2004 Regular Session

Summary of Legislation Passed

Revised 5/10/2004 to include CS/SB 2588
Revised 5/11/2004 to include CS/SB 3000 and CS/SB 1050

Compiled and Edited by
Office of the Senate Secretary

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The 2004 Regular Session *Summary of Legislation Passed* is a collection of reports submitted by Senate Committees to the Secretary of the Senate. These reports have been compiled and edited for standardization. This summary is provided for information only and does not represent the opinion of any Senator, Senate Officer, or Senate Office.

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CS/CS SB 96 — Citrus Department/Florida Citrus Commission

by Appropriations Committee; Agriculture Committee; and Senator Alexander

The Florida Department of Citrus (department) has regulatory responsibility for all aspects of the citrus industry. The department is funded by the "box tax" and the equalizing excise tax. The box tax is an excise tax levied on each standard field box of fruit grown and placed into the primary channel of trade in Florida. The equalizing excise tax is assessed on processed citrus products imported into the state at a rate equal to the box tax. The majority of the proceeds of these taxes must be used by the department to advertise Florida citrus products.

The bill allows persons liable for payment of the equalizing excise tax under the Florida Citrus Code to elect not to pay two-thirds of that tax each year. It codifies into law the "opt out" provision contained in the settlement agreement of Consolidated Case No. 2002-CA-4686 in the Circuit Court of the Tenth Judicial Circuit in Polk County. The bill also codifies the portion of the settlement agreement providing for future payments totaling $2 million. In exchange for the two provisions, the plaintiffs will dismiss their foreign commerce clause claim.

The bill also requires the Florida Citrus Commission to include a report by the internal auditor of the department as an agenda item at each regularly scheduled meeting

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 111-0

CS/CS/SB 1712 — Agricultural Economic Development

by Appropriations Committee; Agriculture Committee; and Senators Argenziano, Jones, Smith, Miller, Dockery, Alexander, Peaden, Campbell, Lynn, and Haridopolos

This bill creates s. 70.005, F.S., which reduces the waiting period before suit can be filed by agricultural landowners, whose property has been rezoned or the residential density lowered, from 180 days to 90 days.

It amends ss. 163.2514 and 163.2517, F.S., by designating as an "agricultural enclave" land used for agricultural production that is surrounded on 75 percent of its perimeter by industrial, commercial, and residential development. With that designation, an "agricultural enclave" landowner's petition to amend the local government's comprehensive plan will be deemed to be "in compliance" if other provisions for amending the comprehensive plan are met.

The bill amends s. 163.3187, F.S., to provide that large scale comprehensive plan amendments resulting from mandated informal mediation pursuant to s. 163.3181(4), F.S., will not count as one of the two annual amendments permitted in any calendar year.

The bill also creates s. 259.047, F.S., which requires that consideration be given in the acquiring entity's management plan to the continuation of agricultural leases and agricultural production on land acquired for recreation and conservation purposes.

It amends s. 373.0361, F.S., to specify that population projections by the University of Florida's Bureau of Economic and Business Research will be used to determine public water supply needs. It also requires that water supply plans recognize that alternative water sources are limited for agricultural self-suppliers.

The bill amends s. 373.236, F.S., to require water management districts to inform agricultural landowners in the application form for a consumptive use permit that 20-year permits are available.

It creates s. 373.407, F.S., which requires the Department of Agriculture and Consumer Services (DACS) and each water management district to enter into a memorandum of agreement in which DACS will assist in determining whether an activity qualifies for an agricultural-related exemption that allows a landowner to alter the topography of his land for purposes consistent with agricultural uses.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 109-7

CS/CS/CS/SB 1770 — Beef Market Development Act

by Finance and Taxation Committee; Commerce, Economic Opportunities, and Consumer Services Committee; Agriculture Committee; and Senators Argenziano, Dockery, Crist, Hill, Bullard, Wasserman Schultz, Siplin, Pruitt, Aronberg, Posey, Smith, Peaden, Campbell, Alexander, Bennett, and Lynn

This bill creates s. 570.9135, F.S., which establishes the Florida Beef Council, Inc. (Council). The Council's goal is to provide for Florida beef producers a program to replace a national program that promotes beef. The program would be financed by a per head assessment on cattle sold in the state.

In order to become effective, beef producers in the state must by majority vote approve an assessment program, up to $1 per head of cattle, which assessment is mandatory at the time of sale and refundable upon request.

The Council, governed by a board of directors, would administer the program and have the duty and power to:

- Establish the amount of the assessment up to $1 per head.
- Establish collection and refund procedures.
- Develop programs of promotion, research, and information dissemination.
- Own property and do such acts as are necessary or expedient to administer the affairs and achieve the goals of the Council.
- Maintain business records and make annual reports.
- Adopt bylaws to carry out the purposes and intents of the assessment program.

The bill specifies the background for the 13 member governing board. It also contains direction for appointment of members and rules governing their conduct.

A procedure is provided for the beef producers to vote periodically on the continuation of the assessment program.

If approved by the Governor, these provisions take effect upon becoming law. However, the referendum and assessments contemplated by this bill cannot take place until the Commissioner of Agriculture has made a determination that certain pre-conditions regarding the national program have taken place.
Vote: Senate 36-0; House 113-3

HB 457 — Lowry Park Zoo

by Rep. Culp and others (CS/SB 1870 by Agriculture Committee and Senators Crist, Miller, and Bullard)

The Lowry Park Zoo in Tampa, Florida, has been serving as a center for conservation and preservation of endangered wildlife since opening in 1988. The bill designates the zoo as a state center for Florida species conservation and biodiversity, including captive breeding, animal husbandry, conservation education, and veterinary care and rescue, rehabilitation, research, and release of Florida's endangered and threatened species consisting of the Florida manatee, Florida panther, red wolf, Key deer, Key Largo wood rat, and whooping crane. The bill specifies that this recognition shall not be construed as exempting the Lowry Park Zoo from the regulatory purview of the Florida Fish and Wildlife Conservation Commission. The Lowry Park Zoo has indicated that this designation would attract national funding that would enable it to provide care for Florida's endangered species, further develop its conservation and research programs and develop stronger partnerships and other professional collaborations with local, national and international conservation groups.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 116-0

SB 2484 — Citrus Canker

by Senator Alexander

This bill amends s. 120.80, F.S., to provide that rules adopted by the Department of Agriculture and Consumer Services (DACS) in its citrus canker eradication program are not subject to the rule challenge procedures contained in the Administrative Procedures Act.

It also amends s. 581.184, F.S., to authorize DACS to destroy removed trees by chipping and to reserve to the state the power to regulate the removal of citrus trees under its canker eradication program.

It creates s. 933.40, F.S., which creates an "agricultural warrant" designed to expedite and facilitate performance of the state's citrus canker eradication program. The citrus bill provides that a single search warrant can be issued for multiple properties in the same county, that a stamp or electronic signature can be used, that a warrant will be valid for a 60 day period, and the warrant can be issued ex-parte. As before, a search warrant will be issued only on a finding of probable cause. There are limitations on when the search warrant can be served and the extent to which a search or inspection can be conducted. The agricultural warrants can be served and executed by employees of DACS. The bill makes it a misdemeanor of the second degree to refuse to permit the execution of an agricultural warrant.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-3; House 76-41

HB 1307 — Agriculture and Migrant Labor

by Rep. Poppell and others (CS/CS/CS/SB 2954 by Appropriations Committee; Commerce, Economic Opportunities, and Consumer Services Committee; Agriculture Committee; and Senators Alexander, Bullard, Dockery, Lynn, Hill, Aronberg, and Atwater)

This bill creates the Alfredo Bahena Act, which revises the framework for the regulation of farm labor contractors. It also revises the employer-employee relationship between farm labor contractors and migrant farmworkers, by, among other things, providing a migrant farmworker with certain protections from retaliation by a farm labor contractor. It revises the duties of the Department of Business and Professional Regulation with respect to the certification of registration for farm labor contractors and strengthens its enforcement powers. It sets up a best practices incentive program for farm labor contractors, which would enable the public to identify farm labor contractors who have demonstrated a firm commitment to responsible and safe labor practices. The bill renames and reactivates the Legislative Commission on Migrant and Seasonal Labor, which has not been active for several years. In addition, it renames part III of ch. 450, F.S., currently cited as the "Farm Labor Registration Law," to the "Farm Labor Contractor Registration Law." The bill revises the penalties imposed for violations of part III of ch. 450, F.S. For a major violation, a penalty of up to $2,500 will be assessed. For a minor violation, a

warning will be issued for the first violation, and a penalty in increments of $250 will be assessed for each successive violation up to a maximum of $2,500.

The bill also creates the "Florida Agricultural Worker Safety Act" to be administered by the Department of Agriculture and Consumer Services (DACS). The intent of the act is to ensure that agricultural workers are protected from and receive information about agricultural pesticides. It specifies that DACS shall continue to operate under the regulations established by the United States Environmental Protection Agency Labeling Requirement for Pesticides and Devices and the Worker Protection Standards, which DACS adopted by rule during FY 1995-1996. It requires an agricultural employer to provide agricultural workers and others with specific written information concerning agricultural pesticides within two working days after being requested. It is unlawful for the employer to fail to provide the required pesticide information or to take any retaliatory action against any agricultural worker. The bill requires DACS to monitor all complaints of retaliation and to report its findings to the Legislature on or before October 1, 2008.

The bill provides an appropriation of $300,000 from the General Revenue Fund for FY 2004-2005 and four positions to DACS for the purpose of conducting regulatory, training, and outreach activities related to migrant labor.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 114-0

GENERAL APPROPRIATIONS

HB 1835 — General Appropriations

by Appropriations Committee and Rep. Kyle (SB 2500 by Appropriations Committee)

This bill is the General Appropriations Act, which provides moneys for the annual period beginning July 1, 2004 and ending June 30, 2005, to pay salaries, expenses, capital outlay – buildings, and other improvements, and for other specified purposes of the various agencies of state government.

Article V Implementation and Judiciary

- $131.0 million increased funding for the State Courts for Implementation of Article V and Workload
- $100.9 million increased funding for State Attorney, Public Defender, and Justice Administrative Commission Implementation of Article V and Workload
- $4.4 million for State Attorney Workload
- $2.1 million for Public Defender Workload
- $1.3 million for Judicial Assistant Pay Equity
- $2.1 million for Supreme Court and District Courts of Appeal Repairs and Improvements
- $3.1 million for increased staffing in The Justice Administrative Commission for Article V Funding Transition
- $10.8 million for Trial Court Courthouse Improvements
- $1.5 million for Judicial Inquiry System

Criminal Justice

- $39.1 million to fund Operating Costs for Increased Prison Population
- $99.6 million to fund the Completion and New Construction of Approximately 11,000 New Prison Beds
- $3 million for Medicaid Fraud Control, Economic Crimes/Antitrust, Identify Theft, and Health Care Fraud in the Department of Legal Affairs
- $3 million for Construction and Maintenance of Department of Law Enforcement and Department of Juvenile Justice facilities
- $5.6 million to increase Substance Abuse Funding in the Department of Corrections
- $8 million to address a deficit in Inmate Health Care
- $7.5 million to continue funding the Integrated Criminal History System in the Department of Law Enforcement
- $4 million to provide for Per Diem Increase to Juvenile Justice Providers

- $2 million to address Critical Safety and Medical Issues in the Department of Juvenile Justice's detention centers
- $3.5 million to provide Grant Funding to Small Counties for Detention Services in the Department of Juvenile Justice
- $1.6 million to continue funding the Florida Crime Information Center Plus (FCIC+) in the Department of Law Enforcement
- $1.1 million to address the DNA Backlog in the Department of Law Enforcement

Education

- Increased funding from state appropriations and legislatively authorized local revenue sources of $1.5 billion, or 7 percent
- Fully funds Bright Futures Scholarships - $33.5 million increase
- Preserves the fiscal integrity of the Florida Prepaid Tuition Program by keeping tuition increases within actuarial limitations (5 percent for Community Colleges and 7.5 percent for SUS resident undergraduate students)
- Increased funding for the FEFP of $1.02 billion, or 7.3 percent:
    - Fully funds projected Public School Enrollment Growth of 58,896 students (2.3 percent)
    - Provides $510.6 million in incremental funding to phase in the second year of Class Size Reduction (total Class Size Reduction operating funds for 04/05 - $978.8 million)
    - Statewide Average Per-Pupil Funding through the FEFP is increased by $268.56 to $5,764.40, an increase of 4.89 percent.
    - The District Cost Differential is calculated based on an improved Florida Price Level Index which more accurately reflects varying costs among districts for hiring comparable teachers. $22.6 million in non-FEFP funds are provided as one-time grants to districts which were adversely impacted as a result of this change
    - $98.5 million for Governor's Reading Programs
    - $15.5 million for Mentoring Programs In Public Schools
- Provides State Matching Funds to Eliminate the Backlog of Operating Challenge Grant Donations in Community Colleges ($50.8 million), and the Major Gifts Program in State Universities ($94.8 million)
- Provides $68.7 million for Enrollment Growth and Enhancement Funding in Community Colleges
- Provides $61.3 million to fund the Board of Governor's Recommended Enrollment Plan for State Universities (an increase of 11,496 full-time equivalent students)

General Government

- $120 million for Water Projects including $10 million for Lake Okeechobee and $10 million for the Florida Keys

- $25 million for Beach Restoration
- $300 million cash for Florida Forever
- $100 million cash for Everglades Restoration
- $13.5 million GR/$126.5 million TF for Drinking and Wastewater Revolving Loan Programs – (5 to 1 in federal match)
- $21.2 million for Florida Recreational Development Assistance Program (FRDAP)
- $11.2 million for Solid Waste/Recycling Grants ($6.5 million for Small Counties)
- $42.7 million for Mulberry/Piney Point Phosphate Clean-Up
- $1 million for Oceans Initiative
- $150 million for Petroleum Tanks Cleanup
- $5 million for Rural and Family Lands Protection Program
- $2 million for the Agricultural Promotion Campaign "Fresh From Florida"
- $2.9 million for Firefighting Equipment
- $19.7 million in GR and $34.9 million in TF for Citrus Canker Eradication
- $1 million for Sterile Fly Release Program (state funds return a dollar for dollar federal match)
- $600,000 for Farm Share and Florida Association of Food Banks ($300,000 for each organization)
- $5 million for Agriculture Education and Promotion Facilities
- $800,000 and 14 positions for the Resolution of Condominium Complaints
- $15.8 million for Child Support Automated Management System (CAMS)
- $1.2 million for additional staff and resources to improve Investigations of Fraud and Compliance with Workers' Compensation Laws
- Transfer Excess Administrative Funds from Lottery to Education - $38.3 million TF

Health and Human Services

- $1,799.2 million for Medicaid Workload and Price Level
- $149.2 million for Florida Kidcare Program
- $52.7 million for Medical Expenses for Medicaid Nursing Home Residents
- $56.3 million for Health Maintenance Organization (HMO) Rate Increase
- $71.7 million for Special Medicaid Payments to Hospitals
- $68.3 million for Physician Upper Payment Limit
- $12.2 million for Physician Rate Increase
- $9.5 million for Restoration of Adult Denture Coverage
- Reduce Florida Healthy Kids Dental Reimbursement Rates ($17.9 million)
- Implement Medicaid Pharmacy Cost Savings Initiatives, including pricing controls, dosage limits, drug rebate increases and other limitations ($214.1 million)
- Reduce Hospice Rates due to Nursing Home Rate Changes ($7.2 million)
- Delay Nursing Home Staffing Increases ($72.1 million)

- Reduce Nursing Home and Intermediate Care Facility for the Developmentally Disabled (ICF/DD) Reimbursement Rates – Non-Direct Care ($71.5 million)
- Eliminate Nursing Home and ICF/DD Bed Hold Days in facilities with occupancy levels less than 95 percent ($14.5 million)
- Establish Home and Community Based Services Utilization Review/Prior Authorization Program ($7.2 million)
- Reduce Hospital Inpatient/Outpatient Reimbursement Rates ($83.8 million)
- Establish A Hospitalist Program for Medicaid Recipients ($19.1 million)
- $45 million to serve Developmentally Disabled Citizens
- $5 million for Domestic Violence Programs
- $18.1 million for Adoption Subsidies
- $23.6 million Equity Funding for Community-Based Providers
- Home and Community Services Efficiencies ($14 million)
- Efficiencies in Eligibility Determination of Cash Assistance, Medicaid and Food Stamps ($22 million)
- Management Reductions in the Department of Children and Families due to Regionalization ($19.1 million)
- $12 million for Alzheimer's Center Construction
- $3.3 million for Local Services Programs for Elders
- $3.6 million James and Esther King Biomedical Research Program
- $2 million for Mayo Clinic Cancer Research Program
- $1 million for Tobacco Awareness/Use Reduction Program
- $18.8 million for County Health Department Facility Replacements
- $8.5 million for Veterans' Nursing Homes Final Phase Start-Up (Bay, Charlotte Homes)

Transportation and Economic Development

- Over $672 million for the School Readiness Program
- $55.9 million for Affordable Housing Programs and $130.9 million for State Housing Initiatives Partnership (SHIP)
- $66 million for the Florida Communities Trust Program
- $130.8 million for Economic Development Programs in the Office of Tourism, Trade and Economic Development (OTTED), including:
    - $22.3 million for Economic Development Tools
    - $11 million for Enterprise Florida
    - $21.7 million for VISIT FLORIDA
    - $7.4 million for Defense Infrastructure and Reinvestment Grants and Military Base Protection
    - $35 million for Economic Development Transportation Projects
    - $10 million for the Quick Action Closing Fund
    - $2.8 million for the Film and Entertainment Industry

    - $2.9 million for the Florida Space Industry
- $11.4 million for the Elections Registration Database, $12.1 million for Voting System Assistance, and $3 million for Voter Education
- $11.4 million for Cultural and Historic Operating Grant Programs
- $4.2 million for Cultural Facilities Capital Grants
- $10.4 million for Historic Preservation Fixed Capital Outlay
- $11.9 million for Library Construction Grants priority list
- $5.5 billion for the Department of Transportation Work Program, including:
    - $100 million for the Strategic Intermodal System
    - $25 million for the Small County Resurfacing Assistance Program (SCRAP)
    - $14 million for Seaport Infrastructure and Security
    - $9 million to Implement Florida's High Speed Rail System

State Employee and Pay Benefits

Salary Increases and Bonuses

- 5 Percent Increases for Law Enforcement, Security Services, and Fire Service Employees, effective January 1, 2005.
- All Other Eligible Employees will Receive $1000 Bonuses, effective December 1, 2004.
- Legislators, Judicial Officers, And Executive Branch Officers Are Not Eligible For Bonuses.

Health Insurance

- The overall Health Insurance Premiums will be increased 10 Percent. However, the employing agencies will pay the full amount of the increased premium for all active employees.
- Co-payments and other out-of-pocket expenses are maintained at the current levels.
- The Department of Management Services is directed to offer Preventive Health Care and Immunization Benefits.

Other Pay Issues

- Competitive Area Differentials will be applied by Judicial Circuits for the benefit of Judicial Assistants.
- Career Attorneys with the District Courts of Appeal earning less than $65,000 will be granted $5,000 pay increases.
- Community Probation Officers will be Granted a One-Time $1,200 Payment.

If approved by the Governor, these provisions take effect July 1, 2004, except as otherwise provided.
Vote: Senate 32-6; House 90-28

BILLS IMPLEMENTING GENERAL APPROPRIATIONS

CS/SB 1266 — Water Management Lands Trust Fund

by Appropriations Committee and Senator Clary

The bill expands the uses of the Water Management Lands Trust Fund to include supplemental operational expenditures for the Northwest Florida Water Management District and the Suwannee River Water Management District. Funding of the operational expenditures for these districts will be allocated prior to the distributions authorized in s. 373.59(8), F.S.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 115-1

CS/SB 1250 — Employee Benefits

by Appropriations Committee and Senator Pruitt

The committee substitute is a compilation of law changes regarding employee benefits.

For purposes of the state employee health insurance program, the bill eliminates the expiration dates on the statutory provision setting forth the prescription drug schedule and the statutory provision requiring the Department of Management Services to determine annually the premium necessary to fully fund the state employee health insurance plan. The bill also clarifies that the state employee health insurance plan is not subject to the regulatory provisions applicable to multiple employer welfare arrangements.

The bill addresses three Article V implementation issues. First, those county employees moving to state employment who have 12 months of continuous coverage in the county-sponsored health insurance plan will be deemed to have met the pre-existing condition limitations applicable in the state health insurance plan.

Second, the bill provides that employees moving from county employment to work in state attorney or public defender offices will be permitted to transfer up to 80 hours of annual leave and 320 hours of sick leave. These levels are consistent with the current policies of the state court system.

Third, City of Jacksonville employees moving to state employment as part of the Article V implementation will be permitted to purchase service for purposes of the Florida Retirement System.

The bill also resolves the mandatory collective bargaining issues at impasse, extends the eligibility date for the life insurance program, and clarifies the eligibility for participation in the state's pretax benefits program.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

CS/SB 1258 — Workforce Development Education Programs

By Appropriations Committee and Senator Carlton

This bill is an appropriations conforming bill which addresses the method of funding Workforce Development Education Programs. To provide for funding of Workforce Development Education through the Community College Program Fund for community colleges, and through a categorical program for the district vocational/technical schools, statutory references to the Workforce Development Education Fund are eliminated.

The Department of Education is required to develop a funding process for school district workforce development education programs that is comparable to the funding of community college workforce programs. If the distribution of workforce education funds is not provided in the General Appropriations Act, the amount of the appropriation shall be allocated as follows: a maximum of 90 percent based on enrollment and at least 10 percent based on performance.

The report also requires the Department of Education to develop a plan for reporting workforce development data that is compatible between community colleges and school districts and includes: program, student FTE, facility, personnel, cost, and financial data.

This bill amends sections 1011.80 and 1011.83 of the Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 118-0

CS/SB 1270 — Pari-mutuel Wagering Trust Fund

by Appropriations Committee and Senator Clary

This bill decreases the fund balance reserve retained in the Pari-mutuel Wagering Trust Fund in the Department of Business and Professional Regulation from $3.5 million to $1.5 million. The decrease in the fund reserve allows the transfer of $2 million to the General Revenue Fund on a one-time basis.

If approved by the Governor, this provision takes effect July 1, 2004.
Vote: Senate 39-0; House 118-0

CS/SB 1278 — Biomedical Research Trust Fund

by Appropriations Committee and Senator Peaden

The bill provides additional clarification to the Department of Financial Services to specify that the Biomedical Research Trust Fund can receive transfers from the Tobacco Settlement Clearing Trust Fund. Options are provided for the investment of Biomedical Research Trust Fund balances either through the Chief Financial Officer or through the State Board of Administration. The bill allows the balances of appropriations from the Biomedical Research Trust Fund to be expended over a period of three years because of the long term nature of biomedical research.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 117-0

CS/SB 2002 — Health Care Initiatives

by Appropriations Committee and Senators Peaden, Fasano, and Miller

The bill (Chapter 2004-2, L.O.F.) contains the following provisions:

- Authorizes the Department of Health to issue a chiropractic medicine faculty certificate without examination to an individual who meets specified requirements.

- Authorizes a chiropractic medicine degree program at Florida State University.

- Authorizes H. Lee Moffitt Cancer Center and Research Institute to create for-profit subsidiaries; expands the purposes of the not-for-profit corporation and subsidiaries; provides for an exemption to the property insurance trust fund; changes the appointing authority for certain members of the council of scientific advisers; and requires that certain appropriations be paid directly to the board of directors of the governing corporation.

- Renames the Florida Alzheimer's Center and Research Institute to the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute; authorizes the creation of for-profit corporations; expands the purposes of the not-for-profit corporation and subsidiaries; provides for an exemption to the property insurance trust fund; changes the appointing authority for the council of scientific advisers; and requires that certain appropriations be paid directly to the board of the governing corporation.

- Creates the Florida Center for Universal Research to Eradicate Disease (CURED) within the Department of Health to coordinate, improve, monitor, and facilitate funding for biomedical research programs.

- Revises the Lawton Chiles Endowment Fund to include the use of funds to support and expand biomedical research for the cure of specified diseases.

- Expands the long-term goals of the James and Esther King Biomedical Research Program to include the cure of specified diseases.

- Renames the Life Sciences Building at Florida State University as the "James E. 'Jim' King, Jr., Building" and authorizes the university to erect markers designating such.

- Creates the Florida Cancer Council, effective July 1, 2004, for the purpose of making Florida a center of excellence for cancer research and provides for its mission and duties.

- Creates the Florida Public Health Foundation, Inc., for the purpose of disseminating innovative findings in biomedical research and promoting health awareness.

- Establishes the Prostate Cancer Awareness Program within the Department of Health for the purpose of providing statewide outreach and health education activities.

- Creates the Cervical Cancer Elimination Task Force, effective July 1, 2004, and dissolves the task force after submission of a final report on or before June 30, 2008.

- Provides the following annual distributions and appropriations from the proceeds of the excise tax on alcoholic beverages, beginning July 1, 2004:
    - $15 million to the Department of Elderly Affairs to support the Alzheimer's Center and Research Institute at the University of South Florida;
    - $6 million to the Department of Health for the James and Esther King Biomedical Research Program; and
    - $9 million to Florida State University for the School of Chiropractic Medicine.

These provisions became law upon approval by the Governor on March 11, 2004, except as otherwise provided.
Vote: Senate 39-0; House 113-0

CS/SB 2564 — Juvenile Detention

by Appropriations Committee and Senator Crist

The bill makes the following changes to juvenile justice detention centers required to implement the proposed General Appropriations Act for FY 2004-2005.

- Increases the fiscal responsibility of counties for public safety issues related to juvenile detention services.

- Requires each county to budget the cost of pre-adjudication detention of juveniles who reside in that county. Each county will be responsible for setting aside these costs at the beginning of the fiscal year and monthly payments to the state. Counties may collaborate with the state when calculating these expenses by considering the previous fiscal year's cost.

- Requires the Department of Juvenile Justice to publish the costs for which each county will be responsible.

- Requires the state to deposit revenues received from the counties into the Department of Juvenile Justice's Grants and Donations Trust Fund. Reconciliation of costs between each county and the department will occur at the end of the fiscal year to account for differences between the estimated and actual numbers of juveniles detained.

- Requires the Department of Juvenile Justice to ensure that each county is fulfilling its responsibility for these costs. If a county fails to transfer funds, the Chief Financial Officer will withhold state funding to that county, equal to the amount the county has neglected to pay.

- Provides that the state will coordinate with the resident state for the collection of detention costs for the period of time prior to final court disposition for juveniles detained who are not Florida residents. If residency cannot be established, the state will bear financial responsibility for the costs of detention prior to adjudication.

- Recognizes that some counties will be unable to account for such costs and defines them as "fiscally constrained counties." A "fiscally constrained county" is defined as a rural area of critical economic concern under s. 288.0656, F.S., for which the value of a mill in the county is no more than $3 million, based on the property valuations and tax data annually published by the Department of Revenue under s. 195.052, F.S. Under these economic conditions, and subject to appropriation, the state will provide grant funding to these counties.

- Requires the Department of Juvenile Justice to produce a cost measurement system to forecast the financial responsibility of each county regarded as "fiscally constrained."

- States that the Legislature has determined and declares that this act fulfills an important state interest.

- Provides an effective date of October 1, 2004.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 37-3; House 62-55

HB 1837 — Appropriations Implementing

by Appropriations and Rep. Kyle (SB 2502 by Appropriations)

Section 1: Provides legislative intent.

Education Provisions

Section 2: Allows State universities to use the state accounting system without providing funds to Division of Financial Services. Requires all funds appropriated to state universities for FY 2004-2005 to be distributed according to a budget approved by the university board of trustees. Requires university boards of trustees to include certain trust fund revenues within operating budget, including funds supported by student and other fees and funds within the Contracts, Grants and Donations, Auxiliary Enterprises, and Sponsored Research budget entities. Gives each university board control of its operating budget. Provides for journal transfers of appropriations to university accounts.

Section 3: Authorizes FSU to build a new classroom building from funds appropriated.

Health and Human Services

Section 4: Allows Department of Children and Families to transfer funds within the family safety program between specified appropriations without limitation.

Section 5: Allows funds in the Children and Adolescent Substance Abuse Trust Fund to be used for adult substance abuse services.

Sections 6-7: Allows Privatization of foster care and related services.

Section 8: Requires all new funds for substance abuse and mental health services in excess of prior year recurring appropriations to be allocated pursuant to the General Appropriations Act, but no district may receive less than its current budget.

Section 9: Allows the Department of Children and Families to enter into agreements with a private provider to finance, design and construct a treatment facility.

Section 10: Extends for one year the $5 surcharge on new system construction permits that support onsite sewage treatment and disposal system research, demonstration, and training projects.

Section 11: Authorizes appropriation of funds in the Epilepsy Services Trust Fund for epilepsy case management services.

Section 12: Restores the 10 percent transfer authority of Department of Children and Families to the current law.

Section 13: Requires all Brain and Spinal Cord Injury Program Trust Fund resources in a specific appropriation category to be utilized by the University of Miami.

Section 14: Florida KidCare: Defines the first open enrollment period for FY 2004-2005 to be January 1-30, 2005 and provides that children on the wait list prior to March 12, 2004 are eligible to be enrolled upon this act becoming a law.

Section 15: Child Care Training – Requires the Department of Children and Families must offer the Child Care Competency Exam in Spanish at least once a year.

Section 16: Operations and Maintenance Trust Fund – Repeals restrictions on the use of cash.

Section 17: Economic Self-Sufficiency - Gives guidelines in this trust fund for Department of Children and Families in determining requirements made for the privatization of the Economic Self-Sufficiency program.

Section 18: LifeSaver Rx program: Stipulates that if federal Medicaid and Medicare centers approve the waiver, the Agency for Health Care Administration may submit a budget amendment certifying the amount of funds necessary and request additional appropriations.

Section 19: Amends proviso related to the long term care fixed payment system for Medicaid beneficiaries over age 65. A plan is to be submitted to the Legislative Budget Commission for a phase-in of pilot projects.

Section 20: Requires the Agency for Health Care Administration to evaluate Florida's nursing home reimbursement methodology and to make recommendations.

Section 21: Managed care contracts – Requires a report on provider and client outcomes in order to assess cost effectiveness, quality of care and access to care for impact on mental health service delivery system.

Section 22: Requires the Department of Health to review and examine how state and local fees are charged in the regulation of onsite sewage treatment and disposal systems. Department of Health will work with affected counties, the home building industry, and septic tank contractors.

Criminal Justice

Section 23: Department of Corrections and Department of Juvenile Justice may expend appropriated funds to assist a county or municipality in paying to open or operate a facility, not to exceed 1 percent.

Section 24: Allows Executive Office of the Governor to request additional positions during FY 2004-2005 for the Department of Corrections if the Criminal Justice Estimating Conference projects a certain increase in the inmate population.

Section 25: Allows the Crime Stoppers Trust Fund to be used for Department of Legal Affairs' expenses.

General Government

Section 26: Requires intensive planning for integration of central administrative and financial management information systems (FLAIR, ASPIRE, CMS, LAS/PBS, SPURS, MyFloridaMarketplace, COPES, PeopleFirst, and SUNTAX).

Section 27: Allows Department of Agriculture and Consumer Services to work with Department of Transportation and use Department of Transportation purchasing to build the northwest agricultural interdiction station in Escambia County.

Section 28: Gives Auditor General responsibility to administer Council for Education Policy and Research Improvement's (CEPRI) budget. CEPRI remains independent.

Section 29: Gives Executive Office of the Governor authority to transfer funds appropriated for Risk Management Insurance in order to align the budget authority granted with the premiums paid by each department.

Section 30: Extends to June 30, 2005, the scheduled expiration of the Department of Management Services duty to determine premiums necessary to fund state employees' health insurance program.

Section 31: Gives Executive Office of the Governor authority to transfer funds appropriated for payment of the statewide Human Resources outsourcing contract between departments.

Section 32: Removes the Class C travel reimbursement for state travelers.

Section 33: Extends the scheduled expiration of the prescription drug co-payment schedule to June 30, 2005.

Section 34: Inhibits a salary increase of members of the Legislature for FY 2004-2005.

Section 35: Directs the Department of Environmental Protection to award solid waste management grants in equal amounts to small counties, waste tire grants to large counties on a per capita basis, and competitive innovative grants.

Section 36: Expands the use of the Land Acquisition Trust Fund in the Department of Environmental Protection to be appropriated for water quality issues.

Section 37: Allows unobligated moneys in the Florida Preservation 2000 Trust Fund resulting from interest earnings and budget reversions to be appropriated to the Florida Forever Trust Fund.

Section 38: Sets a deadline for the State Technology Office to create best practices for agencies regarding acquisition, use, and disposal of Information Technology equipment. Requires agencies to report disposal methods.

Section 39: Allows Surface Water Improvement Management (SWIM) and invasive plant projects to remain available for mitigation for another year. Effectively extends the date for Department Environmental Protection to repay credits due to the Department of Transportation.

Section 40: Requires talent agency license fees to be equal to the costs of regulation in the Department of Business and Professional Regulation.

Section 41: Allows the Department Environmental Protection to continue to publish Florida Administrative Weekly notices on the internet.

Section 42: Expands the use of the Conservation and Recreation Lands Trust Fund interim management funds in the Fish and Wildlife Conservation Commission and the Lake Jesup restoration project.

Sections 43-44: Creates consistency between the Florida Department of Environmental Protection's Drinking Water program and the federal Safe Drinking Water Act.

Section 45: Extends the deadline for Environmental Protection Agency approval of air emissions standards from citrus processing plants.

Section 46: Allows appropriations for mosquito control from the Agricultural Emergency Eradication Trust Fund.

Section 47: Allows appropriations from the Conservation and Recreation Lands Trust Fund in the Department of Agricultural and Consumer Services for conservation easements (Rural Lands).

Transportation and Economic Development

Section 48: Allows the allocation of funds appropriated to the Emergency Management, Preparedness, and Assistance Trust Fund for the implementation of state and local emergency management programs and to meet any matching requirements imposed as a condition of receiving federal disaster relief assistance, to be established in the General Appropriation Act.

Section 49: Specifies that the first children to be placed in the school readiness program shall be those from families receiving temporary cash assistance and subject to federal work requirements.

Section 50: Allows proceeds from the Professional Sports Development Trust Fund to be used for operational expenses of the Florida Sports Foundation and financial support of the Sunshine State Games.

Section 51: Outlines projects that are eligible for funding under the Florida seaport transportation and economic development funding program, including grants to fund vessel tracking, and extends for one year the authority for prior year funds to be moved to new projects.

Sections 52-53: Continue and expand the Passport to Economic Progress demonstration project.

Section 54: Authorizes exchange of real property between the Department of Highway Safety and Motor Vehicles and Department of Environmental Protection in Palm Beach Gardens.

Section 55: Allows the Agency for Workforce Innovation to administer and implement the Teacher Education and Compensation Helps (TEACH) scholarship program. The program provides educational scholarships to caregivers and administrators of early childhood programs, and family day care homes.

Section 56: Allows Department of State cultural facility grants to be funded in the amount specified in the General Appropriations Act.

Section 57: Allows separate appropriations for library construction grants from the 2003-2004 ranked list and from the 2004-2005 ranked list.

Section 58: Exempts voter education activities of the Department of State or the Supervisor of Elections from competitive solicitation requirements.

Section 59: Amends proviso on Streetscape funding to correct name “Streetscape Design and Construction Enhancements - City of Ft. Myers.”

Section 60: Saves the Qualified Defense Contractor (QDC) tax refund from sunset program.

Section 61: Saves the Qualified Target Industry (QTI) tax refund from sunset program.

Article V Implementation and Judiciary

Section 62: Authorizes funds to be transferred from the courts to the Justice Administrative Commission in order to address unanticipated shortfalls in due process appropriations.

Sections 63-69: Specifies the duties of capital collateral regional counsel for the northern region to be met through a pilot program using registry attorneys.

Section 70: Outlines provisions for health insurance and leave time for personnel transferred from county government to the state court system, state attorney, or public defender as part of Article V implementation.

Section 71: Requires the Department of Revenue to pick 4 counties to participate in the pilot program for tax collection enforcement diversion program.

Section 72: States that Justice Administrative Commission and State Court System deficits in due process services require Legislative Budget Commission (LBC) budget amendments.

Section 73: Reenacts s. 215.32, F.S., to allow trust fund balances to be swept to the Working Capital Fund or Budget Stabilization Fund.

Section 74: Makes finding of "best interest of the state" for the issuance of debt (bonds) on 04-05.

Standard Provisions

Section 75: Specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 76: Provides for a permanent change made by another law to any of the same statutes amended by this bill to take precedence over the provision in this bill.

Section 77: Provides that the changes in section 17 on Economic Self-Sufficiency are not subject to the provisions of section 76 and are intended to override similar changes that may be passed during the 2004 legislative session.

Section 78: Provides that the performance measures and standards, filed with the Secretary of the Senate and dated March 21, 2004, are incorporated by reference and will be applied to programs for FY 2003-2004.

Section 79: Provides that a permanent change made by another law in the 2003 Regular Session of the Legislature to any of the same statutes amended by this bill be given equal precedence to the provision in this bill.

Section 80: Provides a severability clause.

Section 81: Provides an effective date.

If approved by the Governor, these provisions take effect July 1, 2004, except as otherwise provided.
Vote: Senate 34-4; House 87-30

HB 1841 — Budget Stabilization Fund

by Appropriations Committee and Rep. Brummer

This bill allows the state to self insure for the first $40 million in property losses and authorizes access to the Budget Stabilization Fund in the event there is an emergency requiring payment of unanticipated state property losses. Access to the fund is limited to $38 million annually and is permitted when losses exceed $2 million per occurrence or $5 million annual aggregate. It is estimated the state will save $6 to $9 million in the cost of insurance for state properties by self insuring for the first $40 million in property losses.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 115-0

HB 1843 — Health Care

by Appropriations Committee and Rep. Green (CS/SB 1276 by Appropriations Committee and Senator Peaden)

The bill makes the following changes to health care programs that are required in order to implement the proposed General Appropriations Act for FY 2004-2005.

- Delays until July 1, 2005 the nursing home staffing increase to 2.9 hours of direct care per resident from a certified nursing assistant.

- Provides for a Health Flex federal Medicaid demonstration waiver in Palm Beach County or Miami-Dade County.

- Makes changes to the KidCare program to allow for the enrollment of children on the waitlist as of March 11, 2004; requires certain documents for proof of eligibility; clarifies preexisting conditions for eligibility; and provides for continuous eligibility for 12

months.

- Eliminates eligibility for Medicaid pregnant women with incomes above 150 percent of the federal poverty level effective July 1, 2005.

- Provides that individuals in the medically needy program are eligible for prescribed drug services only, effective July 1, 2005.

- Clarifies a recipient's responsibility for the cost of nursing home care in determining Medicaid eligibility.

- Implements a utilization management program for Medicaid private duty nursing services.

- Implements a hospitalist program in certain high-volume Medicaid participating hospitals.

- Implements a comprehensive utilization management program for hospital neonatal intensive care stays in certain high-volume Medicaid participating hospitals.

- Eliminates the payment for nursing home bed hold days in nursing homes with less than a 95 percent occupancy rate.

- Restores adult denture services effective January 1, 2005 and repeals the restoration July 1, 2005.

- Consolidates Medicaid home and community-based services (HCBS) waiver programs and implements utilization management.

- Eliminates payment of Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) bed hold days for ICF/DD facilities with less than a 95 percent occupancy rate.

- Makes the LifeSaver Rx prescription drug program for seniors contingent on an appropriation subsequent to federal approval.

- Limits the Medicaid provider network through provider credentialing.

- Eliminates the exclusion of special hospital payments from HMO rate setting.

- Revises reimbursement of prescribed drugs to the lower of: Average Wholesale Price (AWP) minus 15.4 percent; Wholesaler Acquisition Cost (WAC) plus 5.75 percent; the Federal Upper Limit (FUL); the State Maximum Allowable Cost (SMAC); or the Usual

and Customary (UAC) charge billed the provider. Requires Medicaid providers to dispense generic drugs if available and at a lower cost than branded products, or if the prescriber has received approval to require the branded product.

- Requires the Agency for Health Care Administration (AHCA) to reimburse county health departments per visit based on total reasonable costs of the clinic.

- Amends the Medicaid disproportionate share programs to conform with the decisions in the General Appropriations Act.

- Establishes the Medicaid Disproportionate Share Council and requires a report to the Legislature with recommendations by February 1 of each year.

- Clarifies provisions related to behavioral health care services through managed care organizations.

- Revises the threshold for supplemental drug rebates from pharmaceutical manufacturers to a minimum of 29 percent.

- Eliminates value-added programs as a substitution for supplemental drug rebates, effective July 1, 2004.

- Limits lifestyle drugs to one dose a month.

- Implements a behavioral pharmacy management system for mental-health-related drugs and provides for other restrictions in the event the behavioral management system is not implemented by September 1, 2004.

- Authorizes AHCA to contract for drug rebate administration.

- Allows for the specification of the preferred daily dosing form or strength of specific drugs by AHCA.

- Allows for the prior authorization for the off-label use of Medicaid-covered prescribed drugs.

- Requires implementation of a return and reuse program for drugs.

- Requires AHCA to ensure cost-effective Medicaid managed care plans.

- Clarifies that Medicaid recipients have 90 days to switch their managed care choice and requires enrollees to select a managed care plan or MediPass within 30 days of

enrollment.

- Requires AHCA to include in its calculation of HMO rates special Medicaid payments and disproportionate share hospital payments.

- Requires AHCA to adopt by rule a methodology for reimbursing managed care plans and publish rates annually prior to September 1 each year.

- Makes changes to the Florida Healthy Kids dental contracts to have the remaining compensation be no less than an amount which is 85 percent of the premium.

- Provides for a Program of All-inclusive Care (PACE) contract with a hospice organization in Lee County and in Martin County to serve 100 elderly individuals.

- Requires AHCA to renegotiate the terms and duration of its loan to the Long Term Care Risk Retention Group and reduces the capitalization cost payments.

- Requires the Office of Program Policy Analysis and Government Accountability to perform a review to determine the cost benefit to the state of the optional Medicaid coverage for pregnant women, adult dentures, and the Medically Needy program.

- Clarifies that AHCA may contract on a capitated, prepaid or fixed sum basis with a laboratory services statewide to ensure that it secures laboratory data from laboratories for all tests provided to Medicaid recipients and requires the data to be included in the real-time, web-based reporting system.

If approved by the Governor, these provisions take effect July 1, 2004, except as otherwise noted.
Vote: Senate 32-6; House 83-34

HB 1845 — Children and Family Services Department

by Appropriations Committee and Rep. Murman (CS/SB 1282 by Appropriations Committee and Senator Peaden)

The bill implements provisions in the General Appropriations Act relating to the Department of Children and Family Services (DCF). It amends s. 20.19(5), F.S., and repeals s. 402.33(10), F.S., to accomplish the following:

- Authorizes the creation of six zones to provide administrative support to the districts and region in DCF.

- Provides that any budget transfer authority granted in s. 20.19, F.S., that is beyond the amendment provisions of ch. 216, F.S., must be specifically identified in the General Appropriations Act or its Implementing Bill. The Appropriations Implementing Bill for FY 2004-2005 authorizes DCF districts and the Suncoast Region to transfer up to 10 percent of each of their total budget.

- Repeals current statutory restrictions on the use of excess cash from the Operations and Maintenance Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 81-36

HB 1847 — Capital Collateral Regional Counsels

by Appropriations Committee and Rep. Negron

The bill amends various sections of Chapter 27, F.S., to continue a pilot program in which private attorneys, rather than the state capital collateral counsel, represent defendants in capital post conviction litigation in the northern region of the state. The Legislature first established the pilot for one year in ch. 2003-399, L.O.F., in order to implement the 2003-2004 General Appropriations Act.

To participate in the pilot, private attorneys must be listed on the registry of attorneys maintained pursuant to s. 27.710, F.S., and be qualified to provide representation in federal court. The bill prohibits pilot attorneys from being compensated for work previously performed by the regional office of capital collateral counsel for the northern region. The bill limits private attorneys to representing no more than five defendants in capital postconviction litigation at any one time.

The bill provides for monitoring and evaluation of the pilot. The bill requires the Commission on Capital Cases to review the operation of private attorneys participating in the pilot as well as receive and refer to The Florida Bar any complaints regarding their practice. Private attorneys in the pilot must report on their performance using the same performance measures adopted by the Legislature for the remaining two capital collateral regional counsels as well as the number of hours worked and the amount expended on cases. Finally, the Office of the Auditor General must conduct a performance review of the pilot program to determine the effectiveness and efficiency of using private attorneys compared to the capital collateral regional counsels and submit a report to the Legislature by January 30, 2007.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 115-0

HB 1851 — Cost of Supervision and Care for Juvenile Offenders

by Appropriations Committee and Rep. Bilirakis (CS/SB 2632 by Criminal Justice Committee and Senator Crist)

This bill amends the statutes that provide for the imposition and collection of fees from parents and guardians of youth supervised by the Department of Juvenile Justice (DJJ). If a youth is placed into secure detention or in a commitment program with the DJJ, the parents or guardians must pay an amount of $5.00 per day for each day the youth is in the DJJ's custody (same as current law). If the youth is placed in home detention, probation, or other supervision status by the DJJ, the parents or guardians must pay an amount of $1.00 per day for each day the youth remains under supervision.

The court must assess these fees during the detention or disposition hearing. If the court makes a finding that the parents or guardians of the youth are indigent or that paying the fees will cause significant financial hardship, the court must reduce or waive the fee. The court can also waive the fee if it determines that the parent or guardian is the victim of the youth's delinquent act and the parent is cooperating with the investigation of the offense. They will also not be required to pay if the charges are dropped or the youth is found to be not delinquent (same as current law).

The bill requires a youth's parent or guardian to provide personal identification and financial information when the youth is taken into custody, released, or delivered from custody, placed in any form of detention care or in a residential commitment facility in order to determine their ability to pay. The information must include name, address, social security number, date of birth, driver's license number and sufficient financial information for the department to determine the parent's or guardian's ability to pay. Upon refusal to provide this information or the required financial information, the parent or guardian can be held in contempt of court. The DJJ may also employ a collection agency to collect and manage the payment of unpaid and delinquent fees (same as current law).

The bill also provides that for the upcoming fiscal year, the court must reduce these fees for parents or guardians who successfully complete a voluntary parenting course approved by the DJJ in Circuit 9 (Orange County). The reduction will be equivalent to 20 percent of the obligation owed by the parent or guardian; however, the total value of the reduction can not exceed $450. If the parent or guardian fails to pay the required fees or to successfully complete the parenting course after agreeing to it, the court is required to hold the parent or guardian in contempt of court and require full payment of the fees.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 118-0

HB 1853 — Citrus Canker Tree Compensation

by Appropriations Committee and Rep. Baker

This bill makes it mandatory for the Department of Agriculture and Consumer Services to notify a landowner before removing a tree infected or exposed to citrus canker from the landowner's property. The bill also changes the specified amount a homeowner will recover for the removal of a tree from $100 to $55 for the second and subsequent trees removed. For the first tree removed, the homeowner is compensated with a $100 voucher from the Shade Florida Program. In addition, the bill codifies in statutes the procedures the department shall follow when removing the citrus tree.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 34-4; House 101-17

HB 1855 — Economic Development

by Appropriations Committee and Rep. Waters (CS/SB 1284 by Appropriations Committee and Senator Webster)

The bill provides statutory changes necessary to conform to the General Appropriations Act for FY 2004-2005. Specifically, the bill:

- Transfers certain international programs from the Department of State to the Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor by type two transfer and makes conforming statutory changes. The programs being transferred include: The Florida Intergovernmental Relations Foundation, as authorized and governed by s. 288.809, F.S., International relations functions, as authorized and governed by s. 288.816, F.S., the Organization of American States, as authorized and governed by s. 15.17, F.S., and the International development outreach activities in Latin America and the Caribbean Basin, as authorized and governed by s. 288.0251, F.S.

- Transfers the linkage institutes from the Department of State to the Department of Education by a type two transfer and directs that all associated trust funds remain within the Department of State;

- Modifies the current statutory process for the selection of Economic Development Transportation projects and the associated allocation of appropriations;

- Continues the provision allowing the Legislature to designate and fund Economic Development Transportation projects that facilitate economic development and growth in the General Appropriations Act; and

- Extends the state employee leasing program for employees of the Black Business Investment Board, Inc., until June 30, 2007.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 117-0

HB 1857 —Governmental Reorganization

by Appropriations Committee and Rep. Waters (CS/SB 1286 by Appropriations Committee and Senator Webster)

The bill provides statutory changes necessary to conform to the General Appropriations Act for FY 2004-2005. Specifically, the bill:

- Transfers the Office of Urban Opportunity, which administers the Front Porch Florida initiative, from the Executive Office of the Governor to the Department of Community Affairs;

- Transfers the State Energy Office from the Department of Community Affairs to the Department of Environmental Protection; and

- Transfers the Affordable Housing Catalyst Program from the Department of Community Affairs, Division of Housing and Community Development, to the Florida Housing Finance Corporation.

The bill requires the Florida Housing Finance Corporation to provide resources to the Affordable Housing Study Commission and to develop and administer the Affordable Housing Catalyst Program.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 118-0

HB 1859 — State Executive Aircraft Pool

by Appropriations Committee and Rep. Brummer

This bill codifies in statute the Department of Management Services' current practice of requiring user fees for full-cost recovery of the state executive aircraft pool. Current statute provides that the charge cannot exceed the vehicle mileage allowance (29 cents). This bill allows the department to set a fee that exceeds the vehicle mileage allowance and establish a user fee that cost recovers all expenses related to the operation of the aircraft pool. This practice is currently authorized annually in the Implementing Bill. This bill eliminates the need for having the language in the Implementing Bill.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 118-0

HB 1861 — Ad Valorem Tax Forms

by Appropriations Committee and Rep. Brummer

This bill (Chapter 2004-22, L.O.F.) amends s. 195.022, F.S., modifying the manner in which forms are provided to counties by the Department of Revenue. These forms are used by property appraisers, tax collectors, clerks of the circuit court and value adjustment boards for administration and collection of ad valorem taxes. The department will continue to furnish forms to counties with a population of 100,000 or less. For counties with a population of more than 100,000 the county officer for those offices listed above will be required to reproduce forms for distribution at the county's expense.

These provisions were approved by the Governor and take effect July 1, 2004.
Vote: Senate 39-0; House 118-0

HB 1863 — Health

by Appropriations Committee and Rep. Green (CS/SB 1276 by Appropriations Committee and Senator Peaden)

The bill provides that certain limitations on the number of authorized positions in the Department of Health do not apply to Office of Disability Determinations positions funded by the United States Trust Fund.

The time restrictions are removed for use of the $5 fee imposed on new system construction permits for funding of onsite sewage treatment and disposal system research, demonstration, and training projects.

The Department of Health is directed to adopt rules relating to charging and collecting fees for administration of the newborn screening program; reduces the fee charged for each live birth from $20 to $15; and provides authority for the department to bill third party payers for newborn screening tests.

The bill corrects the title of a Department of Health official from "Deputy Assistant Secretary for Health" to "Deputy State Health Officer."

The bill removes the expiration date on when funds in the Epilepsy Services Trust fund may be appropriated for epilepsy case management services. Administrative expenditures from the Epilepsy Services Trust Fund are limited to 5 percent of annual receipts.

The Florida Infants and Toddlers Early Intervention Program is created. The authorization for the Department of Health to receive federal funds to establish the program has remained in proviso language of the General Appropriations Act since 1987. The purpose of the Infants and Toddlers Early Intervention (EI) Program is to enhance the development of Florida's infants and toddlers with developmental delays or established conditions that put them at risk of developmental delay.

The bill provides that revenues collected from nurses over and above the required fees shall be transferred from the Medical Quality Assurance Trust Fund to the Florida Center for Nursing Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 118-0

HB 1865 — Elderly Affairs Department

by Appropriations Committee, Rep. Anderson, and others (CS/SB 1276 by Appropriations Committee and Senator Peaden)

The bill changes the definition of "stipend" to a maximum hourly rate that shall not exceed an amount equal to the federal minimum wage.

The bill places in statute recurring implementing bill language that requires the Department of Elder Affairs to fund in Miami-Dade County more than one community care service system the primary purpose of which is the prevention of unnecessary institutionalization of functionally impaired elderly persons through the provision of community-based core services.

The bill places in statute recurring implementing bill language that requires the Department of Elder Affairs to fund in Miami-Dade County more than one community care service system that provides case management and other in-home and community services as needed to help elderly persons maintain independence and prevent or delay more costly institutional care.

The bill adds a new memory disorder clinic at Morton Plant Hospital in Pinellas County for a total of 14 clinics.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 118-0

HB 1867 — Education Funding

by Appropriations Committee and Rep. Simmons

This bill is an appropriations conforming bill which addresses education funding. A number of sections codify into statute provisions which have appeared in proviso language for several years.

Section 1: Codifies into statute the following: 1) school districts shall establish polices and procedures that define enhancement prior to the expenditure of lottery funds, and expenditures shall be consistent with that definition; and 2) school district staff are prohibited from overriding expenditure decisions by the school advisory council related to the $10/FTE of lottery funds received by the school advisory council.

Section 2: In regard to contributions to nonprofit scholarship-funding organizations, the bill revises the total amount of tax credits and the carry forward of tax credits which may be granted for 2004-05 from $88 million to $50 million.

Section 3: Provides for the following community college name changes: 1) Chipola Junior College to Chipola College; 2) Edison Community College to Edison College; 3) Miami Dade Community College to Miami Dade College; and 4) Okaloosa - Walton Community College to Okaloosa - Walton College.

Section 4: Codifies into statute the exemption for university lab schools from payment of indirect or overhead costs to the university.

Section 5: Codifies into statute two provisions which affect the Commissioner of Education: 1) the authority to enter into contracts for the continued administration of assessment, testing, and evaluation programs, including the authorization for contracts to be continued from one year to the next and to be paid from appropriations for either or both fiscal years; and 2) authority to negotiate for the sale or lease of tests, test scoring services, scoring protocols, and related materials.

Section 6: Codifies into statute the requirement that identical fees be charged to resident students within an institution for a specific course regardless of the program in which they are enrolled.

Section 7: Codifies into statute for the Florida School for the Deaf and Blind the prohibition of fee waivers for out-of-state students.

Section 8: 1) Codifies into statute that the school accountability performance grade of "C", based on student FCAT scores, is the school performance standard for eligibility for the Small Isolated High School FTE supplement. Currently the statute references the High School Competency Test, which is no longer used. 2) Prohibits a gain in state funds for audit findings in

which group 2 FTE are reclassified to the basic program and the district weighted FTE are over the weighted enrollment ceiling for group 2 programs, beginning with audit findings in FY 2001-02.

Section 9: Codifies into statute the prohibition of reporting FTE for state FEFP funding in programs in which the direct instructional costs are fully funded by an external agency.

Section 10: Codifies into statute the distribution schedule of FEFP funds. Distributions are to be made on or about the 10th and 26th of each month.

Section 11: Codifies into statute the instructional materials funds distribution schedule. The schedule is as follows: 50% on or about July 10; 35% on or about October 10; 10% on or about January 10; and 5% on or about June 10.

Section 12: Codifies into statute the prohibition of reporting FTE for state workforce development funding in programs in which the direct instructional costs are fully funded by an external agency.

Section 13: In regard to the Community College Program Fund (CCPF), the bill codifies into statute: 1) the requirement that all state inmate education provided by community colleges be reported and projected separately by program, FTE, expenditure, and revenue source; 2) the prohibition from inclusion in the full-time equivalent student enrollment for the CCPF, the FTE generated through the instruction of state inmates; and 3) the prohibition of the reporting of FTE for state funding in programs in which the direct instructional costs are fully funded by an external agency.

Section 14: Codifies into statute the authorization for the Department of Education to collect teacher recruitment job fair registration fees (maximum $20/person or $250/booth) and to use the revenue from the fees to purchase promotional items and to operate the job fair.

Section 15: Codifies into statute the authorization for school district payment of the employer's share of social security, Medicare taxes, and retirement system contributions from Dale Hickam Excellent Teaching program funds for teachers who qualify for certification under the National Board of Professional Teaching Standards and who receive bonus awards.

Section 16: Authorizes Florida State University to construct a building using funds provided in the 2004-2005 General Appropriations Act.

Section 17: Provides an effective date of July 1, 2004.

The bill amends the following sections of the Florida Statutes: 24.121, 1000.21, 1002.32, 1008.22; 1008.23, 1011.57, 1011.62; 1011.63, 1011.66; 1011.67, 1011.80, 1011.84, 1012.05; 1012.72, and creates two unnumbered sections of law.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-1; House 79-36

HB 1869 — Administrative Hearings Division

by Appropriations Committee and Rep. Brummer

The bill codifies in statute the Division of Administrative Hearing's current practice of providing administrative law judge services to certain entities on a full-cost recovery basis. Entities required to reimburse the division include, for example, water management districts and regional planning councils. This practice is currently authorized annually as proviso language in the General Appropriations Act. This bill eliminates the need for this proviso language. The division is reimbursed approximately $500,000 annually by these entities.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 117-0

HB 1875 — Correctional Privatization Commission

by Appropriations Committee and Rep. Brummer

The bill reflects the General Appropriations Act which eliminates the Correctional Privatization Commission effective July 1, 2005 and transfers responsibilities to the Department of Management Services. Effective July 1, 2004, the Department of Management Services will conduct the contractual responsibilities for privately operated correctional facilities in Florida.

In addition, the bill authorizes the Department of Corrections to charge a $6 monthly fee for inmate banking services which were previously provided at no charge. This service was subsidized by general revenue. The General Appropriations Act shifts the administrative cost of providing banking services from general revenue to a trust fund supported by the fee revenue.

If approved by the Governor, these provisions take effect July 1, 2004 except as otherwise provided.
Vote: Senate 37-0; House 117-0

HB 1877 — Florida Crime Laboratory Council

by Appropriations Committee and Rep. Bilirakis

The bill eliminates the Crime Laboratory Council, within the Department of Law Enforcement which is required in order to implement the proposed General Appropriations Act for FY 2004-2005.

- This bill eliminates the Florida Crime Laboratory Council within the Department of Law Enforcement and makes conforming changes.

- The bill reflects savings of $117,692 as a result of eliminating the Crime Laboratory Council.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 118-0

HB 1879 — Agriculture Equipment/State Purchase
by Appropriations Committee and Rep. Baker

This bill repeals s. 570.195, F.S., which established a program through which the Department of Agriculture and Consumer Services purchased farming equipment used for the production of tobacco between April 1 and October 1, 2000, from persons or entities that signed a letter of intent to halt tobacco production. Activity under this program has ceased and the bill directs the balance remaining in the General Inspection Trust Fund related to the program to revert. The bill directs the funds to be deposited into the Tobacco Settlement Clearing Trust Fund in the Department of Financial Services.

If approved by the Governor, these provisions take effect July, 1, 2004.
Vote: Senate 38-0; House 66-49

KIDCARE

CS/SB 2000 — Children's Health Care
by Appropriations Committee and Senators Dockery, Peaden, Atwater, Fasano, Argenziano, Jones, Pruitt, Bennett, Lynn, and Cowin

The bill (Chapter 2004-1, L.O.F.) makes the following changes to the Florida KidCare program and the Florida Healthy Kids Corporation.

- Clarifies the definition of the Florida KidCare program.

- Limits enrollment in the Medikids program to the open enrollment periods specified in s. 409.8134, F.S., and eliminates special enrollment periods.

- Provides for open enrollment periods based upon a unanimous recommendation from the KidCare administrators after consultation with the Social Services Estimating Conference. An announcement is required at least one month before the open enrollment period begins. Open enrollment is on a first-come, first-served basis and ends when the

enrollment ceiling is reached. Potential open enrollment periods are January 1-30 and September 1-30. Individuals not already enrolled in the program, including those on the wait list after January 30, 2004, must re-apply by submitting a new application in an open enrollment period. Provides for an exception to the open enrollment period for the Children's Medical Services Network to enroll up to 120 additional chronically ill children based on emergency disability criteria.

- Provides that when the Social Services Estimating Conference determines that there are insufficient funds to finance the current enrollment within current appropriations, the program must initiate disenrollment procedures on a last-in first-out basis, except for CMS children who shall not be disenrolled, until expenditure and appropriation levels are balanced.

- Provides that children with access to employer sponsored coverage would be not eligible if the cost to enroll the child would be equal to or less than 5% of the family income. Children who would lose eligibility because of access to affordable employer-sponsored insurance would remain in the program for 6 months after their next redetermination.

- Provides that children whose parents have voluntarily canceled employer-sponsored health benefits in the last 6 months before enrollment are prohibited from enrolling in KidCare. This does not apply to children on the waitlist as of January 30, 2004.

- Provides that children transferring between components must be managed within the program's overall appropriated or authorized level of funding. Reserves shall be established for each component, and these reserves shall be reviewed by the Social Services Estimating Conference to determine their adequacy to meet actual experience.

- Presumptive eligibility is eliminated and applicants are required to provide written proof of income and written proof of applicant's and related parties' employer-sponsored health benefits plan status during the application process and the redetermination process.

- Requires coverage of dental services; provides that dental services may include those dental services provided to children under the Medicaid program; and removes the maximum cap of $750 per enrollee per year, effective July 1, 2004.

- Provides that state-funded assistance in paying Florida Healthy Kids premiums applies to the following: Title XXI eligible children; non-Title XXI legal aliens enrolled as of January 31, 2004; non-Title XXI individuals who have attained the age of 19 as of March 31, 2004 (eligibility is repealed March 31, 2005); and non-Title XXI state employee dependents enrolled as of January 1, 2004 (eligibility terminates January 1, 2005).

