence of the defendant shall satisfy the conditions of the bond. The original appearance bond shall not be construed to guarantee deferred sentences, appearance during or after a presentence investigation, appearance during or after appeals, conduct during or appearance after admission to a pretrial intervention program, payment of fines, or attendance at educational or rehabilitation facilities the court otherwise provides in the judgment.

(2) In any case where no formal charges have been brought against defendant within 365 days after arrest, the court shall order the bond canceled unless good cause is shown by the state.

Section 6. This act shall take effect October 1, 1999, except that section 4 shall take effect only if this act is passed by the affirmative vote of two-thirds of the membership of each house of the Legislature.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to pretrial detention; providing a short title; amending s. 907.041, F.S.; revising criteria for pretrial detention; permitting the court to order pretrial detention under specified circumstances when it finds a substantial probability that a defendant committed the charged crime of DUI manslaughter as defined by s. 316.193, F.S., relating to driving under the influence, and that the defendant poses the threat of harm to the community; specifying certain conditions that would support a finding that the defendant poses the threat of harm to the community; deleting requirement for additional court findings for pretrial detention; permitting pretrial detention for any violation of conditions of pretrial release or bond which, in the discretion of the court, supports a finding that no condition of release can reasonably protect the community from physical harm, assure the presence of the accused at trial, or assure the integrity of the judicial process; deleting limitation upon detention period when detention is based on threat of harm to the community; authorizing a court to detain a defendant at a bail hearing without separate hearing or motion for pretrial detention; authorizing the state to orally move for pretrial detention any time the defendant is before the court for a bail hearing; providing for construction; reenacting s. 790.065(2)(c), F.S., relating to sale and delivery of firearms, s. 943.0585, F.S., relating to court-ordered expunction of criminal history records, and s. 943.059, F.S., relating to court-ordered sealing of criminal history records, to incorporate said amendment in references; repealing Rules 3.131 and 3.132, Florida Rules of Criminal Procedure, relating to pretrial release and pretrial detention, to the extent of inconsistency with the act; amending s. 903.31, F.S.; providing for cancellation of bond under certain circumstances; providing an effective date.

Senator Diaz-Balart moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A (333574)—On page 4, line 18, after "*suspended*" insert: *or revoked*

Amendment 1B (035114)—On page 7, line 26, delete "*(e)*" and insert: *(f)*

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for SB 748** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Rossin, by two-thirds vote **CS for HB 425** was withdrawn from the Committees on Criminal Justice and Fiscal Policy.

On motion by Senator Rossin—

CS for HB 425—A bill to be entitled An act relating to robbery by sudden snatching; creating s. 812.131, F.S.; defining the offense of robbery by sudden snatching; providing penalties for robbery by sudden snatching; providing construction; amending s. 921.0022, F.S.; providing for ranking robbery by sudden snatching within levels 5 and 7 categories of the offense severity ranking chart; providing an effective date.

—a companion measure, was substituted for **CS for SB 772** and read the second time by title.

Pursuant to Rule 4.19, **CS for HB 425** was placed on the calendar of Bills on Third Reading.

On motion by Senator Gutman—

SB 936—A bill to be entitled An act relating to court-imposed financial obligations in criminal cases; amending s. 938.30, F.S.; providing for conversion of court-ordered obligations to pay court costs into obligations to perform community service, under specified circumstances; providing for assessments against a person for reimbursements for the costs of processing bench warrants and pickup orders; providing for penalties; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 936** was placed on the calendar of Bills on Third Reading.

On motion by Senator Brown-Waite—

SB 1866—A bill to be entitled An act relating to the use of force by law enforcement officers or correctional officers; amending s. 776.06, F.S.; providing that the term "deadly force" does not include the discharge of a firearm during and within the scope of his or her official duties which is loaded with a less-lethal munition; defining the term "less-lethal munition"; providing that a law enforcement officer or correctional officer is not civilly or criminally liable for the good-faith use of any less-lethal munition; 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 Brown-Waite and adopted:

Amendment 1 (680356)—On page 2, delete lines 5-7 and insert:

(b) A law enforcement officer or a correctional officer is not liable in any civil or criminal action arising

Pursuant to Rule 4.19, **SB 1866** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala—

SB 1020—A bill to be entitled An act relating to athletic trainers; amending s. 468.701, F.S.; revising and removing definitions; amending s. 468.703, F.S.; replacing the Council of Athletic Training with a Board of Athletic Training; providing for appointment of board members and their successors; providing for staggering of terms; providing for applicability of other provisions of law relating to activities of regulatory boards; providing for the board's headquarters; amending ss. 468.705, 468.707, 468.709, 468.711, 468.719, 468.721, F.S., relating to rulemaking authority, licensure by examination, fees, continuing education, disciplinary actions, and certain regulatory transition; transferring to the board certain duties of the Department of Health relating to regulation of athletic trainers; amending ss. 20.43, 232.435, 455.607, 455.667, F.S.; conforming cross-references; providing for termination of the council and the terms of council members; authorizing consideration of former council members for appointment to the board; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **SB 1020** to **HB 699**.

Pending further consideration of **SB 1020** as amended, on motion by Senator Latvala, by two-thirds vote **HB 699** was withdrawn from the Committee on Health, Aging and Long-Term Care.

On motion by Senator Latvala—

HB 699—A bill to be entitled An act relating to athletic trainers; amending s. 468.701, F.S.; revising and removing definitions; amending s. 468.703, F.S.; replacing the Council of Athletic Training with a Board of Athletic Training; providing for appointment of board members and their successors; providing for staggering of terms; providing for applicability of other provisions of law relating to activities of regulatory boards; providing for the board's headquarters; amending ss. 468.705, 468.707, 468.709, 468.711, 468.719, and 468.721, F.S., relating to rulemaking authority, licensure by examination, fees, continuing education, disciplinary actions, and certain regulatory transition; transferring to the board certain duties of the Department of Health relating to regulation of athletic trainers; amending ss. 20.43, 232.435, 455.607, and 455.667, F.S.; correcting cross references, to conform; providing for termination of the council and the terms of council members; authorizing consideration of former council members for appointment to the board; providing an effective date.

—a companion measure, was substituted for **SB 1020** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 699** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 980**, **CS for SB 276** and **CS for SB 1238** was deferred.

On motion by Senator Latvala—

CS for SB 1234—A bill to be entitled An act relating to service warranties; amending s. 634.041, F.S.; modifying insurance requirements for service agreement companies; amending s. 634.121, F.S.; prescribing manner in which a service agreement must identify restrictions or limitations on benefits or the existence of a rental car provision; amending s. 634.312, F.S.; requiring home warranty contracts to state that the warranty may not provide listing period coverage free of charge; amending s. 634.401, F.S.; redefining the term "service warranty"; amending s. 634.406, F.S.; providing for contractual liability requirements for associations; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1234** to **CS for HB 1749**.

Pending further consideration of **CS for SB 1234** as amended, on motion by Senator Latvala, by two-thirds vote **CS for HB 1749** was withdrawn from the Committees on Banking and Insurance; and Agriculture and Consumer Services.

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

CS for HB 1749—A bill to be entitled An act relating to service warranties; amending s. 634.041, F.S.; providing requirements and limitations as to certain funds and premiums relating to unearned premium preserves; amending s. 634.121, F.S.; revising certain disclosure form requirements; amending s. 634.312, F.S.; requiring home warranty contracts to contain a certain disclosure; amending s. 634.401, F.S.; revising a definition; amending s. 634.406, F.S.; revising a contactual liability insurance requirement for service warranty associations; providing an effective date.

—a companion measure, was substituted for **CS for SB 1234** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **CS for HB 1749** was placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

SB 330—A bill to be entitled An act relating to patriotic programs in the school districts; creating s. 233.0655, F.S.; authorizing district school board rules to require patriotic programs; providing program requirements; requiring recitation of the pledge of allegiance; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **SB 330** to **CS for CS for HB 9**.

Pending further consideration of **SB 330** as amended, on motion by Senator Carlton, by two-thirds vote **CS for CS for HB 9** was withdrawn from the Committee on Education.

On motion by Senator Carlton—

CS for CS for HB 9—A bill to be entitled An act relating to patriotic programs; creating s. 233.0655, F.S.; authorizing district school board rules to require patriotic programs; providing program requirements; requiring recitation of the pledge of allegiance; amending s. 256.11, F.S.; revising the penalty for willfully causing the flag to fail to be properly displayed; providing an effective date.

—a companion measure, was substituted for **SB 330** as amended and read the second time by title.

Senator Campbell moved the following amendment which was adopted:

Amendment 1 (731608)(with title amendment)—On page 2, delete lines 2 and 3 and insert: *state. Each student shall be informed by posting a notice in a conspicuous place that the student has the right not to participate in reciting the pledge. Upon written request by his or her parent or guardian, the student must be excused from reciting the pledge.*

And the title is amended as follows:

On page 1, line 6, after the semicolon (;) insert: providing for exceptions and for a notice thereof;

Pursuant to Rule 4.19, **CS for CS for HB 9** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Brown-Waite—

CS for SB 276—A bill to be entitled An act relating to home medical equipment providers; creating part X of chapter 400, F.S.; providing for regulation of home medical equipment providers by the Agency for Health Care Administration; providing legislative intent; providing definitions; providing for licensure and exemptions; providing unlawful acts; providing penalties; providing for license applications; providing for fees; providing for background screening; providing for provisional licenses and temporary permits; providing for administrative penalties; providing for injunctions, emergency orders, and moratoriums; providing for licensure inspections and investigations; providing minimum standards; providing for agency rules; providing for patient records; providing for notice of toll-free telephone number for the central abuse registry; providing for background screening of home medical equipment provider licensees and personnel; providing penalties; providing screening procedures; providing for agency injunctions; prohibiting patient referrals and rebates; providing for application of the act to existing providers; providing an appropriation; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy recommended the following amendment which was moved by Senator Brown-Waite and adopted:

Amendment 1 (553964)—On page 5, between lines 19 and 20, insert:

(c) Assisted living facilities licensed under part III, when serving their residents.

(Redesignate subsequent paragraphs.)

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 2 (121384)—On page 18, delete line 25 and insert: *required by state law and rules, or federal law and regulations,*

Pursuant to Rule 4.19, **CS for SB 276** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Brown-Waite—

CS for SB 1238—A bill to be entitled An act relating to health maintenance organizations; amending s. 641.31, F.S.; revising the procedures and standards for rate changes made by an organization; deleting current provisions that allow rate changes to be implemented immediately upon filing with the Department of Insurance, subject to disapproval; requiring rate changes to be filed with the department a specified time period prior to use; providing that a filing is deemed approved after a certain time period absent affirmative approval or disapproval by the department; making conforming changes; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1238** was placed on the calendar of Bills on Third Reading.

On motion by Senator Cowin—

CS for SB 336—A bill to be entitled An act relating to education; amending s. 240.1163, F.S.; requiring certain courses to receive weighted grades; authorizing certain courses to be designated as both dual enrollment and advanced placement courses; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 336** was placed on the calendar of Bills on Third Reading.

On motion by Senator Thomas—

SB 1816—A bill to be entitled An act relating to the state lotteries; creating s. 24.1153, F.S.; authorizing the assignment of certain prizes pursuant to a court order and providing requirements therefor; providing for the securing of funds offset for child-support payments or debts owed to a state agency; exempting the Department of the Lottery from liability upon payment of an assigned prize; authorizing a fee to defray the administrative expenses associated with such assignments; providing circumstances under which such court orders may no longer be issued; amending ss. 24.115, 24.118, F.S., relating to payment of prizes and unlawful assignment or transfer of a right to claim a prize, to conform; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 1816** to **CS for HB 1549**.

Pending further consideration of **SB 1816** as amended, on motion by Senator Thomas, by two-thirds vote **CS for HB 1549** was withdrawn from the Committee on Fiscal Resource.

On motion by Senator Thomas—

CS for HB 1549—A bill to be entitled An act relating to the state lotteries; creating s. 24.1153, F.S.; authorizing the assignment of certain prizes pursuant to a court order and providing requirements therefor; providing for the securing of funds offset for child-support payments or debts owed to a state agency; exempting the Department of the Lottery from liability upon payment of an assigned prize; authorizing a fee to defray the administrative expenses associated with such assignments; providing circumstances under which such court orders may no longer be issued; amending s. 24.115, F.S., relating to payment of prizes, to conform; requiring the department to seek a declaration concerning the

tax consequences of the right of assignment for those who do not assign their prizes; providing effective dates.

—a companion measure, was substituted for **SB 1816** as amended and read the second time by title.

Pursuant to Rule 4.19, **CS for HB 1549** was placed on the calendar of Bills on Third Reading.

On motion by Senator Cowin—

SB 1292—A bill to be entitled An act relating to the college reach-out program; amending s. 240.61, F.S.; specifying proposals to be given preference under the program; repealing s. 3, ch. 94-246, Laws of Florida, relating to legislative review and repeal of the program; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 1292** to **HB 805**.

Pending further consideration of **SB 1292** as amended, on motion by Senator Cowin, by two-thirds vote **HB 805** was withdrawn from the Committee on Education.

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

HB 805—A bill to be entitled An act relating to the college reach-out program; reviving and readopting s. 240.61, F.S., relating to the college reach-out program; providing an effective date.

—a companion measure, was substituted for **SB 1292** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 805** was placed on the calendar of Bills on Third Reading.

On motion by Senator Mitchell—

SB 1472—A bill to be entitled An act relating to insurance; amending s. 624.426, F.S.; providing an exemption to the countersignature law; amending s. 627.7015, F.S.; defining the term "claim" for purposes of property claim mediation; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Mitchell and adopted:

Amendment 1 (310702)—On page 5, between lines 9 and 10, insert:

(d) Where the amount in controversy is less than $500, unless the parties agree to mediate a dispute involving a lesser amount.

Senator Latvala moved the following amendment which was adopted:

Amendment 2 (822230)(with title amendment)—On page 1, line 10, insert:

Section 1. Subsection (3) of section 627.4035, Florida Statutes, is amended to read:

627.4035 Cash payment of premiums; claims.—

(3) All payments of claims made in this state under any contract of insurance shall be paid in cash consisting of coins, currency, checks, drafts, or money orders and, if by check or draft, shall be in such form as will comply with the standards for cash items adopted by the Federal Reserve System to facilitate the sorting, routing, and mechanized processing of such items. *If authorized by the recipient, payment of claims may be made by debit card or other forms of electronic transfer.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: amending s. 627.4035, F.S.; providing for payment of insurance claims by debit card or other form of electronic funds transfer;

Pursuant to Rule 4.19, **SB 1472** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

The Senate resumed consideration of—

CS for SB 1978—A bill to be entitled An act relating to automobile insurance; amending s. 627.739, F.S.; allowing insureds to elect multiple personal injury protection policy limitations; deleting requirement that insurers offer certain limitations; allowing insureds to receive appropriate premium reductions; requiring notice; creating s. 627.7277, F.S.; requiring insurers to give the policyholders notice of the renewal premium; providing for continuation of policy coverage at existing rates if the insurer fails to comply; providing an effective date.

—with pending point of order and **Amendment 4** by Senators Campbell, Brown-Waite, Silver and Myers.

RULING ON POINT OF ORDER

On recommendation of Senator John McKay, Chairman of the Committee on Rules and Calendar, the President ruled the point well taken and the amendment out of order.

RECONSIDERATION OF AMENDMENT

On motion by Senator Rossin, the Senate reconsidered the vote by which **Amendment 5** was adopted.

Senator Rossin moved the following amendment to **Amendment 5** which was adopted:

Amendment 5A (432308)—On page 2, line 10, after "*check,*" insert: *check,*

Amendment 5 as amended was adopted.

On motion by Senator Diaz-Balart, further consideration of **CS for SB 1978** as amended was deferred.

On motion by Senator Webster, by two-thirds vote **CS for HB 223** was withdrawn from the Committees on Governmental Oversight and Productivity; and Comprehensive Planning, Local and Military Affairs.

On motion by Senator Webster—

CS for HB 223—A bill to be entitled An act relating to governmental conflict resolution; amending s. 164.101, F.S.; renaming the "Florida Governmental Cooperation Act" as the "Florida Governmental Conflict Resolution Act"; amending s. 164.102, F.S.; providing purpose and intent; creating s. 164.1031, F.S.; providing definitions; creating s. 164.1041, F.S.; providing that, when a local or regional governmental entity files suit against another such governmental entity, court proceedings shall be abated by order of the court until the procedural options of the act have been exhausted, except in specified circumstances; providing for review by the court of the justification for failure to comply with the act; creating s. 164.1051, F.S.; specifying the governmental conflicts to which the act applies; creating s. 164.1052, F.S.; providing procedures and requirements for initiation of conflict resolution procedures and determination of participants; creating s. 164.1053, F.S.; providing for a conflict assessment meeting and providing requirements with respect thereto; creating s. 164.1055, F.S.; providing for a joint public meeting between conflicting entities; providing for mediation when no agreement is reached; creating s. 164.1056, F.S.; providing for final resolution of a conflict when there is a failure to resolve the conflict under the act; creating s. 164.1057, F.S.; specifying the manner of execution of the resolution of a conflict; renumbering and amending s. 164.104, F.S.; providing that a governmental entity that fails to participate in conflict resolution procedures shall be required to pay attorney's fees and costs under certain conditions; creating s. 164.1061, F.S.; providing for extension of the time requirements of the act; repealing ss. 164.103, 164.105, and 164.106, F.S., which provide procedures and requirements for resolution of governmental disputes and for tolling of

statutes of limitations; providing effect on existing contracts and agreements; providing an effective date.

—a companion measure, was substituted for **SB 1076** and read the second time by title.

Pursuant to Rule 4.19, **CS for HB 223** was placed on the calendar of Bills on Third Reading.

MOTION

On motion by Senator Hargrett, by two-thirds vote **SB 1214** was removed from the Special Order Calendar and withdrawn from further consideration.

Consideration of **CS for SB 1326** was deferred.

On motion by Senator Dyer—

SB 1144—A bill to be entitled An act relating to government accountability; amending s. 11.066, F.S.; providing that property of the state or a monetary recovery made on behalf of the state is not subject to a lien unless authorized by law; amending s. 112.3175, F.S.; providing that certain contracts executed in violation of part III of ch. 112, F.S., are presumed void or voidable; amending s. 112.3185, F.S.; prohibiting a state employee from holding certain employment or contractual relationships following resignation of such employment; amending s. 287.058, F.S.; requiring that certain state contracts be subject to cancellation upon refusal by the contractor to allow access to public records; amending s. 287.059, F.S.; providing additional requirements for contracts for private attorney services; providing requirements for contingency fee contracts; providing requirements if multiple law firms are parties to a contract; providing requirements for private attorneys with respect to maintaining documents and records and making such documents and records available for inspection; providing an effective date.

—was read the second time by title.

Senator Dyer moved the following amendment which was adopted:

Amendment 1 (711832)—On page 1, line 28 through page 2, line 27, delete those lines

Pursuant to Rule 4.19, **SB 1144** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Bronson—

CS for SB 1168—A bill to be entitled An act relating to condominiums; amending s. 718.105, F.S.; requiring the filing of a certificate attesting to the payment of taxes; amending s. 468.4315, F.S.; providing rulemaking authority; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1168** to **CS for HB 1063**.

Pending further consideration of **CS for SB 1168** as amended, on motion by Senator Bronson, by two-thirds vote **CS for HB 1063** was withdrawn from the Committee on Regulated Industries.

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

CS for HB 1063—A bill to be entitled An act relating to condominiums and residential associations; amending s. 718.105, F.S.; requiring the filing of a certificate or receipted bill with the clerk of circuit court when a declaration of condominium is recorded showing payment of property taxes; amending s. 468.4315, F.S.; authorizing the Regulatory Council of Community Association Managers to adopt rules related to continuing education providers; providing an effective date.

