

# THE FLORIDA SENATE



## INTERIM WORK PLAN 2011 SESSION

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President of the Senate

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President Pro Tempore

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# AGRICULTURE

## Interim Projects

<b>INTERIM PROJECT TITLE:</b>
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<i>Impact of the Overproduction of Peanuts</i>
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**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-101

**ISSUE DESCRIPTION and BACKGROUND:**

The Department of Agriculture and Consumer Services regulates the state's peanut industry. Responsibilities include the regulation of production practices pertaining to fertilizer application, crop research, food safety, marketing order assessments and collections, and marketing campaigns. In 2007 and 2008, peanut farmers throughout the nation overproduced, resulting in a large carryover for the 2009 growing season which impacted peanut production and prices.

**OBJECTIVE:**

Senate professional Staff of the Agriculture Committee in coordination with Professional Staff of the General Government Appropriations Committee will research issues and potential impact of overproduction of peanuts and the impact it may have on Florida's peanut farmers and propose options for legislative consideration to lessen the impact.

**METHODOLOGY:**

Senate Professional Staff of the Agriculture Committee in coordination with Professional Staff of the General Government Appropriations Committee will contact representatives of the state's peanut industry; the Department of Agriculture and Consumer Services and review materials pertaining to this issue.

<b>INTERIM PROJECT TITLE:</b>
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<i>Impact of Deepwater Horizon Oil Leak on Aquaculture</i>
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**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-102

**ISSUE DESCRIPTION and BACKGROUND:**

The Department of Agriculture and Consumer Services regulates the state's aquaculture industry. Responsibilities include regulating aquaculture facilities and shellfish processing plants, classifying and managing shellfish harvesting areas to reduce the risk of shellfish-borne illness, managing leases of submerged state lands, and restoring oyster reefs to ensure continued productivity. In April 2010 an explosion in the Gulf of Mexico of the Deep Water Horizon oil rig off the coast of Louisiana took place causing a potential threat to sea life in the gulf and along the coastline, including Florida's aquaculture industry.



**OBJECTIVE:**

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will research issues and potential impacts to the state's aquaculture industry that this dramatic incident may have and propose options for legislative consideration.

**METHODOLOGY:**

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will contact representatives of the state's aquaculture industry, the Department of Agriculture and Consumer Services and review materials pertaining to the issue.

**INTERIM PROJECT TITLE:**

*Potential Creation of Biofuel from Equine Bedding Waste*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-103

**ISSUE DESCRIPTION and BACKGROUND:**

The Department of Agriculture and Consumer Services regulates certain aspects of the state's horse industry. Responsibilities include the regulation of the health of horses, and also, in conjunction with the Department of Environmental Protection, ensuring the safe disposal of animal waste. Currently, Florida has many horse parks, livestock centers, and farms where animal waste and animal bed waste is readily available.

**OBJECTIVE:**

Senate Professional Staff of the Agriculture Committee in coordination with Professional Staff of the General Government Appropriations Committee will research issues and potential impact of utilizing animal bed waste and animal waste for the creation of bio-fuel in the state and propose options for legislative consideration.

**METHODOLOGY:**

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will contact representatives of the state's horse industry, the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and review materials pertaining to this issue.

## Issue Briefs

*(None)*

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**  
*Citrus Canker Eradication*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-301

**ISSUE DESCRIPTION and BACKGROUND:**

This legislation repeals s. 581.1845, F.S., relating to citrus canker eradication, and removes all references to the Citrus Canker Eradication Program from the Florida Statutes. In January 2006, based on scientific analyses, the United States Department of Agriculture took the position that the current citrus canker eradication plan in Florida was inadequate to contain the disease and that a new management plan should be developed. The USDA further stated that it would no longer fund tree removal that was done with eradication as the goal. As a result, Chapter 2006-45, Laws of Florida, was enacted to replace the Citrus Canker Eradication Program with a comprehensive citrus health plan to minimize the impact of pests and diseases on the production of citrus and to allow Florida's citrus to be marketed to other states and countries.

**OBJECTIVE:**

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor the repeal of s.581.1845, F.S., and the impact, if any, of removing all references to the Citrus Canker Eradication program from the Florida Statutes.

**METHODOLOGY:**

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor the activities, if any, as a result of removing the section of law from State Statutes.

**INTERIM MONITOR PROJECT TITLE:**  
*Prohibition Regarding Unappropriated Cash Balances in the Department of Agriculture and Consumer Services, Division Of Licensing Trust Fund*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-302

**ISSUE DESCRIPTION and BACKGROUND:**

This legislation exempts the Division of Licensing Trust Fund within the Department of Agriculture and Consumer Services (Department) from the Legislature's authority to transfer unappropriated cash balances to the Budget Stabilization Fund and the General Revenue Fund in the General Appropriations Act. This trust fund provides for activities associated with the regulation of private security, investigative and recovery industries, and weapons and firearms. The funds are available via a fee structure regulating licensees, as well as individuals and businesses engaging in private security, private investigations, and recovery of properties.

**OBJECTIVE:**

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor implementation of the provisions of the legislation.

**METHODOLOGY:**

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor the application of the exemptions provided in legislation by this bill.

**INTERIM MONITOR PROJECT TITLE:**

*Tomato Food Safety*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-303

**ISSUE DESCRIPTION and BACKGROUND:**

Requirements are delineated in this legislation for a tomato farmer, packer, repacker, or handler to be considered in compliance with state food safety microbial standards and guidelines. The bill authorizes the Department of Agriculture and Consumer Services to inspect tomato farms, tomato greenhouses, tomato packinghouses, repacking locations, or any vehicle being used to transport or hold tomatoes to ensure compliance with food safety standards. The department is also authorized to impose administrative fines or to issue a written notice or warning for violations. These requirements are among the highest for food safety in the nation.

**OBJECTIVE:**

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor implementation of the provisions of the legislation pertaining to the state's tomato farmers, packers, repackers, and handlers by the Department of Agriculture and Consumer Services.

**METHODOLOGY:**

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor the activities of the Department of Agriculture and Consumer Services, and private sector businesses pertaining to implementation of the newly enacted provisions.

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# BANKING AND INSURANCE

## Interim Projects

**INTERIM PROJECT TITLE:**

*Issues Relating to Sinkhole Insurance*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-104

**ISSUE DESCRIPTION and BACKGROUND:**

Florida has more sinkholes than any other state in the nation. They are an obvious feature of Florida's natural topography as they provide a primary pathway for rainwater to replenish subsurface groundwater and play an important part of the aquifer system that supplies 95 percent of Florida's drinking water. However, sinkhole formation is aggravated and accelerated by urbanization and suburbanization. Development increases water usage, alters drainage pathways, adds weight to the ground surface, and redistributes soil. According to the Federal Emergency Management Agency (FEMA), the number of human-induced sinkholes has doubled since 1930.

Insurance claims from Florida homeowners for damages resulting from sinkholes have increased dramatically both in number and costs over the past 10 years. Under current law, insurers must make available to policyholders, for an appropriate additional premium, sinkhole coverage for losses on any structure, including personal property contents. Property insurers must also provide coverage for a catastrophic ground cover collapse.

The costs associated with insuring against sinkhole-related losses and the increasing costs to remedy damage caused to insured property have escalated. Sinkhole insurance claims have increased in recent years by 200 to 300 percent for some property insurers who in turn have paid millions of dollars annually to settle such claims. For example, the number of sinkhole claims made against Citizens Property Insurance Corporation have more than doubled between 2005 and 2009.

The Legislature has made multiple changes to the laws governing sinkhole insurance coverage in 2005, 2006, and 2007, but further issues need to be examined, including but not limited to, sinkhole investigations and reports; the burden of proof in sinkhole claim disputes; fraudulent practices pertaining to sinkhole claims; the procedures and time parameters for the stabilization and repair of damaged buildings and structures, including the payment by insurers of sinkhole claims; the accountability and liability of engineers and geologists involved in sinkhole claims; the neutral evaluation process, including the selection and qualifications of the sinkhole neutral evaluator; and the purpose and effectiveness of the sinkhole database which is the responsibility of the Department of Financial Services.

**OBJECTIVE:**

The recent increase in the number of sinkhole claims and costs associated with such claims underscores the need to examine the issues outlined above. In examining these matters, the interim report will seek to provide information to aid policymakers and other interested parties in assessing these issues.

**METHODOLOGY:**

Professional staff will employ a number of research methods including:

- researching relevant statutes, rules, reports, studies, and case law relating to sinkholes;
- interviewing staff with the Department of Financial Services, the Office of Insurance Regulation, and Citizens Property Insurance Corporation; and
- surveying selected stakeholders, insurers and consumers involved in the sinkhole claims' process.

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

*Non-judicial Foreclosure*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-201

**ISSUE DESCRIPTION and BACKGROUND:**

Florida currently has one of the highest foreclosure rates in the country. Because of the high volume of foreclosures, Florida courts have become overwhelmed and backlogged; often it takes over a year from the date a foreclosure is filed before the foreclosure sale occurs. Moreover, in an effort to extend the time that homeowners have in their homes, many defense attorneys are filing motions to delay foreclosure cases, even when the owner has little hope of staying in the home. Some market participants have advocated a foreclosure process that occurs outside of the courts; such non-judicial foreclosures are referred to as a "foreclosure by sale."

**OBJECTIVE:**

This issue brief will explore the viability of a non-judicial foreclosure option to facilitate foreclosures without overburdening Florida courts. This issue brief will discuss the potential positive impacts and the possible negative and legal ramifications of non-judicial foreclosures.

**METHODOLOGY:**

Professional committee staff will review other state laws that allow foreclosures to be conducted non-judicially and describe the various approaches and differences among such laws. Any reported complaints and official opinions in these states will be researched and evaluated. Professional committee staff will also solicit comments from state regulators, judges, and industry groups, such as the Real Property section of the Florida Bar, to determine whether non-judicial foreclosures would have a positive effect in Florida.

**INTERIM ISSUE BRIEF TITLE:**

***Financial Products That Serve As Alternatives to Reinsurance***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-202

**ISSUE DESCRIPTION and BACKGROUND:**

In general, insurers purchase reinsurance as a means to transfer risk. However, the rates reinsurers charge for reinsurance are not regulated by the Office of Insurance Regulation (OIR) and thus are allowed to fluctuate in price. If the price of reinsurance decreases, reinsurance becomes more affordable for insurance companies and this will be reflected in more capacity, price competition, and may result in lower premiums insurers charge their policyholders. However, if the price of reinsurance increases, insurers may not be able to purchase adequate reinsurance or, if insurers do purchase adequate reinsurance, they may have to increase the premiums charged to their insureds.

Some insurers would like to purchase a range of financial products in lieu of buying traditional reinsurance because these products would be less expensive than reinsurance. However, these products are not considered “reinsurance” by the OIR. Under current law, insurers authorized in Florida that buy reinsurance are allowed to receive credit on their financial statements only if the reinsurance is a type that is approved and acceptable to the OIR, as specified in s. 624.610, F.S.

During this past session, a proposal was introduced, but did not pass the legislature, that would have allowed insurers to use other types of financing products and have these products treated as reinsurance under the Insurance Code.

**OBJECTIVE:**

The purpose of this issue brief would be to examine various financial products and make a determination as to whether these products should be considered as alternatives to reinsurance.

**METHODOLOGY:**

Committee professional staff will employ a number of research methods, including:

- Researching financial products that would possibly qualify as alternatives to traditional reinsurance; and
- Interviewing selected insurers, investment counselors, the OIR, and the Department of Financial Services.

**INTERIM ISSUE BRIEF TITLE:**

***Public Adjusters***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-203

**ISSUE DESCRIPTION and BACKGROUND:**

In 2010, the Legislature passed CS/CS/SB 2044, which would have imposed wide-ranging changes to the regulation of property insurance. The bill included several regulatory changes to the way in which public adjusters would operate. These changes include:



- Prohibiting public adjusters from making certain statements in advertisements or solicitations and mandating that certain information be included in contracts.
- Instituting a 3 year claims filing deadline for new, supplemental, or reopened claims.
- Capping fees in supplemental or reopened cases.
- Requiring persons acting on behalf of an insurer to provide at least 48 hours' notice to an insured or claimant, public adjuster, or legal representative prior to scheduling a meeting with the claimant or an onsite inspection of the insured property.
- Prohibiting an insurer from excluding the public adjuster from in-person meetings with the insured. Prohibiting a public adjuster from restricting or preventing an insurer, or other person acting on behalf of the insurer, from having reasonable access to any insured or to the insured property.
- Requiring public adjuster apprentices to complete additional hours of continuing education.

The Governor vetoed CS/CS/SB 2044, leaving the current regulation of public adjusters unchanged. As a result, concerns over the current practices of public adjusters and the affect on consumers remain unaddressed.

**OBJECTIVE:**

This issue brief will explore issues relating to the regulation of public adjusters.

**METHODOLOGY:**

Professional committee staff of the Banking and Insurance Committee will interview selected insurers, public adjusters, the Insurance Consumer Advocate, the Department of Financial Services, and the Office of Insurance Regulation.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

*Impact of Federal Health Care Reforms on the Florida Private Insurance Market*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-304

**ISSUE DESCRIPTION and BACKGROUND:**

On March 23, 2010, the President signed into law health care reform legislation (the Patient Protection and Affordable Care Act, "PPACA," P.L. 111-148, as amended by the reconciliation act, P.L. 111-152) that will have a significant impact on the private health insurance market in Florida. The PPACA imposes new requirements on individuals, employers, and health plans; restructures the private health insurance market; modifies the current state-based regulatory system applicable to private plans; sets minimum standards for health coverage and benefits; and provides financial assistance to certain individuals. Key provisions in the PPACA are effective this year; however, the full implementation date for many of the reforms occurs January 1, 2014.

**OBJECTIVE:**

Professional committee staff will evaluate the federal legislation to determine how the provisions may necessitate changes in state laws regulating private health insurance. In addition, professional

committee staff will analyze the potential fiscal impact of the health insurance reforms on the private and public sector.

**METHODOLOGY:**

Professional committee staff will review and evaluate federal legislation and solicit comments from state insurance regulators, the private insurance market, consumer advocates, and other stakeholders to determine the impact of the federal legislation on Florida.



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# CHILDREN, FAMILIES, AND ELDER AFFAIRS

## Interim Projects

**INTERIM PROJECT TITLE:**

*Differential Response to Reports of Child Abuse and Neglect*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-105

**ISSUE DESCRIPTION and BACKGROUND:**

During the past several decades, child protective service agencies have been challenged by large volumes of child abuse and neglect reports, growing caseloads involving increasingly complex problems, and limited resources. At the same time, there has been growing recognition that "one size does not fit all" in responding to child maltreatment reports. States have introduced reforms to child protection systems to address these varied response needs.

One such reform is differential response, in which child protective service agencies conduct traditional investigations or offer assessment-based alternatives to families reported for child abuse and neglect, depending on the severity of the allegation and other considerations. The introduction of differential response has been driven by the desire to:

- Be more flexible in responding to child abuse and neglect reports;
- Recognize that an adversarial focus is neither needed nor helpful for all cases;
- Understand better the family issues that lie beneath maltreatment reports; and
- Engage parents more effectively to use services that address their specific needs.

Differential response systems have been implemented in more than two dozen states across the country. Some jurisdictions are still in the early stages of implementation with just a few pilot sites, while others are expanding or institutionalizing their systems statewide.

With the creation of Part III of chapter 415, F.S., in 1993, Florida was one of the first two states to implement a differential response system. These provisions were repealed in 1998. The department has conducted differential response pilots and subsequently established a "family in need of assistance" referral process. Statutory authority does not exist for DCF to operate a differential response system.

**OBJECTIVE:**

This issue brief will analyze issues related to differential response in child welfare. Specifically, this brief will:

- Outline the history of differential response and its purposes;
- Summarize what other states are doing related to differential response;
- Outline the reasons Florida's initial experience with differential response was unsuccessful; and
- Determine what resources and changes are necessary for Florida to implement a differential response system.

**METHODOLOGY:**

Senate professional staff will review the use of differential response in other states in order to determine what resources are necessary for this approach to be a meaningful alternative. Senate professional staff will meet with staff from DCF, child protective investigators employed by DCF and the sheriffs, and other stakeholders to obtain additional information.

**INTERIM PROJECT TITLE:**

*Review the Forensic Hospital Diversion Pilot Program*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-106

**ISSUE DESCRIPTION and BACKGROUND:**

Roughly 125,000 people with serious mental illnesses are arrested and booked into Florida jails annually. The cost to local governments to house these individuals is estimated to be over \$500 million. Another \$600 million annually is spent housing people with mental illnesses in state prisons and forensic treatment facilities. Based on historic growth rates, it has been projected that the number of state prison beds serving inmates with mental illnesses will more than double from 17,000 to over 35,000 beds over the next ten years, with capital and operating costs of more than \$3.6 billion for new beds alone.

In 2006, the demand for state hospital beds in Florida to provide services to persons found incompetent to proceed to trial (ITP) and not guilty by reason of insanity (NGI) outpaced the supply of beds in state treatment facilities. The state was forced to allocate \$16 million in emergency funding and \$48 million in recurring annual funding to create 300 additional forensic treatment beds to timely serve these individuals. Florida currently spends more than \$210 million annually – one third of all adult mental health dollars and two thirds of all state mental health hospital dollars – on 1,700 beds, serving roughly 3,000 individuals under forensic commitment.

Individuals admitted to state forensic treatment facilities for competency restoration receive services primarily focused on resolving legal issues, but not necessarily targeting long-term wellness and recovery from mental illnesses. Once competency is restored, individuals are discharged from state treatment facilities and generally returned to jails, where they are rebooked and incarcerated while waiting for their cases to be resolved. A sizable number of individuals experience a worsening of symptoms while waiting in jail, and some are readmitted to state facilities for additional treatment and competency restoration services.

The majority of individuals who enter the forensic treatment system do not go on to prison. Eighty to 90 percent return to court, and either have their charges dismissed for lack of prosecution or the defendant takes a plea such as conviction with credit for time served or probation. Most individuals are then released to the community, often with few or no community supports and services in place. Many are subsequently rearrested and return to the justice and forensic mental health systems, either as the result of committing a new offense or failing to comply with the terms of probation or community control.

Provision of mental health services to mentally ill defendants is a collaborative effort among the Department of Children and Family Services (DCF), the Department of Corrections (DOC), and the courts. In recent years, those entities have worked to provide and expand services for mentally ill defendants outside of the existing systems. However, lack of funding and legislative authority have made implementation of alternative systems difficult. The intention of these efforts is to keep mentally ill offenders out of forensic facilities and in less expensive, more effective forms of community control.

It has been suggested that this model be tested by implementing a limited number of pilot programs to divert selected individuals who are adjudicated ITP or NGI due to mental illnesses from state hospitals to locked community-based residential treatment facilities that will provide assistance in accessing community-based treatment and support services following discharge. It is possible that the department may be able to tap Medicaid funding to finance these services.

**OBJECTIVE:**

The purposes of this project are to:

- Review Chapter 916 as it relates to services provided to individuals found incompetent to proceed to trial (ITP) and not guilty by reason of insanity (NGI) due to mental illnesses;
- Evaluate the feasibility of implementing a limited number of pilot programs to divert select individuals who are adjudicated ITP or NGI due to mental illnesses, from state hospitals to locked community-based residential treatment facilities that will provide assistance in accessing community-based treatment and support services following discharge;
- Review the Medicaid state plan and determine whether opportunities exist to apply for a federal waiver or state plan amendment that may leverage federal funding to offset state expenditures for services provided in forensic diversion pilot projects;
- Meet with DCF, the Office of the State Court Administrator, the Agency for Health Care Administration, and other interested stakeholders;
- Evaluate the likely fiscal and public safety impacts of implementing forensic diversion pilot programs; and
- Propose legislation that may be appropriate to address the findings.

**METHODOLOGY:**

Senate professional staff will review Florida Statutes, as well as relevant reports produced by DCF, OPPAGA, and the Supreme Court of Florida. Senate professional staff will also meet with criminal justice, mental health, and community stakeholders to review the current forensic treatment system.



## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:*****Review State Child Abuse Registries***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-205

**ISSUE DESCRIPTION and BACKGROUND:**

Section 39.201, Florida Statutes, mandates reporting of child abuse, abandonment and neglect in Florida. Suspected child abuse is reported through the Florida Department of Children and Family Services' (DCF) Florida Abuse Hotline. Once the report is made, DCF maintains records of the reports through a central registry, which contains information about the child abuse reports such as the name of the child and suspected abuser. Pursuant to sections 39.201 and 39.202, Florida Statutes, various agencies and entities can access the child abuse registry. For example, central registries are checked in some circumstances when an individual is seeking employment in the child services area and also by DCF before placing a foster child with a family.

While these registries can be helpful to child protective investigators, due process concerns have been raised, specifically with regard to false reporting. For example, when a false report is made and the individual is cleared from suspected abuse, what is the process for removing his or her name from the central child abuse registry? Recently, the North Carolina Court of Appeals issued an opinion that North Carolina's statutory procedures pertaining to the expunction process and the child abuse registry list are unconstitutional. The court did not object to the use of the central abuse registry, but rather held that placing an individual on the list before providing a hearing violated North Carolina's constitution. It is unclear whether a similar result could be reached in Florida.

In addition, there has been recent activity on the federal level regarding the creation of a national child abuse registry. However, the methods of maintaining records, providing due process, limiting access to records, and determining which cases should be included in the national registry are still being explored.

**OBJECTIVE:**

The purposes of this project are to:

- Review the child abuse registry system in Florida;
- Analyze the child abuse registry case law in this area;
- Compare Florida's child abuse registry system to the systems implemented in other states;
- Meet with DCF and other interested stakeholders.

**METHODOLOGY:**

Senate professional staff will review Florida Statutes, rules, and case law, as well as treatises, articles and case law from other states concerning standards for central child abuse registries. Senate Professional Staff will survey or interview DCF and other interested stakeholders and produce an Issue Brief.

**INTERIM ISSUE BRIEF TITLE:**  
***Creation of Children's Code***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-206

**ISSUE DESCRIPTION and BACKGROUND:**

Florida laws relating to children are not only scattered throughout the statutes but also contain provisions that are duplicative, inconsistent, and unclear as they are applied to:

- Children who are abused, abandoned or neglected;
- Children who commit crimes and children and families in need of services (CINS/FINS);
- Children in family court cases – custody, visitation, child support; and
- Children in civil and probate proceedings.

As a result, proceedings involving and services provided to children and their families by both the social service system and the courts are often delivered and conducted in a fragmented, inefficient, and ineffective manner. Critical time and scarce resources may be wasted.