- Provides that voluntary local contributions for additional Title XXI eligible children are subject to the enrollment ceiling.

- Provides that the corporation will no longer establish eligibility for the Florida Healthy Kids Program, but will determine eligibility for the program pursuant to eligibility rules in statute. Also eliminates Florida Healthy Kids' ability to establish a maximum number of participants who may enroll in the program, as well as premiums and cost-sharing requirements.

- Purchasing criteria for Florida Healthy Kids are changed from quality only to quality and cost.

- Eliminates the corporation's ability to enter into contracts with local school boards or other agencies to provide onsite information, enrollment, and other services necessary to the operation of the corporation.

- Clarifies that insurers under contract with Florida Healthy Kids Corporation are the payers of last resort and must coordinate benefits with any other third party payers who may be liable for the enrollee's medical care.

- The Auditor General is required to recommend mechanisms to prevent the enrollment of ineligible children in the program. The report is due to the Governor and Legislature by March 1, 2005.

- The Florida Healthy Kids Corporation is required to contract for an actuarial study on the impact of full pay members on the Florida KidCare program.

- The Auditor General is also required to periodically audit the Florida Healthy Kids Program through FY 2005-06 to ensure that only eligible children are enrolled. It authorizes the Auditor General to access records from the Corporation or any independent auditor or contractor and any books, accounts, records or other documentation relating to the corporation.

- The Office of Program Policy Analysis and Government Accountability is required to perform a study on KidCare premiums and provide a report to the Legislature by January 1, 2005.

- Provides an appropriation of $25 million for FY 2003-2004 to serve the 90,280 children who submitted an application to the KidCare program as of January 30, 2004 and are determined eligible for Title XXI funding.

These provisions became law upon approval by the Governor on March 11, 2004, except as otherwise provided.
Vote: Senate 25-14; House 80-37

TRUST FUNDS

Agency for Health Care Administration

The following trust funds are recreated within the department:

		Effective Date
S 946	Health Care Trust Fund	11/04/2004
S 948	Administrative Trust Fund	11/04/2004
S 950	AHCA Tobacco Settlement	11/04/2004
S 952	Grants and Donations Trust Fund	11/04/2004
S 954	Medical Care Trust Fund	11/04/2004
S 956	Fla. Organ and Tissue Donor Education Trust Fund	11/04/2004
S 958	Resident Protection Trust Fund	11/04/2004
S 960	Public Medical Assistance	11/04/2004
S 962	Refugee Assistance Trust Fund	11/04/2004
S 1434	Quality of Long-Term Care Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Agency for Workforce Innovation

The following trust funds are recreated within the department:

		Effective Date
S 1020	Administrative Trust Fund	11/04/2004
S 1022	Child Care and Development Trust Fund	11/04/2004
S 1024	Displaced Homemaker Trust Fund	11/04/2004
S 1026	Employment Security Administration Trust Fund	11/04/2004
S 1028	Welfare Transition Trust Fund	11/04/2004
S 1030	Revolving Trust Fund/Workforce Innovation Trust Fund	11/04/2004
S 1032	Special Employment Security Administrative Trust Fund	11/04/2004
S 1034	Unemployment Compensation Benefit Trust Fund	11/04/2004
S 1036	Unemployment Compensation Trust Fund Clearing Account	11/04/2004

Vote: Senate 40-0; House 113-0

Department of Agriculture and Consumer Services

The following trust funds are recreated within the department:

		Effective Date
S 750	Administrative Trust Fund	11/04/2004
S 752	Agricultural Law Enforcement Trust Fund	11/04/2004
S 754	Citrus Inspection Trust Fund	11/04/2004
S 756	Contracts and Grants Trust Fund	11/04/2004

			Effective Date
S	758	Division of Licensing Trust Fund	11/04/2004
S	760	General Inspection Trust Fund	11/04/2004
S	764	Florida Forever Program Trust Fund	07/01/2004
S	766	Agricultural Emergency Eradication Trust Fund	11/04/2004
S	768	Incidental Trust Fund	11/04/2004
S	770	Market Trade Show Trust Fund	11/04/2004
S	772	Markets Improvement Working Capital Trust Fund	11/04/2004
S	774	Plant Industry Trust Fund	11/04/2004
S	776	Pest Control Trust Fund	11/04/2004
S	778	Quarter Horse Racing Program Trust Fund	11/04/2004
S	780	Relocation and Construction Trust Fund	11/04/2004
S	782	Florida Saltwater Products Promotion Trust Fund	11/04/2004
S	784	Federal Law Enforcement Trust Fund	11/04/2004
S	786	Viticulture Trust Fund	11/04/2004
S	788	Florida Agricultural Promotion Campaign Trust Fund	11/04/2004
S	790	Conservation and Recreation Lands Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Department of Business and Professional Regulation

The following trust funds are recreated within the department:

			Effective Date
S	804	Alcoholic Beverage and Tobacco Trust Fund	11/04/2004
S	806	Cigarette Tax Collection Trust Fund	11/04/2004
S	808	Pari-mutuel Wagering Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Department of Children and Family Services

The following trust funds are recreated within the department:

			Effective Date
S	874	Administrative Trust Fund	11/04/2004
S	876	Alcohol, Drug Abuse and Mental Health Trust Fund	11/04/2004
S	878	Child Welfare Training Trust Fund	11/04/2004
S	880	Children and Adolescents Sub. Abuse Trust Fund	11/04/2004
S	884	CFS Department Tobacco Settlement Trust Fund	11/04/2004
S	886	Domestic Violence Trust Fund	11/04/2004
S	888	Federal Grants Trust Fund	11/04/2004
S	890	Grants and Donations Trust Fund	11/04/2004
S	892	Operations and Maintenance Trust Fund	11/04/2004
S	894	Refugee Assistance Trust Fund	11/04/2004
S	896	Social Services Block Grant Trust Fund	11/04/2004
S	898	Working Capital Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

S	860	Welfare Transition Trust Fund	11/04/2004

Vote: Senate 39-0; House 115-0

Department of Community Affairs

The following trust funds are recreated within the department:

		Effective Date
S 986	Administrative Trust Fund	11/04/2004
S 990	Florida Small Cities Community Development Trust Fund	11/04/2004
S 992	Community Services Block Grant Trust Fund	11/04/2004
S 994	Energy Consumption Trust Fund	11/04/2004
S 996	Emergency Management Trust Fund	11/04/2004
S 998	Florida Communities Trust Fund	11/04/2004
S 1006	Grants and Donations Trust Fund	11/04/2004
S 1010	Low-Income Home Energy Assistance Trust Fund	11/04/2004
S 1012	Operating Trust Fund	11/04/2004
S 1014	Federal Emergency Management Program Trust Fund	11/04/2004
S 1016	U.S. Contributions Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

S 1000	Local Government Housing Trust Fund	11/04/2004

Vote: Senate 40-0; House 115-0

S 1002	State Housing Trust Fund	11/04/2004

Vote: Senate 40-0; House 119-0

Department of Education

The following trust funds are recreated within the department:

		Effective Date
S 1056	Florida Endowment for Vocational Rehabilitation Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Department of Elderly Affairs

The following trust funds are recreated within the department:

		Effective Date
S 936	Administrative Trust Fund	11/04/2004
S 938	Tobacco Settlement Trust Fund	11/04/2004
S 940	Federal Grants Trust Fund	11/04/2004
S 942	Grants and Donations Trust Fund	7/01/2004
S 944	Operations and Maintenance Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Department of Environmental Protection

The following trust funds are recreated within the department:

		Effective Date
S 722	Invasive Plant Control Trust Fund	11/04/2004
S 724	Air Pollution Control Trust Fund	11/04/2004
S 726	Florida Coastal Protection Trust Fund	11/04/2004
S 728	Conservation and Recreation Lands Trust Fund	11/04/2004
S 730	Ecosystem Management and Restoration Trust Fund	07/01/2004
S 732	Inland Protection Trust Fund	11/04/2004
S 736	Internal Improvement Trust Fund	11/04/2004
S 738	Non-mandatory Land Reclamation Trust Fund	11/04/2004
S 740	Solid Waste Management Trust Fund	11/04/2004
S 742	State Park Trust Fund	11/04/2004
S 744	Water Management Lands Trust Fund	11/04/2004
S 746	Water Quality Assurance Trust Fund	11/04/2004
S 748	Lake Okeechobee Trust Fund	07/01/2004

Vote: Senate 40-0; House 113-0

Department of Financial Services

The following trust funds are recreated within the department:

		Effective Date
S 816	Unclaimed Property Trust Fund	11/04/2004
S 818	Florida Casualty Insurance Risk Management Trust Fund	11/04/2004
S 822	Federal Use of State Lands Trust Fund	11/04/2004
S 824	Insurance Regulatory Trust Fund	11/04/2004
S 826	Preneed Funeral Contract Consumer Trust Fund	11/04/2004
S 828	Miscellaneous Deductions Restoration Trust Fund	11/04/2004
S 830	Rehabilitation Administrative Trust Fund	11/04/2004
S 832	Treasurer's Administrative and Investment Trust Fund	11/04/2004
S 834	Trust Funds Trust Fund	11/04/2004
S 838	Workers' Compensation Trust Fund	11/04/2004
S 840	Special Disability Trust Fund	11/04/2004
S 842	Public Deposits Security Trust Fund	11/04/2004
S 1236	Administrative Trust Fund	11/04/2004
S 1692	Financial Institutions' Regulatory Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

S 2648	Public Deposits Security Trust Fund	11/04/2004

Vote: Senate 38-0; House 115-0

Financial Services/Office of Financial Regulation

The following trust funds are recreated within the department:

		Effective Date
S 844	Administrative Trust Fund	11/04/2004

		Effective Date
S 846	Anti-Fraud Trust Fund	11/04/2004
S 848	Financial Institutions' Trust Fund	11/04/2004
S 852	Regulatory Trust Fund	11/04/2004
S 854	Securities Guaranty Trust Fund	11/04/2004
S 856	Comptroller's Federal Equitable Sharing Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Financial Services/Office of Insurance Regulation

The following trust funds are recreated within the department:

		Effective Date
S 1240	Insurance Regulatory Trust Fund	11/04/2004
S 1694	Workers' Compensation Administration Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Department of Health

The following trust funds are recreated within the department:

		Effective Date
S 900	Administrative Trust Fund	11/04/2004
S 902	DOH Tobacco Settlement Trust Fund	11/04/2004
S 904	County Health Department Trust Fund	11/04/2004
S 906	Donations Trust Fund	11/04/2004
S 908	Florida Drug, Device and Cosmetic Trust Fund	11/04/2004
S 910	Emergency Medical Services Trust Fund	11/04/2004
S 912	Epilepsy Services Trust Fund	11/04/2004
S 914	Federal Grants Trust Fund	11/04/2004
S 916	Grants and Donations Trust Fund	11/04/2004
S 918	Medical Quality Assurance Trust Fund	11/04/2004
S 920	Brain and Spinal Cord Injury Trust Fund	11/04/2004
S 922	Maternal and Child Health Block Grant Trust Fund	11/04/2004
S 924	Operations and Maintenance Trust Fund	11/04/2004
S 926	Planning and Evaluation Trust Fund	11/04/2004
S 928	Preventive Health Services Trust Fund	11/04/2004
S 930	Radiation Protection Trust Fund	11/04/2004
S 932	Social Services Block Grant Trust Fund	11/04/2004
S 934	United States Trust Fund	11/04/2004
S 1242	Rape Crisis Program Trust Fund	11/04/2004
S 1244	Florida Center for Nursing Trust Fund	11/04/2004
S 1246	Nursing Student Loan Forgiveness Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

S 858	Welfare Transition Trust Fund	11/04/2004

Vote: Senate 39-0; House 118-0

Florida Department of Law Enforcement

The following trust funds are recreated within the department:

		Effective Date
S 1044	Forfeiture and Investigative Support Trust Fund	11/04/2004
S 1046	Operating Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Department of Legal Affairs

The following trust fund is recreated within the department:

		Effective Date
S 1038	Administrative Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Legislature

The following trust funds are recreated within the department:

		Effective Date
S 716	Executive Branch Lobby Registration Trust Fund.....	11/04/2004
S 718	Grants and Donations Trust Fund	11/04/2004
S 720	Legislative Lobbyist Registration Trust Fund.....	11/04/2004

Vote: Senate 40-0; House 113-0

Department of State

The following trust funds are recreated within the department:

		Effective Date
S 966	Florida Fine Arts Trust Fund.....	11/04/2004
S 968	Grants and Donations Trust Fund	11/04/2004
S 974	Library Services Trust Fund.....	11/04/2004
S 976	Cultural Institutions Trust Fund	11/04/2004
S 978	Elections Operating Trust Fund	11/04/2004
S 980	Historical Resources Operating Trust Fund	11/04/2004
S 984	Records Management Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

State Board of Administration

The following trust funds are recreated within the board:

		Effective Date
S 796	Administrative Expense Trust Fund.....	11/04/2004

Vote: Senate 40-0; House 113-0

State Board of Administration/Division of Bond Finance

The following trust funds are recreated within the division:

		Effective Date
S 792	Bond Fee Trust Fund	11/04/2004
S 794	Arbitrage Compliance Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

State Courts/Office of the Clerk of the Circuit Court

The following trust fund is recreated within the Office of the Clerk of the Circuit Court:

		Effective Date
S 1054	Public Records Modernization Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

Department of Veterans' Affairs

The following trust funds are recreated within the department:

		Effective Date
S 862	Federal Grants Trust Funds	11/04/2004
S 864	Grants and Donations Trust Fund	11/04/2004
S 866	Operations and Maintenance Trust Fund	11/04/2004
S 868	State Homes for Veterans Trust Fund	11/04/2004
S 870	Florida World War II Veterans Memorial Trust Fund	11/04/2004

Vote: Senate 40-0; House 113-0

CS/SB 1050 — Consumer Frauds Trust Fund

by Appropriations Committee and Senator Smith

The bill terminates the Consumer Frauds Trust Fund (FLAIR # 212127) within the Justice Administrative Commission. State attorneys use the trust fund to deposit proceeds from judgments won in consumer fraud cases in order to pay their costs of prosecution. The bill requires that all balances and revenues of the Consumer Frauds Trust Fund be deposited in the Grants and Donations Trust Fund within the Justice Administrative Commission. The Justice Administrative Commission must pay any outstanding obligations of the trust fund with the remaining balance. The Chief Financial Officer must close out the fund using generally accepted accounting principles.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 113-0

SB 1690 — Trust Fund Terminations

by Senator Peaden

This bill terminates the three trust funds listed below; specifies sources to which remaining balances are to be transferred, and instructs the Chief Financial Officer to close out and remove the terminated funds from the various state accounting systems. The bill repeals s. 292.085, F.S.

- Florida Korean Veterans Memorial Matching Trust Fund - Any remaining balance will be transferred to the Florida World War II Memorial Trust Fund.

- Department of Veterans' Affairs Tobacco Settlement Trust Fund - The bill repeals s. 292.085, F.S.

- Design and Construction Trust Fund - Any remaining balance will be transferred to Federal Grants Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 113-0

CS/SB 2644 — Trust Funds Exempt, Modify or Terminate

by Appropriations Committee and Senator Clary

This bill makes changes to certain trust funds pursuant to s. 215.3206(f), F.S., which requires a legislative review of each of the trust funds in an agency subject to the four year review cycle. The bill provides for termination, exemption or modification of specified trust funds within the Department of Environmental Protection, the Department of Financial Services, the Office of Financial Regulation, the Department of Management Services, the Department of Revenue, the Department of Business and Professional Regulation, the Department of Agriculture and Consumer Services, the State Board of Administration, and the Division of Bond Finance. The majority of the terminated trust funds are no longer in use. The exceptions are trust funds which are consolidated with other trust funds to improve management efficiencies.

The following trust funds within the following departments are terminated:

Department of Environmental Protection:

- The Forfeited Property Trust Fund
- The Marine Resources Conservation Trust Fund
- The Federal Law Enforcement Trust Fund
- The Save the Manatee Trust Fund
- The Project Construction Trust Fund upon the maturity of all bonds secured. The bond retirement date is July 1, 2007.

Department of Financial Services:
- The Consolidated Payment Trust Fund
- The Self-Insurance Assessment Trust Fund
- The Working Capital Trust Fund

Office of Financial Regulation:
- Mortgage Brokerage Guaranty Fund

Department of Management Services:
- Motor Vehicle Operating Trust Fund
- The Social Security Contribution Trust Fund
- The State Employee Child Care Revolving Trust Fund
- The State Employees Savings Bond Trust Fund

Department of Revenue:
- The Corporation Tax Administration Trust Fund
- The Drug Enforcement Trust Fund
- The Intangible Tax Trust Fund
- Railroad and Private Car Tax Clearing Trust Fund
- The Sales Tax Security Deposit Trust Fund
- The Working Capital Trust Fund
- The Municipal Financial Assistance Trust Fund

Department of Business and Professional Regulation:
- The Child Labor Law Trust Fund
- The Crew Chief Registration Trust Fund
- The Tobacco Settlement Trust Fund
- The Workers' Compensation Administration

Department of Agriculture and Consumer Services:
- Working Capital Trust Fund

This bill renames four trust funds within the Department of Financial Services and one trust fund within the Office of Financial Regulation.

This bill substantially amends the following sections of the Florida Statutes: 17.43, 199.292, 121.011, 121.031, 121.141, 122.12, 122.26, 122.27, 122.35, 215.20, 215.32, 253.03, 287.064, 450.155, 450.30, 450.31, 494.0017, 494.0041, 494.0072, 501.2101, 650.04, 650.05, 895.09, and 932.7055.

This bill repeals the following sections of the Florida Statutes: 29.2533, 110.151(7), 122.13, 122.30, 122.351, 440.501, 569.205, and 650.06.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 115-1

CS/SB 2646 — Trust Funds/Terminations

by Appropriations Committee and Senator Webster

This bill is the result of the four-year sunset review of trust funds in the Transportation and Economic Development agencies. The bill terminates obsolete and unnecessary funds including: the Publications Revolving Trust Fund, the Ringling Museum Investment Trust Fund, and the Library Construction Trust Fund in the Department of State; the Civil Fines Clearing Trust Fund in the Department of Highway Safety and Motor Vehicles; and the Governor's Council on Criminal Justice Trust Fund, and the Coastal Zone Management Trust Fund in the Department of Community Affairs.

Fee revenue supporting the publication and distribution of the Florida Administrative Weekly currently deposited into the Publications Revolving Trust Fund is redirected to the Records Management Trust Fund.

The bill clarifies the use of the Emergency Management, Preparedness, and Assistance Trust Fund to include implementation of state and local emergency management programs, training, and state match for federal disaster relief assistance; provides an exemption to the Service Charge to General Revenue for specified voluntary contributions held in a fiduciary capacity by the state; and repeals the termination of the Welfare Transition Trust Fund on July 1, 2005, as this trust fund was recreated in Senate Bill 1028.

The following trust funds are exempt from termination pursuant to the criteria in s. 19(f), Art. III, State Constitution:

Executive Office of the Governor

- Administered Funds Trust Fund

Department of Transportation

- Central Florida Beltway Trust Fund
- Everglades Parkway Construction Trust Fund
- Turnpike Renewal and Replacement Trust Fund
- Turnpike General Reserve Trust Fund
- Turnpike Bond Construction Trust Fund
- Jacksonville Transportation Authority Project Construction Trust Fund
- Jefferson County 1992 Project Construction Trust Fund
- State Transportation Trust Fund
- Right-of-Way Acquisition and Bridge Construction Trust Fund

Department of Highway Safety and Motor Vehicles

- International Registration Clearing Trust Fund
- License Tax Collection Trust Fund
- Motor Vehicle License Clearing Trust Fund
- Security Deposits Trust Fund

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-1

HB 1881 — Trust Funds; terminates specified trust funds within Justice Administrative Commission, Corrections Department, Legal Affairs Department, and State Courts System

by Appropriations Committee and Rep. Negron

This bill terminates four trust funds: the Capital Collateral Trust Fund used by the Capital Collateral Regional Counsels; the Consumer Frauds Trust Fund used by the state attorneys; the Family Courts Trust Fund in the state courts; and the Operating Trust Fund within the Department of Corrections. The bill provides for the balances in the trust funds remaining after payment of all outstanding debts to be transferred to the General Revenue Fund, except for the Consumer Frauds Trust Fund balances, which are to be transferred to the Grants and Donations Trust Fund in the Justice Administrative Commission. Changes are also made as appropriate to redirect any statutorily generated revenues of these trust funds to the General Revenue Fund. The bill repeals provisions governing the administration of the Family Courts Trust Fund in the state courts to conform to the termination of that trust fund. The bill amends ss. 27.702, 28.101, 741.01, and 948.09, F.S., and repeals s. 25.388, F.S.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 111-4

FLORIDA HURRICANE CATASTROPHE FUND

CS/CS/CS/CS/SB 2488 — Florida Hurricane Catastrophe Fund

by Appropriations Committee; Finance and Taxation Committee; Governmental Oversight and Productivity Committee; Banking and Insurance Committee; and Senator Alexander

This committee substitute expands the amount of reinsurance coverage available from the Florida Hurricane Catastrophe Fund (FHCF or fund). The fund is a tax-exempt source of reimbursement to property insurers for a selected percentage of hurricane losses above the insurer's retention (deductible). By providing an additional source of reinsurance to what is available in the private market, the FHCF is designed to stabilize the residential property insurance market in the event of a major hurricane. The fund enables insurers to write more residential property insurance in the state and also acts to lower residential property insurance premiums for consumers, because FHCF reinsurance is significantly less expensive than private reinsurance. The committee substitute makes the following major changes to the Florida Hurricane Catastrophe Fund:

- Increases the capacity of the FHCF from $11 billion to $15 billion for both the initial and subsequent storm seasons, and provides for the capacity to be adjusted annually based upon the percentage change in the exposure of the fund from the previous contract year. The capacity cannot grow by an amount greater than the increase in the fund's cash balance from the previous year. (Effective June 1, 2004.)

- Lowers the aggregate insurer retention (deductible) from an estimated $4.866 billion for contract year 2004-2005, to $4.5 billion dollars. In subsequent years the new retention will be adjusted based upon the reported growth in exposure from the prior contract year. (Effective June 1, 2004.)

- Provides an option for insurers to select coverage for contract year 2004-2005 either under current law or under the expanded coverage offered in the bill. Insurers who select FHCF reinsurance coverage under current law will have coverage based on $11 billion capacity and $4.866 billion aggregate retention. In order to qualify for coverage under current law, an insurer must select that option by June 1, 2004.

- Increases the FHCF assessment authority against property and casualty insurers from 4 to 6 percent for any single year's storm and from 6 to 10 percent for multiple storm seasons, in order to fund the increased capacity of the fund.

- Includes surplus lines policies in the fund assessment base.

- Excludes medical malpractice premiums from the assessment base until May 31, 2007.

The committee substitute also allows insurers to collect a surcharge from policyholders to pay for an emergency assessment without making a rate filing with the Office of Insurance Regulation, and requires insurers to include an appropriate adjustment to reflect the provisions of the committee substitute no later than its next annual rate filing or certification.

If approved by the Governor, these provisions take effect upon becoming law or as otherwise provided.
Vote: Senate 39-0; House 116-0

WORKERS' COMPENSATION

CS/SB 1926 — Workers' Compensation
by Banking and Insurance Committee and Senators Atwater and Lynn

Pursuant to the workers' compensation legislation enacted last year, (Chapter 2003-412, L.O.F.), each of the respective presiding officers of the Legislative Branch appointed members to the Joint Select Committee on Workers' Compensation Rating Reform to study the merits of requiring each workers' compensation insurer to individually file its expense and profit portion of a rate filing, while permitting each insurer to use a loss cost filing made by a licensed rating organization. The committee was also charged with studying other rating options that would promote greater competition while protecting employers from rates that are excessive, inadequate, or unfairly discriminatory. The committee substitute incorporates the committee recommendations by making the following changes:

- Revises the criteria the Office of Insurance Regulation (OIR) must use in considering an application by an insurer for a rate deviation from the approved rate for worker's compensation filed by a licensed rating organization. In determining whether to approve or disapprove the deviation, the OIR would continue to consider standards related to the actuarial soundness of the rate and the financial condition of the insurer, but would no longer consider the impact of the deviation on the composition of the market, the stability of rates, and the level of competition of market.

- Requires each workers' compensation insurer to notify the OIR of a significant underwriting change that materially limits or restricts the number of policies or premiums written in Florida.

- Allows workers' compensation insurers to use rates in excess of their filed rates with the written consent of the policyholder for a period of 3 years, for employers the insurer takes

or keeps out of the Workers' Compensation Joint Underwriting Association, without these policies being subject to the current maximum limitation of 10 percent of an insurer's commercial policies.

- Requires the OIR to submit an annual report to the Legislature that evaluates competition in the workers' compensation market in Florida, including the availability and affordability of coverage and whether the current market structure and performance are conducive to competition, based upon economic analysis.

The committee substitute also allows a workers' compensation insurer to apply a rate deviation approved by the OIR "to a particular insured," meaning some employers, but not to all employers, based on underwriting guidelines filed with and approved by the OIR. This provision is particularly advantageous to an insurer that is not part of an insurer group since insurer groups are currently allowed to do this by having an approved deviation for one company but not in another company within the same insurer group. This provision would also allow an insurer that is part of an insurer group to apply a deviation to some employers and not to other employers, based on approved underwriting guidelines.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-0

HB 1251 — Workers' Compensation /Underwriting Plan

by Rep. Berfield and others (CS/CS/SB 2270 by Appropriations Committee and Banking and Insurance Committee)

This committee substitute provides significant changes to the Florida Workers' Compensation Joint Underwriting Association (JUA) that are designed to address availability and affordability of coverage for small employers that are new businesses or have good loss experience. The committee substitute provides a one-time appropriation of $10 million from the Workers' Compensation Administration Trust Fund (WCATF) in the Department of Financial Services (DFS) for transfer to the JUA to fund any deficit in the JUA. Additionally, the committee substitute authorizes the JUA to request from the DFS transfer of an amount not to exceed $15 million from the WCATF to fund any remaining subplan D deficits, subject to approval by the Legislative Budget Commission.

Last year, the Legislature addressed concerns regarding affordability and availability of workers' compensation coverage for small employers by capping rates in the JUA, the insurer of last resort, for these employers in subplan D of the JUA (Chapter 2004-412, L.O.F.). Although these policies were more affordable due to the artificial caps, the policies were assessable meaning that these employers could be assessed for additional premiums to cover any deficits in the subplan. Because of these premium caps in subplan D, the JUA could not charge actuarially sound rates,

resulting in a $10 million deficit in 2003. If no additional funding is received to cover this deficit, the JUA projects that it will incur a $35 million deficit by the end of 2004.

Eligibility and Premiums for Tiers One, Two, and Three

The committee substitute restructures the existing JUA by eliminating the current subplans and creating three tiers with eligibility based on an employer's loss experience, effective July 1, 2004. Tier One provides coverage for employers that have an experience-rating modification factor of less than 1.0 or, if nonrated, the employers must have a continuous three-year history of workers' compensation coverage and a good loss history, as specified. Tier Two provides coverage for new employers, employers with moderate experience (experience-rating modification factor equal to or greater than 1.0 but not greater than 1.10), and employers with good experience who do not have a continuous 3-year history of workers' compensation coverage. Tier Three provides coverage for all other employers.

Premiums in Tier One and Tier Two are capped at 25 percent and 50 percent above the premiums of the voluntary market, respectively, until there is sufficient experience for the JUA to establish actuarially sound rates for the tiers, but no earlier than January 1, 2007. Employers in Tier Three will be charged actuarially sound rates and only these policies will be assessable meaning that policyholders could be assessed additional premiums to cover any deficits. Policyholders in all tiers are subject to a $475 annual administrative fee.

The JUA is required to establish actuarially sound premiums for minimum premium policies in Tiers One and Two for employers that do not employ nonexempt employees or report payroll, which is less than minimum wage for one employee for one year at 40 hours per week. However, premiums for such policies may not exceed $2,500. This premium cap will exist until there is sufficient experience for the JUA to establish actuarially sound rates for Tiers One and Two or no earlier than January 1, 2007.

Funding for Deficits in the JUA

In the event a deficit attributable to subplan D remains after the $10 million appropriation to the JUA, the JUA is authorized to request from the DFS transfer of an amount not to exceed $15 million from the WCATF subject to approval by the Legislative Budget Commission. This additional funding mechanism will sunset on July 1, 2007.

Any deficit remaining in Tier One or Tier Two or any deficit remaining from any of the former subplans are funded by an assessment on all workers' compensation policies in the voluntary market for a period of 1 year. This "below-the-line" assessment mechanism will sunset July 1, 2007. The JUA is authorized to request funding for any deficit in Tier Three in the event assessments on Tier Three policyholders are inadequate to fund such a deficit. Subplan D policyholders will not be subject to assessments for the funding of any deficits.

This committee substitute also exempts the JUA from the premium tax and assessments for the WCATF and the Special Disability Trust Fund.

Independent Evaluations and Reports

This committee substitute requires the Auditor General to conduct an operational audit of the JUA and engage an independent actuary to evaluate the adequacy of the rates and reserves of the JUA and report to the Legislature no later than December 31, 2004. The committee substitute appropriates $50,000 from the Workers' Compensation Administration Trust Fund for the independent actuarial analysis. The committee substitute also provides that the JUA is subject to Single Audit Act provisions, as provided in s. 215.97, F.S., if the JUA expends more than $300,000 in state funds in any year.

If approved by the Governor, these provisions take effect July 1, 2004, except as otherwise provided.
Vote: Senate 40-0; House 119-0

INSURANCE

CS/CS/SB 2038 — Insurance

by Commerce, Economic Opportunities, and Consumer Services Committee; Banking and Insurance Committee; and Senator Fasano

This committee substitute provides for comprehensive changes pertaining to property and casualty insurance; automobile insurance; credit life and disability insurance; premium finance companies; adoption of mortality tables; reinsurance; and local government workers' compensation self insurance. Specifically, the measure provides for the following changes to current law:

Property Insurance

- Mandates that the Division of Consumer Services of the Department of Financial Services designate an employee of the division as a primary contact for consumers on insurance issues relating to sinkholes.

- Requires the Florida State University Department of Risk Management and Insurance to conduct a feasibility and cost-benefit study of a potential Florida Sinkhole Insurance Facility and other matters related to the affordability and availability of sinkhole insurance. The university must submit a preliminary report of its analysis, findings, and recommendations to the Financial Services Commission and the Legislature by February 1, 2005, with a final report due on April 1, 2005. The study is to be funded

through an assessment on insurers issuing property insurance in this state and the budget for the study may not exceed $300,000.

- Provides that if a mortgage lender fails to timely pay an insurance premium, and the payment is not more than 90 days overdue, the insurer must reinstate the insurance policy retroactive to the date of cancellation, and the lender must reimburse the property owner for any penalty or fees imposed by the insurer and paid by the property owner to reinstate the policy. If the premium payment is more than 90 days overdue, or if the insurer refuses to reinstate the policy, the lender must pay the difference between the cost of the previous insurance policy and a new, comparable policy for 2 years.

- Mandates that insurers follow the following requirements, unless the insurance policy provides otherwise, when a homeowner's insurance policy provides for the adjustment and settlement of first-party losses based on repair or settlement costs.

    - Any physical damage that occurs as a result of the repair or replacement and that is covered by the policy shall be included in the loss to the extent of any applicable limits.
    - The insurer may not require the insured to pay for betterment required by ordinance or code, except the applicable deductible, unless specifically excluded or limited by the policy.
    - When a loss requires the repair or replacement of portions of a home, and the replaced items do not match in quality, color, or size, the insurer must make reasonable repairs or replacement of items in adjoining areas of the home. In determining the extent of repairs or replacements of items in adjoining areas, the insurer may consider cost, the degree of uniformity that can be achieved without such cost, the remaining useful life of the undamaged portion, and other relevant factors. This requirement does not make the insurer a warrantor of repairs, and does not authorize or preclude enforcement of policy provisions relating to settlement disputes.

- Provides that an insurer cannot use a single claim on a property insurance policy which is the result of water damage to cancel or non-renew coverage, unless the insured failed to take action (reasonably requested by the insurer) to prevent a future similar occurrence of damage to the insured property. This provision is effective upon the act becoming a law.

- Requires the Legislative Auditing Committee to contract with the Department of Risk Management and Insurance at Florida State University to conduct a detailed analysis of factors affecting costs and potential assessments on consumers, and availability, of personal lines property and casualty insurance in Florida generally and, in particular, in those areas in which coverage is underwritten by the Citizens Property and Casualty Insurance Company. The analysis is due no later than February 1, 2005, and shall be

funded by assessments on insurers issuing personal lines property and casualty insurance in this state. The budget for the study may not exceed $250,000. The Office of Insurance Regulation is authorized to collect the assessments, which shall be pro rated among the insurers using a prescribed formula based on direct earned premiums.

Automobile Insurance

The committee substitute provides consumer protections for settlement practices which apply to adjustment and settlement of personal and commercial motor vehicle insurance claims. The legislation codifies many of the provisions under former Rule 4-116.027, F.A.C., pertaining to motor vehicle consumer protections. The measure provides as follows:

- Insurers may not, when liability and damages owed under the policy are reasonably clear, recommend that a third-party claimant make a claim under his or her own policy solely to avoid having to pay the claim under the policy issued by that insurer.
- Insurers that elect to repair a vehicle, and require a specific repair shop for vehicle repairs, shall cause the damaged vehicle to be restored to its physical condition as to performance and appearance immediately prior to the loss at no additional cost to the insured or third-party claimant other than as stated in the policy.
- Insurers may not require the use of replacement parts in the repair of a motor vehicle which are not at least equivalent in kind and quality to the damaged parts prior to the loss in terms of fit, appearance, and performance.
- Insurers must use specified methods when an insurance policy provides for the adjustment and settlement of first-party motor vehicle total losses on the basis of actual cash value or replacement provisions.
- When the amount offered in settlement reflects a reduction by the insurer because of betterment or depreciation, the information relating to a deduction must be maintained with the insurer's claim file.
- Insurers shall, if partial losses are settled on the basis of a written estimate, supply insureds with a copy of the estimate upon which the settlement is based.
- Insurers shall provide notice to insureds before termination of payment for previously authorized storage charges and such notice shall provide 72 hours for insureds to remove the vehicle from storage.
- Insurers may defer payment of the sales tax (unless and until the obligation has been incurred), if such tax will be incurred by a claimant upon replacement of a total loss or upon repair of a partial loss.

Prior to a civil cause of action being filed against the Florida Automobile Joint Underwriting Association (FAJUA) under s. 624.155, F.S., the FAJUA and the Department of Financial Services must be given 90 days' written notice of the violation which is the basis for the cause of action. This change represents a 30-day increase from the 60-day notice provision mandated under s. 624.155, F.S. The authority for this notice expires on October 1, 2007. The measure also provides that the FAJUA may require from its insured proof that he or she has obtained the

mandatory types and amounts of insurance from another admitted carrier prior to the cancellation of a policy the insured obtained from the FAJUA. This section is effective July 1, 2004, and is applicable to cancellation requests and notices received on or after that date.

Refusal to Insure

Provides that when an insurer refuses to provide coverage (includes private passenger automobile or personal lines residential property insurance) to an applicant due to adverse underwriting information, the insurer must provide to the applicant specific information regarding the reasons for the refusal to insure. If the refusal to insure is based on a loss underwriting history or a report from a consumer reporting agency, the insurer must identify the loss underwriting history and notify the applicant of his or her right to obtain a copy of the report from the consumer reporting agency.

Workers' Compensation

Authorizes the Division of Workers' Compensation to enter into a penalty payment agreement schedule with an employer who is unable to pay the penalty in full at the time a stop-work order is issued at a jobsite for noncompliance with workers' compensation coverage requirements and allows an employer to resume business operations if the employer meets coverage requirements and the terms of the penalty payment agreement.

Mortality Tables and Reserve Requirements

- Exempts credit disability insurance from the requirement that a health insurer's active life reserve must not be less than the pro rata gross unearned premiums for such policies. The exemption will allow reserves to be set using new mortality and disability tables adopted under this legislation. Use of these tables should enable insurers to set more accurate reserves.

- Permits the Financial Services Commission to adopt the National Association of Insurance Commissioner's (NAIC) mortality and disability tables by rule. Under current law, mortality and disability tables are periodically updated and adopted for use by all states. This provision permits the commission to adopt updated tables by rule for policies issued on or after July 1, 2004. The provision applies to ordinary life policies; disability benefits in or supplemental to ordinary policies; accidental death benefits in or supplemental to policies; annuities and pure endowment contracts.

- Prescribes minimum reserves for single-premium credit disability insurance, monthly premium credit life insurance, monthly premium credit disability insurance, and single-premium credit life insurance policies issued prior to or after January 1, 2004.

- Permits an insurance company to substitute the ordinary mortality tables adopted after 1980 by the National Association of Insurance Commissioners for use in determining the minimum non-forfeiture standard. The tables would have to be adopted by rule of the Financial Services Commission.

- Repeals s. 625.131, F.S., which requires the minimum reserve for credit life and disability policies to be the unearned gross premium, and contains reserve requirements. The section is repealed due to the adoption of new standard ordinary mortality tables in s. 625.121(13), F.S., which will be used to set reserves. The new mortality tables should enable insurers to set more accurate reserves.

Premium Finance Contracts

The committee substitute provides the requirements for canceling an insurance contract when a premium finance agreement contains a power of attorney or other authority enabling the premium finance company to cancel any insurance contract listed in the agreement. The legislation adds a time requirement that, when a financed insurance contract is canceled, the insurer must return the unpaid balance due under the finance contract to the premium finance company and any remaining unearned premium to the agent or insured, within 30 days of the cancellation date. The premium finance company must refund to the insured any refund due on the account within 15 days of the account being overpaid. However, if the refund is sent or credited to the agent, the premium finance company must return or credit to the agent the amount of the overpayment and notify the insured of the refunded amount.

The committee substitute also eliminates the $10 fee for filing forms with the Department of Financial Services regarding premium financing.

Reinsurance

The committee substitute revises requirements for reinsurance through use of a trust fund by a single assuming insurer (reinsurer) to provide that at least 50 percent of the funds in the trust, covering the assuming insurer's liabilities related to reinsurance ceded by United States ceding insurers, and that the trusted surplus must consist of assets of a quality substantially similar to the requirements under ch. 625, part II, F.S. The balance of the trust and trusted surplus may be funded through clean, irrevocable, unconditional, and evergreen letters of credit issued by a qualified U.S. financial institution.

Limited Insurance Agent Licenses

The committee substitute provides that a limited license for personal accident insurance may be issued to a business entity that offers motor vehicles for rent or lease and such entities may use part-time employees to offer such coverage. The measure also provides that a limited license for baggage and motor vehicle excess liability insurance may be issued to a business entity that

offers motor vehicles for rent or lease if the insurance activities are in connection with and incidental to the rental of motor vehicles. An entity applying for such a license is required to submit only one application for a license; is required to obtain a license for each office; and is required to pay applicable license fees. Such business entities may also use part-time employees.

Local Government Self-Insurance Funds

The committee substitute provides requirements for the creation of self insurance funds by two or more local governmental entities for paying workers' compensation benefits. The legislation specifies that local government self-insurance funds created after October 1, 2004, must initially be subject to the requirements of a commercial fund under s. 624.4621, F.S., and for the first 5 years, it will be subject to the requirements applied to commercial self-insurance funds or to group self-insurance funds. A local government self-insurance fund created after January 1, 2005, must, for its first 5 fiscal years, file with the Office of Insurance Regulation annual and quarterly financial statements of its financial condition, transactions, and affairs, including a statement of opinion on loss and loss adjustment expense reserves by a member of the American Academy of Actuaries.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 116-0

CS/SB 2588 — Insurance

by Banking and Insurance Committee and Senator Diaz de la Portilla

This committee substitute includes various changes related to insurance, listed below.

Nonresident Insurance Agents (Sections 1-14)

The committee substitute deletes certain statutory restrictions on nonresident insurance agents licensed in Florida, in response to a recent U.S. District Court ruling that such provisions are unconstitutional, as follows:

- Deletes the requirement that all insurance policies written under a nonresident general lines agent's license be countersigned by a Florida resident agent.
- Deletes the requirement that a nonresident agent must pay part of his or her commission to the countersigning resident agent.
- Deletes the prohibition against a nonresident agent having an office or place of business in this state and from having any pecuniary interest in any insurance agent or agency licensed as a resident of this state.
- Deletes the prohibition against a nonresident agent soliciting, negotiating, or effecting insurance contracts in this state unless accompanied by the countersigning resident agent.
- Deletes the prohibition against a nonresident agent being licensed as a surplus lines agent and establishes requirements for licensure of nonresident surplus lines agents.

Personal Lines Agent License (Sections 16-22)

The committee substitute authorizes the Department of Financial Services to issue a new type of insurance agent's license for a personal lines agent. Currently a general lines agent license is issued for all types of property and casualty insurance. The new license would be limited to property and casualty insurance sold to individuals and families for noncommercial purposes, such as auto insurance and homeowners insurance. (These provisions were originally contained in Senate Bill 2800 by Senator Argenziano.)

Rehabilitation and Liquidation of Insurers (Sections 28-36)

The committee substitute amends provisions in ch. 631, part I, F.S., Insurer Insolvency; Rehabilitation and Liquidation (which were originally included in Senate Bill 3024 by Senator Smith). These provisions are generally intended to strengthen the powers of the Department of Financial Services, as receiver of an insolvent insurer, to acquire the assets belonging to the insurer and thereby lessen the amount that must be assessed against other insurers to fund payment of the insolvent insurer's claims and debts. These changes include the following:

- Amends s. 631.021, F.S., to give exclusive jurisdiction to domiciliary courts that acquire jurisdiction over persons subject to this chapter in an insurance delinquency proceeding, and to give the Circuit Court of Leon County exclusive jurisdiction with respect to assets or property of any insurer subject to such proceedings.
- Amends s. 631.041, F.S., to provide that the estate of an insurer in rehabilitation or liquidation is entitled to actual damages, including costs and attorney's fees if it is injured by a willful violation of an applicable stay or injunction, plus additional sanctions as may be imposed by the receivership court.
- Amends s. 631.0515, F.S., to provide that a managing general agent or holding company with a controlling interest in a Florida domestic insurer is subject to jurisdiction of the court under the provisions of s. 631.025, F.S. The purpose is to enable a court to exercise jurisdiction over "shell corporations" designed to shelter an insurance company's assets.
- Amends s. 631.141(7), F.S., to allow the Department to recover expenses for employing a special agent, counsel, clerks, or assistants in a delinquency proceeding in which recovery of administrative expenses is authorized.
- Amends s. 631.205, F.S., to specify that an order of conservation, rehabilitation, or liquidation against an insurer cannot be deemed an anticipatory breach of a reinsurance contract, and cannot be used to retroactively revoke or cancel a reinsurance contract.
- Creates s. 631.206, F.S., which provides a standard arbitration provision to replace any other arbitration provision the insurer in receivership has entered into for resolution of disputes, which shall be void.
- Amends s. 631.261, F.S., to delete the intent requirement of current law so that any transfer of property by an insurer is voidable if it is made within 4 months prior to the commencement of any delinquency proceeding and gives any creditor a greater percentage of debt than any other creditor of the same class. The committee substitute

also provides that a transfer or lien upon the property of an insurer or its affiliate made between 4 months and 1 year prior to the commencement of a delinquency proceeding is void if the transfer or lien benefited a director, officer, employee, or other specified parties.

- Amends ss. 631.262 and 631.263, F.S., to provide that a transfer made within 1 year of a successful petition for a delinquency proceeding, or made after such petition, is not made until the insurer or affiliate has acquired rights in the transferred property.

Other Insurance Agent Issues

The committee substitute includes the following additional provisions related to insurance agents:

- Eliminates the requirement that at least 2 hours of instruction on the subject of unauthorized entities that sell insurance be included in the required 24 hours of continuing education classes for insurance agents every 2 years. (Section 15)
- Requires that each branch office of a general lines agent or agency have at least one licensed general lines agent who is appointed to represent one or more insurers. (Section 23)
- Provides that a salaried employee of Citizens Property Insurance Corporation who performs policy administrative services after the effectuation of a policy is not required to be a licensed insurance agent. (Section 24)
- Provides that an entity applying for a limited insurance agent license for baggage and motor vehicle excess liability insurance is required to submit only one application for all licenses to be issued for each office, and that a business entity offering this type of insurance or personal accident insurance under a limited license may use part-time employees to offer such insurance. (Section 25)
- Requires the completion of continuing education (CE) courses for the reinstatement of an insurance agent's license, appointment, or eligibility, after a second suspension. (Sections 44 and 45)

Notice of Workers Compensation Discount for Drug Free Workplace

The committee substitute requires workers' compensation insurers to notify employers of the availability of a discount for a drug free workplace plan at the time of the initial quote for the policy and at the time of each renewal of the policy. (Section 26)

Mutual Insurance Holding Company

The committee substitute provides an additional option to a mutual insurer that converts to a stock insurance company, through the formation of a mutual insurance holding company with a subsidiary stock insurance company. Prior law provided that policyholders of the subsidiary insurance company which was formerly the mutual insurer must be members of the mutual insurance holding company. Policyholders of any other subsidiary insurance company of the

mutual insurance holding company could not be members of the mutual insurance holding company unless they were policyholders of a subsidiary which was a mutual insurer which merged with the holding company. The committee substitute provides another option to allow policyholders of an affiliated stock insurer to be members of the mutual insurance holding company and have stock in the newly formed mutual insurance holding company if they were policyholders of a mutual insurer whose policies were assumed by the affiliated stock insurer. (Section 27)

Limitations on Coverage from Insurance Guaranty Associations

The committee substitute provides that neither the Florida Insurance Guaranty Association (FIGA) or the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) will provide coverage for an insurance claim against an insolvent insurer if the claim has been rejected by any other state guaranty fund on the grounds that the insured's net worth is greater than that allowed under that state's guaranty fund or liquidation law. An exception is provided for the FWCIGA for employers who, prior to April 30, 2004, entered into an agreement with FWCIGA preserving the employer's right to seek coverage of claims rejected by another state's guaranty fund. (Sections 37 and 38)

Warranty Associations

The committee substitute authorizes a sales representative who sells motor vehicle service agreements, home warranties, or service warranties for consumer products to offer rebates of his or her sales commission to consumers. The rebate amount must conform to a schedule that is prominently displayed in the sales representative's office and the same rebate must be offered to all similarly situated individuals. (Sections 39, 40, and 42)

The committee substitute also provides that a service warranty association is not required to maintain an unearned premium reserve or contractual liability insurance and may allow its premiums to net assets ratio to exceed 7-to-1 if the association has a net worth of at least $100 million; or the association maintains at least $750,000 in net assets and is a wholly owned subsidiary of a parent corporation with a net worth of at least $100 million which guarantees the performance of the warranty obligations of the association. (Section 41)

Cancellation of a Workers' Compensation Policy

The committee substitute provides that the cancellation of a workers' compensation policy, if requested by the policyholder, is effective on the date the insurer sends the notification to the insured, and would not be subject to the 30 days notice requirement of s. 440.42(3), F.S. (Section 43)

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-1

CS/CS/SB 2994 — Department of Financial Services

by Appropriations Committee; Banking and Insurance Committee; and Senator Posey

The committee substitute addresses various issues related to the Department of Financial Services as follows:

Regulation and Licensure of Insurance Adjusters

The committee substitute transfers the authority to license and regulate insurance adjusters from the Office of Insurance Regulation (OIR) to the Department of Financial Services (DFS). This was considered to be more efficiently and appropriately done by DFS which licenses and regulates insurance agents, rather than by OIR, which licenses and regulates insurance companies and other risk-bearing entities. (Sections 6, 15, 16, 18-75, and 81-83)

Titles of Agency Heads

- Allows the Chief Financial Officer, who is the agency head of DFS, to also be known as the "Treasurer."
- Allows the Director of the OIR, who is agency head of OIR for all matters other than rulemaking, to also be known as the "Commissioner of Insurance Regulation."
- Allows the Director of the Office of Financial Regulation (OFR), who is the agency head of OFR for all matters other than rulemaking, to also be known as the "Commissioner of Financial Regulation." (Section 6)

Board Appointments

The committee substitute provides that the Director of the OIR, rather than the Chief Financial Officer will make appointments to:

- The board of directors for the Florida Employee Long-Term Care Plan Act (Section 7);
- The State Comprehensive Health Information System Advisory Council;
- The Florida Commission on Hurricane Loss Projection Methodology (Section 79); and
- The board of the Small Employer Health Reinsurance Program (Section 80).

The committee substitute adds the Commissioner of Agriculture to the Financial Management Information Board and to the board's coordinating council and extends the date for repeal of the Enterprise Resource Planning Integration Task Force to July 1, 2008. (Sections 9 and10)

Investment and Financial Authority of the Chief Financial Officer

- Clarifies how the Chief Financial Officer administers a collateral management service for government agencies. (Section 4)

- Specifies that boards created by law or the State Constitution may invest in the Treasury Special Purpose Investment Account. (Section 5)
- Clarifies that the State Deferred Compensation Program is funded in part from fees charged by investment providers to plan participants. (Section 8)
- Clarifies that State University System employees are eligible to continue participation in the State Deferred Compensation Program. (Section 8)
- Allows for a centralized financing process under the Chief Financial Officer for the financing of Guaranteed Energy Performance Savings Contracts. (Section 11)
- Authorizes the Department of Financial Services to contract with entities that receive state funds for accounting and payroll services. (Section 1)

Banking

The committee substitute (Sections 84 through 108) makes various changes related to banks and financial institutions that are regulated by the Office of Financial Regulation. These provisions are identical to the provisions of CS/SB 2960 by Banking and Insurance Committee and Senator Alexander. See the summary of that committee substitute for details.

Viatical Settlement Contracts

The committee substitute provides that the offer, sale, and purchase of viatical settlement contracts and the regulation of viatical settlement providers shall be within the exclusive jurisdiction of the Office of Insurance Regulation under the provisions of ch. 626, part X, F.S. (Section 78)

Florida Deceptive and Unfair Trade Practices Act

The committee substitute specifies persons and entities that are not subject to the Florida Deceptive and Unfair Trade Practices Act (FDUPTA). The committee substitute more clearly matches the substance of this Section as it existed prior to 2003, to revise the changes made in 2003 that were intended to conform to the reorganization of the Department of Financial Services. Instead of exempting persons or activities regulated under laws administered by the Department of Financial Services, the committee substitute exempts any person or activity regulated under the laws administered by the former Department of Insurance which are now administered by the Department of Financial Services.

The committee substitute also provides an exemption to FDUPTA for: 1) causes of action pertaining to commercial real property if the parties executed a written lease that provides for the resolution of any dispute and the award of damages, and 2) causes of action concerning the failure to maintain real property if the Florida Statutes require the owner to comply with specified building code and maintenance requirements and provide a cause of action for failure to maintain property which provides remedies including attorney's fees. This provision does not affect actions by the Attorney General under FDUPTA or any action concerning residential

tenancies covered under ch. 83, part II, F.S., the Florida Residential Landlord and Tenant Act. (Section 13)

Cancellation of Workers' Compensation

The committee substitute provides that the cancellation of a workers' compensation policy, if requested by the policyholder, is effective on the date the insurer sends the notification to the insured, and would not be subject to the 30 days notice requirement of s. 440.42(3), F.S. (Section 109)

Unclaimed Property

The committee substitute makes various changes to The Florida Disposition of Unclaimed Property Act (ch. 717, F.S.) and related statutes, which provides the procedure for the escheat (reversion) and disposition of abandoned property to the state. The general purpose of the Act, which is administered by the Department of Financial Services, through its Bureau of Unclaimed Property, is to protect the interest of missing owners of property. These provisions are similar to those contained in CS/CS/SB 2288 by Judiciary Committee, Banking and Insurance Committee, and Senator Clary, which died in House Messages. The committee substitute makes the following changes (Sections 110 through 145):

- Requires electronic reporting of property by holders that have unclaimed property that identifies 25 or more apparent owners.
- Clarifies that unclaimed patronage refunds from rural electric cooperatives are not subject to reporting and delivering requirements, as well as intangible property held, issued, or owing by a business association in certain circumstances.
- Permits the sale of unclaimed property via the Internet.
- Provides a sales tax exemption for the sale of unclaimed property by the Department.
- Increases the amount of money held in the Unclaimed Property Trust Fund from $8 million to $15 million, before a transfer of the excess is made to State School Trust Fund.
- Allows the Bureau of Unclaimed Property 90 days to attempt to notify and return to the account owners, unclaimed property prior to releasing information regarding the unclaimed property.
- Revises the order of priority for claims filed by multiple parties on the same account.
- Requires hearings regarding the disposition of unclaimed property to take place in Tallahassee, Florida.
- Requires claimants to include photographic identification or a notarized sworn statement for unclaimed property claims, claims on behalf of a business entity or trust, and for certain persons intending to acquire ownership or entitlement of unclaimed property.
- Requires claimants to file certified copies of death certificates or court documents necessary to show entitlement to unclaimed property.

- Establishes requirements for making a property claim on behalf of a business or trust.
- Specifies grounds for disciplinary action and penalties against a property holder or locator, including not complying with the provisions of the chapter or rules or orders of the Department, or not abiding by a written agreement entered into with the Department, criminal conduct, and other grounds.
- Authorizes the Department to impose certain penalties, adopt rules regarding disciplinary guidelines, and seek any appropriate civil legal remedy against a person who wrongfully submits a claim.
- Establishes a formal registration process for owner representatives and states the causes for disciplinary action and penalties for violating registration regulations.
- Authorizes the Bureau of Unclaimed Property to initiate actions against property holders and to collect attorney's fees if successful.
- Authorizes the Department to impose penalties for willful failure to report property to the Department along with necessary information.
- Prohibits a person from receiving property that he or she is not entitled to receive or making an invalid or false claim to receive property. Authorizes the Department to bring a civil or administrative action to recover property remitted to a person not entitled to receive it, or against a person involved in receiving or attempting to receive unclaimed property they are not entitled to. Establishes criminal penalties for knowing involvement in filing a claim for unclaimed property the person is not entitled to receive.
- Changes the fee cap on locator agreements to 20 percent per property account on all claims unless the locator discloses to the rightful owner that the property is being held by the Bureau of Unclaimed Property and other required information. The fee cap does not apply to property that has not been through probate proceedings. Establishes a standard form for a Recovery Agreement, and authorizes either a percentage or a flat fee to be paid for recovery. Mandates that a contract to acquire ownership or entitlement to unclaimed property from the person entitled to the property must have a purchase price that discounts the value of the unclaimed property 20 percent or less.
- Allows the Department to gain access to digital driver's license images held by the Department of Highway Safety and Motor Vehicles (DHSMV). The DFS or its agents are also given authority to access patient records held by the health care industry for the purpose of auditing the health care industry for unclaimed property.
- Amends s. 732.103, F.S., which lists the persons entitled to inherit the estate of a decedent if there is no will, to provide that if there are none of the persons currently listed, the estate would descend to the lineal descendants of the great-grandparent if any of the descendants of the decedent's great-grandparents were holocaust victims, subject to a "reasonable, not unduly restrictive, standard of proof to substantiate his or her lineage." This provision applies only to escheated property and shall cease to be effective for proceedings filed after December 31, 2004.

Annuity Protections for Seniors

The committee substitute adds the provisions based on model regulations adopted by the National Association of Insurance Commissioners (NAIC), designed to help protect senior consumers (age 65 or older) when they purchase or exchange annuity products. These provisions are identical to the provisions of CS/SB 2280 by Banking and Insurance Committee and Senator Atwater, which died in the House Commerce Committee. The measure is designed to ensure that the insurance needs and financial objectives of senior consumers are appropriately addressed by establishing standards and procedures for insurance agents, or insurance companies if no agent is involved. It requires that a reasonable determination be made by the agent or insurer that the annuity transaction is suitable for the senior consumer, based on the financial information disclosed by the consumer. The agent or insurer must make a reasonable effort to obtain information about the senior consumer's financial situation, tax status, and investment objectives as to whether the recommendations being considered fit into the consumer's needs. (Section 146)

Miscellaneous Insurance Provisions

The committee substitute (Sections 147 through 166) address provisions pertaining to property and casualty insurance; automobile insurance; credit life and disability insurance; premium finance companies; adoption of mortality tables; reinsurance; and local government workers' compensation self insurance, and other insurance issues. These provisions are the same as those in CS/CS/SB 2038 by Commerce, Economic Opportunities, and Consumer Services Committee, Banking and Insurance Committee, and Senator Fasano. See the summary of that committee substitute for details.

If approved by the Governor, these provisions take effect July 1, 2004, except as otherwise expressly provided in the act.
Vote: Senate 37-1; House 111-1

HB 639 — Insurance Guaranty Associations

by Rep. Fields (CS/SB 2070 by Banking and Insurance Committee and Senator Diaz de la Portilla)

The bill provides that neither the Florida Insurance Guaranty Association (FIGA) or the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) will provide coverage for an insurance claim against an insolvent insurer if the claim has been rejected by any other state guaranty fund on the grounds that the insured's net worth is greater than that allowed under that state's guaranty fund or liquidation law. An exception is provided for the FWCIGA for employers who, prior to April 30, 2004, entered into an agreement with FWCIGA preserving the employer's right to seek coverage of claims rejected by another state's guaranty fund.

State insurance guaranty funds provide payment for claims of insolvent insurance companies, subject to certain limitations. Most states have imposed net worth limitations which preclude payment if the insured, such as a large corporation, has a net worth exceeding a certain amount, typically $25 million or $50 million, but as low as $3 million in Georgia. Florida, however, does not have a net worth limitation for either FIGA, which covers property and casualty insurance, or FWCIGA, which covers workers' compensation insurance. This can result in either association providing payment as the fund that is "next in line" to pay the claim when the state fund that is primary denies the claim due to the net worth limitation. For FWCIGA, this occurs if a workers' compensation claimant (employee) is a resident of another state with a net worth limitation, and the employer is a multi-state employer with its home office in Florida. For FIGA, this can occur if a third party claimant is a resident of Florida who has a claim against an insured corporation in another state.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 115-1

CS/SB 2696 — Insurance

by Banking and Insurance Committee and Senator Atwater

This committee substitute restricts the authority of certain public agencies (i.e., state agencies, political subdivisions, state universities, community colleges, and airport authorities) to purchase an owner-controlled-insurance program (OCIP) in connection with a public construction project, except under specified conditions. An "owner-controlled-insurance program" is defined as a consolidated insurance program or series of insurance policies issued to a public agency which may provide one or more of the following types of insurance coverage for any contractor or subcontractor working at specified or multiple contracted work sites of a public construction project: general liability, property damage excluding coverage for damage to real property, workers' compensation, employer's liability, or pollution liability coverage.

These conditions include a requirement that the estimated total cost of the public construction project must be at least $75 million, at least $30 million if the project is for construction or renovation of two or more public schools during a fiscal year, or at least $10 million if the project is for construction or renovation of one public school. The committee substitute exempts from these restrictions OCIPs in connection with road projects of the Department of Transportation, with existing projects that are the subject of ongoing OCIPs, or with projects advertising bids before October 1, 2004.

The committee substitute requires each OCIP to maintain insurance coverage with respect to completed operations for a term that is reasonably commercially available, but for at least 5 years. In addition, the committee substitute requires insurers to offer insurance coverage at an appropriate additional premium for liability arising out of current or completed operations under an OCIP for the period beyond the period covered by the OCIP.

The committee substitute does not restrict a contractor of a public agency from mandating that its subcontractors participate in a contractor-controlled-insurance program (CCIP) in connection with a public construction project. The committee substitute also does not restrict a business in the private sector from mandating that its contractors or subcontractors participate in an OCIP or CCIP.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 38-0; House 115-0

CS/SB 1934 — State Vehicles/Law Enforcement

by Banking and Insurance Committee and Senators Atwater, Dockery, Peaden, Bennett, Haridopolos, and Garcia

This committee substitute expands the definition of the term, "official state business," for state law enforcement officers using motor vehicles to permit the use of the vehicle during normal duty hours going to and from lunch or meal breaks and incidental stops for personal errands, but not substantial deviations from official state business. This change would expand liability, property damage, and workers' compensation coverage for such employees using vehicles for such purposes since the state's Risk Management Program currently provides liability coverage for operators of state-owned vehicles if the operator is acting in the course and scope of employment, which does not generally include travel to and from lunch breaks or meal breaks, and incidental stops for personal errands. Each state agency retains financial responsibility for property damage to a vehicle that is used for "official state business" which would also include such expanded use.