—a companion measure, was substituted for **CS for SB 1168** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **CS for HB 1063** was placed on the calendar of Bills on Third Reading.

On motion by Senator Lee, by two-thirds vote **HB 489** was withdrawn from the Committees on Health, Aging and Long-Term Care; and Governmental Oversight and Productivity.

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

HB 489—A bill to be entitled An act relating to public health; creating s. 381.0075, F.S.; providing for regulation of body-piercing salons by the Department of Health; providing definitions; providing exemptions; requiring a license to operate a body-piercing salon and a temporary license to operate a temporary establishment; providing licensing procedures and fees; providing requirements with respect to body piercing of minors; prohibiting certain acts; providing penalties; providing for injunction; providing for enforcement; providing rulemaking authority; providing specific requirements for operation of body-piercing salons; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 980** and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 489** was placed on the calendar of Bills on Third Reading.

On motion by Senator Lee—

CS for SB 1326—A bill to be entitled An act relating to mortgage brokers and lenders; amending s. 494.001, F.S.; revising definitions; amending s. 494.0011, F.S.; authorizing the Department of Banking and Finance to adopt rules; amending s. 494.0012, F.S.; requiring the Department of Banking and Finance to charge a fee for certain examinations; deleting a limitation on aggregate amount of examination fees; requiring the department to conduct certain examinations in this state; providing an exception; revising travel expense and per diem subsistence requirements for licensees; amending s. 494.00125, F.S.; deleting references to registrations and permits; amending s. 494.0016, F.S.; specifying department prescription by rule of certain required information; creating s. 494.00165, F.S.; prohibiting certain advertising activities; requiring a record of certain advertisements; amending s. 494.0025, F.S.; deleting certain prohibited advertising activities; prohibiting payment of a mortgage transaction fee or commission to other than certain actively licensed persons; amending s. 494.0031, F.S.; providing for licensure of mortgage brokerage business branches; increasing license fees; deleting references to registrations and permits; amending s. 494.0032, F.S.; providing for renewal of branch licenses; increasing license renewal fees; providing for reversion of licenses to inactive status under certain circumstances; providing for reactivation of licenses; providing for a reactivation fee; amending s. 494.0033, F.S.; specifying an application fee; clarifying provisions; amending s. 494.00331, F.S.; prohibiting simultaneous multiple licensures; amending s. 494.0034, F.S.; deleting an automatic license expiration provision; clarifying provisions; amending s. 494.0036, F.S.; requiring a license to operate a mortgage brokerage business branch office; requiring display of licenses; amending s. 494.0038, F.S.; clarifying the timing of certain disclosures; amending s. 494.0039, F.S.; revising mortgage brokerage business principal place of business requirements; amending s. 494.004, F.S.; including pleas of nolo contendere to certain crimes within certain licensee reporting requirements; requiring licensees to report conviction or pleas of nolo contendere to felonies; requiring licensees to provide the department with certain information relating to associated mortgage brokers; requiring the department to adopt certain rules; amending s. 494.0041, F.S.; revising the list of acts constituting grounds for disciplinary action; amending s. 494.0061, F.S.; providing for mortgage lender branch office licenses; increasing a license fee; clarifying provisions; amending s. 494.0062, F.S.; providing for correspondent mortgage lender branch office licenses; increasing a license fee; clarifying provisions; amending s. 494.0064, F.S.; providing for renewal of certain licenses; increasing license renewal fees; providing for reversion of licenses to inactive status; deleting an automatic license expiration provision; amending s. 494.0066, F.S.; requiring mortgage lender and correspondent mortgage lender branch office licenses; increasing license fees; amending s. 494.0067, F.S.; requiring display of certain licenses; requiring registration of loan originators; requiring certain information relating to loan

originators; amending s. 494.0072, F.S.; revising a list of certain acts constituting grounds for disciplinary action; clarifying application of certain disciplinary actions; amending s. 494.0073, F.S.; providing for mortgage lenders or correspondent mortgage lenders to act as mortgage brokerage businesses; repealing s. 494.0037, F.S., relating to books, accounts, and records; providing effective dates.

—was read the second time by title.

Senator Lee moved the following amendment which was adopted:

Amendment 1 (780628)—On page 10, line 13, delete "*possible*"

Pursuant to Rule 4.19, **CS for SB 1326** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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

HB 391—A bill to be entitled An act relating to criminal justice information; amending s. 943.053, F.S.; providing each office of the Public Defender on-line access to criminal records which are not exempt from disclosure and not confidential under law; providing an effective date.

—which was previously considered this day.

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

Amendment 1 (773866)—On page 1, delete line 28 and insert:

Section 2. This act shall take effect July 1, 1999.

Amendment 2 (824452)(with title amendment)—On page 1, line 10, insert:

Section 1. Section 943.0542, Florida Statutes, is created to read:

943.0542 Access to criminal history information provided by the department to qualified entities.—

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

(a) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

(b) "Qualified entity" means a business or organization, whether public, private, operated for profit, operated not for profit, or voluntary, which provides care or care-placement services, including a business or organization that licenses or certifies others to provide care or care-placement services.

(2)(a) A qualified entity must register with the department before submitting a request for screening under this section. Each such request must be voluntary and conform to the requirements established in the National Child Protection Act of 1993, as amended. As a part of the registration, the qualified entity must agree to comply with state and federal law and must so indicate by signing an agreement approved by the department. The department may periodically audit qualified entities to ensure compliance with federal law and this section.

(b) A qualified entity shall submit to the department a request for screening an employee or volunteer or person applying to be an employee or volunteer on a completed fingerprint card, with a signed waiver allowing the release of state and national criminal history record information to the qualified entity.

(c) Each such request must be accompanied by a fee, which shall approximate the actual cost of producing the record information, as provided in s. 943.053, plus the amount required by the Federal Bureau of Investigation for the national criminal history check in compliance with the National Child Protection Act of 1993, as amended.

(d) Any current or prospective employee or volunteer who is subject to a request for screening must indicate to the qualified entity submitting the request the name and address of each qualified entity that has submitted a previous request for screening regarding that employee or volunteer.

(3) The department shall provide directly to the qualified entity the state criminal history records that are not exempt from disclosure under chapter 119 or otherwise confidential under law. A person who is the subject of a state criminal history record may challenge the record only as provided in s. 943.056.

(4) The national criminal history data is available to qualified entities to use only for the purpose of screening employees and volunteers or persons applying to be an employee or volunteer with a qualified entity. The department shall provide this national criminal history record information directly to the qualified entity as authorized by the written waiver required for submission of a request to the department.

(5) The determination whether the criminal history record shows that the employee or volunteer has been convicted of or is under pending indictment for any crime that bears upon the fitness of the employee or volunteer to have responsibility for the safety and well-being of children, the elderly, or disabled persons shall solely be made by the qualified entity. This section does not require the department to make such a determination on behalf of any qualified entity.

(6) The qualified entity must notify in writing the person of his or her right to obtain a copy of any background screening report, including the criminal history records, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any such report and to obtain a determination as to the validity of such challenge before a final determination regarding the person is made by the qualified entity reviewing the criminal history information. A qualified entity that is required by law to apply screening criteria, including any right to contest or request an exemption from disqualification, shall apply such screening criteria to the state and national criminal history record information received from the department for those persons subject to the required screening.

(7) The department may establish a database of registered qualified entities and make this data available free of charge to all registered qualified entities. The database must include, at a minimum, the name, address, and phone number of each qualified entity.

(8) A qualified entity is not liable for damages solely for failing to obtain the information authorized under this section with respect to an employee or volunteer. The state, any political subdivision of the state, or any agency, officer, or employee of the state or a political subdivision is not liable for damages for providing the information requested under this section.

(9) The department has authority to adopt rules to implement this section.

Section 2. Section 943.0543, Florida Statutes, is created to read:

943.0543 National Crime Prevention and Privacy Compact; ratification and implementation.—

(1) In order to facilitate the authorized interstate exchange of criminal history information for noncriminal justice purposes, including, but not limited to, background checks for the licensing and screening of employees and volunteers under the National Child Protection Act of 1993, as amended, and to implement the National Crime Prevention and Privacy Compact, 42 U.S.C. s. 14616, the Legislature approves and ratifies the compact. The executive director of the Department of Law Enforcement shall execute the compact on behalf of the state.

(2) The department is the repository of criminal history records for purposes of the compact and shall do all things necessary or incidental to carrying out the compact.

(3) The executive director of the department, or the director's designee, is the state's compact officer and shall administer the compact within the state. The department may adopt rules and establish procedures for the cooperative exchange of criminal history records between the state and Federal Government for use in noncriminal justice cases.

(4) The state's ratification of the compact remains in effect until legislation is enacted which specifically renounces the compact.

(5) This compact and this section do not affect or abridge the obligations and responsibilities of the department under other provisions of this chapter, including s. 943.053, and does not alter or amend the manner,

direct or otherwise, in which the public is afforded access to criminal history records under state law.

Section 3. Section 943.0544, Florida Statutes, is created to read:

943.0544 Criminal justice information network and information management.—

(1) The department may develop, implement, maintain, and manage innovative, progressive, and effective methods of serving the information-management needs of criminal justice agencies, and may take necessary steps to promote the efficient and cost-effective use of such information.

(2) The department may develop, implement, maintain, manage, and operate the Criminal Justice Network, which shall be an intraagency information and data-sharing network for use by the state's criminal justice agencies. The department, in consultation with the Criminal and Juvenile Justice Information Systems Council, shall determine and regulate access to the Criminal Justice Network by the state's criminal justice agencies.

(3) In addition, the department may authorize entities that offer or provide a product, program, or service determined by the department to be of substantial value to the criminal justice information needs of the state's criminal justice agencies a special limited presence on the network under terms, conditions, and limitations established by the department after consultation with the Criminal and Juvenile Justice Information Systems Council.

(4) In carrying out its duties under this section, the department may enter into contracts; conduct pilot studies and projects; assess and collect fees, commissions, royalties, or other charges from entities approved for special presence on the Criminal Justice Network in consideration for such presence. The department may enter into agreements by which products, programs, or services of value to the department or the information needs of criminal justice agencies are provided in lieu of all or a part of a fee, commission, royalty, or charge that might otherwise be assessed by the department upon an entity granted special limited presence as provided in this subsection.

(5) The department may enter into an agreement with any entity to facilitate the department's responsibilities for receiving, maintaining, managing, processing, allowing access to, and disseminating criminal justice information, intelligence, data, or criminal history records and information, or to otherwise accomplish the duties and responsibilities related to information and records as defined in this chapter. The department may enter into agreements by which products, programs, or services of value to the department or the information needs of criminal justice agencies are provided in lieu of all or part of a fee, commission, royalty, or charge that might be otherwise assessed by the department upon an entity entering into an agreement with the department. Any entity under contract with the department to perform all or part of the department's information functions or duties shall, as specified in the contract, be performing such functions or duties as a criminal justice agency for purposes of handling, collecting, managing, or disseminating criminal justice information, intelligence, data, histories, and other records. Disclosure of such information to an entity under such a contract does not waive any confidentiality or exemption from disclosure under s. 119.07 or any other applicable law.

(6) The department may adopt rules to administer this section. Except as otherwise specified in this section, this section does not alter or limit the powers and duties of the department established under this chapter.

Section 4. For the purpose of incorporating all amendments made prior to the effective date of this act to the chapters, sections, or subdivisions of Florida Statutes referenced in section 943.0585, Florida Statutes, 1998 Supplement, which amendments have not been incorporated by reference thereto, section 943.0585, Florida Statutes, 1998 Supplement, is reenacted and amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each petition to a court to expunge a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for expunction issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never, *prior to the date on which the petition is filed,* ~~previously~~ been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such an expunction to the best of his or her knowledge or belief and does not have any other petition to expunge or any petition to seal pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to petitioning the court to expunge a criminal history record, a person seeking to expunge a criminal history record shall apply to the department for a certificate of eligibility for expunction. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

(a) Has obtained, and submitted to the department, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates:

1. That an indictment, information, or other charging document was not filed or issued in the case.

2. That an indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prosequi by the state

attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction.

3. That the criminal history record does not relate to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041, where the defendant was found guilty of, or pled guilty or nolo contendere to any such offense, or that the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, such an offense as a delinquent act, without regard to whether adjudication was withheld.

(b) Remits a $75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has submitted to the department a certified copy of the disposition of the charge to which the petition to expunge pertains.

(d) Has never, *prior to the date on which the application for a certificate of eligibility is filed,* ~~previously~~ been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(e) Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.

(f) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(g) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to expunge pertains.

(h) Is not required to wait a minimum of 10 years prior to being eligible for an expunction of such records because all charges related to the arrest or criminal activity to which the petition to expunge pertains were dismissed prior to trial, adjudication, or the withholding of adjudication. Otherwise, such criminal history record must be sealed under this section, former s. 893.14, former s. 901.33, or former s. 943.058 for at least 10 years before such record is eligible for expunction.

(3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

(a) In judicial proceedings under this section, a copy of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to expunge.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to expunge to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to expunge entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of an order to expunge which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to expunge. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to expunge entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to expunge when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or such order does not otherwise comply with the requirements of this section.

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

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

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, *s. 402.302(3)* ~~s. 402.302(8)~~, s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.1075(4), s. 985.407, or chapter 400; or

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

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

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

(5) STATUTORY REFERENCES.—Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

Section 5. For the purpose of incorporating all amendments made prior to the effective date of this act to the chapters, sections, or subdivisions of Florida Statutes referenced in section 943.059, Florida Statutes, 1998 Supplement, which amendments have not been incorporated by reference thereto, section 943.059, Florida Statutes, 1998 Supplement, is reenacted and amended to read:

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

(1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each petition to a court to seal a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for sealing issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never, *prior to the date on which the petition is filed,* ~~previously~~ been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such a sealing to the best of his or her knowledge or belief and does not have any other petition to seal or any petition to expunge pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to petitioning the court to seal a criminal history record, a person seeking to seal a criminal history record shall apply to the department for a certificate of eligibility for sealing. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for sealing. The department shall issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record provided that such person:

(a) Has submitted to the department a certified copy of the disposition of the charge to which the petition to seal pertains.

(b) Remits a $75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has never, *prior to the date on which the application for a certificate of eligibility is filed,* ~~previously~~ been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(d) Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

(e) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(f) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to seal pertains.

(3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

(a) In judicial proceedings under this section, a copy of the completed petition to seal shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to seal.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and to the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to seal to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to seal entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of any order to seal which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to seal. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to seal entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to seal when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or when such order does not comply with the requirements of this section.

(e) An order sealing a criminal history record pursuant to this section does not require that such record be surrendered to the court, and such record shall continue to be maintained by the department and other criminal justice agencies.

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

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

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, *s. 402.302(3)* ~~s. 402.302(8)~~, s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

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

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

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

(5) STATUTORY REFERENCES.—Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

Section 6. *Subsection (5) of section 943.051, Florida Statutes, as amended by section 6 of chapter 98-94, Laws of Florida, is repealed.*

Section 7. *In order to meet added demand for the release of criminal history information created by this act, the Department of Law Enforcement may file an application with the Executive Office of the Governor certifying that there are no authorized positions available for addition, deletion, or transfer within the agency and recommending an increase in the number of positions. The Administration Commission may, after a public hearing, authorize an increase in the number of positions in excess of the amount established by the Legislature. Any request under this section is subject to the notice and review procedures set forth in section 216.177, Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete lines 2 and 3 and insert: An act relating to the Department of Law Enforcement; creating s. 943.0543, F.S.; requiring that the department provide qualified entities that provide care, treatment, or other services for children, the elderly, or individuals with disabilities access to criminal history information; requiring compliance with certain federal laws; providing for fees; providing for the disclosure of criminal history records that are not exempt from disclosure under the public records law; requiring the department to establish a database of entities qualified to obtain criminal history information; providing certain exemptions from liability; providing rulemaking authority; creating s. 943.0543, F.S.; ratifying the National Crime Prevention and Privacy Compact; requiring that the executive director of the department administer the compact; creating s. 943.0544, F.S.; authorizing the department to develop and operate the Criminal Justice Network; providing for the department to regulate access to the network; authorizing the department to accept services in lieu of fees or other charges; authorizing the department to enter into agreements with private entities for the purpose of managing and disseminating criminal justice information; providing rulemaking authority; amending ss. 943.0585, 943.059, F.S., relating to the court-ordered expunction and sealing of criminal history records; providing that references to any chapter, section, or subdivision in the section constitute a general reference under the doctrine of incorporation by reference; clarifying certain requirements for a petition to expunge or seal a criminal history record; repealing s. 943.051(5), F.S., relating to the department's authority to contract with other agencies and private entities for the management and dissemination of criminal justice information; authorizing the Administration Commission to increase positions within the department following notice and public hearing; amending s. 943.053, F.S.;

Amendment 3 (731896)(with title amendment)—On page 1, line 10, insert:

Section 1. Subsection (14) of section 790.065, Florida Statutes, as created by section 1 of chapter 93-197, Laws of Florida, is amended to read:

790.065 Sale and delivery of firearms.—

(14) This section is repealed effective *June 1, 2000* ~~October 1, 1999~~.

Section 2. Subsection (1) of section 790.065, Florida Statutes, 1998 Supplement, is amended to read:

790.065 Sale and delivery of firearms.—

(1) A licensed importer, licensed manufacturer, or licensed dealer may not sell or deliver from her or his inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until she or he has:

(a) Obtained a completed form from the potential buyer or transferee, which form shall have been promulgated by the Department of Law Enforcement and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee and has inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

(b) Collected a fee from the potential buyer for processing the criminal history check of the potential buyer. The fee shall be *established by the Department of Law Enforcement and may not exceed* $8 *per transaction. The Department of Law Enforcement may reduce, or suspend collection of, the fee to reflect payment received from the Federal Government applied to the cost of maintaining the criminal history check system established by this section as a means of facilitating or supplementing the National Instant Criminal Background Check System*. The Department of Law Enforcement shall, by rule, establish procedures for the fees to be transmitted by the licensee to the Department of Law Enforcement. All such fees shall be deposited into the Department of Law Enforcement Operating Trust Fund, but shall be segregated from all other funds deposited into such trust fund and must be accounted for separately. Such segregated funds must not be used for any purpose other than the

operation of the criminal history checks required by this section. The Department of Law Enforcement, each year prior to February 1, shall make a full accounting of all receipts and expenditures of such funds to the President of the Senate, the Speaker of the House of Representatives, the majority and minority leaders of each house of the Legislature, and the chairs of the appropriations committees of each house of the Legislature. In the event that the cumulative amount of funds collected exceeds the cumulative amount of expenditures by more than $2.5 million, excess funds may be used for the purpose of purchasing soft body armor for law enforcement officers.

(c) Requested, by means of a toll-free telephone call, the Department of Law Enforcement to conduct a check of the information as reported and reflected in the Florida Crime Information Center and National Crime Information Center systems as of the date of the request.

(d) Received a unique approval number for that inquiry from the Department of Law Enforcement, and recorded the date and such number on the consent form.