A number of states have created a children's code to resolve ambiguities, reconcile conflicting laws, ensure that statutes accurately reflect settled case law, and provide a single code containing procedural and substantive laws affecting children.

**OBJECTIVE:**

The purposes of this project are to:

- Review the children's codes that have been created by other states;
- Examine the process used by other states to create the codes;
- Develop the framework for a multi-year project that would be necessary to create a children's code in Florida; and
- Propose legislation as may be appropriate to begin the process.

**METHODOLOGY:**

Senate professional staff will review the children's codes created by other states and interview individuals involved in the creation of those codes to gain further information. Senate professional staff will also meet with agency and court staff to devise a framework for creation of the code.

**INTERIM ISSUE BRIEF TITLE:**  
***Health Care Reform and the Developmentally Disabled***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-207

**ISSUE DESCRIPTION and BACKGROUND:**

On March 23, 2010, comprehensive health reform, the Patient Protection and Affordable Care Act (PPACA) (H.R. 3590), was signed into law. On March 30, H.R. 4872, the Health Care and Education Reconciliation Act of 2010, which amends the PPACA, was enacted. Public Laws 111-148 and 111-152 are referred to as the Affordable Care Act. The Affordable Care Act will be implemented over a multi-

year period and affect insurance, Medicare, Medicaid, prescription drugs, quality improvement, health workforce, long-term care, medical malpractice, prevention /wellness, individuals and employers, and taxes.

These reforms will require states to reassess the delivery of health care to their Medicaid populations, particularly those groups receiving long-term care services like the developmentally disabled.

**OBJECTIVE:**

In order to respond to impending health care reform regulations as they are developed at the federal level, demographic, utilization, and fiscal data relating to Florida's provision of health care services to the developmentally disabled will be accumulated and inventoried for use in the upcoming legislative session.

**METHODOLOGY:**

Senate professional staff, working with OPPAGA researchers, will conduct a literature review, and locate and catalog reliable and available data sources relating to client characteristics, usage, and costs associated with Medicaid for Florida's developmentally disabled.

**INTERIM ISSUE BRIEF TITLE:**

*Health Care Reform and Disabled and Elder Adults*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-208

**ISSUE DESCRIPTION and BACKGROUND:**

On March 23, 2010, comprehensive health reform, the Patient Protection and Affordable Care Act (PPACA) (H.R. 3590), was signed into law. On March 30, H.R. 4872, the Health Care and Education Reconciliation Act of 2010, which amends the PPACA, was enacted. Public Laws 111-148 and 111-152 are referred to as the Affordable Care Act. The Affordable Care Act will be implemented over a multi-year period and affect insurance, Medicare, Medicaid, prescription drugs, quality improvement, health workforce, long-term care, medical malpractice, prevention/wellness, individuals and employers, and taxes.

These reforms will require states to reassess the delivery of health care to their Medicaid populations, particularly those groups receiving long-term care services like disabled adults and the elderly.

**OBJECTIVE:**

In order to respond to impending health care reform regulations as they are developed at the federal level, demographic, utilization, and fiscal data relating to Florida's provision of health care services to disabled adults and the elderly will be accumulated and inventoried for use in the upcoming legislative session.

**METHODOLOGY:**

Senate professional staff, working with OPPAGA researchers, will conduct a literature review, and locate and catalog reliable and available data sources relating to client characteristics, usage, and costs associated with Medicaid for Florida's disabled adults and elderly.

## Monitor Projects

<b>INTERIM MONITOR PROJECT TITLE:</b>
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<i>Implementation of Contracting Efficiencies in Child Welfare</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-305

**ISSUE DESCRIPTION and BACKGROUND:**

HB 5305 (2010) requires that the Department of Children and Family Services (DCF), the Agency for Health Care Administration (AHCA), the Department of Health (DOH), the Agency for Persons with Disabilities (APD), and community-based care lead agencies (CBC) to adopt and implement policies to improve the efficiency of administrative monitoring of child welfare service providers. These policies include a limitation on the frequency of administrative monitoring of providers who are certified by certain organization; and the development of an Internet-based data warehouse for document inspection and review.

**OBJECTIVE:**

This project is to monitor the agencies' and CBC's implementation of these child welfare contracting efficiencies.

**METHODOLOGY:**

Senate professional staff will meet with appropriate agency and CBC representatives to track the development of the data warehouse and policies related to administrative monitoring of child welfare providers.

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# COMMERCE

## Interim Projects

**INTERIM PROJECT TITLE:**

*Identification, Review, and Recommendations Relating to Obsolete Statutory References to the Former Florida Departments of Labor and Employment Security, and Commerce*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-107

**ISSUE DESCRIPTION and BACKGROUND:**

The Division of Statutory Revision of the Office of Legislative Services reviews Florida Statutes, in part, to remove inconsistencies and otherwise improving their clarity and facilitate their correct and proper interpretation. Any revision the division makes to a statute, either complete, partial, or topical, is accompanied by revision and history notes relating to the same, showing the changes made therein and the reason for such recommended change.

The Division of Statutory Revision made recommendations in the 2009 interim to clarify and remove inconsistencies in Florida Statutes related to the former Department of Labor and Employment Security and the former Department of Commerce. The Department of Labor and Employment Security was abolished by the Legislature in 2002 (ch. 2002-194, L.O.F.). Chapter 96-320, L.O.F., provided for the dissolution of the Department of Commerce, effective December 31, 1996.

**OBJECTIVE:**

This project will identify obsolete references in the Florida Statutes, verify the application or status of current law, and make recommendations for statutory “clean-up.” Duties of both obsolete agencies were transferred to other agencies or were discontinued. References should be updated to reflect current practices.

**METHODOLOGY:**

Commerce Committee staff will identify obsolete references, verify the current application of the law, and determine the appropriate remedy for such references in statute.

Commerce Committee staff will consult with appropriate staff of substantive committees, the Division of Statutory Revision, and appropriate agencies.



## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

*An Overview of the Economic Development Affiliates Administered by Enterprise Florida, Inc.*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-209

**ISSUE DESCRIPTION and BACKGROUND:**

Enterprise Florida, Inc., (EFI) administers three statutorily created, special purpose economic development entities or affiliates:

- The Florida Development Finance Corporation (Part IX, ch. 288, F.S.), which has operated through interlocal agreement with local governments to issue industrial revenue bonds for infrastructure projects, and which, with passage of 2010 legislation, can participate in a new federal loan program for energy projects.
- The Small Business Technology Growth Program (s. 288.95155, F.S.), designed to provide loans or other forms of credit to businesses engaged in emerging technologies and which have fewer than 100 employees, but which in recent years has become inactive.
- The Florida Opportunity Fund (ss. 288.9622-288.9624, F.S.), which invests with private partners in venture capital funds that include Florida-based businesses, or makes direct investments in Florida-based companies.

EFI also remains responsible for the Cypress Equity Fund, a venture-capital fund created in 1995 by the Legislature and managed by the now-defunct Capital Development Fund (ss. 288.9611-288.9615, F.S., repealed in ch. 99-251, L.O.F), which was a part of EFI.

EFI is required to submit annual reports on the activities of these entities, but without any analysis of their performance or legislative recommendations on whether they should continue to exist or be modified.

Additionally, over the years EFI has administered at least two other programs – the Florida Export Finance Corporation and the Florida First Capital Finance Corporation – that have become successful spinoffs fulfilling their niche roles in Florida economic development.

**OBJECTIVE:**

The objective of this issue brief is to review the creation, mission, structure, financing and administration of the current EFI-administered economic development affiliates or programs, and describe their accomplishments.

**METHODOLOGY:**

Commerce Committee staff, working with the Senate Transportation and Economic Development Appropriations Committee, the Finance and Tax Committee, the Governmental Operations Committee, and the Communication, Energy, and Public Utilities Committee will employ a number of research methods for the Issue Brief. Staff plans to:

- Research relevant Florida statutes;
- Research reports, economic analyses, and academic papers on the topic of economic-development entities operating in Florida and in other states;

- Interview EFI staff; staff of the Governor's Office of Tourism, Trade, and Economic Development; EFI's private partners in these endeavors; and business owners who have received assistance, loans, or investments from the EFI-administered affiliates; and
- Review other states' statutes or rules related to economic-development entities, and interview other states' economic development officials about their programs' experiences.

**INTERIM ISSUE BRIEF TITLE:**

***An Overview of Low-profit Limited Liability Companies (L3Cs)***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-210

**ISSUE DESCRIPTION and BACKGROUND:**

A Low-profit Limited Liability Company (L3C) is a new type of business entity, recognized in only 5 states. A L3C is a hybrid of existing nonprofit and for-profit corporations, designed to attract both private and philanthropic capital in a unique manner by replacing "donations" with "investments." Profits earned from such investments may be distributed to owners or investors. However, unlike a standard limited liability company (LLC), the L3C must have an explicit primary charitable mission and only a secondary profit concern.

Conceptually, L3Cs are formed to create a vehicle to bring together government, for-profit, nonprofit, individuals, and corporations to facilitate and expand investments in charitable causes and to eliminate the need for costly and time-consuming letter rulings from the Internal Revenue Service (IRS), which recognize contributions or investments as "program-related investments" (PRI).

Foundations seek a letter ruling from the IRS that an investment or contribution is a PRI to take advantage of certain tax benefits. Under s. 4944 of the Internal Revenue Code, private foundations are allowed to make "program-related investments" that meet three criteria:

- The investment's primary purpose must be to advance the foundation's charitable objectives.
- Neither the production of income nor appreciation of property can be a significant purpose.
- The funds cannot be used directly or indirectly to lobby or for political purposes.

To date, the IRS has not formally recognized L3Cs and may still require a letter ruling prior to recognizing a private foundations contribution or investment in a L3C as meeting the requirements under s. 4944 of the Internal Revenue Code. Therefore, it is unclear whether any states that have passed legislation to recognize L3Cs have derived any benefit from such legislation.

**OBJECTIVE:**

The objective of this issue brief is to identify the history, background, and utility of L3Cs. In addition, this issue brief will:

- Compare the structure of L3Cs to existing business entity structures;
- Determine the IRS' perspective on L3Cs;
- Examine the use of L3Cs in other states; and
- Outline the positive and negative aspects, and consequences, of L3Cs.

**METHODOLOGY:**

Commerce Committee staff will conduct document and Internet research pertaining to the history and background of L3Cs. Committee staff will also research other state and federal laws concerning L3Cs. Committee staff will interview state agency representatives in states that recognize L3Cs and will interview IRS staff. In addition, committee staff will interview industry experts on L3Cs and opponents or proponents of L3Cs, if any.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

*Impact of VISIT FLORIDA's Marketing Campaign in Response to the Deepwater Horizon Oil Leak*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-306

**ISSUE DESCRIPTION and BACKGROUND:**

Since the Deepwater Horizon explosion the night of April 20, 2010, state and federal authorities have been working to respond to and mitigate the impact of the resulting oil spill on public health, the environment, and the economy. Although the oil spill is occurring off the coast of Louisiana, due to the immensity of the spill and the ocean's currents, Florida coasts from Pensacola to Key West will be affected.

On May 11, 2010, Governor Crist signed Executive Order No. 10-101, which established the Gulf Oil Spill Economic Recovery Task Force to monitor and facilitate recovery efforts for Florida businesses and industries. The task force is charged with, among other things, ensuring, through a marketing plan, the vitality of business and tourism in Florida.

On May 17, 2010, BP provided \$25 million to VISIT FLORIDA to implement an immediate emergency marketing response for the state. These funds are in addition to other resources previously allocated to promote tourism in Florida.

VISIT FLORIDA has developed and begun to implement an immediate and near and longer term multifaceted marketing campaign. This campaign includes broadcast television and radio, print, online and social marketing targeting in-state, domestic and international markets. The campaign also includes proactive image generation and distribution of photos and videos of visitors enjoying Florida beaches and attractions to counter the impact of negative imagery generated by the spill.

VISIT FLORIDA's plan also supports local marketing efforts by Florida counties that have been declared to be under a state of emergency due to the impacts of the oil spill.

**OBJECTIVE:**

Commerce committee staff will monitor the activity of VISIT FLORIDA's marketing campaign in response to the Deepwater Horizon oil leak.

**METHODOLOGY:**

Commerce committee staff will monitor the progress of VISIT FLORIDA's efforts, communicate with the Office of Tourism, Trade, and Economic Development as appropriate, and review other appropriate material.

**INTERIM MONITOR PROJECT TITLE:**

*BP's Immediate Efforts to Compensate Businesses Affected by the Deepwater Horizon Oil Leak, and Hire Local Individuals and Businesses For Crisis Management and Mitigation*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-307

**ISSUE DESCRIPTION and BACKGROUND:**

Since the Deepwater Horizon explosion the night of April 20, 2010, state and federal authorities have been working to respond to and mitigate the impact of the resulting oil leak on public health, the environment, and the economy. There are several federal disaster assistance programs available for affected businesses and individuals, including disaster business loans through the Small Business Administration and potentially disaster unemployment assistance, if approved by the U.S. Department of Labor.

BP, the company that contracted to use the Deepwater Horizon oil rig, has committed to pay "legitimate and objectively verifiable" claims for loss and damage caused by the spill, as defined in the federal Oil Pollution Act (OPA). This may include claims for:

- Assessment;
- Mitigation and clean up of spilled oil;
- Real and property damage caused by the oil;
- Personal injury caused by the leak;
- Commercial losses, including loss of earnings and profit; and
- Other losses as contemplated by applicable laws and regulations.

Additionally the company has hired local fishing vessels and individuals to assist in the management, mitigation, and clean-up of the leak, called the Vessels of Opportunity Program. As part of this program, BP provides training to the fishing crews to ensure safety and proper participation.

**OBJECTIVE:**

Commerce committee staff will monitor the activity of BP to track the impact of the company's immediate efforts to assist local businesses and individuals impacted by the Deepwater Horizon oil leak.

**METHODOLOGY:**

Commerce committee staff will monitor the progress of BP's efforts, communicate with federal and state agencies as appropriate, and review the Deepwater Horizon Response, media reports, and other literature in the field covering assistance due to the oil leak.

**INTERIM MONITOR PROJECT TITLE:**

***Governor's Gulf Oil Spill Economic Recovery Task Force Activity***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-308

**ISSUE DESCRIPTION and BACKGROUND:**

Since the Deepwater Horizon explosion the night of April 20, 2010, state and federal authorities have been working to respond to and mitigate the impact of the resulting oil spill on public health, the environment, and the economy. Although the oil spill is occurring off the coast of Louisiana, due to the immensity of the spill and the ocean's currents, Florida coasts from Pensacola to Key West will be affected.

On May 11, 2010, Governor Crist signed Executive Order No. 10-101, which established the Gulf Oil Spill Economic Recovery Task Force to monitor and facilitate recovery efforts for Florida businesses and industries. The task force is charged with the following, non-exhaustive list of responsibilities:

- Coordinate state agency efforts to assist affected businesses and industries;
- Monitor BP's efforts in providing financial relief to impacted businesses and industries;
- Coordinate processes and efforts to gather economic loss data and industry economic indicators;
- Ensure, through a marketing plan, the vitality of business and tourism in Florida; and
- Develop a comprehensive website to disseminate information and communicate with businesses and industries.

**OBJECTIVE:**

Commerce committee staff will monitor the activity of the Gulf Oil Spill Recovery Task Force and their efforts to assist businesses and industries impacted by the Deepwater Horizon oil spill.

**METHODOLOGY:**

Commerce committee staff, in consultation with staff from the Environmental Preservation and Conservation, Communications, Energy, and Public Utilities, and Judiciary Committees, will monitor the progress of the task force's efforts, attend task force meetings when available, communicate with the Office of Tourism, Trade, and Economic Development as appropriate, and review the Deepwater Horizon Response, media reports, and other literature in the field covering assistance due to the oil spill.

**INTERIM MONITOR PROJECT TITLE:**

***Development of New Target Industry and High-impact Industry Lists***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-311

**ISSUE DESCRIPTION and BACKGROUND:**

Florida's Qualified Target Industry (QTI) incentive program (s. 288.106, F.S.) and several other state economic development incentive programs in part base business eligibility for tax refunds, tax credits, or grants on whether the business represents a targeted industry sector. Two other incentive

programs, the High Impact Incentive (HIPI, s. 288.108, F.S.) and the Capital Investment Tax Credit (CITC, s. 220.191, F.S.), generally require businesses to represent high-impact industry sectors. Although the characteristics of targeted industries are expressed in s. 288.106, F.S., the actual targeted industry and high-impact business lists are developed by the Governor's Office of Tourism, Trade, and Economic Development (OTTED), with assistance from Enterprise Florida, Inc. (EFI), the state's business-recruitment entity.

The current targeted industry list includes seven industry sectors, with 36 individual types of businesses listed within the sectors. The seven sectors are: manufacturing facilities; finance and insurance services; wholesale trade; information industries; professional, scientific, and technical services; management services; and administrative and support services. Among the 36 individual business types are pharmaceutical manufacturing, film production, flight training, space launch activities, publishing, and credit remediation activities. The full list is available in Appendix A of the 2009 Incentives Report published by EFI. This list was last updated in 2009 to add five business types within the existing seven industry sectors.

The current high-impact business list includes "clean energy" manufacturing, processing, or technology development; corporate headquarters; financial services; biomedical technology; information technology; and transportation equipment manufacturers (specifically, space launch and automotive manufacturers). This list was last updated in 2008 to add clean energy.

A 2010 interim project report on the QTI program evaluated the targeted industry list, and recommended that OTTED and EFI meet with economic development organizations, the State University System, local governments, employee and employer organizations, and market analysts to review the list every 3 years to determine if it is reflective of Florida's economic development needs, and revise, as necessary. Legislation passed during the 2010 session requires the first evaluation be conducted by January 1, 2011. The revised list must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Similarly, 2010 legislation also requires EFI, in consultation with OTTED and EFI economic development organizations, the State University System, local governments, employee and employer organizations, and market analysts to review the list of high-impact industry sectors every 3 years to determine if it is adequate. The first review must be completed by January 1, 2011, and the list must be revised, if deemed necessary. The legislation does not require EFI to submit a copy of the list to the Legislature's presiding officers.

**OBJECTIVE:**

Monitor the efforts of OTTED and EFI as they review and potentially revise the targeted industry list and the high-impact business list by January 1, 2011, and review the final lists.

**METHODOLOGY:**

Staff will attend, at least telephonically, the OTTED and EFI meetings on the two industry lists, and periodically contact OTTED and EFI staff, and other relevant persons, for updates.



**INTERIM MONITOR PROJECT TITLE:**

***Efforts to Recalibrate Enterprise Florida Inc.'s Economic Model and ROI Formula***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-312

**ISSUE DESCRIPTION and BACKGROUND:**

Enterprise Florida Inc. (EFI), is the public-private entity that manages business recruitment for the state. Businesses strongly interested in relocating to Florida, or existing businesses considering expanding their operations, meet with EFI to learn about available state incentives. If eligible, the business is asked to complete an application for the Qualified Target Industry (QTI) incentive program and provide information for the Quick Action Closing (QAC) Fund. EFI inputs that data into its economic impact model to determine, among other things, the estimated return on investment (ROI) if the state were to offer the company incentives. The ROI indicates the amount of state taxes and related revenues that may be generated based on the state tax dollars invested in incentives awarded to the business. Based on its analysis, EFI recommends to OTTED whether to approve or reject an incentive package for a business.

The QAC program requires at least a \$5 to \$1 ROI; there is no minimum ROI requirement for the QTI program.

The Commerce Committee's 2010 interim project report on the QTI program included research on the RIMS II economic development model used by EFI to help calculate the state's ROI from awarding incentives to individual and groups of businesses. The report concluded that "the calculation of the new economic activity associated with the projects receiving the QTI incentive could be better calibrated to provide a more precise estimate." Specific observations were:

- EFI's model assumes all industries would generate the same tax revenue per unit of product output (typically sales) even though there are variances among the types of taxes industries pay as a result of their business operations.
- The sales and use tax portion of the effective tax rate calculation doesn't differentiate between Florida residents and tourists, which could inflate the effective tax rate.
- EFI's model assumes that all businesses subject to Florida's corporate income tax generate a positive tax liability, so the estimated tax generation is optimistic.

Staff concluded, however, that even when controlling for the imprecise formula, the current QTI incentive amount is likely to have a positive return on investment, to the extent that the award of the QTI incentive is the determining factor in a business' decision to relocate to, or expand in, Florida.

Legislation passed in 2010 directs the state's Office of Economic and Demographic Research (EDR) to review and evaluate the methodology and model used to calculate the ROI for the QTI program, and report its findings by September 1, 2010, and every third year thereafter to the President of the Senate and the Speaker of the House of Representatives.

**OBJECTIVE:**

Monitor the efforts of EDR and EFI as they review, evaluate, and potentially revise the model over the interim.

**METHODOLOGY:**

Staff will attend the EDR meetings with EFI about the models, and periodically contact EDR and EFI staff, and other relevant persons, for updates.

**INTERIM MONITOR PROJECT TITLE:**

*Florida Bar Business Law Section's Rewrite of Florida's Limited Liability Company (LLC) Laws*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-313

**ISSUE DESCRIPTION and BACKGROUND:**

The Florida Bar Business Law Section has created a "LLC Drafting Task Force" (task force) to propose and perform a major rewrite of Florida's Limited Liability Company (LLC) laws under ch. 608, F.S. The Florida Bar intends to draft legislation, to be introduced during the 2011 regular session, which would significantly change current laws pertaining to LLCs.

**OBJECTIVE:**

The purpose of this monitor project is to keep apprised of the task force's proposed rewrite of ch. 608, F.S., and review the task force's drafted legislation.

**METHODOLOGY:**

Staff will periodically contact the task force to be updated on the task force's proposed changes to ch. 608, F.S., and will attend meetings conducted by the task force. In addition, staff will contact agency representatives of the Division of Corporations to garner their response to any proposed changes.

**INTERIM MONITOR PROJECT TITLE:**

*Federal Extension of Temporary State Extended Unemployment Benefits*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-315

**ISSUE DESCRIPTION and BACKGROUND:**

The Legislature enacted, in 2009, a temporary state extended benefits program for unemployed individuals in order to qualify for 100 percent federal sharing (ch. 2009-99, L.O.F.) under the American Recovery and Reinvestment Act of 2009 (s. 2005, Pub. L. No. 111-5). Under this program, the federal government pays 100 percent of temporary state extended benefits to former private sector employees.

For extended benefits programs, the federal government "shares" the cost of paying these additional benefits with the state. Florida already had an extended benefits program in statute, but in order to participate in the federal program, Florida was able to enact a temporary state extended benefits program with an alternate trigger rate based upon the average total unemployment rate (TUR), which made the state eligible for 100 percent federal sharing for (or funding of) these benefits. Florida's regular state extended benefits program triggers "on" based upon a higher individual unemployment rate (IUR), and

federal sharing is 50 percent of benefits paid. The federal funds are paid from a separate federal general revenue account and do not affect the balance of Florida's UC Trust Fund.