This committee substitute also provides that if the law enforcement officer uses the vehicle for off-duty work for which the employee is required to reimburse the state, the reimbursement must include an amount to cover the actual costs for property damage coverage on the vehicle that is used for off-duty work. Currently, such employees are required to secure their own liability and property coverage for a state vehicle used for off-duty work. The Division of Risk Management of the Department of Financial Services is required to adopt rules for determining the reimbursement.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 118-0

BANKING AND OTHER FINANCIAL MATTERS

CS/SB 2960 — Banking

by Banking and Insurance Committee and Senator Alexander

The committee substitute makes various changes to the laws regulating financial institutions in Florida, as follows:

- Allows a bank or trust company to be formed as a limited liability company, rather than a corporation.
- Prohibits any person from using the name or logo of a financial institution in marketing materials, if done without the written consent of the financial institution and in a manner that indicates it was endorsed by the financial institution.
- Clarifies that a financial institution must notify the Office of Financial Regulation (OFR) of an "appointment" as well as employment of any individual as an executive officer or equivalent position, and adds a $35 fee for each notification of a proposed appointment of an individual to the board of directors, beginning 1 year after the opening of the state financial institution.
- Exempts any state financial institution open less than 4 months from the annual (end of year) audit requirement.
- Shortens the statute of limitations from 1 year to 180 days within which a customer must assert against a financial institution an unauthorized signature or alteration of an item (such as a check) and from 5 years to 1 year for asserting any unauthorized endorsement.
- Amends the current law requiring bank records to be produced as required by a court, to provide that it must be pursuant to a subpoena and that the party seeking the production must reimburse the financial institution for its reasonable costs and fees.
- Clarifies the authority of out-of-state banks that have no operating presence in Florida to engage in certain banking related activities in the state.
- Adds the terms, "banco" and "banque" to the list of names that a business other than a financial institution is prohibited from using.
- Clarifies that the laws that apply to an international banking corporation also apply to a branch of such corporation.
- Deletes the requirement that a copy of the bylaws of a bank or trust company must be filed with the OFR.
- Provides that the allowance for a bank operating in a safe and sound manner to merely notify, rather than obtain approval from the OFR for establishing a new branch also applies to relocating an existing office.
- Provides that the 1-year experience requirement for a president or chief executive officer of a bank also applies to any other person, regardless of title, who has an equivalent rank or who leads the overall operations of a bank.
- Prohibits a bank from paying a dividend or making loans if the bank has been determined by the OFR to be imminently insolvent, and repeals the current law that prohibits a bank

from paying dividends or making loans if it fails to maintain a specified daily liquidity position.
- Allows a bank to value foreclosed property based on an appraisal obtained within 90 days after acquisition of the property, as an alternative to within 1 year prior to the acquisition.
- Lowers the threshold for the definition of control of an international banking corporation to any person or persons owning 25 percent, rather than 50 percent of the voting stock.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 113-0

CS/CS/SB 2682 — Credit Counseling Services

by Commerce, Economic Opportunities, and Consumer Services Committee; Banking and Insurance Committee; and Senators Aronberg, Atwater, Lynn, Campbell, and Wilson

This bill creates ch. 817, part IV, F.S., which contains a framework for regulating the relationship between a consumer and a credit counseling agency that provides credit counseling or debt management services. Credit counseling agencies (an organization providing debt management or credit counseling services) are prohibited from charging fees in excess of prescribed amounts for the following services:

- A fee greater than $50 for an initial consultation;
- Fees amounting to greater than $120 per year for additional consultations;
- For debt management services, a fee many not exceed the greater of 7.5 percent of the amount paid monthly by a debtor, or $35 per month.

The bill requires a person providing credit counseling or debt management services to be audited annually, and to maintain insurance coverage for employee dishonesty, depositor's forgery, and computer fraud. A person engaged in credit counseling or debt management is required to disburse a consumer's funds within 30 days after receiving such funds, and must maintain a separate trust account for the receipt of any funds and their subsequent disbursement for each debtor.

A violation of any provision of this bill is an unfair or deceptive trade practice under the Florida Deceptive and Unfair Trade Practices Act. A consumer harmed by a violation of this bill may bring an action for recovery of damages, costs and attorney's fees. A person who violations any provision of the bill commits a third degree felony, punishable by not more than 5 years in prison and a fine of up to $5,000.

There are various exemptions from the provisions of ch. 817, part IV, F.S. The requirements of the bill do not apply to debt management or credit counseling services provided in the practice of law in Florida or to a person who engages in debt adjustment to adjust the indebtedness owed to that person. The Federal National Mortgage Association, the Federal Home Loan Mortgage

Corporation, and the Florida Housing Finance Corporation, or their subsidiaries are exempt from the act. The bill exempts a bank, bank holding company, trust company, savings and loan association, credit union, credit card bank, or savings bank if it is regulated by a prescribed federal or state banking regulator. Consumer reporting agencies are exempt, as are subsidiaries or affiliates of a bank holding company and their employees and exclusive agents acting under a written agreement.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 115-0

SB 282 — Enforcement of Lost, Destroyed, or Stolen Negotiable Instruments

by Senator Posey

This bill (Chapter 2004-3, L.O.F.) amends s. 673.3091(1), F.S., by authorizing a person to transfer ownership of a negotiable instrument even if the person lost the physical document creating the instrument. Further, the bill permits a person who has acquired ownership of a lost negotiable instrument to transfer ownership of the instrument. Additionally, the bill permits a person with a security interest in a negotiable instrument who never had possession of the negotiable instrument to enforce a lost instrument if the secured person had the right to enforce the instrument when the instrument was lost. The bill conforms Florida law to changes made in 2002 to Section 3-309 of the Uniform Commercial Code.

These provisions became law upon approval by the Governor on March 29, 2004.
Vote: Senate 39-0; House 119-0

CS/SB 2562 — Money Transmitters

by Banking and Insurance Committee and Senator Dockery

The Office of Financial Regulation (OFR) of the Financial Services Commission regulates the money transmitter industry, which includes payment instrument sellers, foreign currency exchangers, check cashers, funds transmitters, and deferred presentment providers (payday loans) under the provisions of ch. 560, F.S. This bill provides the OFR with additional compliance and enforcement tools to assist in the regulation of money transmitters by requiring money transmitters to comply with certain federal regulations and authorizing the OFR to take enforcement action against money transmitters for noncompliance. The bill makes the following changes related to the regulation of money transmitters:

- Requires money transmitters to develop and implement anti-money laundering programs pursuant to federal regulations;

- Requires money transmitters to develop and implement customer identification procedures for new accounts pursuant to federal regulations;
- Authorizes the OFR to take disciplinary action if a money transmitter fails to maintain records or make available documents required by certain federal regulations;
- Authorizes the OFR to conduct investigations or conduct examinations pursuant to s. 560.118, F.S., to determine whether violations of applicable provisions of the Code of Federal Regulations have occurred; and
- Expands the definition of "unsafe and unsound" to include the failure to adhere to certain federal regulations which would authorize the OFR to take regulatory action.

The bill also authorizes a money transmitter to conduct business within the state by means of electronic transfer and to charge a different fee for funds transmission based on the mode of transmission used in the transaction so long as the price charged for a service paid with a credit card is not greater than a price charged when that service is paid by currency or similar means.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 117-0

CS/SB 204 — Recording Purchase of Burial Rights

by Banking and Insurance Committee and Senators Crist and Lynn

This committee substitute provides that any person who purchases a burial right, belowground crypt, grave space, mausoleum, columbarium, ossuary, or scattering garden for the disposition of human remains may, at his or her option, permanently record the purchase of such burial right with the clerk of the court in the county where the burial site is located. The purpose of the recordation is for public notification and to establish a permanent official record in the county; however, such recordation does not create any priority of interest or ownership rights as to the purchaser who records such burial rights.

The committee substitute requires the court clerk to record the evidence of the purchase of such burial right upon receiving payment by the purchaser of a service charge as provided by law. This legislation would apply to all cemeteries in the state which sell burial rights.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 117-0

CHILD WELFARE

CS/CS/CS/SB 512 — Independent Living Transition Services

by Appropriations Committee; Governmental Oversight and Productivity Committee; Children and Families Committee; and Senators Lynn and Campbell

This bill makes the following revisions to the Independent Living Transition Services program:

- Requires the development of a post-high school plan when the child reaches 9th grade.
- Requires annual staffing for the child who is 13 through 14 years of age and staffing every 6 months for the child who is 15 through 17 years of age to ensure that the independent living related services as determined by the assessments are being received and the child is developing the needed independent living skills.
- Requires that the child be provided with detailed information on the Road-to-Independence Scholarship Program at the first annual staffing held following the child's 14th birthday.
- Requires an independent living assessment during the month following the child's 17th birthday to determine the child's skills and abilities to become self-sufficient. Based on the assessment, services and training are to be provided prior to the child's 18th birthday to develop the skills and abilities necessary for the child to live independently.
- Expands the life skills services that may be provided to include training to develop banking and budgeting skills, interviewing skills, and parenting skills.
- Requires that each child receive information related to social security insurance benefits and public assistance.
- Expands the aftercare support services available to include counselor consultation and clarifies that the aftercare support services may be provided either directly by the department or through referral to resources in the community.
- Requires that the Road-to-Independence Scholarship award be determined based on the living and educational needs of the young adult and requires the young adult to apply for other grants and scholarships.

- Broadens the type of high school diploma a young adult may receive to be eligible for a Road-to-Independence Scholarship to include the special diploma or special certificate of completion as provided for in s. 1003.438, F.S.

- Provides limitations on the number of diplomas, certificates, and credentials that may be earned using the Road-to-Independence Scholarship.

- Replaces the requirement for renewal of the Road-to-Independence Scholarship award that 12 semester hours be completed and the grade point average required for the program be maintained with the requirement that the number of hours considered full time by the educational program be completed and the appropriate progress required by the educational institution be maintained.

- Permits transitional support service dollars to be used for disability and mental health services.

- Permits the aftercare support, transitional support, and Road-to-Independence Scholarship payments to be made on the young adult's behalf for necessary services with the written permission of the young adult.

- Continues the Independent Living Services Workgroup until terminated by the Legislature and renames it an Advisory Council to reflect its on-going advisory function.

- Removes the Department of Children and Family Services' rulemaking authority to reduce the scholarship awards.

- Requires that a judicial review hearing be held within 90 days after a child's 17th birthday and identifies information that must be provided to the court.

- Requires that for each judicial review hearing held for a child who is 13 through 17 years of age information on the results of the independent living assessment and the services received must be furnished and a determination of the adequacy of the child's preparation for adulthood and independent living must be made.

- Modifies the waiver of postsecondary education institution fees for scholarship recipients to allow for the fee waiver if the youth is determined eligible for the scholarship, even if funds are not available to issue the award.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-1; House 112-0

CS/SB 1572 — Child Care Personnel Training

by Children and Families Committee and Senators Fasano and Lynn

This bill requires that child care personnel in child care facilities receive training relative to recognizing and preventing shaken baby syndrome, preventing sudden infant death syndrome, and understanding early childhood brain development. This training is added to the statutory requirements for the 40-hour introductory course that child care personnel in child care facilities must complete.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 115-0

HB 723 — Community-Based Care/Foster Care

by Rep. Murman (CS/CS/CS/SB 1698 by Governmental Oversight and Productivity Committee; Children and Families Committee; Banking and Insurance Committee; and Senator Lynn)

Community-Based Care

The bill amends s. 409.1671, F.S., directing the Florida Coalition for Children, Inc., in consultation with the Department of Children and Families, to develop a plan based on an independent actuarial study regarding the long-term use and structure of a statewide community-based care risk pool for the protection of eligible lead community-based care providers, their subcontractors, and providers of other social services who contract directly with the department. The minimum expectations are provided for the plan which is to be developed in consultation with the Office of Insurance Regulation and submitted to the department, the Executive Office of the Governor, and the Legislative Budget Commission for adoption before January 1, 2005. Upon the plan's approval by all parties, the department is directed to issue an interest-free loan equal to the amount appropriated by the Legislature for this purpose. The bill specifies the purposes for which the risk pool may be used and provides for its future funding and for certain authority regarding its operation and management.

That section is further amended to specify that a lead community-based care provider should directly provide no more than 35 percent of all child protective services provided; to require that at least 51 percent of a lead provider's board of directors must be comprised of persons residing in this state and that, of those, at least 51 percent must also reside within the service area of the lead provider; to modify the department's responsibility to conduct a quality assurance program for privatized services; and to provide that lead community-based providers and their subcontractors are exempt from the state travel policies set forth in s. 112.061(3)(a), F.S., when travel expenses are incurred in order to comply with the requirements of s. 409.1671, F.S.

The bill also amends s. 20.19, F.S., to provide that members of a community alliance, other than its statutorily-mandated members, may not receive funds for contractual services from either the department or a community-based care lead provider.

Interagency Agreements

The bill creates s. 39.0016, F.S., requiring interagency agreements between the Department of Children and Families and the Department of Education at the state level and the Department of Children and Families and the district school boards at the local level relating to the education of and related services for children found dependent or in shelter care. The bill sets forth the requirements for the interagency agreements, including efforts to avoid disruption of a child's education, identification of educational and other school services necessary for a child's education, sharing of information, determining the availability of transportation to avoid changes in school assignments, supporting the educational needs of a child with disabilities, participation in case planning activities, and provision of training in areas that would facilitate the desired outcomes of these agreements. The bill also amends s. 1002.22, F.S., adding the Department of Children and Families and community-based care lead providers to the organizations to which students' educational records may be released by the schools, consistent with the provisions of the Family Educational Records and Privacy Act.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116 -0

SB 2046 — Adoption

by Senator Campbell

The bill prohibits the Department of Children and Family Services from removing a foster child who has resided for at least 6 months with foster parents who are licensed or court-ordered custodians when either the foster parent or custodian has applied for adoption and the application for adoption has been denied, unless such removal is by order of the court. Exceptions are provided for when the child is believed to be at imminent risk of abuse or neglect, 30 days have expired since the foster parent or custodian received written notice of the denial and no formal challenge has been filed, or the foster parent or custodian agrees to the child's removal. The bill also allows the court to waive the required consent of the department in ch. 39, F.S., adoptions if the court determines that the consent is being unreasonably withheld and the petitioner has filed a favorable preliminary adoptive home study with the court.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-1; House 116-0

CS/CS/SB 2704 — Public Records/Children's Services Council

by Governmental Oversight and Productivity Committee; Children and Families Committee; and Senator Atwater

This bill provides an exemption from the public records laws for personal identifying information of a child or the child's parent or guardian held by a children's service council, juvenile welfare board, or other similar entity created under s. 125.901, F.S., or by special law, or held by a service provider or researcher under contract with such entity. This exemption is retroactive in effect. Non-identifying information regarding the child would not be exempted from disclosure by this bill.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 113-0

CS/SB 606 — Trust Funds

by Children and Families Committee and Senators Smith and Lynn

The bill creates the Child Advocacy Trust Fund within the Department of Children and Family Services (DCF) using funds collected by the clerks of the court from offenders committing specific crimes against children. Funds that are collected are to be disbursed to the Florida Network of Children's Advocacy Centers, Inc., for the purposes of funding children's advocacy centers (CACs).

The Board of Directors for the Florida Network of Children's Advocacy Centers, Inc., is to retain a portion of the funds generated by the court costs for network expenditures and must develop funding criteria and an allocation methodology that ensure an equitable distribution of remaining funds to network participants. The allocation methodology must take into account factors that include but are not limited to the center's accreditation status with the National Children's Alliance (NCA), the number of clients served, and the population of the area being served by the children's advocacy center.

The creation of this trust fund provides an opportunity for the expansion of CAC services into communities that do not currently receive services. The language specifying the crimes that incur fines, the transfer of funds that are collected, and requirements for receiving this funding is reflected in CS/CS/SB 2962.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 116-0

CHILD SUPPORT

CS/CS/CS/SB 160 — Child Support

by Appropriations Committee; Judiciary Committee; Children and Families Committee; and Senator Lynn

This bill sets forth the following provisions relative to child support:

- Amends a series of statutes relative to the administrative support order process used for Title IV-D cases to provide for the recognition of administrative support orders in ch. 61, F.S., and s. 409.2561, F.S.; to provide specific criteria for establishing venue for hearings held by the Division of Administrative Hearings; to clarify and modify the process required for a noncustodial parent to proceed in circuit court in lieu of the administrative process; to articulate the practice for assigning an account number; to direct petitions contesting an income deduction order established by the administrative process to be filed with the Department of Revenue instead of the court for a hearing; and to extend the deadline for the Office of Program Policy Analysis and Government Accountability to submit an evaluation report on the statewide implementation of the administrative process for establishing child support to June 30, 2006.

- Eliminates the requirement in s. 61.13(1)(d), F.S., that social security numbers be provided for minor children on all child support orders.

- Requires that when the current child support obligation in a Title IV-D case is reduced or terminated due to the emancipation of a child and the noncustodial parent owes arrearages, retroactive support, delinquency, or costs, the noncustodial parent be required to pay the support at the same rate in effect prior to emancipation until all arrearages, retroactive support, delinquency, and costs are paid in full or the order is modified.

- Stipulates the process for establishing a depository account for the receipt and disbursement of interstate support payments for Title IV-D cases.

- Amends s. 61.1814, F.S., relative to the Child Support Enforcement Application and Program Revenue Trust Fund to reflect the current purpose, composition, and function of the trust fund.

- Permits a voluntary acknowledgement of paternity that is witnessed by two individuals and signed under penalty of perjury to be accepted as a valid affidavit for adding the father's name to the birth certificate at the time of birth, for amending the birth certificate after the birth to add the father's name, and for establishing paternity for children born out of wedlock.

- Amends the process for processing undistributable collections to remove the requirement that the noncustodial parent's permission be obtained before applying the undistributable collection to another case where child support is owed by that parent and instead provides the noncustodial parent with notification of the intended action and of the noncustodial parent's right to contest this action in court.

- Removes the requirement that a mother is deemed noncooperative and ineligible for public assistance until a subsequent father is identified and confirmed through scientific testing to be the father if the possible fathers initially identified are determined not to be the fathers.

- Allows for the securities which are to be used for the purpose of meeting an obligation of past due child support to be liquidated in an amount that is sufficient to cover both the past due child support and any applicable commissions and fees.

- Directs the Department of Revenue to develop and operate a voluntary data match system which would identify noncustodial parents who owe past due child support and also have a claim with an insurer. The bill provides for the options insurers may use to provide the department with information from which to conduct the match, limits the garnishment of liability claims to cases where bodily injury exceeds $3,000, and provides limited immunity for insurers and other participants in the data match process.

- Permits other means of service of process as provided for in ch. 48, F.S., if determined by the Department of Revenue to be more effective.

- Amends statutory language relative to reimbursements to the clerks of the courts for Title IV-D filings to reflect the current arrangement which uses cooperatives agreements as provided for in ss. 61.181(1), and 61.1826(2) and (4), F.S., instead of separate billings for each filing.

- Expands the list of licenses for which the Department of Revenue has authority to seek denial or suspension to include all licenses issued by a state or local government licensing authority and modifies the noticing requirement.

- Requires the Department of Revenue, in collaboration with the Department of Corrections, the Agency for Workforce Innovation, the Office of the State Courts Administrator, local law enforcement, community-based and faith-based organizations, and other organizations, to identify strategies for increasing the collection of child support from incarcerated parents, for maximizing the incarcerated parents' potential for successful reentry into society and reconnection with their families, and for building collaboration and data-sharing among the stakeholders to continue this initiative. A report

to the Governor and Legislature on the data collected and recommendations for implementing identified strategies is required by December 31, 2004.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise expressly provided for in the act.
Vote: Senate 39-0; House 114-0

CS/CS/SB 2826 — Public Records/Child Support

by Finance and Taxation Committee; Judiciary Committee; and Senator Lynn

The bill provides confidentiality and an exemption from the public records laws for the information the Department of Revenue obtains from insurers participating in the insurance claim data match initiative provided for in CS/CS/CS/SB 160. The confidentiality and public records exemption are only provided for the period of time required to determine if there is a match with noncustodial parents who owe past due child support. Once the match is complete, claims information for noncustodial parents owing child support become public, and claims information for individuals who do not owe child support is destroyed.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 108-6

CS/CS/SB 1060 — Temporary Support Orders

by Judiciary Committee; Children and Families Committee; and Senators Campbell and Smith

This bill authorizes the court to modify, vacate, or set aside a temporary support order under chs. 61 and 742, F.S., either before or at the time a final order is entered in a proceeding. Such modification, vacating, or setting aside of the temporary support order may be executed upon the showing of good cause and without the need to show a substantial change in circumstances. The bill also provides for the possible retroactive timeframes to which a modification to a temporary support order may apply.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 113-1

MENTAL HEALTH

CS/CS/CS/CS/SB 700 — Mental Health

by Appropriations Committee; Criminal Justice Committee; Judiciary Committee; Children and Families Committee; and Senators Peaden, Fasano, Campbell, Smith and Lynn

This bill amends Chapter 394, Part I, F.S., (the Baker Act) to include criteria and a process for involuntary outpatient placement that will allow individuals with mental illness who meet certain criteria to be ordered by the court to participate in community-based mental health treatment. The provisions of s. 394.459, F.S., *rights of patients,* are applicable to persons who have been court ordered to involuntary outpatient placement.

Prior to filing a petition for involuntary outpatient placement, a designated service provider must develop a proposed treatment plan and certify that the services identified in the proposed treatment plan are available in the community. If the services identified in the treatment plan are not available then a petition may not be filed.

If the court concludes that a person meets the criteria for involuntary outpatient placement and services are available, an order is issued for involuntary outpatient placement. The court order is in effect for a period of up to six months and must specify the nature and extent of the person's mental illness. Treatment plans that have been ordered by the court may be modified by the service provider with agreement by the patient or the patient's guardian. However, substantial modifications of the plan which are agreed upon must be reviewed and approved by the court. Non-compliance with court-ordered outpatient treatment may result in the individual being evaluated for involuntary inpatient treatment if he or she is believed to meet the criteria. Effective July 1, 2005, mental health counselors will be allowed to file a certificate for involuntary examination.

A workgroup is to be established to determine the fiscal impact of allowing mental health counselors, who are not currently permitted to seek involuntary examinations, to initiate these examinations. The membership of the workgroup is specified by this bill, and the Florida Mental Health Institute is directed to complete certain aspects of the evaluation and provide information to the workgroup. The workgroup must provide a report of its findings to the Speaker of the House of Representatives and the President of the Senate by March 1, 2005. The workgroup terminates on March 1, 2005.

The Department of Children and Families is also directed to conduct a pilot in District 4 allowing mental health counselors to initiate involuntary examinations and is authorized to spend $75,000 for the pilot project. The data collected during this pilot will be used to evaluate the impact of these professionals initiating involuntary examinations. The pilot will terminate on July 1, 2005.

If approved by the Governor, these provisions, unless otherwise specified take effect January 1, 2005.
Vote: Senate 39-0; House 100-15

CS/CS/SB 2894 — Mental Health and Vocational Rehabilitation Services

by Health, Aging, and Long-Term Care Committee; Children and Families Committee; and Senators Webster and Wilson

This bill amends s. 394.9084, F.S., authorizing the Department of Children and Families (the department or DCF) to continue the client-directed and choice-based pilot in District 4 and to expand the project to three additional districts. This program is to serve adults with serious and persistent mental illness. The department may also implement a family-directed pilot project in one district to provide mental health and support services for children with a serious emotional disturbance who live at home.

The department must establish interagency cooperative agreements and work with the Agency for Health Care Administration (AHCA or the agency), the Division of Vocational Rehabilitation Services (the division) and the Social Security Administration to implement and administer the Florida Self-Directed Care program (FSDCP). This program includes four sub-components: department mental health services, agency mental health services, vocational rehabilitation services, and social security administration.

A managing entity will pay for services that a participant selects from the sub-components of the FSDC program. These services must meet the participant's mental health care and vocational rehabilitation needs and address goals that are identified on the recovery plan. In order to provide support for this program:

- The agency, in collaboration with the department, is directed to seek federal Medicaid waivers;
- The department must seek specified federal funding;
- The division is to seek federal approval to participate in the program;
- The department, agency, and the division are authorized to transfer funds to the program.

The department is directed to take all necessary actions to ensure state compliance with federal regulations.

The FSDC program is to be reviewed by the participating entities on an ongoing basis. The department is directed to implement an evaluation of the program and the minimum requirements for this evaluation are specified in the bill. The evaluation must include recommendations for improvements and may be used to evaluate the waiver program, if a waiver is obtained.

The duration of the pilots is changed from July 1, 2004 to July 1, 2008.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 108-0

DEVELOPMENTAL DISABILITIES

HB 1823 — Children and Families

by Future of Florida's Families Committee, Rep. Kallinger, and others (CS/CS/SB 1280 by Appropriations Committee; Children and Families Committee; and Senators Peaden and Lynn)

Sexual Misconduct

This bill creates three new sections (ss. 393.135, 394.4593, and 916.1075, F.S.) of statute that prohibit sexual misconduct by employees with certain clients who receive services provided by the Developmental Disabilities and Mental Health programs within the Department of Children and Families (DCF or the department). The bill provides a definition for sexual misconduct and specifies that sexual misconduct is a second degree felony. A defendant is prohibited from using the consent of the individual as a defense for the charge of sexual misconduct. Sexual misconduct is added to the list of offenses that ban employment if identified as part of Level 1 or 2 screening.

Persons having knowledge of incidents of sexual misconduct are required to make a report to the abuse line. Knowingly or willfully either failing to report sexual misconduct or submitting an inaccurate, incomplete, or untruthful report is a first degree misdemeanor. A person who knowingly or willfully threatens or coerces another to alter testimony or a written report commits a third degree felony. The bill also prohibits the sealing or expunction of criminal history records relating to sexual misconduct.

Developmental Disabilities Program

This bill removes the Developmental Disabilities program from the Department of Children and Family Services (the department or DCF) and establishes the program as "The Agency for Persons with Disabilities" (APD). The newly created agency is to be administratively housed within the department but established as a separate budget entity and is not subject to the control, supervision, or the direction of the department.

The director for this agency is to be appointed by the Governor to administer the affairs of the agency and is authorized to hire staff within available resources.

The agency has programmatic responsibility for the provision of all services for persons with developmental disabilities pursuant to ch. 393, F.S. However, fiscal management of the home and community-based waiver services is to be conducted by the Agency for Health Care

Administration (AHCA). In addition to its responsibilities over all programs, APD retains responsibility for the fiscal management of the developmental disabilities institutions and those community-based services that are currently funded by general revenue.

Effective October 1, 2004, the Developmental Disabilities program and the developmental disabilities institutions programs in the department are to be transferred to the Agency for Persons with Disabilities by a type 2 transfer. Prior to this date, the agency and the department in consultation with the Department of Management Services are to determine the number of positions and the resources within the department dedicated to the program that are to be transferred to the agency and which staff persons from the department are to provide administrative support.

The Director of the Agency for Persons with Disabilities is directed to work in consultation with the Secretaries from DCF and AHCA or their designees to develop a transition plan. This plan is to be submitted to the Executive Office of the Governor and the Legislature by September 1, 2004.

The agency is directed to enter into inter-agency agreements with AHCA and DCF that delineate the responsibilities of each organization. These agreements must also address the operational support of the new agency as well as reimbursement mechanisms. The bill also directs APD, AHCA, and DCF to work together to develop a plan to ensure all necessary electronic and paper-based data is accessible to the Medicaid program. Electronic records are to be migrated to a new system that is compatible with the Florida Medicaid Management Information System.

This bill specifies that a service provider who renders services to a person with developmental disabilities as a part of the waiver program is to be reimbursed based on a methodology developed by AHCA in consultation with the Agency for Persons with Disabilities (APD) and approved by the federal government. The agency is authorized to adopt emergency rules if the costs of the Home and Community-Based waiver services are expected to exceed appropriated funding and in consultation with APD to adjust fees, limit enrollment, reimbursement rates, lengths of stay, number of visits, number of services, or make other adjustments in order to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act.

A plan is to be developed by APD and AHCA for the relocation of the local APD staff to the AHCA area offices. Provisions of the plan are to address leases, reimbursement of collocation costs, office space, and other operating expenses. Further, effective October 1, 2004, APD is to enter into an agreement with DCF for the provision of day-to-day administrative and operational needs until APD is no longer in need of such services.

The Office of Program Policy Analysis and Government Accountability must identify and evaluate statewide entities receiving state funding to provide services for persons with

disabilities. A report from OPPAGA is due to the Governor and the Legislature by December 2005.

Economic Self-Sufficiency

The Department of Children and Family Services is authorized to provide its eligibility determination functions with either department staff or through a contractual agreement with at least two private vendors with specified restrictions. These functions are currently being provided by the Economic Self-Sufficiency Program Office.

If approved by the Governor, unless expressly provided otherwise by this act, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-0

CLIENT ADVOCACY

CS/SB 2674 — Statewide and Local Advocacy Councils

by Children and Families Committee and Senators Wise, Dockery, Saunders, Fasano, Bennett, and Aronberg

This bill establishes the Statewide Advocacy Council (SAC) as an independent agency to be administratively located in the Executive Office of the Governor. The SAC may be assigned for administrative purposes to any Governor's agency. However, the SAC is not subject to the control, supervision, or direction by any state agency providing client services in the performance of its duties. The executive director of the SAC is appointed by and serves at the pleasure of the Governor.

The SAC must develop and maintain inter-agency agreements between the councils and agencies that provide client services. These agreements must address the coordination of efforts and the roles and responsibilities of the SAC and local advocacy council (LAC) with each agency, including the access to records. The SAC is assigned responsibility for the operations of LACs.

In the performance of its duties, the SAC is provided with statutory authority to access all client records, files, and reports from any program, service, or facility that is operated, funded, or contracted by any state agency that provides client services. The local advocacy councils are provided with the same authority as the SAC to access records from facilities, programs, and clients.

The SAC, its three full time positions, expense funding, local councils and the toll-free complaint line are to be transferred by a type two transfer from the Department of Children and Family Services. The Department of Children and Family Services must identify 10 additional full-time positions to be included in the transfer to provide support for the local councils.

If approved by the Governor, these provisions take effect January 1, 2005.
Vote: Senate 39-0; House 112-2

ECONOMIC DEVELOPMENT

CS/CS/SB 1358 — Enterprise Zones

by Finance and Taxation Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Garcia, Wilson, Bullard, and Clary

The bill authorizes the following communities to apply to the Office of Tourism, Trade, and Economic Development for the designation of new enterprise zones: Osceola County or the county jointly with the City of Kissimmee; City of South Daytona; City of Lake Wales; Walton County; Miami-Dade County jointly with the City of Hialeah; and Miami-Dade County or the county jointly with the City of West Miami.

The bill also authorizes the following communities to apply to the Office of Tourism, Trade, and Economic Development to amend the boundaries of existing enterprise zones: Leon County; Miami-Dade County; Jacksonville/Duval County; Orange County; Brooksville/Hernando County; and Sarasota County/City of Sarasota.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 114-0

CS/SB 262 — Tourism

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senator Fasano

The committee substitute makes the following changes to existing law governing the Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation (Visit Florida):

- The membership of the Florida Commission on Tourism is increased by three by adding representatives, appointed by the Governor, from the space tourism industry, the youth travel industry, and an automobile and travel services membership organization that has at least 2.8 million members in Florida.

- Reduces to two, from three, the number of appointees to the Florida Commission on Tourism representing county destination marketing organizations, but increases to four, from three, the number of appointees to the commission from tourist-related statewide associations to include an association representing county destination marketing organizations.

- The membership of the board of directors for the Florida Tourism Marketing Corporation (Visit Florida) is increased from 28 to 31 directors to conform to the increase in membership of the Florida Commission on Tourism. Under current law, the board of directors of Visit Florida is composed of the tourism-industry-related appointees to the commission.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

BUSINESS/CONSUMER REGULATION

HB 679 — Sales Representatives/Commissions

by Rep. Henriquez and others (CS/SB 1842 by Commerce, Economic Opportunities, and Consumer Services Committee and Senator Miller)

This bill corrects a constitutionality problem identified in s. 686.201, F.S., which governs sales representative contracts involving commissions. In 1992, a Florida court found that this statute was unconstitutional because it treated out-of-state businesses differently than in-state businesses, which is a violation of the U.S. Constitution's Commerce Clause (*D.G.D., Inc. v Berkowitz*, 605 So. 2d 496 (3rd DCA 1992)). The bill corrects the problem by removing the language that applied the provisions of the statute only to out-of-state businesses. The bill also revises the definitions of "principal" and "sales representative" to remove the word "wholesale" from those definitions and removes the word "wholesale" from the written contract requirement subsection to make clear that the provisions of the statute, as revised by this bill, apply to the solicitation of wholesale *and* retail orders by a sales representative.

The bill further revises the definition of "principal" to mean a person or business which: manufactures, produces, imports, or distributes a product or service; contracts with a sales representative to solicit orders for the product or service; and compensates the sales representative, in whole or in part, by commission. The bill further revises the definition of "sales representative" to mean a person or business which contracts with a principal to solicit orders and is compensated, in whole or in part, by commission, but does not include a person or business which places orders for his or her own account for resale or a person who is an employee of the business. Additionally, the provisions of the bill do not apply to real estate brokers or sales associates licensed under ch. 475, F.S., who are performing services within the scope of their license.

When no written contract exists between a principal and a sales representative, the bill provides a cause of action for triple the amount of the commission found to be owed if the principal fails to pay the sales representative within 30 days after the termination of the sales representative's

services. Current law provides for an action for double the amount of the commission found to be owed.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-0

CS/SB 1928 — Unlawful Use of a Recording Device in a Motion Picture Theater

by Commerce, Economic Opportunities, and Consumer Services Committee and Senator Atwater

The committee substitute prohibits a person from knowingly operating the audiovisual recording function of any device in a motion picture theater while a motion picture is being exhibited, with the intent of recording the motion picture, if the persons knows or should have known that he or she was recording the motion picture without the consent of the theater owner. The committee substitute specifies that a first violation is a misdemeanor of the first degree, punishable by up to 1 year in jail or up to a $1,000 fine. A second or subsequent violation is a felony of the third degree, punishable by up to 5 years in prison or by a fine of up to $25,000, or both. The committee substitute also provides an exemption from these criminal violations for certain law enforcement officials under specified conditions.

The committee substitute requires a theater owner prohibiting motion pictures from being recorded in a motion picture theater to display a sign giving notice that recording a motion picture without the consent of the theater owner is a criminal violation. The sign must be displayed in a manner that is clearly legible and conspicuous from the entrance of the motion picture theater.

The committee substitute authorizes the theater owner to detain a person who the theater owner has probable cause to believe has recorded or is recording a motion picture in violation of the committee substitute. The committee substitute requires a law enforcement officer to be called to the scene immediately after the person is detained. The committee substitute grants the theater owner immunity from civil and criminal actions arising out of measures taken to detain a violator while awaiting the arrival of a law enforcement officer, if the violator is detained in a reasonable manner for a reasonable time.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 36-2; House 114-0

CS/CS/CS/SB 2480 — Agricultural Equipment

by Transportation Committee; Agriculture Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Alexander, Lynn, and Bullard

Farm Equipment Manufacturers and Dealers Act

This committee substitute revises the provisions of the Farm Equipment Manufacturers and Dealers Act, ss. 686.40-686.418, F.S., and renames the act as the Agricultural Equipment Manufacturers and Dealers Act. Currently, the act regulates the contractual relationships between a tractor or farm equipment dealer who sells tractors and farm equipment and its manufacturer, distributor, or wholesale suppliers. The committee substitute revises definitions and legislative findings under the act to clarify that the act applies to those tractors or farm implements primarily designed for, or used in, agriculture. The provisions of the committee substitute exclude from the definition of a dealer a mass-market retailer. In addition, the measure provides that the act does not apply to equipment primarily designed for, or used in, off-road construction, mining, utility, and industrial purposes.

New provisions of the act as amended by the committee substitute:

- Make it unlawful for a manufacturer, distributor, or wholesaler to withhold payment of funds owed to a dealer, unless the withholding of payment is the direct result of a material defect in the claim by the dealer.
- Prohibit a manufacturer, distributor, or wholesaler from conducting audits of warranty claims by a dealer more than 1 year after the claims are paid.
- Require audits of incentives and rebates paid to a dealer to take place within 12 months after the end of an incentive program, except in the case of fraudulent claims by the dealer.
- Require a dealer's suppliers to provide 180-days notice to the dealer when a competing dealer will be located in the existing dealer's relevant market area.
- Require a commission of at least 7 percent of the sale or lease price to be paid to the dealer by the manufacturer, distributor, or wholesaler when equipment is sold or leased by the manufacturer, distributor, or wholesaler directly to a consumer located within the dealer's relevant market area.
- Increase to 180 days, from 90 days, the advance notice that must be provided to a dealer before a franchise or selling agreement may be terminated.
- Prohibit the termination of a franchise or selling agreement if a dealer cures the deficiency for which the agreement is to be terminated during the 180-day notice period.
- Provide that, in the case of failure to meet marketing or market-penetration criteria, franchise agreements may only be terminated with advance notice to the dealer of at least 1 year and 90 days.
- Prohibit a manufacturer, distributor, or wholesaler from imposing unreasonable restrictions on a dealer relating to transfer, renewal, termination, location, or site control.

- Make it unlawful for a manufacturer, distributor, or wholesaler to prohibit a dealer from selling competing product lines or makes of equipment or to require a dealer to provide separate facilities for the competing product lines or makes of equipment.

The revisions to the act apply to all contracts entered into, renewed, or amended after July 1, 2004.

State Uniform Traffic Control

Section 316.515, F.S., which is part of the state uniform traffic control law, establishes maximum width, height, and length standards for vehicles. The committee substitute revises this section to permit certain agricultural equipment to exceed the maximum width and length standards. The committee substitute allows for agricultural tractors not exceeding 50 feet in length; agricultural implements attached to a towing power unit not exceeding 130 inches in width; or self-propelled agricultural implements or agricultural tractors not exceeding 130 inches in width, for the purpose of transporting certain farm products or for the purpose of moving the equipment from one point of agricultural production to another.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 118-0

BUSINESS ENTITIES AND TRANSACTIONS

SB 2056 — Corporations Not for Profit

by Senators Aronberg, Smith, and Bullard

This bill amends s. 617.0505, F.S., to authorize corporations not for profit to make distributions to:

- Corporations not for profit that are organized and operated for the same or substantially similar purposes as the distributing corporation;
- Entities that are organized and operated exclusively for charitable, benevolent, educational, or similar purposes, or are otherwise exempt from federal income tax under s. 501(c), Internal Revenue Code; or
- The United States, a state or possession of the United States, or any political subdivision thereof.

A distribution made under this authority may not inure to the benefit of any individual or for-profit entity.

The bill addresses a 1999 opinion in which the Attorney General responded to a question that asked whether Bonita Community Health Center, Inc., a corporation not for profit, was permitted

by law to distribute its excess profits to Lee Memorial Health System, a member of Bonita and also a corporation not for profit. The Attorney General replied that the Legislature had not chosen to extend the authority to corporations not for profit to distribute funds to other nonprofit entities engaged in similar activities. The Attorney General further stated that "[u]ntil the Legislature makes it clear that a viable nonprofit corporation may dispense its revenues to like-minded nonprofit entities, [the Office of the Attorney General] may not read such authority into the existing statutes." (See Op. Att'y Gen. Fla. 99-23 (1999).) Currently s. 617.0505, F.S., prohibits distributions of income or profit to the members, directors, or officers of a not-for-profit corporation.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 36-0; House 117-0

OPEN GOVERNMENT SUNSET REVIEW

CS/CS/SB 712 — Business Records/Eminent Domain Negotiations

by Governmental Oversight and Productivity Committee and Commerce, Economic Opportunities, and Consumer Services Committee

The committee substitute for committee substitute saves from repeal and revises an existing public records exemption, codified in s. 73.0155, F.S., for business records that are submitted to a governmental condemning authority as part of an offer to settle a claim of business damages resulting from the acquisition of a parcel for right-of-way purposes under the eminent domain law. The committee substitute is based upon the findings and recommendations of Interim Project Report 2004-201 by the Committee on Commerce, Economic Opportunities, and Consumer Services, which is an Open Government Sunset Review of the public records exemption.

Rather than apply the exemption to "business records," as the statute currently does, the committee substitute amends s. 73.0155, F.S., to prescribe the information covered by the public records exemption, which includes:

- Federal and state tax returns and tax information that is provided confidentiality under specific federal or state laws.
- Balance sheets, profit-and-loss statements, cash-flow statements, inventory records, or customer lists or number of customers for the business operating on the parcel to be acquired.
- Franchise, distributorship, or lease agreements relating to the business operating on the parcel to be acquired.
- Information in the nature of trade secrets, using the definition of trade secrets provided under the Uniform Trade Secrets Act (ss. 688.001-688.009, F.S.).

- Other sensitive or proprietary information that the business owner attests in writing is being relied upon to substantiate a business-damage claim, has not otherwise been disclosed, cannot be readily obtained through other means, is used to protect a competitive position in the marketplace, and would injure the business in the marketplace if it were disclosed.

The committee substitute provides that the information is confidential as well as exempt and removes a general requirement that disclosure would be likely to cause substantial harm to the competitive position of the person providing the records. A comparable qualifier, however, is specifically incorporated into the final category of information ("other sensitive or proprietary information") covered by the public records exemption, as revised by this committee substitute. The committee substitute also adds a requirement that the business must request *in writing* that the information be held exempt.

In addition to specifying that the confidentiality and exemption are lifted if the covered information is otherwise made available to the public, the committee substitute provides that the protected information may be shared with an agency, as defined under the public records law, for the transaction of official business. The committee substitute provides, however, that an employee or agent who willfully and knowingly fails to maintain the confidentiality commits a first-degree misdemeanor, punishable by no more than a year in prison or a $1,000 fine.

The committee substitute extends the scheduled expiration of the public records exemption until October 2, 2009, (from October 2, 2004) and provides for future review of the exemption under the Open Government Sunset Review Act. In addition, the committee substitute includes a legislative statement of public necessity for the public records exemption, which cites the need to prevent potential injury to the competitive position of a business due to the release of sensitive business records and the need for condemning authorities to obtain accurate financial information to use in evaluating business-damage claims in eminent domain actions.

The committee substitute also clarifies that the confidential and exempt status accorded to the information in no way prevents use of that information in a legal proceeding or prevents a court from determining whether to close a portion of a court record from subsequent public disclosure after trial in order to maintain the confidentiality of that information.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 39-0; House 118-0

WATER/WASTEWATER

CS/SB 1922 — Water and Wastewater Utilities

by Finance and Taxation Committee and Senator Bennett

This bill revises provisions under chapter 163, the "Florida Interlocal Cooperation Act of 1969," relating to a separate legal entity that wants to acquire, own, construct, improve, operate, and manage or finance a public utility. The bill provides definitions of terms and provides procedures for a host government to accept or reject the separate legal entity's proposal. The bill requires that any transfer or payment by a separate legal entity to another local government must be made solely from user fees or other charges or revenues generated from customers that are physically located within the jurisdictional or service delivery boundaries of the local government receiving the transfer or payment.

The bill also codifies existing law regarding what happens to any gains or losses in the purchase of a privately-owned utility by specifying that any loss in future revenues must be borne by the shareholders of the utility.

In addition, the bill requires water and wastewater utilities with annual revenue above $200,000 that are regulated by the Public Service Commission to pay regulatory assessment fees every six months rather than every 12 months.

If approved by the Governor, these provisions take effect upon becoming law and apply to all contracts pending on or after that date.
Vote: Senate 37-0; House 117-0

ELECTRIC AND GAS

CS/SB 1070 — Natural Gas Companies

by Communication and Public Utilities Committee and Senator Bennett

This bill codifies into law what had been the common judicial practice of allowing specified natural gas transmission pipeline companies to use the eminent domain procedures, including the "quick-take" process, in chapters 73 and 74, F.S., when exercising a right of eminent domain. It also grants to natural gas transmission pipeline companies who have not obtained a certification under the state's Natural Gas Transmission pipeline Siting Act, but who are otherwise subject to regulation under the federal Natural Gas Act, the right of eminent domain and the use of the eminent domain provision in chapters 73 and 74, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

OTHER COMMUNICATIONS

CS/CS/SB 284 — Video Voyeurism

by Judiciary Committee; Communications and Public Utilities Committee; and Senators Aronberg and Crist

The bill creates the crimes of, and penalties for, video voyeurism, video voyeurism dissemination, and commercial video voyeurism dissemination.

Video Voyeurism

A person commits the offense of video voyeurism if that person:

- For amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person, intentionally uses or installs an imaging device to secretly view, broadcast, or record a person, without that person's knowledge or consent, who is dressing, undressing, or privately exposing the body, at a place and time when that person has a reasonable expectation of privacy;
- For the amusement, entertainment, sexual arousal, gratification, or profit of another, or on behalf of another, intentionally permits the use or installation of an imaging device to secretly view, broadcast, or record a person, without that person's knowledge or consent, who is dressing, undressing, or privately exposing the body, at a place and time when that person has a reasonable expectation of privacy; or
- For the amusement, entertainment, sexual arousal, gratification, or profit of oneself or another, or on behalf of oneself or another, intentionally uses an imaging device to secretly view, broadcast, or record under or through the clothing being worn by another person, without that person's knowledge or consent, for the purpose of viewing the body of, or undergarments worn by, that person.

Video Voyeurism Dissemination

A person commits the offense of video voyeurism dissemination if that person, knowing that an image was created in violation of the video voyeurism provisions, intentionally disseminates, distributes, or transfers the image to another person.

Commercial Video Voyeurism Dissemination

A person commits the offense of commercial video voyeurism dissemination if that person:

- knowing that an image was created in violation of the video voyeurism provisions, sells the image for consideration to another person; or

- having created the image in violation of the video voyeurism provisions, disseminates, distributes, or transfers the image to another person for that person to sell the image to others.

Definitions

The bill defines the following:

- "Broadcast" means electronically transmitting a visual image with the intent that it be viewed by another person.
- "Imaging device" means any mechanical, digital, or electronic viewing device, still camera, camcorder, motion picture camera, or any other instrument, equipment, or format capable of recording, storing, or transmitting visual images of another person.
- "Place and time when a person has a reasonable expectation of privacy" means a place and time when a reasonable person would believe that he or she could fully disrobe in privacy, without being concerned that the person's undressing was being viewed, recorded, or broadcasted by another, including, but not limited to, the interior of a bathroom, changing room, fitting room, dressing room, or tanning booth.
- "Privately exposing the body" means exposing a sexual organ.

Exemptions and Penalties

The bill exempts from its provisions any law enforcement agency conducting surveillance for a law enforcement purpose; a security system when a written notice is conspicuously posted on the premises stating that a video surveillance system has been installed for the purpose of security for the premises; a video surveillance device that is installed in such a manner that the presence of the device is clearly and immediately obvious; or dissemination, distribution, or transfer of images subject to this section by a provider of an electronic communication service, such as providers of wire or oral communications, tone-only paging communications, remote computing services, tracking devices, or electronic funds transfer. A limited exception is also provided for a merchant observing customers in dressing, fitting or changing rooms or restrooms, where the observation is within the scope of the merchant's duties and does not otherwise violate certain laws, or if the customer invites or consents to the merchant's presence.

A first violation is a first-degree misdemeanor, punishable by a definite term of imprisonment not exceeding one year or by a fine of not more than $1,000. If a person who violates this section has been previously convicted or adjudicated delinquent of any violation of this section, it is a third-degree felony, punishable by a term of imprisonment not exceeding five years, by a fine of not more than $5,000, or by a term of imprisonment not exceeding 10 years if the person is categorized as a habitual felony offender.

In the Florida Contraband Forfeiture Act, the definition of "contraband article" is amended to include any personal property, such as, any imaging device used in violation of s. 810.145, F.S. (the video voyeurism provisions created in the bill), or any photograph, film, or other recorded

image, including an image recorded on videotape, a compact disk, digital tape, or fixed disk, recorded in violation of s. 810.145, F.S. The bill requires an agency that has received, through forfeiture, illegal video voyeurism images to destroy any image and the medium upon which the image is recorded when it is no longer needed for an official purpose, including, but not limited to, a photograph, video tape, diskette, compact disk, or fixed disk. The agency may not sell or retain any image.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 114-0

CS/SB 1162 — Wireless 911 Board Information/OGSR

by Governmental Oversight and Productivity Committee and Communication and Public Utilities Committee

The bill amends s. 365.174, F.S., deleting the automatic repeal on October 1, 2004, thereby preserving the exemption from public records requirements for proprietary confidential business information submitted by a wireless provider to the board or the office.

The bill also narrows what is covered by the current exemption by specifying what the phrase "and other related information" was intended to mean in the definition of "proprietary confidential business information" related to customer lists and customer numbers.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 37-0; House 117-0

SB 2574 — Commercial Relations/Electronic Mail

by Senators Garcia, Lynn, Campbell, and Aronberg

The bill prohibits initiating or assisting in the transmission from a computer located in this state or to an electronic mail address held by a resident of this state of an unsolicited commercial electronic mail message that:

- Uses a third party's Internet domain name without permission;
- Contains falsified or missing routing information or otherwise misrepresents, falsifies, or obscures any information identifying the point of origin or the transmission path of the unsolicited commercial electronic mail message;
- Contains false or misleading information in the subject line; or
- Contains false or deceptive information of the body of the message which is designed and intended to cause damage to the receiving device of an addressee or other recipient of the message.

The bill also prohibits distribution of software or any other system designed to falsify missing routing information.

The bill authorizes the Department of Legal Affairs to bring an action for damages or to impose a civil penalty. It also creates a cause of action for an interactive computer service, telephone company, or cable provider that handles or retransmits a commercial electronic mail message for an injunction against future violations, compensatory damages equal to any actual damage proven by the plaintiff or liquidated damages of $500 for each unsolicited commercial electronic mail message that is in violation of the bill's prohibitions, and attorney's fees and other costs. Additionally, a violation of the bill is an unfair and deceptive trade practices act.

The bill states that it does not require a provider of Internet access service to block, transmit, or store electronic mail messages, and authorizes interactive computer services to block commercial or other electronic mail.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-0

SB 2714 — Radio transmission

by Senator Villalobos

The bill makes it a third degree felony to:

- Make, or cause to be made, a radio transmission in this state unless the person obtains a license or an exemption from licensure from the Federal Communications Commission under 47 U.S.C. s. 301, or other applicable federal law or regulation; or
- Do any act, whether direct or indirect, to cause an unlicensed radio transmission to, or interference with, a public or commercial radio station licensed by the Federal Communications Commission or to enable the radio transmission or interference to occur.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 30-8; House 84-31

LOCAL GOVERNMENT FINANCE

CS/CS/CS/SB 708 — Local Government Accountability

by Appropriations Committee; Finance and Taxation Committee; Education Committee; and Senator Atwater

This bill addresses issues of local government financial accountability based on the Auditor General's performance audit of the Local Government Financial Reporting System (AG Report 01-075) and recommendations from other state agencies and local governments. The bill:

- Expands the authority of the Legislative Auditing Committee to ensure compliance with local government reporting requirements;
- Simplifies statutory provisions relating to the filing of complaints for bond validation and bond refunding issues;
- Clarifies that special districts have the authority to provide some form of health insurance benefit to their officers and employees;
- Provides additional authority to the Department of Management Services, Division of Retirement, to compel local governments to respond timely to requests for actuarial information for local pension plans;
- Provides procedures for amending budgets of municipalities and special districts;
- Amends and clarifies procedures for dissolving municipalities and special districts;
- Requires information to clarify classification of special districts upon creation;
- Permits a candidate of a district board of trustees of a fire control board to not appoint a campaign treasurer or designate a primary campaign depository if they do not collect any contributions and the only expense is the filing fee, and provides that any board member who ceases to be a qualified elector is automatically removed from the board;
- Amends notification requirements for counties to report missing county officer fee reports to match current practice;
- Revises the Local Government Financial Emergencies Act to reflect new accounting standards, to provide for an improved process for designating local governments as being in a financial emergency, and to clarify the applicability of the financial emergency law to district school boards;
- Repeals restrictions which are inconsistent with other provisions in law pertaining to local governments bond or reporting issues; and
- Creates a pilot program for Monroe County to provide, through a non-profit corporation, a self-insurance plan, approved by the Office of Insurance Regulation, to insure residents of the county who are unable to obtain health insurance.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 113-0

CS/SB 1738 — Tax Liens/Homestead Exemptions
by Appropriations Committee and Senator Fasano

The bill extends the statute of limitations from 5 years to 20 years for a tax lien imposed under s. 196.161, F.S., relating to the fraudulent receipt of homestead exemption.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 116-0

CS/SB 2264 — Discretionary Sales Surtaxes
by Finance and Taxation Committee and Senator Smith

The bill authorizes all charter counties eligible to levy the Charter County Transit System Surtax to use up to 25 percent of surtax proceeds for non-transit purposes.

In addition, the bill restricts counties with a population of 75,000 or less, if otherwise qualified, from using the proceeds of the local government infrastructure surtax for the operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax. In addition, it amends the qualification criteria and clarifies the extent of the authority to use the proceeds for these purposes for counties with a population of 75,000 or more.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

GROWTH MANAGEMENT

CS/CS/SB 162 — Land Development Regulation
by Judiciary Committee; Comprehensive Planning Committee; and Senator Bennett

This bill provides that a development order issued by a local government under its adopted land development regulations, which is not the subject of a pending appeal and where the time for filing an appeal has expired, may not be abrogated by a subsequent judicial determination that such land development regulations, or a portion thereof, are invalid because of a deficiency in approval standards. The bill states that its provisions do not preclude or affect any other remedy available at law or equity, including a common law writ of certiorari proceeding under Rule 9.190, Florida Rules of Appellate Procedure, or an original proceeding pursuant to s. 163.3215, F.S. The provisions of this bill apply retroactively to any development order granted on or after January 1, 2002.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 113-4

HB 539 — Developments of Regional Impact

by Rep. Justice and others (CS/SB 1310 by Comprehensive Planning Committee and Senator Jones)

The bill (Chapter 2004-10, L.O.F.) provides that individual use guidelines and standards for residential, hotel, motel, office, and retail developments shall be increased by 100 percent for multiuse developments in urban central business districts and regional activity centers if one land use of the multiuse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. In addition, the bill creates a presumption that the extension of the date of buildout of an areawide development of regional impact by more than five years but less than 10 years does not create a substantial deviation which would subject the development to additional development-of-regional-impact review.

These provisions were approved by the Governor and take effect July 1, 2004.
Vote: Senate 40-0; House 116-0

CS/CS/SB 2188 — Land Development

by Finance and Taxation Committee and Comprehensive Planning Committee

The bill clarifies that lands available for taxes which revert to the county 3 years after being offered for public sale shall escheat to the county free and clear of all tax certificates, accrued taxes, and liens of any nature. It requires the clerk to issue an escheatment tax deed which vests title in the board of county commissioners. Further, the bill provides immunity for the county from environmental liability associated with properties that escheat to the county. It allows the county and the Department of Environmental Protection to enter into a written agreement addressing investigative and remedial activities for the property.

This bill provides legislative findings on the lack of affordable rentals for very-low-income, low-income, and moderate-income persons. The bill makes a finding that encouraging local governments to permit accessory dwelling units to increase the availability of affordable rentals serves a public purpose. It provides definitions and authorizes a local government to adopt an ordinance allowing accessory dwelling units (ADUs) in any areas zoned for single-family residential use based upon a finding that there is a shortage of affordable rentals. Building permit applications for an ADU under an ordinance adopted pursuant to this provision must include an affidavit from the applicant attesting that the unit will be rented at an affordable rate. Each ADU that is allowed under an ordinance adopted under this section shall count towards the affordable housing component of the housing element in the local government's comprehensive plan. The bill requires the Department of Community Affairs to report to the Legislature on January 1,

2007, regarding the effectiveness of using ADUs to address a local government's shortage of affordable housing.

This bill provides legislative findings regarding the benefits of mixed-use, high density development and requires the Department of Community Affairs to provide technical assistance to encourage mixed-use, high density urban infill and redevelopment projects. In addition, the bill contains legislative findings regarding transfer of development rights programs in urban areas and requires the Department of Community Affairs to provide technical assistance in order to promote the transfer of development rights for urban infill and redevelopment projects.

The bill requires a local government to address water supply sources necessary to meet existing and future water use demands in its comprehensive plan and revises the deadline for a local government to consider a regional water supply plan in its comprehensive plan. It also requires a local government's work plan for building water supply facilities to be updated at certain intervals.

Finally, the bill eliminates the pilot project status for the rural land stewardship area program. It requires the Department of Environmental Protection, the water management districts, and regional planning councils in addition to the Department of Community Affairs, to provide assistance to local governments in designating rural land stewardship areas. This bill provides that rural land stewardship area designation should be specifically encouraged as a future land use map overlay. Also, it allows for a multicounty rural land stewardship area. The 50,000-acre minimum threshold for a rural land stewardship area is reduced to 10,000 acres and the 250,000-acre maximum threshold is eliminated.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 109-1

CS/SB 2572 — Airport Zoning/Education Facilities

by Comprehensive Planning Committee and Senator Garcia

This bill removes, for a limited number of qualified counties, a prohibition in s. 333.33, F.S., on the placement of educational facilities adjacent to or near airport facilities. However, the school board is required to hold a public hearing prior to site acquisition for such a facility.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-2

CONDOMINIUMS AND HOMEOWNERS' ASSOCIATIONS

CS/CS/CS/SB 1184 — Condominium and Community Associations

by Judiciary Committee; Health, Aging, and Long-Term Care Committee; Comprehensive Planning Committee; and Senators Campbell, Lynn, Garcia, and Smith

The bill provides immunity from liability to a condominium association and its authorized agent for providing information, other than that required by ch. 718, F.S., in good faith in response to a written request if the person providing the information includes a written statement as provided for in statute.

The bill provides immunity from liability under certain circumstances to community associations for damages caused by the use of an automated external defibrillator owned by the association. This bill also prohibits an insurer from requiring community associations to purchase medical malpractice liability coverage as a condition of issuing any other coverage carried by the association. Also, an insurer may not exclude damages resulting from the use of an automated external defibrillator from coverage under a general liability policy issued to a community association.

Condominium Associations

The bill creates the Advisory Council on Condominiums to receive public input and make recommendations for changes in condominium law. The Office of the Condominium Ombudsman is created within the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation. The ombudsman must be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the Governor. The ombudsman shall make recommendations for legislation relating to division procedures, rules, jurisdiction, personnel and functions. The bill also authorizes fifteen percent of the total voting interests of a condominium association or six unit owners, whichever is greater, to petition the ombudsman to appoint an election monitor to attend the annual meeting and conduct the election of directors.

The bill authorizes voting by limited proxy on votes to forego retrofitting a condominium or cooperative with a fire sprinkler system. It also revises notice requirements relating to the vote to forego retrofitting.

The bill amends the Condominium Act to provide that a resale purchaser is entitled to receive from a nondeveloper, a question and answer sheet upon entering into a contract for sale and to require related disclosures in the resale purchase contract.

This bill provides that any amendment restricting condominium unit owners' rights relating to the rental of units applies only to unit owners who consent to the amendment or unit owners who purchase their unit after the effective date of the amendment.

Homeowners' Associations

This bill provides a method for reviving the expired declarations of covenants of a homeowners' association. The bill also amends several substantive provisions of ch. 720, F.S., relating to homeowners' associations. It redefines the term "member" to include any person or entity obligated by the governing documents to pay an assessment or amenity fee. The bill provides that parcel owners and members have the right to attend all meetings, and the right to speak for at least three minutes at meetings, provided that the parcel owner or member submits a request to speak prior to the commencement of the meeting. The bill also requires notice to parcel owners and members of all board meetings, and requires an association's board to address an item of business if 20 percent of the total voting interests petition the board. The board would have to take up the petitioned item at its next meeting or special meeting.

The bill requires associations to maintain a copy of their governing documents and records, and to provide parcel owners with copies requested, if a copy machine is available, during an inspection if the entire request is limited to no more than 25 pages. It requires associations to adopt reasonable rules that govern the inspection of the associations' records. The bill establishes financial reporting requirements and the format of financial statements. The bill establishes notice requirements for removal of directors. It provides the procedure for certification of the recall vote, for resolving a defective recall, for replacement of a recalled director and establishes dispute resolution procedures for recall and election disputes.

The bill expands flag display rights to include the right to display the official State of Florida and flags of the U.S. Armed Services. It prohibits "Strategic Lawsuits Against Public Participation" or "SLAPP" suits against a parcel owner, requires courts to award the prevailing party reasonable attorney's fees and costs, and bars associations from expending association funds in prosecuting a SLAPP suit against a parcel owner. It allows any parcel owner to construct an access ramp under certain circumstances. The bill also provides that parcel owners may display within 10 feet of any entrance to the home a sign of reasonable size provided by a contractor for security services.

In addition, the bill provides that a fine by an association against any member, tenant, guest, or invitee cannot become a lien against a parcel. It provides that in any action to recover a fine, the prevailing party is entitled to collect reasonable attorney's fees and costs. The bill establishes requirements for associations' contracts for products and services.

This bill revises notice requirements for a homeowners' association meeting at which the board intends to take action on any rules regarding the use of parcels or the board will consider assessments. It provides disclosure requirements for sellers of property in a community governed by a homeowners' association and allows a prospective purchaser to void a contract under certain circumstances for failure to receive the disclosure summary.

The bill provides a cause of action to rescind the contract for sale or for damages against a developer for false or misleading material statements. The bill grants the county courts original jurisdiction over disputes occurring in homeowners' associations, and provides for concurrent jurisdiction in the circuit courts.

Community Development Districts

The bill revises the Uniform Community Development District Act of 1980 to allow a community development district governing board to enforce deed restrictions (in specified circumstances), to correct deficiencies in the district dissolution process, and to correct deficiencies in district elections policies and procedures.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 22-10; House 94-8

SB 1728 — Condominiums and Cooperatives

by Senator Fasano

The bill allows the unit owners in a residential condominium or cooperative that meets the definition of "housing for older persons" in s. 760.29(4)(b)3., F.S., to forego retrofitting or replacing the handrails and guardrails in common elements or units if approved by a two-thirds vote of all voting interests. It prohibits unit owners in a high-rise building from voting to forego such retrofitting in the common areas. It defines the terms "high-rise building" and "common areas."