However, if the person purchasing, or receiving delivery of, the firearm is a holder of a valid concealed weapons or firearms license pursuant to the provisions of s. 790.06 or holds an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," a "correctional officer," or a "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), the provisions of this subsection do not apply.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete lines 2 and 3 and insert: An act relating to the Department of Law Enforcement; amending s. 790.065, F.S., relating to the sale and delivery of firearms; postponing the expiration of that section; providing for modification, or suspension of collection, of fees for criminal history checks; amending s. 943.053, F.S.;

Pursuant to Rule 4.19, **HB 391** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Saunders—

CS for SB 814—A bill to be entitled An act relating to residential property; amending ss. 849.085, 849.0931, F.S.; including cooperatives, residential subdivisions, cooperative associations, and homeowners' associations as defined in s. 617.301, F.S., within the provisions of law relating to penny-ante games, and including cooperative associations and homeowners' associations as defined in s. 617.301, F.S., within the provisions of law relating to bingo; amending s. 719.103, F.S.; defining the terms "special assessment," "voting certificate," and "voting interests" for purposes of regulation of cooperatives; amending s. 719.1035, F.S.; providing legal effect of cooperative documents; amending s. 719.104, F.S.; providing guidelines for investment of cooperative association funds; providing for granting, modifying, or moving easements; amending s. 719.1055, F.S.; changing the voting requirement for modifying cooperative documents; prescribing requirements for such amendments; amending s. 719.106, F.S.; authorizing insurance in lieu of fidelity bonding; providing standards for such insurance or bonds; creating s. 719.115, F.S.; providing limitation of unit owners' liability; creating s. 719.116, F.S.; declaring cooperatives to be residential property; amending ss. 607.0802, 617.0802, F.S.; providing eligibility of certain trust grantors or beneficiaries to serve on condominium, cooperative, homeowners', or mobile homeowners' association boards of directors; amending s. 617.301, F.S.; redefining the term "homeowners' association," for purposes of the regulation thereof, to include corporations responsible for the operation of a mobile home subdivision; amending s. 617.0601, F.S.; providing that certain provisions in bylaws, rules, or other regulations are void; creating s. 723.0751, F.S.; providing for creation of mobile home subdivision homeowners' associations; providing for participation in mobile home park mobile homeowners' associations; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 814** to **CS for HB 383**.

Pending further consideration of **CS for SB 814** as amended, on motion by Senator Saunders, by two-thirds vote **CS for HB 383** was withdrawn from the Committee on Regulated Industries.

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

CS for HB 383—A bill to be entitled An act relating to homeowners' associations, condominium associations, mobile homeowners' associations, cooperative associations, and cooperative not-for-profit associations; amending ss. 607.0802 and 617.0802, F.S.; providing that certain persons may be deemed members of the association and eligible to serve as a director of a condominium association, cooperative association, homeowners' association, or mobile homeowners' association under certain circumstances; amending s. 617.0601, F.S.; providing that certain provisions in bylaws, rules, or other regulations are void; amending s. 617.301, F.S.; redefining the term "homeowners' association" for the purposes of the Florida Not For Profit Corporation Act to include a mobile home subdivision; providing that provisions currently governed by the act relating to the purpose and scope of homeowners' associations, powers and duties, right of owners to peaceably assemble, meetings, transition of homeowners' associations' control in a community, assessments and charges, agreements, recreational leaseholds, dispute resolutions, and covenants would apply to mobile home subdivisions; amending s. 719.103, F.S.; defining the terms "special assessment," "voting certificate," and "voting interests" for the purposes of the Cooperative Act; amending s. 719.1035, F.S.; providing that all provisions of the cooperative documents are enforceable equitable servitudes, run with the land, and are effective until the cooperative is terminated; amending s. 719.104, F.S.; revising language with respect to commingling; providing for easements; amending s. 719.1055, F.S.; revising the amount of votes necessary to amend the cooperative documents; providing additional requirements with respect to amendments; amending s. 719.106, F.S.; providing requirements with respect to insurance and fidelity bonds; creating s. 719.115, F.S.; providing limitations on liability of unit owners; creating s. 723.0751, F.S.; providing for membership in mobile homeowners' association in certain circumstances; amending ss. 849.085 and 849.0931, F.S; including cooperatives, residential subdivisions, cooperative associations, and homeowners' associations as defined in s. 617.301, F.S., within the provisions of law relating to penny-ante games and including cooperative associations and homeowners' associations as defined in s. 617.301, F.S., within the provisions of law relating to bingo; providing an effective date.

—a companion measure, was substituted for **CS for SB 814** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **CS for HB 383** was placed on the calendar of Bills on Third Reading.

On motion by Senator Webster, by two-thirds vote **HB 589** was withdrawn from the Committee on Transportation.

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

HB 589—A bill to be entitled An act relating to vessel registration; designating chapter 328, F.S., as part I of chapter 328, F.S., entitled "Vessels; title certificates; liens"; creating part II of chapter 328, F.S., entitled "Vessel registration"; amending ss. 212.06, 282.1095, 320.04, 327.53, 327.60, 327.73, 370.06, 370.0603, 370.12, and 409.2598, F.S.; correcting cross references; amending s. 327.01, F.S.; changing the title of chapter 327, F.S., from the "Florida Vessel and Registration Safety Law" to the "Florida Vessel Safety Law"; amending s. 327.22, F.S., relating to the regulation of vessels by municipalities or counties; renumbering and amending ss. 327.03, 327.10, 327.11, 327.17, 327.21, 327.23, 327.24, 327.25, 327.26, 327.28, and 327.90, F.S.; conforming to the act; creating s. 328.44, F.S.; providing for rules; creating s. 328.66, F.S.; providing for optional vessel registration fees by counties and municipalities; amending s. 327.04, F.S.; conforming to the act; renumbering ss. 327.031, 327.12, 327.13, 327.14, 327.15, 327.16, 327.18, 327.19, and 327.29, F.S.; conforming to the act; providing an effective date.

—a companion measure, was substituted for **SB 1312** and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 589** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 982** was deferred.

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

SB 148—A bill to be entitled An act relating to school-entry health and vision examinations; amending s. 232.0315, F.S.; requiring children who enter public or nonpublic schools in this state to present evidence of having received a comprehensive vision examination; providing an exemption; deleting provisions relating to rulemaking authority with respect to medical examinations; providing an effective date.

—which was previously considered this day. Pending **Amendment 1** by the Committee on Education was adopted.

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

Amendment 2 (690730)—On page 2, delete lines 8-11 and insert:

(2) The Department of Education, subject to the concurrence of the *Department of Health* ~~Department of Health and Rehabilitative Services~~, shall adopt rules to govern medical examinations performed under this section.

Pursuant to Rule 4.19, **SB 148** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Webster—

CS for SB 1306—A bill to be entitled An act relating to highway safety and motor vehicles; reenacting s. 316.003, F.S.; relating to the definition of hazardous material; amending s. 316.008, F.S.; revising terminology and deleting obsolete provisions; amending s. 316.061, F.S.; providing second degree misdemeanor penalty for certain violations with respect to leaving the scene of an accident; revising terminology; amending ss. 316.027, 316.062, 316.063, 316.064, 316.065, 316.066, 316.068, 316.069, 316.070, 316.072, 316.640, 316.645, 318.1451, 318.17, 318.19, 318.32, 321.051, 321.23, 322.201, 322.221, 322.26, 322.291, 322.44, 322.61, 322.63, 324.011, 324.021, 324.022, 324.051, 324.061, 324.081, 324.091, 324.101, F.S.; changing the term "accident" to "crash"; amending s. 316.067, F.S.; providing a second degree misdemeanor penalty for certain false reports; amending ss. 316.0745, 316.0747, 316.1895, 316.193, 316.2065, F.S.; deleting obsolete provisions; amending s. 316.1935, F.S.; providing a first degree misdemeanor penalty for certain violations with respect to fleeing or attempting to elude a law enforcement officer; amending s. 316.2074, F.S.; deleting certain findings of the Legislature with respect to all-terrain vehicles; amending ss. 316.3027, 316.70, F.S.; providing reference to the United States Department of Transportation; amending s. 316.615, F.S., relating to school buses; amending ss. 316.613, 316.6135, F.S.; correcting reference to the Department of Highway Safety and Motor Vehicles; revising various provisions in chapter 316, F.S., to conform cross-references, delete obsolete provisions, and to provide uniform references to penalties for moving and nonmoving noncriminal traffic offenses punishable under chapter 318, F.S.; amending s. 318.12, F.S.; revising references; amending ss. 318.13, 318.14, F.S.; conforming cross-references; amending ss. 318.18, 318.21, F.S.; revising provisions relating to civil penalties; repealing s. 318.39, F.S., relating to the Highway Safety Operating Trust Fund; amending s. 319.28, F.S.; revising provisions relating to repossession; amending s. 319.33, F.S.; conforming cross-references; amending ss. 320.02 and 320.03, F.S.; deleting obsolete provisions; amending s. 320.031, F.S.; revising provisions relating to the mailing of registration certificates, license plates, and validation stickers; amending s. 320.055, F.S.; conforming cross-references; amending ss. 320.06, 320.061, F.S.; deleting obsolete provisions; amending ss. 320.0605, 320.07, F.S.; providing uniform reference to noncriminal traffic infractions; repealing s. 320.073, F.S., relating to refund of impact fees; amending s. 320.0802, F.S.; providing reference to the Department of Management Services; amending s. 320.08058, F.S.; revising provisions relating to Manatee license plates and Florida Special Olympics license plates; amending s. 320.0848, F.S.; conforming a cross-reference with respect to disabled parking permits; amending s. 320.087, F.S.; providing reference to the United States Department of Transportation; amending s. 320.1325, F.S.; deleting a cross-reference; amending s. 320.20, F.S.; deleting obsolete provisions; amending s. 320.8255, F.S.; providing reference to labels rather than seals with respect to certain mobile home inspections; repealing s. 320.8256, F.S., relating to recreational vehicle inspection; repealing ss. 321.06, 321.07, 321.09, 321.15, 321.17, 321.18, 321.19, 321.191, 321.20, 321.201, 321.202, 321.203, 321.21, 321.22, 321.2205, 321.221, 321.222, 321.223, F.S., relating to the Florida Highway Patrol and the pension system therefor; amending s. 322.055, F.S.; providing reference to the Department of Children and Family Services; amending s. 322.0261, F.S.; revising terminology to change the term "accident" to "crash"; amending s. 322.08, F.S.; deleting obsolete provisions; amending ss. 322.12, 322.121, F.S.; conforming cross-references; amending s. 322.141, F.S.; deleting obsolete provisions; amending s. 322.15, F.S.; providing reference to noncriminal traffic infractions; amending s. 322.20, F.S.; providing reference to the Department of Health; reenacting and amending s. 322.264, F.S., relating to habitual traffic offenders; revising terminology; amending s. 322.27, F.S.; conforming cross-references; amending s. 322.292, F.S.; revising provisions relating to DUI programs supervision; amending s. 322.293, F.S.; deleting obsolete provisions; amending s. 322.57, F.S.; revising provisions relating to driving tests; amending s. 324.202, F.S.; deleting obsolete provisions; repealing ss. 325.01, 325.02, 325.03, 325.04, 325.05, 325.06, 325.07, 325.08, 325.09, 325.10, F.S., relating to vehicle safety equipment and inspections; amending s. 325.209, F.S.; revising provisions relating to waivers; reenacting s. 325.212(2), F.S., relating to reinspections; reenacting s. 328.17(1), F.S., relating to nonjudicial sale of vessels; amending s. 627.7415, F.S., relating to commercial motor vehicles, to include reference to noncriminal traffic infractions; amending s. 627.742, F.S.; providing reference to noncriminal traffic infractions with respect to certain violations with respect to nonpublic sector buses; amending s. 784.07, F.S.; conforming a cross-reference; providing an effective date.

—was read the second time by title.

Senator Hargrett moved the following amendment which was adopted:

Amendment 1 (044340)(with title amendment)—On page 145, between lines 2 and 3, insert:

Section 237. Subsection (1) of section 335.0415, Florida Statutes, is amended to read:

335.0415 Public road jurisdiction and transfer process.—

(1) The jurisdiction of public roads and the responsibility for operation and maintenance within the right-of-way of any road within the state, county, and municipal road system shall be that which *existed on June 10, 1995* ~~exists on July 1, 1995~~.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 28, after the semicolon (;) insert: amending s. 335.0415, F.S.; modifying the date to be used in determining the jurisdiction of and responsibility for public roads;

Senator Carlton moved the following amendment which was adopted:

Amendment 2 (110216)(with title amendment)—On page 70, delete lines 4-12 and insert:

Section 143. Section 316.405, Florida Statutes, is amended to read:

316.405 Motorcycle headlights to be turned on.—

(1) Any person who operates a motorcycle or motor-driven cycle on the public streets or highways shall, while so engaged, have the headlight or headlights of such motorcycle or motor-driven cycle turned on. Failure to comply with this section during the hours from sunrise to sunset, unless compliance is otherwise required by law, shall not be admissible as evidence of negligence in a civil action. *During the hours of operation between sunrise and sunset, the headlights may modulate either the upper beam or the lower beam from its maximum intensity to a lower intensity, in accordance with Federal Motor Vehicle Safety Standard 571.108.*

(2) Failure to comply with the provisions of this section shall not be deemed negligence per se in any civil action, but the violation of this section may be considered on the issue of negligence if the violation of this section is a proximate cause of *a crash* ~~an accident~~.

And the title is amended as follows:

On page 2, line 4, following the semicolon (;) insert: amending s. 316.405, F.S.; authorizing certain use of modulating headlights by motorcycles;

Pursuant to Rule 4.19, **CS for SB 1306** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Bronson—

SB 874—A bill to be entitled An act relating to unauthorized transmissions on telecommunications frequencies; amending s. 843.165, F.S.; prohibiting an unauthorized person from transmitting over a radio frequency assigned to a governmental agency or an emergency medical services provider; providing penalties; providing exceptions; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **SB 874** to **HB 433**.

Pending further consideration of **SB 874** as amended, on motion by Senator Bronson, by two-thirds vote **HB 433** was withdrawn from the Committee on Regulated Industries.

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

HB 433—A bill to be entitled An act relating to unauthorized transmissions on telecommunications frequencies; amending s. 843.165, F.S.; prohibiting an unauthorized person from transmitting over a radio frequency assigned to a governmental agency or an emergency medical services provider; providing penalties; providing exceptions; providing an effective date.

—a companion measure, was substituted for **SB 874** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 433** was placed on the calendar of Bills on Third Reading.

On motion by Senator Silver—

CS for SB 1606—A bill to be entitled An act relating to unauthorized reception of cable television services; amending s. 812.15, F.S.; providing increased penalties for repeat offenders; providing increased penalties for the possession of certain devices in quantities; prohibiting the advertisement of certain devices in the electronic media; authorizing certain persons to recover damages for each violation; providing an effective date.

—was read the second time by title.

Senator Silver moved the following amendments which were adopted:

Amendment 1 (824066)—On page 1, line 28 through page 2, line 14, delete those lines and insert: authorized by law.

~~(b)~~ For the purpose of this section, the term "assist in intercepting or receiving" shall include the manufacture of or distribution of equipment intended by the manufacturer or distributor, as the case may be, for unauthorized reception of any communications service offered over a cable system in violation of this section.

(b)~~(3)(a)~~ Any person who willfully violates this *subsection* ~~section~~ shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3)(a) Any person who willfully violates paragraph (2)(a), paragraph (4)(a), or subsection (5) and who has been previously convicted of any such provision shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who willfully and for purposes of direct or indirect commercial advantage violates *paragraph (2)(a), paragraph (4)(a), or subsection (5)* ~~this section~~ shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Amendment 2 (673052)—On page 3, line 12, delete "paragraph" and insert: *subsection* ~~paragraph~~

Pursuant to Rule 4.19, **CS for SB 1606** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Casas—

SB 1832—A bill to be entitled An act relating to the Florida Insurance Code; defining the term "collateral protection insurance" for purposes of the code; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Casas and adopted:

Amendment 1 (084030)(with title amendment)—On page 1, line 11, after "*commercial*" insert: *property*

And the title is amended as follows:

On page 1, line 2, delete "the Florida Insurance Code" and insert: collateral protection insurance

Senator Casas moved the following amendment which was adopted:

Amendment 2 (723894)(with title amendment)—On page 1, delete lines 9 and 10 and insert:

Section 1. *As used in sections 215.555, 627.311, and 627.351, Florida Statutes, the term "collateral*

And the title is amended as follows:

On page 1, delete line 4 and insert: insurance" for purposes of the Florida Hurricane Catastrophe Fund and the code; providing

Pursuant to Rule 4.19, **SB 1832** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 1162** was deferred.

On motion by Senator Sullivan—

CS for SB 1070—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.01, F.S.; revising the definition of the term "discount in the usual course of business"; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1070** to **HB 315**.

Pending further consideration of **CS for SB 1070** as amended, on motion by Senator Sullivan, by two-thirds vote **HB 315** was withdrawn from the Committee on Regulated Industries.

On motion by Senator Sullivan—

HB 315—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.01, F.S.; revising the definition of the term "discount in the usual course of business"; providing that distributors may charge different malt beverage prices under certain circumstances; providing severability; providing an effective date.

—a companion measure, was substituted for **CS for SB 1070** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 315** was placed on the calendar of Bills on Third Reading.

On motion by Senator Gutman—

CS for SB 340—A bill to be entitled An act relating to alcohol sales; amending s. 567.01, F.S.; providing for local option elections to determine sales of intoxicating liquors, wines, or beer by the drink; amending s. 567.06, F.S.; providing ballot instructions for local option elections; amending s. 567.07, F.S.; providing for a local option election for sole purpose of determining whether intoxicating liquors, wines, or beer may be sold by the drink for consumption on premises; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 340** to **HB 209**.

Pending further consideration of **CS for SB 340** as amended, on motion by Senator Gutman, by two-thirds vote **HB 209** was withdrawn from the Committees on Regulated Industries; and Comprehensive Planning, Local and Military Affairs.

On motion by Senator Gutman—

HB 209—A bill to be entitled An act relating to alcohol sales; amending s. 567.01, F.S.; providing for local option elections to determine sales of intoxicating liquors, wines, or beer by the drink; amending s. 567.06, F.S.; providing ballot instructions for local option elections; amending s. 567.07, F.S.; providing for a local option election for sole purpose of determining whether intoxicating liquors, wines, or beer may be sold by the drink for consumption on premises; providing an effective date.

—a companion measure, was substituted for **CS for SB 340** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 209** was placed on the calendar of Bills on Third Reading.

On motion by Senator Geller—

CS for SB 298—A bill to be entitled An act relating to probate; amending s. 732.201, F.S.; revising language with respect to the right to elective share; creating s. 732.2025, F.S.; providing definitions; creating s. 732.2035, F.S.; providing for property entering into the elective estate; creating s. 732.2045, F.S.; providing for exclusions and overlapping application; amending s. 732.205, F.S.; providing for the valuation of the elective estate; amending s. 732.206, F.S.; providing for the elective share amount; amending s. 732.207, F.S.; providing for the sources from which the elective share is payable; providing for abatement; amending s. 732.208, F.S.; providing for the liability of direct recipients and beneficiaries; amending s. 732.209, F.S.; providing for the valuation of the property used to satisfy the elective share; amending s. 732.210, F.S.; providing for the effect of the election on other interests; amending s. 732.211, F.S.; providing for the protection of payors and other third parties; amending s. 732.212, F.S.; providing who may exercise the right of election; amending s. 732.213, F.S.; providing for the time of election; providing for extensions and for withdrawal; amending s. 732.214, F.S.; providing for the order of contribution; providing for the personal representative's duty to collect contributions; amending s. 732.215, F.S.; providing for the effective date, inapplicability of ch. 61, F.S., the effect of prior waivers, and transition rules; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 298** to **CS for CS for HB 301**.

Pending further consideration of **CS for SB 298** as amended, on motion by Senator Geller, by two-thirds vote **CS for CS for HB 301** was withdrawn from the Committee on Judiciary.