Florida's temporary state extended benefits program was effective between February 1, 2009, and June 2, 2010. The original program was effective until January 2, 2010; however, the Legislature took advantage of three extensions of funding by the federal government, the last of which ended on June 2, 2010. Under the federal program, after June 2, 2010, any extended benefits paid are only reimbursed by the federal government at a rate of 50 percent for former private sector employees making new claims. Florida was able to set a sunset date in enacting the alternate trigger in order to take the best advantage of the program. The temporary state extended benefits program expired June 2, 2010.

However, if the federal government decides to extend temporary state extended benefits an additional time, because of the expiration of the temporary state extended benefits program, Florida will not be able to take advantage of this further extension without a statutory change. There is currently a bill under consideration in Congress which could extend 100 percent sharing for temporary state extended benefits an additional time through November 30, 2010.

**OBJECTIVE:**

Commerce committee staff will monitor the activity of the U.S. Congress to see what next steps, if any, will be taken to extend the availability of federally funded unemployment compensation benefits. Commerce staff will present the status of any federal activity to the committee and the impact such action has upon the state of Florida.

**METHODOLOGY:**

Professional committee staff will consult with the Agency for Workforce Innovation, the agency which administers Florida's unemployment compensation program, as well as the National Conference of State Legislatures, and other related entities. Committee staff will track federal legislation as it progresses.

**INTERIM MONITOR PROJECT TITLE:**

*Review the Implementation of Florida's Entertainment Industry Tax Credit Incentive Program*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-316

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Legislature rewrote Florida's existing film and entertainment incentive program, modifying the incentive from a cash refund of qualified expenditures to a transferable tax credit for qualified expenditures by production companies. It also significantly raised the value of the incentive to certified production companies, from \$73 million available over the last 5 years in cash refunds, to \$242 million in tax credits available over the next 5 fiscal years.

For FY 10-11, \$53.5 million in credits may be certified; for FY 2011-12, \$74.5 million; and in FYs 2012-2015, \$38 million per fiscal year. The credits may be taken against corporate income tax or sales tax liabilities. Credits may not be claimed against liabilities until July 1, 2011.

Program definitions, eligibility requirements, and expenditure thresholds were modified, as well, by the 2010 legislation (CS/SB 1752, now designated ch. 2010-147, L.O.F., since the Governor has signed it into law). Moreover, the former law's strong reporting, review, and accountability provisions were maintained. The incentive program will be managed by the Office of Film and Entertainment (OFE), within the Governor's Office of Tourism, Trade, and Economic Development. Among OFE's duties will be to certify entertainment productions as eligible for the incentive and to award the tax credits to the certified productions after a thorough review of their qualified expenditures. The state Department of Revenue (DOR) will administer the application of the tax credits to certified productions or transferees, based on documentation provided by OFE.

Because of the larger amount of incentive funding available, OFE expects to receive many more applications from production companies than usual, and many more questions about its review and certification procedures, and its decisions on which production expenditures are eligible for refund through the tax credits.

**OBJECTIVE:**

The objectives are to monitor the implementation of the revised s. 288.1254, F.S., by OFE and DOR, and monitor efforts to draft glitch legislation for 2011.

**METHODOLOGY:**

Staff will attend, at least telephonically, meetings of the Office of Film and Entertainment and the Florida Film and Entertainment Advisory Council; contact industry representatives as necessary and other relevant persons for updates; and continue to monitor other states' efforts to attract the entertainment industry.



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# COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES

## Interim Projects

**INTERIM PROJECT TITLE:**

*Review Chapter 364, Florida Statutes, Relating to Telecommunications Companies to Identify Obsolete, Outdated, or Unnecessary Regulations, as well as Consumer and Wholesale Market Protections*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-108

**ISSUE DESCRIPTION and BACKGROUND:**

In 1995, the Legislature began to deregulate telephone service by amending chapter 364, Florida Statutes. The Legislature found that competition for the provision of local exchange service would be in the public interest and opened local telephone markets to competition on January 1, 1996. Since that time, the industry has been significantly transformed and chapter 364, F.S., has been amended numerous times to address the issues that have arisen as a result of the market transformation including for the deregulation of telephone companies.

In 2009, the Florida Public Service Commission (commission or PSC) reviewed and revised its rules relating to telecommunications to reflect the continuing policy of deregulation. Also in August, 2009, the Division of Statutory Revision (DSR) circulated a list of provisions in the statutes that might need some sort of correction but would be beyond what DSR could or should do without Legislative action. The list was disseminated to the substantive committees to determine if a fix was needed and to make recommendations for changes. Included in the list were sections in chapter 364, F.S. During the 2010 Regular Session, HB 1377 was passed that repealed sections 364.03, 354.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, F.S., to remove obsolete provisions relating to regulation of telecommunications companies.

**OBJECTIVE:**

Chapter 364, F.S., appears to contain additional provisions that are obsolete, outdated or unnecessary given the competitive market and the evolution of technology. A review of the chapter, in consultation with the commission and industry, could identify unnecessary provisions as well as identify areas where regulation may still be necessary to protect consumers and the wholesale market.

**METHODOLOGY:**

Staff will seek information from the commission staff and industry to identify obsolete, outdated or unnecessary provisions to recommend for repeal. Staff will also research to identify areas where regulation may still be necessary to protect consumers and the wholesale market.

**INTERIM PROJECT TITLE:**

***Review Potential Methods of Encouraging Renewable Energy That Minimize the Economic Impact on Utility Ratepayers***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-109

**ISSUE DESCRIPTION and BACKGROUND:**

Although the Legislature has taken steps in recent years to encourage expansion of use of renewable energy, there has been little increase in its use. The primary reason is that renewable energy currently costs more than energy produced by traditional methods, and the statutes have preserved the avoided cost standard for payment for renewable energy to protect utility ratepayers from increased costs. As a result, there has been little economic incentive for increased use of renewable energy.

Use of state funds for renewable energy grants has produced little result to date. Numerous legislative proposals for funding mechanisms for renewable energy have failed, apparently due to concerns over the increased cost to ratepayers, including proposals for a renewable portfolio standard, for a feed-in tariff, and for various public benefits funds.

As a consequence, most of the new renewable energy has come from regulated utilities, due to a statute that allowed them to recover more than their avoided cost for a limited amount of renewable energy projects. However, with a slow recovery from the recession and ratepayers suffering, there are indications that there is little likelihood of further expansion by use of this approach.

**OBJECTIVE:**

This project will seek to identify methods of encouraging renewable energy that do not have a detrimental impact on utility ratepayers and to identify and discuss the potential benefits and detriments of such methods, including potential limitations on any detriments.

**METHODOLOGY:**

Staff will seek information from staff of the Public Service Commission and from any interested parties; research and analyze relevant law in other states; identify potential solutions; and analyze and report on these potential solutions.

**Issue Briefs**

*(None)*

**Monitor Projects**

*(None)*

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# COMMUNITY AFFAIRS

## Interim Projects

<b>INTERIM PROJECT TITLE:</b>
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<i>Merger of Independent Special Districts</i>
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**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-110

**ISSUE DESCRIPTION and BACKGROUND:**

Section 189.403(1), F.S., provides that a special district is “a local unit of special purpose, as opposed to general-purpose, government, within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.” Special districts are limited-purpose units of local government. Their property tax millage is limited by general law and subject to referendum approval by the affected electorate. Special districts are subject to the same restrictions on credit, bonding, elections, public records, and public meetings, as are counties, municipalities, and school districts.

Special districts operate within a limited geographical area and have a governing board with policy-making powers. A special district does not include: a school district, community college, municipal service taxing or benefit unit (MSTU/MSBU), or a board providing electrical service that is a political subdivision of a municipality or part of a municipality.

All special districts serve a public purpose and are to be held accountable to the public, local general-purpose governments, and state agencies. Special districts are subject to financial reporting requirements, which are an essential element of the law.

Special districts are classified as either dependent or independent. A district is usually dependent if a single county or single municipality:

- has an identical governing board,
- appoints the governing board,
- may remove governing board members at will during unexpired terms,
- approves the budget, or
- may veto the budget.

Otherwise, the district is an independent district. Independent districts can sometimes occupy multiple counties. Florida currently has 1,011 independent districts and 614 dependent districts. Special districts include the five water management districts, community development districts, community redevelopment districts, drainage and water control districts, housing authorities, fire control and rescue, and soil and water conservation districts, as well as districts that provide a variety of governmental services pertaining to airports, the arts, beach restoration, expressways and bridges, health care, housing, juvenile welfare, libraries, mosquito control, and transportation.

Section 189.4042, F.S., specifies the procedures for merger or dissolution of a special district. The merger or dissolution of an independent special district may be affected:



- only by the Legislature unless otherwise provided by general law if the district was created by special act;
- by publishing a notice pursuant to s. 189.4044, F.S., if the special district is inactive; or
- by the same procedure used to enact the independent special district.

During the 2010 legislative session, amendments were filed with the goal of allowing independent special districts formed by special law to merge prior to the Legislature taking any action. Since the structure and organization of the special district is usually set up by the special law that creates the district, merger without changing the law might result in inconsistencies between the structure of the merged district and the requirements of the special laws.

**OBJECTIVE:**

The objective of this interim project is to consider ways to assist independent special districts with similar structures and missions to merge prior to being restructured legislatively. Additionally, this interim project will help assess any cost savings and increases in efficiency that may be available by allowing special districts to merge prior to legislative approval.

**METHODOLOGY:**

The professional staff will: summarize the law of independent special districts; consult with the Association of Special Districts, the Department of Community Affairs, and other interested parties; and propose possible methods for allowing independent special districts to merge more easily.

**INTERIM PROJECT TITLE:**

*Fiscally Constrained Local Governments' Reporting Requirements*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-111

**ISSUE DESCRIPTION and BACKGROUND:**

Local governments have a variety of reporting requirements under Chapter 163, F.S., and 9J-5, F.A.C. For example, pursuant to s. 163.3191, Florida Statutes, each local government adopts an evaluation and appraisal report (EAR) once every seven years assessing the progress in implementing the local government's comprehensive plan. The evaluation and appraisal report is the principal process for updating local comprehensive plans to reflect changes in local conditions and state policy on planning and growth management. The report evaluates how successful a community has been in addressing major community land use planning issues through implementation of its comprehensive plan. Based on this evaluation, the report suggests how the plan should be revised to better address community objectives, changing conditions and trends affecting the community, and changes in state requirements.

Local governments have different planning needs that cannot always be properly addressed by one uniform set of planning criteria. It may be valuable to allow fiscally constrained local governments the opportunity to minimize their reporting requirements particularly in instances where there has been little growth within the jurisdiction.

**OBJECTIVE:**

The goal of this interim project is to determine how to make planning/reporting requirements more flexible for fiscally constrained communities.

**METHODOLOGY:**

The professional staff will: work with the League of Cities and the Association of Counties; survey local governments; assess costs; and review population growth. Using this information staff will attempt to ascertain where cost saving measures can be implemented with minimal impact on growth management planning.

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

*Pending Ordinance Doctrine*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-211

**ISSUE DESCRIPTION and BACKGROUND:**

During the 2010 legislative session the issue of what local regulations should govern an application for a development order arose. A number of states, including Florida, adhere to the “pending ordinance doctrine.” The doctrine holds that a land use or development order application established on or after the date when a local government has publicly declared its intent to change its zoning scheme may be denied or held until after the enactment of the zoning ordinance. In Florida, the rule was created by the courts. *See Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA 1980) (upholding the permit denial against the land owners’ claims that refusing their permit was a taking for a public purpose without just compensation and the claim that the government was equitably estopped from applying zoning ordinance amendments to the property owners in question). However, in other jurisdictions, the rule has been created legislatively. *Schwegmann Bros. Giant Super Markets v. Donelon*, 383 So. 2d 433 (La. Ct. App. 4th Cir. 1980). The rule is often intended to avoid situations in which mandamus proceedings are instituted to compel issuance of a permit, only to be rendered moot by a zoning change. A municipality may properly refuse a building permit for a land use repugnant to a pending and later lawfully enacted zoning ordinance, even though the application for the permit is made when the intended use conforms to existing regulations.

**OBJECTIVE:**

The goal of this issue brief is to survey and summarize the case law and examine the implications of this doctrine. This review is intended to help the Legislature assess whether it wishes to follow this legal doctrine and whether there are any ambiguities that the Legislature might choose to address.

**METHODOLOGY:**

Committee staff will review and summarize the case law regarding the “pending ordinance doctrine.”

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:*****Impact Fees Litigation***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-317

**ISSUE DESCRIPTION and BACKGROUND:**

Impact fees are enacted by local ordinance and require new development to pay for the cost of additional infrastructure attributable to the new development. Chapter 2009-49, L.O.F., creates a “preponderance of the evidence” standard of review placing the burden of proof on the local government to show that the imposition or amount of an impact fee meets the requirements of case law and s. 163.31801, F.S.

However, the Florida Association of Counties, the Florida League of Cities, the Florida School Boards Association, and 10 counties (Alachua, Collier, Gilchrist, Lake, Lee, Levy, Nassau, Pasco, Sarasota, and St. Lucie) have filed suit challenging HB 227 (2009), relating to impact fees. The complaint argues that HB 227 is an unconstitutional, unfunded mandate and that it violates the separation of powers doctrine of the Florida Constitution.

**OBJECTIVE:**

The goal of this monitor project is to monitor the ongoing litigation regarding HB 227.

**METHODOLOGY:**

The professional staff will review trial documents and monitor the progress of the case.

**INTERIM MONITOR PROJECT TITLE:*****Alternative State Comprehensive Plan Review***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-318

**ISSUE DESCRIPTION and BACKGROUND:**

The Local Government Comprehensive Planning and Land Development Regulation Act, also known as “The Growth Management Act”, in Part II, of ch. 163, F.S., requires all counties and municipalities to adopt Local Government Comprehensive Plans that prescribe the future economic, social, physical, environmental, and fiscal development of the area.

In 2007, the Legislature created a pilot program to provide an alternative expedited process for plan amendments with limited state agency review. The pilot communities include Pinellas and Broward Counties and the municipalities within these counties, as well as Jacksonville, Miami, Tampa, and Hialeah. Pursuant to s. 163.32465, F.S., these local governments are required to hold a first public hearing on a comprehensive plan amendment at least seven days after the first advertisement is published. Thereafter, pilot communities transmit plan amendments along with supporting data and analyses to specified state agencies and local governmental entities. Agencies and local governments are

permitted to provide comments on the plan amendment or amendments that are due back to the local government within 30 days of receipt of the amendment. Such comments may include technical guidance on issues of agency jurisdiction as it relates to the Growth Management Act in Part II of ch. 163, F.S.

The local government must then hold a second public hearing that shall be an adoption hearing on the plan amendment, where the local government shall transmit the amendment with supporting data and analyses to the Department of Community Affairs (DCA) and any other state agency or local government that provided timely comments. The DCA or any affected person, as defined in s. 163.3184(1)(a), F.S., may challenge the plan amendment that was adopted by the pilot community within 30 days after the adoption of the amendment. The DCA's challenge is limited to issues raised in the comments by reviewing agencies and is encouraged by statute to focus on issues of regional or statewide importance. The DCA does not issue a report detailing its objections, recommendations and comments. The alternative state review process also shortens the statutorily prescribed timeline for the comprehensive plan amendment process from 136 days to 65 days.

**OBJECTIVE:**

The purpose of this project is to further assess and evaluate the pilot program which can be adapted for use by other local governments and to identify any specific issues that may need to be addressed in the 2011 legislative session.

**METHODOLOGY:**

Committee staff will meet with state officials and other interested parties to discuss their relevant observations and experiences in developing and implementing the pilot program.

**INTERIM MONITOR PROJECT TITLE:**

*Imported Drywall*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-319

**ISSUE DESCRIPTION and BACKGROUND:**

Between 2004 and 2007, numerous homes were built with drywall imported from China. This imported drywall is now under investigation for causing harm to homes, personal possessions, and human health. The defective drywall is associated with a sulfurous odor (the smell of rotten eggs or fireworks), corrosion of household metals such as copper, and health complaints such as asthma, nosebleeds, coughing, headaches and insomnia. Homeowners with Chinese drywall have reported that they have had to replace their air conditioners and other appliances more frequently than would be necessary under normal conditions.

Property appraisers in affected counties have recognized that the presence of defective drywall has reduced the value of these homes and have lowered their assessments, as required under s. 193.011, F.S., which specifically cites the present cash value of property and its condition as factors to be considered in determining just value. There is no statewide policy addressing this situation, and property owners in different counties may receive different treatment.

The U.S. Consumer Product Safety Commission (CPSC) continues to issue interim remediation guidance to help homeowners struggling to rid their properties of problem drywall linked to corrosion of metal in their homes such as electrical components. Based on scientific study of the problem to date, the Department of Housing and Urban Development and CPSC recommend consumers remove all possible problem drywall from their homes, and replace electrical components and wiring, gas service piping, fire suppression sprinkler systems, smoke alarms and carbon monoxide alarms. Taking these steps should help eliminate both the source of the problem drywall and corrosion-damaged components that might cause a safety problem in the home.

Several courts have now awarded damages to homeowners with defective drywall. Ongoing litigation helps provide more information about the problem. However, because many of the manufacturers being sued are in China, it may be challenging for the homeowners to recover from the manufacturers themselves.

**OBJECTIVE:**

The goal of this monitor project is to follow the development of the scientific, economic, legal, and general policy issues associated with the national challenge presented by the imported drywall crisis.

**METHODOLOGY:**

The professional staff will monitor federal, state, and local responses to the imported drywall problem. Staff will monitor scientific and technical data as it becomes available regarding the toxicity and remediation of contaminated drywall. Staff will coordinate with the professional staff of the Regulated Industries Committee who are also monitoring this issue.

**INTERIM MONITOR PROJECT TITLE:**

*Department of Community Affairs Rulemaking*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-320

**ISSUE DESCRIPTION and BACKGROUND:**

In 2009, the Senate Committee on Community Affairs produced Interim Report 2010-107, Population Need as a Criterion for Changes to a Local Government's Future Land Use Map. The Department of Community Affairs (DCA or Department) is now in the process of amending rule 9J-5.066 relating to the land use needs analysis requirements for local comprehensive plans. The purpose of the proposed rule amendment is to provide greater detail and explanation relating to the statutory requirements that the future land use element be based upon the amount of land required to accommodate anticipated growth and the projected population of the area. Draft rule language is not yet available.

To implement the new requirements for energy efficient land use patterns established by Chapter 2008-191, Laws of Florida (House Bill 697), the Department held rule development workshops on January 12, 2009, December 3, 2009, January 29, 2010, and April 23, 2010, to receive comments concerning potential revisions to Rule 9J-5, Florida Administrative Code. The rule is expected to establish minimum criteria to be used in reviewing comprehensive plans to determine whether they comply with the new statutory requirements regarding: energy efficient land use patterns accounting for existing and future electric power generation and transmission systems, greenhouse gas reduction

strategies, strategies to address reduction in greenhouse gas emissions from the transportation sector, factors that affect energy conservation, depicting energy conservation on the future land use map series, energy efficiency in the design and construction of new housing, the use of renewable energy resources, the discouragement of urban sprawl, the achievement of healthy, vibrant urban centers, and strategies to support and fund mobility within certain transportation concurrency exception areas. Draft rule language has been proposed and revised. The latest draft was made available in March of 2010.

**OBJECTIVE:**

The goal of this monitor project is to monitor the development of these rulemaking processes.

**METHODOLOGY:**

The professional staff will attend rulemaking hearings and review any draft rules published by the Department.

<b>INTERIM MONITOR PROJECT TITLE:</b> <i>Growth Management Litigation</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-321

**ISSUE DESCRIPTION and BACKGROUND:**

In 2009, the Legislature passed and the Governor signed into law Senate Bill 360, Chapter 2009-96, Laws of Florida. This bill made a wide array of changes to Florida's growth management laws, including: transportation concurrency, developments of regional impact, permit extensions, local ordinances, and affordable housing. The law is now being challenged in the courts as an unfunded mandate and as a violation of the single subject rule. A hearing on the plaintiffs' motion for summary judgment was postponed until June 3, 2010.

**OBJECTIVE:**

The goal of this monitor project is to monitor the outcome of the case and to evaluate the implications of any judgment on the merits.

**METHODOLOGY:**

The professional staff will closely monitor the lawsuit.

<b>INTERIM MONITOR PROJECT TITLE:</b> <i>Property Assessed Clean Energy</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-322

**ISSUE DESCRIPTION and BACKGROUND:**

During the 2010 Legislative Session the Legislature passed CS/HB 7179 authorizing Property Assessed Clean Energy (PACE) financing. P.A.C.E. financing allows local governments to levy non-ad valorem assessments to fund energy efficiency and renewable energy improvements, as well as

improvements to a property's resistance to wind damages for property owners who voluntarily participate.

This legislation allows local governments to issue debt, payable from revenues received from the improved property, and to collaborate with one or more local governments for the purpose of providing such improvements.

**OBJECTIVE:**

The purpose of this project is to collect data in order to monitor how many local governmental entities implement P.A.C.E. financing programs, the costs and types of improvements that are made, and to evaluate the effects.

**METHODOLOGY:**

Committee staff will seek data from The League of Cities, The Association of Counties, and The Association of Special Districts, and review periodicals in order to monitor which local governments implement PACE financing programs throughout the state.

**INTERIM MONITOR PROJECT TITLE:**

*Working Waterfronts*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-323

**ISSUE DESCRIPTION and BACKGROUND:**

Article VII, section 4, of the State Constitution requires that all property be assessed at just/fair market value for ad valorem tax purposes. The Florida Constitution authorizes certain alternatives to the just valuation standard for special classes of property.

In November 2008, Florida voters approved a constitutional amendment proposed by the Florida Tax and Budget Reform Commission (TBRC), to provide for the assessment of working waterfront property based on its current use instead of its highest and best use. The amendment to section (4), Art. VII, of the State Constitution, created a new subsection (j) to provide the categories of working waterfront property that shall be assessed based on its current use. These categories include:

- Land used predominantly for commercial fishing purposes.
- Land that is accessible to the public and used for vessel launches into waters that are navigable.
- Marinas and drystacks that are open to the public.
- Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities.

The assessment benefit provided in the amendment is subject to the conditions, limitations and reasonable definitions as specified by the Legislature through general law. However, the Legislature has yet to reach an agreement on implementing legislation for this constitutional amendment.