The bill prohibits a local authority from requiring the retrofitting of common areas with handrails and guardrails before the end of 2014. In addition, it contains notice provisions for cooperatives and condominium associations in buildings that vote affirmatively to forego retrofitting and proscribes the use of proxies in such vote. This bill requires the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation to collect information on the number of cooperatives and condominiums that vote to forego the retrofitting or replacing of handrails and guardrails, and the per-unit cost of work if retrofitting is undertaken. The division is required to annually report to the Division of State Fire Marshal of the Department of Financial Services the number of condominiums or cooperatives that vote to forego retrofitting.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 112-4

GOVERNMENTAL LIABILITY

CS/CS/CS/SB 1764 — Donated Firefighting Equipment

by Judiciary Committee; Governmental Oversight and Productivity Committee; Comprehensive Planning Committee; and Senators Lynn and Bullard

The bill creates the "Good Samaritan Volunteer Firefighters' Assistance Act" to provide immunity from civil liability for a state agency or subdivision, including its officers, employees, and agents who are acting within the scope of their employment or function, which donates qualified fire control or fire rescue equipment to a volunteer fire department. The immunity provided by the bill is from liability for personal injury, property damage, or death that is proximately caused, after the donation, by a defect in the equipment. This immunity, however, does not apply if: (a) the defect that proximately caused the personal injury, property damage, or death is the result of malice, gross negligence, recklessness, or intentional misconduct or the result of alterations or modifications by the agency or subdivision after recertification of the donated equipment; or (b) the agency or subdivision is the manufacturer of the qualified equipment. The bill also clarifies that nothing in the section is to be construed as a waiver of sovereign immunity.

The bill defines the terms "authorized technician," "qualified fire control or fire rescue equipment," and "state agency or subdivision." The bill applies to any action that accrues on or after July 1, 2004.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 116-0

CS/SB 1790 — Paintball/Governmental Liability

by Governmental Oversight and Productivity Committee and Senator Posey

The bill adds paintball to the list of activities for which liability is limited for governmental entities for personal property damage or bodily injuries. This bill does not constitute a waiver of sovereign immunity and does not limit the liability of a governmental entity for failure to guard against or warn of a dangerous condition, gross negligence, or failure to obtain written parental consent for participants in paintball under the age of 17. These limitations on liability with regard to paintball do not apply to independent concessionaires or others using governmental property, regardless of whether a contractual relationship exists with the governmental entity.

The bill adds paintball to those activities for which any person, regardless of age, who participates in, assists in, or observes paintball, assumes the known and unknown inherent risks in this activity and is legally responsible for resulting damages, injury, or death to himself or herself. A governmental entity which sponsors, allows, or permits paintball on its property is not required to eliminate, alter or control the inherent risks in that activity.

Finally, the bill includes paintball among those activities for which s. 316.0085(7)(b), F.S., prescribes duties required of a participant. Failure to comply with these requirements shall constitute negligence for purposes of comparative fault.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-0

PUBLIC RECORD EXEMPTIONS

SB 1626 — Archival Material/Public Records

by Senator Margolis

This bill provides an exemption from the public records law for manuscripts or other archival material donated to and held by an official archive of a municipality or county if the manuscripts or material are subject to special terms and conditions that limit public disclosure. It requires that such a manuscript or material be made available for inspection and copying 50 years after the date of creation of the manuscript or material, or earlier if specified in the terms and conditions or pursuant to a court order. This exemption is subject to legislative review and repeal under the Open Government Sunset Review Act of 1995, and is repealed on October 2, 2009, unless reenacted by the Legislature.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 40-0; House 108-0

MISCELLANEOUS LOCAL GOVERNMENT

HB 213 — Surplus State Lands/Disposition

by Rep. Killinger and others (CS/SB 424 by Governmental Oversight and Productivity Committee and Senators Geller and Constantine)

This bill modifies the process by which the Board of Trustees of the Internal Improvement Trust Fund may dispose of state-owned lands that have been surplused. If the surplused land was acquired from a municipality by gift or other conveyance at minimal or no cost to the state prior to 1958, and the Department of Management Services has filed by July 1, 2006, a notice of its intent to surplus, the board is required to offer to re-convey such surplus lands to that municipality at no cost, but for the fair market value of any building or other improvements to the land, unless otherwise provided in a deed restriction of record.

The bill also increases the minimum value of property required to be inventoried by local governments from $750 to $1,000.

Additionally, the bill requires special districts to comply with the provisions of ch. 274, F.S., Tangible Personal Property Owned by Local Governments, and not just comply with s. 274.12, F.S.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 114-0

HB 511 — Neighborhood Crime Watch Programs

by Rep. Carroll and others (CS/SB 1410 by Comprehensive Planning Committee and Senators Miller, Aronberg, Crist, Dawson, Siplin, Bennett, Campbell, Margolis, Saunders, Bullard, Lawson, Wilson, and Lynn)

This bill (Chapter 2004-18, L.O.F.) authorizes a county sheriff or municipal police department to establish a neighborhood crime watch program. It creates a first degree misdemeanor offense if a person willfully harasses, threatens, or intimidates an identifiable member of a neighborhood crime watch program while the member is engaged in, or traveling to or from, an organized crime watch program activity or participating in an ongoing criminal investigation, as designated by a law enforcement officer. The bill defines the term "organized neighborhood crime watch program activity" as any prearranged event, meeting, or other scheduled activity, or neighborhood patrol conducted by or at the direction of the program or its authorized designee. The bill also defines the term "harass."

These provisions were approved by the Governor and take effect July 1, 2004.
Vote: Senate 40-0; House 110-0

CORRECTIONS

SB 1596 — Frivolous Actions/Filed by Prisoner

by Senators Smith, Lynn, Haridopolos, Pruitt, and Aronberg

This bill amends s. 944.279, F.S., which subjects an inmate to Department of Corrections' disciplinary proceedings if a court finds that the inmate filed an action or appeal in bad faith or knowingly presented false information or evidence to the court. The bill removes an exception that prevents application of the sanction to a collateral criminal proceeding filed by an inmate.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 37-0; House 110-5

SB 1684 — DOC Employees/Additional Employment

by Senators Cowin, Lynn, Lawson, and Campbell

This bill amends s. 944.38, F.S., to provide that an officer or employee of the Department of Corrections can take additional employment or engage in any pursuit that does not interfere with discharge of his or her duties. The bill also allows a department officer or employee to work for a department contractor as long as he or she is not involved in procurement or evaluation for the contract.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

CS/CS/SB 2336 — Probation and Community Control

by Judiciary Committee and Criminal Justice Committee

The bill reorganizes ch. 948, F.S., which relates to probation and community control, by subject area. The bill includes no substantive changes.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 109-0

CRIMINAL PROCEDURE

CS/SB 118 — Officer Cheryl Seiden Act

by Governmental Oversight and Productivity Committee and Senators Fasano, Lynn, Argenziano, Margolis, and Wilson

This bill (Chapter 2004-14, L.O.F.) prohibits the court's acceptance of a plea agreement that prohibits a law enforcement officer from appearing or speaking at a parole hearing or clemency hearing. The bill also provides that when the crime victim is a law enforcement officer, a plea agreement may not prohibit the officer or their representative from appearing or providing a statement at the sentencing hearing, and adopts the definition of "law enforcement officer" as set forth in s. 943.10, F.S. The bill also clarifies that nothing in the amended section (s. 921.143, F.S.), may be construed to impair a victim's statutory rights as set forth in ch. 960, F.S., or constitutional rights as stated in s. 16(b), Art. I, State Constitution.

These provisions were approved by the Governor and take effect July 1, 2004.
Vote: Senate 38-0; House 114-0

CS/SB 222 — Service of Process

by Criminal Justice Committee and Senator Crist

The bill amends s. 48.031, F.S., to allow witness subpoenas to be served by any form of United States mail in misdemeanor, second or third degree felony, and criminal traffic cases. The witness cannot be held in contempt of court for failure to appear if certified mail is not used. The bill permits posting of a criminal witness subpoena after three unsuccessful attempts to serve the subpoena at the witness' residence on different dates and times of day. Also, service may be made on the person in charge of a private mailbox service if the person to be served maintains a private mailbox at that location and does not have another address.

The bill amends s. 48.081, F.S., relating to service on corporations. If service cannot be made on a corporation's registered agent because of a failure to comply with s. 48.091, F.S., service may be made on any employee of the corporation at its principal place of business or upon any employee of the registered agent. The section also allows service in accordance with s. 48.031, F.S., if the address for a corporation's registered agent, officer, director, or place of business is a residence or a private mailbox.

The bill broadens the language of s. 48.21, F.S., to refer to "the person who effects service of process" rather than only "officers to whom process is directed." It also revises the section to require notation of the date of receipt and service and to refer to "service" rather than "execution" of process. The bill also deletes s. 48.29(6)(a), F.S., to eliminate the requirement for certified process servers to annotate certain other information on the face of the original and any served copies of the process.

The bill amends s. 83.13, F.S., to make the party who had a distress writ issued in a non-residential tenancy case responsible for delivering the writ to the appropriate county sheriff if the property has been removed from the county where the writ was issued.

The bill creates a new subsection of s. 624.307, F.S., authorizing the Chief Financial Officer to use registered mail, certified mail, or any other verifiable means to forward legal process that is received for a regulated person who is required to appoint the CFO as attorney to receive legal process.

The bill amends s. 832.07, F.S., concerning prima facie evidence of intent to pass a worthless check, to allow the recipient of a worthless check to send notice to the maker by first-class mail, evidenced by an affidavit of service. The bill also requires the maker of a worthless check to make the check good within 15 days after written notice is sent to the address printed on the check or given at the time of issuance.

The bill amends s. 409.257, F.S., to allow the Department of Revenue to issue witness subpoenas by regular United States mail in child support enforcement cases.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-1; House 118-0

CRIMINAL OFFENSES AND PENALTIES

HB 295 — Fleeing Law Enforcement Officer

by Rep. Patterson and others (SB 1322 by Senator Lynn)

The bill amends s. 316.1935(1), F.S., to provide that it is a third degree felony for the operator of a vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop, or having stopped in compliance with such order, willfully to flee in an attempt to elude the officer.

The bill also amends s. 316.1935(3), F.S., to create paragraph (3)(b), which provides that a person commits a first degree felony if he or she willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated, and during the course of the fleeing or attempted eluding, drives at high speed, or in any manner which demonstrates a wanton disregard for the safety of persons or property, and causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle. The court shall sentence the person convicted of this offense to a mandatory minimum sentence of 3 years

imprisonment. The punishment provided shall not prevent a court from imposing a greater sentence of incarceration as authorized by law.

The bill also amends s. 316.1935(4), F.S., to create paragraph (4)(b), which provides that a person commits aggravated fleeing or eluding with serious bodily injury or death, a first degree felony, if he or she, in the course of unlawfully leaving or attempting to leave the scene of a crash (in violation of s. 316.027, F.S., or s. 316.0611, F.S.), having knowledge of an order to stop by a duly authorized law enforcement officer, willfully refuses or fails to stop in compliance with such an order, or having stopped in compliance with such order, willfully flees in an attempt to elude such officer and, as a result of such fleeing or eluding, causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle. The felony of aggravated fleeing or eluding and the felony of aggravated fleeing or eluding with serious bodily injury or death constitute separate offenses for which a person may be charged, in addition to the offenses under ss. 316.027 and 316.061, relating to unlawfully leaving the scene of a crash, which the person had been in the course of committing or attempting to commit when the order to stop was given.

The court shall sentence the person convicted of aggravated fleeing or eluding with serious bodily injury or death to a mandatory minimum sentence of 3 years imprisonment and revoke the person's driver's license for a period not less than 1 year nor exceeding 5 years. The punishment provided shall not prevent a court from imposing a greater sentence of incarceration as authorized by law. No court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of s. 316.1935, F.S., and a person convicted and sentenced to a minimum mandatory term of incarceration under s. 316.1935(3)(b) or s. 316.1935(4)(b), F.S., is not eligible for statutory gain-time under s. 944.275, F.S., or any form of discretionary early release, other than pardon or executive clemency or conditional medical release under s. 947.149, F.S., prior to serving the mandatory minimum sentence.

Any motor vehicle involved in a violation of s. 316.1935, F.S., is deemed to be contraband, which may be seized by a law enforcement agency and is subject to forfeiture pursuant to ss. 932.701-932.704, F.S., the Florida Contraband Forfeiture Act.

The bill also amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to rank the third-degree felony offense in s. 316.1935(1), F.S., in Level 1 of the chart, rank the first-degree felony offense in s. 316.1935(3)(b), F.S., in Level 7 of the chart, rank the first-degree felony offense in s. 316.1935(4)(b), F.S., in Level 8 of the chart, and make technical or conforming changes to the chart consistent with the amendments to s. 316.1935, F.S.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 35-4; House 110-1

HB 599 — Stolen Property

by Rep. Culp and others (CS/CS/SB 1380 by Judiciary Committee; Criminal Justice Committee; and Senators Argenziano, Crist, and Lynn)

The bill amends s. 812.022, F.S., to provide that proof that a dealer who regularly deals in used property possesses stolen property upon which a name and phone number of a person other than the offeror of the property are conspicuously displayed gives rise to an inference that the dealer possessing the property knew or should have known that the property was stolen. If the name and phone number are for a business that rents property, the dealer avoids the inference by contacting the business, prior to accepting the property, to verify that the property was not stolen from the business. If the name and phone number are not for a business that rents property, the dealer avoids the inference by contacting the local law enforcement agency in the jurisdiction where the dealer is located, prior to accepting the property, to verify that the property has not been reported stolen. An accurate written record, which contains specified information, is sufficient evidence to avoid the inference.

The bill provides that the inference created by the bill does not apply to:

- Persons, entities, or transactions exempt from s. 538.57, F.S. (nonprofits, certain transactions involving secondhand goods, and specified persons, entities, and transactions);

- Printed or recorded materials, computer software, videos, video games, or used sports equipment that does not contain a serial number; or

- A dealer that implements, in a continuous and consistent manner, a program for identification and return of stolen property that meet several specified criteria.

The bill also amends s. 921.0022, F.S., the offense ranking chart of the Criminal Punishment Code, to raise from Level 6 to Level 7 the offense of cargo theft where the property stolen is valued at less than $50,000, and to raise from Level 7 to Level 8 the offense of cargo theft where the property stolen is valued at $50,000 or more.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 115-0

CS/SB 678 — Assault/Battery on Sports Official

by Criminal Justice Committee and Senators Smith, Lynn, and Dawson

The bill amends s. 784.081, F.S., to provide for the reclassification of the felony or misdemeanor degree, as applicable, of assault, aggravated assault, battery, or aggravated battery when any of

those offenses are committed upon a sports official when he or she is actively participating as a sports official in an athletic contest or immediately following such athletic contest.

The bill defines the term "sports official" as "any person who serves as a referee, an umpire, or a linesman, and any person who serves in a similar capacity as a sports official who may be known by another title, which sports official is duly registered by or is a member of a local, state, regional, or national organization that is engaged in part in providing education and training to sports officials."

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 38-1; House 113-0

HB 869 — Adjudication of Guilt

by Rep. Gelber and others (CS/SB 2552 by Criminal Justice Committee and Senator Villalobos)

The bill creates s. 775.08435, F.S., which prohibits a court from withholding adjudication of guilt for a capital felony, life felony, and first degree felony.

A court also may not withhold adjudication of guilt for a second degree felony if the defendant has a prior withhold of adjudication for a felony not arising from the same transaction as the current felony. If there is no such prior felony, the court can only withhold adjudication if it makes a written finding that a withhold of adjudication is reasonably justified based on statutorily-specified factors for mitigating a Criminal Punishment Code sentence or the state attorney requests in writing that adjudication be withheld.

A court also may not withhold adjudication of guilt for a third degree felony if the defendant has a prior withhold of adjudication for a felony not arising from the same transaction as the current felony, unless the state attorney requests in writing a withhold of adjudication or the court makes a written finding that a withhold of adjudication is reasonably justified based on statutorily-specified mitigating factors. However, there cannot be a withhold of adjudication of guilt for a third degree felony if the defendant has two or more prior withholds of adjudication for a felony not arising from the same transaction as the current felony.

The bill amends s. 924.07, F.S., to provide that the state may appeal from an order withholding adjudication of guilt in violation of the new statute.

The bill repeals Florida Rule of Criminal Procedure 3.670 to the extent that it is inconsistent with the provisions of the bill.

If approved by the Governor, these provisions take effect July 1, 2004, except as otherwise provided.
Vote: Senate 39-0; House 108-0

HB 1313 — Illegal Use of Nets

by Rep. Gardiner and others (CS/SB 2334 by Criminal Justice Committee and Senators Haridopolos and Pruitt)

This bill revises the criminal penalty and civil penalties applicable to a flagrant violation of the marine net fishing limitations contained in s. 16, Art. X, State Constitution, and the statutes or rules implementing that provision. The criminal penalty is a third degree felony. The civil penalties are as follows: for a first flagrant violation, a $5,000 fine and a 12-month suspension of license privileges; for a second or subsequent flagrant violation, a $5,000 fine, lifetime suspension of license privileges, and forfeiture of all gear used in the violation.

A "flagrant violation" is defined as the illegal possession or use of a monofilament net or a net with a mesh area larger than 2000 square feet.

The bill also provides for application of current civil penalties to violations of statutes implementing s. 16(b), Art. X, State Constitution.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 29-9; House 114-0

CS/CS/SB 1376 — Habitual Misdemeanor Offenders

by Appropriations Committee; Criminal Justice Committee; and Senators Haridopolos, Pruitt, and Lynn

The bill creates s. 775.0837, F.S., which creates a new category of habitual offender called the "habitual misdemeanor offender," which the bill defines as a defendant who is before the court for sentencing for a specified misdemeanor and who has previously been convicted, as an adult, of four or more specified misdemeanor offenses, which, in relation to each other and the misdemeanor before the court for sentencing, must be separate offenses that are not part of the same criminal transaction or episode, and which must have been committed within 1 year of the date the misdemeanor before the court for sentencing was committed.

The bill limits the specified misdemeanor offenses to misdemeanor violations under the following statutory chapters: ch. 741, F.S. (domestic violence); ch. 784, F.S. (assault and battery); ch. 790, F.S. (weapons and firearms); ch. 796, F.S. (prostitution); ch. 800, F.S. (lewdness and indecent exposure); ch. 806, F.S. (arson and criminal mischief); ch. 810, F.S. (burglary and trespass); ch. 812, F.S. (theft and robbery); ch. 817, F.S. (fraudulent practices); ch. 831, F.S. (forgery and counterfeiting); ch. 832, F.S. (violations involving checks); ch. 843, F.S. (obstructing justice); ch. 856, F.S. (drunkenness, loitering and prowling); ch. 893, F.S. (drug abuse); or ch. 901, F.S. (arrests).

The bill provides that, if the court finds that a defendant before the court for sentencing for a misdemeanor is a habitual misdemeanor offender, the court shall, unless the court makes a finding that an alternative disposition is in the best interests of the community and defendant, sentence the defendant as a habitual misdemeanor offender to one of following three sentences:

- Imprisonment of not less than 6 months, but not to exceed 1 year;

- Commitment to a residential treatment program for not less than 6 months, but not to exceed 364 days, provided that the treatment program is operated by the county or a private vendor with which the county has contracted to operate such program, or by a private vendor under contract with the state or licensed by the state to operate such program, and provided that any referral to a residential treatment facility is in accordance with the assessment criteria for residential treatment established by the Department of Children and Family Services, and that residential treatment beds are available or other community-based treatment programs or a combination of residential and community-based programs; or

- Detention for not less than 6 months, but not to exceed 364 days, to a designated residence, if the detention is supervised or monitored by the county or by a private vendor with which the county has contracted to supervise or monitor the detention.

The bill further provides that the court may not sentence a defendant as a habitual misdemeanor offender if the misdemeanor offense before the court for sentencing has been reclassified as a felony as a result of any prior qualifying misdemeanor.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 74-37

SB 1768 — Possession/Firearms/Felon/Delinquent

by Senator Smith

The bill defines ammunition and includes possession of it by a convicted felon, violent career criminal, or juvenile delinquent as a second degree felony crime in s. 790.23, F.S. Possession of a firearm, or electric weapon or device, or carrying a concealed weapon including a tear gas gun or chemical weapon is currently prohibited in s. 790.23, F.S., and constitutes a second degree felony, Level 5 in the Criminal Punishment Code Offense Ranking Chart.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 39-0; House 114-0

HB 1807 — Burglary

by Public Safety and Crime Prevention Committee and others (CS/SB 2856 by Criminal Justice Committee and Senators Smith and Lynn)

The bill is intended to provide further clarification of provisions in s. 810.015, F.S., which indicate the Florida Supreme Court's holding in *Delgado v. State*, 776 So. 2d 233 (Fla. 2000), is contrary to legislative intent and that the Legislature intends that *Delgado* be nullified. In *Delgado*, the Court held that evidence of a crime committed inside a dwelling, structure, or conveyance of another cannot, in and of itself, establish the crime of burglary. A person who is invited to enter a dwelling, structure, or conveyance only commits burglary by remaining in with the intent to commit an offense therein, if he or she remains on the property surreptitiously.

The *Delgado* holding is a substantial departure from prior cases of the Court in which it had held that when a defendant was invited to enter the property, a burglary is committed when the defendant remains on the property after his or her license to remain on the property has been revoked (i.e. the occupant withdrew consent for the defendant to stay on the property), and the defendant remained on the property, despite the revocation, with the intent to commit an offense therein. Withdrawal of consent is implicit when a crime is committed on the property and can be proven by circumstantial evidence.

In response to the *Delgado* decision, the Legislature created s. 810.015, F.S., which indicates that the Legislature's intent regarding burglary accords with the pre-*Delgado* cases. ch. 2001-58, L.O.F. In creating this section, the Legislature specified that the provision indicating its intent to nullify *Delgado* was retroactive to February 1, 2000, a date two days prior to the issuance of *Delgado*. The Florida Supreme Court recently interpreted the choice of this date as indicating when offenses are committed.

The bill amends s. 810.015, F.S., to provide a legislative finding that specified cases of the Florida Supreme Court following that court's decision in *Delgado* were decided contrary to the legislative intent expressed in s. 810.015, F.S., regarding the elements of burglary and so as to give no effect to legislative findings regarding that legislative intent.

The bill also provides a legislative finding that the date of February 1, 2000, does not refer to an arbitrary date relating to the date offenses were committed, but to a date before *Delgado* issued when the Florida Supreme Court construed the elements of burglary consistent with legislative intent in s. 810.015, F.S.

The bill also provides special rules of construction to give effect to legislative findings in s. 810.015, F.S., rather than the interpretation of the elements of burglary in *Delgado* and its progeny. Any provision of s. 810.015, F.S., that is susceptible to differing constructions is to be construed in such manner as to approximate the law relating to burglary as if *Delgado* was never issued.

The bill also provides for retroactive application of s. 810.015, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 102-2

SB 1828 — Home-Invasion Robbery

by Senators Smith and Lawson

The bill amends s. 812.135, F.S., to create three home-invasion robbery offenses. Under current law, home-invasion robbery is a first degree felony ranked in Level 8. In terms of penalties, the law does not distinguish between the robbery when it is committed while armed and the robbery when it is committed while unarmed. The bill punishes home-invasion robbery while armed more severely than home-invasion robbery while unarmed. If a person, in the course of committing a home-invasion robbery, carries a firearm or other deadly weapon, the person commits a first degree felony punishable by a term of years not to exceed life imprisonment, which is made a Level 10 offense in the offense severity ranking chart of the Criminal Punishment Code. If a person is carrying a weapon, it is a first degree felony, which is made a Level 9 offense. If a person is not carrying a firearm, deadly weapon, or other weapon, it is a first degree felony, which is made a Level 8 offense.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

SB 1962 — Human and Sex Trafficking

by Senators Wasserman Schultz, Smith, Aronberg, and Haridopolos

The bill creates s. 787.05, F.S., which makes it a second degree felony for any person to knowingly obtain the labor or services of a person by causing or threatening to cause bodily injury to that person or another person, restraining or threatening to restrain that person or another person without lawful authority and against her or his will, or withholding that person's governmental records, identifying information, or other personal property.

The bill also creates s. 787.06, F.S., which makes it a second degree felony to knowingly engage in human trafficking with the intent that the trafficked person engage in forced labor or services. The term "human trafficking" is defined as transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport. The term "forced labor or services" is defined as labor or services obtained from a person by using or threatening to use physical force against that person or another person or restraining or confining or threatening to restrain or confine that person or another person without lawful authority and against her or his will.

The bill also creates s. 796.035, F.S., which makes it a first degree felony for any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers

custody or control of the minor, or offers to sell or otherwise transfer custody of the minor, with knowledge that, as a consequence of the sale or transfer, force, fraud, or coercion will be used to cause the minor to engage in prostitution or otherwise participates in the trade of sex trafficking, commits sex trafficking, a first degree felony.

The bill also creates s. 796.045, F.S., which provides that any person who knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution, commits the offense of sex trafficking, a second degree felony, unless the victim is under the age of 14 or the offense results in a death, in which case it is a first degree felony.

The bill also amends s. 895.02, F.S., the definitions section of the Florida RICO statute, to provide that the offenses in ss. 796.035 and 796.045, F.S., are predicate offenses for the purpose of racketeering prosecutions. A defendant can be convicted of a sex trafficking offense in these sections and a RICO offense in which the sex trafficking offense is a predicate offense.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 35-0; House 114-0

FIREARMS

HB 155 — Firearm Records

by Rep. Harrington and others (CS/CS/SB 1152 by Judiciary Committee; Criminal Justice Committee; and Senator Peaden)

This bill prohibits any state, regional, or local governmental entity from knowingly and willfully keeping, or causing to be kept, any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of such firearms. Private entities and persons are similarly prohibited.

A violation of the prohibition is a third degree felony which is punishable by up to five years in prison and by up to a $5,000 fine. An exception exists for pawnbrokers and secondhand dealers who violate the specific provisions relating to transfer of records to third party providers for which that act is punishable as a second degree felony. The bill prohibits the use of public funds (except as those funds may be used to provide an indigent person a public defender or a court-appointed counsel pursuant to their constitutional right to counsel) in the defense of any person charged with violating this section, unless the charges are dismissed or the person is found not guilty.

The bill provides that a governmental entity, or their designee, may be fined not more than $5 million, if a list, record, or registry is compiled in violation of the prohibition and a court finds that the information was compiled with the knowledge of the management of the entity. This

appears to be a civil fine to be enforced by the attorney general in a separate civil action. The state attorney is charged with investigating and prosecuting criminal complaints of violations.

The bill provides numerous exemptions to the prohibition against keeping firearm records. The exemptions, some of which are subject to further restrictions, apply to:

- Records of firearms used in a crime or of any person convicted of a crime.
- Records of firearms that have been reported stolen. (However, such records cannot be retained for longer than 10 days after recovery but official documentation recording the theft of a recovered weapon can be maintained for the balance of the year entered plus 2 years.)
- Records that are federally required to be maintained by firearm dealers. (However, these records may not be converted into any form of list, registry, or database.)
- Records related to the criminal history background check provisions of s. 790.065, F.S.
- Firearm records including paper pawn transaction forms and contracts on firearm transactions, required to be kept by secondhand and pawnshops dealers under chs. 538 and 539, F.S. (However, the electronic version of these records can only be kept for 30 days after the purchase of the firearm by the secondhand dealer, or after the expiration of the loan secured by the firearm, respectively.) Additionally, these records cannot be electronically transferred to any public or private entity or copied or otherwise transferred for the purpose of creating a list, registry, or database but they can be electronically transferred to law enforcement as required by the existing provisions in chs. 538 and 539, F.S. Law enforcement has to destroy these records within 60 days after receipt of such records. Additionally, despite the prohibition against transferring such records to any public or private entity, secondhand dealers and pawnbrokers can electronically submit firearm records (limited to the following information: the manufacturer of the firearm, the model, the serial number, and the caliber of the pawned or purchased firearm) to a third party provider provided that provider is exclusively incorporated, owned, and operated in the United States, restricts access to such information to appropriate law enforcement agencies for legitimate law enforcement purposes, and agrees in writing to comply with the requirements of this new law. This third party provider, however, in turn has to destroy these records within 30 days (presumably of the date of receipt; if the pawnbroker or secondhand dealer acts in contravention of these specific provisions, he or she commits a felony of the second degree which is one higher degree felony offense than for other violations under this bill).
- FDLE records pertaining to criminal history record checks conducted through the NCIC of the FBI to the extent required by federal law; and a log of dates of requests for criminal history record checks, unique approval and nonapproval numbers, license identification numbers, and transaction numbers corresponding to such dates.
- Insurer's records against theft or loss of firearms provided such records are not sold, commingled with records relating to other firearms, or transferred to another person or

entity. (However, the insurer must destroy these records within 60 days after the policy expires or the insured notifies the insurer that the insured no longer owns the firearm.)
- Customer lists of firearm dealers. (However, the lists cannot disclose the particular firearms purchased or be sold or commingled with records relating to other firearms, or transferred to another person or entity.)
- Sales receipts kept by sellers of firearms or a person providing credit for the purchase of firearms. (However, the receipts may not be used for the creation of a database for the registration of firearms.)
- Personal records maintained by the owner of firearms.
- Records of a business which stores or acts as a selling agent for the lawful owner of firearms.
- Membership lists of firearm owner organizations.
- Records maintained by an employer of the firearms owned by its officers, employees, or agents if the firearms are used in the course of the employer's business.
- Records maintained pursuant to s. 790.06, F.S., related to the issuance of licenses for concealed weapons or firearms by the Department of Agriculture and Consumer Services. (However, the department may only keep such records on an individual who was a licensee within the prior two years.)
- Records of firearms involved in criminal investigations, criminal prosecutions, criminal appeals, and postconviction motions, as well as certain civil proceedings.
- Paper documents relating to firearms involved in criminal cases, criminal investigations, criminal prosecutions, and certain civil proceedings.
- Non-criminal records relating to the receipt, storage, and return of firearms.

The bill states that any list, record, or registry maintained at the time the act becomes effective must be destroyed within 60 days of the effective date. Further, the provisions of the bill may not be construed to grant any substantive, procedural, privacy right, or civil claim to any defendant, nor can a violation of the bill's provisions be grounds for the suppression of evidence.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 29-9; House 86-32

SB 226 — Law Enforcement Fair Defense Act

by Senators Posey, Fasano, and Cowin

This bill creates the "Law Enforcement Fair Defense Act" by revising s. 111.065, F.S., which governs the provision and payment of a law enforcement officer's legal representation in civil and criminal actions under specified circumstances. Specifically, the bill provides as follows:

- Broadens the definition of officer to include law enforcement officer, corrections officer, and correctional probation officer for purposes of who may qualify for the provision and

payment of legal representation associated with his or her defense in a civil or criminal action.

- Mandates an employing agency to provide and pay for legal representation in criminal actions against an officer if all of the following criteria are met:
    - The officer's action occurred in response to an emergency; upon the need to protect the officer or others from imminent death or bodily harm; or during an officer's fresh pursuit, apprehension, or attempted apprehension of a suspect whom the officer reasonably believes has perpetrated or attempted to perpetrate a forcible felony or escape;
    - The officer's actions arose within the course and scope of his or her duties; and
    - The officer's actions were not acts of omission or commission which constituted a material departure from the employing written policies and procedures, or from generally recognized criminal justice standards if no written policies or procedures exist.

- Provides an alternative process by which an employing agency may reimburse an officer's legal representation when an employing agency does not provide an attorney or the officer does not use the employing agency's attorney, but only if the officer did not plead guilty or nolo contendere or was not found guilty at trial.

- Caps reimbursement for fees and costs under the alternative process at $100,000.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

SB 1620 — Firearms/Sales and Delivery

by Criminal Justice Committee and Senator Lynn

This bill amends the sunset provision on the Firearm Purchase Program from June 1, 2004, to October 1, 2009. The Firearm Purchase Program performs criminal record checks on potential firearm purchasers who are making the purchase from licensed firearm dealers in Florida.

The program will be reviewed during the 2009 Legislative Session. The October 1, 2009, repeal date will provide ample time for FDLE to phase-out the program should the Legislature decide to discontinue the program during that Legislative Session.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 107-0

LAW ENFORCEMENT

SB 1792 — Criminal Justice Standards and Training Commission

by Senator Garcia

The bill amends s. 943.11, F.S., to change the composition of the Criminal Justice Standards and Training Commission. The Attorney General will be allowed to appoint a "designee," rather than a "designated assistant," which allows the appointment of someone not employed by that agency. The Commissioner of Education will no longer be represented on the commission. The number of law enforcement officers on the commission is increased from four to five, with all required to be of the rank of sergeant or below. Previously, one of the four officers could be above the rank of sergeant.

The bill amends s. 943.1395, F.S., to provide that the commission may inspect the employing agency's records to ensure compliance with s. 943.1395(5), F.S., which requires agency investigation of officers who are suspected of not meeting the requirements of ss. 943.13(4) and 943.13(7), F.S. (misdemeanor involving perjury or false statement, any felony, or moral character issues).

It also provides for a tolling of the time limits on the commission's investigation and determination of matters that may lead to an officer's certification revocation under s. 943.1395(6)(a), F.S., when an appeal is pending. It also provides for an officer or his or her attorney to review documents and other related information gathered during the investigation, not more than 30 days before the results are presented to a probable cause panel.

The bill requires the commission to conduct a workshop to "receive public comment" and evaluate disciplinary guidelines and penalties every other year. A twelve-member advisory panel, appointed by the commission chair, will make recommendations to the commission concerning disciplinary guidelines.

Under the provisions of the bill, if an employing agency disciplines an officer but keeps the officer employed, the Criminal Justice Professionalism Program, rather than a probable cause panel, will review the agency action for compliance with commission rules. The commission is authorized to adopt rules as necessary to fulfill the new functions set forth in the bill.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-0

SEXUAL PREDATORS AND OFFENDERS

SB 1774 — Records/Sexual Predators and Offenders

by Senators Villalobos, Lynn, Cowin, Campbell, and Crist

This bill will require a state agency or a governmental subdivision, before appointing or hiring someone to work or volunteer at a park, playground, day care center, or other place where children regularly congregate, to search the sexual predator and sexual offender registration records at the Florida Department of Law Enforcement (FDLE) using the applicant's name or other identifying information. The search can be done using the Internet site maintained by the FDLE.

The legislation also provides an exception to conducting these searches if the state agency or governmental subdivision has performed a state and national criminal history background check on the applicant. The requirement to search sexual registration information is an attempt to prohibit an applicant who is a designated sexual predator or sexual offender from being able to work or volunteer around children.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 109-0

CS/SB 2054 — Sexual Predators and Offenders

by Criminal Justice Committee and Senators Campbell, Fasano, and Aronberg

The bill amends s. 775.21, F.S., to require that a person civilly committed as a sexually violent predator be designated as a sexual predator for registration purposes by the court involved in the civil commitment.

The bill amends ss. 775.21 and 943.0435, F.S., to require sexual predators and sexual offenders who vacate a permanent residence and do not establish or maintain another residence to report to the Florida Department of Law Enforcement (FDLE) or the local sheriff where the person is located within 48 hours after vacating the residence and provide the date the residence was vacated, update registration information, and provide an address where the person will be during the time when no residence is established or maintained.

If the sexual predator or sexual offender remains at a permanent residence after having reported vacating the premises, he or she has to return to FDLE or the sheriff within 48 hours after the date he or she indicated the residence would be vacated and report that fact. Failure to make this report is a second degree felony.

The bill amends ss. 775.21, 943.0435, 944.606, and 944.607, F.S., to modify the definition of "conviction" under these registration statutes to indicate that conviction includes an entry of a guilty plea or nolo contendere resulting in a sanction.

The bill amends ss. 775.21, 943.0435, and 944.607, F.S., to indicate where venue may occur for the purpose of prosecuting violations of the registration laws.

The bill amends ss. 775.21, 943.0435, and 944.607, F.S., to provide that an arrest on charges of failure to register, the service of an information or a complaint for a violation of these sections, as applicable to the predator or offender, or an arraignment on charges for such violation, constitutes actual notice of the duty to register when the predator or offender has been provided and advised of his or her statutory obligation to register. The failure of a sexual predator or sexual offender to immediately register as required following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual predator or sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required. A sexual predator or sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register. Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual predator or sexual offender of criminal liability for the failure to register.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-0

VICTIMS AND PUBLIC PROTECTION

SB 120 — Sexual Offenders

by Senators Fasano, Lynn, Hill, and Cowin

This bill amends the conditional release statute (s. 947.1405, F.S.), to specify that certain sex offenders under conditional release cannot live within 1,000 feet of a designated public school bus stop. Under current law such offenders are prohibited from living within 1,000 feet of a "school, day care center, park, playground, or other place where children regularly congregate." As of October 1, 2004, a releasee subject to the statute will be prohibited from moving to a location within the 1,000-foot buffer zone. Conversely, as of the same date, district school boards must relocate any existing school bus stop and cannot establish a new school bus stop if the site is within 1,000 feet of the existing residence of a releasee who is subject to the statute. The Department of Corrections is required to notify the school district of the intended residence of a conditional releasee 30 days prior to release from prison. If the releasee moves, the department must notify the school district of the releasee's new residence within 30 days of the move.

The bill also creates s. 794.065, F.S., prohibiting persons convicted for committing certain sex offenses after October 1, 2004, from living within 1,000 feet of a school, day care center, park, or playground if their victim was under 16 years old. Violation of the prohibition would constitute a new crime, with the level depending upon the classification of the qualifying offense.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 39-0; House 116-0

HB 495 — Protective Injunctions

by Rep. Planas and others (CS/SB 1568 by Criminal Justice Committee and Senators Crist and Lynn)

This bill (Chapter 2004-17, L.O.F.) brings the statute governing protective injunctions for sexual violence (s. 784.046, F.S.), into conformity with the domestic violence injunction statute as it relates to victim address confidentiality. Specifically, it allows a victim of sexual violence to submit his or her address to the court in a separate confidential filing when petitioning the court for a protective injunction, if the victim needs to keep his or her location confidential for safety reasons.

It removes the statutory language instructing the Department of Corrections (DOC) to serve respondents of protective injunctions against sexual violence if they are in the custody of the DOC.

In addition, the bill makes willful violation of a protective injunction against sexual violence a first degree misdemeanor, which is the same penalty currently provided for willfully violating a protective injunction against repeat, dating, or domestic violence. It also includes violation of a sexual violence injunction as aggravated stalking, if the person knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person.

Finally, it eliminates duplicative language in s. 901.15(10), F.S., which gives a law enforcement officer warrantless arrest authority when probable cause exists that a person has knowingly committed an act of repeat violence in violation of a repeat violence injunction.

These provisions were approved by the Governor and take effect July 1, 2004.
Vote: Senate 37-0; House 117-0

CS/SB 1118 — Lauren Book Protection Act

by Criminal Justice Committee and Senators Cowin and Lynn

Creates s. 921.244, F.S., requiring that a sentence for an offender who is convicted of violating s. 794.011, F.S. (sexual battery), or s. 800.04, F.S. (lewd and lascivious offense upon or in the presence of a person under 16 years old), must include an order prohibiting the offender from

having contact with the victim of the offense for the duration of the sentence. The court may reconsider the no-contact order upon request of a victim who is at least 18 years old at the time of the request. Before granting such a request, the court must hold an evidentiary hearing to determine whether there has been a change in circumstances and whether modification or rescission of the order is in the best interests of the victim.

Two new felony offenses are created by this bill. New s. 921.244(2), F.S., makes violation of the no-contact order an unranked third degree felony. Section 748.048(7), F.S., creates a new form of aggravated stalking, classified as a third degree felony with a Level 7 offense severity ranking, if the actions that violate the no-contact order include the elements of stalking. The sentence for either of the new offenses must run consecutive to any sentence imposed for violating s. 794.011, F.S., or s. 800.04, F.S.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 118-0

PUBLIC SCHOOLS

SB 122 — Instructional Materials/K-12

by Senators Fasano and Dockery

The bill allows the Department of Education to conduct a pilot program to enable school districts to realize cost savings in purchasing used instructional materials. Three counties (Hernando County, Pasco County, and Polk County) may participate. Charter schools in the three counties may also participate in the program. Secondhand book dealers or third party book vendors that provide used, state adopted instructional materials to a school district are subject to specific disclosure requirements.

The requirements in s. 1006.37, F.S., for the requisition of instructional materials from publisher depositories do not apply to the pilot project. The state is not responsible for a financial loss resulting from a school district's deviation from the requirements in s. 1006.37, F.S. Also, the Council for Education Policy Research and Improvement must submit a report to the legislative leaders of each chamber, for consideration during the 2005 Legislative Session, on the cost savings to the school districts due to the pilot program. The pilot program is repealed July 1, 2007.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 34-6; House 109-0

CS/SB 184 — Student Discipline and School Safety

by Education Committee and Senator Lynn

This bill deletes the notice requirement in the code of student conduct of possible disciplinary action or criminal penalties for possession of an electronic telephone pager by a student while he or she is on school property or in attendance at a school function. Notice must be given to all teachers, school personnel, students, and parents at the beginning of each school year that using a wireless communications device to commit a criminal act may result in the imposition of disciplinary action or criminal penalties.

Under the bill, a student may possess a wireless communications device while he or she is on school property or in attendance at a school function. District school boards must adopt rules governing the student's use of a wireless communications device while he or she is on school property or in attendance at a school function.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-1; House 116-0

CS/CS/SB 354 — Public School Educational Instruction, including Middle School Reform and Physical Education

by Appropriations Committee; Education Committee; and Senators Constantine and Cowin

Middle Grades Reform Act

This bill amends ss. 1008.25 and 1012.34, F.S., and creates s. 1003.415, F.S., the Middle Grades Reform Act, to improve learning for middle school students. The Middle Grades Reform Act contains four initiatives for improving learning for middle school students.

First, the Act requires the Department of Education to recommend a new middle school reading curriculum to the State Board of Education. The new curriculum will be implemented beginning in 2005-2006, with completion of implementation by 2008-2009.

Second, the Act requires every public middle school with fewer than 75 percent of its 6th, 7th, or 8th grade students scoring at level 3 or above on the FCAT reading test to implement a new part of its school improvement plan that will focus primarily on reading. Under this new Rigorous Reading Requirement, schools will identify areas for improvement in the student population, set desired performance levels in those areas, and identify services to help students meet their goals. Results of the school's Rigorous Reading Requirement program will be used as part of the annual evaluation of the school's instructional personnel and administrators.

Third, the Act requires the Department of Education to study ways to improve the performance of middle school students and schools. Based on this study, the Commissioner of Education will submit recommendations on enhancing academic performance to the Legislature and the State Board of Education by December 1, 2004.

Finally, the Act requires that every 6th grade student who scored below Level 3 on the FCAT reading test must have a personalized middle school success plan developed for him or her that will be in place until the student finishes 8th grade or scores at level 3 or better on the reading FCAT, whichever comes first. The plan will note the student's specific weaknesses and identify ways to help them.

The Department of Education will provide technical assistance to school districts in implementing the requirements of the Middle Grades Reform Act.

Physical Education

The bill also amends ss. 1001.42 and 1012.98, F.S., and creates s. 1003.455, F.S., to add new requirements for K-12 physical education in Florida. The bill first requires that the Department of Education conduct a study to determine the status of physical education instruction in the public schools and develop recommendations for changes to physical education programs. As part of this study, the Department of Education will examine the physical education currently offered by schools and evaluate issues that would require attention in order to implement additional physical education. The Department of Education must report its study findings to the Governor and the Legislature by February 1, 2005. The bill also requires the Department of Education to develop a fitness assessment and support materials for use by school districts.

The bill requires each school district to develop a written physical education policy and deliver a copy of the policy to the Department of Education by December 15, 2004. Any district that does not develop a written policy will be required, at a minimum, to implement a mandatory physical education program for students in kindergarten through grade 5 that provides students with 30 minutes of physical education per day, 3 days per week. The bill also requires student health issues to be included in every school improvement plan.

The bill establishes an internet-based clearinghouse, funded primarily by private sources, for physical education professional development. The Department of Education will approve a state university to develop this clearinghouse, which will be available to all teachers.

Charter Lab School Appropriation

This bill also contains an appropriation for $445,000 from the General Revenue Fund to the Florida State University Charter Lab Elementary School in Broward County for the purposes delineated in s. 1002.32(9)(e), F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 114-0

CS/SB 364 — Public K-12 Educational Instruction

by Education Committee and Senators Constantine, Lynn, Dockery, Crist, and Wilson

Accelerated High School Graduation Programs

This bill amends s. 1003.429, F.S., to revise accelerated high school graduation provisions set forth in law. It revises the course and required grade requirements for both the college preparatory and career preparatory accelerated high school graduation programs, including adding a requirement that students maintain a 3.0 grade point average to remain in the program. The bill also requires that, prior to choosing a 3-year accelerated high school graduation

program, a student must have achieved at least a reading achievement level of 3, a mathematics achievement level of 3, and a writing score of 3 on the most recent FCAT assessments.

The bill provides notice and consent requirements in connection with the various graduation options. It requires that each student in grades 6 through 9 be informed about the graduation options, including curriculum requirements for those options, and requires students and parents to meet with school personnel to get an explanation of the relative benefits and disadvantages of the various options before choosing a 3-year accelerated graduation program. It also requires students to get the written consent of their parent before choosing a 3-year program.

The bill requires students to choose an accelerated graduation option before the end of 9th grade, but provides certain exceptions for students who weren't able to choose the accelerated option during 9th grade because of illness or because they transferred into the public schools from a private school or from out-of-state.

The bill requires schools to provide specified notices to students and parents if, at the end of grade 10, the student is not on track to graduate, and specifies circumstances under which a student will be moved from a 3-year to the 4-year graduation program. The bill also permits students to use alternative assessments authorized under s. 1008.22(9), F.S., instead of the FCAT, in order to qualify for high school graduation under the accelerated programs. Students already participating in an accelerated high school graduation program will be permitted to continue in their program with all current statutory requirements intact.

Standard High School Graduation Program

The bill amends s. 1003.43, F.S., to provide that students may use alternative assessments authorized under s. 1008.22(9), F.S., instead of the FCAT, in order to qualify for high school graduation.

Alternative Assessments for High School Graduation

The bill amends s. 1008.22, F.S., to permit high school students to use ACT and SAT scores concordant to passing scores on the grade 10 FCAT in order to meet statutory requirements for high school graduation. The bill only extends the use of these concordance scores for the 2003-2004 school year. Additionally, students will have to take the grade 10 FCAT at least 3 times before they can rely on concordance scores to graduate; this requirement will not apply, however, to students who are new to the Florida public schools in grade 12.

Classrooms for Kids Program

The bill amends s. 1013.735, F.S., to revise the factors for determining allocations under the Classrooms for Kids program set forth in law. The bill clarifies that only K-12 capital outlay applies with respect to these allocations.

Remedial Help for K-3 Readers

The bill amends ss. 1002.20 and 1008.25, F.S., to add new reading remediation for struggling K-3 students. It requires the implementation – primarily by school districts – of several initiatives to remedy reading problems in students who have been retained or are in danger of being retained under the state's mandatory retention law for 3rd graders.

The bill requires a mandatory review of the academic improvement plan of every student who may be retained because of his or her FCAT scores and requires that an academic portfolio be completed for each of these students. All students who have been retained will be required to receive 90 minutes of daily intensive instruction in reading.

The bill requires that certain specified notices be given to parents, including a written notification when a student will not be promoted that contains information as to why good cause exemptions did not apply to the student. The bill also requires school districts to implement a policy for mid-year promotion of retained students.

Under the bill, each school district will be required to implement a Reading Enhancement and Acceleration Development (READ) Initiative, which will provide intensive instruction to all K-3 students who show a deficiency in reading. The READ Initiative must also provide an intensive acceleration class for 3rd graders who have been retained, but continue to score at level 1 on their FCAT reading test. In this intensive class, students will receive reading instruction as well as instruction in 4th grade content in other areas, to enable them to catch up in other subjects while working on their reading.

The bill corrects current statutory language regarding two of the existing good cause exemptions for promotion. Under current law, two of these good cause exemptions apply to students who were previously retained in kindergarten, grade 1 or grade 2, provided there are certain other specified circumstances present. However, a student subject to these circumstances could also have been previously retained in grade 3, but would not be eligible for the exemptions. Under the bill, a student who had been retained in grade 3 would be permitted to make use of the exemptions as well.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

HB 769 — Career Education

by Rep. Jennings (CS/SB 1452 by Education Committee and Senators Bennett and Lynn)

The bill establishes a uniform procedure for calculating FTE at charter technical career centers which are jointly operated by a school district and a community college.

Requirements allowing a student to receive a career education certification on his or her high school diploma are created. The Legislature is authorized to provide incentive funding as a reward to districts which implement such a certification program.

Career education programs must be coordinated with the appropriate industry to insure that programs use technology and training that will meet industry standards.

Each school district is required to evaluate and report to the Department of Education on the provision of guidance services to students.

The Department is required to conduct two studies and report the findings. One study is to evaluate the impact of industry-certified career education programs to determine the performance of students in such programs over time. Among the factors to be examined are graduation rates, retention rates, additional education attainment, employment records, earnings and industry satisfaction. The second study is to determine if a cost factor should be applied to industry-certified career education programs and to review the need for startup funding for such programs. Both studies are to be completed by December 31, 2004.

The bill also requires a joint study by the Agency for Workforce Innovation and the Council for Education Policy Research and Improvement to study the need for new and expanded apprenticeship and other workforce education programs. The joint report is to be submitted by December 31, 2004.

The Commissioner of Education is required to convene a study group to investigate workforce education issues. Specific areas related to career education are identified to be studied. The group's report to the Commissioner is due by October 1, 2004. The Commissioner shall in turn report a summary of the conclusions of the study group to the Governor, the Speaker of the House of Representatives, and to the President of the Senate by December 1, 2004.

The bill changes nomenclature throughout existing statutes to delete the term technical education and replace it with career education.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 117-0

GENERAL EDUCATION

CS/CS/SB 206 — Florida Coordinating Council for the Deaf and Hard of Hearing

by Appropriations Committee; Governmental Oversight and Productivity Committee; and Senator Fasano

This bill creates the Florida Coordinating Council for the Deaf and Hard of Hearing, which is assigned to the Department of Health. The Council is designed to serve as an advisory and coordinating body in the state, recommending policies that address the needs of deaf, hard-of-hearing, and late-deafened persons. The Council is also directed to recommend ways to improve the coordination of services among the public and private entities that provide services relating to interpreter services, computer aided real-time captioning services, and assistive listening devices, excluding hearing aids. The Council is authorized to provide technical assistance, advocacy, and education. It is required to prepare and file a report on compliance, coordination and other related issues with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, by January 1, 2005.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 118-0

CS/SB 340 — Florida School Code Rewrite Technical Corrections

by Education Committee and Senator Constantine

This committee substitute makes technical corrections to the statutes to conform to the passage of the Florida School Code, ch. 2002-387, L.O.F. The committee substitute corrects cross-references and minor technical errors, removes obsolete boards, reconciles school code revisions with other legislation passed contemporaneously with the new school code, and rectifies unintended consequences of the revisions of the new school code.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 117-0

HB 951 — Public Records and Public Meetings Exemption for Florida Institute for Human and Machine Cognition, Inc.

by State Administration Committee, Rep. Arza, and others (CS/CS/SB 114 by Governmental Oversight and Productivity Committee; Education Committee; and Senator Clary)

This bill creates a public records and public meetings exemption for the Florida Institute of Human and Machine Cognition, Inc., for specified materials and certain portions of meetings of the corporation or its subsidiaries.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 116-0

CS/SB 1090 — Apprenticeship Training

by Commerce, Economic Opportunities, and Consumer Services Committee and Senator Cowin

The bill revises provisions governing the State Apprenticeship Advisory Council by deleting a requirement that the Governor appoint two nominating councils for the purpose of filling vacancies on the Council.

Current statutory language is amended to conform terminology to a reorganization of the Department of Education.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 113-0

HB 1757 — Carey Baker Freedom Flag Act

by Education K-12 Committee, Rep. Allen, and others (CS/SB 612 by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senators Fasano, Webster, and Cowin)

This bill contains the Carey Baker Freedom Flag Act, which amends s. 1000.06, F.S., to require that the U.S. flag be displayed in each classroom in Florida's public K-20 educational institutions. Each educational institution will be required to acquire all of the flags necessary to meet the bill's requirements, first by soliciting donations and then by allocating funds. A flag will be required to be displayed in each classroom under the bill's requirements by August 1, 2005.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 116-0

HB 1989 — Juvenile Justice Education

by Education K-20 Committee, Rep. Bogdanoff, and others (CS/SB 2326 by Education Committee and Senators Bennett and Lynn)

This bill requires gender specific programming, models, and services for children in the care and custody of the Department of Juvenile Justice. In addition, the bill requires the Office of Program Policy Analysis and Government Accountability to conduct an analysis of programs for females to determine if existing programs meet their gender specific needs, the cost of providing the services, and if females charged with status or probation violation offenses could be better served by less costly community-based programs.

The bill provides an increase in the percentage of the Florida Education Finance Program (FEFP) funds generated by students in juvenile justice programs that must be spent on instructional costs. Also, the bill:

- Requires the Department of Education to select a common student assessment instrument and protocol for measuring student learning gains and student progression;
- Provides for the receipt of all federal funds by eligible juvenile justice programs;
- Requires access by juvenile justice programs to Florida Virtual School courses;
- Provides that juvenile justice teachers are eligible for all teacher recruitment and retention programs;
- Amends the requirements for the career and technical education plan;
- Requires school districts to make the GED Exit Option available to all juvenile justice programs; and
- Requires a workgroup to provide strategies for meeting the requirements under the federal No Child Left Behind legislation.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 113-2

CS/CS/SB 2184 — Student Achievement

by Appropriations Committee; Education Committee; and Senators Miller, Bullard, Garcia, Webster, and Wilson

The bill creates the Florida Partnership for Minority and Underrepresented Student Achievement Act to allow the Department of Education (DOE) to contract for the operation of the partnership. The mission of the partnership will be to prepare students for postsecondary success and opportunity, with particular emphasis on minority and underrepresented students. The bill provides legislative intent, PSAT/NMSQT and Preliminary ACT (PLAN) mandatory 10th grade testing, funding for the testing to be contingent upon an appropriation, and the purposes and duties of the Partnership and the DOE, which include the provision of teacher training and professional development for advanced placement or other advanced courses. The bill requires evaluation reports by the Partnership to the DOE. The DOE must provide the Partnership with access to specific data and the Partnership must protect the confidentiality of information.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 118-0

CS/SB 2918 — Florida School for the Deaf and the Blind

by Governmental Oversight and Productivity Committee and Senator Atwater

The bill requires the Auditor General to conduct annual audits of the Florida School for the Deaf and the Blind and specifies that the Department of Education's Inspector General may examine the activities of the School.

The School is required to comply with all laws and rules generally applicable to state agencies. The bill changes the way the School develops its master plan and establishes conditions for growth into areas around the present campus.

Certain financial accounting and investing statutes relating to the school are amended.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided.
Vote: Senate 38-0; House 112-1

PERSONNEL

SB 300 — Employees of Public Schools

by Senators Clary, Dockery, Bullard, and Crist

Senate Bill 300 deletes restriction on who may receive annual payments for accumulated sick leave. The bill also revises restrictions on the amount of payment which an employee may receive for accumulated sick leave when his or her employment terminates.

If approved by the Governor, these provisions take effect on July 1, 2004.
Vote: Senate 40-0; House 117-0

CS/SB 2986 — Educational Personnel

by Education Committee and Senator Constantine

This bill contains a number of changes to state laws regarding educational personnel, including both instructional and noninstructional personnel.

Background Screening

This bill amends ss. 943.0585 and 943.059, F.S., to prohibit applicants for education-related jobs from denying or failing to acknowledge arrests covered by an expunged or sealed criminal record. The bill also amends ss. 1002.33, 1012.32, 1012.55, 1012.56, and 1012.57, F.S., and creates s. 1012.465, F.S., to make clear that background screening is required for all contract employees, instructional and noninstructional personnel, charter and alternative school

employees, and charter school governing board members, and to provide certain recordkeeping requirements.

Teacher Preparation and Training

The bill amends s. 1004.04, F.S., to revise criteria for admission to approved teacher preparation programs, to require these programs to maintain a certification ombudsman, and to authorize certain postsecondary institutions to develop and implement short-term teacher assistant experiences. It amends ss. 1012.55 and 1012.56, F.S., to revise certain teacher certification provisions. It also creates s. 1004.85, F.S., which authorizes the creation of institutes to offer alternative teacher certification programs and to provide other professional development to educators.

Teacher Retention and Recruitment

The bill amends s. 1012.05, F.S., to authorize several new initiatives for teacher retention and recruitment. Among these initiatives, the bill requires guidelines for teacher mentors, requires electronic access to professional resources for teachers, creates an Educator Appreciation Week and requires the Commissioner of Education to assist teachers in meeting highly qualified teacher criteria. Additionally, it contains provisions to help ensure that teachers are notified of legislation and rules affecting them.

Teacher Discipline and Treatment

The bill amends several sections of law to change provisions regarding teacher discipline and treatment. In part, it permits the Education Practices Commission to suspend teaching certificates for 5 years and provides that a person who is suspended or has a revoked certificate cannot be employed in any capacity that requires contact with students. It also requires that certificates be revoked after the third offense by an educator that results in sanctions.

The bill revises provisions regarding investigations of certified teachers as well as applicants for certification, and it adds new requirements for educators who are on probation. It permits applicants for certification to participate in the educator recovery network program and provides that participation in the recovery network program may be voluntary or mandatory. The bill makes procedural changes to the recovery network program and to the operations of the Education Practices Commission.

Other

The bill amends s. 1012.231, F.S., to delay the implementation of the BEST teacher program until 2005-2006. It also amends s. 1012.01, F.S., to specify that the term “instructional personnel” includes K-12 personnel only, and reenacts four other sections of law to incorporate this clarified definition. The bill amends ss. 1012.35 and 1012.39, F.S., to adopt new

requirements and training provisions for substitute teachers, and amends s. 1012.33, F.S., to ensure that certain personnel will receive credit for all years of teaching service for pay purposes. It also amends s. 1012.34, F.S., to reiterate that school districts may use a variety of criteria to assess instructor performance. It creates s. 1012.561, F.S., to require certified educators to maintain a current address with the Department of Education.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 103-4

FUNDING

CS/SB 1212 — Tax Levy/School Buses

by Education Committee and Senators Wise, Bullard, and Lynn

The bill authorizes school districts which contract with private providers for student transportation, to pay for a certain portion of the cost of the transportation from the district's 2 mill levy revenue. A formula based on the cost of the state contract for school buses is established to determine how much may be paid from the 2 mill revenue. This change in statute gives the contracting districts use of 2 mill funds in the same way as districts which have chosen to provide transportation services without contracting with private providers.

This makes permanent provisions allowed in proviso of the General Appropriations Act for FY 2003-2004.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 118-0

SB 2810 — State University Student Athletic Fees

by Senator Alexander

This bill authorizes a state university to increase its athletic fee to defray the costs associated with changing athletic divisions within the National Collegiate Athletic Association. The athletic fee increase may not exceed $2 per credit hour and must be approved by the athletic fee committee. The athletic fee increase is exempt from the requirement that the sum of the activity and service, health, and athletic fees may not exceed 40 percent of tuition. In addition, the increase in the athletic fee is exempt from the 5 percent per year cap on increases in the aggregate sum of the activity and service, health, and athletic fees.

The amount of the increase in the athletic fee that causes the sum of the activity and service, health, and athletic fees to exceed the 40 percent and 5 percent per year cap may not be included for purposes of calculating the award a student receives under a Bright Futures Scholarship.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 81-37

CS/SB 3000 — Charter Schools

by Education Committee and Senator Diaz de la Portilla

The committee substitute revises the authorized purposes of charter schools to include the mitigation of the impact of growth in a residential development. The committee substitute allows certain charter schools access to educational impact fees for facilities construction. After all charter schools in a feeder system of charter schools are approved, the committee substitute authorizes the feeder system to be treated as one charter.

The committee substitute requires the Department of Education to conduct a study of transportation issues relating to charter schools.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 27-12; House 93-25

UNIVERSAL PREKINDERGARTEN

HB 821 — Early Childhood Education

by Rep. Barreiro and others (CS/CS/SB 3036 by Appropriations Committee; Education Committee; and Senators Carlton, Constantine, Cowin, and Lynn)

The bill creates the Voluntary Prekindergarten (VPK) Education Program within the Department of Education. The program allows a parent to enroll his or her child in a voluntary, free prekindergarten program provided by the state during the year before the child is eligible for admission to kindergarten. The VPK program gives parents of eligible children a choice among three program options:

- A 540-hour prekindergarten program delivered by a child development provider that is accredited by specified accrediting organizations or that meets or exceeds Gold Seal Quality Care program standards, that has a director with a prekindergarten director credential, and that has for each class a teacher who has at least a Child Development Associate (CDA) or equivalent credential and completes a 5-clock-hour course in emergent literacy training;
- A 300-hour summer prekindergarten program delivered by a public school that has at least one Florida-certified teacher for every 10 prekindergarten students; or
- A 540-hour school-year prekindergarten program delivered by a public school in school districts that meet class-size reduction requirements and that have sufficient educational

facilities and capital outlay funds to continue reducing the class sizes in elementary school classrooms in accordance with class-size reduction requirements.

The bill directs the Department of Education to adopt performance standards for the VPK program. Each child development provider or public school may select or design its own curriculum for the VPK program if the curriculum addresses the Department of Education's performance standards, including emergent literacy. However, if any child development provider or public school fails for 2 consecutive years to maintain an 85-percent kindergarten readiness rate based upon results from the statewide kindergarten screening, the provider or public school would be subject to corrective actions, including the required use of a curriculum approved by the Department of Education. The bill establishes a phase-in schedule for replacing the current school readiness uniform screening instrument (i.e., Early Screening Inventory-Kindergarten or "ESI-K") with new statewide kindergarten screening instruments. The bill also authorizes the Department of Education to immediately begin administration of new screening instruments, in addition to the ESI-K, if the new instruments are administered statewide.