On motion by Senator Geller—

CS for CS for HB 301—A bill to be entitled An act relating to probate; amending s. 732.201, F.S.; revising language with respect to the right to elective share; creating s. 732.2025, F.S.; providing definitions; creating s. 732.2035, F.S.; providing for property entering into the elective estate; creating s. 732.2045, F.S.; providing for exclusions and overlapping application; amending s. 732.205, F.S.; providing for the valuation of the elective estate; amending s. 732.206, F.S.; providing for the elective share amount; amending s. 732.207, F.S.; providing for the sources from which the elective share is payable; providing for abatement; amending s. 732.208, F.S.; providing for the liability of direct recipients and beneficiaries; amending s. 732.209, F.S.; providing for the valuation of the property used to satisfy the elective share; amending s. 732.210, F.S.; providing for the effect of the election on other interests; amending s. 732.211, F.S.; providing for the protection of payors and other third parties; amending s. 732.212, F.S.; providing who may exercise the right of election; amending s. 732.213, F.S.; providing for the time of election; providing for extensions and for withdrawal; amending s. 732.214, F.S.; providing for the order of contribution; providing for the personal representative's duty to collect contributions; amending s. 732.215, F.S.; providing for the effective date, inapplicability of ch. 61, F.S., the effect of prior waivers, and transition rules; providing an effective date.

—a companion measure, was substituted for **CS for SB 298** as amended and read the second time by title.

Senator Geller moved the following amendment which was adopted:

Amendment 1 (063086)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 732.201, Florida Statutes, is amended to read:

732.201 Right to elective share.—The surviving spouse of a person who dies domiciled in Florida *has* ~~shall have~~ the right to a share of the *elective* estate of the *decedent* ~~deceased spouse~~ as provided in this part, to be designated the elective share.

Section 2. Section 732.2025, Florida Statutes, is created to read:

732.2025 Definitions.—As used in sections 732.2025-732.2155, the term:

(1) "Direct recipient" means the decedent's probate estate and any other person who receives property included in the elective estate by transfer from the decedent, including transfers described in s. 732.2035(8), by right of survivorship, or by beneficiary designation under a governing instrument. For this purpose, a beneficiary of an insurance policy on the decedent's life, the net cash surrender value of which is included in the elective estate, is treated as having received property included in the elective estate. In the case of property held in trust, "direct recipient" includes the trustee but excludes the beneficiaries of the trust.

(2) "Elective share trust" means a trust where:

(a) The surviving spouse is entitled for life to the use of the property or to all of the income payable at least as often as annually;

(b) The trust is subject to the provisions of s. 738.12 or the surviving spouse has the right under the terms of the trust or state law to require the trustee either to make the property productive or to convert it within a reasonable time; and

(c) During the spouse's life, no person other than the spouse has the power to distribute income or principal to anyone other than the spouse.

(3) "General power of appointment" means a power of appointment under which the holder of the power, whether or not the holder has the capacity to exercise it, has the power to create a present or future interest in the holder, the holder's estate, or the creditors of either. The term includes a power to consume or invade the principal of a trust, but only if the power is not limited by an ascertainable standard relating to the holder's health, education, support, or maintenance.

(4) "Governing instrument" means a deed; will; trust; insurance or annuity policy; account with payable-on-death designation; security registered in beneficiary form (TOD); pension, profit-sharing, retirement, or similar benefit plan; an instrument creating or exercising a power of appointment or a power of attorney; or a dispositive, appointive, or nominative instrument of any similar type.

(5) "Payor" means an insurer, business entity, employer, government, governmental agency or subdivision, or any other person, other than the decedent's personal representative or a trustee of a trust created by the decedent, authorized or obligated by law or a governing instrument to make payments.

(6) "Person" includes an individual, trust, estate, partnership, association, company, or corporation.

(7) "Probate estate" means all property wherever located that is subject to estate administration in any state of the United States or in the District of Columbia.

(8) "Qualifying special needs trust" or "supplemental needs trust" means a trust established for an ill or disabled surviving spouse with court approval before or after a decedent's death for such incapacitated surviving spouse, if, commencing on the decedent's death:

(a) The income and principal are distributable to or for the benefit of the spouse for life in the discretion of one or more trustees less than half of whom are ineligible family trustees. For purposes of this paragraph, ineligible family trustees include the decedent's grandparents and any descendants of the decedent's grandparents who are not also descendants of the surviving spouse; and

(b) During the spouse's life, no person other than the spouse has the power to distribute income or principal to anyone other than the spouse.

(c) The requirement for court approval and the limitation on ineligible family trustees shall not apply if the aggregate of the trust property as of the applicable valuation date in a qualifying special needs trust is less than $100,000.

(9) "Revocable trust" means a trust that is includable in the elective estate under s. 732.2035(4).

(10) "Transfer in satisfaction of the elective share" means an irrevocable transfer by the decedent to an elective share trust.

(11) "Transfer tax value" means the value the interest would have for purposes of the United States estate and gift tax laws if it passed without consideration to an unrelated person on the applicable valuation date.

Section 3. Section 732.206, Florida Statutes, is transferred, renumbered as section 732.2035, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 732.206, F.S., for present text.)

732.2035 Property entering into elective estate.—Except as provided in s. 732.2045, the elective estate consists of the sum of the values as determined under s. 732.2055 of the following property interests:

(1) The decedent's probate estate.

(2) The decedent's ownership interest in accounts or securities registered in "Pay On Death," "Transfer On Death," "In Trust For," or coownership with right of survivorship form. For this purpose, "decedent's ownership interest" means that portion of the accounts or securities which the decedent had, immediately before death, the right to withdraw or use without the duty to account to any person.

(3) The decedent's fractional interest in property, other than property described in subsection (2) or subsection (7), held by the decedent in joint tenancy with right of survivorship or in tenancy by the entirety. For this purpose, "decedent's fractional interest in property" means the value of the property divided by the number of tenants.

(4) That portion of property, other than property described in subsection (2), transferred by the decedent to the extent that at the time of the decedent's death the transfer was revocable by the decedent alone or in conjunction with any other person. This subsection does not apply to a transfer that is revocable by the decedent only with the consent of all persons having a beneficial interest in the property.

(5)(a) That portion of property, other than property described in subsection (3), subsection (4), or subsection (7), transferred by the decedent to the extent that at the time of the decedent's death:

1. The decedent possessed the right to, or in fact enjoyed the possession or use of, the income or principal of the property; or

2. The principal of the property could, in the discretion of any person other than the spouse of the decedent, be distributed or appointed to or for the benefit of the decedent.

In the application of this subsection, a right to payments from an annuity or under a similar contractual arrangement shall be treated as a right to that portion of the income of the property necessary to equal the annuity or other contractual payment.

(b) The amount included under this subsection is:

1. With respect to subparagraph (a)1., the value of the portion of the property to which the decedent's right or enjoyment related, to the extent the portion passed to or for the benefit of any person other than the decedent's probate estate; and

2. With respect to subparagraph (a)2., the value of the portion subject to the discretion, to the extent the portion passed to or for the benefit of any person other than the decedent's probate estate.

(c) This subsection does not apply to any property if the decedent's only interests in the property are that:

1. The property could be distributed to or for the benefit of the decedent only with the consent of all persons having a beneficial interest in the property; or

2. The income or principal of the property could be distributed to or for the benefit of the decedent only through the exercise or in default of an exercise of a general power of appointment held by any person other than the decedent; or

3. The income or principal of the property is or could be distributed in satisfaction of the decedent's obligation of support; or

4. The decedent had a contingent right to receive principal, other than at the discretion of any person, which contingency was beyond the control of the decedent and which had not in fact occurred at the decedent's death.

(6) The decedent's beneficial interest in the net cash surrender value immediately before death of any policy of insurance on the decedent's life.

(7) The value of amounts payable to or for the benefit of any person by reason of surviving the decedent under any public or private pension, retirement, or deferred compensation plan, or any similar arrangement, other than benefits payable under the federal Railroad Retirement Act or the federal Social Security System. In the case of a defined contribution plan as defined in s. 414(i) of the Internal Revenue Code of 1986, as amended, this subsection shall not apply to the excess of the proceeds of any insurance policy on the decedent's life over the net cash surrender value of the policy immediately before the decedent's death.

(8) Property that was transferred during the 1-year period preceding the decedent's death as a result of a transfer by the decedent if the transfer was either of the following types:

(a) Any property transferred as a result of the termination of a right or interest in, or power over, property that would have been included in the elective estate under subsection (4) or subsection (5) if the right, interest, or power had not terminated until the decedent's death.

(b) Any transfer of property to the extent not otherwise included in the elective estate, made to or for the benefit of any person, except:

1. Any transfer of property for medical or educational expenses to the extent it qualifies for exclusion from the United States gift tax under s. 2503(e) of the Internal Revenue Code, as amended; and

2. After the application of paragraph (b)1., the first $10,000 of property transferred to or for the benefit of each donee during the 1-year period, but only to the extent the transfer qualifies for exclusion from the United States gift tax under s. 2503(b) or s. 2503(c) of the Internal Revenue Code, as amended.

(c) Except as provided in paragraph (d), for purposes of this subsection:

1. A "termination" with respect to a right or interest in property occurs when the decedent transfers or relinquishes the right or interest, and, with respect to a power over property, a termination occurs when the power terminates by exercise, release, lapse, default, or otherwise.

2. A distribution from a trust the income or principal of which is subject to subsection (4), subsection (5), or subsection (9) shall be treated

as a transfer of property by the decedent and not as a termination of a right or interest in, or a power over, property.

(d) Notwithstanding anything in paragraph (c) to the contrary:

1. A "termination" with respect to a right or interest in property does not occur when the right or interest terminates by the terms of the governing instrument unless the termination is determined by reference to the death of the decedent and the court finds that a principal purpose for the terms of the instrument relating to the termination was avoidance of the elective share.

2. A distribution from a trust is not subject to this subsection if the distribution is required by the terms of the governing instrument unless the event triggering the distribution is determined by reference to the death of the decedent and the court finds that a principal purpose of the terms of the governing instrument relating to the distribution is avoidance of the elective share.

(9) Property transferred in satisfaction of the elective share.

Section 4. Section 732.2045, Florida Statutes, is created to read:

732.2045 Exclusions and overlapping application.—

(1) EXCLUSIONS.—Section 732.2035 does not apply to:

(a) Except as provided in s. 732.2155(4), any transfer of property by the decedent to the extent the transfer is irrevocable before the effective date of this subsection or after that date but before the date of the decedent's marriage to the surviving spouse.

(b) Any transfer of property by the decedent to the extent the decedent received adequate consideration in money or money's worth for the transfer.

(c) Any transfer of property by the decedent made with the written consent of the decedent's spouse. For this purpose, spousal consent to split-gift treatment under the United States gift tax laws does not constitute written consent to the transfer by the decedent.

(d) The proceeds of any policy of insurance on the decedent's life in excess of the net cash surrender value of the policy whether payable to the decedent's estate, a trust, or in any other manner.

(e) Any policy of insurance on the decedent's life maintained pursuant to a court order.

(f) The decedent's one-half of the property to which ss. 732.216-732.228 apply and real property that is community property under the laws of the jurisdiction where it is located.

(g) Property held in a qualifying special needs trust on the date of the decedent's death.

(h) Property included in the gross estate of the decedent for federal estate tax purposes solely because the decedent possessed a general power of appointment.

(2) OVERLAPPING APPLICATION.—If s. 732.2035(1) and any other subsection of s. 732.2035 apply to the same property interest, the amount included in the elective estate under other subsections is reduced by the amount included under subsection (1). In all other cases, if more than one subsection of s. 732.2035 applies to a property interest, only the subsection resulting in the largest elective estate shall apply.

Section 5. Section 732.2055, Florida Statutes, is created to read:

732.2055 Valuation of the elective estate.—For purposes of s. 732.2035, "value" means:

(1) In the case of any policy of insurance on the decedent's life includable under s. 732.2035(4), (5), or (6), the net cash surrender value of the policy immediately before the decedent's death.

(2) In the case of any policy of insurance on the decedent's life includable under s. 732.2035(8), the net cash surrender value of the policy on the date of the termination or transfer.

(3) In the case of amounts includable under s. 732.2035(7), the transfer tax value of the amounts on the date of the decedent's death.

(4) In the case of other property included under s. 732.2035(8), the fair-market value of the property on the date of the termination or transfer, computed after deducting any mortgages, liens, or security interests on the property as of that date.

(5) In the case of all other property, the fair-market value of the property on the date of the decedent's death, computed after deducting from the total value of the property:

(a) All claims, other than claims for funeral expenses, paid or payable from the elective estate; and

(b) To the extent they are not deducted under paragraph (a), all mortgages, liens, or security interests on the property.

Section 6. Section 732.207, Florida Statutes, is transferred, renumbered as section 732.2065, Florida Statutes, and amended to read:

732.2065 ~~732.207~~ Amount of the elective share.—The elective share *is* ~~shall consist of~~ an amount equal to 30 percent of the *elective estate.* ~~fair market value, on the date of death, of all assets referred to in s. 732.206, computed after deducting from the total value of the assets:~~

~~(1) All valid claims against the estate paid or payable from the estate; and~~

~~(2) All mortgages, liens, or security interests on the assets.~~

Section 7. Section 732.209, Florida Statutes, is transferred, renumbered as section 732.2075, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 732.209, F.S., for present text.)

732.2075 Sources from which elective share payable; abatement.—

(1) Unless otherwise provided in the decedent's will or, in the absence of a provision in the decedent's will, in a trust referred to in the decedent's will, the following are applied first to satisfy the elective share:

(a) To the extent paid to or for the benefit of the surviving spouse, the proceeds of any term or other policy of insurance on the decedent's life if, at the time of decedent's death, the policy was owned by any person other than the surviving spouse.

(b) To the extent paid to or for the benefit of the surviving spouse, amounts payable under any plan or arrangement described in s. 732.2035(7).

(c) To the extent paid to or for the benefit of the surviving spouse, the decedent's one-half of any property described in s. 732.2045(1)(f).

(d) Property held for the benefit of the surviving spouse in a qualifying special needs trust.

(e) Property interests included in the elective estate that pass or have passed to or for the benefit of the surviving spouse.

(f) Property interests that would have satisfied the elective share under any preceding paragraph of this subsection but were disclaimed.

(2) If, after the application of subsection (1), the elective share is not fully satisfied, the unsatisfied balance shall be apportioned among the direct recipients of the remaining elective estate in the following order of priority:

(a) Class 1.—The decedent's probate estate and revocable trusts.

(b) Class 2.—Recipients of property interests included in the elective estate under s. 732.2035(2), (3), or (6) and, to the extent the decedent had at the time of death the power to designate the recipient of the property, property interests included under s. 732.2035(5) and (7).

(c) Class 3.—Recipients of all other property interests included in the elective estate except interests for which a charitable deduction with respect to the transfer of the property was allowed or allowable to the decedent or the decedent's spouse under the United States gift tax laws.

(3) The contribution required of the decedent's probate estate and revocable trusts may be made in cash or in kind. In the application of this subsection, subsections (4) and (5) are to be applied to charge contribution

for the elective share to the beneficiaries of the probate estate and revocable trusts as if all beneficiaries were taking under a common governing instrument.

(4) Unless otherwise provided in the decedent's will or, in the absence of a provision in the decedent's will, in a trust referred to in the decedent's will, any amount to be satisfied from the decedent's probate estate, other than from property passing to an inter vivos trust, shall be paid from the assets of the probate estate in the order prescribed in s. 733.805.

(5) Unless otherwise provided in the trust instrument or, in the decedent's will if there is no provision in the trust instrument, any amount to be satisfied from trust property shall be paid from the assets of the trust in the order provided for claims under s. 737.3054(2) and (3). A direction in the decedent's will is effective only for revocable trusts.

Section 8. Section 732.2085, Florida Statutes, is created to read:

732.2085 Liability of direct recipients and beneficiaries.—

(1) Only direct recipients of property included in the elective estate and the beneficiaries of the decedent's probate estate or of any trust that is a direct recipient, are liable to contribute toward satisfaction of the elective share.

(a) Within each of the classes described in s. 732.2075(2)(b) and (c), each direct recipient is liable in an amount equal to the value, as determined under s. 732.2055, of the proportional part of the liability for all members of the class.

(b) Trust and probate estate beneficiaries who receive a distribution of principal after the decedent's death are liable in an amount equal to the value of the principal distributed to them multiplied by the contribution percentage of the distributing trust or estate. For this purpose, "contribution percentage" means the remaining unsatisfied balance of the trust or estate at the time of the distribution divided by the value of the trust or estate as determined under s. 732.2055. "Remaining unsatisfied balance" means the amount of liability initially apportioned to the trust or estate reduced by amounts or property previously contributed by any person in satisfaction of that liability.

(2) In lieu of paying the amount for which they are liable, beneficiaries who have received a distribution of property included in the elective estate and direct recipients other than the decedent's probate estate or revocable trusts, may:

(a) Contribute a proportional part of all property received; or

(b) With respect to any property interest received before the date of the court's order of contribution:

1. Contribute all of the property; or

2. If the property has been sold or exchanged prior to the date on which the spouse's election is filed, pay an amount equal to the value of the property, less reasonable costs of sale, on the date it was sold or exchanged.

In the application of paragraph (a), the "proportional part of all property received" is determined separately for each class of priority under s. 732.2075(2).

(3) If a person pays the value of the property on the date of a sale or exchange or contributes all of the property received, as provided in paragraph (2)(b):

(a) No further contribution toward satisfaction of the elective share shall be required with respect to such property.

(b) Any unsatisfied contribution is treated as additional unsatisfied balance and reapportioned to other recipients as provided in s. 732.2075 and this section.

(4) If any part of s. 732.2035 or s. 732.2075 is preempted by federal law with respect to a payment, an item of property, or any other benefit included in the elective estate, a person who, not for value, receives the payment, item of property, or any other benefit is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of that item of property or benefit, as provided in s. 732.2035 and s. 732.2075, to the person who would have been entitled to it were that section or part of that section not preempted.

Section 9. Section 732.2095, Florida Statutes, is created to read:

732.2095 Valuation of property used to satisfy elective share.—

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

(a) "Applicable valuation date" means:

1. In the case of transfers in satisfaction of the elective share, the date of the decedent's death.

2. In the case of property held in a qualifying special needs trust on the date of the decedent's death, the date of the decedent's death.

3. In the case of other property irrevocably transferred to or for the benefit of the surviving spouse during the decedent's life, the date of the transfer.

4. In the case of property distributed to the surviving spouse by the personal representative, the date of distribution.

5. Except as provided in subparagraphs 1., 2., and 3., in the case of property passing in trust for the surviving spouse, the date or dates the trust is funded in satisfaction of the elective share.

6. In the case of property described in s. 732.2035(3) or (4), the date of the decedent's death.

7. In the case of proceeds of any policy of insurance payable to the surviving spouse, the date of the decedent's death.

8. In the case of amounts payable to the surviving spouse under any plan or arrangement described in s. 732.2035(7), the date of the decedent's death.

9. In all other cases, the date of the decedent's death or the date the surviving spouse first comes into possession of the property, whichever occurs later.

(b) "Qualifying power of appointment" means a general power of appointment that is exercisable alone and in all events by the decedent's spouse in favor of the spouse or the spouse's estate. For this purpose, a general power to appoint by will is a qualifying power of appointment if the power may be exercised by the spouse in favor of the spouse's estate without the consent of any other person.

(c) "Qualifying invasion power" means a power held by the surviving spouse or the trustee of an elective share trust to invade trust principal for the health, support, and maintenance of the spouse. The power may, but need not, provide that the other resources of the spouse are to be taken into account in any exercise of the power.

(2) Except as provided in this subsection, the value of property for purposes of s. 732.2075 is the fair market value of the property on the applicable valuation date.

(a) If the surviving spouse has a life interest in property not in trust that entitles the spouse to the use of the property for life, the value of the spouse's interest is one-half of the value of the property on the applicable valuation date.