**OBJECTIVE:**

The purpose of this project is to monitor the different methodologies used by property appraisers throughout the state to assess the “current use” value of working waterfront properties, as described in the 2008 constitutional amendment.

**METHODOLOGY:**

Committee staff will work with the Senate Finance and Tax Committee, the Property Appraisers Association, and local property appraisers; and review periodicals from local government entities in order to monitor how they implement this constitutional amendment.





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# CRIMINAL AND CIVIL JUSTICE APPROPRIATIONS

## Interim Projects

(None)

## Issue Briefs

(None)

## Monitor Projects

<b>INTERIM MONITOR PROJECT TITLE:</b>
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<i>Department of Corrections' Prison Operational Costs</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-324

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Legislature reduced the Department of Corrections' operating costs by \$1.4 million and required the department to reduce daily per diem costs of operating 1,350 prison beds by approximately \$3 per day. Additionally, the Legislature required the department to develop a plan to reduce the operating costs of an additional 6,400 beds by five percent and to provide this plan to the Governor, the President of the Senate and the Speaker of the House of Representatives by November 1, 2010.

**OBJECTIVE:**

To monitor the Department of Corrections' implementation of cost savings for the inmate daily per diem cost of operating 1,350 existing prison beds that were established by the 2010 Legislature. Also, to review the department's plan to reduce operating costs of an additional 6,400 prison beds by five percent prior to the due date to the Senate and House of Representatives on November 1, 2010.

**METHODOLOGY:**

Senate Professional Staff will monitor operational changes and decisions made by the department to reduce the costs of operating these beds.

**INTERIM MONITOR PROJECT TITLE:**

***Reduction of Residential Beds in the Department of Juvenile Justice***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-325

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Legislature reduced the number of residential treatment beds in the Department of Juvenile Justice (DJJ). The department currently has a significant waiting list of juveniles who need to be placed in all types of residential beds. Staff will monitor the impact of these reductions on the department's detention centers to determine if juveniles are staying longer in these facilities, which is more costly for the department.

**OBJECTIVE:**

Monitoring the bed reductions in DJJ will allow the Legislature to determine if funding adjustments should be considered during the 2011 Legislature Session.

**METHODOLOGY:**

Senate Professional Staff will monitor the progress of the implementation of the bed reductions to make sure DJJ has sufficient beds to meet the requirements for placing youth in residential commitment programs.

**INTERIM MONITOR PROJECT TITLE:**

***Implementation of Electronic Filing in the Trial Courts and First District Court of Appeals***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-326

**ISSUE DESCRIPTION and BACKGROUND:**

Legislation passed during the 2009 session required the clerks of court and the state's trial courts to implement electronic filing for court cases. To date, the state court system has implemented electronic filing in one of ten court divisions. Proviso in the 2010-2011 General Appropriations Act requires the clerks of court and the state court system to implement electronic filing in five of the ten trial court divisions by January 1, 2011. In addition, legislation passed during the 2009 session required the 1<sup>st</sup> District Court of Appeals to implement electronic filing for workers' compensation appeals.

**OBJECTIVE:**

To monitor the implementation of electronic filing processes by the judicial branch and report any issues the legislature may need to address. To monitor the implementation of electronic filing for workers' compensation appeals and report any issues the legislature may need to address.

**METHODOLOGY:**

Senate Professional Staff will conduct meetings with clerks of court and the state court system to follow the implementation of electronic filing processes. Senate Professional Staff will review relevant documents developed for implementation of electronic filing.

**INTERIM MONITOR PROJECT TITLE:**

***Department of Corrections' Work Release Center Operational Costs***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-327

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Legislature reduced the Department of Corrections' operating costs by \$2.3 million and required the department to reduce costs for 863 current work release beds, and to transition 600 inmates into newly constructed work release beds which will become operational in January, 2011. The department must ensure that costs for these beds do not exceed \$22 per day.

**OBJECTIVE:**

To monitor the Department of Corrections' operation of the current 863 and 600 new work release beds to determine if the department will be able to achieve the cost savings established by the 2010 Legislature.

**METHODOLOGY:**

Senate Professional Staff will monitor operational changes and decisions made by the department to reduce the costs of operating these work release program beds.

**INTERIM MONITOR PROJECT TITLE:**

***Implementation of Clerks of Court Unit Cost Budgets***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-328

**ISSUE DESCRIPTION and BACKGROUND:**

Senate Bill 2108 (2009-204, Laws of Florida) was passed by the Legislature in 2009 and signed into law by the Governor. It requires the clerks of court to be funded based on unit costs for specified services. The Clerks of Court Operations Corporation requested clerk budgets for the 2010-2011 state fiscal year using unit costs. The 2010 Legislature funded clerks using 10 unit costs covering the major court case types in the 2010-2011 General Appropriations Act (GAA). Clerks are to be reimbursed quarterly based on the number of units they provide using the unit costs set in the GAA. The clerks of court and the Clerks of Court Operations Corporation are funded within the Justice Administrative Commission.

**OBJECTIVE:**

To monitor the implementation of clerk of court unit cost budgets and identify implementation issues that the Legislature may need to address in the 2011 session.

**METHODOLOGY:**

Senate Professional Staff will review clerk of court unit cost data as well as information and documents produced by the Clerk of Court Operations Corporation. Senate Professional Staff will attend meetings and interview staff from the clerks of court and the Clerk of Court Operations Corporation to monitor the implementation of this funding requirement.



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# CRIMINAL JUSTICE

## Interim Projects

**INTERIM PROJECT TITLE:**

*Evidence Preservation for Postsentencing DNA Testing - Reassessing Current Statutory Requirements in Section 925.11, F.S.*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-112

**ISSUE DESCRIPTION and BACKGROUND:**

The statutory requirements for evidence preservation in cases where postsentencing DNA testing may be requested are set forth in s. 925.11(4), F.S. The statute requires that any physical evidence collected at the time of the crime which is in the possession of any governmental entity must be maintained until such time as the deadline for the sentenced defendant to request postsentencing DNA testing has passed.

Because the possibilities of successful DNA extraction and testing have continued to evolve over the years, agencies are erring on the side of caution and maintaining physical evidence that may not have been envisioned at the time of the passage of s. 925.11(4), F.S. Preserving evidence that is quite bulky and space-consuming, from which skin cells might now be gathered for testing from fingerprints left behind, has proven to be a fiscal issue for many agencies.

Senate Bill 2522 and House Bill 1323 that addressed the evidence preservation issue were filed during the 2010 Legislative Session but they did not advance in either the Senate or the House of Representatives.

**OBJECTIVE:**

A review of the current practice of physical evidence preservation, as it relates to postsentencing DNA testing, will be conducted. The overall objective is to determine if revisions to the current law should be recommended, and if so, whether stakeholders such as representatives of the Innocence Project, law enforcement agencies, clerks of court, the Florida Department of Law Enforcement, prosecutors, and public defenders can reach a consensus as to the most prudent course of action.

**METHODOLOGY:**

This project will require on-going meetings and discussions with the stakeholders mentioned above. A review of the evidence preservation requirements relating to postsentencing DNA testing in other states, and a review of the latest techniques for gathering DNA samples and successful testing will also be conducted.

**INTERIM PROJECT TITLE:**

***An Examination of the Need to Expunge Records of Successful Participants in Florida's Juvenile Civil Citation Programs***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-113

**ISSUE DESCRIPTION and BACKGROUND:**

During the 2010 Legislative Session, legislation was filed relating to the juvenile civil citation programs in Florida. Senate Bill 1210 required that a juvenile civil citation program be established at the local level with the concurrence of the chief circuit judge and other persons involved with the program (state attorney, public defender, and law enforcement agency head). This bill was never heard in committee. Senate Bill 2544 allowed a youth who successfully completed a civil citation program to have his or her nonjudicial misdemeanor arrest record expunged. This bill passed the Senate, but died in the House. An issue was raised concerning the necessity to legislatively require that records of successful participants in these programs be expunged, or whether this step is unnecessary because this information is essentially inaccessible to the public given its confidential nature under ch. 985, F.S.

**OBJECTIVE:**

To examine whether there is a need to legislatively require record expungement for youth who successfully complete a juvenile civil citation program, or whether this is unnecessary in light of the confidential status of juvenile information under ch. 985, F.S. If it is found to be necessary, then provide options for accomplishing the record expungement.

**METHODOLOGY:**

Senate professional staff will examine the relevant laws, rules, and current practices relating to juvenile civil citation programs in Florida. As part of this examination, professional staff will also confer with the DJJ as well as the other interested parties involved with these programs.

**INTERIM PROJECT TITLE:**

***Youthful Offender Designation in the Department of Corrections***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-114

**ISSUE DESCRIPTION and BACKGROUND:**

The Florida Youthful Offender Act (Act), ss. 958.011 – 958.15, F.S., was passed in 1978 with the purpose of improving the chances of corrections and successful reentry to the community of youthful offenders sentenced to prison. The Act intended to accomplish this by providing youthful offenders enhanced programs and services, opportunities for further service, and preventing them from associating with older and more experienced criminals. It was also intended to provide a sentencing alternative for courts in dealing with an offender who could no longer be safely treated as a juvenile.

**OBJECTIVE:**

The project will describe the Act and its implementation by the judiciary and the Department of Corrections, assess whether the Act has been effective in meeting its stated purposes, and recommend any statutory changes that are warranted by the findings.

**METHODOLOGY:**

Senate professional staff will review statutes, case law, and publications in order to describe the history and current status of the Act and its implementation. Relevant reports and literature will be reviewed to examine practices in other jurisdictions. Senate professional staff will also confer with the Department of Corrections and other interested persons and entities who are involved with youthful offenders.

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

*Constitutional Prohibitions Affecting Criminal Laws*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-212

**ISSUE DESCRIPTION and BACKGROUND:**

Defendants or offenders have challenged and continue to challenge criminal laws as violating constitutional prohibitions. The result of successful legal challenges can be serious, such as voiding criminal laws or provisions of those laws, vacating or reducing sentences, and releasing offenders from prison earlier than projected.

**OBJECTIVE:**

In 2004, the Committee on Criminal Justice undertook an interim project which had the objective of assisting legislators in avoiding legal challenges to criminal laws by informing them about the analyses used by Florida courts to determine whether a criminal law violates certain constitutional prohibitions, including, but not limited to, the prohibitions against ex post facto punishments, multiple subjects in legislation (in violation of the “single subject” requirement), and encroachment on judicial authority (in violation of the “separation of powers” doctrine).

There continues to be a need for this type of resources as committee and Senate members change. This interim brief will update the 2004 resource with the same objective of providing legislators with information about constitutional prohibitions affecting criminal laws. Current subjects will be revised to include some specific issues not addressed in the 2004 interim project, such as ex post facto analysis in the context of statutory amendments relating to probation. New subjects will be added, such as due process in the context of overbroad statutes and statutes that do not explicitly provide for a knowledge or mens rea element.

**METHODOLOGY:**

Senate professional staff will review the case law relevant to various constitutional prohibitions and summarize the analyses used by the courts to determine whether criminal laws violate those prohibitions.



**INTERIM ISSUE BRIEF TITLE:**

***Privatization Of Prison Health Care Services***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-213

**ISSUE DESCRIPTION and BACKGROUND:**

Generally, health care services for Florida prison inmates are provided by medical employees of the department. However, health care services for an entire region were privatized for a period of time during the last decade. Also, the department contracts with private providers for certain aspects of medical care. In FY 2008-09, the Department of Corrections spent approximately \$350 million for health services, constituting 17.5% of the department's Total Operating Funds. This was an increase of \$165 million in health care spending and a 3% increase in the share of total expenditures since FY 1998-99. With health care costs continuing to rise, it is appropriate to review the history of delivery methods and cost-containment strategies for inmate health care services in Florida and other jurisdictions.

**OBJECTIVE:**

This interim project will describe the history and current status of inmate health care services in Florida. It will also consider the experiences of Florida and other jurisdictions with publicly or privately-provided inmate health care and other cost-containment methods.

**METHODOLOGY:**

Senate professional staff will obtain information about current inmate health care costs, delivery methods, experiences with health care privatization, and quality of care in Florida and other jurisdictions. In addition to examining current systems, consideration will be given to historical attempts to contain costs. Available literature will be reviewed and Senate professional staff will seek input from the Department of Corrections, the Correctional Medical Authority, the Department of Management Services, the Department of Health, private health care providers, and other entities or individuals with relevant information concerning publicly and privately managed prison health care.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

***Developments in the Federal Adam Walsh Act***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-329

**ISSUE DESCRIPTION and BACKGROUND:**

The federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Protection and Safety Act of 2006 (P.L. 109-248), was enacted on July 27, 2006. SORNA expands the requirements for state law enforcement and prison officials in registering and tracking sexual offenders. In 2007, the Florida Legislature enacted legislation to revise Florida's laws to comply with SORNA (ch. 2007-209, L.O.F.). This legislation did not implement every SORNA requirement.

SORNA authorizes a 10-percent reduction in Byrne Justice Assistance Grant funding for any state that is not in substantial compliance with SORNA requirements by July 27, 2009. Florida has been granted a one-year extension by the federal government, which will expire on July 26, 2010. Florida is also entitled to request one final extension for the time period of July 27, 2010 through July 26, 2011.

Media reports have indicated that Congress may consider revising some provisions of SORNA. Florida has not yet been determined by the federal government to be in substantial compliance with SORNA requirements.

**OBJECTIVE:**

This interim project monitor will monitor other states' attempts to substantially comply with SORNA and any actions by Congress to amend SORNA.

**METHODOLOGY:**

Senate professional staff will review available documents and materials relevant to implementation of SORNA requirements and consult with the Florida Department of Law Enforcement.

**INTERIM MONITOR PROJECT TITLE:**

*Establishment of Innocence Commission by the Supreme Court of Florida*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-330

**ISSUE DESCRIPTION and BACKGROUND:**

The Florida Innocence Project lists thirteen (13) individuals whose innocence has been shown through the results of DNA evidence. Two additional individuals have sought compensation by the State of Florida based upon claims of wrongful incarceration.

In the recent past, the Florida Legislature has passed measures providing for postconviction DNA testing and for compensation to be awarded to the wrongfully incarcerated. It has also passed claim bills to compensate two individuals. During the 2010 Legislative Session, \$200,000 was appropriated to the Supreme Court of Florida for the purpose of creating an Innocence Commission to study the causes of wrongful conviction and subsequent incarceration.

**OBJECTIVE:**

The creation of the Commission, its study, and any findings or recommendations that may require legislation will be monitored.

**METHODOLOGY:**

Senate professional staff will maintain communication with the Office of the State Courts Administrator regarding the progress of the creation of the Commission and will attend any meetings that may occur during the 2011 Interim.

**INTERIM MONITOR PROJECT TITLE:**

***Juvenile Justice Reforms and Blueprint Commission Recommendations***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-331

**ISSUE DESCRIPTION and BACKGROUND:**

In July 2007, Governor Crist authorized the creation of the Blueprint Commission (commission) for the purpose of developing recommendations to reform Florida's juvenile justice system. The commission issued its recommendations in a report entitled "Getting Smart About Juvenile Justice in Florida." The recommendations were a combination of legislative changes as well as policy and rule changes.

During the 2008 regular session, CS/CS/CS/SB 700 contained many of the commission's 52 recommendations, in addition to several other policy changes. Unfortunately, the legislation died in the House. Legislation was again filed during the 2009 regular session and it died in the Senate because of amendments added by the House (CS/SB 2218 and CS/SB 2128). However, one of its recommendations passed in another bill involving revising the zero tolerance policy in schools (Chapter Law 2009-53).

During the 2010 regular session, the Blueprint Commission legislation, CS/SB 1072, again passed the Senate, but was amended by the House and the Senate refused to concur in the amendments so it died in the House. However, SB 1012 passed which begins to address a recommendation relating to mental health and substance abuse treatment services by providing the Department of Juvenile Justice (department) with rulemaking authority to outline such services for youth in its programs.

**OBJECTIVE:**

The objective of this interim monitor project is to keep abreast of the implementation of the commission's recommendations, including the department's policy and rule changes, as well as monitoring any proposed legislation for this upcoming session.

**METHODOLOGY:**

Senate professional staff will maintain contact with the department and other interested parties to stay abreast of all policy revisions, rule changes, and legislative proposals.

**INTERIM MONITOR PROJECT TITLE:**

***United States Supreme Court Cases Considering Constitutionality of Life Sentences for Juveniles***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-332

**ISSUE DESCRIPTION and BACKGROUND:**

Bills to make juveniles eligible for parole consideration have been proposed every year since 2004. Florida State University College of Law students have advocated for the proposal in recent years. In the 2010 Legislative Session, SB 184 and HB 23 were introduced and had they passed would have applied to persons who were younger than 16 years old when they committed the offense and who were sentenced to imprisonment for 10 years or longer. There were certain exclusions and preconditions to

eligibility, including the requirement that the offender have served a minimum of 8 years of the sentence before becoming eligible for consideration and meet certain criteria showing that he or she has been rehabilitated. At the time the bills were considered, 432 inmates met the threshold requirement of being sentenced for 10 years or more for a crime committed before his or her 16th birthday.

In *Graham v. Florida*, the United States Supreme Court found that it is unconstitutional for a juvenile to be sentenced to imprisonment for life without the possibility of parole for a non-homicide offense. Of the 129 prisoners who fall into this category nationwide, 77 are imprisoned in Florida.

**OBJECTIVE:**

This interim monitor project will analyze the ruling in order to be prepared to give appropriate advice concerning its implications. It will also monitor any efforts to comply with the ruling by the Parole Commission.

**METHODOLOGY:**

Senate professional staff will review the opinion and related cases and maintain contact with the Parole Commission regarding any plans to implement parole consideration prior to passage of legislation that is consistent with the opinion.



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# EDUCATION PRE-K – 12

## Interim Projects

<b>INTERIM PROJECT TITLE:</b>
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<i>School District Information Technology Procurement</i>
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**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-115

**ISSUE DESCRIPTION and BACKGROUND:**

Current law (s. 1008.385, F.S.) provides the framework for the development of management information systems for school districts. State Board of Education rule requires school districts to establish purchasing rules. When acquiring information technology, district school boards may make any acquisition through the competitive solicitation process, as described in rule, or by direct negotiation and contract with a vendor or supplier, as determined by the district school board. This provision relates to equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material.

**OBJECTIVE:**

The project will seek to determine whether sufficient safeguards exist to protect the investment of public funds for information technology resources.

**METHODOLOGY:**

Current law relating to statutorily authorized procurement methods for information technology will be analyzed. The Senate professional staff will research applicable district procurement policies, procedures, and standards for information technology, including any requirements regarding business arrangements and market competition. Senate professional staff will also review pertinent Office of Program Policy Analysis and Government Accountability reports and Auditor General information technology audits.

## Issue Briefs

<b>INTERIM ISSUE BRIEF TITLE:</b>
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<i>Performance Pay</i>
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**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-214

**ISSUE DESCRIPTION and BACKGROUND:**

Current law requires school districts to base a portion of the compensation of instructional personnel on performance. The performance appraisal for instructional personnel and school-based administrators must be primarily based on student performance as measured by state assessments or school district assessments for those grade levels and subject areas not assessed by the state assessment. Additionally, the law requires each school district to adopt a salary schedule with differentiated pay for

instructional personnel and school-based administrators based on additional responsibilities, school demographics, job difficulties, critical shortage areas, and other district-determined factors.

**OBJECTIVE:**

The issue brief will provide a profile of how each school district is complying with the current statutory requirements for performance pay.

**METHODOLOGY:**

Senate professional staff will survey the school districts, review school district salary schedules and the compensation provided for instructional personnel and school-based administrators, and identify the district-determined factors that are used for differentiated pay.

**INTERIM ISSUE BRIEF TITLE:**

***Virtual Instruction Programs***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-215

**ISSUE DESCRIPTION and BACKGROUND:**

Florida is considered a leader in virtual instruction. Virtual instruction programs are a component of the K-20 public education system. District programs are included among the public school choice options available to parents and students. In 2008, the Legislature (ch. 2008-147, L.O.F.) required each school district to establish its own virtual instruction program by the 2009-2010 school year. Districts were authorized, but not required, to offer a virtual instruction program for the 2008-2009 school year. During the 2010 legislative session, additional changes (CS/HB 5101) were made to the virtual instruction programs.

Florida currently offers three virtual instruction programs:

- The Florida Virtual School (FLVS) provides virtual education courses to students in grades six through 12 and through district franchise programs;
- The school district virtual instruction program (VIP) provides full-time virtual courses for students in kindergarten through 12<sup>th</sup> grade and full-time or part-time courses for students enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice education programs in grades nine through 12, core-curricula courses to meet class size requirements, or community colleges; and
- The statewide K-8 Virtual School program, which is being phased out, provides a full-time virtual instruction program to eligible students in kindergarten through grade eight.

**OBJECTIVE:**

The purpose of the project is to provide a virtual instruction profile that includes the current structure of each district's VIP program, the number of students served by grade level and provider, and the costs associated with each provider of virtual instruction compared to traditional instructional costs.

**METHODOLOGY:**

Senate professional staff will review Florida's virtual instruction programs and obtain information from the Department of Education, the school districts, and the FLVS.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**  
*Class Size Implementation*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-333

**ISSUE DESCRIPTION and BACKGROUND:**

In 2002, the State Constitution was amended to require that by the beginning of the 2010 school year the maximum number of students assigned to a teacher who teaches core-curricula courses in public school classrooms may not exceed:

- 18 students in prekindergarten through grade 3;
- 22 students in grades 4 through 8; and
- 25 students in grades 9 through 12.

To date, the Legislature has appropriated more than \$13 billion to school districts for operational costs and \$2.5 billion to school districts for facilities to meet the class size reduction requirements. Despite these additional funds, some school districts may not meet the constitutional class requirements. These school districts may experience significant disruptions, including reducing or eliminating non-core courses, such as the arts, music, and physical education; reducing or eliminating electives or other courses with small enrollments; changing student attendance zones; and restructuring courses and reassigning teachers if additional students enroll in mid-semester.

To address the potential disruptive effects of applying the class size requirements to the classroom level and subject to voter approval, the 2010 Legislature passed a joint resolution (SJR 2) that proposes to amend the State Constitution to require that the maximum number of students assigned to a teacher may not exceed the following number of students on a school average:

- 18 students in prekindergarten through grade 3;
- 22 students in grades 4 through 8; and
- 25 students in grades 9 through 12.

Also, the joint resolution requires the maximum number of students who may be assigned to a teacher (while not exceeding the school level average) may not exceed:

- 21 students in prekindergarten through grade 3;
- 27 students in grades 4 through 8; and
- 30 students in grades 9 through 12.