The bill creates a summer prekindergarten demonstration program in 10 counties throughout the state during summer 2004. The Office of Program Policy Analysis and Government Accountability must conduct a study of the demonstration program before the Legislature's 2005 Regular Session.

The bill transfers the existing school readiness system from the Florida Partnership for School Readiness to the Agency for Workforce Innovation (AWI). The bill specifies that AWI would be directly responsible for state-level coordination of the school readiness program and the school readiness coalitions, which the bill renames as regional child development boards. The bill reduces the number of regional boards from 50 to 30 or fewer boards and requires each board to serve at least 2,000 children in the school readiness program. The bill also revises the membership of the regional child development boards, establishes that the chair and two additional members of the boards shall be appointed by the Governor, prohibits board members from voting when they have a conflict of interest, and ensures that more than one-third of the board members will be private-sector business members who do not have a substantial financial interest in the VPK program or the board's school readiness program.

The bill creates the Florida Child Development Advisory Council within the Department of Education to advise both the department and AWI on child development policy, including the VPK program and school readiness programs.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise expressly provided in the bill.
Vote: Senate 39-0; House 78-40

CONSTITUTIONAL AMENDMENTS

SJR 2394 — Constitutional Amendments; Initiatives

by Senators Atwater and Smith

Senate Joint Resolution 2394 amends s. 10, Art. IV, and s. 5, Art. XI, State Constitution.

Specifically, the joint resolution moves the deadline for the Secretary of State to receive certified initiative petition signatures from the supervisors of elections from 91 days before the general election to February 1 of each general election year, in order for the initiative to be placed on the ballot at the November election.

The resolution also establishes a date certain by which the Florida Supreme Court must render its written opinion on an initiative petition's validity — April 1 of each general election year.

If approved by the voters, the joint resolution will take effect on January 4, 2005.
Vote: Senate 38-1; House 93-21

HB 1743 — Constitutional Amendments; Initiatives; Financial Impact Statements

by Finance and Tax Committee and others (CS/CS/SB 1700 by Finance and Taxation Committee; Ethics and Elections Committee; and Senators Cowin, Bullard, and Lynn)

The bill implements HJR 571 approved by the voters in 2002.

Specifically, the bill establishes a Financial Impact Estimating Conference to prepare a financial impact statement of not more than 75 words for inclusion on the ballot for any constitutional initiative measure that has received a threshold level of statewide and geographic support. The proposed Financial Impact Estimating Conference shall consist of four principals; one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research, or his or her designee; one person from the professional staff of the Senate; and one person from the professional staff of the House of Representatives.

The Attorney General must petition the Florida Supreme Court for an advisory opinion on whether the financial impact statement meets all legal requirements.

The Financial Impact Estimating Conference must also draft an initiative financial information statement further detailing the financial impact of the measure. This statement must be a summary of no more than 500 words and additional detailed information that includes

assumptions made to develop the fiscal impact, the work papers, and any other information deemed relevant by the Financial Impact Estimating Conference.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 105-3

ELECTIONS

CS/SBs 2346 and 516 — Elections

by Ethics and Elections Committee and Senators Lee, Constantine, Aronberg, and Cowin

The bill contains historic changes to Florida's campaign finance laws. It also makes early voting mandatory in each county and establishes uniform procedures.

Some of the major issues addressed by the bill include:

- **Issue Advocacy; Disclosure**
  Mandates the disclosure of issue advocacy electioneering communications for candidates *and* ballot issues in the form of registration, reporting, and sponsorship disclaimer requirements.

- **CCE Reporting; Membership Dues; Prohibited Activities**
  Closes the committee of continuous existence ("CCE") membership dues loophole**,** which allows CCEs to hide the *individual* identities of their member/contributors by reporting their contributions in the *aggregate* as "member dues." It also clarifies that CCEs cannot run issue advocacy ads.

- **Florida Elections Commission; Enforcement**
  - Provides for the assessment of attorney's and fees and costs against persons filing complaints with the Florida Elections Commission with malicious intent to injure someone's reputation.
  - Precludes the Commission from investigating possible violations that are not contained in a sworn complaint.
  - Discourages serial complaints to the Commission, by barring it from investigating *subsequent* complaints from the same complainant based on the same facts or allegations that were raised or *should have been* raised or in an *earlier* complaint.
  - Entitles a person against whom a complaint is filed with the Commission to have a limited appearance at the probable cause hearing.
  - Provides that the filing of the statement of candidate does not, in and of itself, give rise to a presumption that there has been a "willful violation" of ch. 104 or 106, F.S.

- Permits candidates and committees to administratively contest late-filing fines assessed by the Commission *for any reason (*currently limited to *unusual circumstances)*; the Commission must also consider mitigating circumstances when determining the fines.
- Allows for indirect campaign expenditures for media buys and for reimbursements associated with a campaign, provided the indirect expenditure is reported on campaign finance reports (retroactive to July 1, 2002).
- Reduces the fine assessed against CCEs in the *first three days* for late-filed campaign finance reports, from $500/day to $50/day.

- **Electronic Filing of Campaign Finance Reports**
  Mandates the electronic filing of campaign finance reports with the Division of Elections by the 2006 elections (provision effective January 1, 2005).

- **Surplus Funds; Party Turn Back**
  Allows Senate candidates to turn back up to $30,000 to their party (up from $10,000) from surplus campaign funds. This makes up for the imbalance in the amount each chamber can collectively return to the party, as the House has three times as many members as the Senate.

- **Early Voting**
  Standardizes early voting from county-to-county, currently a discretionary practice determined by each supervisor. It requires early voting to take place in full-service facilities of the supervisors, city halls, and public libraries beginning at least 15 days before an election. It mandates a minimum of 8 hours of early voting during the weekdays and a total of 8 hours during the weekend.

If approved by the Governor, these provisions take effect July 1, 2004, except as otherwise provided.
Vote: Senate 40-0; House 118-0

CS/SB 2566 — Absentee Ballot Witnessing Requirements

by Ethics and Elections Committee and Senator Dockery

The bill eliminates the requirement that the signature of an elector casting an absentee ballot be witnessed by an individual over 18 years of age, and that the witness' signature and address appear on the Voter's Certificate on the back of the mailing envelope. The bill further provides that the county canvassing board shall consider an absentee ballot valid if the mailing envelope includes the elector's signature as shown by the registration records, and makes other conforming changes to Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 30-8; House 100-12

PUBLIC RECORDS EXEMPTION

CS/CS/SB 3006 — Public Records Exemption

by Governmental Oversight Committee; Ethics and Elections Committee; and Senator Cowin

The bill contains a pair of public records exemptions related to the electronic filing of campaign finance reports with the Florida Division of Elections, authorized in CS/SBs 2346 and 516. The first exemption excludes user identifications and passwords held by the Department of State for limiting access to the electronic filing system. The second is a temporary public records exemption for all records, reports, and files electronically stored in the system as a result of periodic data submissions by reporting groups throughout the reporting period, which are made public when the final report for the period is due.

If approved by the Governor, these provisions take effect upon becoming law. However, since the bill is linked to CS/SBs 2346 and 516, which takes effect January 1, 2005, the exemption in the bill will not have any practical effect until that time.
Vote: Senate 39-0; House 118-0

HB 237 — Sales Tax Holiday and Motor Fuel Tax Holiday

by Rep. Kilmer and others (CS/SB 244 and 1566 by Finance and Taxation Committee and Senators Cowin, Webster, Fasano, Crist, and Haridopolos)

The bill provides that no sales and use tax will be collected on sales of books, clothing, wallets, or certain bags having a selling price of $50 or less during the period from 12:01 a.m. on Saturday, July 24, 2004, through midnight on Sunday, August 1, 2004. The bill also provides that no sales and use tax shall be collected on sales of school supplies having a selling price of $10 per item or less during that same period of time. The Department of Revenue may adopt rules to administer the provisions of the sales tax holiday. The sum of $206,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering the sales tax holiday.

The bill creates the "Florida Motor Fuel Tax Relief Act of 2004," which reduces the sales tax rate on motor fuel, as identified in s. 206.41(1)(g), F.S., by 8 cents per gallon for the month of August, 2004. This is accomplished by reducing the current state motor fuel tax rate from 20.05 cents per gallon to 12.05 cents per gallon for that period. The bill provides legislative intent that the tax reduction be passed on to the consumer and provides that the Attorney General may investigate violations of the act. The bill provides that it is a felony of the third degree for sellers of motor fuel to retain any part of the tax reduction. The Office of Statewide Prosecution is granted authority to investigate and prosecute violations of the act. Persons who violate the act will lose their license to sell motor fuel in Florida. The Department of Revenue may adopt rules to administer the provisions of the motor fuel tax holiday. The sum of $310,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of developing and implementing a public awareness campaign for and administering the motor fuel tax holiday.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 34-4; House 107-8

CS/SB 2444 — Property Tax Administration

by Finance and Taxation Committee and Senator Margolis

This bill makes several changes in the statutes relating to property tax administration.

Section 1

Increases the length of time, from 10 days to 15 days before a value adjustment board hearing, that evidence must be provided by a petitioner to the board. The property appraiser's evidence must be provided no later than 7 days before the hearing if the petitioner provides his or her

required information and if the petitioner requests the property appraiser's evidence in writing. If the property appraiser does not timely provide his or her evidence, the hearing will be rescheduled.

Section 2

Requires that a petitioner to the value adjustment board be notified 25 days before the scheduled appearance, instead of 20 days.

Section 3

Allows the Department of Revenue to change its current manual of instructions for property appraisers to include all settled court decisions and to update the guidelines for technical changes and other changes in assessment practices.

Section 4

Repeals s. 373.516, F.S., an obsolete provision that requires the governing board of the South Florida Water Management District to assess benefits to rights-of-way of railroads at $4,000 per mile.

Section 5

Creates s. 689.261, F.S., to require that a purchaser of residential property be notified that the property will be re-assessed following the sale, which may result in the taxes being higher than the taxes levied in the current year. This disclosure summary must be attached to the contract for sale at or before executing the contract for sale, unless a substantially similar disclosure is included in the contract for sale. The bill provides the form with which the disclosure summary must substantially comply.

Section 6

Creates s. 193.017, F.S., to provide requirements for assessing property that is subject to a low-income housing tax credit. This new provision is substantially identical to ss. 420.5093(5) and (6), and 420.5099(5) and (6), F.S. This section provides that the tax credits granted and the financing generated by the tax credits may not be considered as income to the property, the actual rental income from rent-restricted units in such a property shall be recognized by the property appraiser, and any costs paid for by tax credits and costs paid for by additional financing proceeds received under ch. 420, F.S., may not be included in the valuation of the property. Furthermore, if an extended low-income housing agreement is filed in the official public records of the county in which the property is located, the agreement must be considered a land-use regulation and a limitation on the highest and best use of the property during the term of the agreement, amendment, or supplement.

Section 7

Allows a person other than the property owner to contest the valuation of property if that person is responsible for the entire property tax payment pursuant to a contract and has the written consent of the property owner. It also specifies that the tax collector shall be the defendant in legal challenges related to applications for tax deeds, but not challenges regarding the deeds themselves.

Section 8

This section defines "contiguous" for purposes of notifying owners of contiguous property before a tax deed is granted on a parcel, and clarifies that submerged sovereignty lands are not considered contiguous property under this requirement. It also provides that the search of public records required by law to locate owners of contiguous property shall be by direct and inverse search. This section also streamlines the process by which property available for taxes escheats to the county where it is located, by providing self-executing cancellation of all tax certificates, taxes, and other liens including governmental liens.

Section 9

Allows the tax collector to contract for higher limits of liability than are allowed under s. 627.7843(3), F.S., for title or abstract companies that perform title searches or abstracts required to issue tax deeds. This section also streamlines the process by which property available for taxes escheats to the county where it is located, by providing self-executing cancellation of all tax certificates, taxes, and other liens including governmental liens.

Section 10

Amends s. 193.501, F.S., to clarify that when land development rights have been restricted or conservation restrictions have been covenanted for land used for an outdoor recreational purpose, normal use and maintenance of the land shall not be restricted.

Section 11

Amends s. 1011.62, F.S., to direct the Department of Revenue to use the assessed value of residential parcels subject to Save Our Homes in its certification of level of assessment for equalizing required local effort. (Current practice is to use the just value of these parcels.)

Section 12

Directs the department to use the new methodology for the 2004 levels of assessment and thereafter, and ratifies previous certifications using the old methodology.

If approved by the Governor, these provisions take effect January 1, 2005.
Vote: Senate 39-0; House 115-1

SB 1826 — Corporate Income Tax Update

by Senator Margolis

Senate Bill 1826 updates the Florida Income Tax Code to reflect changes in the U.S. Internal Revenue Code enacted by Congress since January 1, 2003. This definition provides for "piggybacking" each change made during 2003 in the Internal Revenue Code. This bill will effectively adopt the provisions of the Jobs and Growth Tax Relief Reconciliation Act of 2003, which was enacted by Congress on May 18, 2003, after the adjournment of the 2003 Florida Legislative Session. This act raised the bonus depreciation amount from 30 percent, as provided by the Federal Job Creation and Worker Assistance Act of 2002 (P.L.107-147) and adopted by the Florida Legislature in ch. 2002-395, L.O.F., to 50 percent for qualified investments made after May 5, 2003. It also extended the cutoff date for investments to qualify for bonus depreciation from September 11, 2004 to December 31, 2004.

If approved by the Governor, these provisions take effect upon becoming law and shall operate retroactively to January 1, 2004.
Vote: Senate 28-10; House 84-34

SB 3110 — Hardee County Economic Development Authority

by Senator Alexander

The bill creates the Hardee County Economic Development Authority (authority) in accordance with s. 211.3103(3)(b)3., F.S. The purpose of the authority is to solicit, rank, and fund projects that provide economic development opportunities and infrastructure within the geographic boundaries of Hardee County and to otherwise maximize the use of federal, local, and private resources as provided by s. 211.3103(5), F.S. The bill provides for membership and powers of the authority. In addition, the bill provides that the current rural area of critical economic concern distribution of the phosphate rock tax to Hardee County is to be distributed to the authority instead. The bill also provides application procedures for grants-in-aid from the authority.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 106-12

PUBLIC EMPLOYEE BENEFITS

HB 251 — Firefighter and Police Pensions

By Rep. Sansom and others (CS/SB 654 by Governmental Oversight and Productivity Committee and Senators Fasano, Pruitt, Webster, Smith, Haridopolos, Campbell, Lynn, and Crist)

Florida has provided statutory provision for the creation and management of local government-based firefighter and municipal police pension plans since 1939. State law specifies minimum benefit provisions and provides the duties of plan fiduciaries. Portions of the state's insurance premium taxes are allocated to these plans for their financial support as a consequence of their meeting minimum state standards. The 1999 Legislature increased provisions for minimum plan benefits and further determined how benefits determined to be "extra" by the participating governments were to be allocated.

House Bill 251 (Chapter 2004-21, L.O.F.) further clarifies the term "extra benefits" to include those benefits determined after March 12, 1999, the effective date of ch. 1999-1, L.O.F.

The bill additionally requires the Department of Revenue to create and maintain data bases for use by insurers that report or remit excise taxes on property and casualty insurance premiums. Each participating local taxing jurisdiction must provide this information to enable the department to properly allocate the proper insurance premium tax remittances due the firefighter and police pension plans under respective chs. 175 and 185, F.S. The bill specifies when an insurance company has engaged in due diligence for purposes of compliance with the database requirement. A specific appropriation of $300,000 is provided for the creation of the initial databases.

Since the bill affects local governments impacted by the provisions of s. 18, Art. VII, State Constitution, on unfunded mandates, the bill provides a statement of important state interest.

When authorized by the employee or beneficiary, these pension plans may provide a payroll deduction code for the payments of benefits received by the employee or beneficiary or to pay alimony or child support.

Lastly, the bill provides a popular name title for chs. 175 and 185, F.S., respectively: the Marvin B. Clayton Firefighters Pension Trust Fund Act and the Marvin B. Clayton Police Officers Pension Trust Fund Act.

These provisions became law upon approval by the Governor on April 27, 2004.
Vote: Senate 39-0; House 117-0

CS/SB 1650 — State Financial Matters/Florida Retirement System

by Appropriations Committee and Senators Wise and Lynn

This bill makes a number of administrative changes to the implementation of the Public Employees' Optional Retirement Program, or Investment Plan, managed by the State Board of Administration (SBA). Specifically the bill:

- Makes the spouse at the time of death the beneficiary for receipt of the Health Insurance Benefit subsidy payment provided under s. 112.363, F.S.

- Applies the same definition of "retiree" as used in the defined benefit Pension Plan for the Investment Plan.

- Extends the period of time for election of the Investment Plan to the last business day of the fifth month for those employees returning from an approved leave of absence.

- Extends the new hire election date for the Investment Plan to the last business day of the fifth month so that this day does not fall on a weekend or holiday when government offices are closed and the choice cannot be processed.

- Permits new employees to use their second election prior to the end of the fifth month of employment so they may reassess their original choice and not be forced to repurchase service in the Pension Plan during that period.

- Requires public employers to inform their employees about the materials available from the SBA and the Division of Retirement about the pension and Investment Plan choices. This is designed to avoid steering employees to a choice that may reflect management's preferences and not those that are in the employees' best interests.

- Permits the SBA to provide Investment Plan participants with fund prospectus information based upon its reduced institutional fees. Existing prospectus documents available directly from fund companies provide retail pricing information only and will not accurately reflect the lower SBA charges to employee accounts.

- Members receiving a disability benefit under the Investment Plan who opt to rejoin the Pension Plan may receive a lump sum benefit and a monthly disability payment. Changes made to s. 121.591, F.S., will eliminate this dual track provision such that members applying for and receiving disability retirement benefits in the future will receive a monthly pension benefit and no lump sum. The SBA may cash out small Investment Plan account balances of $5000 or less.

- Amends s. 121.78, F.S., clarifying that employers are responsible for the financial consequences of incorrect payroll data submission and employees are responsible for the return of overpaid benefits.

- Finally, the bill gives the SBA the clear legal authority in s. 215.47, F.S., to buy investment-grade debt obligations in both U.S. dollar and non-dollar denominations.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 34-0; House 116-0

CS/SB 2230 — Florida Retirement System Payroll Contribution Rates

by Governmental Oversight and Productivity Committee

It has been the recent custom since the enactment of the Public Employees' Optional Retirement Program, or Investment Plan, of ch. 121, part II, F.S., to enact annual legislation prescribing the employer payroll contributions rates for the defined benefit, or Pension Plan, of the Florida Retirement System. The annual legislation permits the setting of the normalized actuarial rates and the rates that permit a recognition of the pension surplus through the rate stabilization mechanism authorized by ss. 121.031 and 121.0312, F.S. Contribution rates for the Investment Plan are fixed and do not vary with actuarial experience.

The Conference Report on CS/SB 2230 establishes the rate for the more than 800 individual employers in this pension plan. For the fiscal year beginning July 1, 2004, each employer will pay the current year rate for each retirement class plus 2 basis points (.0002).

The bill also reduces the maximum employer fee for administrative and educational expenses charged by the Board of Administration for the defined benefit and optional retirement programs from 10 to 8 basis points.

The bill provides a statement of important state interest in compliance with s. 18, Art. VII, State Constitution.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 113-0

SB 3010 — Reemployment After Retirement/Florida Retirement System

by Senators Constantine, Wilson, Lynn, and Crist

The multi-employer Florida Retirement System provides limited circumstances under which retired members may be reemployed without a suspension of their pension benefits during the first twelve months of retirement. The 2003 Legislature removed some of these restrictions to

enable district school boards to have the benefit of meeting their instructional personnel demands as they deemed appropriate.

Senate Bill 3010 expands upon the 2003 legislation by extending the reemployment without benefit suspension for those few instructional personnel remaining in the now closed Teachers' Retirement System, one of the predecessor systems to the Florida Retirement System. The extended 96-month participation limits in the Deferred Retirement Option Program are also extended to the instructional personnel of the Florida School for the Deaf and Blind in St. Augustine, the four state university laboratory, or developmental research schools, and any other charter schools that employ eligible instructional personnel.

Because the benefit for the Teachers' Retirement System personnel was funded but not authorized by the 2003 Legislature, the bill contains a statement of important state interest which indicates that the authorization was intended to apply to the effective date of the 2003 changes made by ch. 2003-260, L.O.F. Any employer or employee that had benefits suspended who acted in reliance upon the statute will have the benefits reinstated or contributions refunded without penalty.

If approved by the Governor, these provisions take effect upon becoming law and ss. 1 and 2 of the bill operate retroactively to July 1, 2003.
Vote: Senate 38-0; House 117-0

PUBLIC RECORDS AND OPEN MEETINGS

HB 635 — Public Records Exemption for Identity of Children

by Rep. Vana and others (SB 2082 by Senators Aronberg and Crist)

The bill creates an exemption for any information that would identify or help to locate a child who participates in government-sponsored recreation programs or camps or the parents or guardians of such child. The bill specifically exempts the name, home address, telephone number, social security number, or photograph of the child, as well as the names and locations of schools attended by the child. Additionally, the names, home addresses, and social security numbers of parents or guardians of the child are exempt.

The exemption is made subject to the Open Government Sunset Review Act of 1995 and will repeal on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-1; House 115-0

CS/SB 1678 — Public Records

by Governmental Oversight and Productivity Committee

The Senate President assigned staff of the Committee on Governmental Oversight and Productivity an interim project to review and reorganize ch. 119, F.S., the Public Records Act, during the 2003-2004 interim.[1] The Public Records Act (the "act") contains policy statements regarding public records, maintenance and custody requirements, inspection, copying and fee standards, an exemption review process, and exemptions. Senate Interim Project Report 2004-139 notes that since the act was first enacted in 1967, it has been amended numerous times but it has not undergone a comprehensive review and revision. As a result, it has become disjointed and unorganized. For example, while the act has a definitions section, terms are defined and dispersed throughout the act, making them difficult to locate. More importantly, various requirements for access, maintenance and preservation of public records, and fees for copies are not organized in a logical manner and are difficult to find and apply. The report found that a reorganized act will provide for greater clarity and simplicity, as well as assist in future topical reviews of the issues affecting public records. The report concluded that a comprehensive revision of the act is warranted in order to facilitate its use by the governmental employees who must implement it and the public that relies on it for access.

The committee substitute rearranges the act into topical sections. Legislative policy statements are co-located; definitions are placed in one section and alphabetized; fee standards and requirements are placed in one section of the act; penalty provisions are also consolidated. Additionally, the committee substitute corrects numerous cross-references necessitated by the renumbering of sections in the Act, and adds other sections of law that need reference changes; and transfers some exemptions that relate only to specific agencies to other sections of law. The committee substitute also creates a definition for the term "redact." The committee substitute also clarifies and makes uniform records retention provisions of law.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 39-0; House 119-0

GOVERNMENTAL OPERATIONS

CS/SB 444 — Abrogating Offensive Place Names

by Governmental Oversight and Productivity Committee and Senators Geller, Miller, Bullard, Bennett, and Dawson

The bill provides that the Legislature finds that certain place names for geographic sites are offensive or derogatory to the state's people, history, and heritage and that those place names should be replaced by names that reflect the state's people, history, and heritage without

[1] *See*, Senate Interim Project Report 2004-139 by the Senate Committee on Governmental Oversight and Productivity.

resorting to offensive stereotypes, slurs, names, words, or phrases. This bill requires the Division of Historic Resources to aid state agencies and local governments in identifying geographic sites that have offensive or derogatory place names and to find replacement names. "Offensive or derogatory place names" is defined to mean only racial, religious or ethnic slurs. The division is required to select replacement names and to file a formal request with the United States Board on Geographic Names to render a decision on the proposed name change so that new names will be reflected on official maps. Further, the division is required to notify specified state agencies as to name changes to ensure that markers, maps, and informational literature reflect the changes.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 117-0

HB 1127 — Preserving Florida's History

by Rep. Harrington and others (CS/SB 2246 by Governmental Oversight and Productivity Committee and Senators Carlton and Dockery)

This bill assigns the Division of Cultural Resources in the Department of State responsibility to advise and assist federal and state agencies, local governments, organizations and individuals regarding recognition, protection, and preservation of archaeological sites and artifacts of Florida through a memorandum of agreement with a network of public archaeology centers. The purpose of the centers is to stem the rapid deterioration of Florida's buried past and to expand the public interest in archaeology. The division is authorized to enter into a memorandum of agreement with the University of West Florida to coordinate the establishment and operation of a network of regional public archaeology centers. The University of West Florida is assigned the responsibility for administering the network. Additional centers are to be established throughout the state with each center located in an existing facility of a state university with a local archaeological program, a regional historic preservation office, the facility of a nonprofit organization that is involved in the archaeology of a region, or other locations as set forth in a memorandum of agreement.

The bill also establishes the Discovery of Florida Quincentennial Commemoration Commission within the Department of State to celebrate the 500 year anniversary of Juan Ponce de Leon's discovery of Florida. The commission is to develop a statewide master plan for commemorating the event. An initial draft of the plan is due to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 2007. The completed master plan must be submitted by January 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 115-0

HEALTH CARE PRACTITIONER REGULATION

HB 103 — Medicinal Drug Prescriptions

by Rep. Quinones and others (SB 132 by Senator Fasano)

The bill (Chapter 2004-8, L.O.F.) requires a prescription written by a practitioner who is authorized under the laws of Florida to write prescriptions for drugs that are not controlled substances but who is not eligible for a federal drug enforcement administration number to include that practitioner's name and professional license number. The pharmacist or dispensing practitioner must include the practitioner's name on the container of the drug that is dispensed. A pharmacist must be permitted, upon verification by the prescriber, to document any required information.

A prescription written by a Florida-licensed advanced registered nurse practitioner or physician assistant for a drug that is a not a controlled substance is presumed, subject to rebuttal, to be valid and within the parameters of the prescriptive authority delegated to the advanced registered nurse practitioner or physician assistant who is prescribing the drug. For purposes of the presumption, the prescriptive authority must be delegated to the advanced registered nurse practitioner by a Florida-licensed medical physician, osteopathic physician, or dentist, and in the case of a physician assistant, the prescriptive authority must be delegated by the physician assistant's supervising physician.

These provisions were approved by the Governor and take effect July 1, 2004.
Vote: Senate 40-0; House 119-0

CS/SB 476 — Respiratory Therapy Regulation

by Health, Aging, and Long-Term Care Committee and Senator Saunders

The bill revises the regulation of the practice of respiratory care or respiratory therapy. In lieu of respiratory care licensure by examination procedures administered by the Florida Department of Health, the bill requires Florida respiratory care licensure applicants to be registered as a Registered Respiratory Therapist (entry level) or certified as a Certified Respiratory Therapist (advanced level) by the National Board for Respiratory Care. Florida licensure requirements for respiratory care therapists will conform to the standards set by the National Board for Respiratory Care under the bill. The Florida Board of Respiratory Care will no longer approve educational programs for respiratory care.

Definitions relating to respiratory care are revised to expand the scope of practice of respiratory care therapists to include additional modalities, such as: evaluation and disease management;

administration of drugs as duly ordered or prescribed by a Florida-licensed allopathic or osteopathic physician and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the Board of Respiratory Care; cardiopulmonary resuscitation, advanced cardiac life support, neonatal resuscitation, and pediatric advanced life support or equivalent functions; education; and initiation and management of hyperbaric oxygen.

The bill eliminates the board's authority to issue temporary licenses to practice respiratory care in Florida to persons who are already licensed in another state as a respiratory care practitioner or respiratory therapist or who are eligible graduates of respiratory care programs.

The bill substantially revises the exemptions to the respiratory care practice act by: restricting an exemption for health care professionals to only those who are licensed; eliminating an exemption for graduates of respiratory care education programs who hold temporary licenses; and restricting an exemption for the delivery, assembly, setup, testing, and demonstration of oxygen aerosol, and intermittent positive pressure breathing equipment to an individual employed to deliver, assemble, set up, or test equipment for use in the home. An exemption to the respiratory care practice act is created for individuals credentialed in hyperbaric medicine by the Underseas Hyperbaric Society or its equivalent as determined by the Board of Respiratory Care.

The bill, effective January 1, 2005, repeals s. 468.356, F.S., which provides requirements for the approval of respiratory care therapy educational programs and repeals s. 468.357, F.S., which specifies procedures for the licensure by examination of persons wishing to practice as certified respiratory therapists.

If approved by the Governor, except as otherwise provided, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-0

CS/SB 490 — Dental Licensure

by Appropriations Committee and Senator Fasano

The bill authorizes students in the final year of attendance at an accredited dental school who have successfully completed the National Board of Dental Examiners examination within 10 years before the date of application to sit for state dental examinations. Before any dental student in his or her final year may sit for the examination, the student must have successfully completed all the coursework necessary to prepare him or her to perform the clinical and didactic procedures required to pass the examination. If the student obtains a passing score on the state dental examination, the examination score is valid for 180 days after the date the examination was completed. The student must have graduated before he or she may be certified for licensure.

The bill requires accredited dental schools in Florida to seek the approval of the Florida Board of Dentistry to offer regional licensure examinations to students in the final year of attendance at an

accredited dental school for the sole purpose of facilitating the student's licensing in other jurisdictions. To obtain board approval to do so, the dental school must meet requirements specified in the bill.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 114-0

CS/CS/CS/CS/SB 506 — Genetic Counseling Practice Act

by Appropriations Committee; Finance and Taxation Committee; Governmental Oversight and Productivity Committee; Health, Aging, and Long-Term Care Committee; and Senator Cowin

The bill provides for the regulation of genetic counseling in Florida by the Board of Genetic Counselors in the Department of Health. The practice of genetic counseling means, for remuneration, the communication process that deals with the human problems associated with the occurrence, or the risk of occurrence, of a genetic disorder in a family, including the provision of services to help an individual or family:

- Comprehend the medical facts;
- Appreciate the way heredity contributes to the disorder;
- Choose the course of action which seems appropriate and act in accordance with that decision; and
- Make the best possible psychosocial adjustment.

In providing for the regulation of genetic counseling, the bill provides legislative intent, definitions, requirements for licensure, exemptions, rulemaking authority for the newly-created 5-member Board of Genetic Counselors, requirements for membership and appointment to the board, and fees. The bill establishes criminal penalties for certain prohibited acts, including the making of false or fraudulent statements to the Board of Genetic Counselors, the practice of genetic counseling without the required licensure or exemption thereto, and the use of the title "genetic counselor" without a license. The bill establishes grounds for which genetic counselors may be disciplined for failure to adhere to specified standards of practice by their board.

The bill adds the Board of Genetic Counselors in s. 20.43, F.S., under the responsibilities of the Division of Medical Quality Assurance in the Department of Health. The bill redefines "health care practitioner" in ch. 456, F.S., the general regulatory provisions for health care professions under the Department of Health, to include genetic counselors.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 40-0; House 116-0

CS/CS/SB 532 — Good Samaritan Act

by Comprehensive Planning Committee; Health, Aging, and Long-Term Care Committee; and Senators Crist and Bullard

The bill extends immunity from civil liability, under the Good Samaritan Act, to a person who gratuitously provides care, treatment, or service during emergency response activities in connection with a community emergency response team, local emergency management agencies, the Division of Emergency Management of the Department of Community Affairs, or the Federal Emergency Management Agency. The immunity also protects a person from civil liability for damages caused by an act or a failure to act to arrange further care, treatment, or services if such person acts as a reasonably prudent person would have acted under the same or similar circumstances.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 38-0; House 98-0

CS/SB 626 — Anesthesiologist Assistants

by Health, Aging, and Long-Term Care Committee and Senators Fasano, Peaden, Klein, and Jones

The bill provides for the licensure of anesthesiologist assistants under the regulatory jurisdiction of the Board of Medicine or the Board of Osteopathic Medicine, and for joint rulemaking by these boards for aspects of the practice of this profession. The regulation would allow an anesthesiologist assistant to practice within the framework of a protocol under the direct supervision of a supervising anesthesiologist or group of anesthesiologists. “Direct supervision” is defined to mean the on-site, personal supervision by an anesthesiologist who is present in the office when the procedure is being performed in that office, or is present in the surgical or obstetrical suite when the procedure is being performed in that surgical or obstetrical suite and who is in all instances immediately available to provide assistance and direction to the anesthesiologist assistant while anesthesia services are being performed.

The bill provides definitions and standards of practice and performance for anesthesiologist assistants and anesthesiologists. The Board of Medicine and the Board of Osteopathic Medicine are given rulemaking authority to implement the provisions of the bill regulating anesthesiology providers, including anesthesiologists and the anesthesiologist assistants that such physician specialists may supervise.

The bill specifies requirements for education and training of anesthesiologist assistants and other licensure requirements, including the expanded duties of the Board of Medicine and the Board of Osteopathic Medicine over this profession. The bill creates a criminal offense punishable as a third-degree felony for any person who falsely holds himself or herself out as an anesthesiologist assistant. A supervising anesthesiologist is liable for any act or omission of an anesthesiologist

assistant acting under the anesthesiologist's supervision and control. The bill requires the Board of Medicine and the Board of Osteopathic Medicine by rule, to require all anesthesiologist assistants licensed in Florida, to maintain medical malpractice insurance or provide proof of financial responsibility. The grounds for which an allopathic or osteopathic physician may be subject to discipline for failure to adequately supervise certain health care practitioners is revised to include anesthesiologist assistants.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 28-12; House 74-39

CS/CS/SB 1294 — Automated Pharmacy Systems

by Criminal Justice Committee; Health, Aging, and Long-Term Care Committee; and Senators Fasano, Peaden, Aronberg, and Lynn

The bill authorizes a pharmacy to provide pharmacy services to a long-term care facility or hospice licensed under ch. 400, F.S., or a state correctional institution operated under ch. 944, F.S., through the use of an automated pharmacy system that need not be located at the same location as the pharmacy. Medicinal drugs stored in bulk or unit of use in an automated pharmacy system servicing a long-term care facility, hospice, or state correctional institution are part of the inventory of the pharmacy providing pharmacy services to that facility or institution, and drugs dispensed from the automated pharmacy system are considered to have been dispensed by that pharmacy. The operation of an automated pharmacy system must be under the supervision of a Florida-licensed pharmacist who must develop and implement policies and procedures designed to verify that the medicinal drugs delivered by the automated dispensing system are accurate and valid and that the machine is properly restocked.

The Board of Pharmacy must adopt rules governing the use of an automated pharmacy system by January 1, 2005. The rules must specify requirements for recordkeeping, security, and labeling. The label requirements must permit the use of unit-dose medications if the facility, hospice, or institution maintains medication-administration records that include directions for the use of the medication and the automated pharmacy system identifies the dispensing pharmacy, the prescription number, the name of the patient, and the name of the prescribing practitioner.

The bill allows a community pharmacy to transfer a prescription for a Schedule II controlled substance under specified conditions. The pharmacy receiving the prescription may ship, mail, or deliver into Florida, in any manner, the dispensed Schedule II medicinal drug under the following conditions: the pharmacy receiving and dispensing the transferred prescription maintains a valid unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state in which the pharmacy is located and from which the medicinal drugs are dispensed; the community pharmacy and receiving pharmacy are owned and operated by the same person and share a centralized database; and the community pharmacy assures its compliance with federal law and certain state pharmacy laws.

The bill creates a first degree misdemeanor offense for any person, firm, or corporation that is not licensed as a pharmacy or pharmacist in Florida, which holds himself or herself out to be licensed to practice pharmacy in Florida or uses in a trade name, sign, letter, or advertisement, certain protected terms which imply that the person, firm, or corporation is licensed or registered to practice pharmacy in Florida. A person, firm, or corporation which violates the misdemeanor offense may be punished with jail time up to 1 year and the imposition of a fine up to $1,000.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 117-0

CS/CS/CS/CS/SB 1372 — Internet Pharmacies

by Appropriations Committee; Finance and Taxation Committee; Criminal Justice Committee; Health, Aging, and Long-Term Care Committee; and Senator Saunders

The bill requires an "Internet pharmacy" to receive a permit in order to sell medicinal drugs to persons in Florida. The bill requires any person who desires to operate an Internet pharmacy to apply to the Florida Department of Health (DOH) for an Internet pharmacy permit. The bill defines "Internet pharmacy" to include locations not otherwise licensed or issued a pharmacy permit, within or outside Florida, which use the Internet to communicate with or obtain information from consumers in Florida and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in Florida. Such acts constitute the practice of pharmacy as defined in the pharmacy practice act. The bill provides requirements for Internet pharmacies. A permit may not be issued to an "Internet pharmacy" unless a licensed pharmacist is designated as the prescription department manager for dispensing medicinal drugs to persons in Florida. The bill requires the Internet pharmacy and the pharmacist designated by that pharmacy to serve as prescription department manager or its equivalent to be licensed in the state of location in order to dispense drugs in Florida.

The bill makes a pharmacist subject to disciplinary action for dispensing any medicinal drug based upon a communication that purports to be a prescription when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship. A pharmacy is subject to disciplinary action for dispensing any medicinal drug based upon a communication that purports to be a prescription when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation.

The bill creates a criminal offense that prohibits an Internet pharmacy from distributing a medicinal drug to any person in Florida without being permitted as a pharmacy in Florida. A violation of this prohibition is a second degree felony punishable by imprisonment of up to 15 years and the imposition of a fine of up to $10,000. The bill adds the newly created criminal

offense to the racketeering provisions so that the offense may be prosecuted as racketeering in appropriate cases, thereby allowing harsher sentencing for the criminal conduct and the further use of civil racketeering sanctions.

The bill makes minor technical changes to provisions that specify requirements for the issuance of special pharmacy permits by the Florida DOH to conform to an existing definition of "special pharmacy" in the pharmacy practice act.

The bill revises requirements for pharmacists to display the expiration date on the outside of the container of each medicinal drug dispensed. A pharmacist is given the option of providing the purchaser either the expiration date when provided by the manufacturer, repackager, or other distributor of the drug, or an earlier beyond-use date for expiration of up to 1 year from the date of dispensing. The dispensing pharmacist or practitioner must provide information concerning the expiration date to the purchaser upon request and must provide appropriate instructions regarding the proper use and storage of the drug.

The bill authorizes a community pharmacy to transfer a prescription for a Schedule II controlled substance under specified conditions. The pharmacy receiving the prescription may ship, mail, or deliver into Florida, in any manner, the dispensed Schedule II medicinal drug under the following conditions: the pharmacy receiving and dispensing the transferred prescription maintains a valid unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state in which the pharmacy is located and from which the medicinal drugs are dispensed; the community pharmacy and receiving pharmacy are owned and operated by the same person and share a centralized database; and the community pharmacy assures its compliance with federal law and certain state pharmacy laws.

The bill creates exceptions to the recordkeeping requirements for prescription drug distribution applicable to chain drug entities, including at least 50 retail pharmacies, warehouses, and repackagers which are members of the same affiliated group, if the affiliated group: discloses to DOH the names of all its members; and agrees in writing to provide records on prescription drug purchases by members of the affiliated group no later than 48 hours after the department requests such records, regardless of the location where the records are stored. The recordkeeping requirements expire on July 1, 2006.

The bill appropriates $590,051 from the Medical Quality Assurance Trust Fund to DOH, and nine full-time equivalent positions are authorized for FY 2004-2005, to implement the bill.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 115-0

SB 1430 — Law Enforcement and Correctional Officers

by Senator Crist

The bill adds certified advanced registered nurse practitioners to the list of health care providers who may conduct physical examinations of applicants seeking employment or appointment as a law enforcement or correctional officer.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 112-0

HEALTH CARE FACILITY AND HEALTH INSURANCE REGULATION

SB 182 — Certificates of Need/Projects Involving Percutaneous Coronary Intervention

by Senators Atwater and Klein

Exemption from Certificate-of-Need Review for Percutaneous Coronary Intervention Services

This bill provides an exemption from certificate-of-need (CON) review for the provision of percutaneous coronary intervention for patients presenting with emergency myocardial infarctions in a hospital that does not have an approved adult open-heart surgery program. In addition to any other documentation required by the Agency for Health Care Administration (AHCA), a request for an exemption submitted under this paragraph must comply with the following:

- The applicant must certify that it will meet and continuously maintain the requirements adopted by AHCA for the provision of these services. These licensure requirements must be adopted by rule pursuant to ss. 120.536(1) and 120.54, F.S., and must be consistent with the guidelines published by the American College of Cardiology and the American Heart Association for the provision of percutaneous coronary interventions in hospitals without adult open-heart services.

- The applicant must certify that it will use the patient-selection criteria for the performance of primary angioplasty at hospitals without adult open-heart surgery programs issued by the American College of Cardiology and the American Heart Association.

- The applicant must agree to submit quarterly reports to AHCA regarding patient characteristics, treatment, and outcomes.

Licensure of Adult Interventional Cardiology Services and Burn Units

The bill requires AHCA to adopt rules for licensure standards for adult interventional cardiology services and burn units and provides minimum criteria for inclusion in the rules. Existing providers, any provider with an exemption for open-heart surgery, and any provider with a notice of intent to grant a CON or a final order of the agency granting a CON for adult interventional cardiology services or burn units will be exempt from complying with the rules for 3 years following the date of their next license renewal; these existing providers must meet the licensure standards thereafter.

The bill provides criteria for the two levels of licensure for adult cardiology services:

- Level I programs will perform percutaneous cardiac intervention without on-site cardiac surgery. A hospital seeking a Level I program must demonstrate that, for the most recent 12-month period as report to AHCA, it has provided a minimum of 300 adult inpatient and outpatient diagnostic cardiac catheterizations or has transferred at least 300 inpatients with the principal diagnosis of ischemic heart disease and that it has a formalized, written transfer agreement with a hospital that has a Level II program, including written transport protocols to ensure the safe and efficient transfer of a patient within 60 minutes.

- Level II programs will perform percutaneous cardiac intervention with on-site cardiac surgery. A hospital seeking a Level II program must demonstrate that, for the most recent 12-month period as reported to AHCA, it has performed a minimum of 1,100 adult inpatient and outpatient cardiac catheterizations, of which at least 400 must be therapeutic catheterizations, or, for the most recent 12-month period, has discharged at least 800 patients with the principal diagnosis of ischemic heart disease.

Advisory Groups

The bill requires the appointment of three advisory bodies, as follows:

- AHCA must establish a technical advisory panel to develop procedures and standards for measuring outcomes of interventional cardiac programs.

- The Secretary of Health Care Administration must appoint an advisory group to study the issue of replacing CON review of organ transplant programs operating under ch. 408, F.S., with licensure regulation of organ transplant programs under ch. 395, F.S., and the advisory group must submit a report to the Governor, the Secretary of Health Care Administration, and the Legislature by July 1, 2005.

- The Secretary of Health Care Administration must appoint a work group to study CON regulations and changing market conditions related to the supply and distribution of

hospital beds, and the work group must submit a report to the Secretary and the Legislature by January 1, 2005.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 109-7

HB 329 — Open Heart Surgery/Certificates of Need

by Rep. Harrell and others (CS/CS/SB 2606 by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senators Pruitt, Klein, and Alexander)

The Certificate-of-Need Program

This bill revises various provisions relating to the certificate-of-need (CON) program in ch. 408, F.S., to decrease the regulation of certain health care services. Significant changes include allowing most hospitals to add acute care beds without CON review and making adult cardiac services a licensed activity not subject to CON review.

The bill prohibits the Agency for Health Care Administration (AHCA or agency) from issuing or renewing a hospital license if 65 percent or more of the hospital's patients receive care and treatment classified in diagnosis-related groups that include cardiac-related diseases and disorders, orthopedic-related diseases and disorders, cancer-related diseases and disorders, or any combination of discharges in those groups. Also, a hospital may not be licensed, or have its license renewed, if it restricts its medical and surgical services to primarily or exclusively cardiac, orthopedic, surgical, or oncology specialties. The bill provides certain exemptions and authorizes AHCA to adopt rules to implement the requirement.

The bill requires AHCA to establish a nursing-home-bed-need methodology that has a goal of maintaining a subdistrict average occupancy rate of 94 percent.

The bill revises health-care-related projects that are subject to the CON comparative review process. The following projects *no longer will be subject to comparative review:*

- The addition of beds by new construction or alteration in health care facilities other than community nursing homes, and intermediate care facilities for the developmentally disabled;

- A replacement facility that is not on the same site, but is within 1 mile, if the number of beds in each licensed bed category does not increase;

- An increase in the total licensed bed capacity of a health care facility, other than a community nursing home or intermediate care facility for the developmentally disabled;

- The establishment of inpatient health services by a health care facility, or a substantial change in such services; and

- An increase in the number of beds for acute care, specialty burn units, neonatal intensive care units, mental health services, or hospital-based distinct part skilled nursing units, or at a long-term care hospital, with one exception for the addition of acute care beds in a hospital that is in a low-growth county. Until July 1, 2009, a hospital in a low growth county, as defined by the bill, is subject to comparative review for the addition of acute care beds.

The bill revises health-care-related projects that are subject to an expedited CON review. Projects that would *no longer be subject to expedited review* include:

- Research, education, and training programs;

- Shared services contracts or projects;

- A 50 percent increase in nursing home beds for a specific facility;

- Replacement of a health care facility when the proposed project site is located in the same district and within a 1-mile radius of the replaced health care facility; and

- Certain conversions of hospital mental health services beds or hospital-based distinct part skilled nursing unit beds or general acute care beds.

Under certain circumstances, replacement of a nursing home or relocation of a portion of a nursing home's licensed beds within the same district is subject to expedited review.

The bill revises the list of projects that may be exempt from the CON process. The following projects are made *eligible for an exemption from CON review* by this bill:

- The addition of licensed hospital beds for comprehensive rehabilitation in a number that may not exceed 10 total beds or 10 percent of the licensed capacity, whichever is greater;

- The addition of mental health services or beds if the applicant commits to provide services for Medicaid or charity patients at a level equal to or greater than the district average;

- The replacement of a licensed nursing home on the same site or within 3 miles of the same site if the number of licensed beds does not increase;

- The consolidation or combination of licensed nursing homes or transfer of beds between licensed nursing homes within the same planning subdistrict, by providers that operate multiple nursing homes within that planning subdistrict, if there is no increase in the planning subdistrict total number of nursing home beds and the site of the relocation is not more than 30 miles from the original location;

- Beds in state mental health treatment facilities operated under s. 394.455(30), F.S., and state mental health forensic facilities operated under s. 916.106(8), F.S.;

- Beds in state developmental services institutions as defined in s. 393.063, F.S.;

- The addition of nursing home beds licensed under ch. 400, F.S., at a facility that has been designated as a Gold Seal nursing home under s. 400.235, F.S., in a number not exceeding 20 total beds or 10 percent of the number of licensed beds in the facility being expanded;

- The establishment of Level II and III neonatal intensive care unit (NICU) beds, provided: the applicant facility demonstrates it has had 1,500 annual births (for Level II) or 3,500 annual births and has operated a 10-bed Level II unit (for Level III); the applicant meets specified quality criteria; and the facility commits to providing services to Medicaid and charity care patients equal to or above the district average; and

- The provision of percutaneous coronary intervention for patients presenting with emergency myocardial infarctions in a hospital that does not have an approved adult open-heart surgery program.

The following projects are removed from the list of exemptions:

- On-site replacement facilities;
- Termination of inpatient health services;
- Delicensure of beds;
- Addition of hospital beds, both permanent and temporary, for any purpose except comprehensive rehabilitation;
- The provision of adult inpatient diagnostic cardiac catheterization services in a hospital; and
- Other exemptions that are outdated.

Exceptions to the moratorium on CON approval for nursing homes are established under the following circumstances:

- For a proposed nursing home in a county in which there are no community nursing home beds and all nursing home beds that were licensed on July 1, 2001, have subsequently

closed; and

- For the addition of beds in a nursing home in a county of fewer than 50,000 residents in a number not exceeding 10 beds or 10 percent of the number of beds licensed in the facility, whichever is greater.

The fees for CON applications are increased. The current range for CON fees-from $5,000 to $22,000-is increased to a range of from $10,000 to $50,000.

The bill directs the Secretary of Health Care Administration to appoint an advisory group to study the issue of replacing CON review of organ transplant programs operating under ch. 408, F.S., with licensure regulation of organ transplant programs under ch. 395, F.S., and requires the advisory group to submit a report to the Governor, the Secretary of Health Care Administration, and the Legislature by July 1, 2005. The bill also directs the Secretary of Health Care Administration to appoint a work group to study certificate-of-need regulations and changing market conditions related to the supply and distribution of hospital beds and requires the work group to submit a report to the Secretary and the Legislature by January 1, 2005.

Licensure for Adult Interventional Cardiology Programs

The bill requires AHCA to adopt rules for licensure standards for adult interventional cardiology services and burn units and provides minimum criteria for inclusion in the rules. Existing providers, any provider with an exemption for open-heart surgery, and any provider with a notice of intent to grant a certificate-of-need or a final order of the agency granting a certificate of need for adult interventional cardiology services or burn units will be exempt from complying with the rules for 3 years following the date of their next license renewal; these existing providers must meet the licensure standards thereafter.

The bill requires AHCA to license two levels of treatment for adult interventional cardiology services and provides criteria for the two levels of licensure:

- Level I programs will perform percutaneous cardiac intervention for emergency patients without on-site cardiac surgery. A hospital seeking a Level I program must demonstrate that, for the most recent 12-month period as report to AHCA, it has provided a minimum of 300 adult inpatient and outpatient diagnostic cardiac catheterizations or has transferred at least 300 inpatients with the principal diagnosis of ischemic heart disease and that it has a formalized, written transfer agreement with a hospital that has a Level II program, including written transport protocols to ensure the safe and efficient transfer of a patient within 60 minutes.

- Level II programs will perform percutaneous cardiac intervention with on-site cardiac surgery. A hospital seeking a Level II program must demonstrate that, for the most recent

12-month period as reported to AHCA, it has discharged at least 800 patients with the principal diagnosis of ischemic heart disease.

Local Health Councils

The bill moves oversight responsibility for local health councils from AHCA to the Department of Health and removes local health councils from involvement in the CON process. The bill provides for the costs of operating a local health council to come from assessments imposed on selected health care facilities, adds health care clinics to the facilities being assessed, and eliminates CON fees as a source of funding for local health councils. The Department of Health must enter into contracts with the local health councils for certain services.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 112-4

CS/SB 1088 - Health Maintenance Organization Provider Contracts

by Banking and Insurance Committee and Senators Cowin and Campbell

This bill requires a health maintenance organization (HMO) that has a contract with a health care provider to disclose to the provider the complete schedule of all reimbursements for which the HMO and the provider of health care services have contracted, including any deviations from the contracted schedule of reimbursements requested by the HMO and agreed upon by the provider of the health care services. The bill:

- Establishes two ways that an HMO may provide the schedule of reimbursements to providers—by electronic means or in writing.

- Clarifies that the schedule of reimbursements is subject to the nondisclosure provisions of the contract, and the provider must maintain the confidentiality of the schedule.

- Defines provider to mean a physician licensed under ch. 458, 459, 460, 461, or 466, F.S.

If approved by the Governor, these provisions take effect January 1, 2005.
Vote: Senate 38-0; House 115-0

CS/SB 1062 — Health Care Facilities

by Health, Aging, and Long-Term Care Committee and Senators Bennett and Cowin

Nursing Homes

The bill creates a procedure for the issuance of an inactive license for a nursing home to permit a home to maintain its license under two circumstances: during a period when it is temporarily not

serving residents but will resume doing so, or when the nursing home will use a contiguous portion of its facility for other services to meet the long-term care needs of elderly residents.

Nursing home regulation is changed in several ways that affect nursing home operations:

- Certain registered nurses, other than the director of nursing, may sign a resident care plan in a nursing home.

- The Agency for Health Care Administration's (AHCA's) publication of data regarding nursing homes must reflect the most current agency actions.

- AHCA must adopt by rule a nursing home bed need methodology that has a goal of maintaining a district average occupancy rate of 94 percent.

- For the Gold Seal program, nursing homes operated by the state or federal government (VA homes) will be deemed to be financially stable and will not be required to provide further proof of financial stability.

The bill revises certificate-of-need (CON) requirements for nursing homes to provide expedited review of a proposed replacement nursing home or a project to relocate a portion of the beds of a nursing home under specified circumstances. Exemptions from CON review are created for replacing a nursing home on the same site, or within three miles of the site, and for combining or consolidating nursing homes or transferring licensed nursing home beds within the same planning subdistrict. The number of beds that a Gold Seal nursing home facility may add without CON review is increased from 10 to 20, or 10 percent of the number of beds licensed in the facility, whichever is greater.

Exceptions to the moratorium on CON approval for nursing homes are established for a proposed nursing home in a county in which there are no community nursing home beds and all nursing home beds that were licensed on July 1, 2001, have subsequently closed and for the addition of beds in a nursing home in a county of fewer than 50,000 residents.

Health Care Clinics

The bill revises licensure requirements for health care clinics to exempt the following entities from licensure:

- End-stage renal disease providers;
- Therapy providers (speech, occupational, and physical) which are Medicare-certified;
- Birth centers;
- Clinical laboratories;
- Charitable clinics - 501(c)(3) or (4);

- Entities owned or operated by the federal or state government;
- Hospitals and entities they own;
- A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered under s. 627.419, F.S. (includes dentists, optometrists, podiatrists; chiropractors, physicians);
- Entities that provide only oncology or radiation therapy services by physicians; and
- Entities that provide neonatal or pediatric hospital-based healthcare services.

Mobile clinics and portable equipment providers are included in the definition of clinic. The date for filing a clinic license application with AHCA is changed to July 1, 2004, from March 1, 2004. If AHCA issues a notice of intent to deny a clinic license application after a temporary license has been issued, the temporary license expires on the date of the notice and may not be extended during any administrative or judicial review.

The bill provides that any person or entity defined as a clinic is not in violation of the Health Care Clinic Act due to failure to apply for a clinic license by March 1, 2004, and payment to such person or entity by an insurer or other entity liable for payment may not be denied on the grounds that the person or entity failed to apply for or obtain a clinic license before March 1, 2004.

A chief financial officer of a health care clinic is defined as an individual with a bachelor's degree in finance, accounting, or a related field. In an MRI clinic that bills less that 15 percent of its scans to personal injury protection insurance, the chief financial officer can ensure that the billings are not fraudulent.

AHCA may charge an applicant for a certificate of exemption $100 or the actual cost of processing the certificate, whichever is less. AHCA must refund a portion of a licensure fee that was paid by an applicant that subsequently was exempted from licensure requirements by this bill. The bill sets up a tiered structure for such refunds. AHCA will:

- Refund 75 percent of the fee if a temporary license has not been issued;
- Refund 50 percent of the application fee if the temporary license has been issued but the inspection has not been completed; and
- Make no refund if the inspection has been completed.

Assisted Living Facilities

The amendment requires assisted living facilities to conduct resident elopement-prevention drills at least two times per year.

Long-Term Care Community Diversion Pilot Projects

The bill gives AHCA the authority to seek federal approval in advance of the approval of its formal waiver application to limit the diversion provider network by freezing enrollment of providers at current levels when an area already has three or more providers or, in an expansion area, when enrollment reaches a level of three providers.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 39-0; House 115-1

CS/SB 1590 - Primary and Comprehensive Stroke Centers

by Health, Aging, and Long-Term Care Committee and Senators Fasano, Miller, Margolis, Atwater, Siplin, Haridopolos, Lynn, and Wasserman Schultz

This bill directs the Agency for Health Care Administration (AHCA) to create a list of primary and comprehensive stroke centers and make the list available on its website and to the Department of Health (DOH). AHCA is authorized to adopt rules establishing criteria for these two types of centers. The agency rules establishing criteria for a primary stroke center must be substantially similar to the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) certification standards for primary stroke centers. If JCAHO establishes criteria for a comprehensive stroke center, AHCA must establish criteria for a comprehensive stroke center that are substantially similar to JCAHO's criteria.

By February 15, 2005, AHCA must notify all hospitals in Florida that the agency is compiling a list of primary stroke centers and comprehensive stroke centers in the state. The notice must include an explanation of the criteria necessary for designation as a primary stroke center and the criteria necessary for designation as a comprehensive stroke center. The notice must also advise hospitals of the process by which a hospital might be added to the list of primary or comprehensive stroke centers. The bill prohibits a person from advertising to the public that a hospital is a primary or comprehensive stroke center unless the hospital has provided notice to AHCA as required by the bill.

The bill requires DOH to distribute the list of primary and comprehensive stroke centers to the medical director of each licensed emergency medical services (EMS) provider in Florida and to develop a sample stroke-triage assessment tool. Licensed EMS providers must, by July 1, 2005, use a stroke-triage assessment tool that is substantially similar to the DOH sample tool, and they must develop and use assessment, treatment, and transportation-destination protocols for stroke patients.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-0

HB 1629 — Affordable Health Care

by Rep. Farkas and others (CS/CS/CS/SB 2910 by Appropriations Committee; Banking and Insurance Committee; Health, Aging, and Long-Term Care Committee; and Senator Peaden)

This legislation may be referred to as "The 2004 Affordable Health Care for Floridians Act." The purpose of the act is to address the underlying cause of the double-digit increases in health insurance premiums by mitigating the overall growth in health care costs. The bill includes provisions to improve the availability of affordable health insurance, to provide access to health information regarding costs, and to increase patient safety.

Availability of Health Information ("Transparency")

The bill requires health care facilities not operated by the state, to:

- Make available on their websites a description of and a link to the performance outcome and financial data that is published by the Agency for Health Care Administration (AHCA); and

- Provide a written estimate of reasonably anticipated charges for nonemergency medical services, within 7 business days of a written request of a prospective patient.

Health care facilities must make available to a patient, in the facility's offices, all records necessary for verification of the accuracy of the patient's bill, and must establish a method for responding within 30 days to questions concerning the itemized bill. Health care facilities, providers, and health insurers must submit data to AHCA, and AHCA must make performance outcome and financial data available to consumers, including retail prices for the 50 most frequently prescribed medicines for licensed pharmacies, and patient charge and outcome data for inpatient and outpatient procedures provided in facilities. Pharmacies must make available on their websites a link to the financial data published by AHCA and to post notice of such information where prescriptions are filled.

Florida Health Insurance Plan

The bill creates the Florida Health Insurance Plan (plan) as the high risk pool for uninsurable medical risks, to replace the Florida Comprehensive Health Association (FCHA). The plan must be approved by the Financial Services Commission but the plan cannot be implemented, other than administration of coverage for persons insured by the FCHA and entering into a contract for an actuarial study, until funds are appropriated for start-up costs and any projected deficits.

A 9-member Board of Directors will supervise the plan, chaired by the Director of the Office of Insurance Regulation (OIR), plus 5 members appointed by the Governor, 1 member appointed by the Chief Financial Officer, 1 member by the Senate President, and 1 by the Speaker of the House of Representatives. By December 1, 2004, the board must submit an actuarial study to

determine the impact the creation of the plan will have on the small group market, the number of individuals the pool could reasonably cover at various funding levels, a recommendation as to the best source of funding for anticipated deficits, and the effect on the individual and small group market by including persons eligible for coverage under s. 627.6487, F.S. (i.e., persons eligible under HIPAA for guaranteed issuance of coverage).

Individuals who are residents of Florida for at least 6 months are eligible for coverage if evidence is provided that: 1) the person received notices of rejection or refusal to issue substantially similar insurance for health reasons from two or more health insurers; or 2) the person is enrolled in the FCHA as of the date the plan is implemented.

Persons are not eligible for the plan if they are eligible for health insurance coverage that is substantially similar or more comprehensive, or eligible for Medicaid, Medicare, the state's children's health insurance program, or any other federal, state, or local government program that provides health benefits.

The plan must offer the standard and basic benefit plans required to be offered to small employers and an option of alternative coverage such as catastrophic coverage with a minimum level of primary care coverage and a high deductible plan that meets the federal requirements of a health savings account.

Funding of the high risk pool is provided by premiums capped at 300 percent of standard risk rate, but notwithstanding this limit, the board may approve a sliding scale surcharge based on the insured's income. Additional revenue for any deficit shall be primarily funded through amounts appropriated by the Legislature from general revenue sources, including a portion of the annual growth in premium taxes. The board must operate the plan so that the estimated cost will not exceed total income and to limit plan enrollment accordingly.

Upon the implementation of the plan, the FCHA is abolished and subsumed under the board of the plan. "Implementation" is defined as the effective date after the first meeting of the board when legal authority and administrative ability exist for the board to subsume the transfer of all statutory powers and duties (etc.) of the FCHA. FCHA insureds must convert to the new benefits of the plan by January 1, 2005. For such individuals, for operating losses incurred on or after July 1, 2004, each insurer shall be annually assessed in the same proportion as its statewide market share for earned premiums for health insurance, up to 1 percent of premiums.

Other Health Insurance Issues

- Expands the Health Flex Program statewide.

- Makes the requirement that small group carriers guarantee-issue policies to one-life groups conditional upon the absence of enrollment availability in the Florida Health

Insurance Plan.

- Requires small group carriers to offer a high deductible plan that meets the federal requirements of a health savings account plan or health reimbursement arrangement.

- Creates the "Small Employers Access Program" that authorizes OIR to select an insurer, through competitive bidding, to provide coverage to small employers with 25 or fewer employees within established geographical areas.

- Requires persons who provide access to any discounted medical services to be licensed by OIR.

- Requires health insurers and HMOs to provide for a rebate of premiums when the majority of members of a health plan have maintained participation in a wellness program.

- Reduces from 5 percent to 4 percent the maximum aggregate increased premiums that may be charged to all policyholders by a small group carrier, over a 6-month period, due to the application of health-related rating factors (which generally allows rates to be adjusted by plus or minus 15 percent for a single employer).