(b) If the surviving spouse has an interest in a trust, or portion of a trust, which meets the requirements of an elective share trust, the value of the spouse's interest is a percentage of the value of the principal of the trust, or trust portion, on the applicable valuation date as follows:

1. One hundred percent if the trust instrument includes both a qualifying invasion power and a qualifying power of appointment.

2. Eighty percent if the trust instrument includes a qualifying invasion power but no qualifying power of appointment.

3. Fifty percent in all other cases.

(c) If the surviving spouse is a beneficiary of a trust, or portion of a trust, which meets the requirements of a qualifying special needs trust, the value of the principal of the trust, or trust portion, on the applicable valuation date.

(d) If the surviving spouse has an interest in a trust that does not meet the requirements of an elective share trust, the value of the spouse's interest is the transfer tax value of the interest on the applicable valuation date; however, the aggregate value of all of the spouse's interests in the trust shall not exceed one-half of the value of the trust principal on the applicable valuation date.

(e) In the case of any policy of insurance on the decedent's life the proceeds of which are payable outright or to a trust described in paragraph (b), paragraph (c), or paragraph (d), the value of the policy for purposes of s. 732.2075 and paragraphs (b), (c), and (d) is the net proceeds.

(f) In the case of a right to one or more payments from an annuity or under a similar contractual arrangement or under any plan or arrangement described in s. 732.2035(7), the value of the right to payments for purposes of s. 732.2075 and paragraphs (b), (c), and (d) is the transfer tax value of the right on the applicable valuation date.

Section 10. Section 732.208, Florida Statutes, is transferred, renumbered as section 732.2105, Florida Statutes, and amended to read:

732.2105 ~~732.208~~ *Effect of election on other interests* ~~Interests in addition to elective share~~.—

(1) The elective share shall be in addition to *homestead,* exempt property, and allowances as provided in part IV.

(2) If an election is filed, the balance of the elective estate, after the application of s. 732.2145(1), shall be administered as though the surviving spouse had predeceased the decedent.

Section 11. Section 732.2115, Florida Statutes, is created to read:

732.2115 Protection of payors and other third parties.—Although a property interest is included in the decedent's elective estate under s. 732.2035(2)-(8), a payor or other third party is not liable for paying, distributing, or transferring the property to a beneficiary designated in a governing instrument, or for taking any other action in good-faith reliance on the validity of a governing instrument.

Section 12. Section 732.210, Florida Statutes, is transferred, renumbered as section 732.2125, Florida Statutes, and amended to read:

732.2125 ~~732.210~~ Right of election; by whom exercisable.—The right of election may be exercised:

(1) By the surviving spouse.

(2) By *an attorney in fact or* a guardian of the property of the surviving spouse, *with approval of*~~.~~ the court having jurisdiction of the probate proceeding. *The court* shall determine the election as the best interests of the surviving spouse, *during the spouse's probable lifetime,* require.

Section 13. Section 732.212, Florida Statutes, is transferred, renumbered as section 732.2135, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 732.212, F.S., for present text.)

732.2135 Time of election; extensions; withdrawal.—

(1) Except as provided in subsection (2), the election must be filed within the earlier of 6 months of the date of the first publication of notice of administration or 2 years after the date of the decedent's death.

(2) Within the period provided in subsection (1), the surviving spouse or an attorney in fact or guardian of the property of the surviving spouse may petition the court for an extension of time for making an election. After notice and hearing, the court for good cause shown may extend the time for election. If the court grants the petition for an extension, the election must be filed within the time allowed by the extension.

(3) The surviving spouse or an attorney in fact, guardian of the property, or personal representative of the surviving spouse may withdraw an election at any time within 8 months of the decedent's death and before the court's order of contribution. If an election is withdrawn, the court may assess attorney's fees and costs against the surviving spouse or the spouse's estate.

(4) A petition for an extension of the time for making the election or for approval to make the election shall toll the time for making the election.

Section 14. Section 732.2145, Florida Statutes, is created to read:

732.2145 Order of contribution; personal representative's duty to collect contribution.—

(1) The court shall determine the elective share and shall order contribution. All contributions are to bear interest at the statutory rate provided in s. 55.03(1) beginning 90 days from the date of the order. The order of contribution is prima facie correct in proceedings in any court or jurisdiction.

(2) Except as provided in subsection (3), the personal representative shall collect contribution from the recipients of the elective estate as provided in the court's order of contribution.

(a) If property within the possession or control of the personal representative is distributable to a beneficiary or trustee who is required to contribute in satisfaction of the elective share, the personal representative shall withhold from the distribution the contribution required of the beneficiary or trustee.

(b) If, after the order of contribution, the personal representative brings an action to collect contribution from property not within the personal representative's control, the judgment shall include the personal representative's costs and reasonable attorney's fees. The personal representative is not required to seek collection of any portion of the elective share from property not within the personal representative's control until after the entry of the order of contribution.

(3) A personal representative who has the duty under this section of enforcing contribution may be relieved of that duty by an order of the court finding that it is impracticable to enforce contribution in view of the improbability of obtaining a judgment or the improbability of collection under any judgment that might be obtained, or otherwise. The personal representative shall not be liable for failure to attempt collection if the attempt would have been economically impracticable.

(4) Nothing in this section limits the independent right of the surviving spouse to collect the elective share as provided in the order of contribution and that right is hereby conferred. If the surviving spouse brings an action to enforce an order of contribution, the judgment shall include the surviving spouse's costs and reasonable attorney's fees.

Section 15. Section 732.2155, Florida Statutes, is created to read:

732.2155 Effective date; effect of prior waivers; transition rules.—

(1) Sections 732.201-732.2155 are effective on October 1, 1999, for all decedents dying on or after October 1, 2001. The law in effect prior to October 1, 1999, applies to decedents dying before October 1, 2001.

(2) Nothing in ss. 732.201-732.2155 modifies or applies to the rights of spouses under chapter 61.

(3) A waiver of elective share rights before the effective date of this section which is otherwise in compliance with the requirements of s. 732.702 is a waiver of all rights under ss. 732.201-732.2145.

(4) Notwithstanding anything in s. 732.2045(1)(a) to the contrary, any trust created by the decedent before the effective date of this section that meets the requirements of an elective share trust is treated as if the decedent created the trust after the effective date of this subsection and in satisfaction of the elective share.

(5) Sections 732.201-732.2155 do not affect any interest in contracts entered into for adequate consideration in money or money's worth before October 1, 1999, to the extent that the contract was irrevocable at all times from October 1, 1999, until the date of the decedent's death.

Section 16. *Sections 732.205, 732.211, 732.213, 732.214, and 732.215, Florida Statutes, are repealed.*

Section 17. This act shall take effect October 1, 1999.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to probate; amending s. 732.201, F.S.; revising provisions governing the right to elective share; creating s. 732.2025, F.S.; providing definitions; transferring, renumbering, and amending s. 732.206, F.S.; providing for property entering into the elective estate; creating s. 732.2045, F.S.; providing for exclusions and overlapping application; creating s. 732.2055, F.S.; providing for the valuation of the elective estate; transferring, renumbering, and amending s. 732.207, F.S.; providing for the elective share amount; transferring, renumbering, and amending s. 732.209, F.S.; providing for the sources from which the elective share is payable; providing for abatement; creating s. 732.2085, F.S.; providing for the liability of direct recipients and beneficiaries; creating s. 732.2095, F.S.; providing for the valuation of the property used to satisfy the elective share; transferring, renumbering, and amending s. 732.208, F.S.; providing for the effect of the election on other interests; creating s. 732.2115, F.S.; providing for the protection of payors and other third parties; transferring, renumbering, and amending s. 732.210, F.S.; providing who may exercise the right of election; transferring, renumbering, and amending s. 732.212, F.S.; providing for the time of election; providing for extensions and for withdrawal; creating s. 732.2145, F.S.; providing for the order of contribution; providing for the personal representative's duty to collect contributions; creating s. 732.2155, F.S.; providing for the effective date, inapplicability of ch. 61, F.S., the effect of prior waivers, and transition rules; repealing s. 732.205, F.S., which provides elective share solely for Florida resident decedent; repealing s. 732.211, F.S., which provides for the effect of the exercise of the right of election; repealing s. 732.213, F.S., which provides for preexisting right to dower; repealing s. 732.214, F.S., which provides for proceedings on election; repealing s. 732.215, F.S., which provides for the effect of elective share on taxes; providing an effective date.

Pursuant to Rule 4.19, **CS for CS for HB 301** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Silver—

CS for SB 724—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.055, F.S.; requiring that a judge of compensation claims who is a member of the Florida Retirement System participate in the Senior Management Service Class unless such judge elects to participate in the Senior Management Service Optional Annuity Program; providing an effective date.

—was read the second time by title.

Senator Silver moved the following amendment which was adopted:

Amendment 1 (321004)—On page 6, line 12, delete "*new*"

Pursuant to Rule 4.19, **CS for SB 724** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Kurth—

CS for CS for SB 386—A bill to be entitled An act relating to grant proposals for community centers; authorizing the Department of Community Affairs to administer a grant program for funding the acquisition, renovation, or construction of community centers; authorizing counties, municipalities, and certain nonprofit corporations to apply for such grants; requiring that a grant recipient provide certain matching funds; providing for preference to be given to certain projects; providing requirements for grant recipients; providing for a review panel to review grant applications; providing for membership of the review panel and terms of office; requiring the review panel to annually recommend grant recipients to the Secretary of Community Affairs; providing that the department may not allocate a project grant unless the funds are appropriated by the Legislature; authorizing the Department of Community Affairs to adopt rules; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 386** was placed on the calendar of Bills on Third Reading.

On motion by Senator King—

SB 2568—A bill to be entitled An act relating to financial matters; creating s. 215.245, F.S.; authorizing the state and agencies or political subdivisions thereof to enter into hold harmless agreements with the Federal Government when required by federal law to obtain federal funding; providing an effective date.

—was read the second time by title.

The Committee on Governmental Oversight and Productivity recommended the following amendment which was moved by Senator King:

Amendment 1 (854300)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 215.245, Florida Statutes, is created to read:

215.245 Contracts with Federal Government; indemnification authorized in certain circumstances.—The state and its political subdivisions, which are authorized to enter into cooperative agreements or otherwise contract or participate with the Federal Government in constructing water resources development projects under the jurisdiction of the Secretary of the Army, are authorized to agree in such contracts or participation agreements to indemnify and hold harmless the United States from damages due to the construction, operation, and maintenance of the projects, except for damages due to the fault or negligence of the United States or its contractors; however, this section does not obligate the Legislature to provide future appropriations and does not abrogate the provisions of s. 45.062.

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: A bill to be entitled An act relating to financial matters; creating s. 215.245, F.S.; authorizing the state and its political subdivisions to enter into indemnification agreements with the Federal Government with respect to water resources development projects; providing an effective date.

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

Amendment 1A (113164)—On page 1, delete line 29 and insert: *construction, operation, maintenance, repair, replacement, and rehabilitation of the projects and any state or local sponsor project-related betterments,*

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **SB 2568** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for SB 1314—A bill to be entitled An act relating to the Department of Transportation; amending ss. 20.23, 206.46, 288.9607, 337.29, 337.407, 338.22, 338.221, 338.223, 338.225, 338.227, 338.228, 338.229, 338.231, 338.232, 338.239, 339.08, 339.175, 339.241, 341.3333, 348.0005, 348.0009, 348.248, 348.948, 349.05, 479.01, F.S.; conforming cross-references; creating s. 215.616, F.S.; authorizing bonding of federal aid; repealing s. 234.112, F.S., relating to school bus stops; repealing s. 335.165, F.S., relating to welcome stations; repealing section 137 of chapter 96-320, Laws of Florida, relating to certain uncollectible debts owned by a local government for utility relocation cost reimbursements; repealing s. 339.091, F.S., relating to a declaration of legislative intent; repealing s. 339.145, F.S., relating to certain expenditures in the Working Capital Trust Fund; repealing s. 339.147, F.S., relating to certain audits by the Auditor General; amending ss. 311.09, 331.303, 331.305, 331.308, 331.331, 334.03, 335.074, 335.182, 335.188, 336.044, 337.015, 337.139, 339.2405, 341.051, 341.352, 343.64, 343.74, 378.411, 427.012, 427.013, 951.05, F.S.; deleting obsolete provisions, and, where appropriate, clarifying provisions; reenacting ss. 336.01, 338.222, 339.135(7)(e), 341.321(1), F.S., relating to designation of county road system, acquisition or construction or operation of turnpike projects, amendment of the adopted work program, and legislative findings and intent regarding development of high-speed rail transportation system; providing an effective date.

—was read the second time by title.

Senator Hargrett moved the following amendment:

Amendment 1 (590610)(with title amendment)—On page 2, between lines 7 and 8, insert:

Section 1. *The Department of Community Affairs and the Department of Transportation must jointly review and submit proposed legislative language based upon and implementing the recommendations of the Transportation and Land Use Study Committee, created by the 1998 Legislature, and 1999 Senate Bill 2306, to the Legislature on or before December 1, 1999. Such proposed legislative language must be fiscally feasible within current and projected funding.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 3, after the semicolon (;) insert: requiring the submission of proposed legislation;

On motion by Senator Webster, further consideration of **CS for SB 1314** with pending **Amendment 1** was deferred.

On motion by Senator Sullivan—

SB 282—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; providing for a United States Marine Corps specialty license plate; providing fees; providing for the disposition of fees; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 282** to **HB 127**.

Pending further consideration of **SB 282** as amended, on motion by Senator Sullivan, by two-thirds vote **HB 127** was withdrawn from the Committee on Transportation.

On motion by Senator Sullivan—

HB 127—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; providing for a United States Marine Corps specialty license plate; providing fees; providing for the disposition of fees; providing an effective date.

—a companion measure, was substituted for **SB 282** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 127** was placed on the calendar of Bills on Third Reading.

On motion by Senator Kirkpatrick, by two-thirds vote **HB 1909** was withdrawn from the Committees on Transportation, Natural Resources and Fiscal Resource.

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

HB 1909—A bill to be entitled An act relating to license plates; amending ss. 320.08056, 320.08058, F.S.; creating a Florida Wildflower license plate; providing for the distribution of annual use fees received from the sale of such plates; providing an effective date.

—a companion measure, was substituted for **SB 2018** and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 1909** was placed on the calendar of Bills on Third Reading.

On motion by Senator Dawson-White—

SB 1538—A bill to be entitled An act relating to license plates; amending ss. 320.08056, 320.08058, F.S.; creating a Florida Memorial College license plate; providing for the distribution of annual use fees received from the sale of such plates; providing a contingent effective date.

—was read the second time by title.

Senator Dawson-White moved the following amendment which was adopted:

Amendment 1 (743518)—On page 1, delete lines 28-31 and insert:

Section 3. This act shall take effect July 1, 1999.

Pursuant to Rule 4.19, **SB 1538** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Sullivan—

SB 280—A bill to be entitled An act relating to license plates; amending ss. 320.08056, 320.08058, F.S.; creating a Share the Road license plate; providing for the distribution of annual use fees received from the sale of such plates; providing a contingent effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 280** to **HB 601**.

Pending further consideration of **SB 280** as amended, on motion by Senator Sullivan, by two-thirds vote **HB 601** was withdrawn from the Committee on Transportation.

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

HB 601—A bill to be entitled An act relating to license plates; amending ss. 320.08056, 320.08058, F.S.; creating a Share the Road license plate; providing for the distribution of annual use fees received from the sale of such plates; providing effective date.

—a companion measure, was substituted for **SB 280** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 601** was placed on the calendar of Bills on Third Reading.

On motion by Senator McKay—

SB 1018—A bill to be entitled An act relating to motor vehicle licenses; amending s. 320.089, F.S.; permitting the unremarried spouse of a deceased recipient of the Purple Heart medal to continue receiving a license plate which is stamped with the words “Purple Heart” under certain circumstances; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 1018** to **HB 267**.

Pending further consideration of **SB 1018** as amended, on motion by Senator McKay, by two-thirds vote **HB 267** was withdrawn from the Committee on Transportation.

On motion by Senator McKay—

HB 267—A bill to be entitled An act relating to motor vehicle licenses; amending s. 320.089, F.S.; permitting the unremarried spouse of a deceased recipient of the Purple Heart medal to continue receiving a license plate which is stamped with the words “Purple Heart” under certain circumstances; providing an effective date.

—a companion measure, was substituted for **SB 1018** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 267** was placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

SB 1266—A bill to be entitled An act relating to license plates; amending ss. 320.08056, 320.08058, F.S.; creating a Tampa Bay Estuary li-

cense plate; providing for the distribution of annual use fees received from the sale of such plates; providing a contingent effective date.

—was read the second time by title.

Senator Sebesta moved the following amendments which were adopted:

Amendment 1 (235980)—On page 1, delete line 30 and insert:

2. Twenty percent of the proceeds from the annual use fee, not to exceed $50,000, shall be provided to the Tampa Bay Regional Planning Council for activities of the Agency on Bay Management implementing the Council/Agency Action Plan for the restoration of the Tampa Bay estuary, as approved by the Tampa Bay Estuary Program Policy Board.

3. The remaining proceeds must be used to implement

Amendment 2 (942888)—On page 2, delete lines 3-6 and insert:

Section 3. This act shall take effect July 1, 1999.

Pursuant to Rule 4.19, **SB 1266** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for CS for SB 972—A bill to be entitled An act relating to the Department of Transportation; amending s. 20.23, F.S.; changing the name of the Office of Construction to the Office of Highway Operations; amending s. 206.46, F.S.; increasing the amount that may be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund; creating s. 215.615, F.S.; authorizing the department and local governments to enter into an interlocal agreement to provide financing for fixed guideway projects; amending s. 206.606, F.S.; providing funding for the Center for Urban Transportation Research; creating s. 215.616, F.S.; authorizing bonding of federal aid; amending s. 316.1895, F.S.; authorizing local governments to request the Department of Transportation to install and maintain speed zones for federally funded Headstart programs located on roads maintained by the department; amending s. 316.1936; defining the term "public highway"; providing that it is unlawful to possess an open container or consume an alcoholic beverage while seated in the passenger area of a motor vehicle that is parked or stopped within a public highway; creating s. 316.0815, F.S.; providing the duty to yield to public transit vehicles reentering the flow of traffic; amending s. 316.302, F.S.; updating references to the current federal safety regulations; amending s. 316.3025, F.S.; updating references to the current federal safety regulations; amending s. 316.545, F.S.; providing a maximum penalty for operating a commercial motor vehicle when the registration or license plate has not been expired for more than 180 days; amending s. 320.20, F.S., relating to the disposition of motor vehicle license tax moneys; providing for a portion of such moneys to be deposited in the State Transportation Trust Fund and used to fund the Florida Seaport Transportation and Economic Development Program and seaport intermodal access projects of statewide significance; providing for distributing such funds on a matching basis; authorizing such funds to be used for the payment of bonds and other forms of indebtedness; requiring that certain distributions of funds be approved by the Florida Seaport Transportation and Economic Development Council; amending s. 334.0445, F.S.; extending the current authorization for the department's model classification plan; amending s. 335.0415, F.S.; clarifying the jurisdiction and responsibility for operation and maintenance of roads; amending s. 335.093, F.S.; authorizing the department to designate public roads as scenic highways; amending s. 337.11, F.S.; authorizing the department to enter into contracts for construction or maintenance of roadway and bridge elements without competitive bidding under certain circumstances; deleting the provision for the owner-controlled insurance plan; amending s. 337.16, F.S.; eliminating intermediate delinquency as grounds for suspension or revocation of a contractor's certificate of qualification to bid on construction contracts in excess of a specified amount; amending s. 337.162, F.S.; providing that department appraisers are not obligated to report violations of state professional licensing laws to the Department of Business and Professional Regulation; amending s. 337.18, F.S.; deleting the schedule of contract amount categories utilized to calculate liquidated damages to be paid by a contractor; allowing the department to adjust the categories; requiring that surety bonds posted by successful bidders on department construction contracts be payable to the department; amending s. 337.185, F.S.; raising the limit for binding arbitration contract disputes; authorizing the secretary of the department to select an alternate or substitute to serve as the department member of the board for any hearing; amending the fee schedule for arbitration to cover the cost of administration and compensation of the board; authorizing the department to acquire and negotiate for the sale of replacement housing; amending s. 337.25, F.S.; authorizing the department to purchase options to purchase land for transportation facilities; amending s. 337.251, F.S.; authorizing a fixed guideway transportation system operating within the department's right-of-way to operate at any safe speed; amending s. 337.403, F.S.; authorizing the department to contract directly with utility companies for clearing and grubbing; amending s. 337.408, F.S.; reviving standards for installation of bus benches and transit shelters; amending s. 338.223, F.S.; defining the terms "hardship purchase" and "protective purchase"; amending s. 338.229, F.S.; restricting the sale, transfer, lease, or other disposition of operations on any portion of the turnpike system; amending s. 338.251, F.S.; providing that funds repaid by the Tampa-Hillsborough County Expressway Authority to the Toll Facilities Revolving Trust Fund are to be loaned back to the authority for specified purposes; amending s. 339.155, F.S.; providing planning factors; clarifying the roles of the long-range and short-range components of the Florida Transportation Plan; amending s. 339.175, F.S.; providing planning factors; requiring a recommendation for redesignation; clarifying geographic boundaries of metropolitan planning organizations; providing that metropolitan planning organization plans must provide for the development and operation of intermodal transportation systems and facilities; amending s. 341.041, F.S.; authorizing the creation and maintenance of a common self-retention insurance fund to support public transit projects; amending s. 341.302, F.S.; authorizing the department to secure and administer federal loans for rail projects; authorizing the department to conduct hazardous materials inspections at manufacturer's and shipper's facilities on Florida rail lines; amending s. 373.4137, F.S.; providing for the mitigation of impacts to wetlands and other sensitive habitats; amending s. 479.01, F.S.; defining the terms "commercial or industrial zone" and "unzoned commercial or industrial area"; providing that communication towers are not commercial or industrial activities; amending s. 479.07, F.S.; modifying the process for reinstatement of an outdoor advertising sign permit; amending s. 479.16, F.S.; clarifying that certain signs not in excess of 16 square feet are exempt from the permitting process; providing an effective date.