If approved by the voters, the changes would apply retroactively to the beginning of the 2010-2011 school year. However, school districts must meet the constitutional requirements in the beginning of the 2010 school year, which requires class size compliance at the classroom level. It is anticipated that the current constitutional class size requirements will produce significant changes in the educational offerings and teacher and student assignment in the beginning of the 2010 school year.



**OBJECTIVE:**

The purpose of the project is to monitor school district implementation of the class size requirements.

**METHODOLOGY:**

Professional staff will monitor school district implementation of the class size requirements.

**INTERIM MONITOR PROJECT TITLE:**

*Race to the Top*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-334

**ISSUE DESCRIPTION and BACKGROUND:**

The American Recovery and Reinvestment Act of 2009 (ARRA) provides \$4.3 billion for the Race to the Top (RTTP) Fund, a competitive grant program designed to encourage and reward states that are implementing significant education reforms across four education areas: implementing standards and assessments, improving teacher effectiveness and achieving equity in teacher distribution, improving the collection and use of data, and supporting struggling schools.

To receive funds, a state must provide assurance that it will improve teacher effectiveness and comply with the requirements that school programs and targeted assistance schools provide instruction by highly qualified teachers, that poor and minority students are not taught at higher rates than other students by inexperienced, unqualified, or out-of-field teachers, and that it will evaluate and publicly report progress with respect to these requirements. The criteria include the extent to which a state differentiates the effectiveness of teachers and principals and uses this information for decisions on evaluation, compensation, promotion, termination, and tenure. Under the criteria, teacher and principal effectiveness would be judged in significant part by student growth.

The Florida Department of Education competed for phase 1 of the RTTP funds. Of the 41 applicants, only Delaware and Tennessee obtained funds. There is \$3.4 billion available for phase 2 of the competition. Applications are due on June 1, 2010, and grant awards will be made by September 30, 2010. The Department of Education has applied for phase 2 funds.

**OBJECTIVE:**

The purpose of the project is to monitor the status of the Department of Education's initiative to compete for federal RTTP funds and the implementation of Florida's initiative, if RTTP funds are received.

**METHODOLOGY:**

Professional staff will monitor the meetings, discussions, and outcomes related to the Department of Education's application for phase 2 RTTP funds and its initial implementation by the department and school districts, if RTTP funds are received.

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# EDUCATION PRE-K 12 APPROPRIATIONS

## Interim Projects

**INTERIM PROJECT TITLE:**

*Report on the Impact of the General Appropriations Act on Pre-K – 12 Education*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-116

**ISSUE DESCRIPTION and BACKGROUND:**

This report is a summary of the impact of the General Appropriations Act showing allocations of appropriations to each school district. The report is produced annually by the Senate Education Appropriations Committee professional staff as a resource to members, aides, agency staff, and the general public.

**OBJECTIVE:**

The purpose of the report is to provide a quick reference for Senators and aides on education funding specifics for all delivery areas of the state's educational system, and to provide answers to frequently asked questions about the financing of education in Florida. The project will continue the printing and distribution of the post-session report in book form. The report will also be available through the Senate website.

**METHODOLOGY:**

Last year's Senate post-session education publication will be reviewed to determine whether all types of information previously included are still useful or should be modified or enhanced. Once this determination is made, professional staff will work with Department of Education staff as allocations of state appropriations to various school districts are made. These allocations will be checked for consistency with the General Appropriations Act as the post-session book is prepared.

## Issue Briefs

*(None)*

## Monitor Projects

*(None)*



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# ENVIRONMENTAL PRESERVATION AND CONSERVATION

## Interim Projects

**INTERIM PROJECT TITLE:**

*Self Certification and Environmental Permitting Requirements*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-117

**ISSUE DESCRIPTION and BACKGROUND:**

During the past two regular legislative sessions, proposals have been put forward that would allow certain licensed professions to self certify that certain activities impacting wetlands meet the permitting requirements necessary to receive an Environmental Resource Permit under chapter 373, Florida Statutes. Though the proposals have not been adopted, they represent additional measures under consideration to streamline the environmental permitting process. The most recent streamlining effort is the passage of legislation that modified delegation of permit decision making by the water management districts and established a specific method for local governments to seek authority to issue state permits.

**OBJECTIVE:**

The project would seek to identify and review self certification programs adopted or under consideration by either the federal government or a state government. The project would provide findings and recommendations concerning issues surrounding the development and implementation of self certification programs.

**METHODOLOGY:**

Professional staff will undertake statutory research of federal and state laws, interview officials who are charged with implementing and overseeing self certification programs, interview potentially affected parties in Florida, and conduct a literature review concerning the topic.

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

*Review Allowing Hunters to Run Foxes and Coyotes in Enclosures in the State*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-216

**ISSUE DESCRIPTION and BACKGROUND:**

In 1988, as an alternative to fox chases on open land, the then Game and Fresh Water Fish Commission created a permit system for fox and coyote running inside high-fence enclosures. The Florida Fish and Wildlife Conservation Commission (FWC) has temporarily suspended the licenses of all enclosure owners due to allegations of abuse and the spread of disease. During the interim, the FWC will revisit its rules that allow hunters to run foxes and coyotes in enclosures in the state.

**OBJECTIVE:**

The objective of this brief is to research the history and practices of this activity in the state and observe FWC's rule making process.

**METHODOLOGY:**

Professional staff will work with the staff of the FWC in order to review permits and violations related to this activity. Further, staff will conduct interviews with the FWC and the affected parties to solicit their expertise as to what can be done to prevent any abuse to the animals and to reduce the possible spread of disease to Florida's wildlife.

**INTERIM ISSUE BRIEF TITLE:**

*Florida Forever's Land Acquisition using Less-than-Fee Methods*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-217

**ISSUE DESCRIPTION and BACKGROUND:**

Florida has a long history concerning the acquisition of lands for environmental reasons. Under Preservation 2000 and Florida Forever, well over one million acres has been placed under public ownership. With the recent reauthorization and extension of the Florida Forever program, renewed emphasis was placed on acquiring lands using less-than-fee methods.

**OBJECTIVE:**

The objective of the issue brief will be to examine the expenditure of funds under Florida Forever in order to document the use of acquisition methods.

**METHODOLOGY:**

Professional staff will work with staff of the Division of State Lands within the Department of Environmental Protection to acquire the necessary data.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:*****Impact of Deepwater Horizon Oil Leak on Environmental Resources***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-335

**ISSUE DESCRIPTION and BACKGROUND:**

In April of 2010, an explosion at the Deepwater Horizon drilling platform resulted in an ongoing discharge of oil into the Gulf of Mexico. The rate of this discharge is estimated to be 5,000 barrels of oil a day, though recent efforts have slowed the discharge. The Department of Environmental Protection (department) has primary responsibility for the state efforts designed to address potential environmental impacts of the discharge. In addition to the department's responsibilities the Florida Fish and Wildlife Conservation Commission (commission) is charged with providing on the water assistance and monitoring potential impacts to the state's fisheries and wildlife.

**OBJECTIVE:**

The objective of this project is to monitor the potential impacts of the incident and the department's and commission's response.

**METHODOLOGY:**

Professional staff will work with the department and the commission to review potential impacts and issues affecting their statutory responsibilities to coordinate and respond to the incident.

**INTERIM MONITOR PROJECT TITLE:*****Everglades Restoration Activities***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-336

**ISSUE DESCRIPTION and BACKGROUND:**

The state is currently partnering with the federal government and the South Florida Water Management District (district) in a multi-billion dollar restoration program for the Everglades, commonly referred to as CERP (Comprehensive Everglades Restoration Program). The project is composed of numerous components including achievement of certain pollutant reduction standards, implementation of construction projects and land acquisition.

In terms of land acquisition, the Governing Board of the district recently voted to extend the revised contract with the United States Sugar Corporation to acquire 73,000 acres of land for Everglades Restoration. The revised proposal calls for the expenditure of \$536 million for the 73,000 acres with options to purchase another 107,000 acres. To finance the purchase, the district must validate and issue certificates of participation. The 15th Judicial Circuit Court approved validation of the bonds in August 2009. The Court's ruling was then appealed to the Florida Supreme Court, which heard testimony on April 7, 2010. A decision from the Florida Supreme Court is pending.

Additionally, on April 14, 2010, the United States District Court for the Southern District of Florida ordered the Florida Department of Environmental Protection (department) and the U.S. Environmental Protection Agency to comply with the Federal Clean Water Act for limiting phosphorus discharges into the Everglades. The agencies involved have not decided whether to appeal the order to a higher court.

**OBJECTIVE:**

The objective of this project is to monitor progress on the various components and court proceedings as they relate to the state's responsibilities under the Everglades Forever Act and CERP.

**METHODOLOGY:**

Professional staff will receive periodic briefings from district staff on the progress of the U.S. Sugar acquisition and will monitor Governing Board meetings. Additionally, professional staff will monitor and receive periodic briefings from the department involving Everglades restoration, including the Florida Supreme Court's pending decision on the district's bond validation and appeals, if any, of the United States District Court for the Southern District of Florida's order.

**INTERIM MONITOR PROJECT TITLE:**

*Reptiles of Concern Python Ban*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-337

**ISSUE DESCRIPTION and BACKGROUND:**

Non-native species, or invasive species, of giant snakes are reproducing and are considered established in Florida's ecosystem. In 2008 a law was passed to create a special category called Reptiles of Concern (ROC) which includes species that pose a danger to Florida's environment. CS/SB 318 and 572 which passed in the 2010 regular session, prohibits any person from possessing, importing, or selling, trading or breeding certain reptile species. Persons who already own these animals will be allowed to own the individual reptile for the remainder of the reptile's life.

**OBJECTIVE:**

The objective of this project will be to monitor the Florida Fish and Wildlife Conservation Commission's (FWC) rule making process and implementation of the recently passed legislative provisions concerning ROCs.

**METHODOLOGY:**

Professional staff will track the activities of the FWC concerning license violations that have occurred related to the ROC's. This will include conducting interviews and reviewing reports from game officials on what problems have occurred in the implementation of this rule.

**INTERIM MONITOR PROJECT TITLE:**

***Recycling Reporting in Florida***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-338

**ISSUE DESCRIPTION and BACKGROUND:**

During the 2010 legislative session, HB 7243 was passed which established a statewide recycling goal of 75% to be reached by 2020. Numerous provisions of the bill establish reporting and rule making requirements. Examples include: state and local government recycling rate reporting; directions to create a Recycling Business Assistance Center; and the development of rules concerning how recycling rates are to be determined.

**OBJECTIVE:**

The objective of this project will be to monitor agency efforts to implement specific provisions of the legislation.

**METHODOLOGY:**

Professional staff will receive updates and attend meetings and workshops concerning the implementation of the requirements in the legislation.

**INTERIM MONITOR PROJECT TITLE:**

***Department of Health Rulemaking and Implementation of a Statewide Septic Tank Evaluation Program***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-339

**ISSUE DESCRIPTION and BACKGROUND:**

During the 2010 Regular Session, the Legislature passed SB 550. One of the provisions in the bill directs the Department of Health (department) to conduct rule making for implementation of a statewide septic tank evaluation program. The department estimates there are 2.6 million septic tanks in Florida, with approximately 10 percent in a failing condition. Under the program when fully implemented, the department will evaluate all septic tanks in the state once every five years to determine those in need of repair or replacement.

**OBJECTIVE:**

The objective of this project is to monitor the department's rule making process and progress towards implementation of the statewide septic tank evaluation program.

**METHODOLOGY:**

Professional staff will receive periodic briefings from department staff on the progress of rule making and implementation of the statewide septic tank evaluation program.





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# ETHICS AND ELECTIONS

## Interim Projects

**INTERIM PROJECT TITLE:**

*The Effect of Early Voting on Voter Turnout in Florida Elections; 2010 update*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-118

**ISSUE DESCRIPTION and BACKGROUND:**

In 2004, the Florida Legislature amended §101.657, F.S., and introduced a standardized and mandatory process for early voting in Florida elections. Currently, a Florida elector may cast his or her vote at specified locations beginning on the fifteenth day before an election and ending on the second day before the election. Election officials and voting rights advocates have traditionally argued early voting has a positive impact on voter turnout and have urged its expansion. Early voting enjoyed increased popularity during the 2008 election cycle. Interim Project Report 2008-124 concluded early voting did not have a significant impact on voter turnout in Florida. Its popularity and utilization by voters in 2008 suggests need for further analysis.

While studies have indicated almost one-third of early voters identify convenience as their primary reason for casting an early ballot, there are currently no empirical studies analyzing the impact of early voting on voter turnout in Florida elections.

**OBJECTIVE:**

Provide an updated analysis of the impact of early voting on voter turnout in Florida elections.

**METHODOLOGY:**

Committee staff will collect, review, and analyze voting data for Florida elections to discern the effect of early voting on voter turnout during the recent election cycles in Florida. Staff will review post election reports from the 2008 election cycle by election officials and other parties, academic journals, and other studies and augment the initial staff study. Finally, staff will identify any issues appropriate for consideration during the 2011 session.

**INTERIM PROJECT TITLE:**

*Legal Implications of Candidate Party Switching in Florida Elections*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-119

**ISSUE DESCRIPTION and BACKGROUND:**

The governor's decision to qualify as an "independent" candidate for U.S. Senate and subsequently change his political party affiliation to NPA ("no party affiliation") caused some confusion and raised a number of interesting legal issues, many of which are *not directly* addressed in the Florida Election Code:

- What does it mean to run as an "independent candidate" in Florida, when that term is foreign to the election code?

- When does a candidate running for office have to *initially* identify or declare whether he or she is running for a political party's nomination or as an NPA or write-in?
- Are there any restrictions or limitations on a candidate who belongs to a political party changing to a different political party or to an NPA?
- When must a candidate for office decide whether to run for a party's nomination?
  - Can a candidate defeated in a party primary turn around and run for office as an NPA, write-in, or minor party candidate in the general election --- like Sen. Joe Lieberman did in Connecticut in 2006?
  - Can a candidate qualify to run in a party primary and subsequently decide to run for another nomination or as an NPA or write-in?
- Can a candidate qualify to run for office as a member of a different political party than he or she is registered? Can a candidate qualify for office as an NPA and still be registered as a member of a political party?
- If a candidate for office belonging to a political party qualifies to run for another party's nomination or as an NPA or write-in, is there any requirement that the candidate return campaign contributions?

**OBJECTIVE:**

Address these questions based on current Florida law, and identify options for resolving vagueness, ambiguities, and unaddressed policy issues.

**METHODOLOGY:**

Committee staff will: research the history of candidate party switching in Florida elections; review the relevant Florida law, identifying areas that should be addressed or that require additional clarification through legislation; and, contact persons with expertise to discuss reform options.

## Issue Briefs

*(None)*

## Monitor Projects

<b>INTERIM MONITOR PROJECT TITLE:</b>
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<i>2010 Election Cycle</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-340

**ISSUE DESCRIPTION and BACKGROUND:**

Florida election reforms have been a national model for the United States. In 2001, Florida completely overhauled the administration of elections in the wake of the 2000 U.S. Presidential recount. Florida, as the 4<sup>th</sup> largest state, will again be the focus of national attention during the 2010 election cycle. The reforms adopted since 2001 will be subject to scrutiny by the media, special interest groups, and the voters.

**OBJECTIVE:**

The purpose of the project is to assess the efficacy of Florida election administration laws and to identify any specific issues that may need to be addressed in the 2011 legislative session.

**METHODOLOGY:**

Committee staff will meet with staff of the Division of Elections, supervisors of elections, and interested parties to discuss any problems that arise in connection with the 2010 elections. Staff will also review media reports and post-election reports by election officials and other parties, where necessary, to identify areas of concern. Finally, staff will identify any issues appropriate for consideration during the 2011 session.



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# FINANCE AND TAX

## Interim Projects

**INTERIM PROJECT TITLE:*****Communication Services Tax Simplification***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-120

**ISSUE DESCRIPTION and BACKGROUND:**

In 2001, the Communication Services Tax was created to replace an array of state and local taxes and fees on communication services. There were several goals of the simplification: create a competitively neutral tax policy that would free consumers to choose a provider based on tax-neutral considerations; reduce inefficiencies in the administration of the tax; and streamline compliance requirements on the providers of communication services. The aforementioned goals are outlined in a statement of Legislative Findings and Intent found in Section 202.105, Florida Statutes.

**OBJECTIVE:**

The Communication Services Tax has now been in place for ten years. The project will examine the current tax structure in view of the aforementioned goals of the simplification effort. The project will examine whether further effort needs to be considered to result in a competitively neutral tax system. The project will also examine whether further opportunities exist to reduce the cost to administer and comply with the communication services tax.

**METHODOLOGY:**

Professional staff of the Senate Finance and Tax Committee will review the current types of communication services offered to consumers and the state and local taxation to which these services are subject. Instances in which services are not taxed in a competitively neutral fashion will be identified. Staff will interview representatives of the Department of Revenue and representatives of communication service providers to identify opportunities for administrative or compliance efficiencies.

**INTERIM PROJECT TITLE:*****Impact of Local Discretionary Sales Taxes on State Revenue Capacity***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-121

**ISSUE DESCRIPTION and BACKGROUND:**

Eight different types of local discretionary sales surtaxes are currently authorized sources for county and municipal revenue. Maximum authorized combined surtax rates vary from county to county, but none impose surtaxes at their maximum overall rate. Recent legislation expands overall county revenue raising capacity.

In 2009, counties were authorized to impose an Emergency Fire Rescue Services and Facilities Discretionary Sales Surtax of up to 1 percent. The number of counties eligible to levy the Charter

County Transportation System Surtax was increased in both 2009 and 2010, opening it up to all charter counties. In 2010, the Legislature passed HB 1271 (SB 2362) which, if signed by the Governor, will expand the number of jurisdictions that may impose the 1% Charter County Transportation System Surtax to include any county that is a part of a regional Transportation Authority. Moreover, the legislation did not limit the imposition of the newly authorized Emergency Fire Rescue Services and Facilities Discretionary Sales Surtax or the expanded authority to impose the charter County Transportation System surtax in combination with any of the other local option surtaxes either already being levied by a county or available to a county under section 212.055, F.S.

As a result, under current law, a number of counties could impose discretionary sales surtaxes of up to four pennies leaving open the possibility under current law of an overall sales tax rate of 10% in some jurisdictions.

**OBJECTIVE:**

The growing county reliance on a shared and shrinking statewide sales tax base is likely to raise economic and political questions in the near future. The report will attempt to explore these issues and discuss factors that may influence the discussion and offer possible solutions.

**METHODOLOGY:**

Professional staff of the Senate Finance and Tax Committee will explore the impact that potential local discretionary sales surtax rate increases may have on state government's revenue capacity. It will look at the state and local rates of other states and conduct a literature review with respect to economic impacts of higher sales tax rates upon the attraction of new businesses as well competitiveness of existing businesses.

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

*Tobacco Settlement and Non-participating Manufacturers Issue Description and Background*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-218

**ISSUE DESCRIPTION and BACKGROUND:**

In 1996 and 1997, Florida entered settlement agreements with Liggett and the Big Four tobacco companies—Phillip Morris, R.J. Reynolds, Brown and Williamson, and Lorillard, known as the original settling manufacturers, or OPMs. The amount of the settlement was \$11.3 billion to be paid over 25 years, with annual payments to continue in perpetuity. In 1998, the Big Four tobacco companies settled with 46 states, the District of Columbia, and 5 U.S. territories by entering into the \$368.5 billion Master Settlement agreement.

According to Florida's agreement, the annual settlement payment is \$440 million, adjusted by several factors, including the settling manufacturers' total volume of U.S. sales and market share. At the time of the Florida settlement, the OPMs had about 97% of the U.S. tobacco market share. Small producers were either not included in Florida's lawsuit or, in the case of Dosal Tobacco, were

subsequently dismissed from the suit. The settlement payments were estimated to be about \$.40 per pack of cigarettes sold.

By 2008, OPM market share had fallen to 82% of the Florida market, according to DBPR records. Falling sales and market share for the OPMs have reduced the required payments under the settlement. Non-participating manufacturers (NPMs) have a price advantage in Florida because they do not make settlement payments to the state. Based on DBPR estimates of NPM sales for 2008, a \$.40 per pack equitable assessment fee on NPM cigarettes would generate from \$50 to \$80 million.

**OBJECTIVE:**

This project will update research done in 2009 on the impact on Florida of the disparate treatment of OPM and NPM cigarette manufacturers.

**METHODOLOGY:**

Professional staff of the Senate Finance and Tax Committee will analyze data from DBPR about sales of OPM and NPM cigarettes, examine other states' policies regarding NPM cigarettes, and highlight other possible effects of the current treatment of NPM cigarettes.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Constitutional Provision that Provides a Use Valuation for Lands Used as Working Waterfronts*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-341

**ISSUE DESCRIPTION and BACKGROUND:**

The Taxation and Budget Reform Commission placed an amendment on the 2008 general election ballot that provided a use valuation for certain working waterfront properties. The amendment was approved by the voters. The newly adopted constitutional provisions are effective for assessments as of January 1, 2010. The constitutional provision does not require legislative implementation but does allow the legislature to provide for conditions, limitations and reasonable definitions. While bills were filed in both the House and Senate in the 2009 and 2010 sessions, no implementing legislation has passed.

**OBJECTIVE:**

This monitoring project will look at the extent, if at all, to which the lack of definitions, conditions or limitation in state law has hindered the implementation of the constitutional provision providing for a use valuation for working waterfront properties.

**METHODOLOGY:**

Professional staff of the Senate Finance and Tax Committee will survey property appraisers about the manner in which they have implemented the use valuation of working waterfront properties. Professional staff will work with the Department of Revenue Property Tax Oversight Program to obtain data on the number, location, and type of properties that received use valuations.



**INTERIM MONITOR PROJECT TITLE:**

***Implementation of New Notice of Proposed Taxes***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-342

**ISSUE DESCRIPTION and BACKGROUND:**

Ch. 2009-165, L.O.F., amended s. 200.069, F.S., which prescribes the format for the notice of proposed taxes which must be provided annually to all property taxpayers by the property appraiser. Several property appraisers petitioned the Department of Revenue to approve notices that did not conform strictly to the statutory requirements, citing problems relating to printing the forms and wanting to provide information about the previous year's millage rate in addition to the rolled-back rate.

**OBJECTIVE:**

To determine the extent to which the notices sent to taxpayers in 2010 conform to the format prescribed by s. 200.069, F.S., and whether additional changes should be made to s. 200.069, F.S., to improve the notice and provide better information to taxpayers.

**METHODOLOGY:**

Professional staff of the Finance and Tax Committee will review notices of proposed taxes approved by the Department of Revenue for 2010, and will consult with department staff and county property appraisers about any difficulties they have encountered in applying the 2009 changes to the notice.