- Requires health insurers and HMOs to provide on their websites information regarding appropriate utilization of emergency care services which shall include a list of alternative urgent care contracted providers, and to develop community emergency department diversion programs, which may include enlisting providers to be on call after hours and certain other programs. It allows health insurers and HMOs to require higher copayments for nonemergency use of emergency departments and for use of out-of-network emergency departments.

- Authorizes HMOs that offer point-of-service riders to offer such riders to employers for employees living and working outside the HMO's approved geographic service area, without having to obtain a health care provider certificate, as long as the master group contract is issued to an employer that maintains its primary place of business within the HMO service area.

Patient Safety

This bill creates the Florida Patient Safety Corporation as a not-for-profit corporation to assist health care providers to improve the quality and safety of health care that is rendered and to reduce harm to patients. In the fulfillment of its purpose, the corporation must work with a consortium of patient safety centers and other patient safety programs in universities in Florida.

The bill specifies the duties of the corporation, the membership of a board of directors, and the advisory committees the corporation must establish. AHCA must assist the corporation in its organizational activities. The corporation is required to seek private funding and apply for grants to accomplish its goals and duties.

By December 1, 2004, the corporation must submit a report on its initial activities to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and must submit an annual report thereafter.

The Office of Program Policy and Government Accountability (OPPAGA) must develop performance standards by which to measure the implementation and activities of the corporation and must conduct a performance audit of the corporation, using the performance standards, during 2006. OPPAGA must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2007.

Other Provisions

The comprehensive and community-based health promotion and wellness program, known as the Healthy Communities, Healthy People Program, is modified to require the Department of Health to make available on its Internet website and in a hard-copy format a listing of age-specific, disease-specific, and community-specific health promotion, preventive care, and wellness programs offered and established under the Healthy Communities, Healthy People Program. The website must also provide information related to behavior risk factors and healthy lifestyle.

AHCA must develop and implement a strategy for the adoption and use of electronic health records and must report to the Governor and the Legislature with recommendations for legislation necessary to protect the confidentiality of electronic health records.

Hospitals and federally quality health centers are authorized to develop emergency room diversion programs and a “Fast Track” program for nonemergency patients to be treated at alternative sites. The duties of the federally qualified health centers are expanded to include urgent care services and emergency room diversion programs. Health insurers and health maintenance organizations must also develop community emergency department diversion programs.

The Statewide Provider and Subscriber Assistance Program is renamed as the Subscriber Assistance Program. The bill limits the program to hearing grievances filed by subscribers of managed care plans, requires managed care entities to provide certain grievance records, and provides greater flexibility in the composition of the panel.

The bill requires a written contract before an insurance agent may receive any fee or commission for examining any group health insurance or any group health benefit plan for the purpose of

giving or offering advice, counsel, recommendation, or information in respect to terms, conditions, benefits, coverage, or premium of any such policy or contract.

The bill provides appropriations to fund various provisions in the bill.

If approved by the Governor, and except as otherwise provided in the bill, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 116-0

LONG-TERM CARE

CS/SB 1226 — Long-Term Care Service Delivery

by Health, Aging, and Long-Term Care Committee and Senator Fasano

The bill implements the recommendations contained in Senate Interim Project Report 2004-144, "Model Long-Term Care System/Analyzing Long-Term Care Initiatives in Florida." The bill makes changes to the long-term care service delivery system administered through the Department of Elderly Affairs (DOEA) and the Agency for Health Care Administration (AHCA).

The bill requires assisted living facilities to conduct a minimum of two resident elopement drills each year. All administrators and direct care staff must participate in the drills and facilities must document the drills.

The bill gives AHCA the authority, in consultation with DOEA, to contract for any function or activity of the Comprehensive Assessment and Review of Long-Term Care Services (CARES) program. CARES staff are required to assess a sample of individuals whose nursing home stay is expected to exceed 20 days regardless of the initial funding source for nursing home placement. This requirement does not apply to continuing care facilities licensed under ch. 651, F.S., and retirement communities that provide a combination of nursing home, independent living, and other long-term care services. DOEA is required to track individuals over time, who are assessed under the CARES program and who are diverted from nursing home placement, and submit to the Legislature and the Office of Long-Term Care Policy each year, a longitudinal study of the individuals who are diverted from nursing home placement. The bill requires CARES staff to review at least 20 percent of Medicaid nursing home resident case files annually to determine whether these residents can be transitioned to a less restrictive setting.

DOEA is required to submit an annual report to the Governor and the Legislature summarizing the results of the department's monitoring of the activities of each area agency on aging (AAA). The bill revises the requirements under which DOEA can take action against an AAA to include: if the AAA exceeds its authority related to its contract with DOEA or has exceeded its authority, or otherwise failed to adhere to the provisions specifically provided by statute or rule adopted by

DOEA; and if the AAA has failed to properly determine client eligibility or efficiently manage program budgets.

The bill makes changes to the Office of Long-Term Care Policy including:

- Locating the Office of Long-Term Care policy in DOEA for administrative purposes only;

- Providing that the office and its director shall not be subject to control, supervision, or direction by DOEA;

- Replacing the advisory council with an inter-agency staff coordinating team; and

- Requiring the Office to submit a report to the Governor and the Legislature by December 31 of each year of its activities and progress made in improving the long-term care continuum.

The bill redefines the terms "community care service system" and "lead agency," for purposes of community care for the elderly and requires a single lead agency to provide the array of services to functionally impaired elderly persons. This lead agency can provide any combination of those services.

The bill requires DOEA and AHCA to develop an integrated long-term care service delivery system, phasing in implementation of the integrated system over a three-year period. During FY 2004-2005:

- AHCA is required to develop an implementation plan to integrate the Frail Elder Option into the Nursing Home Diversion pilot project and each program's funds into one capitated program serving the aged. Beginning July 1, 2004, AHCA may not enroll additional individuals in the Frail Elder Option.

- AHCA is required to integrate the Aged and Disabled Adult Medicaid waiver program and the Assisted Living for the Elderly Medicaid waiver program and each program's funds into one fee-for-service Medicaid waiver program serving the aged and disabled. AHCA and DOEA must reimburse providers for case management services on a capitated basis and develop uniform standards for case management in this fee-for-service Medicaid waiver program. The coordination of acute and chronic medical services for individuals shall be included in the capitated rate for case management services.

- DOEA is required to develop a demonstration project in which existing Community Care for the Elderly lead agencies are assisted in transferring their business model to enable

assumption over a period of time, of full risk as a community diversion pilot project contractor providing long-term care services in the areas of operation. DOEA must develop an implementation plan for no more than three lead agencies by October 31, 2004.

- DOEA must study the integration of the database systems for the CARES program and the Client Information and Referral Tracking System (CIRTS) and develop a plan for database integration. DOEA must submit the plan to the Governor and the Legislature by December 31, 2004.

- AHCA must work with the fiscal agent for the Medicaid program to develop a service utilization reporting system that operates through the fiscal agent for the Medicaid capitated plans.

During FY 2005-2006:

- AHCA is required to monitor the newly integrated programs and report on the progress of those programs to the Governor and the Legislature by June 30, 2006. The report must include an initial evaluation of the programs in their early stages following the evaluation plan developed by DOEA, in consultation with AHCA and the selected contractor.

- DOEA is required to monitor the pilot projects for resource centers on aging and report on the progress of those projects to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2006.

- DOEA must integrate the CARES and CIRTS database systems into a single operating assessment information system by June 30, 2006.

- AHCA is required to integrate the Frail Elder Option into the Nursing Home Diversion pilot project and each program's funds into one capitated program serving the aged.

During FY 2006-2007:

- AHCA is required to evaluate the Alzheimer's Disease waiver program and the Adult Day Health Care waiver to determine if they should be merged with the comprehensive fee-for-service or capitated programs.

- AHCA is required to begin discussions with the federal government regarding the inclusion of Medicare into the integrated long-term care system. By December 31, 2006, AHCA must submit a plan for including Medicare in the integrated long-term care system to the Governor and the Legislature.

The bill authorizes DOEA to develop pilot projects for aging resource centers to serve as the single point of entry for individuals 60 and older seeking services through specified programs. DOEA is required to submit an implementation plan to the Legislature by October 31, 2004. Each AAA must submit to DOEA a proposal to become an aging resource center by December 31 2004. OPPAGA and the Auditor General are to monitor DOEA's process and the quality of technical assistance provided to the AAAs. A report is to be submitted by February 1, 2005, and periodic reports are to be submitted March and September 1 of each year until full transition has been completed statewide. Staff of DOEA's CARES nursing home screening program, as well as staff from the Department of Children and Families, Economic Self-Sufficiency Services Program Office are to be integrated to determine financial eligibility for all persons age 60 and older seeking Medicaid services, Supplemental Security Income, and food stamps. The bill requires that the aging resource center provide an initial screening of each client who requests services to determine whether the person would be most appropriately served through state programs, federal programs, volunteer services, or by privately paying for the services. Services in these programs are not to be reimbursed except through the aging resource center.

The bill adds a Memory Disorder Clinic at Morton Plant Hospital in Pinellas County.

The bill makes the following changes to the Long-Term Care Community Diversion Pilot Projects:

- Revises the definition of "Other Qualified Provider," deleting language that required the posting of a $500,000 performance bond and that required an other qualified provider to meet all of the financial and quality standards for a provider service network.
- Gives AHCA the authority to seek federal approval in advance of approval of its formal waiver application to limit the diversion provider network by freezing enrollment of providers at current levels when an area already has three or more providers or, in an expansion area, when enrollment reaches a level of three providers.

- Requires AHCA to annually reevaluate and recertify the capitation rates for the diversion pilot projects.

- DOEA and AHCA are required to allow enrollment of Medicaid beneficiaries on the date that eligibility for the community diversion pilot project is approved. The provider must receive a prorated capitated rate for those enrollees who are enrolled after the first of each month.

- DOEA is required to select providers that have a plan administrator who is dedicated to the diversion pilot project and project staff who perform the necessary project administrative functions, including data collection, reporting, and analysis. Diversion providers must meet certain financial, claims payment, data collection technology, and service provider contracting capabilities.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 39-0; House 114-2

CS/CS/CS/SB 1748 — Multiservice Senior Centers

by Appropriations Committee; Judiciary Committee; Health, Aging, and Long-Term Care Committee; and Senators Jones and Lynn

The bill redefines the term "multiservice senior center" as a community facility that organizes and provides a broad spectrum of services, including health, mental health, social, nutritional, and educational services and recreational activities and facilities for persons 60 years of age or older.

The bill also appropriates $240,000 from the Administrative Trust Fund to the Department of Elderly Affairs (DOEA) to purchase automated external defibrillators (AED) for placement in multiservice senior centers. A multiservice senior center may purchase an AED from DOEA for half of the cost of the AED. A multiservice senior center located in a rural community may request a free AED from DOEA. Senior centers having an AED are required to ensure that their personnel are trained to use the device. The location of the AED must be registered with the local emergency medical services medical director. The bill extends immunity under the Good Samaritan Act and the Cardiac Arrest Survival Act from civil liability to an employee or volunteer of a senior center who uses an AED.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 113-0

CS/SB 1782 — Guardianship

by Health, Aging, and Long-Term Care Committee and Senator Saunders

This bill creates the "Joining Forces for Public Guardianship" grant program to be administered by the Statewide Public Guardianship Office within the Department of Elderly Affairs. The purpose of the program is to provide start-up funding to encourage communities to develop and administer locally funded and supported public guardianship programs to address the needs of indigent and incapacitated residents. The bill specifies the duties and responsibilities of the Statewide Public Guardianship Office related to the grant program, the application process, application requirements, and proposal review criteria, and establishes eligibility. The bill provides that the grant application must contain, among other things, an agreement or confirmation from a local funding source, such as a county, municipality, or any other public or private organization, that the local funding source will contribute matching funds to the public guardianship program totaling not less than $1 for every $1 of grant funds awarded. In-kind contributions may be counted as part or all of the matching funds required.

The bill places limits on how much each county may receive in grant funds and specifies that awards made to counties in successive years shall reduce in value according to a determined scale. Emergency grant funds may be awarded if there is a public need. The bill specifies that grant funds must be used for direct services to wards.

The bill revises the definition of the term "guardian advocate" and provides that guardian advocates are exempt from annual accounting provisions if the court determines the ward receives income only from Social Security benefits and the guardian is the ward's representative payee for the benefits.

Clerks of court are required to forward the results of a credit or criminal investigation of any public or professional guardian to the Statewide Public Guardianship Office. The executive director of the Statewide Public Guardianship Office may deny registration to a professional guardian if the director determines that the proposed registration, including the guardian's credit or criminal investigations, indicates that registering the professional guardian would violate any provision of ch. 744, F.S., relating to guardianship.

Circuit courts are authorized to appoint a guardian advocate, without an adjudication of incapacity, for a person with developmental disabilities if the person lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person, property, or estate, or if the person has voluntarily petitioned for the appointment of a guardian advocate.

The bill makes numerous substantive changes related to a direct-support organization (DSO) under ch. 744, F.S. The bill defines "direct support organization" as an organization whose sole purpose is supporting the Statewide Public Guardianship Office and requires the DSO to operate under a written contract with the Statewide Office of Public Guardianship. The bill provides that any moneys may be held in a separate depository account in the name of the DSO and that expenditures of the DSO shall be expressly used to support the Statewide Public Guardianship Office. The bill also requires an annual audit of the DSO and provides for the dissolution of entities improperly using their DSO status.

If approved by the Governor, except as otherwise expressly provided, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 119-0

PUBLIC HEALTH

HB 333 — Limitation of Civil Liability

by Rep. Simmons and others (CS/SB 1394 by Health, Aging, and Long-Term Care Committee and Senators Smith and Crist)

The bill bars a claim for damages arising from personal injury or wrongful death against a manufacturer, distributor, or seller of foods or nonalcoholic beverages if the claim is premised upon a person's weight gain or obesity, or a health condition related to weight gain or obesity, resulting from long-term consumption of such foods or nonalcoholic beverages. "Long-term" is defined to mean the cumulative effect of multiple instances over a period of time and not the effect of a single or isolated instance. The limitation on such claims does not bar a claim otherwise available under law against a manufacturer, distributor, or seller of foods or nonalcoholic beverages if such person failed to disclose statutorily required nutritional content information or provided materially false or misleading information to the public.

If approved by the Governor, these provisions take effect upon becoming law and shall apply to all claims filed on or after that date.
Vote: Senate 39-0; House 112-1

HB 1121 — Health Care Providers

by Rep. Green and others (CS/SB 1374 by Health, Aging, and Long-Term Care Committee and Senators Saunders and Margolis)

The bill amends the Access to Health Care Act, which extends sovereign immunity to health care providers who execute a contract with a governmental contractor and who provide volunteer, uncompensated health care services to low-income individuals as an agent of the state. The definition of "contract" is revised to provide that for a service to qualify as a volunteer, uncompensated service, the health care provider may not receive any compensation from the governmental contractor for any service rendered to low-income persons and the provider may not bill or accept any compensation from the recipient or any third-party payor for services rendered under the contract. The definition of "health care provider" is revised to include a "free clinic" that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients. The bill requires the Department of Health to adopt rules that specify required methods for determination and approval of patient eligibility and referral and contractual conditions under which a health care provider may perform the patient eligibility and referral process on behalf of the department. These rules must include, but need not be limited to, requirements that:

- The provider must accept all patients referred by the department; however, the number that must be accepted may be limited by the contract;

- The provider must comply with department rules regarding the determination and approval of patient eligibility and referral; and
- The provider must complete training conducted by the Department of Health regarding compliance with the approved methods for determination and approval of patient eligibility and referral.

The bill extends a waiver of biennial license renewal fees and fulfillment of a maximum of 25 percent of continuing education hours to health care practitioners who participate as a health care provider under the Access to Health Care Act. "Health care practitioner" is defined to mean a Florida-licensed allopathic or osteopathic physician or physician assistant, chiropractic physician, podiatric physician, advanced registered nurse practitioner, registered nurse, licensed practical nurse, dentist, dental hygienist, or midwife who participates as a health care provider under the Access to Health Care Act.

The bill amends the "Public School Volunteer Health Care Practitioner Act," to add Florida-licensed dietitians/nutritionists to the list of health care practitioners who may participate in the volunteer program.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 117-0

CS/CS/SB 1178 — Healthy People 2010 Program

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senators Miller, Lawson, Dawson, Hill, Saunders, Bullard, Siplin, Wilson, Bennett, and Klein

This bill requires the Department of Health to monitor and report, within existing resources, on Florida's status on the Florida Healthy People 2010 Program goals and objectives. The federal Healthy People 2010 Program goals are to help individuals of all ages increase life expectancy and improve their quality of life; and eliminate health disparities among different segments of the population. The department is required to:

- Report to the Legislature by December 31 of each year on the status of the disparities in health among minorities and nonminorities, using health indicators that are identified in the federal program;
- Work with minority physician networks to develop programs to educate health care professionals about the importance of culture in health status. Programs must include but are not limited to:
    - The education of health care providers about the prevalence of specific health conditions among certain minority groups;
    - The training of clinicians to be sensitive to cultural diversity among patients;

  - The creation of initiatives that educate private-sector health care and managed care organizations about the importance of cross-cultural training of health care professionals; and
  - The fostering of increased use of interpreter services in health care settings.
- Work with and promote the establishment of public and private partnerships with charitable organizations, hospitals, and minority physician networks to increase the proportion of health care professionals from minority backgrounds; and
- Work with and promote research on methods by which to reduce disparities in health care at colleges and universities that have historically large minority enrollments, including centers of excellence in the state identified by the National Center on Minority Health and Health Disparities, by working with colleges, universities, and community representatives to encourage minority college students to pursue professions in health care.

The bill requires the Agency for Health Care Administration (AHCA) to contract with minority physician networks that provide services to historically underserved minority patients. "Minority physician network" is defined as a network of primary care physicians with experience managing Medicaid or Medicare recipients that is predominantly owned by minorities as defined in s. 288.703, F.S., which may have a collaborative partnership with a public college or university and a tax-exempt charitable corporation. The networks must provide cost-effective Medicaid services, comply with the requirements to be a MediPass provider, and provide their primary care physicians with access to data and other management tools necessary to assist them in ensuring the appropriate use of services, including inpatient hospital services and pharmaceuticals.

The bill requires AHCA to provide for the development and expansion of minority physician networks in each service area to provide services to Medicaid recipients who are eligible to participate under federal law and rules. Any savings must be split with the minority physician network pursuant to the contract. AHCA is to conduct actuarially sound audits to ensure cost-effectiveness of services, publish the audit results on its Internet website, and submit the results annually to the Governor and the Legislature no later than December 31. If established contracts are not cost-effective, they may not be renewed.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 116-0

CS/SB 1762 — Trauma Care

by Health, Aging, and Long-Term Care Committee and Senators Saunders and Cowin

Local Surtax to Fund Trauma

The bill authorizes counties with a population of less than 800,000 residents to levy, by ordinance, subject to approval by a majority of the electors of the county voting in a referendum, a discretionary sales surtax that may not exceed 0.25 percent for the sole purpose of funding trauma services provided by a trauma center. A surtax imposed under this provision expires 4 years after the effective date of the surtax, unless reenacted by ordinance approved by a majority of the electors. A county may not levy certain local option sales surtaxes in excess of a combined rate of 1 percent.

Definition of Charity Care

The bill revises the definition of "charity care" or "uncompensated care," for purposes of trauma care, to provide that restricted or unrestricted revenues provided to a hospital by local governments or tax districts for a patient whose family income is less than or equal to 200 percent of the federal poverty level do not qualify as compensation. The definition of "charity care" is revised to conform to the definition of "charity care" that is in ch. 409, F.S., which relates to the Medicaid program.

Update/Assessment of Trauma System

The bill requires the Department of Health (DOH) to update the state trauma system plan by February 2005 and annually thereafter. The DOH is required to complete an assessment of the trauma system in Florida and report its findings to the Governor, the President of the Senate, the Speaker of the House of Representatives and the substantive legislative committees by February 1, 2005. The department must review the existing trauma system and determine whether it is effective in providing trauma care uniformly throughout Florida. The department's comprehensive assessment must include specified elements including:

- Considering aligning trauma service areas within the trauma region boundaries as established in July 2004;
- Reviewing the number and level of trauma centers needed for each trauma service area to provide a statewide integrated trauma system;
- Establishing criteria for determining the number and level of trauma centers needed to serve the population in a defined trauma service area or region;
- Considering the inclusion of criteria within trauma center verification standards based upon the number of trauma victims served within a service area;

- Reviewing the Regional Domestic Security Task Force structure and determining whether integrating the trauma system planning with interagency regional emergency and disaster planning efforts is feasible and identifying any duplication of efforts between the two entities;

- Making recommendations regarding a continued revenue source which must include a local participation requirement; and

- Making recommendations regarding a formula for the distribution of funds identified for trauma centers.

The DOH, in conducting the comprehensive assessment of the existing trauma system and subsequent annual reviews, must consider the recommendations submitted by regional trauma agencies, stakeholder recommendations, the geographical composition of an area to ensure rapid access to trauma care by patients, historical patterns of patient referral and transfer in an area, inventories of available trauma care resources, population growth characteristics, transportation capabilities, medically appropriate ground and air travel times, recommendations of the regional domestic security task force, the actual number of trauma victims currently being served by each trauma center, and other appropriate criteria.

Boundaries of Trauma Regions

The bill requires the boundaries of trauma regions administered by DOH to be coterminous with the boundaries of the regional domestic security task forces established within the Florida Department of Law Enforcement. Exceptions are provided for the delivery of trauma services by or in coordination with a trauma agency established before July 1, 2004, which may continue in accordance with public and private agreements and operational procedures entered into as provided in s. 395.401, F.S.

Technical Clean-up

The bill makes various technical changes and deletes obsolete language and dates from ch. 395, part II, F.S., relating to trauma care.

Trauma Center Applications

The bill provides that until DOH has conducted the assessment of the trauma system that only hospitals located in trauma service areas where there is no existing trauma center may apply.

Trauma Funding Formula

The bill requires DOH, effective July 1, 2004, to make one-time payments from the Administrative Trust Fund to trauma centers and a hospital with a pending application for Level I trauma center. Payments must be in equal amounts for trauma centers approved as of July 1 of the fiscal year in which funding is appropriated, with lesser amounts for the hospital with an application pending for a Level I trauma center at DOH as of April 1, 2004. Trauma centers that are eligible to receive these funds may request that such funds be used as intergovernmental transfer funds in the Medicaid program. The obsolete funding formula currently in the law is deleted.

Trauma Funding

The bill appropriates $300,000 from the General Revenue Fund to the Administrative Trust Fund for DOH to contract with a state university to conduct the assessment of the trauma system. The sum of $20.7 million is appropriated from the General Revenue Fund to the Administrative Trust Fund for DOH to provide $1 million for each existing trauma center as of July 1, 2004, and $700,000 for a hospital with a Level I trauma center application pending with DOH as of April 1, 2004.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 118-0

CS/SB 1824 — Veterinary Prescription Drugs

by Health, Aging, and Long-Term Care Committee and Senator Fasano

The bill defines "veterinary prescription drug wholesaler," for purposes of the Florida Drug and Cosmetic Act, to mean any person engaged in wholesale distribution of veterinary prescription drugs in or into Florida. The bill creates a new permit and annual permit fee for veterinary prescription drug wholesalers.

Veterinary prescription drug wholesalers that also distribute prescription drugs subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act which the wholesaler did not manufacture must obtain a permit as a prescription drug wholesaler or out-of-state prescription drug wholesaler instead of the veterinary prescription drug wholesaler permit. A veterinary prescription drug wholesaler must comply with the requirements for wholesale distributors under s. 499.0121, F.S., except the pedigree paper requirements, and the due diligence requirements for suppliers, which under the bill are limited to prescription drug wholesalers, out-of-state prescription drug wholesalers, or prescription drug repackagers.

The Department of Health's authority to inspect specified establishments under its jurisdiction is revised to include veterinary prescription drug wholesale establishments. Such wholesalers are

subject to immediate closure and their products may be immediately seized, if the department determines that an imminent danger to the public health exists.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 115-4

CS/SB 2138 — Jessie Trice Cancer Prevention Program

by Health, Aging, and Long-Term Care Committee and Senators Wilson and Bullard

The bill gives the Department of Health the authority to expand the Jessie Trice Cancer Prevention Program, which operates pilot programs in Miami-Dade and Lee Counties, statewide. The bill specifies that funding may be provided to develop contracts with community health centers and local community faith-based education programs to provide cancer screening, diagnosis, education, and treatment services to low-income populations.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 117-0

CS/SB 2306 — Radiologists Performing Mammograms

by Judiciary Committee and Senator Lynn

The bill expresses a legislative finding regarding the importance of the availability of quality mammography services and other diagnostic tools to detect and treat breast cancer. The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Department of Health (DOH) to study issues relating to the availability, utilization, quality and cost of mammography services. OPPAGA must complete and submit its study to the Legislature by December 15, 2004.

The bill also creates the Workgroup on Mammography Accessibility, to be staffed by DOH, to study the availability, quality of care, and accessibility of mammography in this state; the need for research and educational facilities; availability of resources; and patient wait times for screening and diagnostic mammography. The thirteen-member workgroup will be chaired by the Secretary of Health or his or her designee, and the Governor, the President of the Senate, and the Speaker of the House of Representatives must each appoint four members. DOH must submit a report of the findings and recommendations of the workgroup to the Governor, Senate President, House Speaker, and the substantive legislative committees by December 15, 2004.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 38-0; House 118-0

CS/CS/SB 2372 — Physical Fitness and Health

by Governmental Oversight and Productivity Committee; Health, Aging, and Long-Term Care Committee; and Senators Clary and Margolis

The bill requires the Department of Health, subject to an appropriation in the General Appropriations Act, to promote healthy lifestyles to reduce the prevalence of overweight and obesity in Florida by implementing appropriate physical activity and nutrition programs that target Floridians by:

- Using all appropriate media to promote maximum public awareness of the latest research on healthy lifestyles and chronic diseases and disseminating relevant information through a statewide clearinghouse relating to wellness, physical activity, and nutrition and their impact on chronic diseases and disabling conditions;
- Providing technical assistance, training, and resources on healthy lifestyles and chronic diseases to the public, county health departments, health care providers, school districts, and other persons or entities, including faith-based organizations;
- Developing, implementing, and using all available research methods to collect data, including, but not limited to, population-specific data, and track the incidence and effects of weight-gain, obesity, and related chronic diseases;
- Partnering with the Department of Education, local communities, school districts, and other entities to encourage Florida schools to promote activities during and after school to help students meet a minimum goal of 60 minutes of activity per day;
- Partnering with the Department of Education, school districts, and the Florida Sports Foundation to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement; and
- Maximizing all local, state, and federal funding sources, including grants, public-private partnerships, and other mechanisms, to strengthen the department's current physical activity and nutrition programs and to enhance similar county health department programs.

The bill expands the purposes for which the Florida Professional Sports Team License Plate proceeds are to be used by authorizing proceeds to be used to promote education programs in Florida schools that provide an awareness of the benefits of physical activity and nutrition standards and to partner with the Department of Education and the Department of Health to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 119-0

CS/SB 2448 - Public Health

by Health, Aging, and Long-Term Care Committee and Senator Saunders

This bill makes numerous revisions to statutes under the purview of the Department of Health (DOH). Most of the revisions are technical and clarifying in nature. Other revisions provide necessary authority for DOH to carry out its public health and regulatory mission efficiently and effectively, and to respond to changing programmatic and funding requirements.

Department Administration

The bill changes the Division of Emergency Medical Services and Community Health Resources to the Division of Emergency Medical Operations; the Division of Information Resource Management to the Division of Information Technology; and the Division of Health Awareness and Tobacco to the Division of Health Access and Tobacco. The Division of Disability Determinations is established within DOH. Positions within DOH which are funded by the United States Trust Fund are excluded from the limitation on the number of authorized positions in the department.

Statewide Research

The bill authorizes DOH to disburse funds from the Tobacco Settlement Clearing Trust Fund to the Biomedical Research Trust Fund in DOH. The bill creates the Institutional Review Board within DOH to review all biomedical and behavioral research on human subjects funded or authorized by DOH and authorizes the board to charge fees to cover research review costs.

Officer of Women's Health Strategy

The bill establishes the Officer of Women's Health Strategy within DOH. The Officer is required to ensure that Florida's policies and programs are responsive to sex and gender differences and to women's health needs. Women's health issues must be taken into consideration in the annual budget planning of DOH, the Agency for Health Care Administration (AHCA), and the Department of Elderly Affairs (DOEA). The inclusion of gender considerations and differential impact must be considered in the criteria for choosing state-funded research and demonstration proposals. Boards or advisory bodies which fall under the purview of DOH, AHCA, and DOEA are encouraged to seek equal representation of women and men and the inclusion of persons who are knowledgeable and sensitive to gender and diversity issues. The Officer is required to submit to the Governor and the Legislature an annual report with policy recommendations.

Minority Health

The Office of Minority Health is established within DOH. The bill requires DOH to include oral health care programs in the department's *Reducing Racial and Ethnic Health Disparities: Closing the Gap* grant program.

Environmental Health

The bill includes elevated blood-lead-level investigations as a service under the environmental health program.

The Onsite Sewage Treatment and Disposal Systems Program is authorized to use the most current products derived from U.S. Geological Survey. The $5 fee on new sewage system construction permits to support onsite sewage treatment and disposal system research, demonstration, and training projects is continued. The DOH Technical Review and Advisory Panel is required to review and advise the Legislature on the need and structure of a disciplinary board for the onsite sewage industry and must submit a report to the Legislature by January 2, 2005.

The bill requires that septic tank contractors have three years of qualifying work experience immediately preceding the date of application. DOH is authorized to develop rules regarding inactive status and the late filing of renewal applications for septic tank contractors. The bill allows a master septic tank contractor to revert to registered septic tank contractor status any time during the period of registration. DOH is given the authority to deny an application for renewal of a septic tank contractor certificate for failure to pay an administrative penalty.

The bill eliminates a requirement that bars and lounges have a certified food manager and clarifies that public and private school food services are exempt from having a certified food manager if operated by school employees.

The bill clarifies the time frames for performing mandatory radon testing in public and private buildings. The revisions allow one full year to complete and report the initial radon measurements. Follow up testing must be performed after the building has been occupied for 5 years, and the results must be reported to DOH by the first day of the 6th year of occupancy.

Newborns and Children

The bill adds language that allows DOH to release newborn hearing and metabolic tests or screening results to the newborn's primary care physician. The bill requires newborns to be tested for phenylketonuria prior to becoming 1 week of age, rather than 2 weeks of age, and clarifies that newborns do not have to be born in Florida to be screened. The number of members on the Genetics and Newborn Screening Advisory Council is increased from 12 to 15 to include a representative from the Florida Hospital Association, an audiologist, and an individual experienced in newborn screening programs.

The Child Abuse Death Review Team and local review committees are authorized to review all deaths resulting from verified child abuse and neglect, not just those with a report to the central abuse hotline.

The bill revises the definition of "children with special health care needs" to conform to the federal definition. The Children's Medical Services (CMS) program is authorized to reimburse physicians licensed in other states who provide care to CMS clients under specified circumstances and clarifies CMS eligibility. The bill requires that any newborn found to have an abnormal screening result identified through the newborn screening program be referred to the CMS Network.

The bill creates the Infants and Toddlers Early Intervention Program, authorizing DOH to implement and administer Part C of the federal Individuals with Disabilities Education Act. DOH and DOE are required to prepare a grant proposal each year to the U.S. Department of Education for funding early intervention services for infants and toddlers with disabilities, from birth through 36 months years of age and their parents. The grant proposal must include a reading initiative for infants and toddlers.

Health Care Clinics

The bill revises licensure requirements for health care clinics to exempt the following entities from licensure:

- End-stage renal disease providers;
- Therapy providers (speech, occupational, and physical) which are Medicare-certified;
- Birth centers;
- Clinical laboratories;
- Charitable clinics – 501(c)(3) or (4);
- Entities owned or operated by the federal or state government;
- Hospitals and entities they own;
- A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered under s. 627.419, F.S. (includes dentists, optometrists, podiatrists; chiropractors, physicians);
- A sole proprietorship, group practice, partnership, or corporation that provides health care services under ch. 480, F.S., massage practice, which are wholly owned by one or more licensed health care practitioners;
- Entities that provide only oncology or radiation therapy services by physicians; and
- Entities that provide neonatal or pediatric hospital-based healthcare services.

Mobile clinics and portable equipment providers are included in the definition of clinic. The date for filing a clinic license application with AHCA is changed to July 1, 2004, from March 1, 2004. If AHCA issues a notice of intent to deny a clinic license application after a temporary license has been issued, the temporary license expires on the date of the notice and may not be extended during any administrative or judicial review.

The bill provides that any person or entity defined as a clinic is not in violation of the Health Care Clinic Act due to failure to apply for a clinic license by March 1, 2004, and payment to such person or entity by an insurer or other entity liable for payment may not be denied on the grounds that the person or entity failed to apply for or obtain a clinic license before March 1, 2004.

A chief financial officer of a health care clinic is defined as an individual with a bachelor's degree in finance, accounting, or a related field, and is the person responsible for the preparation of clinic billing. In an MRI clinic that bills less that 15 percent of its scans to personal injury protection insurance, the chief financial officer can ensure that the billings are not fraudulent.

AHCA may charge an applicant for a certificate of exemption $100 or the actual cost of processing the certificate, whichever is less. AHCA must refund 90 percent of the licensure fee that was paid by an applicant that subsequently was exempted from licensure requirements by this bill.

Injury Prevention Program

The bill establishes an injury-prevention program within DOH. The program is responsible for coordinating and expanding injury prevention activities statewide. DOH duties include data collection, surveillance, education, and intervention promotion. DOH is given the authority to provide expertise and guidance to communities, county health departments, and state agencies; apply for, receive, and spend funds from grants, donations, or contributions, from public and private sources on program activities; and develop a state plan for injury prevention.

Radiologic Testing

The bill clarifies that the prohibition on uncertified operators applies to the "practice of radiologic technology" and not just the application of radiation. The bill specifies the restricted circumstances and additional training under which a nuclear medicine technologist can apply x-radiation from a combination nuclear medicine-computed tomography device. The changes allow the nuclear medicine technologist to operate the devices in a way that protects public safety after additional training has been received.

The bill makes technical changes to certificate issuance and expiration dates under the radiologic testing statutes, specifying the duration and expiration date of the initial certificate as well as the duration and expiration date for an applicant who becomes certified in a new category while holding an active certificate in a different category.

The bill gives DOH explicit authority to investigate and determine whether violations of existing radiologic technology statutes have occurred, and allows DOH to take disciplinary action against technologists who are acted against by national registries or national boards recognized by the

DOH. The bill authorizes DOH to discipline a technologist who tests positive for drugs in the workplace.

The bill provides grounds for discipline for committing a list of crimes established in other statutes governing employee background screening. The bill provides grounds for discipline for a suspected impaired technologist who is referred, or self refers, to DOH's impaired practitioner program, but then fails to comply with the program's recommendations for treatment, evaluation or monitoring. The bill provides that the final disciplinary action against the technologist's license in another jurisdiction would be sufficient justification to begin disciplinary proceedings in Florida, and gives DOH the authority to discipline those who improperly provide continuing education courses to radiologic technologists.

Miscellaneous

The bill modifies the licensure fees for tanning facilities by removing the minimum fee per tanning device, but maintaining the maximum fee per tanning device, and authorizing DOH to set the maximum total fee per individual tanning facility by rule.

The bill requires AHCA to report to the Legislature by December 31, 2004, recommending whether it is in the public interest to allow a hospital to license or operate an emergency department located off the premises of the hospital. A 1-year moratorium on CONs for off-site emergency departments is established.

The bill requires licensed facilities to release patient information to regional poison control centers for patient case management. The bill requires acute care hospitals, upon request, to report trauma registry data to DOH and clarifies reporting requirements for trauma centers, pediatric trauma referral centers, and acute care hospitals to the brain and spinal cord injury central registry.

The bill increases the penalties for battery and assault on persons employed by DOH or its direct service providers. These protections will apply to Environmental Health regulatory staff, A.G. Holley nursing staff, STD investigative staff and all other DOH employees and the employees of DOH's service providers. The increased criminal penalty will authorize law enforcement to take offenders into custody following assault or battery against a DOH employee.

Hospitals licensed under ch. 395, F.S., are required to implement immunization programs to offer immunizations against influenza and pneuomococcal bacteria to people aged 65 and older in accordance with the federal Centers for Disease Control and Prevention guidelines.

The bill allows federally qualified health centers to be reimbursed retroactively by the Medicaid program from the date they submit their application to the date the application is approved.

The bill provides that, notwithstanding any other law or local ordinance to the contrary, the regulation, identification, and packaging of meat, poultry, and fish is preempted to the state and the Department of Agriculture and Consumer Services.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 118-0

MEDICAID

CS/CS/SB 1064 — Medicaid Fraud

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senators Saunders, Aronberg, Fasano, Lynn, and Bullard

The bill implements the recommendations from the Senate Select Subcommittee on Medicaid Prescription Drug Over-Prescribing. The bill makes several statutory changes broadening the authority of the Agency for Health Care Administration (AHCA) related to combating fraud and abuse in the Medicaid program, particularly focused on prescribed drugs. The bill also makes several statutory changes giving the Medicaid Fraud Control Unit (MFCU) in the Department of Legal Affairs broader authority to pursue entities that try to defraud the Medicaid program.

The bill requires Medicaid applicants, as a condition of eligibility and subject to federal approval, to agree in writing to forfeit their entitlement to goods and services in the Medicaid program if they are found to have committed fraud, through administrative or judicial determination, 2 times in a period of 5 years. The provision applies only to the Medicaid recipient found to have committed or participated in the fraud and does not apply to any family member of the recipient who was not involved in fraud.

The bill gives AHCA the authority to require a confirmation or second physician's opinion of the correct diagnosis before authorizing future services under the Medicaid program. Access to emergency services or poststabilization care services as defined in 42 C.F.R., part 438.114, are not restricted under this requirement. AHCA is authorized to mandate prior authorization, drug therapy management, or disease management for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud.

The bill requires AHCA and the Drug Utilization Review Board to consult with the Department of Health under the practice pattern identification program.

AHCA is required to mandate a recipient's participation in a provider lock-in program, when appropriate, if a recipient is found by the agency to have used Medicaid goods or services at a frequency or amount not medically necessary, limiting the receipt of goods or services to medically necessary providers, for a period of not less than 1 year. The lock-in programs must include, but are not limited to, pharmacies, medical doctors, and infusion clinics. The limitation

does not apply to emergency services and care provided to the recipient in a hospital emergency department. AHCA is authorized to mandate prior authorization, drug therapy management, or disease management participation for certain Medicaid beneficiaries, and is required to enroll Medicaid recipients in the drug benefit management program if they meet certain criteria and are not enrolled in a Medicaid health maintenance organization.

AHCA must seek a federal waiver for permission to terminate the eligibility of a Medicaid recipient who has been found to have committed fraud, through judicial or administrative determination, two times in a period of five years.

The bill requires AHCA to conduct a study on implementing an electronic verification system for Medicaid recipients and requires AHCA to recommend to the Legislature a plan to implement such a system for Medicaid recipients by January 31, 2005.

The bill specifies that a provider is not entitled to enrollment in the Medicaid provider network and that AHCA may implement fee for service provider network controls, including, but not limited to, competitive procurement and provider credentialing. If a credentialing process is used, AHCA may limit its provider network based upon the following considerations: beneficiary access to care, provider availability, provider quality standards and quality assurance processes, cultural competency, demographic characteristics of beneficiaries, practice standards, service wait times, provider turnover, provider licensure and accreditation history, program integrity history, peer review, Medicaid policy and billing compliance records, clinical and medical record audit findings, and such other areas that are considered necessary by the agency to ensure the integrity of the program.

The bill specifies that AHCA can conduct or contract for prepayment review of provider claims to ensure that billing by a provider is in accordance with applicable Medicaid rules, regulations, handbooks, and policies and in accordance with all state and federal laws, and to ensure that appropriate care is rendered to Medicaid recipients. The bill establishes limitations on such prepayment reviews.

The bill specifies a provider's obligation with regard to submitting claims to the Medicaid program by providing that AHCA shall not reimburse any person or entity for any prescription for medications, medical supplies, or medical services if the prescription was written by a physician or other prescribing practitioner who is not enrolled in the Medicaid program. This requirement does not apply:

- In instances involving bona fide emergency medical conditions as determined by the agency;
- To a provider of medical services to a patient in a hospital emergency department, hospital inpatient or outpatient setting, or nursing home;
- To bono fide pro bono services by preapproved non-Medicaid providers as determined by the agency;

- To prescribing physicians who are board-certified specialists treating Medicaid recipients referred for treatment by a treating physician who is enrolled in the Medicaid program;
- To prescriptions written for dually eligible Medicare beneficiaries by an authorized Medicare provider who is not enrolled in the Medicaid program;
- To other physicians who are not enrolled in the Medicaid program but who provide a medically necessary service or prescription not otherwise reasonably available from a Medicaid-enrolled physician; or
- In instances where the agency cannot practically notify a pharmacy at the point of sale that a prescription will be approved for processing under the previous exemptions. This provision expires July 1, 2005.

AHCA is authorized to seek any remedy provided by law when false or a pattern of erroneous claims are submitted, deleting the requirement that the claims must result in overpayments to a provider or exceed those to which the provider was entitled under the Medicaid program.

Current law authorizes AHCA to terminate certain practitioners from the Medicaid program. The bill clarifies that suspension or termination from the Medicaid program precludes participation in Medicaid during that period, which includes any action that results in a claim for payment to the Medicaid program as a result of furnishing, supervising a person who is furnishing, or causing a person to furnish goods or services.

The bill authorizes AHCA to withhold payment to a provider upon receipt of evidence of fraud, willful misrepresentation, or abuse under Medicaid, or a crime committed while rendering goods or services to Medicaid recipients, regardless of whether there are ongoing legal proceedings related to that evidence. AHCA is also authorized to deny payments or require repayments where the goods or services were furnished, supervised, or caused to be furnished by a provider terminated or suspended from the Medicaid or Medicare program by the Federal government or any state.

AHCA is authorized to implement amnesty programs that encourage voluntary repayment of overpayments.

The bill authorizes AHCA and MFCU to review a provider's non-Medicaid-related records in order to determine the total output of a provider's practice to reconcile quantities of goods or services billed to Medicaid with quantities of goods or services used in the provider's total practice.

The bill authorizes AHCA to limit the number of Schedule II and Schedule III refill prescription claims submitted from pharmacy providers if AHCA or MFCU determines that the specific prescription refill was not requested by the Medicaid recipient or authorized representative for whom the refill claim is submitted, or was not prescribed by the recipient's medical provider or physician.

The bill requires the Office of Program Policy Analysis and Government Accountability to provide a report to the Legislature on a biennial basis on AHCA's efforts to prevent, detect, and deter fraud and abuse in the Medicaid program.

The bill clarifies that the peer review process for determining an overpayment is triggered by medical necessity, appropriateness, or quality of care determinations and that peer review will be used, in cases involving determination of medical necessity, to determine whether the documentation in the physician's records is adequate.

The bill requires Medicaid provider cost reports submitted to AHCA to include a statement of understanding relating to the laws and regulations of the provision of health services under the Medicaid program.

The bill redefines the term "knowingly" for purposes of Medicaid provider criminal violations, as an act done voluntarily and intentionally and not because of mistake or accident. "Knowingly" also includes the word "willfully" or "willful." The bill makes it unlawful to knowingly use or endeavor to use a Medicaid provider's or recipient's identification number or cause to be made, or aid and abet in the making of a claim for items or services that are not authorized to be reimbursed under the Medicaid program. The bill defines property "paid for" to include all property furnished to or intended to be furnished to any recipient of benefits under the Medicaid program, regardless of whether reimbursement is ever actually made by the program.

The bill specifies that a Medicaid participating physician is required to make available to MFCU any accounts or records relevant to investigations of alleged abuse or neglect of patients, or to investigations of alleged misappropriation of patients' private funds.

The bill provides an additional ground, relating to patterns of inappropriate prescribing under which a health care practitioner who prescribes medicinal drugs or controlled substances may be subject to discipline by the Department of Health or the appropriate board having jurisdiction over the health care practitioner.

The bill requires that AHCA give pharmacists at least 1 week's notice prior to an initial audit for each audit cycle. The pharmacy audit criteria applies only to audits of claims submitted for payment subsequent to July 11, 2003. AHCA is required to not use the accounting practice of extrapolation in calculating penalties for Medicaid audits. The pharmacy audit criteria do not apply to any investigative audit conducted by AHCA when AHCA has reliable evidence that the claim that is the subject of the audit involves fraud, willful misrepresentation, or abuse under the Medicaid program.

MFCU is included in the AHCA local coordinating workgroups for identifying unlicensed assisted living facilities and MFCU is given the authority to enter and inspect these facilities.

The bill authorizes the Office of Statewide Prosecution to investigate and prosecute any criminal violation of s. 409.920 or s. 409.9201, F.S., which relate to Medicaid fraud. The bill establishes new criminal violations relating to Medicaid fraud and dealing in property paid for by the Medicaid program and expands the definition of "racketeering activity" to include crimes committed under s. 409.9201, F.S., relating to Medicaid recipient fraud. The bill expands the definition of "contraband article," to include property acquired through Medicaid fraud, and requires that proceeds collected under the Contraband Forfeiture Act be deposited in the Department of Legal Affairs Grants and Donations Trust Fund.

The Statewide Grand Jury's jurisdiction is expanded to include any criminal violation of s. 409.920 or s. 409.9201, F.S., relating to Medicaid fraud.

AHCA is required to report to the Legislature, by January 1, 2005, on the feasibility of creating a database of valid prescriber information for the purpose of notifying pharmacies of prescribers qualified to write prescriptions for Medicaid beneficiaries, or in the alternative, of prescribers not qualified to write prescriptions for Medicaid beneficiaries. The report must include information on the system changes necessary to implement a database.

The bill provides an appropriation of $262,087 to the Department of Health from the Medical Quality Assurance Trust Fund for four full-time equivalent positions for the purpose of implementing the provisions of this act during FY 2004-2005.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 115-0

PUBLIC RECORDS AND MEETINGS EXEMPTIONS

CS/CS/SB 464 — Public Records Exemption/Medical Facilities

by Governmental Oversight and Productivity Committee and Health, Aging, and Long-Term Care Committee

Pursuant to a review under the Open Government Sunset Review Act of 1995, this bill re-enacts and narrows the public records exemption for public hospitals for the home addresses, telephone numbers, photographs, and names and locations of children's schools and day care facilities of employees who provide direct patient care or security services, and for employees who do not provide direct patient care or security services but who have reason to believe, based upon specific circumstances that have been reported, that release of the information could be used to threaten, or harm them or their families. The home addresses, telephone numbers, and places of employment of the spouses and children of those employees' are also exempt. This exemption protects personal information of employees held in public hospitals' personnel records.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 38-0; House 114-0

CS/SB 466 — Public Records Exemption/Statewide Public Guardianship Office

by Health, Aging, and Long-Term Care Committee and Senator Lynn

Pursuant to a review under the Open Government Sunset Review Act of 1995, this bill reenacts s. 744.7081, F.S., which provides an exemption from ch. 119, F.S., the Public Records Law, and s. 24(a), Art. I, State Constitution for all records held by the Statewide Public Guardianship Office relating to the medical, financial, or mental health of vulnerable adults as defined in ch. 415, F.S., persons with a developmental disability as defined in ch. 393, F.S., or persons with a mental illness as defined in ch. 394, F.S.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 38-0; House 118-0

SB 468 — Public Meetings Exemption/Hospital Board Meetings

by Health, Aging, and Long-Term Care Committee

Pursuant to a review under the Open Government Sunset Review Act of 1995, this bill re-enacts the public meetings exemption for those portions of a public hospital board meeting at which one or more written strategic plans that are confidential under s. 395.3035(2), F.S., are discussed, modified, or approved by the governing board. The exemption permits public hospitals to plan in a way that does not put them at a disadvantage vis-à-vis private hospitals.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 38-0; House 113-0

SB 674 — Public Records Exemption/Home Medical Equipment Providers

by Health, Aging, and Long-Term Care Committee

Pursuant to a review under the Open Government Sunset Review Act of 1995, this bill reenacts the public records exemption for medical and personal identifying information about patients of home medical equipment providers that is held by the Agency for Health Care Administration in complaint files. The bill makes one change in the wording in s. 400.945, F.S., to clarify that it is medical and personal identifying information that is exempt.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 38-0; House 116-0

CS/SB 702 — Patient Safety Data/Public Records and Meetings Exemptions

by Governmental Oversight and Productivity Committee and Senator Saunders

The bill creates exemptions from the public records and meetings laws for certain information contained in patient safety data held by the Florida Patient Safety Corporation as created in s. 18 of HB 1629. Information that identifies a patient, a person or entity that reports patient safety data to the corporation, and a health care practitioner or health care facility is confidential and exempt from the public records law. Such information may be disclosed only with the express written consent of the person or entity involved, by court order upon a showing of good cause, or to a health research entity under specified conditions. Any portion of a meeting held by the Florida Patient Safety Corporation during which such information is discussed is exempt from the public meetings law.

The bill provides a statement of public necessity for the exemptions and makes the exemptions subject to the Open Government Sunset Review Act of 1995. The exemptions will be repealed on October 2, 2009, unless reviewed and saved from repeal by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2004, contingent upon HB 1629 becoming a law.
Vote: Senate 33-5; House 80-38

PROPOSED CONSTITUTIONAL AMENDMENT

HJR 1 — Proposed Constitutional Amendment for Parental Notification Prior to Termination of the Pregnancy of a Minor

by Rep. Byrd and others (CS/CS/SJR 2178 by Judiciary Committee; Health, Aging, and Long-Term Care Committee; and Senator Diaz de la Portilla)

This joint resolution proposes the creation of s. 22 of Art. X of the State Constitution to authorize the Legislature to require notice to the parent or guardian of a pregnant minor before a termination of the minor's pregnancy. This amendment authorizes the Legislature to require notice notwithstanding a minor's right of privacy provided in s. 23, Art. I of the State Constitution. The joint resolution prohibits the Legislature from limiting or denying the privacy rights of a minor under the United States Constitution as interpreted by the United States Supreme Court. The Legislature must provide exceptions and shall create a process for judicial bypass.

As required by s. 101.161, F.S., the bill provides a statement for the ballot.

The proposed Constitutional amendment will be submitted to the voters for approval or rejection at the general election to be held in November 2004.
Vote: Senate 27-13; House 93-24

DOMESTIC SECURITY

CS/SB 124 — Chief of Domestic Security Initiatives

by Appropriations Committee and Senators Dockery and Lynn

This bill amends s. 943.0311, F.S., to require state agencies, state universities, and community colleges to conduct security assessments of buildings and facilities. Each state agency, state university, or community college is required to provide the assistance of their employees in the production of security assessment information and must present the information to the chief in the format requested by the chief. If any state agency, state university, or community college substantially fails to cooperate with the chief in the production of a security assessment, the chief is required to report such noncompliance to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

State agencies, state universities, and community colleges are required to conduct initial security assessments of their buildings, facilities, and structures and must provide the assessments to the chief no later than November 1, 2004. The chief is authorized to request subsequent security assessments be conducted by state agencies, state universities, or community colleges.

By November 1 of each year, the Chief of Domestic Security Initiatives must report to the Governor and Legislature prioritized suggestions for specific security enhancements of state agency, state university, and community college facilities.

The chief is required to encourage local governments and water management districts to conduct security assessments of their buildings and advise those governments and districts of options to consider in obtaining assessments. Local governments and water management districts must bear the costs of assessing buildings and facilities owned or leased by the local government or water management district.

The bill defines the term “state agency” to identify the agencies that are required to conduct security assessments of buildings, facilities, and structures.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 117-0

HB 317 — Public Records Requirement/Exemption

by Rep. Reagan (CS/SB 410 by Governmental Oversight and Productivity Committee and Senator Bennett)

This bill (Chapter 2004-9, L.O.F.) amends s. 119.07, F.S., to create a new public records exemption for building plans, blueprints, schematic drawings, and diagrams that depict the internal layout or structural elements of an attractions and recreation facility, entertainment/resort complex, industrial complex, retail and service development, office development, or hotel or motel development, which are held by a governmental agency. Drafts, preliminary, and final formats are included within the exemption, and the exemption applies to any documents held either permanently or temporarily by an agency.

The bill provides for exceptions to the public records exemption. Such exempt information may be disclosed:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;
- To the owner or owners of the structure in question; or
- Upon a showing of good cause before a court of competent jurisdiction.

The bill limits the types of entities that are included within the exemption and defines the following structures referred to in the exemption:

- Attractions and recreation facility
- Entertainment/resort complex
- Industrial complex
- Retail and service development
- Office development
- Hotel or motel development

The bill makes explicit that the exemption does not apply to comprehensive plans, site plans, or amendments to them that are submitted under local land development regulations, local zoning regulations, or development-of-regional-impact review.

As required by s. 24, Art. I, State Constitution, the bill provides a statement of public necessity.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-1; House 113-3

CS/SB 1820 — Domestic Security

by Home Defense, Public Security, and Ports Committee

This bill amends s. 311.12, F.S., to require the Legislature to review any seaport that is not in substantial compliance with statewide minimum security standards by November 2005, as reported by the Florida Department of Law Enforcement (FDLE). The bill requires the Legislature to review, by December 31, 2004, the ongoing costs of operational security on seaports to consider: the impacts of statutory minimum security standards on security costs; mitigating factors to reduce costs; and methods by which seaports may implement operational security using a combination of sworn law enforcement officers and private security services.

The bill provides that state funds may not be expended for operational security costs without certification of need for such expenditures by the Office of Ports Administrator within FDLE.

The bill creates s. 1004.63, F.S., to create the Florida Institute for Nuclear Security within the Department of Nuclear Engineering and Radiological Sciences at the University of Florida for the purpose of conducting research and performing other activities to identify and develop technologies to improve nuclear security and promote nuclear nonproliferation. The institute is to be headed by a director appointed by the Dean of the University of Florida College of Engineering. The activities of the institute are to be directed by a board of eight advisors with expertise in nuclear science and industry.

The institute is authorized to accept funds and grant allocations from federal, state, and local government and private entities to conduct nuclear research and development. The institute is required to file an annual report on its progress with recommendations on nuclear security and detection to the Governor, President of the Senate, the Speaker of the House of Representatives, the United States National Nuclear Security Administration, and the United States Department of Homeland Security. The report must contain financial statements that include an accounting of all funds received and expended; such financial statement must also be filed with the Auditor General.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 119-0

ADMINISTRATIVE AND CIVIL PROCEEDINGS

CS/CS/CS/SB 1156 — Sport Shooting and Training Ranges

by Appropriations Committee; Criminal Justice Committee; Judiciary Committee; and Senators Peaden and Posey

Necessity for Protection of Sport Shooting and Training Ranges

This bill includes legislative findings that state environmental regulations and unnecessary litigation initiated against sport shooting and training ranges by governmental agencies for violation of environmental laws may bankrupt and destroy the sport shooting and training range industry. Further, findings in the bill state that the elimination of sport shooting and training ranges will impair the ability of state residents to exercise and practice their rights to keep and bear arms guaranteed by the state and federal constitutions.

Environmental Regulation

Under the bill, the Department of Environmental Protection (DEP) must attempt to distribute copies of the *Best Management Practices for Environmental Stewardship of Florida Shooting Ranges* to all shooting and training ranges in the state by January 1, 2005. The ranges must implement appropriate management practices by January 1, 2006. If contamination of a shooting range and training range is suspected or identified, DEP may assist with or perform a contamination assessment. If contamination is found, the range must comply with a site-specific rehabilitation program.

Protection from Environmental Lawsuits

In exchange for compliance with the *Best Management Practices for Environmental Stewardship of Florida Shooting Ranges* and site-specific rehabilitation programs, sport shooting and training ranges are immune from environmental suits by the state and its subdivisions for the use of the range property as a shooting range. The bill also requires that any existing environmental lawsuits brought by the state or its subdivisions against a range be withdrawn. Future actions filed in violation of the provisions of this bill entitle the sport shooting or training range defendant to recover all expenses resulting from the action from the governmental entity. Government employees who intentionally and maliciously bring a lawsuit against a shooting or training range in violation of the provisions of the bill commit a first degree misdemeanor. Lastly, the bill clarifies that except as expressly provided in general law, the Legislature preempts all regulation of firearms and ammunition use at sport shooting and training ranges including the environmental regulation of sport shooting and training ranges.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-6; House 80-35

HB 1787 — Name Change Petitions

by Judiciary Committee and others (SB 130 by Senator Dockery)

This bill requires the clerk of court to submit a report of every name change judgment to the Department of Law Enforcement along with the fingerprints of the person whose name has been changed. Additionally, every name change petition must show whether the petitioner has ever been arrested for or charged with, pled guilty or nolo contendere to, or been found to have committed a criminal offense, regardless of adjudication, and if so, when and where. The petitioner is responsible for the cost of fingerprinting.

The Department of Law Enforcement must send a copy of the report of the judgment to the Department of Highway Safety and Motor Vehicles and may also forward the report to any other law enforcement agency believed to retain information related to the petitioner.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 38-0; House 112-1

SB 2718 — Business Corp. Act/Shareholders

by Senator Klein

This bill provides various modifications to the Florida Business Corporation Act, as follows:

- Equal treatment is provided in terms of rights and preferences among the same class of shares, regardless of their date of issuance.
- Time periods are specified within which a shareholder must demand payment for shares from a corporation and the parties cannot agree on the fair value of the shares.
- All shareholders, both in and out of state, whose demands remain unsettled must be made parties to the proceeding, and are required to be served with the initial pleading by the corporation.
- The jurisdiction of the court is declared to be complete and exclusive.
- The court is authorized to appoint appraisers to recommend the fair value of the shares, and each shareholder party is entitled to a judgment to include fair value plus interest.
- A corporation is required to pay judgment within 10 days after the court's final determination, payment of which relinquishes each shareholder's interest.
- When a dissolved corporation opts to notify the public through publishing a notice of dissolution, time periods are specified regarding the date of publication. A proper notice is required, to include language providing that a proceeding on a claim must commence within four years after the date of the second consecutive weekly publication.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 117-0

EVIDENCE

CS/CS/SB 44 — DNA Evidence

by Criminal Justice Committee; Judiciary Committee; and Senators Villalobos, Lynn, and Crist

Under the bill, a person convicted at trial and thereafter sentenced may file a petition for post-conviction DNA testing within four (4) years, instead of two (2) years, of the following dates:

- The date the judgment and sentence becomes final if no appeal is taken;
- The date the conviction is affirmed on appeal; or
- The date collateral counsel is appointed after the conviction is affirmed in a capital case.

Motions for post-conviction DNA testing that are time barred under existing law must be filed by October 1, 2005. Under existing law, motions for post conviction DNA testing that were not filed within the appropriate two-year timeframe were time barred on October 1, 2003.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

CS/SB 1970 — Mediation Alternatives/Judicial

by Judiciary Committee and Senators Campbell and Smith

This bill creates the Mediation Confidentiality and Privilege Act ("Act") and amends existing law as follows:

- Mediation proceedings are standardized, so that both court-ordered and non court-ordered mediation are entitled to the same confidentiality status.
- Mediation participants are not authorized to disclose a mediation communication, and participants are granted a privilege to refuse to testify regarding such communications.
- No confidentiality or privilege attaches to signed written agreements, unless the parties otherwise agree.
- No confidentiality or privilege applies in certain other situations, including a mediation communication that is willfully used to plan a crime, that requires certain mandatory reports by law, that is offered to report or prove professional malpractice occurring in the mediation, offered only to void or reform a settlement agreement based on legality, or offered to report or prove professional misconduct occurring during the mediation, solely for the internal use of the body conducting the investigation of the conduct.

This bill addresses civil remedies as follows:

- Remedies are authorized for violations of mediation communications, to include equitable relief, compensatory damages, attorney's fees, mediator fees, costs and reasonable attorney's fees and costs incurred in the remedy process.
- A statute of limitations applies and ranges from two to four years.
- A mediation participant is not subject to a civil action where he or she acts lawfully in compliance with the public records law.

This bill provides for judicial immunity as follows:

- Judicial immunity applies to arbitrators (serving pursuant to court-ordered or non court-ordered arbitration), mediators (serving pursuant to court-ordered mediation), and trainees (fulfilling a mentorship for Supreme Court certification as a mediator), as well as mediators in non-court ordered mediations required by statute, agency rule or order, conducted under this Act by express agreement, or facilitated by a Supreme Court certified mediator, unless the parties expressly except themselves from the provisions of the Act.
- Mediators serving in non court-ordered mediation have liability immunity only where the liability arises from the performance of their duties, while acting within the scope of the mediation function.
- No immunity exists for acts of bad faith, with malicious purpose, or willful or wanton disregard.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 39-0; House 114-0

CS/SB 2762 — Driving Under Influence

by Criminal Justice Committee and Senator Smith

This bill authorizes records from the Department of Highway Safety and Motor Vehicles, relating to prior convictions for driving under the influence, to be sufficient by themselves to establish previous convictions. This presumption may be introduced with other evidence to establish prior DUI convictions. This evidence may be contradicted or rebutted by other evidence. The Department of Highway Safety and Motor Vehicles shall review the materials submitted by the law enforcement officer to determine whether the materials comply with applicable statutes, rules and policies, and the department shall inform the law enforcement officer when a deficiency exists to correct it prior to the hearing.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 39-0; House 116-0

FAMILY LAW

CS/CS/SB 192 — Magistrates and Masters

by Governmental Oversight and Productivity Committee; Judiciary Committee; and Senator Campbell

This bill (Chapter No. 2004-11, L.O.F.) renames magistrates as trial court judges to conform to the 1972 revision to Art. V, State Constitution. The bill also renames masters as magistrates. Lastly, the bill replaces references to the term "hearing officer" in s. 394.467, F.S., with the term "administrative law judge" to conform to prior legislation redesignating hearing officers as administrative law judges.