—was read the second time by title.

Senator Casas moved the following amendments which were adopted:

Amendment 1 (502942)—On page 1, line 5, after the semicolon (;) insert: providing the department may guarantee loans for certain businesses affected by major construction projects;

Amendment 2 (511672)—On page 2, line 6, delete "180" and insert: 90

Amendment 3 (900536)(with title amendment)—On page 9, between lines 7 and 8, insert:

Section 5. Paragraph (d) of subsection (1) of section 212.055, Florida Statutes, 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.—

(d) Proceeds from the surtax shall be *applied to as many or as few of the uses enumerated below in whatever combination the county commission deems appropriate*:

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; *and*

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~~ *and*

3. For each county, as defined in s. 125.011(1), used for the development, construction, operation, *and* ~~or~~ maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of ~~an existing~~ bus *and fixed guideway systems* ~~system~~; *and* ~~or~~ for the payment of principal and interest on ~~existing~~ bonds issued for the construction of fixed guideway rapid transit systems, *bus 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, *bus systems,* roads, or bridges *and no more than 25 percent used for non-transit uses*.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: amending s. 212.055; revising the application of the charter county transit system surtax;

Amendment 4 (303526)—On page 11, line 16; and on page 13, line 11, before the period (.) insert: *, unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds*

Senator Forman moved the following amendment which was adopted:

Amendment 5 (182228)(with title amendment)—On page 13, between lines 19 and 20, insert:

Section 7. Subsection (2) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(2) BICYCLE.—Every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor ~~rated at~~ not ~~more than 200 watts and~~ capable of propelling the vehicle at a speed of not more than *20* ~~10~~ miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. *No person under the age of 16 may operate or ride upon a motorized bicycle.*

Section 8. Subsection (1) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), and mobile homes, as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES~~,~~ *and* MOPEDS, ~~MOTORIZED BICYCLES~~.—

(a) Any motorcycle: $10 flat.

(b) Any moped: $5 flat.

~~(c) Any motorized bicycle as defined in s. 316.003(2): $5 flat; however, annual renewal is not required.~~

(c)~~(d)~~ Upon registration of any motorcycle, motor-driven cycle, or moped there shall be paid in addition to the license taxes specified in this subsection a nonrefundable motorcycle safety education fee in the amount of $2.50. The proceeds of such additional fee shall be deposited in the Highway Safety Operating Trust Fund and be used exclusively to fund a motorcycle driver improvement program implemented pursuant to s. 322.025 or the Florida Motorcycle Safety Education Program established in s. 322.0255.

(d)~~(e)~~ An ancient, antique, or collectible motorcycle: $10 flat.

Section 9. Section 320.0803, Florida Statutes, is amended to read:

320.0803 Moped ~~and motorized bicycle~~ license plates.—

(1) Any other provision of law to the contrary notwithstanding, registration and payment of license taxes in accordance with these requirements and for the purposes stated herein shall in no way be construed as placing any requirements upon mopeds~~, and motorized bicycles as defined in s. 316.003(2),~~ other than the requirements of registration and payment of license taxes.

(2) Each request for a license plate for a moped ~~or a motorized bicycle~~ shall be submitted to the department or its agent on an application form supplied by the department, accompanied by the license tax required in s. 320.08.

(3) The license plate for a moped ~~or motorized bicycle~~ shall be 4 inches wide by 7 inches long.

(4) A license plate for a moped ~~or motorized bicycle~~ shall be of the same material as license plates issued pursuant to s. 320.06; however, the word "Florida" shall be stamped across the top of the plate in small letters.

Section 10. Section 320.08035, Florida Statutes, is amended to read:

320.08035 Persons who have disabilities; reduced dimension license plate.—The owner or lessee of a motorcycle, moped, ~~motorized bicycle,~~ or motorized disability access vehicle who resides in this state and qualifies for a parking permit for a person who has a disability under s. 320.0848, upon application and payment of the appropriate license tax and fees under s. 320.08(1), must be issued a license plate that has reduced dimensions as provided under s. 320.06(3)(a). The plate must be stamped with the international symbol of accessibility after the numeric and alpha serial number of the license plate. The plate entitles the person to all privileges afforded by a disabled parking permit issued under s. 320.0848.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 16, after the first semicolon (;) insert: amending s. 316.003, F.S.; revising the definition of a motorized bicycle; amending ss. 320.08, 320.083, 320.08035, F.S.; deleting references to motorized bicycles;

Senator Hargrett moved the following amendment which was adopted:

Amendment 6 (425060)(with title amendment)—On page 13, between lines 19 and 20, insert:

Section 7. Subsection (6) of section 311.07, Florida Statutes, is amended to read:

311.07 Florida seaport transportation and economic development funding.—(6) The Department of Transportation shall *ensure* ~~subject~~ any project that receives funds pursuant to this section *and s. 320.20 is audited* ~~to a final audit~~. The department may adopt rules and perform such other acts as are necessary or convenient to ensure that the final audits are conducted and that any deficiency or questioned costs noted by the audit are resolved.

Section 8. Subsections (1), (11) and (12) of section 311.09, Florida Statutes, are amended and a new subsection (11) is added to that section to read:

311.09 Florida Seaport Transportation and Economic Development Council.—

(11) The council shall create a committee composed of a representative from the Department of Community Affairs, the Department of

Transportation, a representative from the Office of Tourism, Trade, and Economic Development, and a representative from the council selected by the voting membership to review a project modification. The committee shall establish criteria to be used in the review of a project modification. The committee, acting for the council, shall determine the impact of such modification and whether it requires the project to be resubmitted to the council for approval or disapproval pursuant to subsection (5).

(12)~~(11)~~ The council shall meet at the call of its chairperson, at the request of a majority of its membership, or at such times as may be prescribed in its bylaws. However, the council must meet at least semiannually. A majority of voting members of the council constitutes a quorum for the purpose of transacting the business of the council. All members of the council are voting members ~~except for members representing the Department of Transportation; the Department of Community Affairs; and the Office of Tourism, Trade, and Economic Development~~. A vote of the majority of the voting members present is sufficient for any action of the council, *except that a member representing the Department of Transportation, the Department of Community Affairs, or the Office of Tourism, Trade, and Economic Development may vote to overrule any action of the council approving a project pursuant to subsection (5). The* ~~unless the~~ bylaws of the council *may* require a greater vote for a particular action.

(13)~~(12)~~ Members of the council shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. The council may elect to provide an administrative staff to provide services to the council on matters relating to the Florida Seaport Transportation and Economic Development Program and the council. The cost for such administrative services shall be paid by all ports that receive funding from the Florida Seaport Transportation and Economic Development Program, based upon a pro rata formula measured by each recipient's share of the funds as compared to the total funds disbursed to all recipients during the year. The share of costs for administrative services shall be paid in its total amount by the recipient port upon execution by the port and the Department of Transportation of a joint participation agreement for each council-approved project *or as otherwise directed by the council*, and such payment is in addition to the matching funds required to be paid by the recipient port.

Section 9. Section 311.101, Florida Statutes, is created to read:

311.101 Department of Transportation; Seaport and Intermodal Development.—

(1) There is created within the Office of the State Public Transportation Administrator of the Department of Transportation, the Office of Seaport and Intermodal Development to enhance Florida's global competitiveness, productivity, and efficiency in international trade and the movement of people and goods to and from Florida's intermodal facilities. The Office of Seaport Development and Intermodal Development shall have the following duties and responsibilities:

(a) Advise and assist the State Public Transportation Administrator and the Secretary of the Department of Transportation in all seaport and intermodal matters.

(b) Coordinate the activities of the department and its district offices with respect to all seaport and intermodal matters.

(c) Review candidate projects approved by the Florida Seaport Transportation and Economic Development Council to determine consistency with the Florida Transportation Plan and the department's adopted work program pursuant to s. 311.09(7).

(d) Review for consistency pursuant to s. 311.09(7) seaport intermodal access projects, as described in s. 341.053(5) and funded pursuant to ss. 320.20(4) and (5).

(e) Review any proposed project scope modification made to eligible projects approved by the Florida Seaport Transportation and Economic Development Council pursuant to s. 311.09(11).

(f) Direct required audit reviews pursuant to s. 311.07(6) of any project that receives funds pursuant to this chapter.

(g) Administer seaport and intermodal development activities of the department pursuant to ss. 311.14, 320.20, and 341.053.

(h) Carry out any other seaport and intermodal activities assigned to it by the Secretary of the Department of Transportation to work cooperatively with the Florida Seaport Transportation and Economic Development Council and others in administering provisions pursuant to chapter 311, and ss. 320.20 and 341.053.

(i) By February 1 of each year, the Department of Transportation shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, a complete and detailed report on state seaport development efforts conducted during the year.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 16, after the first semicolon (;) insert: amending s. 311.07, F.S.; ensuring port projects are audited; amending s. 311.09, F.S.; authorizing voting membership on the Florida Seaport Trade and Economic Development Council; creating a project modification committee; creating 311.101, F.S.; creating the Office of Seaport and Intermodal Development within the Office of the State Public Transportation Administrator; providing duties and responsibilities;

Senator Gutman moved the following amendment which failed:

Amendment 7 (714772)(with title amendment)—On page 20, between lines 11 and 12, insert:

Section 14. *Employees of an Off Street Parking Authority of a city with a population of 300,000 or more within a county as defined in section 125.011(1), are prohibited from ordering the towing of any vehicle within a central business district without requesting the assistance of a law enforcement officer when an authority employee determines that a vehicle is illegally parked and should be removed.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 20, after the semicolon (;) insert: limiting powers of Off Street Parking Authority;

Senator Casas moved the following amendment which was adopted:

Amendment 8 (721168)—On page 36, line 15, after "Fund" and insert: *by or*

Senator Geller moved the following amendments which were adopted:

Amendment 9 (655912)—On page 38, line 24 through page 41, line 14, delete those lines and insert:

~~(a) The results of the management systems required pursuant to federal laws and regulations.~~

4.~~(b)~~ Any federal, state, or local energy use goals, objectives, programs, or requirements.

5.~~(c)~~ Strategies for incorporating bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the state.

~~(d) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.~~

~~(e) The transportation needs of nonmetropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation.~~

6.~~(f)~~ Consistency of the plan, to the maximum extent feasible, with strategic regional policy plans, metropolitan planning organization plans, and approved local government comprehensive plans so as to contribute to the management of orderly and coordinated community development.

~~(g) Connectivity between metropolitan areas within the state and with metropolitan areas in other states.~~

~~(h) Recreational travel and tourism.~~

~~(i) Any state plan developed pursuant to the Federal Water Pollution Control Act.~~

~~(j) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.~~

7.~~(k)~~ The total social, economic, energy, and environmental effects of transportation decisions on the community and region.

8.~~(l)~~ Methods to manage traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant vehicle travel.

9.~~(m)~~ Methods to expand and enhance transit services and to increase the use of such services.

10.~~(n)~~ The effect of transportation decisions on land use and land development, including the need for consistency between transportation decisionmaking and the provisions of all applicable short-range and long-range land use and development plans.

~~(o) Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.~~

11.~~(p)~~ Preservation and management of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identification of those corridors for which action is most needed to prevent destruction or loss.

~~(q) Future, as well as existing, needs of the state transportation system.~~

~~(r) Methods to enhance the efficient movement of commercial motor vehicles.~~

~~(s) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.~~

12.~~(t)~~ Investment strategies to improve adjoining state and local roads that support rural economic growth and tourism development, federal agency renewable resources management, and multipurpose land management practices, including recreation development.

~~(u) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the state.~~

~~(v) A seaport or airport master plan, which has been incorporated into an approved local government comprehensive plan, and the linkage of transportation modes described in such plan which are needed to provide for the movement of goods and passengers between the seaport or airport and the other transportation facilities.~~

13.~~(w)~~ The joint use of transportation corridors and major transportation facilities for alternate transportation and community uses.

~~(x) The integration of any proposed system into all other types of transportation facilities in the community.~~

(3) FORMAT, SCHEDULE, AND REVIEW.~~ The Florida Transportation Plan shall be a unified, concise planning document that clearly defines the state's long-range transportation goals and objectives and documents the department's short-range objectives developed to further such goals and objectives.~~ The plan shall include a glossary that

Amendment 10 (113114)—On page 53, line 27 through page 55, line 2, delete those lines and insert:

(c) Additionally, each MPO shall consider:

1.~~2.~~ The consistency of transportation planning with applicable federal, state, and local energy conservation programs, goals, and objectives;

~~3. The need to relieve congestion and prevent congestion from occurring where it does not yet occur;~~

2.~~4.~~ The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with all applicable short-term and long-term land use and development plans;

~~5. The programming of transportation enhancement activities as required by federal law;~~

~~6. The effect of all transportation projects to be undertaken in the metropolitan area, without regard to whether such projects are publicly funded;~~

~~7. The provision of access to seaports, airports, intermodal transportation facilities, major freight distribution routes, national and state parks, recreation areas, monuments and historic sites, and military installations;~~

~~8. The need for roads within the metropolitan area to efficiently connect with roads outside the metropolitan area;~~

~~9. The transportation needs identified through the use of transportation management systems required by federal or state law;~~

3.~~10.~~ The preservation of rights-of-way for construction of future transportation projects, including the identification of unused rights-of-way that may be needed for future transportation corridors and the identification of corridors for which action is most needed to prevent destruction or loss;

~~11. Any available methods to enhance the efficient movement of freight;~~

~~12. The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement;~~

4.~~13.~~ The overall social, economic, energy, and environmental effects of transportation decisions; *and*

5.~~14.~~ ~~Any~~ Available methods to expand or enhance transit services and increase the use of such services.~~; and~~

(Redesignate subsequent paragraphs.)

Senators Casas and Diaz-Balart offered the following amendment which was moved by Senator Diaz-Balart:

Amendment 11 (650158)(with title amendment)—On page 67, between lines 15 and 16, insert:

Section 31. Paragraph (f) of subsection (2) of section 348.0004, Florida Statutes, is amended to read:

348.0004 Purposes and powers.—

(2) Each authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers:

(f) To fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities system, which tolls, rates, fees, rentals, and other charges must always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to the Florida Expressway Authority Act. However, such right and power may be assigned or delegated by the authority to the department. Notwithstanding s. 338.165 or any other provision of law to the contrary, in any county as defined in s. 125.011(1), to the extent surplus revenues exist, they may be used for purposes enumerated in subsection (7), provided the expenditures are consistent with the metropolitan planning organization's adopted long-range plan. *Notwithstanding any other provision of law to the contrary, but subject to any contractual requirements contained in documents securing any outstanding indebtedness payable from tolls, in any county as defined in s. 125.011(1), the board of county commissioners may, by ordinance, alter or abolish existing tolls and currently approved increases thereto if the board provides a local source of funding to the county expressway system for transportation in an amount sufficient to replace revenues necessary to meet bond obligations secured by such tolls and increases.*

Section 32. *In addition to the voting membership established by section 339.175(2), Florida Statutes, and notwithstanding any other provi-*

sion of the law to the contrary, the voting membership of any Metropolitan Planning Organization whose geographical boundaries include any county as defined in section 125.011(1), Florida Statutes, must include an additional voting member appointed by that city's governing body for each city with a population of 50,000 or more residents.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 30, following the semicolon (;) insert: amending s. 348.0004, F.S.; authorizing certain boards of county commissioners to alter expressway tolls; providing additional membership for Metropolitan Planning Organizations;

On motion by Senator Casas, further consideration of **CS for CS for SB 972** with pending **Amendment 11** was deferred.

MOTIONS

On motion by Senator McKay, the rules were waived and time of recess was extended until completion of motions and announcements.

On motion by Senator McKay, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Friday, April 23.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, April 22, 1999: CS for SB 1734, CS for SB 1954, CS for SB 1960, CS for SB 1962, CS for SB 1964, CS for SB 1966, CS for SB 1968, CS for SB's 2422 and 1952, CS for CS for SB 1566, CS for CS for SB 1560, SB 178, SB 180, SB 182, CS for SB 1614, CS for SB 1848, CS for SB 2280, CS for CS for SB 2426, CS for SB 1334, CS for CS for SB 1270, SB 1036, CS for CS for SB 802, CS for SB 1978, CS for SB 2100, CS for SB 284, SB 750, SB 242, CS for CS for SB 660, SB 1642, CS for SB 232, SB 976, SB 148, CS for SB 244, CS for SB's 54 and 902, CS for SB's 286, 722 and 1074, SB 730, CS for SB 738, CS for SB 912, SB 1178, CS for SB 748, CS for SB 370, SB 1182, CS for SB 772, SB 936, SB 1866, SB 1020, CS for CS for SB 980, CS for SB 276, CS for SB 1238, CS for SB 1234, SB 330, CS for SB 336, SB 1816, SB 1292, SB 1472, SB 1076, SB 1214, CS for SB 1326, SB 1144, CS for SB 1168, CS for SB 814, SB 1312, CS for SB 982, CS for SB 1306, SB 874, CS for SB 1606, SB 1832, CS for SB 1162, CS for SB 1070, CS for SB 340, CS for SB 298, CS for SB 724, CS for CS for SB 386, SB 2568, CS for SB 1314, SB 282, SB 2018, SB 1538, SB 280, SB 1018, SB 1266, CS for CS for SB 972, CS for SB 110, SB 674, CS for SB 746, SB 898, CS for SB 1118, CS for SB 1308, CS for SB 1510, CS for SB 2038, CS for SB 2522, SB 142, CS for SB 698, CS for CS for CS for SB 2192, CS for SB 1846, CS for SB 672, CS for SB's 240 and 810, SB 132, CS for SB 822, SB 872, CS for SB 952, CS for SB 1148, CS for SB 1626, CS for CS for SB 1294, CS for SB 974, CS for SB 1444, SB 1744, CS for SB 2066, CS for CS for SB 2146, CS for SB 2326, CS for SB 2380, CS for SB 2268, SB 16

Respectfully submitted,
John McKay, Chairman

The Committee on Fiscal Policy recommends the following pass: HB 1317 with 1 amendment, SB 128, CS for CS for SB 214 with 2 amendments, CS for SB 260 with 4 amendments, SB 668, SB 800, SB 878, CS for SB 880, CS for SB 1160, CS for SB 1290 with 1 amendment, CS for SB 1354, CS for SB 1356 with 4 amendments, SB 1394 with 1 amendment, CS for SB's 1414 and 2520 with 7 amendments, CS for SB 1550 with 1 amendment, CS for SB 1698, CS for SB 1840, CS for SB 1940 with 1 amendment, CS for SB 2086 with 1 amendment, CS for SB 2092 with 4 amendments, CS for SB 2220, CS for SB 2348 with 1 amendment, CS for SB 2434 with 4 amendments, CS for SB's 2472 and 1892 with 1 amendment, SB 2530

The bills were placed on the calendar.