**INTERIM MONITOR PROJECT TITLE:**

***Ongoing Litigation with Potential Tax Impacts***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-343

**ISSUE DESCRIPTION and BACKGROUND:**

There are certain ongoing cases that will impact the administration of Florida's existing taxes. These cases include:

The application of sales tax to transient rental transactions involving the Internet:

- Orange County, Florida v. Expedia, Inc., et. al. (2006-CA-0021 04) Ninth Judicial Circuit, Orange County, Florida
- Leon County, et. al. V. Expedia, Inc., et. al. (2009-CA-4319) Second Judicial Circuit, Leon County, Florida
- Orange County v. Expedia, Inc. et al., 985 So.2d 622, 630 (5th DCA, 2008), rehearing denied, Expedia. Inc. v. Orange County, 999 So.2d 644 (Fla., 2008)

The administration of the Florida income tax code:

- UPS Worldwide Forwarding Inc. v. Department of Revenue, Case No. 07-721 (FL 2nd Jud. Cir.); apportionment of income to Florida for certain corporate income taxpayers based upon statutorily defined boundaries that are different from the state boundaries described in the Florida Constitution.

**OBJECTIVE:**

To understand how Florida's tax structure changes due to the evolution of case law.

**METHODOLOGY:**

Professional Staff of the Senate Finance and Tax Committee will work with the Department of Revenue Office of General Counsel and the Department of Legal Affairs to keep abreast of development in ongoing litigation on tax related matters.



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# GENERAL GOVERNMENT APPROPRIATIONS

## Interim Projects

(None)

## Issue Briefs

(None)

## Monitor Projects

<b>INTERIM MONITOR PROJECT TITLE:</b>
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<i>Department of Financial Services Division of Risk Management Program Costs</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-344

**ISSUE DESCRIPTION and BACKGROUND:**

The Division of Risk Management (division) within the Department of Financial Services is responsible for ensuring that participating state agencies and universities receive quality coverage for workers' compensation, general liability, federal civil rights, auto liability, and property insurance at reasonable rates through the state's self insurance program. The division's operations and the insurance coverage for the state are funded from agency annual assessments. This revenue is deposited into the State Risk Management Trust Fund. The premiums or assessments are based on each agency's loss experience and exposure and a prorated share of the division's operating budget. Projected costs are derived from actuarial studies of the division's cash flow needs for claims and program expenses.

As part of the state's Three Year Financial Outlook, the Revenue Estimating Conference (REC) utilizes the actuarial information to determine the future resource requirements for the program. These requirements are based on the state's typical claims loss experience, program operating expenses, and current and projected risk assessments. For the 2009-2010 through the 2011-2012 fiscal years, the REC has projected deficits within the Risk Management Trust Fund. The fund deficit was estimated to be \$17.1 million in Fiscal Year 2009-2010, \$39.0 million in Fiscal Year 2010-2011, and \$40.2 million in Fiscal Year 2011-2012. A January 2010 report prepared by the division identified four primary cost drivers to which the increased program costs are attributed: (1) increasing workers' compensation medical costs, including the escalating cost of prescription medications; (2) the annual cost of living supplements paid on claims involving total and permanent disability; (3) the increasing cost of civil rights claim settlements; and (4) the increasing number of presumption claims involving correctional officers.

In order to reduce claims and program costs, the 2010 Legislature passed HB 5306, which institutes several cost savings and efficiencies measures. The legislation required:

- Participating agencies with 6,000 or more employees to establish and maintain a return to work program for injured workers, allowing them to remain at work or return to work with alternate work duties.
- The use of agency loss prevention results in addition to claims history as criteria for calculating agency risk management premiums to increase agency accountability.
- Evaluation of each agency's risk management programs at least once every five years and preparation of reports to agency heads recommending improvements.
- Revision of the requirements for determining the reimbursement amount for repackaged or relabeled prescription medications for workers' compensation claimants regardless of the dispensing location or provider.
- An annual report to the Legislature on the status of the state's loss prevention programs.

However, HB 5306 was vetoed by the Governor.

The Fiscal Year 2010-2011 General Appropriations Act provided \$17.1 million to cover the projected program deficit for the 2009-2010 fiscal year and \$39.1 million for the 2010-11 fiscal year. Also, three additional positions were provided to assist agencies in the development of return to work programs.

**OBJECTIVE:**

The objective of this project is to continue to monitor program expenditures and explore options to reduce program costs and claims to the state's Risk Management Program.

**METHODOLOGY:**

The Senate Professional Staff of the General Government Appropriations Committee will work with staff from the Division of Risk Management and the Senate Banking and Insurance Committee to review program information provided by the division and the REC. Professional staff will work with participants on the Revenue Estimating Conference to monitor program costs and cash flow requirements.

**INTERIM MONITOR PROJECT TITLE:**

*Child Support Automated Management System*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-345

**ISSUE DESCRIPTION and BACKGROUND:**

Since 2003, the Department of Revenue (department) has been developing the Child Support Automated Management System (CAMS) using a multi-year phased approach. Historically, the department relied on the Florida Online Recipient Integrated Data Access (FLORIDA) system, administered by the Department of Children and Families, for information processing needs. The FLORIDA system does not provide the functionality and management reporting capabilities that are necessary to effectively manage and support the Child Support Enforcement Program within the department. The federal Administration for Children and Families recognized that an automated information system was needed and has partnered with the state by providing federal resources to develop CAMS. When fully operational, CAMS will provide a modern system to efficiently and

effectively operate the Child Support Enforcement Program and is expected to increase child support collections, increase federal incentive funds to the state, and reduce costs currently associated with the FLORIDA system.

The CAMS project is currently in the final phase of development and is scheduled for release in 2012. The final phase will include the automation of case creation, case maintenance, payment processing, fund distribution, and additional case enforcement functionality. Upon completion of the project, the department estimates a \$6.1 million annual cost savings from the consolidation of all operations and maintenance activities into CAMS. The Fiscal Year 2010-2011 General Appropriations Act provided \$33.9 million in state and federal funds for the final phase of the system.

**OBJECTIVE:**

The objective of this project is to monitor the progress and expenditures for the final phase of the CAMS project, to ensure cost savings and efficiencies in the Child Support Enforcement Program within the Department of Revenue.

**METHODOLOGY:**

Senate Professional Staff of the General Government Appropriations Committee will monitor the progress of the project and review funding and projected cost savings. Senate Professional Staff will attend monthly board meetings with the department and staff from the Technology Review Workgroup.

**INTERIM MONITOR PROJECT TITLE:**

*Impact of Deepwater Horizon Oil Leak on Natural Resources*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-346

**ISSUE DESCRIPTION and BACKGROUND:**

On April 20, 2010, an explosion of the Deepwater Horizon drilling platform and well caused a discharge of an estimated 5,000 barrels (210,000 gallons) of oil per day into the Gulf of Mexico. The Governor issued Executive Orders 10-99 and 10-100 declaring a state of emergency for coastal counties extending along the Gulf of Mexico's coastline, from Pensacola to Sarasota.

The Department of Environmental Protection (DEP) is the designated lead state agency for responding to the impacts of the Deepwater Horizon oil spill along Florida's shoreline. The DEP responsibilities include the protection, conservation, and management of Florida's natural resources, and the enforcement of the state's environmental laws related to air pollution control, water quality, and waste management.

The Fish and Wildlife Conservation Commission (FWC) is the agency responsible for protecting and managing hundreds of species of wildlife and fish. The FWC, working with the DEP, county governments, water management districts, and several federal agencies, is conducting pre-impact wildlife assessments, which include taking water samples and testing for contamination in sediments, fish, and shellfish along Florida's coastline and into the Gulf of Mexico. The FWC also is evaluating critical habitat, shorebird and sea turtle nesting areas, and other wildlife. These assessments will help wildlife managers determine potential impacts of the spill.

Finally, the Department of Agriculture and Consumer Services (DACS) regulates aquaculture facilities and shellfish processing plants and ensures the continued productivity of oyster reefs through a restoration program. The DACS is responsible for opening and closing of shellfish harvesting waters to protect human health. The recent oil spill in the Gulf of Mexico is a potential threat to the aquaculture industry along Florida's coastline.

**OBJECTIVE:**

The objective of this project is to monitor the financial impacts from the Deepwater Horizon incident on the state's environment, fisheries, wildlife, and the aquaculture industry.

**METHODOLOGY:**

The Senate Professional Staff of the General Government Appropriations Committee, in coordination with the Senate Agriculture and Environmental Preservation Committees, will work with the Department of Environmental Protection, the Department Agriculture and Consumer Services, and the Fish and Wildlife Conservation Commission to review financial impacts.

**INTERIM MONITOR PROJECT TITLE:**

*MyFloridaMarketPlace*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-347

**ISSUE DESCRIPTION and BACKGROUND:**

In October, 2002, the Department of Management Services (department) contracted with Accenture, LLP, to build, implement, and maintain a statewide web-based electronic procurement system that enables the state to buy and sell goods and services electronically. This system is known as MyFloridaMarketPlace. In July of 2009, the department renegotiated and extended the contract through December, 2012.

In order to prepare for the expiration of this contract and to determine the options and alternatives available to the state, the Fiscal Year 2010-2011 General Appropriations Act included proviso language that requires the department to develop a business case plan for the competitive solicitation of the state purchasing system, MyFloridaMarketPlace. The plan is due July 1, 2010, and must include a detailed cost benefit analysis of options as defined in s. 287.0574 (4), F.S., as well as a transition plan in the event a new vendor is selected. Upon approval of the business case plan by the Legislative Budget Commission, the department must competitively solicit a contract for operation of the state purchasing system pursuant to s. 287.057, F.S.

**OBJECTIVE:**

The objective of this project is to monitor the development and submission of the department's business case plan for the future procurement of the state's purchasing system, MyFloridaMarketPlace.

**METHODOLOGY:**

The Senate Professional Staff of the General Government Appropriations Committee and the Governmental Oversight and Accountability Committee, in conjunction with the Technology Review Workgroup, will work with staff of the Department of Management Services to monitor and review the business case plan for the future competitive solicitation of the MyFloridaMarketPlace system.

**INTERIM MONITOR PROJECT TITLE:*****Minerals and Nonmandatory Land Reclamation Trust Funds in the Department of Environmental Protection*****DATE DUE:** N/A**PROJECT NUMBER:** 2011-348**ISSUE DESCRIPTION and BACKGROUND:**

The Minerals and Nonmandatory Land Reclamation Trust Funds are authorized to support environmental resource protection and management programs within the Department of Environmental Protection (DEP). The primary source of revenue for the trust funds is a severance tax on phosphate rock authorized in s. 211.3103, F.S. The Water Resource Management Program within the DEP is appropriated funds from the trust funds. The program's activities include the investigation and assessment of surface or underground water contamination; permit violations; rehabilitation of contaminated sites (Mulberry and Piney Point); maintenance, monitoring, inspection and supervision of sites or facilities that have been repaired, replaced, or restored; reclamation of lands disturbed by the severance of minerals; geological survey; and regulation of oil and gas exploration.

In order to provide funds for the ongoing cleanup of two major hazardous waste sites, Mulberry and Piney Point, the 2008 Legislature imposed a surcharge of \$1.38 per ton severed and set the excise tax rate at \$1.945 per ton severed. This rate was to remain constant until July 1 of the fiscal year following the date when revenues collected from the surcharge equaled or exceeded \$60 million. At that point, the base tax rate would reset to \$1.51 per ton severed. The Revenue Estimating Conference and the phosphate industry anticipated a two-year time period to meet the \$60 million cap.

Due to ongoing economic challenges, recent forecasts estimated that the industry would not be able to meet the July 1 timeframe and, therefore, would continue to be assessed the surcharge after meeting the \$60 million cap. In order to mitigate this situation, the 2010 Legislature passed House Bill 5801, which modified the tax rate and distribution of the phosphate severance tax revenue (see table below). In addition, HB 5801 reallocated a portion of the revenue to the Minerals Trust Fund, as the distribution was set to expire in the 2010-2011 fiscal year.

Fiscal Year	Rate	Nonmandatory Land Reclamation Trust Fund	Minerals Trust Fund
2010-11 – Chapter 2008-150, LOF, Estimate	1.51	1,968,285	0
2010-11 - Revised Estimate	1.94	2,642,084	2,718,298
2010-11 - HB 5801	1.71	1,963,387	2,708,120
2011-12 - HB 5801	1.61	2,058,788	1,195,425

**OBJECTIVE:**

The objective of this project is to monitor the collection and distribution of the severance tax on phosphate rock to the trust funds and to determine if program activities should continue to be funded from this revenue source. Based on preliminary estimates, recurring revenue will not fully support ongoing program operations.



**METHODOLOGY:**

The Senate Professional Staff of the General Government Appropriations Committee and the Finance and Tax Committee will work with staff of the Department of Environmental Protection to monitor the collection and distribution of revenue from the severance tax on phosphate rock and review the statutorily authorized uses of the trust funds.

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# GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

## Interim Projects

**INTERIM PROJECT TITLE:**

*Local Government Pension Plans*

**DATE DUE:** October 1, 1010

**PROJECT NUMBER:** 2011-122

**ISSUE DESCRIPTION and BACKGROUND:**

Publicly funded retirement systems in Florida must adhere to both state and federal funding requirements to assure their promised benefits produce sufficient income streams for their beneficiaries. Recent reports by this committee in 2007 and 2008 have pointed to growing affordability problems at the local government level. Salaries and benefits comprise three-quarters or more of government expenditures and the effects of the Great Recession are taking their toll on the ability of governments to maintain their legacy systems without compromises to the rest of their obligations.

**OBJECTIVE:**

The project will suggest some tangible changes to Florida law that can provide organizational and financial alternatives for local governments to consider as their benefit obligations become more pronounced.

**METHODOLOGY:**

The project will recap the previous two reports issued on this subject and make use of the same financial database maintained by the Division of Retirement. It will also examine legislation proposed or introduced before the Legislature to address the same funding matters.

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

*Improving Efficiencies in State Library Use of Physical and Electronic Infrastructure*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-219

**ISSUE DESCRIPTION and BACKGROUND:**

State libraries provide access to information at both their physical locations and through electronic resources. Certain requirements in existing law, however, do not reflect current budgetary and technological realities of our State. Ultimately, the growth of and increased access to the internet has changed the needs of our State, possibly rendering many of the old methods of cataloging and reporting unnecessary. The Department of State reports that libraries have begun to take action to respond to these changed circumstances, but changes to the law could aid the process.

**OBJECTIVE:**

The objective of this issue brief is to evaluate ways in which libraries have altered use of physical and electronic infrastructure to adjust to changing budgetary constraints and changes in the ways in which information is accessed and to identify areas that merit research for potential additional efficiencies.

**METHODOLOGY:**

Senate professional staff will attend meetings conducted by the Department of State and by libraries, survey the Department of State and libraries to determine what changes have already been made, and gather input from the Department of State, libraries, and other interested parties regarding possible increased efficiencies.

**INTERIM ISSUE BRIEF TITLE:**

*Administrative Procedures of the Department of the Lottery*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-220

**ISSUE DESCRIPTION and BACKGROUND:**

Due to the unique nature of state lottery operations, the Legislature has granted to the Department of the Lottery administrative authority not given to other executive agencies. For example:

- The department may adopt all of its rules as emergency rules without the findings required of other agencies, regardless of the subject of the rule.
- If the department finds by rule that compliance with state laws pertaining to public property, state-owned personal property, or procurement would impair or impede the effective operation of the lottery, the department may adopt rules providing alternative procurement procedures.

Most of the approximately 400 emergency rules adopted by the department over the last five years pertain to instant ticket games, but some of those rules address overtime compensation, the procurement of commodities and services, and facility leases.

**OBJECTIVE:**

The object of the project is to catalogue all rules adopted by the Department of the Lottery, to determine the rule adoption process and subject matter of all rules adopted by the department during the five years ending July 1, 2010.

**METHODOLOGY:**

Committee staff will review all rules adopted by the department, and will consult with the department and other legislative committees as needed.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

*Changes to the Grants Program for the Department of State Division of Cultural Affairs*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-349

**ISSUE DESCRIPTION and BACKGROUND:**

The Department of State Division of Cultural Affairs serves as the state arts administrative agency. Among the authority delegated to the division is the power to accept and administer state and federal funds provided for grants and to advance funds for grants on a quarterly basis.

In 2009, the Florida Legislature substantially restructured the art and cultural grants program in s. 267.286, F.S., by the enactment of CS/CS/SB 1780. The implementation of the bill requires, among other things, changes to the grant review process.

**OBJECTIVE:**

The objective of this monitor project is to monitor the Department of State's implementation of the changes made to the grants program administered by its Division of Cultural Affairs.

**METHODOLOGY:**

Senate professional staff will participate in meetings held by the Department of State, obtain periodic information from the Department of State regarding the status of the implemented changes, and monitor effects of the changes to the grants program.

**INTERIM MONITOR PROJECT TITLE:**

*Changes to Procurement Law in Chapter 287, F.S.*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-350

**ISSUE DESCRIPTION and BACKGROUND:**

Senate Bill 2386, passed by the Legislature during the 2010 Regular Session, significantly amends Chapter 287, F.S., which specifies policies for the procurement of commodities and services.

**OBJECTIVE:**

The objective of the project is to track agency compliance with the changes to Chapter 287, F.S.

**METHODOLOGY:**

Committee staff will monitor agency activities, including rulemaking.



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# HEALTH AND HUMAN SERVICES APPROPRIATIONS

## Interim Projects

(None)

## Issue Briefs

(None)

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

*Low Income Pool/Primary Care Access Program/Medicaid Reform section 1115 Waiver Extension*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-351

**ISSUE DESCRIPTION and BACKGROUND:**

The Low-Income Pool (LIP) Council is established in s. 409.911, Florida Statutes. The council meets periodically throughout the year to develop funding and distribution recommendations for the LIP, Disproportionate Share Hospital (DSH), and Provider Ceilings Exemptions programs. The council is required to provide the recommendations by February 1 of each year to the Agency for Health Care Administration (agency), the Governor, and the Legislature.

The programs under the council's purview are financed with a combination of local and state funds that are utilized to draw down federal matching funds. This funding is used to benefit numerous hospitals and other providers who treat a disproportionate share of Medicaid patients, and to compensate these providers for the costs of providing charity care to the uninsured and under insured. The state match for the LIP and DSH programs is primarily funded by voluntary contributions from counties and local taxing districts through intergovernmental transfers (IGTs), the process of transferring public funds between governmental entities.

Specific Appropriation 191 of the Fiscal Year 2010-2011 General Appropriations Act (GAA) provides funds for the LIP, and proviso directly following the appropriation specifies the distribution of these funds. Further, up to \$26,000,000 is authorized from the LIP funds for a new Primary Care Services Initiative to increase access to primary care services in order to reduce and prevent unnecessary emergency room visits and inpatient hospitalizations. This funding includes \$1,000,000 for new primary care residency slots.

In the event Florida's enhanced Federal Medical Assistance Percentage (FMAP) is extended through June 30, 2011, Section 84 of the GAA provides for a revised distribution of LIP funds. Under the revised distribution of LIP funds, the funding for the Primary Care Services Initiative is increased to \$50,000,000 including the new primary care residency slots.

In addition, CS/CS/SB 1484, 2<sup>nd</sup> Engrossed, as passed by the 2010 Legislature, directs the agency to request an extension of the current Medicaid Reform waiver obtained under section 1115 of the Social Security Act and to preserve the Low Income Pool provisions of the waiver. The bill requires the agency to provide the Legislature and the Governor with monthly progress reports on the negotiation of the waiver extension.

**OBJECTIVE:**

The objective of this project is to monitor the distribution process for LIP funding provided in the 2010-2011 fiscal year, the development of the 2011-2012 fiscal year recommendations by the LIP council, the agency's implementation of the new Primary Care Services Initiative, and the agency's progress in obtaining federal approval of the Medicaid reform waiver obtained under section 1115 of the Social Security Act.

**METHODOLOGY:**

Senate professional staff of the Health and Human Services Appropriations Committee will attend meetings and conference calls conducted by the agency, the council, and other pertinent parties. Staff will review documentation and reports supporting the LIP council's Fiscal Year 2011-2012 recommendations.

**INTERIM MONITOR PROJECT TITLE:**

*Use of Intergovernmental Transfers (IGTs) in Medicaid Managed Care*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-352

**ISSUE DESCRIPTION and BACKGROUND:**

Florida's Medicaid program is jointly funded by federal, state, and county governments to provide medical care to eligible individuals. A combination of state and local funds is used as state match to draw down the federal share known as the Federal Medical Assistance Percentage (FMAP). The process of transferring public funds between governmental entities is commonly referred to as Intergovernmental Transfers (IGTs). These funds are voluntary contributions from counties and local taxing districts and are primarily used within the Low Income Pool (LIP), Disproportionate Share Hospital (DSH), and Provider Ceilings Exemptions programs.

CS/CS/SB 1484, 2<sup>nd</sup> Engrossed, as passed by the 2010 Legislature, directs the Agency for Health Care Administration (agency) to develop methodologies to integrate the use of IGTs and certified public expenditures into the payment methodology for capitated Medicaid managed care plans. Further, the bill requires the Secretary of the agency to convene a workgroup of stakeholders that includes individuals representing hospitals, counties, medical schools, managed care plans, and Medicaid provider-service-networks, and directs the agency to provide a report by January 1, 2011, on the developed methodologies.

The January, 2010, Social Services Estimating Conference's projected caseload for the 2010-2011 fiscal year is 2,925,493. The Fiscal Year 2010-2011 General Appropriations Act provides approximately \$20 billion for the Medicaid program. Over 1 million Medicaid recipients are enrolled in Medicaid health maintenance organizations (HMOs), and approximately two-thirds of all Medicaid recipients are enrolled in some type of Medicaid managed care.

**OBJECTIVE:**

The objective of this project is to monitor the progress of the IGTs Workgroup in preparation for the 2011 Legislative Session. Viable strategies to integrate the use of IGTs and certified public expenditures into the payment methodology for capitated Medicaid managed care plans are important for the development of budgetary recommendations for the continued transition of Medicaid recipients into managed care plans.

**METHODOLOGY:**

Senate professional staff of the Health and Human Services Appropriations Committee will attend meetings and conference calls conducted by the agency and other pertinent parties. Staff will review the developed methodologies included in the IGTs Workgroup report and supporting documentation.

**INTERIM MONITOR PROJECT TITLE:**

*Department of Health Review/Reorganization*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-353

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Legislature provided direction to the Department of Health (DOH) to conduct a comprehensive evaluation and justification review of all divisions and programs within the agency (HB 5311, first engrossed, as passed by the 2010 Legislature.) The legislation transfers all statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds for the administration of chapter 499, Florida Statutes, relating to Drugs, Devices, Cosmetics, and Household Products by a type two transfer to the Department of Business and Professional Regulation (DBPR) on October 1, 2011.