These provisions were approved by the Governor and take effect October 1, 2004.
Vote: Senate 40-0; House 119-1

CS/SB 2640 — Parenting Coordination Program

by Children and Families Committee and Senators Villalobos and Lynn

Nine judicial circuits currently use parenting coordinators. However, there is no statutory authority for their use. Rather, these circuits use parenting coordinators apparently through a judicial administrative order.

Parenting Plan and Parenting Coordination

The bill defines "parenting plan" as a temporary or final court order setting out the residence, parental responsibility, visitation or other parental responsibility issues in dissolution of marriage proceeding or any other civil action involving custody or parenting of a child or children. The bill also defines "parenting coordination" as a process in which a parenting coordinator helps the parties implement their parenting plan by facilitating the resolution of disputes between parents or legal guardians and with the prior approval of the court, by making decisions within the scope of the court order appointing the parenting coordinator.

Appointment

Under the bill, the court may appoint a parenting coordinator for the parties if the court finds all of the following:

- The parties failed to implement adequately their parenting plan;
- Mediation has not been successful or has been determined by the judge to be inappropriate; and
- The appointment of a parenting coordinator is in the best interest of the child or children involved in the proceedings.

The court also is directed to consider the effect any domestic violence injunction may have on the parties' ability to engage in parenting coordination.

Qualifications

Qualifications for a parenting coordinator are specified. Unless the parties agree to the appointment of a member of the clergy or a member of the Florida Bar in good standing offering to serve pro bono, qualifications include all of the following,:

- Licensure as a mental health professional or a physician;
- Three years of post-licensure experience;
- Completion of a Florida Supreme Court certified family mediation training program; and
- A minimum of 20 hours of parenting coordination training including: 1. Parenting coordination concepts and ethics; 2. Family dynamics in separation and divorce; 3. The parenting coordination process; 4. Parenting coordination techniques; 5. Family court proceedings; and 6. Domestic violence.

Experience as a parenting coordinator in four or more cases before October 1, 2004 can be substituted for licensure and post-licensure experience.

Duties

The parenting coordinator is to:

- Assist the parties in implementing the parenting plan and in developing structured guidelines for implementing the plan;
- Developing guidelines for communication between the parents;
- Assisting the parents in developing parenting strategies to minimize conflict;
- Teaching communication skills and principles of child development; and
- Educating both parents about the source of their conflict and its effect on the children.

If the parties agree, the court may grant the parenting coordinator the authority to determine specific matters relating to implementing the parenting plan. The coordinator must make the determination in writing, and the coordinator's determination is binding on the parties until the court finds otherwise.

Compensation

If a parenting coordinator or a parenting coordination program charges a fee, the court may refer the parties to such a person or program only if the court first determines that the parties have the ability to pay the fee. The coordinator or program may be compensated by public funds to the extent such funds are available.

Confidentiality and Immunity

Communications with the parenting coordinator are not confidential, unless the court finds confidentiality is in the best interests of the child or children. The parties and the coordinator all

must agree to the determination of confidentiality. A parenting coordinator is immune from liability for civil damages for any act or omission within the scope of the coordinator's duties, unless the person acted in bad faith or with malicious purpose or in manner exhibiting wanton and willful disregard for the rights, safety, or property of the parties.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 39-0; House 69-43

JUDICIARY

HB 529 — Deeds or Conveyances of Real Estate

by Rep. Negron and others (SB 1986 by Senator Aronberg)

This bill (Chapter No. 2004-19, L.O.F.) is designed to supercede the court rulings in *In re Raborn*, 16 Fla. L. Weekly Fed. D 257 (S.D. Fla. 2003) and *In re Schiavone*, 209 B.R. 751 (S.D. Fla. 1997). These courts held that real property belonged to trustees in the trustees' individual capacities and as a result, part of their bankruptcy estates. The deeds conveying the property to the trustees stated the titles of the trusts to which the trustees argued the property belonged, but the deeds did not name a trust beneficiary or state the nature and purpose of the trusts.

This bill retroactively clarifies whether real property or a mortgage belongs to a trust or trustee in the trustee's individual capacity when a person is listed on an instrument as a trustee of an interest in real property or of a mortgage. Under the bill, real property or a mortgage belongs to a trust if the instrument assigning an interest in real property or the mortgage includes any of the following information:

- The name of a beneficiary of the trust;
- The nature and purpose of the trust; or
- The title or date of the trust.

If none of the information above is included on the instrument or mortgage, the real property or mortgage belongs to the trustee in the trustee's individual capacity.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 112-0

SB 1776 — Practice of Law

by Senator Villalobos

This bill increases the penalty for unlicensed practice of law from a first degree misdemeanor to a third degree felony. The penalty for violating related types of unlicensed practice of law,

including practicing law while disbarred or suspended, and aiding or assisting a disbarred or suspended attorney, is also increased from a first degree misdemeanor to a third degree felony.

If approved by the Governor, these provisions take effect October 1, 2004
Vote: Senate 38-0; House 118-0

CS/CS/SB 2962 — State Judicial System

by Appropriations Committee; Judiciary Committee; and Senators Smith and Villalobos

This bill, along with Chapter 2003-402, L.O.F., implements the 1998 amendment to Art. V of the State Constitution. Effective July 1, 2004, the amendment imposes three requirements on court funding. First, the state must assume responsibility for funding the state court system, state attorneys, public defenders, and court appointed counsel. Second, all funding for the clerks of the circuit and county courts performing court-related functions must be provided from filing fees, service charges, and costs. Finally, counties and municipalities are no longer required to fund any of the aforementioned entities, but they are required to fund facilities for those entities and certain other items. The bill provides for the following:

Optional court cost [s. 939.185, F.S.]
Authorizes counties to impose $65 optional court cost to be divided equally to fund: state court innovations; legal aide; law libraries; and teen court, juvenile assessment centers and juvenile alternative programs.

County funding of court-related functions [ss. 29.008 and 218.245, F.S.]

- Department of Revenue to withhold certain revenue sharing receipts from counties which do not fund court facilities, maintenance, utilities, communication services, existing radio systems, existing multi-agency criminal justice information systems, legal aide programs, and alternative sanctions coordinators. Additional amounts will be withheld in later years if noncompliance continues. State will pay for the items from the funds withheld.
- Revises revenue sharing calculation to municipalities and consolidated local governments to be revenue neutral.

Funding state court facilities [s. 318.18, F.S.]

- Counties and consolidated local governments can impose up to a $15 surcharge on criminal and noncriminal traffic violations to fund state court facilities.
- Counties and consolidated local governments that used court fees and service charges to secure the payment of bonds for court facilities before July 1, 2003 are authorized to impose a surcharge on criminal and noncriminal traffic violations sufficient to secure the bonds until they are paid.
- Counties and consolidated local governments may not impose both of the above service charges.

County responsibility for court-related technology needs [s. 28.24, F.S.]

- A $4 service charge is imposed on instruments recorded in the official records.
- If counties maintain responsibility for court-related technology needs:
    - $2 of the $4 is distributed to the counties to fund court-related technology and court technology needs of the courts, state attorney, and the public defender in the county.
    - $2 goes to the Clerk's Association: $1.90 is retained by the clerk for deposit into the clerks' Public Records Modernization Trust Fund to fund court-related technology needs of the clerk. Ten cents is distributed to fund the clerks' Comprehensive Case Management System.
    - If the counties maintain legal responsibility for court-related technology needs, a county would not be required to provide any additional funding for the clerk's court-related technology needs.
- However, if the state becomes legally responsible for court-related technology needs then the entire $4 service charge would go the state general revenue fund.
- All court records and official records are declared the property of the state, including records of the Comprehensive Case Information System, and neither a clerk nor an association would be permitted to charge a fee to an agency, the Legislature, or the courts for copies of records generated by the Case Information System or held by the clerk or an association.

Florida Clerks of Court Operations Corporation [s. 28.35, F.S.]

The corporation replaces the Clerks of Court Operations Conference enacted into law in 2003. The corporation is charged with:

- Developing performance standards and corrective action to be taken by a clerk not meeting the standards.
- Reviewing and certifying proposed clerk budgets to the Legislature, the Chief Financial Officer (CFO), and the Department of Revenue (DOR). The Chief Financial Officer reviews the certifications and reports its findings to the Legislature.

The bill also provides:

- A list of court-related functions and functions which are not court related.
- Certified public accountants auditing counties are to report whether a clerk of court is complying with the certified budget and the Auditor General is to develop a compliance supplement.
- The corporation is considered a political subdivision of the state and its functions are considered to be for a valid public purpose. The corporation is not subject to state procurement provisions or the Administrative Procedures Act.

Local Ordinance Violations [ss. 27.02, 27.34, 27.51, 28.2402, and 34.045, F.S.]

- State attorneys and public defenders are authorized to contract with counties and cities for prosecution and defense of local ordinance violations.

- Hourly and FTE based contracts are limited to $50/hr. State attorneys and public defenders can contract with counties with a population of less than 75,000 on other terms as the parties agree.
- A county or municipality wishing to enforce a local ordinance violation in state court must pay a $10 filing fee. The court must assess a $40 court cost against the nonprevailing party. A county or municipality is the prevailing party if the defendant is found in violation on any count or lesser included offense.
- 10 percent of fines collected on municipal ordinances are remitted to clerk to offset clerk's cost.

Partial Payment Plans [ss. 28.24, 28.246, and 322.245, F.S.]

- Clerk may impose $5 per-month service charge or $25 one-time charge for establishing a payment plan for payments other than restitution.
- Person seeking to defer payment of fees, service charges, costs, or fines imposed by operation of law or court order must be enrolled by the clerk in a payment program, if the court determines the person cannot make payment in full. Payments to correspond to the person's ability to pay.
- When a person convicted of certain criminal traffic offenses fails to pay in full, or in part under a payment plan, the person's driver's license will be suspended. The license will be reinstated when the person pays in full or pays all delinquent partial payments, agrees in writing to a payment plan, or the court orders reinstatement of the license.

Domestic Violence Centers [ss. 28.101 and 741.01, F.S.]

- Reduces from $30 to $25 the add-on marriage license fee which funds domestic violence centers.
- Increases from $18 to $55 the add-on fee for a petition for dissolution of marriage which also funds domestic violence centers.
- Net effect of the two changes results in a $2.5 million increase in funding for domestic violence centers.

Article V Technology Board [s. 29.0086, F.S.]

- Housed within Office of Legislative Services.
- 10 members
    - Chief Justice.
    - Speaker appointee to represent state agencies that participate in CJIS council.
    - Speaker private sector appointee and President private sector appointee with experience in managing enterprise integration projects.
    - President appointee representing law enforcement agencies.
    - A state attorney, public defender, clerk, county budget director, and county management information system director.
- Board is to report by January 15, 2005 and:

    - Identify data elements and functional requirements needed for each state court system entity to conduct business transactions.
    - Identify security and access requirements.
    - Identify information standards and protocols.
    - Recommend policy, functional and operational changes to achieve access to data.
- By January 15, 2006, the Board is to report:
    - Alternative integration models and the advantages and disadvantages of each model and certain specifics of each model.
    - A proposed operational governance structure.
- The Board is dissolved effective July 1, 2006.

Collection of delinquent fees, service charges, fines, court costs and liens [ss. 28.246 and 938.35, F.S.]

- Clerk can refer collection to private attorney or collection agent, but clerk must have first attempted to collect through collection court, collection docket, or other collection process established by the court, if any.
- Collection fee of agent or attorney is added to balance owed, not to exceed 40 percent of amount owed at time account is referred.

Appellate court filing fees [ss. 25.241 and 35.22, F.S.]

Filing fees for Supreme Court and district court of appeal are increased to $300. Of each fee paid, $50 is distributed to fund court improvement projects in General Appropriations Act.

Children's Advocacy Centers [CS/SB 602] [ss. 39.3035 and 938.10, F.S.]

A $101 court cost is imposed on those guilty of certain offenses against a minor to fund Florida Network of Children's Advocacy Centers. Centers must meet Department of Children and Families (DCF) standards. An annual report to Legislature is required.

Court reporters [s. 25.383, F.S.]

Supreme Court is to determine fees to certify court reporters.

Determination of Indigent Status [s. 27.52, F.S.]

Process for determination of indigent status is reorganized and revised.

Private court-appointed counsel [ss. 27.40 and 27.5303, F.S.]

- Date for selection of private court appointed counsel from the registry is moved back from July 1, 2004 to October 1, 2004.
- Limits to 80 percent the partial payment of fees private court-appointed counsel may receive when a case is on-going for more than 1 year or to an amount proportionate to the maximum fees permitted.
- Court to fix reasonable compensation for representation under sexually transmittable diseases, ch. 384, F.S., and tuberculosis control, ch. 392, F.S.

Guardian ad litem [s. 29.008, F.S.]
Provides that for purposes of county funding of court-related functions, the term "circuit and county courts" includes the office and staffing of the guardian ad litem programs.

Transition cash-flow problems
Effective June 1, 2004, there is an additional service charge of $4 per page for instruments filed to cover cash-flow problems that may affect clerks' offices in July and August 2004. The additional service charge expires July 1, 2004.

Appropriations
- $500,000 for expenses of Article V Technology Board.
- $75,000 for Department of Management Services (DMS) review of procurement policies and practices of state courts system, state attorneys, and public defenders. Department of Management Services to propose strategies for cost savings and report to Governor, President, Speaker, and Chief Justice by January 1, 2005. Department of Management Services may assist State Courts Administrator and Judicial Administration Commission with competitive solicitations for procurement.
- $2.5 million from DFS Administrative Trust Fund in special category created by Executive Office of the Governor and 5 FTEs for FY 2004-2005 to fund contract with Florida Clerks of Court Operation Corp.
- $20 million from Clerks of Court Trust Fund for FY 2004-2005 to fund revenue deficits of clerks of circuit court.
- $13.6 million from Clerks of Court Trust Fund from the $50 filing fee on re-opened cases imposed pursuant to 2003 legislation from July 1, 2003 to June 30, 2004 and the addition $4 recording fee in the bill from June 1, 2004 to July 1, 2004 to address cash-flow problems that may arise in clerks' offices during July and August 2004.
- $2.5 million to DCF to fund the operational costs of certified domestic violence shelters for FY 2004-2005.
- $900,000 to DCF to fund children's advocacy centers for FY 2004-2005.

If approved by the Governor, these provisions take effect July 1, 2004, except as otherwise provided in the bill.
Vote: Senate 39-1; House 116-1

PROPERTY

HB 1009 — Residential Tenancies/U.S. Flag

by Rep. Hasner and others (CS/SB 1682 by Comprehensive Planning Committee and Senator Geller)

This bill provides that a landlord cannot prohibit a tenant from displaying a flag with the following conditions:

- The flag must be one portable, removable, cloth or plastic United States flag, not to exceed four and one half feet by six feet in size.
- The flag must be displayed in a respectful manner in or on the dwelling unit.
- In displaying the flag, a tenant is required to comply with other statutory tenant obligations to maintain the dwelling unit.
- In displaying the flag, a tenant may not infringe upon another tenant's space.

A landlord who violates these provisions is liable to the tenant for the greater of actual and consequential damages or three months' rent, and costs to include attorney's fees. For purposes of injunctive relief, a violation of these provisions constitutes irreparable harm.

This bill provides that a landlord is not liable for damages caused by a United States flag displayed by a tenant.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 112-2

HB 461 — Commercial Real Estate Lien Act

by Rep. Brown and others (CS/SB 1788 by Judiciary Committee and Senator Posey)

This bill creates the Commercial Real Estate Lien Act ("Act") and provides the following:

Application

- The Act applies to commercial real estate, defined as excluding real estate that contains up to four residential units; real estate on which no building or structure is located and which is zoned for single-family residential use; and single-family residential units such as condominiums, townhouses, or subdivision homes sold, leased or conveyed unit-by-unit, even where these units are part of a larger building, parcel, or real estate containing more than four residential units.
- The Act does not apply to subleases or assignments of leases.

Attachment of Lien

- Brokers are authorized to secure liens on commercial property that is to be purchased, leased, or conveyed to a buyer, in the amount due for brokerage, consulting and management fees, where a valid and enforceable written instrument exists.
- The lien attaches as of the date of the recording of the notice of lien, rather than the date of the written instrument.
- If a transferee has executed a written instrument, a lien attaches upon the transferee purchasing or otherwise accepting conveyance or transfer and the recording of a notice of lien by the broker in the office of the clerk of the circuit court of the county in which the property is located, within 90 days after the purchase or conveyance or transfer.

Notice of Lien

- A proper notice of recording is required by the broker, along with a service of notice to the real estate owner.
- Where a lease exists, a lien notice must be recorded up to 90 days after the transferee takes possession of the leased premises, unless the transferor personally serves written notice at least ten days before the intended execution of the lease, in which case the notice must be recorded before the date indicated in the notice for the execution of the lease.
- A proper filing of notice of lien protects the broker's commission even after the sale or conveyance of real estate, so that the broker's lien follows the property.
- If a broker is due future commissions, the broker may record a notice of lien at any time after execution of the lease or other written instrument which contains this option, up to no later than 90 days after the event or occurrence on which the claimed future commission occurs.
- Where the real estate is sold or conveyed before the date on which a future commission or unpaid installment of a commission is due, the purchaser or transferee is considered to have notice of the lien if the broker has recorded a valid notice of lien prior to the sale or conveyance. If a broker claiming a future commission fails to record a notice of lien for a future commission prior to the recording of a deed conveying legal title to the transferee, the broker cannot claim a lien on the real estate.
- Service of notice of lien is required to be provided by the broker within 10 days after recording the notice of lien, through personal delivery or mail, by registered or certified mail, to the owner of record, or his or her agent. Improper service makes the lien unenforceable.

Procedural Issues

- Payment due to a broker in installments is authorized.
- The broker has two years to file a complaint after the recording of notice, or the lien is extinguished.

- Other than a satisfaction or release of lien, a waiver of lien rights is considered void.
- An escrow account must be established when a notice of lien has been filed that would prevent the closing of a transaction or conveyance.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 38-0; House 118-0

CS/SB 2666 — Landlords and Tenants

by Regulated Industries Committee and Senators Aronberg and Crist

The bill clarifies that rental agreements with a specific duration may require liquidated damages to be paid by a tenant for failure to timely notify the landlord that the dwelling unit will be vacated at the end of the lease.

The bill requires a landlord to satisfy certain procedural requirements before the landlord may impose liquidated damages on a tenant who fails to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement. Under the bill, a landlord must notify a tenant in writing of the tenant's obligation in the rental agreement to provide notice that the dwelling unit will be vacated at the end of the rental agreement. This notice must be provided to the tenant within 15 days before the date by which a notice of vacating the dwelling unit is due from the tenant to the landlord. The notice must list all fees, penalties, and other charges that may be imposed for failing to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-1; House 116-1

CRIMINAL LAW

HB 1831 — Limitation of Action/Sexual Offenses

by Public Safety and Crime Prevention Committee and Rep. Barreiro (CS/SB 1074 by Judiciary Committee and Senator Fasano)

This bill extends the statute of limitations by one year in sexual battery and lewd or lascivious cases for the purpose of identifying the accused through the analysis of DNA evidence. This bill authorizes the one year extension when a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 39-0; House 115-0

HB 221 — Assisting Self-murder

by Rep. Peterman and others (SB 398 by Senators Miller and Crist)

This bill creates a new law that prohibits the act of assisting an actual self-murder for commercial or entertainment purposes. A self-murder is defined as the voluntary and intentional taking of one's own life, to include an attempted self-murder. This bill specifically prohibits a person from the following:

- Conducting any event that the person knows or reasonably should know includes an actual self-murder as part of the event or deliberately assisting in an actual self-murder.
- Providing a theater, auditorium, club or other venue or location for any event that the person knows or reasonably should know includes an actual self murder as part of the event.

An event during which a simulated self-murder occurs, defined as an artistic depiction of a self-murder, is permitted.

Sanctions for violating these provisions include a third degree felony charge, and civil charges brought by the Attorney General or any state attorney for declaratory, injunctive, or other relief.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

PUBLIC RECORDS

CS/CS/SB 348 — Personal ID Information/Pub. Rec.

by Governmental Oversight and Productivity Committee; Judiciary Committee; and Senator Peaden

This bill provides a public record exemption for the following information:

- The home addresses, telephone numbers, social security numbers, and photographs of current or former United States attorneys and assistant U.S. attorneys;
- The home addresses, telephone numbers, social security numbers, photographs and places of employment of spouses and children of current or former U.S. attorneys and assistant U.S. attorneys;
- The names and locations of schools and day care facilities attended by the children of current or former U.S. attorneys and assistant U.S. attorneys;
- The home addresses, telephone numbers, social security numbers, and photographs of current or former judges of the U.S. Courts of Appeal, U.S. District and U.S. Magistrate judges; and,

- The names and locations of school and day care facilities attended by the children of current or former judges of the U.S. Courts of Appeal, U.S. District and U.S. Magistrate judges.

This bill also provides that a state agency that has a social security number in its possession, that is not the employing agency, is required to keep the social security number confidential if the employee or the employing agency submits a written request for confidentiality to that agency. However, the agency is required to release the last four digits of a social security number to certain commercial entities upon a proper request. A social security number provided in a lien filed with the Department of State shall be released in its entirety.

These provisions will be reviewed in accordance with the Open Government Sunset Review Act of 1995, and will stand repealed on October 2, 2009, unless reenacted by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2004
Vote: Senate 39-0; House 117-0

MILITARY AFFAIRS

SB 220 — Official State Flagship

by Senator Crist

This bill designates the merchant marine vessel *SS American Victory* as the official state flagship. This Tampa-based ship currently serves as a memorial and museum ship honoring the contributions of the United States Merchant Marine.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 118-0

CS/SB 1364 — Governor's Medal of Merit

by Governmental Oversight and Productivity Committee and Senators Fasano, Cowin, Lynn, Dockery, Bullard, and Atwater

This committee substitute authorizes the Governor to present, in the name of the State of Florida, a Medal of Merit to the following individuals: (a) any legal resident of this state who has rendered exceptional meritorious service to the citizens of this state; (b) any legal resident of this state who is serving on active duty with the U.S. Armed Forces, the Florida National Guard, or the U.S. Reserve Forces, and has rendered exceptional meritorious service to the citizens of this state; or (c) any legal resident of this state who has been honorably discharged from military service and, while on active duty, rendered exceptional meritorious service to the citizens of this state.

The committee substitute provides that "exceptional meritorious service" means acts of bravery above and beyond the level of duty normally required by that person's respective military or civilian position. In the event of the death of an individual selected to receive the Governor's Medal of Merit, the medal may be presented to a designated representative of the recipient. The medal may be presented to an individual one time only.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 110-0

VETERANS' AFFAIRS

CS/SB 1096 — Korean War Veterans/High School Diploma

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senators Fasano, Lynn, Bullard, Dockery, Atwater, and Crist

This committee substitute amends s. 1003.43, F.S., to provide two additional years of eligibility for qualifying veterans of the Korean conflict who did not complete high school due to military service. Currently, to qualify for a standard high school diploma under this section, a veteran must have been scheduled to graduate between 1950 and 1954 and must have been inducted into the armed forces between June 1950 and January 1954. The committee substitute revises these dates to provide that, in order to qualify for the diploma authorized under this section, a veteran must have been scheduled to graduate between *1949* and *1955*, and must have been inducted in the armed forces between June *1949* and January *1955*.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-0

BASE PROTECTION

HB 1183 — Unemployment Compensation/Military Spouses

by Rep. Green and others (SB 1606 by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senators Fasano, Clary, Crist, Siplin, Lynn, Wasserman Schultz, Haridopolos, Miller, Dockery, and Webster)

This committee substitute amends s. 443.101, F.S., to provide that a military spouse is not disqualified for unemployment insurance benefits for voluntarily terminating work to relocate as a result of their military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders. The committee substitute would enable military spouses who terminate their employment in order to accompany their active-duty spouse to another state or foreign country pursuant to the military's permanent change of station orders to receive unemployment insurance benefits. In addition, the committee substitute would enable the spouses of certain Florida National Guard members and Florida reservists who elect to terminate their employment and relocate pursuant to their spouse's activation or unit deployment orders to receive unemployment insurance benefits. The amount and duration of benefits would be consistent with existing benefit provisions contained in ch. 443, F.S. Individual Florida employers would not be charged under the committee substitute for purposes of calculating unemployment compensation contribution rates.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 109-0

CS/CS/SB 1604 — Military Affairs

by Appropriations Committee; Comprehensive Planning Committee; Military and Veterans' Affairs Committee, Base Protection, and Spaceports Committee; and Senators Fasano, Clary, Crist, Siplin, Lynn, Wasserman Schultz, Haridopolos, Miller, and Bullard

Florida's military installations and associated defense industries contribute $44 billion to the state's economy. Only two other industries contribute more. The 21 bases and three unified commands situated in Florida will, like all other bases across the nation, be subjected to the current base realignment and closure process, commonly referred to as "BRAC." The BRAC process reflects a desire to eliminate excess capacity, experience the savings from that reduction in capacity, and fund higher priority weapon platforms and troop training. Capacity reductions may reach as high as 20-25%. There have been four BRAC rounds between 1988 and 1995. During the 1993 round, four Florida bases were closed. This legislation is aimed at supporting military installations and military families so that Florida will continue to be viewed as a military friendly state during the current BRAC round.

Encroachment

The committee substitute provides legislative findings on the compatibility of land development around military installations and the necessity for an exchange of information between local governments and military installations. Under the bill, each county that contains a military installation or other affected local government must transmit certain information to that military installation regarding proposed changes to its comprehensive plan or land development regulations which, if approved, could affect the intensity, density, or use of land adjacent to or in close proximity to that installation.

Upon receiving this information, a commanding officer or his or her designee may comment on the effect that the proposed change would have on the mission of the military installation. The commanding officer's comments may address:

- Whether the proposed change is incompatible with the safety and noise standards in the military installation's Air Installation Compatible Use Zone (AICUZ), adopted for that airfield;

- Whether the proposed change is incompatible with the Installation Environmental Noise Management Program (IENMP) of the U.S. Army;

- Whether the proposed change is incompatible with a completed Joint Land Use Study (JLUS) for that area; and

- Whether the military installation's mission will be adversely affected by the proposed change.

The local government must consider the comments of the commanding officer in making its decision as well as transmit those comments to the Department of Community Affairs. A representative acting on behalf of all the installations in that jurisdiction shall serve as an ex-officio, nonvoting member of the county's or affected local government's land planning or zoning board that would consider the commanding officer's comments and make the land use decision. The purpose of this exchange of information and comment process is to reduce decisions that create encroachment problems for a military installation. Encroachment can hinder an installation's mission which in turn can make it fall prey to the BRAC process.

The committee substitute requires the local government to include as part of the future land use plan element of its existing comprehensive plan the compatibility of uses on lands adjacent to or closely proximate to a military installation with the respective military installation. In addition, the future land use plan element must contain the criteria to be used in achieving the compatibility of adjacent or closely proximate lands with military installations. (See s. 163.3177, F.S.) Under the bill, local governments required to update or amend their comprehensive plans to include such criteria must transmit the update or amendment to the Department of Community Affairs by June 30, 2006. The amendment to a comprehensive plan addressing criteria for the compatibility of land uses with a military installation does not count toward the twice-per-calendar-year limitation on the frequency of plan amendments. (See s. 163.3187(l), F.S.) A local government's report evaluating and appraising its comprehensive plan must include an assessment of whether the criteria in the future land use plan element were successful in achieving compatibility with military installations. (See s. 163.191(2)(n), F.S.)

Military Base Protection Grant Program

The committee substitute also creates the Military Base Protection Grant Program which is to be implemented and coordinated by the Office of Tourism, Trade, and Economic Development (OTTED). The purpose of the program is to support local infrastructure projects that would have a positive impact on military installations within the state. Infrastructure projects to be funded by this program include, but are not limited to, those projects related to: encroachment, transportation and access, utilities, communications, housing, environment, and security. This program had been previously created and funded on an annual basis in the general appropriations bill.

The committee substitute also specifies that a grant request under this program must come from an economic development applicant serving in the official capacity of a governing board of a county, municipality, special district, or state agency that will have authority to maintain the project after completion. The applicant must represent a community or county in which a military installation is located. There is no limitation on the amount of any grant, but the county or local community may be required to match the amount. OTTED is authorized to establish guidelines for the program.

Military Families

The committee substitute strengthens Florida's existing programs that support military personnel and their families by addressing three critical quality of life concerns. First, the committee substitute enhances educational services for military dependents by enacting a number of provisions that support military students transitioning to Florida schools. In addition, the committee substitute revises requirements for certain military-dependent scholarships and special academic programs. Second, the committee substitute improves employment assistance for military spouses by tailoring job services to meet the unique needs of military spouses and streamlining certain professional licensing requirements. Finally, the committee substitute directs the Florida Housing Finance Corporation to undertake an assessment of the housing needs of Florida's military families.

Education-Related Issues

The committee substitute amends s. 295.01, F.S., to clarify eligibility requirements for military-dependent scholarships. This section currently provides scholarships for dependent children of veterans who died from injuries sustained during "wartime service." In comparison, this same section provides scholarships for dependent children of veterans who have a service-connected 100 percent total and permanent disability rating, *regardless* of whether the injury was sustained during a period of wartime service. The committee substitute eliminates the "wartime service" requirement and provides scholarships for the dependents of military personnel who have died as a result of service connected injuries, disease, or disability sustained while on active-duty. This revised language eliminates the existing disparity in the treatment of certain dependents and parallels requirements for military dependent educational benefits established by the U.S. Department of Veterans' Affairs.

The committee substitute amends s. 1002.39, F.S., which establishes eligibility criteria for the McKay Scholarships for Students with Disabilities Program, to waive the requirement that the student must have spent the prior year in attendance at a Florida public school for otherwise qualifying military students who relocate to Florida pursuant to a parent's military orders. Under this provision transferring military students would still be required to submit an individual educational plan and evaluation data necessary to establish program eligibility.

The committee substitute amends s. 1003.05, F.S., to direct the Department of Education (DOE) to facilitate the development and implementation of memoranda of agreement between school districts and military installations that address the transition-related challenges confronting military students. In addition, the committee substitute provides that dependent children of active-duty military personnel who otherwise meet the eligibility criteria for special academic programs offered through public schools are to be given first preference for admission to such programs. The preference is available even if the program is being offered through a public school other than the school to which the student would generally be assigned and the school at which the program is being offered has reached its maximum enrollment. If such a program is

offered through a public school other than the school to which the student would generally be assigned, the parent or guardian of the student must assume responsibility for transportation of the student to that school. Special academic programs, for purposes of this preference, include charter schools, magnet schools, advanced studies programs, advanced placement, dual enrollment, and International Baccalaureate.

Section 1008.221, F.S., is amended to exempt military dependents transitioning to Florida schools during the 12th grade of high school from the requirement to pass the grade 10 FCAT, provided the military dependent has satisfactorily attained a passing grade on an approved alternative assessment examination. For purposes of this section, approved alternative assessments are the SAT and ACT.

The committee substitute amends s. 1009.21, F.S., to provide resident tuition for foreign liaison officers and their dependents assigned to U.S. military commands. This revision parallels an existing provision in law which extends in-state tuition to Canadian military personnel and their families stationed in Florida under the North American Air Defense Agreement. The committee substitute also adds military dependents to an existing provision allowing members of the military and their spouses living outside of Florida to be eligible for in-state tuition provided the public community college or university they are attending is within 50 miles of the military establishment where they are stationed, and providing that such military establishment is in a county contiguous to Florida.

Spouse Employment Issues

The committee substitute amends s. 445.007, F.S., to provide for the appointment of a military representative to those regional workforce development boards serving military installations. AWI estimates this provision would impact eight of the state's 24 regional workforce boards.

Section 464.009, F.S., is amended to expedite the existing licensure by endorsement process for certain relocating military spouses who are nurses. Currently, this section requires applicants for licensure by endorsement to demonstrate that the qualifications they met at the time of original licensure in another state were substantially similar to or more stringent than those existing in Florida at that time. The committee substitute amends this section to provide that nurses who are relocating to Florida pursuant to their military-connected spouse's official orders and who are licensed to practice in a state that is a member of the Nurse Licensure Compact are deemed to have satisfied the requirement to document conditions at the time of original licensure. Eligible applicants would still be required to submit the appropriate application and fees, and undergo a criminal background check.

The committee substitute also amends this section to reenact an existing alternative licensing provision for certain nurses relocating to Florida. Under this alternative licensure provision, licensure by endorsement applicants may become licensed without completing an equivalent examination if the applicant has actively practiced nursing in another state, jurisdiction, or

territory of the United States for 2 of the preceding 3 years without having his or her license acted against. In addition, the applicant must complete within 6 months after licensure a Florida laws and rules course approved by the Florida Board of Nursing. This alternative licensure provision is scheduled to expire on July 1, 2004.

Section 464.022, F.S., is amended to extend from 60 to 120 days the period during which a nurse relocating to Florida pursuant to his or her spouse's military orders can perform nursing services while the Board of Nursing is processing the licensure application.

The committee substitute directs Workforce Florida, Inc., to develop and implement (through selected One-Stop Career Centers) an employment assistance/advocacy program targeted to support military spouses. This program would assist employment seeking military family members through job counseling, job search and placement services, and the dissemination of information on educational and training programs. Military family employment advocates would also be responsible for the coordination of employment services through one-stop centers, military family support centers, and local veterans' organizations.

This committee substitute amends s. 443.101, F.S., to provide that a military spouse is not disqualified for unemployment insurance benefits for voluntarily terminating work to relocate as a result of their military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders. The committee substitute would enable military spouses who terminate their employment in order to accompany their active-duty spouse to another state or foreign country pursuant to the military's permanent change of station orders to receive unemployment insurance benefits. In addition, the committee substitute would enable the spouses of certain Florida National Guard members and Florida reservists who elect to terminate their employment and relocate pursuant to their spouse's activation or unit deployment orders to receive unemployment insurance benefits. The amount and duration of benefits would be consistent with existing benefit provisions contained in ch. 443, F.S. Individual Florida employers would not be charged under the committee substitute for purposes of calculating unemployment compensation contribution rates.

The above changes to the unemployment compensation law for military spouses was also passed in a separate bill, HB 1183, relating only to that subject matter.

Affordable Housing

The committee substitute directs the Florida Housing Finance Corporation to conduct an assessment of the housing needs of Florida's military families and report its findings to the Governor and Legislature by December of 2004. This needs assessment, which will focus on low and moderate income military families, will examine the availability of affordable homeowner and rental housing in proximity to Florida's military installations.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 110-0

CS/SB 2496 — Military Installations/Public Records

by Governmental Oversight and Productivity Committee and Senator Fasano

The Department of Defense has once again embarked on another round of base realignments and closures, commonly referred to as "BRAC," during which military installations across the nation will be reviewed to determine whether functions and bases can be consolidated or closed. The BRAC process reflects a desire to eliminate excess capacity, experience the savings from that reduction in capacity, and fund higher priority weapon platforms and troop training. Capacity reductions may reach as high as 20-25 percent. There have been four BRAC rounds between 1988 and 1995. During the 1993 round, four Florida bases were closed.

As the Governor's BRAC advisory council pursues its responsibilities in conjunction with local host military communities, certain specific questions will have to be asked, relative data will have to be collected, and the questions will have to be answered. These questions include an honest assessment of our military installations, an assessment of what missions can be realigned to Florida installations from installations closed in other states, and an overall state strategy to keep Florida installations off the base closure list for BRAC 2005. Some of this information will be of a sensitive nature that would be valuable to other states and outside consultants, and probably detrimental to the Florida effort if not protected. Therefore, specific, select information as described in this bill is made exempt from what is commonly referred to as Florida's public records and sunshine laws.

The bill exempts from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution, that portion of records held by the Governor's BRAC Advisory Council or the Office of Tourism, Trade, and Economic Development that relate to:

- The strengths or weaknesses of military installations or military missions in this state relative to the selection criteria of the Department of Defense for base realignment and closure,

- The vulnerability or immunity of military installations or military missions in other states or territories with respect to closure or realignment, and

- The state's strategy to retain its military installations as a response to the federal authorization of realignments and closures of military installations in 2005.

To be able to have any critical impact, the BRAC Advisory Council must be able to use this information without disclosing it to the public, and more importantly, to other states also developing their own BRAC strategy. Therefore, meetings of the Advisory Council, its

committees or subcommittees, at which the above information is presented or discussed are closed to the public and exempt for s. 286.011, F.S., and s. 24(b), Art. I, State Constitution. Any records generated at these closed portions are also exempt from inspection under the public records law.

A person who willfully and knowingly violates this section commits a misdemeanor of the first degree.

The exemption is repealed on May 31, 2006, and the records made confidential and exempt are open for public inspection at that time.

The bill also provides the public necessity justifying the exemption. That justification includes not putting the state in a competitive disadvantage with other states seeking to retain their bases, providing the Advisory Council with equal standing with other states that do not have to disclose such information, and the obligation of the state to protect our bases and the economic contribution they make to our state.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

CS/SB 338 — Brownfield Loan Guarantees

by Appropriations Committee and Senator Constantine

This bill moves the loan guarantee for brownfield loans from the Nonmandatory Land Reclamation Trust Fund to the Inland Protection Trust Fund. No more than $5 million of the balance of the Inland Protection Trust Fund may be at risk in any fiscal year. The Brownfield Loan Guarantee Program must be reviewed by the Legislature by January 1, 2007, and a determination is to be made related to the need to continue or modify the provisions relating to this program. New loan guarantees may not be approved in 2007 until the review by the Legislature has been completed and a determination has been made as to the feasibility of continuing to use the Inland Protection Trust Fund to guarantee these loans.

A number of clarifying and technical amendments were made to the statutory provisions relating to the brownfields program that were needed by the Department of Environmental Protection to update the brownfield law to conform to changes made at the federal level by the U.S. Environmental Protection Agency. Those changes include:

- Clarifying the definition of "brownfield site."
- Clarifying that the rehabilitation of a proposed brownfield site must create 10 new permanent jobs at the brownfield site and those jobs cannot be associated with construction or demolition activities.
- Clarifying and updating the provisions relating to contractor liability coverages.
- Providing liability protection to a county when a brownfield site escheats to a county.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 115-0

CS/SB 540 — Manatee Protection

by Natural Resources Committee and Senator Bennett

This bill conforms state law with federal law by creating an exception from penalties assessed for activities violating regulations that govern the speed and operation of motorboats to protect manatees if the activity is reasonably necessary to prevent loss of human life or a vessel in distress, or to render necessary assistance to persons or a vessel in distress.

In regions where measurable goals developed by the Fish and Wildlife Conservation Commission (FWC), working in conjunction with the United States Fish and Wildlife Service (USFWS), have been achieved, the FWC shall give existing manatee protection rules great weight when determining if additional rules are necessary. The FWC retains the authority to

amend existing rules or adopt new rules to address risks or circumstances in a particular area or waterbody to provide manatee protection. Not later than July 1, 2005, the FWC must develop rules to define how measurable biological goals will be used when evaluating the need for additional manatee protection rules.

This bill provides for an enhanced manatee protection study to be used by the FWC in the agency's mission of providing manatees with the maximum protection possible while also providing for maximum recreational use of the state's waterways. The goal of the study, designed to increase knowledge of the factors that determine the size and distribution of the state's manatee population, is the collection of data to be used in the development and implementation of sound science-based policies to improve manatee habitat, establish manatee protection zones, and maximize safe boating areas for recreational uses without endangering the manatee population.

As part of the study and subject to legislative appropriation, the FWC will contract with Mote Marine Laboratory to conduct a manatee habitat and submerged aquatic vegetation assessment that focuses on warm water discharge sites at power plants within the state and which includes the potential impacts on manatees and manatee habitat if power plants where manatees congregate are closed. Mote Marine Laboratory must submit an interim report on the assessment to the Governor, the Legislature and the FWC by September 1, 2006. The final report is due by January 1, 2007, and must include recommendations for protection of manatee habitat at the warm water discharge sites at power plants in the state.

Also as part of the enhanced manatee protection study, the FWC must conduct a signage and boat speed assessment to evaluate the effectiveness of manatee protection signs and sign placement, and to assess boat speeds. The FWC must evaluate existing data on manatee mortality before and after existing manatee protection zones were established, on boater compliance and comprehension of regulatory signs and buoys, on changes in boating traffic patterns, and on manatee distribution and behavior. The signage and boat speed assessment, which must be completed by January 1, 2007, and submitted to the Governor and the Legislature, must identify specific recommendations for developing state and local policies relating to the appropriate placement of signs, including innovative markers in compliance with the federal aids to navigation system, in manatee slow-speed zones.

This bill authorizes the FWC to develop and implement the use of genetic tagging to improve its ability to assess the status and health of the manatee population. The development and use of genetic tagging may be done in cooperation with federal agencies or other entities, such as genetic laboratories at schools within the State University System.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 32-7; House 81-34

CS/CS/CS/SB 1214 — Wekiva Parkway and Protection Act

by Appropriations Committee; Comprehensive Planning Committee; Natural Resources Committee; and Senator Constantine

This bill implements the recommendations of the Wekiva River Basin Coordinating Committee's Final Report of March 16, 2004. The bill creates ch. 369, part III, F.S., the Wekiva Parkway and Protection Act, and provides legislative intent and a legal description of the Wekiva Study Area. The majority of the land within the Study Area contributes groundwater recharge to the Wekiva River and springs.

Wekiva Parkway

The Wekiva Parkway is any limited access highway or expressway constructed between SR 429 and Interstate 4 specifically incorporating the corridor alignment recommended by Recommendation 2 of the Wekiva River Basin Area Task Force final report dated January 15, 2003, and the recommendations of the SR 429 Working Group that were adopted January 16, 2004. The Wekiva Parkway and related transportation facilities must follow the design criteria contained in the recommendations of the Wekiva River Area Task Force adopted by reference by the Wekiva River Basin Coordinating Committee, subject to reasonable environmental, economic and engineering considerations.

With the exception of the road commonly referred to as the "Apopka Bypass," the construction of any other limited-access highway identified by the SR 429 Working Group within the Study Area shall adhere to transportation and conservation principles identified within the Wekiva River Basin Coordinating Committee's Final Report.

Access to properties adjacent to SR 46 shall be maintained through appropriate neighborhood streets or frontage roads integrated into the parkway design.

In Seminole County, the Seminole County Expressway Authority, the Department of Transportation, and the Florida Turnpike Enterprise shall locate the precise corridor and interchanges for the Wekiva Parkway.

The Orlando-Orange County Expressway Authority is granted the authority to act as a third-party acquisition agent, pursuant to s. 259.041, F.S., on behalf of the Board of Trustees of the Internal Improvement Trust Fund or pursuant to ch. 373, F.S., on behalf of the governing board of the St. Johns River Water Management District, for the acquisition of all necessary lands, property and all interests in property identified in the Study Area, including fee simple or less-than-fee simple interests. The lands subject to this authority are Neighborhood Lakes, Seminole Woods/Swamp, New Garden Coal, and Pine Plantation. The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, and other land acquisition entities shall participate and cooperate in providing information and support to the third-party acquisition agent. The land acquisition process shall begin no later than

December 31, 2004, and acquisition of Neighborhood Lakes, Pine Plantation, and New Garden Coal shall be concluded no later than December 31, 2010. Department of Transportation and Orlando-Orange County Expressway Authority funds expended to purchase an interest in those lands shall be eligible as environmental mitigation for road construction related impacts in the Study Area. Acquisition of these lands is required to provide right-of-way for the Wekiva Parkway and to provide regional connectivity, improve safety, accommodate projected population and economic growth, satisfy critical transportation requirements caused by increased traffic volume growth and travel demands, and protect the surface water and groundwater resources of Lake, Orange, and Seminole Counties.

The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, Orlando-Orange County Expressway Authority, and other land acquisition entities shall cooperate and establish funding responsibilities and partnerships by agreement to the extent funds are available to the various entities.

The Department of Environmental Protection and the St. Johns River Water Management District shall give the highest priority to the acquisition of the identified lands for Florida Forever purchases.

The Orlando-Orange County Expressway Authority is authorized to exercise its condemnation powers to construct, finance, operate, own, and maintain the Wekiva Parkway and the portion of SR 414 known as the Maitland Boulevard Extension and the realigned portion of the Northwest Beltway Part A as part of the authority's long-range capital improvement plan. These projects may be financed with any funds available to the authority for such purposes, including revenue bonds issued pursuant to the State Constitution.

Studies

The Department of Environmental Protection is required to do a study regarding wastewater treatment standards needed to protect the surface and groundwater quality in the Study Area.

The Department of Health, in coordination with the Department of Environmental Protection, is required to do a study regarding onsite sewage disposal system standards needed to protect the groundwater quality in the Study Area.

The St. Johns River Water Management District must initiate rulemaking to amend the recharge criteria in Rule 40C-41.063(3), F.A.C., to apply to all recharge lands within the Study Area. Also, the rule must provide that the post-development recharge volume conditions within the Study Area approximate pre-development recharge volume conditions. The district shall study and undertake this rulemaking to accomplish this standard on a development-specific basis. Also, the district must adopt a consolidated environmental resources permit/consumptive use permit for irrigation of urban landscape, golf courses, and other recreational areas.

The St. Johns River Water Management District must conduct an analysis of the impact of redevelopment projects in the Wekiva River Basin upon aquifer recharge.

The St. Johns River Water Management District must update the minimum flows and levels for Rock Springs and Wekiva Springs and revise consumptive use permit thresholds in the Study Area to address proposed water withdrawals above 50,000 gal./day. Also, the district must establish pollution load reduction goals for the Study Area to be used by the Department of Environmental Protection in adopting total maximum daily loads for impaired waters within the Study Area.

The Department of Agriculture and Consumer Services is the lead agency for coordinating the reduction of agriculture nonpoint sources of pollution.

Stormwater and Water Facilities Management Plans

Each local government within the Study Area must adopt a master stormwater management plan and a wastewater facility plan for joint planning areas and utility service areas where central wastewater systems are not readily available.

Comprehensive Plan Amendments

Local governments in the Study Area must adopt amendments to their local government comprehensive plans to:

- Adopt an interchange land use plan. (Local governments hosting an interchange.)
- Ensure implementation of the master stormwater management plan.
- Establish land use strategies that optimize open space and promote a pattern of development that protects the most effective recharge areas.
- Provide an up-to-date 10-year water supply facility work plan for building potable water facilities necessary to serve existing and new development.

Comprehensive plan amendments are exempt from the two-per-calendar-year limitation.

The Department of Community Affairs and the St. Johns River Water Management District must assure that any comprehensive plan amendments that increase development potential demonstrate that adequate potable water consumptive use permit capacity is available.

Local governments within the Study Area must coordinate with the St. Johns River Water Management District and other public and private utilities to implement cooperative solutions for development of alternative water sources necessary to supplement groundwater supplies consistent with the St. Johns River Water Management District Regional Water Supply Plan.

Wekiva River Basin Commission

A 19-member Wekiva River Basin Commission is created to monitor and ensure the implementation of the Wekiva River Basin Coordinating Committee's recommendations.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 113-0

CS/SB 2736 — Taking of Fish and Shellfish

by Finance and Taxation Committee and Senator Lawson

This bill provides that the annual fee for a crawfish trap number for persons taking or attempting to take crawfish with a trap in commercial quantities or for commercial purposes is increased from $100 to $125. The $25 increase must be used to pay for the recovery of lost or abandoned crawfish traps. This bill clarifies that persons who take or attempt to take crawfish in commercial quantities or for commercial purposes by any method other than with a trap must pay an annual fee of $100. For each person holding a crawfish stamp number, the bill provides an exemption from the $10 per trap retrieval fee assessed against trap owners so that the first 5 traps retrieved are free.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 117-0

CS/CS/SB 2804 — Greenways and Trails

by Comprehensive Planning Committee; Natural Resources Committee; and Senators Dockery, Cowin, and Bennett

This bill establishes the Legislature's intent to recognize the efforts of the federal government and private citizens in establishing the Florida National Scenic Trail, and establishes legislative recognition of the economic benefit of nature-based recreation. All state, regional, and local agencies that purchase lands are encouraged to include lands over which the trail passes and to consider the trail a single project with multiple phases for purposes of listing and acquisition.

Private property landowners must provide written authorization to the Department of Environmental Protection (department) prior to a determination by the department that public access to greenways and trails located on private lands is appropriate. Noticing requirements for a determination of appropriate access are provided.

Provisions requiring that greenways and trails lands be purchased according to ch. 260, F.S., are repealed, thereby allowing the acquisition of greenways and trails lands under the state's acquisition process established in ch. 259, F.S. The membership and terms of the Florida

Greenways and Trails Council are revised. The Legislature is authorized to add to the Big Bend Historic Saltwater Paddling Trails as part of the statewide saltwater circumnavigation trail.

This bill creates the Conserve by Bicycle Program at the Department of Transportation (DOT) with the purposes of saving energy by increasing the number of miles ridden on bicycles thereby reducing the usage of petroleum-based fuels, and increasing efficiency of cycling as a transportation mode by improving interconnectivity. The DOT is directed to conduct a Conserve by Bicycling study using a combination of federal and agency funds to examine how the use of bicycles can reduce traffic congestion and provide recreational and health benefits. The study must be conducted with the assistance of the State Pedestrian/Bicycle Coordinator, metropolitan planning organizations, the Office of Greenways and Trails at the department, and the Department of Health. If sufficient funding is available, the study must be completed by July 1, 2006 and submitted to the Governor, the Legislature, and the Secretaries of Transportation, Environmental Protection, and Health.

Sales or leases directly to Florida Mining-Recreation, Inc., a nonprofit corporation created for the purpose of developing public recreational opportunities on phosphate lands, are exempt from the sales tax imposed under ch. 212, F.S. The corporation will be considered a nonprofit corporation for all state and local requirements thereto. Funds provided in the 2004 General Appropriations Act and future appropriations to the corporation in the amount of $200,000 or less shall be paid directly to the corporation by the state, and may be expended for any valid purpose of the corporation as provided by law. The corporation is exempt from competitive bidding requirements for contracts under $100,000. Annual audits of the corporation must set forth the manner in which all funds have been spent and must include an inventory of the corporation's physical assets.

This bill provides that the Florida Communities Trust program established in ch. 380, F.S., may acquire real and personal property to provide public access or public recreational facilities along the Florida National Scenic Trail.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 113-3

CS/CS/SB 2820 — Fish and Wildlife Conservation Commission

by Governmental Oversight and Productivity Committee; Natural Resources Committee; and Senator Argenziano

This bill provides for the reorganization of the Fish and Wildlife Conservation Commission (FWC) in an effort to align and integrate similar functions within the agency, flatten the agency's organizational structure, and improve agency efficiency. No new staff or funding is required under the agency reorganization.

The Fish and Wildlife Research Institute will serve as the primary source of research and technical information and expertise on the status of Florida's saltwater, freshwater, and wild animal life species and their habitat. The Division of Freshwater Fisheries Management will facilitate the responsible and sustained use of freshwater aquatic life resources. The Division of Habitat and Species Conservation will be responsible for protecting and conserving Florida's diverse and unique fish and wildlife species. The Division of Hunting and Game Management will facilitate the responsible and sustained use of wildlife resources. The Division of Law Enforcement will ensure enforcement of the laws and rules governing the management, protection, conservation, improvement, and expansion of wildlife, freshwater aquatic life, and marine life resources. The Division of Marine Fisheries Management will facilitate the responsible and sustained use of marine life resources. The principal unit for administrative and support services will be the Office of Executive Direction and Administrative Support Services headed by the executive director of the FWC.

The FWC is authorized to publish the Florida Wildlife Magazine, and the Florida Wildlife Magazine Advisory Council is created to provide recommendations to the FWC regarding the development, publication, and sale of the magazine. This bill provides 4.5 full-time equivalent positions and $390,000 in recurring appropriations from the State Game Trust Fund to the FWC to fund and operate the magazine.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 117-1

SB 2832 — Water Management District Planning and Reporting

by Senator Atwater

This bill establishes legislative findings that:

- Plans and reports submitted to the Legislature and the Governor by the South Florida Water Management District (district) on the status of district programs and the state's water resources are necessary to ensure proper protection and management of those resources.
- Such plans and reports should be coordinated or consolidated where appropriate.
- Increased access to plans and reports will enhance and improve protection of the state's water resources.

The district is directed to begin a pilot project to:

- Review all such plans and reports that are required by law to be annually submitted to the Governor and the Legislature.
- Determine how the information submitted in annual plans and reports can be provided in a more efficient and effective manner.

- Submit any annual plans or reports due after the effective date of the act and prior to February 2, 2005 no later than February 15, 2005, and to consolidate such plans and reports where appropriated.

The bill provides that annual legislative budget requests, and tentative and final budget submissions to the Executive Office of the Governor are not included in the pilot project. No later than February 15, 2005, the district must submit a report to the Governor, the President of the Senate and the Speaker of the House of Representatives on efforts to coordinate and consolidate legislatively mandated plans and reports, and include proposed statutory changes, including recommendations from the other water management districts and the Department of Environmental Protection.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 117-0

HB 293 — Water Resources

by Rep. Russell and others (CS/CS/CS/SB 1104 by Appropriations Committee; Comprehensive Planning Committee; Natural Resources Committee; and Senators Dockery and Lynn; CS/CS/SB 1142 by Appropriations Committee; Natural Resources Committee; and Senator Dockery)

This bill requires local governments to address in local comprehensive plans the water supply sources necessary to meet and achieve existing and projected water use demand. The date by which certain elements of a local comprehensive plan are required to consider regional water supply plans is amended to accommodate the update of those regional water supply plans. Water management districts (districts) are authorized to provide electronic notice of consumptive use permit applications at the request of the affected local government.

The water management district governing boards are authorized to adopt rules to identify preferred water supply sources which may be used to provide substantial new water supplies for existing and future uses so long as existing water resources and natural systems are sustained. The source of the water and the amount of water projected to be available for use must be included in the rule. At the request of the permit applicant, permits for the use of preferred water supply sources may be issued for at least a 20-year period.

This bill authorizes the districts to require the use of reclaimed water in lieu of surface or ground water if the use of reclaimed water is environmentally, technically, and economically feasible. The districts also are required to work with various entities to develop landscape irrigation and xeriscape design standards for new construction and develop scientifically based model guidelines for urban, commercial, and residential landscape irrigation. Landscape and irrigation design standards must be based on the irrigation code defined in the Florida Building Code,

Plumbing Volume, Appendix F. Local governments are required to use the standards and guidelines when developing landscape and xeriscape ordinances.

The Department of Environmental Protection, (department) in consultation with specified parties, is required to develop a comprehensive statewide water conservation program for public water supply. The districts are prohibited from fixing or revising water rates, and public water supply utilities are given the flexibility to propose a conservation plan or program tailored to each utility's specific service area. By December 1, 2005, the department must submit a written report to the Legislature outlining the progress made in implementing a statewide water conservation program.

This bill establishes additional responsibilities for the districts when regional water supply plans are being developed. Within the boundaries of a regional water supply authority located in the Southwest Florida Water Management District, the regional water supply authority and the district must jointly develop the water supply component of a regional water supply plan. Water conservation is encouraged by allowing projects that provide alternative water sources to receive a 20-year permit and receive consideration for priority funding assistance. Water reuse projects are also eligible for funding assistance based on conditions such as metering of reclaimed water use or implementing water rate structures. Each state agency and water management district is required to use reclaimed water to the greatest extent practicable.

This bill authorizes certain water facilities to receive a bond allocation under the private activity bond program administered by the Division of Bond Finance within the State Board of Administration. State law is conformed to federal law to protect federal funding for the state's drinking water programs administered by the department.

This bill provides for a feasibility study for the augmentation of ground water supplies in South Florida through the discharge of reclaimed wastewater into canals and the aquifer systems so long as any discharges conducted as part of the study comply with all federal, state, and local laws. Nothing in the feasibility study can be used to alter the Comprehensive Everglades Restoration Plan or the implementation of the federal Water Resources Act of 2000.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

HB 347 — Florida Inland Navigation District

by Rep. Bean (SB 1298 by Senator Wise)

This bill (Chapter 2004-15, L.O.F.) amends the territorial boundaries of the Florida Inland Navigation District to include Nassau County. The bill increases the membership of the district's governing board from 11 to 12 members to reflect the addition of Nassau County. Amendments

to the navigation district are contingent upon voter approval of the levy of ad valorem taxes for Nassau County's financial participation.

These provisions were approved by the Governor on April 14, 2004, but shall take effect only upon approval of the levy of ad valorem taxation provided in s. 374.986, F.S., by a majority of the qualified electors of Nassau County voting in a referendum to be held in conjunction with any subsequent regular primary or general election, as determined by the Board of County Commissioners of Nassau County, except that this section and section 3 of the bill, which corrects the reference of Dade County to Miami-Dade County, took effect upon becoming a law.
Vote: Senate 38-0; House 118-0

HB 373 — Water Policy

by Rep. Spratt and others (CS/SB 2342 by Natural Resources Committee and Senator Alexander)

This bill transfers those portions of Highlands County lying within the boundaries of the Southwest Florida Water Management District to the South Florida Water Management District effective July 1, 2004, and removes Highlands County from the Southwest Florida Water Management District's governing board. The bill further provides that the Southwest Florida Water Management District will take final agency action on all permit applications received by the district prior to July 1, 2004. After that date, all matters related to any such permits will be regulated by the South Florida Water Management District.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 109-0

HB 989 — Environmental Protection/Road and Bridge Repair

by Rep. Spratt (CS/SB 2200 by Natural Resources Committee and Senator Lawson)

This bill (Chapter 2004-16, L.O.F.) provides that the permit exemption for the repair, stabilization, or paving of existing county-maintained roads and bridges that is currently available in the Northwest Florida Water Management District (NWFWMD) would also apply in the Suwannee River Water Management District (SRWMD). Prior to performing any road or bridge work covered by this exemption, notice of intent to use the exemption must be provided to the Department of Environmental Protection (DEP) if the work is to be performed in the NWFWMD, or to the SRWMD if the work to be performed is in the SRWMD.

Within 30 days after this bill becomes a law, the DEP shall initiate rulemaking to adopt a no-fee permit for the repair, stabilization, or paving of existing county-maintained roads and the repair or replacement of bridges that are part of the roadway where such activities do not cause significant adverse impacts to occur individually or cumulatively. The general permit shall apply statewide. This bill became effective April 14, 2004, and the DEP noticed proposed rule development for this general permit on April 23, 2004. For qualified projects in the four water

management districts that administer the Environmental Resources Permit (ERP) program, no additional rulemaking will be required. This general permit will be administered in the NWFWMD by the Northwest District Office of the DEP since there is no ERP program in the NWFWMD. Once the general permit has been adopted by rule, it will supercede the exemption that is provided for the NWFWMD and the SRWMD.

These provisions were approved by the Governor and took effect April 14, 2004.
Vote: Senate 38-0; House 114-0

HB 1613 — Vessel Safety

by Rep. M. Davis and others (CS/SB 2664 by Natural Resources Committee and Senators Smith and Dockery)

This bill authorizes the operation of law enforcement vehicles without headlights if the operation of the vehicle is necessary to the performance of a law enforcement officer's duties, if the law enforcement agency has a written policy providing guidelines and authorizing the operation of a vehicle without headlights, if the vehicle is being operated in compliance with agency policy, and if the operation of the vehicle without the display of headlights can be safely accomplished. The authority to operate a law enforcement vehicle without the display of headlights does not relieve the operator of the duty to drive with due regard for public safety, or provide protection to the driver from the consequences of reckless driving.

This bill raises the damage threshold for owners or operators of vessels reporting damage to vessels or property resulting from boating accidents from $500 to $2,000. The damage threshold at which law enforcement officers investigating a boating accident must forward a written investigation report within 24 hours to the Division of Law Enforcement at the Fish and Wildlife Conservation Commission (FWC) is also raised from $500 to $2,000. If a vessel is leased, rented, or chartered at the time of an accident, the person offering the vessel for lease, rent, or charter is responsible for reporting accidents involving damage to the vessel or other property.

This bill authorizes state and local law enforcement personnel to operate in federally designated safety zones, security zones, regulated navigation areas, or naval vessel protection zones if necessary to augment federal law enforcement efforts and if there is a compelling need to protect the residents and infrastructure of the state. The federal government's requests for enforcement assistance must be made to the Florida Department of Law Enforcement through the Florida Mutual Aid Plan established in s. 23.1231, F.S.

This bill provides first degree misdemeanor penalties for persons who knowingly commit a violation of a restriction of a safety zone, security zone, regulated navigation area or naval vessel protection zone, and provides third degree felony penalties for persons who continue to knowingly commit a violation of a restriction of a safety zone, security zone, regulated navigation area or naval vessel protection zone. Each incursion into a safety zone, security zone,

regulated navigation area, or naval vessel protection zone is considered a separate offense. Entries into such zones authorized by the captain of the port being entered, or the captain's designee, are not considered violations of the zones.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-1

HB 1833 — Exemption from Public Records Requirements

by Natural Resources Committee, Rep. M. Davis, and others (CS/SB 2158 by Governmental Oversight and Productivity Committee and Senator Fasano)

This bill provides a time-limited public records exemption for information regarding the value of lands which the Board of Trustees of the Internal Improvement Trust Fund has determined to be surplus lands available for sale, exchange, or disposal. Notwithstanding the exemption, the Division of State Lands at the Department of Environmental Protection is authorized to disclose appraisals, valuations, or valuation information about lands declared surplus under certain conditions.

This bill provides that the public records exemption is subject to the Open Government Sunset Review Act of 1995, and is repealed on October 2, 2009, unless reviewed and reenacted by the Legislature. Legislative findings that the temporary preservation of valuation information is a public necessity to ensure maximum return to the state from the disposition of surplus lands are provided.