The Committee on Health, Aging and Long-Term Care recommends a committee substitute for the following: SB 1580

The bill with committee substitute attached was referred to the Committee on Comprehensive Planning, Local and Military Affairs under the original reference.

The Committee on Agriculture and Consumer Services recommends a committee substitute for the following: SB 1262

The Committee on Criminal Justice recommends a committee substitute for the following: SB 688

The Committee on Health, Aging and Long-Term Care recommends committee substitutes for the following: SB 1134, SB 1726, SB 2128

The Committee on Regulated Industries recommends a committee substitute for the following: CS for SB 962

The Committee on Transportation recommends a committee substitute for the following: SB 1038

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Fiscal Policy under the original reference.

The Committee on Regulated Industries recommends committee substitutes for the following: SB 2246, SB 2248

The Committee on Transportation recommends a committee substitute for the following: SB 2550

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Fiscal Resource under the original reference.

The Committee on Agriculture and Consumer Services recommends a committee substitute for the following: SB 146

The bill with committee substitute attached was referred to the Committee on Governmental Oversight and Productivity under the original reference.

The Committee on Agriculture and Consumer Services recommends committee substitutes for the following: SB 1996, CS for SB 2402

The Committee on Commerce and Economic Opportunities recommends a committee substitute for the following: SB 1252

The Committee on Fiscal Policy recommends committee substitutes for the following: CS for SB 206, SB 1948

The Committee on Health, Aging and Long-Term Care recommends a committee substitute for the following: SB 2432

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

REPORT OF THE JOINT COMMITTEE ON COLLECTIVE BARGAINING

The Honorable Toni Jennings April 15, 1999
President of the Senate

The Honorable John Thrasher
Speaker, House of Representatives

Dear President Jennings and Speaker Thrasher:

The Joint Select Committee on Collective Bargaining, pursuant to Section 447.403(4)(c), Florida Statutes, met from 3:30 to 5:30 p.m. on April 15, 1999, in Reed Hall (102 EL) of the House Office Building, for the purpose of conducting a public hearing on issues at collective bargaining impasse. Testimony was received from representatives of the State of Florida and its agencies, the American Federation of State, County, and Municipal Employees, and the Police Benevolent Association.

Upon conclusion of the presentations, the Co-Chairs thanked the participating parties and announced that the disputed issues would be taken under advisement by the Joint Select Committee on Collective Bargaining and that resolution would follow at a later date. Copies of presentation and other pertinent materials have been retained by staff and, for purposes of future public inquiry, are available through the House Committee on Governmental Operations and the Senate Committee on Governmental Oversight and Productivity.

Respectfully submitted,

s/Senator Daniel Webster Co-Chair

s/Representative Bill Posey Co-Chair

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

By Senator Saunders—

SB 2712—A bill to be entitled An act relating to the North Naples Fire Control and Rescue District, Collier County; providing for codification of special laws regarding special districts; providing that the district is an independent special district; providing legislative intent; codifying and reenacting provisions of chapter 84-416, Laws of Florida, as amended; providing for applicability of chapters 191 and 189, F.S., and other general laws; providing a district charter; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; repealing all prior special acts related to the North Naples Fire Control and Rescue District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Agriculture and Consumer Services; and Senator Cowin—

CS for SB 146—A bill to be entitled An act relating to agriculture; creating ss. 570.251-570.275, F.S.; creating the "Florida Agricultural Development Act"; providing legislative findings; providing definitions; establishing the Florida Agricultural Development Authority; providing powers and duties; providing for membership of a board; providing for terms of board members; providing for organization of the board; providing general powers of the authority; providing for an executive director and specifying duties; requiring an annual report; providing for the use of surplus moneys by the authority; providing for combination of state and federal programs to facilitate the purposes of the authority; establishing a beginning farmer loan program; providing purposes of the loan program; authorizing the authority to participate in federal programs; requiring the authority to provide for loan criteria by rule; authorizing the authority to provide loan requirements; authorizing the authority to make loans to beginning farmers for agricultural land and improvements and depreciable agricultural property; authorizing the authority to make loans to mortgage lenders and other lenders; authorizing the authority to purchase mortgage loans and secured loans from mortgage lenders; providing powers of the authority relating to loans; providing for the issuance of bonds and notes by the authority; authorizing the authority to establish bond reserve funds; providing remedies of bondholders and holders of notes; providing for the pledging of bonds by the state; providing that bonds and notes shall be considered legal investments; providing requirements with respect to funds of the authority; authorizing examination of accounts by the Auditor General; requiring a report; providing limitation of liability for members of the authority; requiring the assistance of state officers, agencies, and departments; providing for construction of the act; requiring disclosure of specified conflicts of interest; prohibiting certain participation in the event of a conflict of interest; specifying conflicts of interest with respect to the executive director of the authority; providing exemption from competitive bid laws; creating s. 159.8082, F.S.; establishing the agricultural development bond pool; amending s. 159.804, F.S.; providing for specific allocations of state volume limitations to the agricultural development pool; amending s. 159.809; specifying provisions for bond issuance reports not received; providing an effective date.

By the Committees on Fiscal Policy; Governmental Oversight and Productivity; and Senator Laurent—

CS for CS for SB 206—A bill to be entitled An act relating to the Administrative Procedure Act; providing legislative intent; amending s. 120.52, F.S.; removing entities described in ch. 298, F.S., relating to water control districts, from the definition of "agency"; redefining the term "agency"; providing additional restrictions with respect to an agency's rulemaking authority; amending s. 120.536, F.S.; providing additional restrictions with respect to an agency's rulemaking authority; providing applicability of such changes; amending s. 120.54, F.S.; specifying when rules may take effect; restricting adoption of retroactive rules; amending s. 120.56, F.S.; revising an agency's responsibilities in response to a challenge to a proposed rule and specifying the petitioner's responsibility of going forward; amending s. 120.57, F.S., relating to hearings involving disputed issues of material fact; revising an agency's authority with respect to rejection or modification of conclusions of law in its final order; providing for agency statement as to the reasonableness of its substituted finding of law or interpretation of administrative rule; amending s. 120.81, F.S.; providing that district school boards may adopt rules notwithstanding the rulemaking standards found in chapter 120, F.S.; providing an effective date.

By the Committee on Criminal Justice and Senator Campbell—

CS for SB 688—A bill to be entitled An act relating to driving under the influence; creating s. 316.1939, F.S.; providing that it is a first-degree misdemeanor for a person to refuse to submit to a chemical test of his or her breath, blood, or urine upon the request of a law enforcement officer who has reasonable cause to believe such person was driving under the influence of alcohol or drugs; requiring warnings concerning the consequences of refusing to take these tests; providing that the prosecution of such offense does not affect an administrative action to suspend a person's driving privilege; providing that an administrative action to suspend a person's driving privilege does not affect prosecution of the offense of refusing to submit to a test for the presence of alcohol or drugs; amending s. 316.1932, F.S.; requiring that a person be informed that it is a crime to fail to submit to a test for the presence of alcohol or drugs upon the request of a law enforcement officer; amending s. 316.1933, F.S.; deleting a reference to the person's ability to refuse to submit to certain tests; providing an effective date.

By the Committees on Regulated Industries; Children and Families; and Senator Campbell—

CS for CS for SB 962—A bill to be entitled An act relating to compulsive gambling; directing the Alcohol, Drug Abuse, and Mental Health Program Office within the Department of Children and Family Services to establish within resources specifically appropriated and pursuant to s. 20.19(17), F.S., a program for public education, training, prevention, and treatment; amending s. 24.105, F.S.; requiring lottery personnel and lottery retailers to receive certain education; amending s. 24.112, F.S.; requiring retailers of lottery tickets to provide notice of a toll-free problem gambling hotline; amending s. 550.054, F.S.; requiring pari-mutuel permitholders to provide notice of a toll-free problem gambling hotline; amending s. 849.0931, F.S.; requiring authorized bingo organizations to provide notice of a toll-free problem gambling hotline; providing an effective date.

By the Committee on Transportation and Senators Cowin, Grant, Lee, Myers, Holzendorf, Dawson-White, Horne, Forman, Silver, Mitchell, Jones, Klein, Meek and Campbell—

CS for SB 1038—A bill to be entitled An act relating to school buses; requiring that buses purchased after a specified date and used in transporting certain students be equipped with safety belts or other restraints that comply with specified standards and with seats having a specified

height; defining the term "school bus"; providing an exemption for certain school buses; requiring passengers to wear safety belts or other restraints; providing immunity of a school district, bus operator, and others for injuries to a passenger caused solely because the passenger was not wearing a safety belt or other restraint; providing immunity to such persons for injury caused by a passenger's dangerous or unsafe use of a safety belt or other restraint; providing certain provisions for implementation; providing an exemption; providing an effective date.

By the Committee on Health, Aging and Long-Term Care; and Senator Kirkpatrick—

CS for SB 1134—A bill to be entitled An act relating to Medicaid managed health care; amending s. 409.912, F.S.; authorizing the Agency for Health Care Administration to contract for prepaid behavioral health care services for Medicaid recipients in specified counties; providing requirements for the agency in developing procurement procedures; providing certain limitations on services; providing requirements for the agency in implementing the prepaid plan; requiring a local planning process; deleting provisions requiring the Department of Insurance to develop certain requirements for entities that provide mental health care services; providing an effective date.

By the Committee on Commerce and Economic Opportunities; and Senator Kurth—

CS for SB 1252—A bill to be entitled An act relating to bond financing; amending s. 159.804, F.S.; establishing an additional region for purposes of the allocation of private activity bonds issued in the state; amending s. 159.8075, F.S.; applying certain bond conversion restrictions to such additional region; providing an effective date.

By the Committee on Agriculture and Consumer Services; and Senator Sebesta—

CS for SB 1262—A bill to be entitled An act relating to the sale of dog and cat fur; creating s. 828.123, F.S.; prohibiting the killing of a dog or cat with the sole intent of selling or giving away the pelt of the animal; providing a third degree felony penalty for violation; prohibiting the possession, import into this state, selling, buying, giving away, or acceptance of any pelt of a dog or cat with the sole intent of selling or giving away the pelt; providing a first degree misdemeanor penalty for violation; prohibiting the possession, import into the state, selling, buying, giving away, or acceptance of any dog or cat with the sole intent of killing such dog or cat, or having such dog or cat killed, for the purpose of selling or giving away the pelt of such animal; providing a third degree felony penalty for violation; providing that it is unlawful to engage in the business of a dealer or buyer in the pelts of any dog or cat or to purchase such pelts or furs; prohibiting common carriers from knowingly shipping, transporting, or receiving such pelts; providing penalties; creating s. 828.1231, F.S.; providing that it is unlawful to sell any item of clothing made in whole or in part from dog or cat fur; providing that it is unlawful to sell any dog or cat pelt; providing penalties; providing an effective date.

By the Committee on Health, Aging and Long-Term Care; and Senator Laurent—

CS for SB 1580—A bill to be entitled An act relating to public health; amending s. 163.3177, F.S.; providing guidelines for determining the suitability of soils for septic tanks; providing legislative intent; providing an effective date.

By the Committee on Health, Aging and Long-Term Care; and Senator Meek—

CS for SB 1726—A bill to be entitled An act relating to regulation of certain social work services; establishing the Nonclinical Social Work Study Committee to review the need to regulate nonclinical social workers; specifying study committee membership appointments and staffing; providing for issues to be reviewed by the study committee; requiring a report of findings and recommendations; providing an effective date.

By the Committee on Fiscal Policy and Senator Casas—

CS for SB 1948—A bill to be entitled An act relating to Medicaid third-party liability; amending s. 409.910, F.S.; clarifying that the state may recover and retain damages in excess of Medicaid payments made under certain circumstances; providing for retroactive application; providing an effective date.

By the Committee on Agriculture and Consumer Services; and Senators Cowin and Bronson—

CS for SB 1996—A bill to be entitled An act relating to the harvesting of saw palmetto berries; creating the Saw Palmetto Berry Study Committee within the Department of Agriculture and Consumer Services; providing for membership of the committee; providing for terms of office; authorizing the reimbursement of committee members for expenses incurred in performing their duties; requiring that the department provide assistance to the committee; providing duties of the committee; requiring the committee to report to the Legislature and the Commissioner of Agriculture; providing for expiration of the committee; providing an effective date.

By the Committee on Health, Aging and Long-Term Care; and Senator Saunders—

CS for SB 2128—A bill to be entitled An act relating to the Public Medical Assistance Trust Fund; requiring that a task force be appointed to review sources of revenue for the trust fund; providing for appointments of its members and specifying topics to be studied; providing for its staffing; providing for meetings; requiring a report and recommendations; providing an effective date.

By the Committee on Regulated Industries and Senator Sullivan—

CS for SB 2246—A bill to be entitled An act relating to historical preservation; providing legislative findings with respect to the ownership of Hialeah Park, located in Hialeah, Florida; providing that it is in the public's best interest that the park be owned by the state or a municipality; repealing s. 550.72, F.S., relating to a study of Hialeah Park; providing an effective date.

By the Committee on Regulated Industries and Senator Horne—

CS for SB 2248—A bill to be entitled An act relating to tax on tobacco products; creating s. 210.155, F.S.; defining "primary source of supply"; requiring registration of entities acting as a primary source of supply; prohibiting wholesale dealers from shipping or accepting delivery of cigarettes from outside the state other than directly from a primary source of supply; providing a limitation on the possession of cigarettes with certain labels; providing that no stamp or other cover may be affixed to a cigarette package that does not meet specified labeling requirements; providing for seizure and forfeiture of cigarettes in violation, and for suspension and revocation of permits; providing application to holders of interim permits; amending s. 210.15, F.S.; revising application requirements for permits for distributing agents, wholesale dealers, and exporters, and provisions relating to renewal thereof; requiring submission of manufacturers' affirmation forms by distributing agents and wholesale dealers; authorizing issuance of interim permits without such affirmation to certain permitholders; amending ss. 210.151, 210.405, F.S., relating to temporary initial cigarette and other tobacco products permits; conforming provisions; revising provisions relating to expiration of such permits; specifying that manufacturers' affirmation forms must be submitted prior to issuance of a temporary cigarette permit; amending s. 210.16, F.S.; providing for revocation and suspension of registration of a primary source of supply; providing limitations

on renewal of registration subsequent to revocation; providing for civil penalties in lieu of revocation or suspension and amounts thereof for violations of s. 210.155, F.S., by retailers, holders of wholesale permits, and holders of registration as a primary source of supply; specifying status of such fines; providing an effective date.

By the Committees on Agriculture and Consumer Services; Banking and Insurance; and Senator Rossin—

CS for CS for SB 2402—A bill to be entitled An act relating to insurance; amending s. 626.9541, F.S.; prohibiting as an unfair insurance practice use of certain misleading advertisements; amending s. 626.9551, F.S.; prohibiting any person from engaging in certain acts related to insurance sold in connection with a loan or extension of credit; requiring disclosure of certain information for such transactions; requiring separate documents for policies of insurance for such transactions; prohibiting loan officers who are involved in the loan transaction from soliciting insurance in connection with the same loan, subject to certain exceptions; amending s. 626.592, F.S.; providing that a primary agent need not be designated at each location where an agent conducts certain insurance transactions; creating s. 626.9885, F.S.; requiring financial institutions, as defined, to conduct insurance transactions only through Florida-licensed insurance agents representing certain types of insurers; amending ss. 626.321, 626.730, 629.401, F.S., to conform cross-references; repealing s. 626.988, F.S.; relating to prohibition of insurance activities by persons employed or associated with financial institutions; providing an effective date.