**OBJECTIVE:**

This project will focus on analyses of the comprehensive review and on any changes that the DOH may propose as a result of the review. Also, transfer of regulatory responsibilities of the Drugs, Devices, Cosmetics, and Household Products Program, to the Department of Business and Professional Regulation will be monitored to assure a smooth transition. Staff will also explore other budget policy options that may arise during these reviews to better manage the DOH administrative and program budgets.

**METHODOLOGY:**

Senate professional staff of the Health and Human Services Appropriations Committee will review the comprehensive evaluation and justification review report submitted by the DOH, analyze the proposals and recommendations it presents and meet periodically with DOH representatives to determine compliance with the legislative intent and budget requirements in the General Appropriations



Act. Staff will also monitor the type two transfer of the Drugs, Devices, Cosmetics, and Household Products Program to the DBPR to determine compliance with legislative intent.

**INTERIM MONITOR PROJECT TITLE:**  
***Maintenance Adoption Subsidies***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-354

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Legislature appropriated an increase of \$22,651,070 for Maintenance Adoptions Subsidies, including \$12,806,222 to replace nonrecurring funds approved by the 2009 Legislature for Fiscal Year 2009-2010, and \$9,844,848 to fund an increase in the number of adoption placements projected for Fiscal Year 2010-2011. Since the pool of foster children eligible for adoption subsidies continues to decline, there is a need to monitor and analyze adoption placement and other child protection data to determine the point at which growth in adoption placements will level off and ultimately decline.

**OBJECTIVE:**

This project will focus on the analysis of adoption placements actual data to determine the basis for the steady program growth in the past few years, and determine the point at which this growth might level off and ultimately decline. The project will also explore budget policy options that would lead to better management of the foster care and adoption subsidies program budgets.

**METHODOLOGY:**

Senate professional staff of the Health and Human Services Appropriations Committee will review adoption subsidy data, analyze adoption trends and meet periodically with Department of Children and Families representatives to determine compliance with the budgetary limits in the General Appropriations Act, and discuss options for better budget management.

**INTERIM MONITOR PROJECT TITLE:**  
***Independent Living Rule Promulgation***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-355

**ISSUE DESCRIPTION and BACKGROUND:**

Section 409.1451, Florida Statutes, specifies that the Department of Children and Families (DCF) will provide independent living transition services to children aging out of foster care based on available funds. Because the budget for Independent Living is part of the total appropriation for community based care rather than in a separate appropriation category, and because the operational guidelines for the program are not in sufficient detail, the Independent Living Program is being administered virtually as an entitlement and without any apparent regard for budget limitations. To correct this problem, the 2010 Legislature passed HB 5305, first engrossed, mandating that DCF develop rules for administering the Independent Living Program and the payments to program participants. Development of this rule should

be monitored to ensure that upon its promulgation, the Independent Living Program is administered within appropriated program resources.

**OBJECTIVE:**

This project will focus on monitoring the development and promulgation of the Independent Living Program rule mandated in HB 5305, first engrossed, as passed by the 2010 Legislature, to ensure compliance with legislative intent.

**METHODOLOGY:**

Senate professional staff of the Health and Human Services Appropriations Committee will review proposed rule drafts, meet periodically with DCF representatives and attend rule hearings to ensure that the new rule provides sufficient fiscal controls to keep program expenditures within the legislative appropriation.

**INTERIM MONITOR PROJECT TITLE:**

*Agency for Persons with Disabilities Home and Community Based Services Individual Budgets (iBudget)*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-356

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Legislature provided authority and direction to the Agency for Persons with Disabilities (APD) to develop and implement a comprehensive redesign of the service delivery system using individual budgets as the basis for allocating the funds appropriated to eligible enrolled clients receiving services through the home and community based Medicaid waiver program (HB 5303, first engrossed, as passed by the 2010 Legislature.) These budgets will be based on the individual's specific needs and developed by the algorithm created specifically for the iBudget system. The iBudget system will be implemented in phases but will eventually replace the four tier waiver system currently being administered by the APD in the Home and Community Based Services Waiver program.

**OBJECTIVE:**

This project will focus on analyses of the iBudget system as it is developed and will follow the implementation of the program to verify adherence to legislative intent. The project will also explore budget policy options that would lead to better management of the Home and Community Based Services program budget.

**METHODOLOGY:**

Senate professional staff of the Health and Human Services Appropriations Committee will review plans for the development and implementation of the iBudget system, analyze the process and meet periodically with APD representatives to determine compliance with the budgetary limits in the General Appropriations Act.



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# HEALTH REGULATION

## Interim Projects

**INTERIM PROJECT TITLE:**

*Updating s. 409.91211, F.S., Relating to the Medicaid Managed Care Pilot Program*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-123

**ISSUE DESCRIPTION and BACKGROUND:**

During the 2005 Regular Legislative Session, the Legislature authorized the Agency for Health Care Administration (Agency) to develop and apply for a section 1115 waiver to implement a Medicaid managed care pilot project. On October 19, 2005, the Centers for Medicare and Medicaid Services (CMS) approved the Agency's section 1115 waiver request. During the 2005 Special Legislative Session B, the Legislature authorized the Agency to implement the Medicaid managed care pilot project, codified in s. 409.91211, F.S.

The law establishes a pilot program in Baker, Broward, Clay, Duval, and Nassau Counties. Eligible Medicaid recipients in these counties are required to select among a number of managed care plans and recipients are no longer eligible to select the MediPass program as a managed care option. Reform plans offer comprehensive, catastrophic and enhanced benefits which are allowed to vary within certain parameters from plan to plan. Medicaid recipients receive choice counseling to help them select from among the available plans. The Medicaid reform pilot project was implemented in Broward and Duval Counties in September 2006. Expansion into Baker, Clay, and Nassau Counties began in September 2007.

The federally-approved waiver is accompanied by Special Terms and Conditions (STC) which, combined, constitute the guiding agreement between the state and the federal government on the implementation of the Medicaid reform proposal. The CMS STC document describes the details of the Medicaid reform section 1115 demonstration waiver.

Florida's Medicaid reform waiver is a 5-year demonstration, which began July 1, 2006, and runs through June 30, 2011. During the 2010 Legislative Session, the Legislature directed the Agency to request an extension of the current section 1115 Medicaid waiver.

**OBJECTIVE:**

The project seeks to identify any inconsistent or obsolete provisions in s. 409.91211, F.S.

**METHODOLOGY:**

Senate professional staff will review s. 409.91211, F.S., and the STC of the s. 1115 Medicaid waiver to identify inconsistent or obsolete provisions and to make recommendations for proposed legislation if needed. Staff will consult with the Agency and other stakeholders as needed.

**INTERIM PROJECT TITLE:**

***Review the Moratorium on Nursing Home Certificates of Need***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-125

**ISSUE DESCRIPTION and BACKGROUND:**

The 2006 Legislature extended the moratorium that was initially imposed in 2001 on certificates of need (CON) for additional community nursing home beds until July 1, 2011. The purpose of the moratorium is to contain nursing home placements and encourage other forms of assistance in a manner that is both more cost-effective and more in keeping with the wishes of the elderly residents in this state. The 2006 Legislature also enacted an exception to the moratorium on certificates of need for additional nursing home beds not exceeding 10 total beds or 10 percent of the number of beds licensed in a facility to be expanded under certain conditions. This exception was to be handled under the certificate of need exemption procedures and is scheduled for repeal upon expiration of the moratorium on July 1, 2011.

**OBJECTIVE:**

To review the potential impact of allowing the moratorium to expire, and the impact of renewing or altering the moratorium. The report will also analyze and make recommendations regarding the factors for consideration in the certificate of need review for nursing home beds.

**METHODOLOGY:**

Senate professional staff will review statewide and national trends concerning population growth, occupancy rates, and nursing home and community-based diversion services. Staff will survey licensed nursing homes in the state to determine the age of the facilities and anticipated replacement plans. Senate professional staff will consult with the Agency for Health Care Administration, the Department of Elderly Affairs, industry associations, and others to determine the impact the moratorium has had on the affected population and recommendations concerning expiration of the moratorium on nursing home certificates of need.

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

***Overview of the Medicaid Managed Care Programs in Florida***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-221

**ISSUE DESCRIPTION and BACKGROUND:**

Since the 1990s, state Medicaid programs have increasingly relied on different forms of managed care to organize and deliver services to their Medicaid beneficiaries. Nationwide approximately 70 percent of Medicaid enrollees receive some or all of their services through managed care. Managed care is an approach to delivering and financing health care that is aimed at both improving the quality of care and saving costs. States use a variety of managed care arrangements in Medicaid, but the two basic forms are risk-based plans and primary care case management programs.

In the Florida Medicaid program, over 60 percent of Medicaid recipients are enrolled in some type of managed care. The state of Florida operates several of its Medicaid managed care programs through a federal 1915(b) waiver obtained from the Centers for Medicare and Medicaid Services in 1991. The managed care waiver provides the state with the authority to mandatorily assign eligible beneficiaries and, within specific areas of the state, limit choice to approved managed care providers. The federal waiver requires Florida Medicaid recipients to be given a choice of managed care providers. The Medicaid managed care program is divided into two major categories of providers: MediPass and managed care plans. However, s. 409.91211, F.S., codifies the Medicaid reform managed care pilot program in Baker, Broward, Clay, Duval, and Nassau Counties. Eligible Medicaid recipients in these counties must enroll in a managed care plan and do not have the ability to choose the MediPass program.

The Medicaid Provider Access System (MediPass) is a primary care case management program for Medicaid recipients developed and administered by Florida Medicaid. MediPass was established in 1991 to assure adequate access to coordinated primary care while decreasing the inappropriate utilization of medical services. In MediPass, each participating Medicaid recipient selects, or is assigned, a health care provider who furnishes primary care services, 24-hour access to care, and referral and authorization for specialty services and hospital care. The primary care providers are expected to monitor appropriateness of health care provided to their patients. MediPass providers receive a \$2 monthly case management fee for each of their enrolled patients, as well as the customary reimbursement according to the Medicaid Provider Handbook for all services rendered.

Another category of provider in the Medicaid managed care program is the managed care plan. Section 409.9122, F.S., defines managed care plans as health maintenance organizations (HMOs), exclusive provider organizations (EPOs), provider service networks (PSNs), minority physician networks, the Children's Medical Services Network, and pediatric emergency department diversion programs. Most of these plans are reimbursed through a capitated payment where the plan receives a set amount per member per month and is responsible for providing all necessary Medicaid services within that capitation rate.

Depending on where an individual lives in the state and their eligibility status, Medicaid recipients are given a choice of either MediPass or a managed care plan when they enroll in the Medicaid program. Under s. 409.9122, F.S., the Agency is required to assign all Medicaid recipients eligible for mandatory assignment into either MediPass or a managed care plan if they do not make a choice within 30 days of eligibility.

In March 1996, the Agency implemented a Prepaid Mental Health Plan (PMHP) demonstration, under the authority of the 1915(b) Medicaid managed care waiver. The program was piloted in two areas of the state before being expanded statewide in 2004, and is codified in s. 409.912(4), F.S. A prepaid behavioral health plan is a managed care organization that contracts with the Agency to provide comprehensive behavioral health care services to its members through a capitated payment system. The Agency pays a per member, per month (PMPM) fee to the plan based on the age and eligibility category of each member. Services provided by these plans must include:

- Inpatient psychiatric hospital services (45 days for adult recipients and 365 days for children);
- Outpatient psychiatric hospital services;
- Psychiatric physician services;

- Community mental health services; and
- Mental health targeted case management.

Medicaid recipients who elect to enroll in MediPass for the provision of their physical health care services are assigned to a prepaid behavioral health plan for the provision of their mental health services, unless they are ineligible.

Since 1997 Florida has operated the Long-Term Care Community Diversion pilot project, commonly referred to as the Nursing Home Diversion program, that provides home and community-based services to functionally impaired elderly that are at risk of nursing home replacement. Participants must be 65 years of age or older, be eligible to receive both Medicare and Medicaid benefits, require daily nursing services, or require assistance with daily living.

**OBJECTIVE:**

The project will provide an overview of select Medicaid managed care programs in Florida; catalog the current status of the Medicaid managed care programs; review the implementation of related legislation that passed during the 2010 Legislative Session; and highlight emerging trends in Medicaid managed care.

**METHODOLOGY:**

Senate professional staff will review the federal and state laws that govern the Medicaid managed care programs; consult with appropriate agency staff; attend relevant public meetings and rule development hearings; gather demographic data regarding Medicaid recipient enrollment in Medicaid managed care programs; and meet with stakeholders.

**INTERIM ISSUE BRIEF TITLE:**

***Medicaid Managed Care Rate-setting***

**DATE DUE:** October 1, 2011

**PROJECT NUMBER:** 2011-226

**ISSUE DESCRIPTION and BACKGROUND:**

The federal Centers for Medicare and Medicaid Services regulations allow states broad authority to develop Medicaid managed care rate-setting methodologies. States are authorized to set rates based on one or more of the following methods: fee-for-service experience, health plan financial data, health plan encounter data and actuarial negotiations between state and plan actuaries.

In s. 409.9124, F.S., the Agency for Health Care Administration (Agency) is required to develop and adopt by rule a methodology for reimbursing non-reform managed care plans. Current law requires the Medicaid rate-setting methodology: to use fee-for-service expenditures; to be certified as an actuarially sound computation of Medicaid fee-for-service expenditures for comparable groups of Medicaid recipients; and to be compliant with applicable federal laws and regulations. In addition, s. 409.91211, F.S., requires that Medicaid managed care plans participating in Medicaid reform areas will be paid risk-adjusted rates. Medicaid managed care rates are set once per year, effective September 1. The methodologies and data sources that the Agency utilizes to calculate Medicaid

managed care plan rates directly impacts the cost of providing Medicaid services through a managed care delivery mechanism.

**OBJECTIVE:**

The report will describe the Agency's current Medicaid rate-setting processes, methodologies, and results.

**METHODOLOGY:**

Senate professional staff will: attend Agency sponsored Medicaid rate-setting public meetings and rule development workshops; attend Social Service Estimating Conferences; review rate certification vendor contracts; meet with Medicaid stakeholders; and review applicable state and federal laws, rules and regulations.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

*Health Care Fraud*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-357

**ISSUE DESCRIPTION and BACKGROUND:**

Health care fraud is a pervasive problem for all private payors, states, and the Federal Government. The National Health Care Anti-Fraud Association estimates conservatively that 3 percent of all health care spending, approximately \$68 billion, is lost to health care fraud. The FBI estimates that spending related to health care fraud is much higher – 10 percent of all health care spending. Numerous federal reports and studies have identified health care fraud as a significant public policy problem in Florida, particularly South Florida. The state's diminishing revenues and rising health care costs increase the importance of Medicaid fraud prevention and recovery.

The Florida Legislature has repeatedly addressed the issue of Medicaid fraud by passing several major bills over the last decade to more effectively combat Medicaid fraud. During the 2009 Legislative Session, fraud in the health care system was addressed in CS/CS/CS/SB 1986, CS/CS/SB 2658, and CS/SB 1658. These pieces of legislation increase the Medicaid program's authority to address fraud, particularly as it relates to home health services; increase health care facility and health care practitioner licensing standards to keep fraudulent actors from obtaining a health care license in Florida; create disincentives to commit Medicaid fraud; create incentives to report Medicaid fraud; and specifically address Medicaid fraud in Miami-Dade County.

During the 2010 Legislative Session, Medicaid managed care fraud was addressed in CS/CS/SB 1484. This legislation will require each Medicaid managed care plan to adopt an anti-fraud plan to address overpayment, abuse, and fraud in the provisions of Medicaid services and to submit the plan for approval to the Office of Medicaid Program Integrity within the Agency for Health Care Administration. There are minimum standards established in law for the anti-fraud plans and each Medicaid managed care plan must establish a fraud investigative unit or contract. In addition, a Medicaid managed care plan that fails to comply with these provisions will face a penalty.



**OBJECTIVE:**

The focus of this project is to track the implementation of all legislation that passed during the 2009 and 2010 Legislative Session that addressed health care fraud and the Agency for Health Care Administration, including any rule-development, contract procurements, and any fraud-related Medicaid waiver applications or state plan amendments.

**METHODOLOGY:**

Senate professional staff will meet regularly with staff of the Agency for Health Care Administration, the Department of Health, and the Attorney General's Office responsible for the implementation of any legislation that addressed health care fraud during the 2009 or 2010 Legislative Session; attend relevant rule-development hearings, health care practitioner board meetings, and other public meetings; and identify any barriers to implementation. Senate professional staff will also monitor federal and state health care fraud reports and studies that address health care fraud in Florida, particularly as it relates to Medicaid fraud.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Regulation of Pain-management Clinics*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-358

**ISSUE DESCRIPTION and BACKGROUND:**

During 2009, the Legislature passed a bill that requires the Department of Health (DOH), by December 1, 2010, to design and establish a comprehensive electronic system to monitor the prescribing and dispensing of certain controlled substances. That law also required the registration of certain pain-management clinics. The 2010 Legislature passed enhanced regulation of pain-management clinics. This legislation requires privately owned pain-management clinics that primarily engage in the treatment of pain by prescribing or dispensing controlled substances medications, with certain exceptions, to register with the DOH. Specific activities by the clinics and practitioners in pain-management clinics are more thoroughly regulated. This legislation also requires identification of indicators of controlled substance abuse that will further promote the usefulness of the prescription drug monitoring system that was authorized by the 2009 Legislature. The DOH, the Board of Medicine, and the Board of Osteopathic Medicine are required to adopt various rules to implement these laws.

**OBJECTIVE:**

The focus of this project is to monitor the progress of the DOH and relevant boards to identify any barriers or obstacles that may impede the successful and timely implementation of the relevant legislation passed in 2009 and 2010 to address the abuse of controlled substances and the proliferation of pain-management clinics in this state.

**METHODOLOGY:**

Senate professional staff will monitor adherence to anticipated completion dates in the Legislation and agencies' implementation plans; attend rule-development workshops, hearings, and other public meetings; review materials related to practitioner education; and consult with the DOH, Boards, Office of Drug Control, and other stakeholders responsible for or involved in the implementation of these tools to curb the abuse of controlled substances and proliferation of pain-management clinics in this state.

**INTERIM MONITOR PROJECT TITLE:**

***Transferring Responsibilities under the Florida Drug and Cosmetic Act***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-359

**ISSUE DESCRIPTION and BACKGROUND:**

House Bill 5311 from the 2010 Legislative Session directs the statutory powers, duties, and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds for the administration of chapter 499, Florida Statutes, known as the Florida Drug and Cosmetic Act, to be transferred by a type two transfer from the Department of Health (DOH) to the Department of Business and Professional Regulation (DBPR), effective October 1, 2011.

**OBJECTIVE:**

To monitor the planning for the transfer of the responsibilities of the Florida Drug and Cosmetic Act by the DOH and the DBPR for additional legislation related to this transfer that might be appropriate for the 2011 Legislative Session.

**METHODOLOGY:**

Senate professional staff will coordinate with appropriate staff of the DOH, DBPR, Executive Office of the Governor, and other affected agencies to review the transfer plan developed by the DOH and DBPR to identify impacts, obstacles, and other factors that the Senate decision makers might consider during the 2011 Legislative Session.



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# HIGHER EDUCATION

## Interim Projects

(None)

## Issue Briefs

<b>INTERIM ISSUE BRIEF TITLE:</b>
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<i>Tuition and Fees at State Universities</i>
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**DATE DUE:** November 1, 2010

**PROJECT NUMBER:** 2011-222

**ISSUE DESCRIPTION and BACKGROUND:**

The 2009 Legislature (ch. 2009-98, L.O.F.) authorized all state universities to charge a tuition differential which may increase until the total undergraduate tuition and fees per credit hour reaches the national average for undergraduate tuition and fees at public four-year universities. The 2010 Legislature (ch. 2010-78, L.O.F.) authorized the Board of Governors (BOG) to approve university boards of trustees' proposals for flexible policies for tuition and fees. The aggregate sum of new fees authorized by the BOG may not exceed 10 percent of tuition. The BOG also may approve a university board of trustees' proposal to increase the current cap for certain existing user fees or a proposal to implement undergraduate or graduate block tuition, block tuition differential, or market-rate tuition for graduate-level online courses or graduate-level continuing education courses. Universities may increase the aggregate sum of the activity and service, health, and athletic fees by five percent or by the percentage increase in tuition, which is eight percent for 2010-2011. To the extent that the BOG and the universities authorize new fees and fee increases, the pace at which universities approach the national average for tuition and fees may accelerate.

**OBJECTIVE:**

To inform the Senate of the relationship of undergraduate tuition and fees at Florida state universities to the national average of tuition and fees at public four-year institutions.

**METHODOLOGY:**

Staff will compare cost data the state universities submit to the board of Governors with national prices to show where the cost of Florida universities stands relative to the national average cost of tuition and fees.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:*****Higher Education Coordinating Council***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-360

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Legislature (ch. 2010-78, L.O.F.) created a 7-member Higher Education Coordinating Council to identify university system needs; facilitate solutions to disputes regarding the creation of new degree programs, institutes, campuses, or centers; and make recommendations to the Board of Governors, State Board of Education and the Legislature regarding articulation and access to higher education. The council is comprised of the Chancellor of the State University System of Florida; the Chancellor of the Florida College System; the Commissioner of Education; the President of the Independent Colleges and Universities of Florida; the Executive Director of the Commission for Independent Education; and two members representing the business community, one appointed by the President of the Senate and one by the Speaker of the House of Representatives.

**OBJECTIVE:**

To monitor the establishment of the task force and its work.

**METHODOLOGY:**

Staff will monitor task force meetings and review agenda items in order to stay apprised of the work of the task force.

**INTERIM MONITOR PROJECT TITLE:*****State University System Oil Spill Academic Task Force***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-361

**ISSUE DESCRIPTION and BACKGROUND:**

On May 3, 2010, the Board of Governors established the Oil Spill Academic Task Force to provide coordinated assistance to local, state, and federal agencies in dealing with an oil spill in the Gulf of Mexico that began April 20, 2010. The research capabilities of the 11 state universities and four private universities will address issues such as tracking and estimating the size of the oil spill, addressing ecological and habitat implications, developing legal and policy responses, and projecting risk management and modeling of remediation issues. Florida State University coordinates the task force and has established a website where the university system's activities and resources are displayed.

**OBJECTIVE:**

To provide the Senate an overview of how the State University System's research and academic infrastructure addresses the effects of the oil spill on Florida.