This bill passed the Legislature with a two-thirds vote of each House as required by s. 24(c), Art. I, of the State Constitution.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-1; House 118-0

BINGO

HB 187 — Evelyn Wiesman-Price Act

by Rep. Dean and others (CS/SB 272 by Regulated Industries Committee and Senator Geller)

The bill authorizes instant bingo games, a game played by purchasing a ticket for $1 or less and removing a cover from the ticket to reveal a set of numbers, letters, objects, or patterns, some of which have been designated in advance as prize winners. The bill requires that each deal or package of instant bingo tickets have a minimum prize payout of at least 65 percent of the total receipts from the sale of the entire deal. The bill exempts instant bingo from current jackpot restrictions, such that instant bingo is not limited to three jackpots on any one day of play, and is not limited to a maximum value on jackpots of $250. It also allows instant bingo tickets to be sold by any organization currently authorized under the statute to conduct bingo games. The bill provides the standards of the North American Gaming Regulators Association in relation to the sale of instant bingo tickets and requires the Department of the Lottery to keep a list of at least six qualified instant bingo ticket manufacturers that are authorized to sell instant bingo tickets in Florida. It also requires the Department of the Lottery to process all applications to be placed on the list of instant bingo ticket manufacturers pursuant to s. 120.60, F.S.

The bill was vetoed by the Governor on March 31, 2004.
Vote: Senate 34-5; House 103-11

CONSTRUCTION INDUSTRY

CS/CS/SB 562 — Electrical and Alarm System Contracting

by Appropriations Committee; Regulated Industries Committee; and Senator Bennett

The bill requires that alarm system contractors and electrical contractors engaged in alarm system contracting, who seek to renew their certificates or registrations, must have two hours of false alarm prevention education as part of their continuing education requirements. It requires, that in order to be employed by a licensed electrical or alarm system contractor, burglar alarm system agents must complete an additional two hours of training in false alarm prevention. It requires that licensed electrical or alarm system contractors furnish their burglar alarm system agents with a board approved identification card. The card is valid for two years and may be renewed subject to proof of compliance with continuing education requirements and an updated criminal background check from the Department of Law Enforcement. It requires fire alarm system agents to have at least two hours of training in the prevention of false alarms. It requires that each licensed electrical or alarm system contractor obtain an updated criminal background check from the Department of Law Enforcement for each fire alarm system agent who renews

certification. It requires that each fire alarm system agent have continuing education in false alarm prevention.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 117-0

SB 2132 — Construction Industries Fund

by Senator Argenziano

The bill renames the Construction Industries Recovery Fund as the "Florida Homeowners' Recovery Fund." The bill authorizes claims filed against Division I contractors (which include licensed general contractors, building contractors, and residential contractors) and removes the authority to file a claim against Division II contractors (which include in part, roofing contractors, swimming pool contractors and air-conditioning contractors). For contracts entered into after July 1, 2004, the bill increases the cap for individual claims from $25,000 to $50,000. Beginning on January 1, 2005, for contracts entered into after July 1, 2004, the bill increases the aggregate amount that may be paid as a result of the actions of any one contractor from $250,000 to $500,000 and removes the annual limit on claims against any one contractor.

The bill clarifies the statute of limitation provisions for filing claims, allows recovery for criminal judgments and arbitration awards, creates additional administrative procedures, establishes felony and fine provisions for fraudulent claims, and requires permit fee information relating to the one half cent assessment to be reported by local building permit authorities. The bill specifies that the Construction Industry Licensing Board may by rule delegate authority to the Department of Business and Professional Regulation to terminate proceedings on a claim when: a claimant is not qualified to make a claim for recovery from the recovery fund; after notice the claimant has failed to provide documentation in support of the claim; or the licensee has reached the aggregate limit.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 38-0; House 116-0

HB 129 — Emergency Elevator Access

by Rep. Kallinger and others (CS/CS/CS/SBs 672 and 680 by Comprehensive Planning Committee; Banking and Insurance Committee; Regulated Industries Committee; and Senators Constantine, Smith, and Lynn)

The bill (Chapter 2004-12, L.O.F.) mandates that elevators in buildings on which construction is begun after June 30, 2004, that are six or more stories in height, including hotels and condominiums, must be keyed or retrofitted with a master key to allow firefighters emergency access. It applies to all elevators that allow public access, including service and freight elevators, and requires that elevators be keyed so as to allow elevators within each of the Department of

Law Enforcement's seven emergency response regions to operate in fire emergency situations with one master elevator key. Buildings with six or more stories that have undergone substantial improvement must also comply with the elevator key requirement. Compliance with this requirement is required of existing buildings by July 1, 2007.

The master elevator key would be issued to the fire department as well as elevator owners, owners' agents, elevator contractors, state certified inspectors, and state agency representatives. If it is technically, financially, or physically impossible to bring a building into compliance with the elevator key requirements, the local fire marshal may allow substitute emergency measures that will provide reasonable emergency elevator access. The local fire marshal's decision can be appealed to the State Fire Marshal.

The bill authorizes the Division of State Fire Marshal within the Department of Financial Services (DFS) to enforce the requirements contained in this legislation. Persons who fail to comply with the elevator key mandate are subject to administrative penalties. The DFS is given rule making authority. The bill provides that a permit is not required to construct or repair an elevator when seeking to attain compliance with emergency elevator access requirements.

The bill recreates the Elevator Safety Technical Advisory Council within the DBPR, Division of Hotels and Restaurants, which council was terminated on December 31, 2003. The recreated council's membership would be increased from that of the previous committee from seven to eight members by adding one member who is a certified elevator inspector from a private inspection service.

These provisions were approved by the Governor and take effect upon becoming law.
Vote: Senate 40-0; House 116-0

HB 1899 — Construction Defects

by Judiciary Committee, Rep. Barreiro, and others (CS/SB 3046 by Regulated Industries Committee and Senator Bennett)

The bill amends ch. 558, F.S., which provides a process to resolve legal claims before a lawsuit is filed related to a construction defect arising out of the construction of a dwelling.

Under current law the pre-lawsuit process in ch. 558, F.S., is applicable to all actions involving a construction defect claim. The bill amends this requirement to limit its application only to contracts for the design, construction, or remodeling or a dwelling entered into on or after July 1, 2004, in which the construction professional elects the pre-lawsuit notice process.

The bill amends the definition of the term "claimant" to delete tenants from the definition of the term, and to include a subsequent owner who asserts a claim for indemnification. The bill also

excludes administrative proceedings asserting a claim for alleged personal injuries arising out an alleged construction defect from this pre-lawsuit resolution process.

The bill amends the time frames in the current law to provide separate time frames and notice periods for homeowners' associations representing 20 or more parcel owners. The bill provides for longer time frames for the pre-litigation procedures. It also extends from 60 days to 90 days the tolling of the applicable statute of limitations.

The bill provides a 60-day notice requirement before filing an action based on a construct defect for actions involving a single-family home, an association representing 20 or fewer residential parcels, a manufactured or modular home duplex, triplex, or quadruplex, (dwelling) or 120 days for associations representing more than 20 residential parcels (association). It increases the period within which a construction professional may inspect a dwelling after receiving a notice of claim from five to 30 days for a claim for a dwelling and 50 days for an association, increases the time from 5 to 15 days within which a construction professional must respond to the notice of claim from another construction professional after receiving a copy of the notice of claim for a dwelling and to 30 days for an association, and increases the time from 25 to 45 days within which a construction professional must respond to a claimant's notice of claim for a construction defect involving a dwelling and 75 days for an association. It provides extensive requirements when destructive testing is involved in evaluating a construction defect claim.

The bill requires that a written offer to compromise and settle the claim by monetary payment, that will not obligate the person's insurer, must present a timetable for making payment. The bill provides that, in the event of a partial settlement or compromise, the claimant may, without further notice, proceed with an action on the unresolved portions of the claim. The bill requires the claimant to reject or accept an offer of compromise, and requires that, before proceeding with an action, the claimant must first timely and properly serve a notice of the rejection of the settlement offer. The bill provides that the initial list of construction defects may be amended by the claimant to identify additional construction defects as they become known to the claimant. It provides that failure to remedy failure to offer a settlement or compromise is not admissible in any legal action.

The bill provides that a construction professional's written offer to compromise and settle a claim will not obligate the person's insurer, and it requires that a construction professional's written response to the claimant must include a statement related to insurance proceeds and insurer determinations. It also requires compliance with contractual provisions of liability insurance policies, provides that a notice of claim provided to an insurer does not constitute a claim for insurance purposes, and provides that s. 558.004, F.S., which provides the pre-lawsuit notice process, does not affect the insurance policy.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 116-0

CONDOMINIUMS AND COMMUNITY ASSOCIATIONS

CS/CS/SB 2984 — Condominium and Community Associations

by Comprehensive Planning Committee; Regulated Industries Committee; and Senator Atwater

The bill limits the application of any amendments that restrict a condominium unit owner's rights relating to unit rental to owners who consent to the amendment and to subsequent purchasers. It provides immunity from liability to condominium associations and their agents for providing information to persons in good faith. It prohibits insurers from requiring that community associations acquire medical malpractice liability as a condition for any other coverage carried by the association if the association acquires an automated external defibrillator. The bill provides notice requirement for condominium associations that vote to forego retrofitting of fire sprinkler systems in common areas. It includes the Frequently Asked Questions document in the nondeveloper disclosure information. It also provides a method for the revival of homeowners' associations expired declarations of covenants.

The bill revises the Uniform Community Development District Act of 1980 to allow a community development district (CDD) governing board to enforce deed restrictions in specified circumstances, and to correct deficiencies in the district dissolution process and elections policies and procedures.

The bill amends several substantive provisions of ch. 720, F.S., relating to homeowners' associations. The bill provides that parcel owners and members have the right to attend all meetings, and the right to speak for at least three minutes at meetings, provided that the parcel owner or member submits a request to speak prior to the commencement of the meeting. The bill requires notice to parcel owners and members of all board meetings, and requires an association's board to address an item of business if 20 percent of the total voting interests petition the board. The board would have to take up the petitioned item at its next meeting or special meeting.

The bill requires associations to maintain a copy of their governing documents and records, and to provide parcel owners with copies requested, if a copy machine is available, during an inspection if the entire request is limited to no more than 25 pages. It requires associations to adopt reasonable rules that govern the inspection of the associations' records. The bill establishes financial reporting requirements and the format of financial statements.

The bill establishes notice requirements for removal of directors. It provides the procedure for certification of the recall vote, for resolving a defective recall, for replacement of a recalled director and establishes dispute resolution procedures for recall and election disputes.

The bill expands flag display rights to include the right to display the official State of Florida and flags of the U.S. Armed Services. It prohibits "Strategic Lawsuits Against Public Participation" or "SLAPP" suits, requires courts to award the prevailing party reasonable attorney's fees and

costs, and bars associations from expending association funds in prosecuting a SLAPP suit against a parcel owner. It allows any parcel owner to construct an access ramp in certain circumstances. The bill also provides that parcel owners may display, within 10 feet of any entrance to the home, a sign of reasonable size provided by a contractor for security services.

The bill provides that a fine by an association against any member, tenant, guest, or invitee cannot become a lien against a parcel. It provides that in any action to recover a fine, the prevailing party is entitled to collect reasonable attorney's fees and costs. The bill establishes requirements for associations' contracts for products and services. The bill provides disclosure requirements for sellers of property in a community governed by a homeowners' association.

The bill provides a cause of action to rescind the contract for sale or for damages against developers for false or misleading material statements. The bill grants the county courts original jurisdiction over disputes occurring in homeowners' associations, and provides for concurrent jurisdiction in the circuit courts.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 24-12; House 102-13

HB 325 — Mobile Home Parks

by Rep. Fiorentino and others (CS/SB 1340 by Appropriations Committee and Senator Lynn)

The bill (Chapter 2004-13, L.O.F.) amends s. 723.0612(7), F.S., to require that the mobile home park owner must pay $1,375 for a single section and $2,750 for a multisection into the Florida Mobile Home Relocation Corporation (the corporation). It deletes the provision that requires a mobile home park owner to pay the corporation an amount equal to one-fourth of the maximum allowable moving expenses if the home owner chooses the option to abandon the mobile home in lieu of moving the mobile home.

These provisions were approved by the Governor and took effect April 6, 2004.
Vote: Senate 40-0; House 118-0

FUNERAL DIRECTORS AND CEMETERIES

CS/CS/SB 528 — Funeral and Cemetery Services

by Banking and Insurance Committee; Regulated Industries Committee; and Senators Pruitt, Haridopolos, Posey, Lynn, King, Alexander, Argenziano, Aronberg, Atwater, Bennett, Bullard, Campbell, Carlton, Clary, Constantine, Cowin, Crist, Dawson, Diaz de la Portilla, Dockery, Fasano, Garcia, Geller, Hill, Jones, Klein, Lawson, Lee, Margolis, Miller, Peaden, Saunders, Sebesta, Siplin, Smith, Villalobos, Wasserman Schultz, Webster, Wilson, and Wise

The bill merges funeral and cemetery regulation into one board under the Department of Financial Services, and consolidates all cemetery and funeral provisions into one chapter. The bill provides that this act may be cited as the "Senator Howard E. Futch Act."

The bill merges the provisions of chs. 470 and 497, F.S., into ch. 497, F.S. It duplicates and incorporates into ch. 497, F.S., relevant provisions from ch. 455, F.S., relating to the current ch. 470, F.S., professions. The bill also consolidates and eliminates duplicative provisions from the two chapters. It creates the Board of Funeral, Cemetery, and Consumer Services (board) and the Division of Funeral, Cemetery, and Consumer Services within the Department of Financial Services.

The bill divides ch. 497, F.S., into six parts with each part corresponding to similar regulatory issues, i.e., part I relates to general provisions common to all parts, part II relates to cemetery regulation, part II relates to funeral directors and embalmers, part IV relates to preneed sales, part V relates to monument establishments, and part VI relates to cremation, crematories and direct disposition. The bill also abolishes the Board of Funeral Directors and Embalmers within the Department of Business and Professional Regulation and the Board of Funeral and Cemetery Services within the Department of Financial Services (department).

The bill sets forth the authority of the board and the department, including each entity's rulemaking authority. It provides a procedure for providing for receivership for cemeteries with a revoked license. It includes the process of closing the affairs of the cemetery and protecting the interests of consumers and family members of the deceased. It also provides extensive investigatory and examination authority to the department and board.

The bill requires the proper identification of dead human remains in the casket, alternative container, or cremation container. The bill provides minimum dimension standards for adult grave spaces. The bill also requires that licensed cemeteries prepare a map documenting the survey reference markers to show the number of grave spaces available for sale, the location of each grave space, the number designation assigned each grave space, and the dimensions of a standard adult grave space.

The bill provides for the regulation of preneed contract sales by requiring a certificate of authority to conduct such sales. The bill also provides for the regulation of monument establishments, including minimum financial requirements for licensure.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 40-0; House 110-3

PARI-MUTUEL WAGERING

HB 941 — Greyhound Adoption

by Rep. Prieguez and others (CS/SB 176 by Regulared Industries Committee and Senators Wasserman Shultz, Fasano, and Crist)

The bill (Chapter 2004-23, L.O.F.) requires and specifies the criteria by which greyhound-racing permitholders are to provide information at each dogracing facility concerning the adoption of a greyhound. Each dogracing permitholder operating a facility in this state must provide for a greyhound adoption booth at the facility to be operated on weekends. The bill requires that the racing program contain adoption information and identify greyhounds in a race that will become available for adoption. The permitholder is authorized to hold an additional charity day, designated as "Greyhound Adopt-A-Pet Day," and use the profits from the charity day to fund activities promoting greyhound adoptions. It provides for penalties for violating the section. The bill defines the term "bona fide organization that promotes or encourages the adoption of greyhounds" and requires as a condition of adoption that such organization provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter.

These provisions were approved by the Governor and take effect July 1, 2004.
Vote: Senate 39-0; House 115-3

PROFESSIONS

CS/CS/SB 1530 — Cosmetology

by Finance and Taxation Committee; Regulated Industries Committee; and Senator Sebesta

The bill would permit persons who are not licensed to provide cosmetology services to provide makeup, special effects, or cosmetology services to an actor, musician, extra, or other talent during a production recognized by the Office of Film and Entertainment as a "qualified production" as defined in s. 288.1254(2)(d), F.S. The bill also permits persons who are not licensed cosmetologists to provide makeup or special effects services in a theme park or entertainment complex to an actor, stunt person, musician, extra, or other talent, or to provide makeup or special effects services to the general public for no compensation.

The bill authorizes the Board of Cosmetology within the Department of Business and Professional Regulation to adopt, by rule, health and safety restrictions established by U.S. Food and Drug Administration regulations related to cosmetology. The bill would also prohibit the use or possession of products containing methyl methacrylate (MMA) in the practice of cosmetology.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 112-5

CS/CS/SB 2026 — Professions Regulation/DBPR

by Governmental Oversight and Productivity Committee; Regulated Industries Committee; and Senator Pruitt

The bill substantially amends the provisions of the Management Privatization Act in s. 455.32, F.S., to establish a model for the privatization of the regulation of professionals when requested by any board of the Department of Business and Professional Regulation (DBPR). The bill defines "board" to mean any board, commission, or council created within the department pursuant to ch. 20, F.S.

The bill requires that a board's privatization request must contain a needs assessment and financial feasibility study. The bill provides that a corporation providing support services to a board must be a Florida corporation not for profit, and operate under a fiscal year of July 1 through June 30. It provides for the appointment and removal of the corporation's board members.

The bill requires that the corporation must have its articles of incorporation and bylaws approved by the department, and operate under a written contract with the department. The corporation must also provide a faithful performance bond for all persons charged with receiving and depositing fee and fine revenue.

The bill requires that the corporation keep financial and statistical information and be the sole source and depository for the board's records, which must be maintained in accordance with the guidelines of the Department of State.

The bill requires that the professional board provide by rule for the security and monitoring of licensure examinations. It requires that the corporation maintain the current act's continuing education reporting requirements. The bill deletes the DBPR's authority to privatize continuing education monitoring, and establishes limits for fines that may be imposed for violations by licensees and providers. The bill provides for the approval of continuing education courses by the DBPR.

The bill provides methods and mechanisms to resolve any noncompliance of the contract and the return of records and property to the department.

The bill provides requirements for insurance coverage and the payment of certain legal and contract costs by the corporation. The corporation's staff are not public employees for the purposes of ch. 110 or ch. 112, F.S., which relates to state employment and public officers, respectively. However, it provides that the per diem, travel expenses, and the code of ethics provisions apply to the corporation's staff.

The bill requires a financial model and business case for the corporation with projected costs for the first two years. The business case must be approved by the Governor. The bill provides that the corporation may use interest derived by it to offset the costs associated with the use of credit cards.

The bill authorizes the corporation to initiate disciplinary investigations, and authorizes the department to delegate to the corporation the authority to issue emergency suspension or restriction orders.

The bill also amends ch. 509, F.S., relating to the regulation of public food service establishments, to provide that licensed public food service establishments must report to the Division of Hotels and Restaurants within the Department of Business and Professional Regulation proof upon request of the establishment's food safety training of its employees. The bill also establishes reporting and record keeping requirements for third party providers that provide food safety training.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 37-0; House 115-0

SB 2276 — Professional Geology

by Senator Clary

The bill clarifies and makes consistent the use of the terms the "practice of professional geology" and "professional geologist" throughout ch. 492, F.S. The bill provides that a violation of a rule of the Board of Professional Geologist (board) or any order of the board previously entered in a disciplinary hearing is grounds for discipline. The bill also transfers certain duties from the Department of Business and Professional Regulation to the board relating to discipline.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 40-0; House 116-0

CS/SB 2720 — Public Accountancy

by Government Oversight and Productivity Committee and Senator Atwater

The bill provides an alternative method for waiving the fifth year education requirement for licensure as a Certified Public Accountant (CPA) for applications made before October 1, 2008. To qualify for the waiver, an applicant must have at least five years of experience as an auditor or accountant in the employment of a unit of federal, state, or local government, the employment must have required the use of accounting skills as a substantial part of the applicant's duties, and the applicant must have been under the supervision of a certified public accountant licensed by a state or territory of the United States. The experience must be while licensed as a CPA by another state or territory.

The bill requires, as a condition for renewal of a CPA license, completion of an ethics continuing professional education requirement that is not less than five percent of the total hours of continuing professional education required by the Board of Accountancy in the Department of Business and Professional Regulation. The ethics education must be applicable to the practice of public accounting, and it must include a review of the provisions of chs. 455 and 473, F.S., and the related administrative rules. The ethics requirement must be completed before taking the license renewal examination. The bill provides that this requirement must be administered by providers approved by the Board of Accountancy.

If approved by the Governor, these provisions take effect on July 1, 2004.
Vote: Senate 37-0; House 117-1

HB 419 — Engineering

by Rep. Allen (CS/SB 1368 by Regulated Industries Committee and Senator Saunders)

This bill amends the law regulating engineers by increasing the number of members on the Board of Professional Engineers in the Department of Business and Professional Regulation from nine to eleven. It requires the two new members of the board to be a licensed structural engineer and a licensed industrial engineer.

It provides that an applicant for licensure as an engineer will be deemed to have passed the fundamentals examination if the applicant has received a doctorate degree in engineering from an institution that has an accredited undergraduate engineering program and has taught engineering full-time for at least 3 years.

It decreases from five to three the number of times an engineer applicant may take the fundamentals examination or the principles and practice examination.

It removes the requirement that the applicant take college-level courses *in the areas of deficiency, as determined by the board,* if an applicant fails either examination three times. The applicant must still take college-level education courses in order to reapply for examination.

It provides an exemption from the prohibition on use of the title "engineer." The exemption applies to a person who is exempt from licensure because the person provides design or fabrication of manufactured products and servicing of the products for a corporation not engaged in the practice of engineering, or the person is a subordinate of a licensed engineer who is in responsible charge. Additionally, the person must be a graduate of an approved engineering curriculum of 4 years or more in a school, college, or university which has been approved by the board.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 119-0

HB 1457 — Land Surveying and Mapping

by Rep. Evers (CS/SB 2248 by Regulated Industries Committee and Senator Peaden)

The bill provides that the Board of Professional Surveyors and Mappers (board) shall reinstate and the Department of Business and Professional Regulation (department) shall reissue by July 1, 2005, the license of an individual whose license has become null provided that the following statutorily specified circumstances and qualifications are met: the license of the individual was scheduled to be renewed during the biennium period beginning in 2001; the license of the individual was in good standing at the time of the beginning of the renewal cycle; the individual properly petitioned the department for relief relating to the circumstances under which the license became null; and no felony or practice act or unlicensed activity penalties have been imposed upon the individual for violations occurring during the period the license was null.

The individual must submit an application to the board for reinstatement in a manner prescribed by rules of the board and shall pay the appropriate application fees in an amount equal to the fees imposed for current applicants for new licensure. The provisions of the act expire on July 1, 2005.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 37-1; House 116-0

PUGILISTIC EXHIBITIONS

CS/SB 538 — Stacy Young Act

by Regulated Industries Committee and Senator Lynn

The bill amends ch. 548, F.S., to provide for the regulation of amateur boxing and kickboxing matches by the Florida Boxing Commission (the commission). The bill provides that this act may be cited as the Stacy Young Act. The bill prohibits amateur matches that are not sanctioned and supervised by an amateur sanctioning organization approved by the commission. The bill prohibits matches that utilize strikes to the head unless it is sanctioned and supervised by an amateur sanctioning organization approved by the commission.

The bill also prohibits amateur mixed martial arts matches. It exempts matches conducted or sponsored for participants of a bona file nonprofit boxing, kickboxing, or martial arts school or education program, and exempts matches for members of the Florida National Guard conducted or sponsored by any company or detachment of the Guard.

It grants the commission rule making authority, including emergency rulemaking authority, to establish criteria for the approval, disapproval, suspension of approval, and revocation of amateur sanctioning organizations for amateur boxing and kickboxing matches. It grants the commission the exclusive jurisdiction over the approval, disapproval, suspension of disapproval, and revocation of approval of all amateur sanctioning organizations for amateur boxing matches held in this state. The commission must, at least biennially, review its approval of an amateur sanctioning organization.

The bill grants the commission the authority to make periodic compliance checks, and provides that any member of the commission or the executive director of the commission may suspend the approval of a sanctioning organization if it fails to comply with health and safety standards. Any member of the commission, or commission representative, may immediately stop a boxing or kickboxing match if it appears the match violates the health and safety standards required by rule. It authorizes law enforcement personnel to assist in enforcing the order to stop the match.

The bill also deletes the restriction that prohibits promoters from having a financial interest in a match participant.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 28-10; House 110-2

REAL ESTATE

CS/SB 1208 — Timeshare Plans

by Comprehensive Planning Committee and Senator Webster

The bill revises provisions in ch. 721, F.S., (Florida Vacation Plan and Timesharing Act) to tailor regulation of personal property timeshare plans offered in Florida. Personal property timeshares are timeshare interests not permanently affixed to real property, such as cruise ships, houseboats, and recreational vehicles. The bill clarifies language with respect to exchange programs and incidental benefit disclosures and addresses the issues of automatic renewal for timeshare plans, disclosure provisions, advertising, exchange programs, and incidental benefits.

It provides that a timeshare developer may voluntarily file advertising material with the Division of Florida Land Sales, Condominiums, and Mobile Homes (division), Department of Business and Professional Regulation, and requires the division to review and comment on any filed advertising deficiencies within 10 days. It provides that notices and other information sent by the timeshare board may be sent via electronic mail. It provides timeframes for review of exchange filings, amendments, and advertising. It provides conforming, clean-up and technical corrections.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 114-0

MEMORIALS

A memorial is a document addressed to Congress, to the President of the United States, or to an executive or legislative body or official to express the consensus of the Legislature or to petition action on matters within the jurisdiction of the addressee. Both houses must pass a memorial, and it is not subject to approval or veto by the Governor. The legislature also uses a memorial to request Congress to propose an amendment to the United States Constitution or to enact legislation.

The following memorials were approved by the Senate and House during the 2004 Regular Session:

Bill	By	Subject	To
S 1348	Senators Constantine and Lynn *(passed as H 335)*	Rights of Crime Victims	U.S. Congress
S 2084	Senators Pruitt and Lynn *(passed as H 25)*	Medicaid Funds	U.S. Congress
S 2522	Senator Jones	Mobile User Objective System	U.S. Congress

CLAIM BILLS

During the 2004 session, 21 claim bills were filed in the Senate. There were 18 companion bills filed in the House of Representatives. Also, there were 3 House claim bills filed that did not have a Senate companion.

Of the 21 bills filed in the Senate, 6 were approved by the House and Senate. At this time, none of the claim bills have been approved by the Governor. If they all become law, they will authorize or direct the payment of $9,444,937, all of which would be paid from local government budget accounts.

Ten Senate claim bills died in a Senate Committee; 2 Senate bills died on the Senate Calendar; and 3 Senate bills were withdrawn from further consideration by their sponsors.

The following claim bills were approved:

Bill	By	Relief:	Vote: Senate	/ House
S 6	Senator Lawson *(passed as H 765)*	Bronwen Dodd v. Escambia County School Board; $241,000	37-2	114-1
S 16	Senator Posey *(passed as H 835)*	Smith/Hughes/Truitt v. Indian River County School Board; $300,000	36-2	114-0
S 18	Senator Posey *(passed as H 833)*	Amanda Johnson v. Indian River County School Board; $287,500	36-2	117-0
S 20	Senator Posey *(passed as H 831)*	Ryan Besancon v. Indian River County School Board; $70,000	37-2	115-0
S 32	Senator Lynn *(passed as H 683)*	Veronica Hensley Davidson v. Volusia County; $4,700,000	36-3	118-0
S 40	Senator Diaz de la Portilla *(passed as H 929)*	Jeffrey Haider v. Broward County; $3,846,437	37-2	114-1

TRANSPORTATION ADMINISTRATION

CS/CS/SB 1456 — Transportation

by Appropriations Committee; Governmental Oversight and Productivity Committee; and Senator Sebesta

FDOT Reorganization

Section 20.23, F.S., is amended to permit the Secretary of the Department of Transportation (FDOT) to appoint up to three assistant secretaries rather than requiring the appointment of two to statutorily-created positions. The requirement to appoint deputy assistant secretaries to statutory positions is removed, allowing the appointment of deputy assistant secretaries or directors with responsibility for accomplishing the mission and goals of FDOT including, but not limited to, the areas of program responsibility. Each district secretary may appoint up to three district directors, or, until July 1, 2005, up to four district directors without specifying titles or positions by statute. Public Transportation is established as one of FDOT's areas of program responsibility. Section 110.205, F.S., is amended to update a reference.

Transportation Program Funding

Subsection (6) of s. 338.001, F.S., is revised to provide a minimum allocation of $450 million annually for Florida Intrastate Highway System (FIHS) projects. Section 339.08, F.S., is revised to permit the use of State Transportation Trust Fund (STTF) moneys for the cost of projects on the Strategic Intermodal System (SIS). The Transportation Outreach Program (TOP) is removed from the list of eligible uses. Section 339.135, F.S., is revised replacing the allocation of at least 50 percent of new discretionary highway capacity funds to the FIHS, with the same minimum allocation to the SIS. Section 339.137, F.S., is repealed, effectively abolishing the Transportation Outreach Program. Section 339.1371, F.S., is revised redirecting STTF revenue currently used in funding the TOP to the SIS. Section 339.61, F.S., is revised to allocate a minimum of $60 million annually from the STTF for projects on the SIS.

Public-Private Transportation Projects

Section 34.30, F.S., is revised to authorize the FDOT to use state resources and to enter into public-private partnership agreements for a transportation facility project that is in the FDOT adopted and legislatively funded work program. The section requires the FDOT to ensure all reasonable costs to the state related to transportation facilities that are not part of the State Highway System are to be borne by the private entity and all reasonable costs to the state, local governments, and utilities are to be borne by the public-private entity for transportation facilities

owned by private entities. Any toll or fare for the use of public-private transportation projects will be regulated by the FDOT.

Section 348.0004, F.S. is revised to authorize expressway authorities to enter into public-private partnership agreements for a transportation facility project. The expressway authority must determine beforehand that such a project is in the best interests of the public; does not require state funds, other than funds allocated as part of the state highway system; and has adequate safeguards to prevent service disruptions in the event of its termination. The bill further authorizes loans from the Toll Facilities Revolving Trust Fund to fund such public-private partnerships sponsored by expressway authorities.

Public Right-of-Way

The bill amends s. 337.401, F.S., to exempt electric utilities from those facilities for which FDOT may delegate permitting authority to a governmental entity. Also, the bill amends s. 95.361, F.S., to create an exemption for electric utilities from the presumption that a private road is deemed dedicated to the public if it has been regularly maintained by a governmental body for seven years. Section 337.408, F.S., is modified to add modular newsracks to the list of receptacles and equipment that may be located within the public right-of-way.

Metropolitan Planning Organizations

The bill requires MPOs to identify and emphasize transportation facilities that serve national, state, and regional functions including projects designated as part of the Strategic Intermodal System.

High Speed Rail Authority

The Florida High-Speed Rail Authority Act gives broad tax exemption status to the High Speed Rail Authority and its agents. Sections 341.8203 and 341.840, F.S. are amended to clarify the tax exempt status as it relates to agents of the Authority. The bill narrows the tax exempt status by excluding associated development from the exemption, clarifying only component parts of the high-speed rail system and certain financial instruments are eligible for exemption. The bill provides a certification process to establish tax exemption status for contractors.

Tampa Bay Commuter Rail Authority

The Tampa Bay Commuter Rail Authority is redesignated as the Tampa Bay Commuter Transit Authority. The membership of the authority is expanded to include representation from Manatee and Sarasota Counties.

Emerald Coast Bridge Authority

Section 338.251, F.S., is amended to reorganize the debt service of the Emerald Coast Bridge.

Greater Orlando Aviation Authority

Chapter 1988-474, L.O.F., is amended to require the mayor of Orlando and the chairman of the Orange County Commission to be voting members of the Greater Orlando Aviation Authority.

Survey Markers

Section 177.031, F.S., is revised to allow alternative materials in certain survey markers.

Crandon Boulevard (Miami-Dade County)

Chapter 1988-418, L.O.F., is modified to allow modifications to Crandon Boulevard for the enhancement of safety and pedestrian use provided the improvement is heard in public hearing and approved by the Village Council of the Village of Key Biscayne.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 116-0

HB 9 — Road and Bridge Designations

by Rep. Needelman and others (CS/SB 1122 by Transportation Committee and Senators Sebesta, Lee, Miller, Crist, Lynn, Dawson, and Cowin)

This bill creates the following road designations:

- The portion of State Road 207 between Interstate Highway 95 in St. Johns County and the intersection with U.S. Highway 17 in Putnam County is designated as "Browning-Pearce Memorial Highway."

- The portion of U.S. Highway 17 in Putnam County from Crescent City south to the border at Volusia County is designated as "Jerome A. Williams Memorial Highway."

- The portion of State Road 16 in Clay County within the town limits of the Town of Penney Farms is designated as "James C. Penney Memorial Boulevard."

- The C. Fred Arrington Bridge located on U.S. Highway 27 between Tallahassee and Havana and crossing the Ochlockonee River is designated as "C. Fred and Marvin Arrington Bridge."

- The portion of U.S. Highway 192 from Interstate Highway 95 in Brevard County to St. Cloud in Osceola County is designated as "Howard E. Futch Memorial Highway."

- The St. Johns River Bridge on I-4 at the Seminole/Volusia County line is designated as the "St. Johns River Veterans Memorial Bridge."

- State Road 121, from the Georgia-Florida line in Baker County to the city limits of Lake Butler in Union County is designated as the "Ed Fraser Memorial Highway."

- The portion of Interstate 95 in Nassau County is designated as the "Trooper Charles W. Parks Memorial Highway."

- State Road 121, from the Union County line to the city limits of the City of Lake Butler, is designated as the "Deputy Renee Danell Azure Memorial Highway."

- The portion of U.S. Highway 17/92/441 (Orange Blossom Trail) in Osceola County from U.S. Highway 192 to the Orange County line is designated "Robert Guevara Memorial Highway."

- The portion of N.W. 103rd Street from N.W. 3rd Avenue to N.W. 32nd Avenue in Miami-Dade County is designated as "William H. Turner Memorial Boulevard."

- The portion of U.S. Highway 98 in Gulf County, from the Tapper Bridge to the First United Methodist Church at 1001 Constitution Drive in the City of Port St. Joe is designated as the "Clifford C. Sims Parkway."

- The bridge on I-75 at the Lake Panasoffkee area exit in Sumter County is designated as "Florida Veterans Memorial Bridge."

- The portion of U.S. Highway 90 between the City of Monticello in Jefferson County and the border at Suwannee County in Madison County is designated as part of the "Florida Arts Trail."

- The Buckhorn Creek Bridge on State Road 375 in Wakulla County is designated as the "Arthur L. Andrews Bridge" in honor of Wakulla County veterans.

- The Skypass Bridge (bridge number 930470) in the City of Riviera Beach in Palm Beach County is designated as "L. E. Buie Memorial Bridge."

- The portion of State Road 24 between County Road 345 and U.S. Highway 19 in Levy County is designated as "Forest Ranger Edward O. Peters Memorial Highway."

- The portion of N.W. 27th Avenue in Miami-Dade County, from N.W. 119th Street to N.W. 135th Street is designated as "Dr. T. Stewart Greer Avenue."

- The portion of the Old Gandy Access Road number 10-130-000 between Gandy Boulevard and the Friendship Trail Bridge, Department of Transportation number 10-130-001, in Hillsborough County is designated as "Andrew J. Aviles Trail."

- The portion of State Road 19 in Lake County from the north end of Lake County to the intersection of State Road 19 and U.S. Highway 441 in Eustis is designated as "Private Robert M. McTureous, Jr., U.S.M.C., Medal of Honor Memorial Highway."

- The interchange of Interstate Highway 95 and State Road 100 at exit number 284 in Flagler County is designated as "Deputy Charles 'Chuck' Sease Memorial Interchange."

- The portion of Interstate 4 from State Road 436 to State Road 50 is designated as "Larry E. Smedley Medal of Honor Highway."

- The bridge over the Sebastian Inlet, bridge number 880005, located on State Road A1A between Brevard County and Indian River County is designated as the "James H. Pruitt Memorial Bridge."

- The interchange of State Road 50, State Road 429, and the Florida Turnpike in Orange County is designated as "Veterans Memorial Interchange."

- Contingent on the passage of a resolution by the affected parties, that part of Interstate 275 in Pinellas County which extends from the Howard Frankland Bridge to the Skyway Bridge is designated as "St. Petersburg/William C. Cramer Parkway."

- The access road connecting the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute to Bruce B. Downs Boulevard in Hillsborough County is designated as "President Ronald Reagan Parkway."

- The portion of Edgewood Avenue W. in Jacksonville from U.S. 1, East to where Edgewood Avenue W. becomes Tallulah is designated as "Robert 'Bullet Bob' Hayes Avenue."

- The portion of Dunn Avenue in Jacksonville between I-295 West and I-95 North is designated as "Dan Jones Avenue."

- The portion of State Road 44 which lies between Deland and State Road 415 in Volusia County is designated as "Clyde Hart Highway."

- Upon designation as part of the State Highway System, the Intracoastal Waterway bridge portion of the Wonderwood Connector on Wonderwood Road between Girvin Road and

State Route A1A in Duval County is designated as the "Charles E. Bennett Memorial Bridge."

- Bridge number 170167, the Intracoastal Waterway bridge replacing bridge number 170036 on Business U.S. Highway 41 in Sarasota County, is designated as "Circus Bridge."

- U.S. Highway 98, in the City of Destin, from Gulf Shore Drive to 2378 Scenic Highway 98, is renamed "Emerald Coast Parkway." The City of Destin is directed to erect suitable markers.

- U.S. Highway 98, in the City of Destin, from the East end of Marler Bridge to Gulf Shore Drive, is renamed "Harbor Boulevard." The City of Destin is directed to erect suitable markers.

- State Road 909 on West Dixie Highway in Miami-Dade County, from the north boundary of State House District 108 to N.E. 2nd Avenue, is designated as "Alexandre Petion Boulevard."

- State Road 915 on N.E. 6th Avenue in Miami-Dade County, from the north boundary of State House District 108 to U.S. 1, is designated as "Frederick Douglass Boulevard."

- State Road 5 on Biscayne Boulevard (U.S. 1) in Miami-Dade County, from the north boundary of State House District 108 to the south boundary of the District, is designated as "George Gill Boulevard."

- State Road 932 on N.W. 103rd Street in Miami-Dade County, from the west boundary of State House District 108 to N.E. 6th Avenue, is designated as "James Weldon Johnson Boulevard."

- State Road 922 on N.W. 125th Street in Miami-Dade County, from N.W. 7th Avenue to Griffing Boulevard, is designated as "Jean-Jacques Dessalines Boulevard."

- The portion of Honey Hill Drive in Miami-Dade County, from N.W. 27th Avenue to N.W. 47th Avenue is designated as "Judge Wilkie D. Ferguson, Jr. Boulevard."

- The portion of N.W. 42nd Avenue in Miami-Dade County, from N.W. 119th Street to N.W. 135th Street is designated as "Sidney Alterman Way."

- The portion of the State Road 24 Trail in Gainesville from Newell Drive to Southwest 16th Avenue is designated "Kermit Sigmon Trail."

- U.S. Highway 331 in Walton County, from U.S. Highway 90 to the southern boundary of the City of DeFuniak Springs, is designated as "Veterans Memorial Boulevard."

- The portion of U.S. Highway 301 in Pasco County, northbound and southbound, is designated as "Captain Charles 'Bo' Harrison Memorial Highway."

- The North-South Drive on the University of Florida campus is redesignated as "Gale Lemerand Drive."

- U.S. 1, between 296th Avenue SW and 304 Street in Miami-Dade County, is designated as the "Jerry Underwood Memorial Highway."

- 8th Street between SW 57th Avenue and SW 62nd Avenue in Miami-Dade County is hereby designated "Cesar Calas Memorial Highway."

- The portion of N.W. 36th Street between N.W. 27th Avenue and N.W. 39th Avenue is Miami-Dade County is designated "Bill Seidle Boulevard."

Except where noted otherwise, the Department of Transportation is directed to erect suitable markers indicating the designations listed above.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-1; House 117-0

HIGHWAY SAFETY AND MOTOR VEHICLES

HB 1737 — Motor Vehicle Records/HSMV/Public Records

by Transportation Committee and Rep. Russell (CS/SB 2008 by Transportation Committee and Senators Sebesta, Clary, Geller, and Lynn)

Public Records Exemption

The bill amends s. 119.07(3)(aa), F.S., to provide holders of Florida driver licenses will not have to "opt out" to ensure identifying information contained in motor vehicle records is withheld from public disclosure. The bill also revises two exceptions allowing for public disclosure in connection with a legal proceeding, specifying the information may not be used for mass commercial solicitation of clients for litigation against motor vehicle dealers. This bill also provides driver's license information can be distributed for surveys, solicitations or marketing purposes only when the license holder expressly consents to the release of the information for that purpose. This bill provides the restrictions contained in s. 119.07(3)(aa), F.S., do not impair the use of organ-donation information found on a driver license nor impair the administration of

organ-donation initiatives in this state. This bill also revises the citation to the federal Driver's Privacy Protection Act to reflect recent amendments.

Finally, this bill makes this exemption subject to the Open Government Sunset Review Act of 1995 and will repeal on October 2, 2009, unless reviewed and reenacted by the Legislature.

Public Necessity Statement

The bill provides a public necessity statement as required by s. 24(c), Art. I, State Constitution, to justify the exemption from public records laws. The bill is needed, according to the public necessity statement, to exempt personal information in motor vehicle records, with limited exceptions, to prevent the disclosure of personal information to individuals who would use the information for malicious purposes and to conform to federal law.

If approved by the Governor, these provisions take effect October 1, 2004.
Vote: Senate 38-0; House 105-6

CS/SB 1414 — Mobile and Manufactured Homes

by Regulated Industries Committee and Senator Diaz de la Portilla

This bill contains a number of changes to provisions of law relating to the regulation of mobile and manufactured homes. The bill amends s. 319.261, F.S., to no longer allow the manufacturer's certificate of origin to be used to retire the title to a mobile home. Section 320.822, F.S., is amended to clarify the definition of "setup" to include "installation" which conforms to the correct terminology used in the industry. In addition, installing foundation products, components and systems are included in the definition.

The bill amends s. 320.823, F.S., to provide that each new mobile or manufactured home manufactured or sold in this state must meet the manufactured home construction and safety regulations promulgated by the U.S. Department of Housing and Urban Development (HUD), pursuant to the Manufactured Housing Improvement Act.

The bill amends s. 320.8249, F.S., to prohibit a licensed mobile home installer from violating other state laws or rules relating to installing, repairing, or dealing in mobile homes. Also, the section provides additional prohibited actions in which the Department of Highway Safety and Motor Vehicles (DHSMV or department) at its discretion may impose disciplinary penalties, including a fine not to exceed $1,000 per violation involving a single installation and not to exceed $5,000 for a violation involving the complete setup. Section 320.8249, F.S., is further amended to prohibit a local government from requiring a mobile home installer to obtain additional bonding or insurance. In addition, a new subsection (14) is created to provide for licensed mobile home installers to maintain a location log for each installation decal for two

years. However, this requirement will not take effect until DHSMV develops an acceptable format for the log and provides a sample to each licensed installer.

The bill creates s. 320.8251, F.S., to require manufacturers of mobile home installation products or systems to obtain a certificate of approval from DHSMV. The manufacturer must submit to DHSMV a report certifying the mobile home installation component, product, or system meets the established mobile home installation standards based on a report from a state licensed professional engineer. Upon review, DHSMV is authorized to approve or deny the certification. The section also provides the certification is subject to suspension or revocation and obtaining such certification fraudulently or by misrepresentation will subject the responsible party to a fine. In addition, the section provides that products, components, or systems currently used in the installation or mobile homes need not be certified until July 1, 2009.

The bill amends s. 320.8285, F.S., to provide each county or municipality is responsible for the onsite inspection of each mobile home installation located within its respective jurisdiction. The onsite inspection must ensure compliance with DHSMV's uniform installation standards, and each mobile home is to be issued a certificate of occupancy if the mobile home is found in compliance with DHSMV's standards after an inspection. In addition, local governments are authorized to issue permits for installation of mobile homes only to a licensed mobile home installer or to a licensed mobile home dealer or manufactured home owner if the dealer or owner provides a licensed installer will be performing the actual work. The bill deletes the provisions in s. 320.8285(1) and (3), F.S., relating to standards in local building codes, ordinances, and regulations, which are obsolete in the context of the federal preemption for these standards. The bill also deletes the provision in s. 320.8285(1), F.S., relating to the DHSMV's authority to adopt rules for counties and municipalities that do not prepare and adopt a plan for onsite inspection of mobile homes.

The bill amends s. 320.8325, F.S., to require uniform standards for the installation of mobile homes, manufactured homes, and park trailers; and uniform standards for the manufacture of components, products, or systems used in the installation of the above. Also, the section is amended to provide that mobile homes, manufactured homes, and park trailers must be installed on a permanent foundation that resists wind, flood, flotation, overturning, sliding and lateral movement of the home or park trailer. In addition, the owner of the mobile home, manufactured home, or park trailer is responsible for the installation in accordance with DHSMV rules. Finally, obsolete language is deleted and replaced, and the term "manufactured homes" is included to conform the provision to the terminology used in the industry.

The bill amends s. 320.834, F.S., to provide mobile homes are an affordable housing resource and s. 320.835, F.S., is amended to include installers in the requirement that each mobile home manufacturer, dealer and supplier must warrant that the setup operations performed on the mobile home are performed in compliance with DHSMV rules. The bill expands the requirement under current law that the warranty must be for a period of at least 12 months to include the condition that the warranty is measured from the date of receipt of a certificate of occupancy

from an installer, or from the date of sale of a recreational vehicle. The bill provides in s. 320.835(5), F.S., DHSMV may adopt rules under ch. 120, F.S., to resolve disputes that may arise among mobile home manufacturers, dealers, installers, and suppliers. The rules must comply with the dispute resolution process set forth in the Federal Manufactured Housing Improvement Act.

In addition, this bill amends s. 215.559(8), F.S., to extend the repeal date of the Hurricane Loss Mitigation Program from June 30, 2006 to June 30, 2011.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 116-0

CS/CS/SB 2020 — Specialty License Plates

by Appropriations Committee; Transportation Committee; and Senators Clary, Smith, Saunders, Wise, Cowin, Bullard, and Haridopolos

The bill amends ss. 320.08053, 320.08056 and 320.08058, F.S., and provides the following relating to specialty plates:

Florida Educational

The bill increases the annual use fee for the Florida Educational specialty license plate from $15 to $20.

Save Our Seas

The bill directs the Department of Highway Safety and Motor Vehicles (DHSMV) to issue a Save Our Seas specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for the new specialty license plate, except that any single owner purchasing more than 10 of the Save Our Seas specialty plates for vehicles registered to that owner shall pay an annual use fee of only $10 per plate.

The annual use fees for the Save Our Seas specialty license plate will be distributed to the Harbor Branch Oceanographic Institution, Inc. After the Harbor Branch Oceanographic Institution, Inc. is reimbursed for documented costs expended for establishing the license plate, the first annual use fee proceeds shall be used as follows:

- Ten percent of the funds to the Guy Harvey Research Foundation to conduct fisheries and shark research in Florida;
- Up to 15 percent of the funds for administrative costs directly associated with the Harbor Branch Oceanographic Institution, Inc.'s marine science and marine education programs and administrative costs associated with the specialty license plate; and

- Up to 10 percent for continuing promotion and marketing of the specialty license plate;

The remaining annual use fee proceeds shall be used to:

- Conduct scientific research and education on marine plants and animals and coastal oceanography in Florida marine waters;
- Collect and analyze long-term data sets on the state's critical marine habitats;
- Determine changes in populations and communities of marine organisms and their impacts on the use of Florida's marine resources;
- Maintain reference collections of scientific specimens and photographic archives of the state's marine plates and animals; and
- Conduct scientific conferences of relevance to Florida's marine resources and their management, utilization, and conservation.

Aquaculture

The bill directs DHSMV to issue an Aquaculture specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for the new specialty license plate, except that any single owner purchasing more than 10 of the Aquaculture specialty license plates for vehicles registered to that owner shall pay an annual use fee of only $10 per plate.

The annual use fees for the Aquaculture specialty license plate will be distributed to the Harbor Branch Oceanographic Institution, Inc. After the Harbor Branch Oceanographic Institution, Inc. is reimbursed for documented costs expended for establishing the license plate, the first annual use fee proceeds shall be used as follows:

- Ten percent of the funds to the Guy Harvey Research Foundation to conduct outreach and education regarding aquaculture in Florida;
- Up to 15 percent for administrative costs directly associated with the Harbor Branch Oceanographic Institution, Inc.’s aquaculture programs and administrative costs associated with the specialty license plate; and
- Up to 10 percent for continuing promotion and marketing of the specialty license plate.

The remaining annual use fee proceeds shall be used to conduct scientific research and education on environmentally responsible and sustainable methods of farming:

- Freshwater and saltwater organisms such as fish, shellfish, and crustaceans for food;
- Biomedical species for pharmaceutical and nutriceutical compounds; and
- Marine ornamentals for the aquarium trade.

These remaining annual use fee proceeds will also be used to expand Harbor Branch Oceanographic Institution, Inc.'s, educational programs, including secondary school field trips, college degree programs, and other intensive courses, with the objective of increasing aquaculture's contribution to Florida's economy.

Family First

The bill directs DHSMV to issue a Family First specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate.

The annual use fees will be distributed to Family First to fund the following:

- To reimburse Family First for startup costs for developing and establishing the plate; thereafter;
- Up to 5 percent of the funds may be expended for administrative costs directly associated with the operations of Family First;
- Up to 20 percent of the funds may be expended for promoting and marketing the license plate; and
- The remaining funds may be used for programs, projects, seminars, events and family resources promoting principles for building marriages, guiding parents and raising children.

Sportsmen's National Land Trust

The bill directs the DHSMV to issue a Sportsmen's National Land Trust specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate.

The annual use fees will be distributed to the Sportsmen's National Land Trust to be used as follows:

- 50 percent may be retained until 50 percent of all startup costs for developing and establishing the plate have been recovered;
- 25 percent to fund programs and projects within the state which preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public; and
- 25 percent of the funds may be expended for promotion, marketing and administrative cost directly associated with operation of the Sportsmen's National Land Trust.

Also, the bill specifies the annual use fees may be used to fund the programs and projects as stated above after the 50 percent of all startup costs are retained.

Live the Dream

The bill directs DHSMV to issue a Live the Dream specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate.

The annual use fees for the Live the Dream specialty license plate will be distributed to the Dream Foundation, Inc., to be used as follows:

- The Dream Foundation, Inc., shall retain the first $60,000 in proceeds as reimbursement for administrative costs, startup costs, and costs incurred in the approval process; thereafter
- Up to 25 percent of the proceeds to market the organizations concept and the license plate; and
- The remaining funds shall be distributed in order to:
    - 25 percent as grants for programs providing research, care and treatment for sickle-cell disease;
    - 25 percent to the March of Dimes Florida Chapter for programs and services that improve the health of babies through the prevention of birth defects and infant mortality;
    - 10 percent to the Florida Association of Healthy Start Coalitions to decrease racial disparity in infant mortality and to increase healthy birth outcomes. In addition, funding will be used to provide services and increase screening rates for high-risk pregnant women, children under 4 years of age and women of childbearing age;
    - 10 percent to the Community Partnership for Homeless, Inc., for programs providing relief for poverty, hunger and homelessness; and
    - 5 percent for administrative costs directly associated with the foundation's operations.

Florida Food Banks

The bill directs DHSMV to issue a Florida Food Bank specialty license plate with the word "Florida" to appear at the top of the plate and the word "Imagine" to appear at the bottom of the plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate.

The annual use fees will be distributed to the Florida Association of Food Banks, Inc., to fund programs to end hunger in Florida. Up to 25 percent of the proceeds may be used to market the association's concept and the license plate. An advisory board composed of a representative of each member food bank of the Florida Association of Food Banks, Inc., shall review the distribution of funds by the association.

Discover Florida's Oceans

The bill directs the DHSMV to issue a Discover Florida's Oceans specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate.

The annual use fees will be distributed to the Hubbs Florida Ocean Fund, Inc., to be used as follows:

- 20 percent of the funds shall be distributed to the Wildlife Foundation of Florida Inc., to be used for ocean, estuarine, or coastal scientific research, conservation, and education projects;
- Up to 10 percent of the funds may be used for administrative costs;
- Up to 15 percent of the funds may be used for promotion and marketing of the specialty license plate; and
- The remainder of the funds may be used:
    - To collect, analyze, archive, and publish scientific data regarding Florida's ocean, estuary, and coastal habitats, and species that inhabit, utilize, or migrate in state those waters and habitats;
    - To provide response, care, assistance, and research as part of Hubbs-SeaWorld Research Institute's statewide role in responding to and archiving data on stranded marine species;
    - To construct and maintain a marine and coastal research center in association with the Archie Carr National Wildlife Refuge on lands donated to Hubbs-SeaWorld Research Institute by the Richard King Mellon Foundation;
    - To train teachers and students to enhance scientific literacy, scientific research competency, and technology development;
    - To conduct ocean-space aquatic research and scientific research focused on ocean observations from space;
    - To conduct research on economic benefits of the state's ocean, estuary, and coastal resources and public use of those resources;
    - To create research and education programs that contribute to the development of the state's knowledge infrastructure and diversify the economy; and
    - To implement programs that seek objective, common-sense, scientific solutions to the complex marine and coastal ecological problems facing the state.

Family Values

The bill directs DHSMV to issue a Family Values specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate.

The annual use fees will be distributed to the Sheridan House, Inc., and will be expended for the following:

- To reimburse the Sheridan House, Inc., for startup costs for developing and establishing the specialty license plate;
- Up to 5 percent for administrative costs directly associated with the operations of the Sheridan House, Inc.;
- Up to 20 percent for promotion and marketing of the specialty license plate; and
- The remaining amount for residential care programs, family counseling, social services for single parents and their children, resource materials and facility construction.

Parents Make A Difference

The bill directs the DHSMV to issue a Parents Make A Difference specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate. The annual use fees will be distributed to The Gathering/USA, Inc., to fund personal counseling for parents, marriage seminars, Dads & Moms That Make a Difference seminars, father/son and mother/daughter retreats, and personal parenting behavioral assessments. The proceeds must be used in the following manner:

- Initial proceeds will be retained by The Gathering until startup costs are recovered;
- Up to five percent of the proceeds will be spent on administrative costs directly associated with the operations of The Gathering;
- Up to 20 percent will be spent on promotion and marketing of the license plate; and
- All remaining proceeds must be spent by The Gathering for programs.

Support Soccer

The bill directs the DHSMV to issue a Support Soccer specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate.

The annual use fees for the Support Soccer specialty license plate will be distributed to the Lighthouse Soccer Foundation, Inc., to be used as follows:

- The Lighthouse Soccer Foundation, Inc., shall retain the initial proceeds, not to exceed $85,000, as reimbursement for administrative costs, startup costs, and costs incurred in the approval process; thereafter, the proceeds shall be used in the following manner:
- Up to 25 percent of the proceeds to market the organizations concept and the license plate; and
    - 20 percent to the Florida Youth Soccer Association for programs and services fostering physical, mental, and emotional growth and development of Florida's

youth through the sport of soccer at all levels of age and competition, including a portion to be determined by the Florida Youth Soccer Association for the TOPSoccer program to foster participation by the physically and mentally disadvantaged;

- 20 percent as grants for programs promoting participation by the economically disadvantaged and supporting soccer programs where none previously existed;
- 10 percent to the Florida State Soccer Association to promote the sport of soccer and long-term development of the sport;
- 10 percent as grants for programs promoting and supporting the construction of fields and soccer-specific infrastructure;
- 10 percent as grants for programs fostering and promoting health, physical fitness, and educational opportunities through soccer; and
- 5 percent for administrative costs directly associated with the foundation's operations as they relate to the management and distribution of the proceeds.

Kids Deserve Justice

The bill directs the DHSMV to issue a Kids Deserve Justice specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate. The annual use fees will be distributed to the Florida Bar Foundation, Inc., to operate a grant award process to fund children's legal services programs, which shall include legal services programs, and programs to obtain: federal benefits for disabled children; testing and services required by law for learning disabled children; and permanent placement for abused and neglected children. In addition, the Florida Bar Foundation, Inc., is authorized to retain the first annual use fee proceeds to offset its costs in developing the plate.

Animal Friend

The bill provides that notwithstanding the provisions of s. 320.08053, F.S., the DHSMV is to issue an Animal Friend specialty license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate. The bill authorizes the DHSMV to retain the first $60,000 in proceeds to cover its costs related to the development and issuance of the specialty license plate. Thereafter, the annual use fees will be distributed to the Humane Society of the United States for animal welfare programs and spay and neuter programs in Florida. However, no more than 10 percent of the proceeds may be used for administrative costs directly associated with marketing and promotion of the plate and distribution of funds. Also, funds received from the purchase of the plate may not be used for litigation.

Specialty License Plate Requirements

The bill revises Florida's existing specialty license plate program. Specifically, the bill amends ss. 320.08053 and 320.08056, F.S., relating to the application process to:

- Require an applicant to create the artwork for the sample plate in a medium prescribed by DHSMV;
- Define "scientific sample survey" as information gathered from a representative subset of the population as a whole;
- Modify the requirements for specialty license plates to require a scientific sample survey indicating 30,000 motor vehicle owners intend to purchase the proposed plate rather than 15,000 motor vehicle owners;
- Require the Auditor General to validate the methodology, results, and any evaluation by DHSMV of the scientific sample survey prior to the submission of the specialty license plate for approval by the Legislature;
- Require DHSMV to develop design standards for specialty license plates to assist law enforcement in identification of the state of origin of a plate (as to Florida-issued plates). The rules must provide uniform specifications requiring common placement of the word "Florida" on specialty plates, and requiring the word to be clearly identifiable when the plate is mounted on a vehicle. The rules must also provide specifications for the size and location of any words or logos appearing on the plates;
- Authorize DHSMV to retain annual use fees sufficient to cover inventory costs and audit and attestation compliance review costs directly associated with the requirements of administering the specialty license plate program;
- Change the time and criteria for discontinuation of an approved specialty license (even collegiate specialty plates). If the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months DHSMV must discontinue the plate. In addition, a warning letter is to be mailed to the sponsoring organization following the first month the total number falls below 1,000 plates; and
- Require DHSMV, in cooperation with representatives of local tax collectors and PRIDE at Union Correctional Facility, to study the feasibility of using direct-to-customer distribution of license plates, and to report the findings to the Legislature no later than December 31, 2004.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 32-6; House 116-2

HB 1335 — Vehicle Emergency Lights/Wreckers

by Rep. Galvano (CS/SB 402 by Transportation Committee and Senator Carlton)

The bill (Chapter 2004-20, L.O.F.) amends s. 316.2397, F.S., to provide greater specificity regarding the use of rotating amber lights by wreckers. This bill requires a wrecker to use amber rotating or flashing lights while performing recoveries and loading on the roadside day or night.

This bill amends s. 316.126, F.S., to provide that when a wrecker is performing a recovery or loading on the roadside while displaying amber rotating or flashing lights, motorists are to, as

soon as it is safe, vacate the lane closest to the wrecker when driving on an interstate highway or other highway with two or more lanes traveling in the direction of the emergency vehicle. On two lane roads, motorists are required to reduce their speed to 20 mph less than the posted speed limit when the posted speed limit is 25 mph or greater or slow to a speed of 5 mph when the posted speed limit is 20 mph or less; unless otherwise instructed by a law enforcement officer.

These provisions were approved by the Governor and take effect July 1, 2004.
Vote: Senate 37-0; House 119-1

SB 324 — Driver's Licenses/Highway Safety and Motor Vehicles

by Senator Saunders

The bill amends s. 322.20, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV) to maintain conviction records for persons holding a foreign driver's license if the uniform traffic citation indicates an address located in Florida.

The bill also amends s. 322.27, F.S., to require law enforcement agencies to notify DHSMV within 24 hours after any traffic fatality or when a law enforcement officer initiates a blood test for impairment or intoxication in cases of death or serious injury. This bill conforms statutory language to procedures that are currently codified in the Florida Uniform Traffic Citations Procedure Manual.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 118-0

SB 276 — Safe Harbor Haven, Inc./Vessels

by Senator Wise

The State of Florida requires the registration of most water-borne vessels, subject to fees ranging from $3.50 to $122.50, based on vessel length. Exempted from registration fees are vessels certified as antique by the Florida Department of Highway Safety and Motor Vehicles and vessels owned by several charitable or not-for-profit organizations.

The bill amends s. 328.72, F.S., to reinstate the vessel registration-fee exemption for Safe Harbor Haven, Inc., a Jacksonville based organization that includes among its programs a residential education and counseling program for troubled teenaged boys.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 113-0

HB 11 — Motor Vehicle Title Certificates

by Rep. Adams and others (SB 314 by Senators Campbell and Lynn)

This bill amends s. 319.23, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV) to retain, for a period of not less than 10 years, all titles, manufacturers' statements of origin, applications, and supporting documents submitted with the application, including, but not limited to, odometer statements, vehicle identification number verifications, bills of sale, indicia of ownership, dealer reassignments, photographs, and any personal identification, affidavits, or documents required by or submitted to DHSMV.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 119-0

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