By the Committee on Health, Aging and Long-Term Care; and Senator Silver—

CS for SB 2432—A bill to be entitled An act relating to regulation of health care practitioners; amending s. 232.435, F.S.; correcting a reference; amending s. 381.026, F.S.; providing a definition; amending s. 381.0261, F.S.; providing that the Department of Health or a regulatory board, rather than the Agency for Health Care Administration, may impose an administrative fine against any health care provider who fails to make available to patients a summary of their rights as required by law; amending s. 455.501, F.S.; redefining the terms "health care practitioner" and "licensee"; amending s. 455.507, F.S.; revising provisions relating to good standing of members of the Armed Forces with administrative boards to provide applicability to the department when there is no board; providing gender neutral language; amending s. 455.521, F.S.; providing powers and duties of the department for the professions, rather than boards, under its jurisdiction; amending s. 455.557, F.S.; redefining the term "health care practitioner" for purposes of standardized credentializing; amending s. 455.564, F.S.; prescribing the expiration date of an incomplete license application; revising the form and style of licenses; providing authority to the department when there is no board to adopt rules; revising and providing requirements relating to obtaining continuing education credit in risk management; correcting a reference; amending s. 455.565, F.S.; providing exceptions to certain application requirements; revising information required for licensure of designated health care professionals; revising requirements for submitting fingerprints to the department for renewal of licensure; amending s. 455.5651, F.S.; prohibiting inclusion of certain information in practitioner profiles; amending s. 455.567, F.S.; defining sexual misconduct and prohibiting it in the practice of a health care profession; providing penalties; amending s. 455.574, F.S.; revising provisions relating to review of an examination after failure to pass it; amending s. 455.587, F.S.; providing authority to the department when there is no board to determine by rule the amount of license fees for the profession regulated; providing for a fee for issuance of a wall certificate to certain licensees or for a duplicate wall certificate; amending s. 455.604, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of licensure and relicensure to practice dietetics and nutrition or nutrition counseling; amending s. 455.607, F.S.; correcting a reference; amending s. 455.624, F.S.; revising and providing grounds for discipline; providing penalties; providing for assessment of certain costs; amending s. 455.664, F.S.; requiring additional health care practitioners to include a certain statement in advertisements for free or discounted services; correcting terminology; amending s. 455.667, F.S.; authorizing the department to obtain patient records, billing records, insurance information, provider contracts, and all attachments thereto under certain circumstances for purposes of disciplinary proceedings; revising requirements for the release of patient records; amending s. 455.687, F.S.; providing for the suspension or restriction of the license of any health care practitioner who tests positive for drugs under certain circumstances; amending s. 455.694, F.S.; providing financial responsibility requirements for midwives; creating s. 455.712, F.S.; providing requirements for active status licensure of certain business establishments; amending s. 457.102, F.S.; defining the term "prescriptive rights" with respect to acupuncture; amending s. 458.307, F.S.; correcting terminology and a reference; removing an obsolete date; amending s. 458.309, F.S.; providing rulemaking authority of Board of Medicine; amending s. 458.311, F.S.; revising provisions relating to licensure as a physician by examination; eliminating an obsolete provision relating to licensure of medical students from Nicaragua and another provision relating to taking the examination without applying for a license; amending s. 458.3115, F.S.; updating terminology; amending s. 458.313, F.S.; revising provisions relating to licensure by endorsement; repealing provisions relating to reactivation of certain licenses issued by endorsement; amending s. 458.315, F.S.; providing additional requirements for recipients of a temporary certificate for practice in areas of critical need; amending s. 458.3165, F.S.; prescribing authorized employment for holders of public psychiatry certificates; correcting a reference; amending s. 458.317, F.S.; providing for conversion of an active license to a limited license for a specified purpose; amending s. 458.319, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as a physician; amending s. 458.331, F.S.; deleting certain rulemaking authority; providing grounds for discipline; providing penalties; amending s. 458.347, F.S.; revising provisions relating to temporary licensure as a physician assistant; amending s. 459.005, F.S.; providing rulemaking authority of the Board of Osteopathic Medicine; amending s. 459.0075, F.S.; providing for conversion of an active license to a limited license for a specified purpose; amending s. 459.008, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as an osteopathic physician; amending s. 459.015, F.S.; deleting certain rulemaking authority; revising and providing grounds for discipline; providing penalties; amending s. 460.402, F.S.; providing an exemption from regulation under ch. 460, F.S., relating to chiropractic, for certain students; amending s. 460.403, F.S.; defining the term "community-based internship" for purposes of ch. 460, F.S.; redefining the terms "direct supervision" and "registered chiropractic assistant"; amending s. 460.406, F.S.; revising requirements for licensure as a chiropractic physician by examination to remove a provision relating to a training program; amending s. 460.407, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as a chiropractic physician; amending s. 460.413, F.S.; increasing the administrative fine; conforming cross-references; amending s. 460.4165, F.S.; revising requirements for certification of chiropractic physician's assistants; providing for supervision of registered chiropractic physician's assistants; providing for biennial renewal; providing fees; providing applicability to current certificateholders; amending s. 460.4166, F.S.; authorizing registered chiropractic assistants to be under the direct supervision of a certified chiropractic physician's assistant; amending s. 461.003, F.S.; defining the term "certified podiatric X-ray assistant" and the term "direct supervision" with respect thereto; redefining the term "practice of podiatric medicine"; amending s. 461.006, F.S.; revising the residency requirement to practice podiatric medicine; amending s. 461.007, F.S.; revising requirements for renewal of license to practice podiatric medicine; revising requirements for submitting fingerprints to the department for renewal of licensure; amending s. 461.013, F.S.; revising and providing grounds for discipline; providing penalties; creating s. 461.0135, F.S.; providing requirements for operation of X-ray machines by certified podiatric X-ray assistants; amending s. 464.008, F.S.; providing for remediation upon failure to pass the examination to practice nursing a specified number of times; amending s. 464.022, F.S.; providing an exemption from regulation relating to remedial courses; amending s. 465.003, F.S.; defining the term "data communication device"; amending s. 465.016, F.S.; authorizing the redispensing of unused or returned unit-dose medication by correctional facilities under certain conditions; providing a ground for which a pharmacist may be subject to discipline by the Board of Pharmacy; increasing the administrative fine; amending ss. 465.014, 465.015, 465.0196, 468.812, 499.003, F.S.; correcting cross-references, to conform; creating the Task Force for the Study of Collaborative Drug Therapy Management; providing for staff support from the department; providing for participation by specified associations and entities; providing responsibilities; requiring a report to the Legislature; amending s. 466.021, F.S.; revising requirements relating to dental work orders required of unlicensed persons; amending s. 468.1155, F.S.; revising requirements for

provisional licensure to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathologist or audiologist assistant; amending s. 468.307, F.S.; authorizing the issuance of subcategory certificates in the field of radiologic technology; amending s. 468.506, F.S.; correcting references; amending s. 468.701, F.S.; revising and removing definitions; amending s. 468.703, F.S.; replacing the Council of Athletic Training with a Board of Athletic Training; providing for appointment of board members and their successors; providing for staggering of terms; providing for applicability of other provisions of law relating to activities of regulatory boards; providing for the board's headquarters; amending ss. 468.705, 468.707, 468.709, 468.711, 468.719, 468.721, F.S., relating to rulemaking authority, licensure by examination, fees, continuing education, disciplinary actions, and certain regulatory transition; transferring to the board certain duties of the department relating to regulation of athletic trainers; amending s. 20.43, F.S.; placing the board under the Division of Medical Quality Assurance of the department; providing for termination of the council and the terms of council members; authorizing consideration of former council members for appointment to the board; amending s. 468.805, F.S.; revising grandfathering provisions for the practice of orthotics, prosthetics, or pedorthics; amending s. 468.806, F.S.; providing for approval of continuing education providers; amending s. 478.42, F.S.; redefining the term "electrolysis or electrology"; amending s. 483.807, F.S.; revising provisions relating to fees for approval as a laboratory training program; amending s. 483.809, F.S.; revising requirements relating to examination of clinical laboratory personnel for licensure and to registration of clinical laboratory trainees; amending s. 483.812, F.S.; revising qualification requirements for licensure of public health laboratory scientists; amending s. 483.813, F.S.; eliminating a provision authorizing conditional licensure of clinical laboratory personnel for a specified period; amending s. 483.821, F.S.; authorizing continuing education or retraining for candidates who fail an examination a specified number of times; amending s. 483.824, F.S.; revising qualifications of clinical laboratory directors; amending s. 483.825, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 483.901, F.S.; correcting a reference; eliminating a provision authorizing temporary licensure as a medical physicist; correcting the name of a trust fund; amending s. 484.007, F.S.; revising requirements for opticians who supervise apprentices; amending s. 484.0512, F.S.; requiring sellers of hearing aids to refund within a specified period all moneys required to be refunded under trial-period provisions; amending s. 484.053, F.S.; increasing the penalty applicable to prohibited acts relating to the dispensing of hearing aids; amending s. 484.056, F.S.; providing that violation of trial-period requirements is a ground for disciplinary action; providing penalties; amending ss. 486.041, 486.081, 486.103, and 486.107, F.S.; eliminating provisions authorizing issuance of a temporary permit to work as a physical therapist or physical therapist assistant; amending s. 490.005, F.S.; revising educational requirements for licensure as a psychologist by examination; changing a date, to defer certain educational requirements; amending s. 490.006, F.S.; providing additional requirements for licensure as a psychologist by endorsement; amending s. 490.0085, F.S.; correcting the name of a trust fund; amending s. 490.0148, F.S.; authorizing release of a patient's psychological record to certain persons pursuant to workers' compensation provisions; amending s. 491.0045, F.S.; revising requirements for registration as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern; amending s. 491.0046, F.S.; revising requirements for provisional licensure of clinical social workers, marriage and family therapists, and mental health counselors; amending s. 491.005, F.S.; revising requirements for licensure of clinical social workers, marriage and family therapists, and mental health counselors; providing for certification of education of interns; providing rulemaking authority to implement education and experience requirements for licensure as a clinical social worker, marriage and family therapist, or mental health counselor; revising future licensure requirements for mental health counselors and providing rulemaking authority for implementation thereof; amending s. 491.006, F.S.; revising requirements for licensure or certification by endorsement; amending s. 491.0085, F.S.; requiring laws and rules courses and providing for approval thereof, including providers and programs; correcting the name of a trust fund; amending s. 491.014, F.S.; revising an exemption from regulation relating to certain temporally limited services; amending s. 499.012, F.S.; redefining the term "wholesale distribution," relating to the distribution of prescription drugs, to provide for the exclusion of certain activities; amending ss. 626.883, 641.316, F.S.; requiring payments to a health care provider by a fiscal intermediary to include an explanation of services provided; creating a Task Force on Telehealth; providing its duties; requiring a report; amending s. 468.352, F.S.; redefining the term "board"; amending s. 468.353, F.S.; conforming provisions; providing for the adoption of rules; amending s. 468.354, F.S.; creating the Board of Respiratory Care; providing for membership, powers, and duties; amending s. 468.355, F.S.; providing for periodic rather than annual review of certain examinations and standards; amending s. 458.357, F.S.; conforming provisions; deleting obsolete provisions; amending s. 468.364, F.S.; deleting an examination fee; amending s. 468.365, F.S.; conforming provisions; amending s. 400.462, F.S.; defining the term "home health aide" and redefining the term "nurse registry" amending s. 400.506, F.S.; authorizing nurse registries to refer home health aids for contract; conforming provisions; deleting a dual-registration requirement; amending s. 464.016, F.S.; providing that the use of the title "nurse" without being licensed or certified is a crime; amending s. 458.3115, F.S.; revising requirements with respect to eligibility of certain foreign-licensed physicians to take and pass standardized examinations; amending s. 458.3124, F.S.; changing the date by which application for a restricted license must be submitted; amending s. 301, ch. 98-166, Laws of Florida; prescribing fees for foreign-licensed physicians taking a certain examination; amending s. 455.601, F.S.; providing that certain licensees and employees of health care facilities who contract blood-borne infections have a rebuttable presumption that the illness was contracted in the course of employment under certain circumstances; creating part XV of chapter 468, F.S.; providing definitions; requiring that the Department of Health maintain a state registry of certified nursing assistants; authorizing the department to contract for examination services; providing requirements for obtaining certification as a certified nursing assistant; requiring that the department adopt rules governing initial certification; specifying grounds for which the department may deny, suspend, or revoke a person's certification; authorizing the department to exempt an applicant or certificateholder from disqualification of certification; providing requirements for records and meetings held for disciplinary actions; exempting an employer from liability for terminating a certified nursing assistant under certain circumstances; providing penalties; providing for background screening; providing rulemaking authority; requiring persons who employ certified nursing assistants to make certain reports to the Department of Health; requiring that the department update the certified nursing assistant registry; providing for future repeal of such provisions; amending s. 400.211, F.S.; deleting obsolete provisions with respect to the regulation of certified nursing assistants; amending s. 490.003, F.S.; revising the definition of psychologist; amending s. 455.691, F.S.; providing a civil cause of action for treble damages, attorney's fees, and costs for disclosure of confidential information; amending s. 465.017, F.S.; prescribing additional persons entitled to inspect records of pharmacies; providing effective dates.

By the Committee on Transportation and Senator King—

CS for SB 2550—A bill to be entitled An act relating to port or aviation authorities; creating part VII of ch. 163, F.S.; providing a definition; providing a purpose; providing for creation of a Port or Aviation Authority Ad Valorem Tax Improvement Fund in each county in which a port or aviation authority is located; providing for deposit of ad valorem taxes paid by such authority in the fund; authorizing the tax collector to retain an amount for administrative costs; providing for use of such funds by the authority; providing for future review and repeal; creating s. 193.6257, F.S.; providing immunity; creating s. 194.311, F.S.; providing that immune property is not subject to ad valorem taxation; providing severability; providing an effective date.

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 383, HB 391, CS for HB's 421 and 485, HB 589, HB 805; has passed as amended CS for HB 49, HB 433, HB 489, HB 601, CS for HB 1063, CS for HB 1749, HB 1877, HB 1909 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Business Regulation and Consumer Affairs; and Representative Goodlette and others—

CS for HB 383—A bill to be entitled An act relating to homeowners' associations, condominium associations, mobile homeowners' associations, cooperative associations, and cooperative not-for-profit associations; amending ss. 607.0802 and 617.0802, F.S.; providing that certain persons may be deemed members of the association and eligible to serve as a director of a condominium association, cooperative association, homeowners' association, or mobile homeowners' association under certain circumstances; amending s. 617.0601, F.S.; providing that certain provisions in bylaws, rules, or other regulations are void; amending s. 617.301, F.S.; redefining the term "homeowners' association" for the purposes of the Florida Not For Profit Corporation Act to include a mobile home subdivision; providing that provisions currently governed by the act relating to the purpose and scope of homeowners' associations, powers and duties, right of owners to peaceably assemble, meetings, transition of homeowners' associations' control in a community, assessments and charges, agreements, recreational leaseholds, dispute resolutions, and covenants would apply to mobile home subdivisions; amending s. 719.103, F.S.; defining the terms "special assessment," "voting certificate," and "voting interests" for the purposes of the Cooperative Act; amending s. 719.1035, F.S.; providing that all provisions of the cooperative documents are enforceable equitable servitudes, run with the land, and are effective until the cooperative is terminated; amending s. 719.104, F.S.; revising language with respect to commingling; providing for easements; amending s. 719.1055, F.S.; revising the amount of votes necessary to amend the cooperative documents; providing additional requirements with respect to amendments; amending s. 719.106, F.S.; providing requirements with respect to insurance and fidelity bonds; creating s. 719.115, F.S.; providing limitations on liability of unit owners; creating s. 723.0751, F.S.; providing for membership in mobile homeowners' association in certain circumstances; amending ss. 849.085 and 849.0931, F.S; including cooperatives, residential subdivisions, cooperative associations, and homeowners' associations as defined in s. 617.301, F.S., within the provisions of law relating to penny-ante games and including cooperative associations and homeowners' associations as defined in s. 617.301, F.S., within the provisions of law relating to bingo; providing an effective date.

—was referred to the Committee on Regulated Industries.

By the Committee on Law Enforcement and Crime Prevention; and Representative Futch and others—

HB 391—A bill to be entitled An act relating to criminal justice information; amending s. 943.053, F.S.; providing each office of the Public Defender on-line access to criminal records which are not exempt from disclosure and not confidential under law; providing an effective date.

—was referred to the Committees on Criminal Justice and Fiscal Policy.

By the Committee on Crime and Punishment; and Representative Lacasa and others—

CS for HB's 421 and 485—A bill to be entitled An act relating to evidence; providing that evidence of voluntary intoxication is not admissible for certain purposes; providing an exception; providing an effective date.

—was referred to the Committees on Criminal Justice and Fiscal Policy.

By the Committee on Transportation and Representative K. Smith—

HB 589—A bill to be entitled An act relating to vessel registration; designating chapter 328, F.S., as part I of chapter 328, F.S., entitled "Vessels; title certificates; liens"; creating part II of chapter 328, F.S., entitled "Vessel registration"; amending ss. 212.06, 282.1095, 320.04, 327.53, 327.60, 327.73, 370.06, 370.0603, 370.12, and 409.2598, F.S.; correcting cross references; amending s. 327.01, F.S.; changing the title of chapter 327, F.S., from the "Florida Vessel and Registration Safety Law" to the "Florida Vessel Safety Law"; amending s. 327.22, F.S., relating to the regulation of vessels by municipalities or counties; renumbering and amending ss. 327.03, 327.10, 327.11, 327.17, 327.21, 327.23, 327.24, 327.25, 327.26, 327.28, and 327.90, F.S.; conforming to the act; creating s. 328.44, F.S.; providing for rules; creating s. 328.66, F.S.; providing for optional vessel registration fees by counties and municipalities; amending s. 327.04, F.S.; conforming to the act; renumbering ss. 327.031, 327.12, 327.13, 327.14, 327.15, 327.16, 327.18, 327.19, and 327.29, F.S.; conforming to the act; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Colleges and Universities; and Representative Casey and others—

HB 805—A bill to be entitled An act relating to the college reach-out program; reviving and readopting s. 240.61, F.S., relating to the college reach-out program; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Crime and Punishment; and Representative Trovillion and others—

CS for HB 49—A bill to be entitled An act relating to criminal use of personal identification information; creating s. 817.568, F.S.; providing definitions; providing that a person who willfully and without authorization uses, or possesses with intent to use, personal identification information concerning an individual without previously obtaining the individual's consent commits either the offense of fraudulent use of personal identification information or the offense of harassment by use of personal identification information, depending on specified circumstances; providing penalties; providing for nonapplicability of the new provisions to specified law enforcement activities; providing for restitution, including attorney's fees and costs, to the victim; providing for prosecution by the state attorney or the statewide prosecutor; reenacting s. 464.018(1)(d), F.S., relating to disciplinary actions for violations of the Nurse Practice Act, s. 772.102(1)(a), F.S., relating to definition of "criminal activity" with respect to the Civil Remedies for Criminal Practices Act, and s. 895.02(1)(a), F.S., relating to definition of "racketeering activity," to provide for incorporation of said new section in references to ch. 817, F.S.; providing an effective date.

—was referred to the Committee on Criminal Justice.

By Representative Ball—

HB 433—A bill to be entitled An act relating to unauthorized transmissions on telecommunications frequencies; amending s. 843.165, F.S.; prohibiting an unauthorized person from transmitting over a radio frequency assigned to a governmental agency or an emergency medical services provider; providing penalties; providing exceptions; providing an effective date.

—was referred to the Committee on Regulated Industries.

By Representative Valdes and others—

HB 489—A bill to be entitled An act relating to public health; creating s. 381.0075, F.S.; providing for regulation of body-piercing salons by the Department of Health; providing definitions; providing exemptions; requiring a license to operate a body-piercing salon and a temporary license to operate a temporary establishment; providing licensing procedures and fees; providing requirements with respect to body piercing of minors; prohibiting certain acts; providing penalties; providing for injunction; providing for enforcement; providing rulemaking authority; providing specific requirements for operation of body-piercing salons; providing an effective date.

—was referred to the Committees on Committee on Health, Aging and Long-Term Care; and Governmental Oversight and Productivity.

By Representative Casey—

HB 601—A bill to be entitled An act relating to license plates; amending ss. 320.08056, 320.08058, F.S.; creating a Share the Road license plate; providing for the distribution of annual use fees received from the sale of such plates; providing effective date.

—was referred to the Committee on Transportation.

By the Committee on Real Property and Probate; and Representative Bronson—

CS for HB 1063—A bill to be entitled An act relating to condominiums and residential associations; amending s. 718.105, F.S.; requiring the filing of a certificate or receipted bill with the clerk of circuit court when a declaration of condominium is recorded showing payment of property taxes; amending s. 468.4315, F.S.; authorizing the Regulatory Council of Community Association Managers to adopt rules related to continuing education providers; providing an effective date.

—was referred to the Committee on Regulated Industries.

By the Committee on Insurance and Representative Farkas and others—

CS for HB 1749—A bill to be entitled An act relating to service warranties; amending s. 634.041, F.S.; providing requirements and limitations as to certain funds and premiums relating to unearned premium preserves; amending s. 634.121, F.S.; revising certain disclosure form requirements; amending s. 634.312, F.S.; requiring home warranty contracts to contain a certain disclosure; amending s. 634.401, F.S.; revising a definition; amending s. 634.406, F.S.; revising a contactual liability insurance requirement for service warranty associations; providing an effective date.

—was referred to the Committees on Banking and Insurance; and Agriculture and Consumer Services.

By Representative Warner and others—

HB 1877—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; amending s. 35.06, F.S.; increasing the number of judges in specified district courts of appeal; requiring the judicial nominating commission to make nominations to fill specified vacancies by a certain date; providing effective dates.

—was referred to the Committees on Judiciary and Fiscal Policy.

By Representative Kosmas and others—

HB 1909—A bill to be entitled An act relating to license plates; amending ss. 320.08056, 320.08058, F.S.; creating a Florida Wildflower license plate; providing for the distribution of annual use fees received from the sale of such plates; providing an effective date.

—was referred to the Committees on Transportation, Natural Resources and Fiscal Resource.

RETURNING MESSAGES—FINAL ACTION

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 198 and SB 1794.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 21 was corrected and approved.

CO-SPONSORS

Senators Hargrett—SB 1538; Webster—CS for SB 2636

RECESS

On motion by Senator McKay, the Senate recessed at 6:02 p.m. to reconvene at 9:30 a.m., Friday, April 23.