**METHODOLOGY:**

Committee staff will monitor task force conference calls, review task force documents, and interview university personnel regarding specific institutions' projects.



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# HIGHER EDUCATION APPROPRIATIONS

## Interim Projects

**INTERIM PROJECT TITLE:**

*Report on the Impact of the General Appropriations Act on Public Post-secondary Education*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-126

**ISSUE DESCRIPTION and BACKGROUND:**

This report is an institutional level summary of the impact of the General Appropriations Act showing allocations of appropriations to each state university and college. The report is produced annually by the Senate Education Appropriations Committee professional staff as a resource to members, aides, agency staff, and the general public.

**OBJECTIVE:**

The purpose of the report is to provide a quick reference for Senators and aides on education funding specifics for all delivery areas of the state's educational system, and to provide answers to frequently asked questions about the financing of education in Florida. The project will continue the printing and distribution of the post-session report in book form. The report will also be available through the Senate website.

**METHODOLOGY:**

Last year's Senate post-session education publication will be reviewed to determine whether all types of information previously included are still useful or should be modified or enhanced. Once this determination is made, professional staff will work with Department of Education and Board of Governors staff as allocations of state appropriations to various institutions are made. These allocations will be checked for consistency with the General Appropriations Act as the post-session book is prepared.

## Issue Briefs

*(None)*

## Monitor Projects

*(None)*





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# JUDICIARY

## Interim Projects

**INTERIM PROJECT TITLE:**

*Review the Procedures and Standards for Securing Protective Injunctions*

**DATE DUE:** November 1, 2010

**PROJECT NUMBER:** 2011-127

**ISSUE DESCRIPTION and BACKGROUND:**

It has been estimated that more than 1.5 million adults in the United States are victims of domestic violence each year, and more than 85 percent of the victims are women. In Florida, 113,123 incidents of domestic violence were reported in 2008, 1.8 percent fewer than were reported for the same period in 2007. Data also indicate that 13.4 percent of adult women in the United States have been victims of a forcible rape sometime during their lifetime. Based on this national data, one report found that more than 11 percent of adult women in Florida have been victims of one or more completed forcible rapes during their lifetime. Additionally, statistics show that one in five high school girls has reported being physically or sexually abused by a dating partner, and females ages 16 through 24 are three times more vulnerable for partner violence than any other age group.

The Florida Statutes authorize distinct types of orders of protection against violence. These include injunctions for protection against domestic violence, repeat violence, sexual violence, and dating violence. Securing one of the injunctions is accomplished through a civil proceeding governed by the Florida Family Law Rules of Procedure. For example, some of the elements in the process for securing a domestic violence injunction include: filing with the clerk of court a sworn petition that alleges the existence of domestic violence and includes specific facts and circumstances upon which relief is sought; an ex parte review by a judge; potential awarding of a temporary injunction; the scheduling of a return hearing; personal service on the respondent with a copy of the petition; and issuance or denial of a final injunction. The statutes also prescribe grounds and penalties for violating an injunction for protection against violence.

Legal scholarship notes that misuse of orders of protection against violence does occur through the filing of false petitions. For example, an abuser may file a false petition against his or her victim, perhaps to intimidate the victim or exclude the victim from a shared residence. In other cases, a person who is not truly a victim of violence, or who does not have reasonable cause to believe that he or she is in imminent danger of becoming a victim of violence, may file a petition in order to harass the respondent or to gain an advantage over the respondent in a related family law matter, such as a divorce or child custody proceeding. In addition to thwarting the intended public-safety purposes underlying the injunctions, misuse of the process can result in inefficiencies and costs for the state courts system.

**OBJECTIVE:**

The purpose of this interim project is to review the current procedures and standards governing the award of injunctions for protection against domestic violence, repeat violence, sexual violence, and dating violence, in an effort to identify the extent to which misuse of the process is occurring, or may occur, and to identify enhancements to the statutory and court-rule framework to discourage misuse.

**METHODOLOGY:**

Senate professional staff will consult with clerks of court, judges, practicing attorneys, domestic violence experts, and other interested parties. Professional staff will also review legal literature, statutory provisions, rules of court, and case law from Florida, as well as from other states.

**INTERIM PROJECT TITLE:**

*Review the Procedures and Standards Governing Judicial Disqualification*

**DATE DUE:** November 1, 2010

**PROJECT NUMBER:** 2011-128

**ISSUE DESCRIPTION and BACKGROUND:**

Judicial impartiality is a core principle of the administration of justice in civil and criminal matters in the United States. Thus, state judicial systems provide mechanisms for judges to be disqualified from a matter if a legally sufficient argument can be made that the judge's continued participation would prevent a party from receiving a fair hearing.

In Florida, disqualification of a trial judge is governed by statutory provisions and by rules of court, as well by the Code of Judicial Conduct. A judge may disqualify himself or herself, or a party may formally move for disqualification. Under the Florida Rules of Judicial Administration, a motion to disqualify a trial judge must be in writing and specifically allege the facts and reasons that are the basis for disqualification. In addition, the motion must be sworn to by the moving party by signing the motion under oath or by a separate affidavit. Further, the attorney for the moving party must separately certify that the motion and the client's statements are made in good faith. Grounds for granting a motion to disqualify a judge include: (1) that the party fears he or she will not receive a fair trial or hearing due to judicial prejudice or bias; or (2) that the judge has an interest in the outcome of the matter, is related to one of the attorneys, or is a material witness.

In addition to the procedural requirements, a motion to disqualify a trial judge must be legally sufficient, meaning that the facts alleged in the motion would cause a reasonably prudent person to fear that he or she would not receive a fair or impartial trial. Case law in Florida establishes the parameters for legal sufficiency of disqualification motions.

With regard to Supreme Court justices and district court of appeal judges in Florida, the Rules of Appellate Procedure do not explicitly address disqualification. However, under case law, each justice or judge must determine for himself or herself both the legal sufficiency of a request seeking his or her disqualification and the propriety of withdrawing in any particular circumstances.

Legal authors have noted that one of the atypical elements of Florida's framework governing disqualification of judges is that the judge solely rules on the legal sufficiency of the motion and does not comment on the moving party's assertions. In fact, under Florida case law, disqualification may be mandated if a judge adjudicates on the facts in the motion. However, according to these authors, in some other states a judge is not penalized for responding to a motion or otherwise taking issue with it.

**OBJECTIVE:**

This purpose of this project is to examine the statutory, court-rule, and case law framework governing disqualification of trial and appellate judges in civil and criminal matters in Florida. The project will seek to identify any procedural or substantive elements of judicial disqualification that may merit revision by the Legislature through changes to statute or by the Supreme Court through changes to court rules.

**METHODOLOGY:**

Senate professional staff will consult with trial and appellate judges, practicing attorneys, legal scholars, and other interested parties. As part of its research, professional staff will also review Florida's statutory provisions, rules of court, and case law governing judicial disqualification, as well as comparable provisions from selected other jurisdictions.

**INTERIM PROJECT TITLE:**

*Review the Use and Enforceability of Arbitration Agreements in the Medical Services and Nursing Home Care Contexts*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-129

**ISSUE DESCRIPTION and BACKGROUND:**

For many years, courts and legislatures have utilized arbitration as an alternative method to resolve disputes between parties in an efficient and inexpensive manner. However, when parties agree to participate in arbitration, they concede some of the safeguards that are traditionally afforded to those who proceed to court, one of which is the right to have the evidence weighed in accordance with established legal principles. Because of federal policy favoring and encouraging the use of arbitration to resolve disputes, the use of pre-dispute arbitration agreements has expanded beyond use in commercial contexts between large businesses and those with equal bargaining power, to use in many noncommercial consumer contracts.

Insurance companies, physicians, and nursing homes are more frequently requiring patients to enter into arbitration agreements regarding any potential medical malpractice claims resulting from the medical treatment or care. As a result, some patients may face a choice when seeking medical treatment or care: sign an arbitration agreement or forego treatment with a particular physician or other health care provider.

Some patients have challenged the enforceability of arbitration agreements in these contexts by asserting that the agreements are void as against public policy, are too broad, are essentially contracts of adhesion, and are unconscionable. Generally, courts will closely scrutinize physician-patient arbitration agreements under general contract principles to determine if the agreements are unenforceable contracts of adhesion. Because some state courts strictly uphold arbitration agreements in the medical services context, some state legislatures have enacted legislation prescribing certain safeguards for patients and consumers of medical treatment and other health care services. Some court decisions suggest that these statutes may be preempted by the Federal Arbitration Act.

**OBJECTIVE:**

The purpose of this interim project is to review the case law, statutes, and legal scholarship in Florida and other states regarding the use and enforceability of arbitration agreements in the medical services and nursing home care contexts to identify potential safeguards for patients and consumers subject to these agreements. In addition, the project will address preemption issues related to federal law on arbitration and compare other state laws regarding arbitration agreements.

**METHODOLOGY:**

Senate professional staff will consult with professional associations, patients and consumers, attorneys, insurance companies, and other legal experts to understand and evaluate the practical and legal ramifications of the use of arbitration agreements in the medical services and nursing home care contexts. Professional staff will identify any problems associated with arbitration, as well as potential improvements to the process for patients and consumers, physicians, nursing homes, and insurers. As part of its research, professional staff will also review legal literature and relevant case law, as well as arbitration statutes in other states.

## Issue Briefs

(None)

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

*Deepwater Horizon Oil Leak Litigation and Liability*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-362

**ISSUE DESCRIPTION and BACKGROUND:**

The oil leak in the Gulf of Mexico has implications on a wide variety of public policy fronts – from environmental to economic development policy. BP, one of the businesses involved in the leak, has initiated claims processes for individuals, businesses, and governments seeking compensation. In addition, the company has pledged at least \$20 billion toward a fund to be administered independently by Mr. Kenneth Feinberg, who previously administered the September 11th Victim Compensation Fund. The leak, nonetheless, may also generate significant litigation – from private sector and public sector plaintiffs – related to property damage, other economic losses, and cleanup costs. In mid-May, Governor Crist and Attorney General McCollum announced that two former state attorneys general would lead a legal advisory council to bring together private sector attorneys and other experts to assess the impact of the oil leak on the state. Among other things, the team will prepare the state for potential litigation related to the oil leak, should it become necessary. A press release from the Attorney General's Office stated that the council "will be chaired by former Attorneys General [Bob] Butterworth and Jim Smith who will immediately begin a vetting process and identify firms, lawyers, and other experts who can be of assistance to the council. The [c]ouncil will also be charged with collecting the ideas and

suggestions of its members, including general courses of action to be taken now; legal strategies and theories; and data and information collection and preservation.”

**OBJECTIVE:**

The purpose of this monitor project is to track state and federal actions, as well as private sector activity, related to potential litigation stemming from the oil leak in the Gulf of Mexico, in order to identify any matters that may warrant attention or action by the Legislature.

**METHODOLOGY:**

This monitor project will entail communicating with staff of the Governor’s Office and the Attorney General’s Office and representatives of the legal advisory council, monitoring implementation of the BP and independent claims processes, monitoring congressional and federal agency activity, and reviewing media reports and other literature in the field covering oil-leak litigation.

**INTERIM MONITOR PROJECT TITLE:**

*Judicial Branch Governance Study*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-363

**ISSUE DESCRIPTION and BACKGROUND:**

In 2009, the Supreme Court of Florida established the Judicial Branch Governance Study Group to conduct an in-depth study of the current governance system of the judicial branch of the state. In establishing the study group, the Court noted that the state “has historically maintained a diffuse governance and administrative structure, with reliance on multiple committees for policy development, and on district and circuit chief judges, supported by marshals and court administrators, as the primary administrators of policy implementation” (Supreme Court of Fla. Admin. Order No. AOSC09-43). However, the Court further noted, the shift in greater court funding responsibility from the local level to the state level, as a result of revisions to article V of the State Constitution, has contributed to the need to examine the branch’s governance system and “further strengthen its capacity to support the effective and efficient management of the courts.”

The study group is comprised of two Supreme Court justices, two district court of appeal judges, three circuit court judges, two county court judges, and one representative of the Florida Bar. The study group’s final report and recommendations are due to the Court no later than December 31, 2010. Among other things, the study group may propose recommendations for policy, rule, or statutory changes that are related to judicial branch governance and that may serve to facilitate the branch’s achievement of its mission.

**OBJECTIVE:**

The purpose of this monitor project is to track the conclusion of the study group’s work and the release of its report and recommendations, in order to identify and assess any proposed statutory revisions that may warrant legislative attention or action.

**METHODOLOGY:**

This monitor project will entail attending meetings of the study group, to the extent feasible; communicating with the Office of the State Courts Administrator, which is providing staff support to the study group; and reviewing the final report and recommendations.

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# MILITARY AFFAIRS AND DOMESTIC SECURITY

## Interim Projects

**INTERIM PROJECT TITLE:**

*Florida's Current Evacuation and Emergency Shelter Plans*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-130

**ISSUE DESCRIPTION and BACKGROUND:**

Hurricanes Katrina, Rita, and Wilma in the summer of 2005 highlighted that hurricane sheltering has several related aspects. First is the need to identify and designate facilities in local communities that are capable of providing protection from hurricane force winds. Safe shelters are designed to primarily afford protection against wind forces. The only reliable means of providing protection against storm surge is to locate outside of surge flood plains. Second is the need to be able to evacuate at risk populations to those designated safe shelters.

Hurricane Floyd, in 1999, created major transportation grid-lock from Florida to South Carolina as the unpredictable storm traveled along the eastern U. S. coast. Studies after Floyd estimated that the amount of time necessary to evacuate the major population centers of Southeast Florida to as far away as the Orlando area would take up to 66 hours under optimum conditions. This information led to Florida's current evacuation strategy of limited evacuations, i.e. within a county to adequate emergency shelter, or shelter within one's home if outside the storm surge zone and structurally sufficient to withstand the wind loadings.

**OBJECTIVE:**

To conduct a review and analysis of the state's current evacuation and emergency shelter plans and evaluate Florida's evacuation and emergency shelter strategies.

**METHODOLOGY:**

As needed, staff may collect data from and/or conduct interviews by phone, electronic mail, or in person with county and municipal emergency management officials; the Division of Emergency Management; and any other agencies affected by or pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

**INTERIM PROJECT TITLE:**

*Veterans' Courts*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-131

**ISSUE DESCRIPTION and BACKGROUND:**

Veterans suffering from Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injuries (TBI), depression, and substance abuse may come under the scrutiny of law enforcement officials if they



commit crimes. Several jurisdictions across the U. S. are beginning to establish veterans' courts to address the special problems that affect these veterans.

Veterans' courts, which are established under principles similar to drug courts, are designed to determine if treatment and therapy are better suited than jail time in rehabilitating veterans who have committed offenses.

In 2009, the Department of Corrections entered into a three-year agreement with the U. S. Department of Veterans Affairs (VA) to identify military veterans being released from prison and those on community supervision so that the VA may assist those who are eligible with mental health, medical, substance abuse, and housing needs. In 2009, approximately 7,000 of 101,000 inmates serving time in Florida prisons identified themselves as military veterans.

**OBJECTIVE:**

To conduct a review and analysis of veterans' courts projects and their potential applicability to Florida's courts system.

**METHODOLOGY:**

As needed, staff may collect data from and/or conduct interviews by phone, electronic mail, or in person with court, law enforcement, and corrections officials; the Department of Veterans' Affairs; and any other agencies affected by or pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

## Issue Briefs

*(None)*

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

***Deepwater Horizon Response and Recovery***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-364

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Deepwater Horizon oil spill in the Gulf of Mexico presents potential grave environmental consequences for Florida. The potential adverse economic impact to Florida's tourism and fisheries industries is equally as grave.

Florida has experienced challenging emergency management events in the past including the 2004 and 2005 hurricane seasons. Emergency managers and civic leaders experienced extended emergency response and recovery operations from multiple storm events. Deepwater Horizon is presenting a

potential for extended operations that may well exceed any ever encountered before. Such operations are occurring at a time immediately prior to the start of the 2010 hurricane season.

**OBJECTIVE:**

Conduct continuing monitoring of the emergency response and recovery operations associated with the Deepwater Horizon oil spill in order to provide legislators with situational awareness and accurate information to assist their constituents.

**METHODOLOGY:**

As needed, staff may collect data from and/or conduct interviews by phone, electronic mail, or in person with county and municipal emergency management officials; the Division of Emergency Management; and any other agencies affected by or pertaining to this project. Workshops and meetings may be held to obtain and review information related to this project.

**INTERIM MONITOR PROJECT TITLE:**

*Federal Base Realignment and Closure Commission Actions Affecting Florida Military Bases*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-365

**ISSUE DESCRIPTION and BACKGROUND:**

The Department of Defense (DOD) currently is engaged in completing the 2005 round of base realignments and closures, 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. There have been four BRAC rounds between 1988 and 1995. During the 1993 round, four Florida bases were closed.

Based on decisions made in the current 2005 BRAC round, a U. S. Army Special Forces Group of approximately 3,000 soldiers is scheduled to move from Fort Bragg, N.C., to Eglin Air Force Base in Northwest Florida in the 2010-2011 timeframe. Eglin is also scheduled to establish multi-service/multi-nation training facilities for the F-35 Joint Strike Fighter aircraft in 2011. Eglin is slated to become the principal training facility for this latest generation of military aircraft.

The U. S. Navy, in a decision unrelated to the BRAC process, has recently announced its intention to homeport one of its nuclear powered aircraft carriers to Naval Station Mayport in Jacksonville. This basing decision is expected to have a significant positive economic impact on the Jacksonville area by bringing at least 1,390 military personnel to the area.

**OBJECTIVE:**

Monitor the implementation of provisions prescribed in federal 2005 BRAC round legislation relating to base realignments as well as U. S. Navy efforts to deploy a nuclear powered carrier to Jacksonville.

**METHODOLOGY:**

Conduct interviews with the Florida Washington Office, the Department of Military Affairs, the Florida Defense Alliance, the Executive Office of the Governor, and military base community economic development officials as required. Senate Professional Staff may consult with federal officials to

monitor the progress of on-going BRAC mandated realignment activities as well as the progress towards deployment of a U. S. Navy carrier to Jacksonville. As needed, Senate Professional Staff may collect data from and/or conduct interviews by phone, electronic mail, or in person with persons or entities affected by the implementation of the 2005 BRAC round. Workshops and meeting may be held to obtain and review information related to the project.

<b>INTERIM MONITOR PROJECT TITLE:</b> <b><i>Federal Domestic Security Funding</i></b>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-366

**ISSUE DESCRIPTION and BACKGROUND:**

The Senate Military Affairs and Domestic Security Committee is responsible for monitoring federal funding and program guidelines for domestic security prevention, preparedness and response. This includes monitoring the integration of the Domestic Security Oversight Council, Regional Domestic Security Task Forces, the State Working Group, and Urban Area Security Initiative planning and operations activities funded by federal resources.

The strategic response to terrorist activity threats remains dynamic. Federal requirements continue to shift in focus towards funding threat and risk-based strategies. Florida may have to make adjustments to its Statewide Security Strategy to accommodate the shift in federal directives and to continue to maximize the availability of and eligibility for federal domestic security grant awards provided in federal 2011-2012 FY appropriations. Any shifts in certain homeland security priorities along with accompanying redirection or reduction of federal funding previously available for supporting programs must also be monitored.

**OBJECTIVE:**

- Monitor congressional funding and federal agency program guidelines for domestic security grants and allocations coming to state and local governments; and
- Work with the Florida Washington Office, the Department of Law Enforcement (FDLE) (designated as State Homeland Security lead by title), Division of Emergency Management (designated as State Administering Agency for all federal Department of Homeland Security funding), Department of Health (designated as receiving agency for Centers for Disease Control/Health Resources and Services Administration (CDC/HRSA) grants, and any other agencies receiving federal funds for domestic security programs.

**METHODOLOGY:**

Monitor federal legislation, congressional activities, and federal agency guidance relative to domestic security funding through working partnerships with the Florida Washington Office, FDLE, Department of Community Affairs (DCA), Department of Health (DOH), and other state agencies. As needed, Senate Professional Staff may collect data from and/or conduct interviews by phone, electronic mail, or in person with participants, affected parties, or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

**INTERIM MONITOR PROJECT TITLE:**

***Implementation of Legislation Relating to Seaport Security***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-367

**ISSUE DESCRIPTION and BACKGROUND:**

CS/HB 714, which was passed by the 2009 Legislature, includes a number of provisions that revise Florida law relating to seaport security. These provisions represent significant changes and modifications including:

- Establishing the federal Transportation Worker Identification Credential (TWIC) as the only credential authorized for use by the seaports listed in s. 311.09, F.S., when granting access to secure and restricted access areas, while retaining current state criminal history background checks;
- Creating an affidavit process for determining access eligibility for TWIC holders that reduces and consolidates state fees for port workers; and
- Establishing an Access Eligibility Reporting System that provides a centralized secure database for use by seaports when granting or denying persons access to secure and restricted access areas. The Department of Law Enforcement is authorized to create a pilot project in order to design, test, and implement the system.

**OBJECTIVE:**

Continue to monitor the implementation of the provisions prescribed in CS/HB 7141 as part of Legislature's oversight responsibility.

**METHODOLOGY:**

Conduct interviews with the Office of Drug Control, the Department of Law Enforcement, the Florida Ports Council, Associated Industries of Florida, the U. S. Coast Guard, the federal Customs and Border Protection agency, and a representative sample of the public seaports covered under s. 311.09, F.S. as required. Senate Professional Staff may consult with federal officials to evaluate the integration of federal seaport security programs with changes prescribed by CS/HB 7141. As needed, Senate Professional Staff may collect data from and/or conduct interviews by phone, electronic mail, or in person with persons or entities affected by the implementation of CS/HB 7141. Workshops and meeting may be held to obtain and review information related to the project.



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# POLICY AND STEERING COMMITTEE ON WAYS AND MEANS

## Interim Projects

**INTERIM PROJECT TITLE:**

*Development of the Long-range Financial Outlook*

**DATE DUE:** September 15, 2010

**PROJECT NUMBER:** 2011-132

**ISSUE DESCRIPTION and BACKGROUND:**

The Legislative Budget Commission is required to issue a long-range financial outlook by September 15<sup>th</sup> of each year. The outlook must be based on current consensus estimates for workload and revenues and must include fiscal strategies for the state budget. The development of the long range outlook must include input from the public and the executive and judicial branches. The document due September 15, 2010, will be the fourth long-range financial outlook prepared consistent with constitutional requirements.

**OBJECTIVE:**

The objective of this project will be to update the long-range financial outlook, which is useful as a reference point in developing the state budget and which facilitates understanding of pending budget or revenue issues.

**METHODOLOGY:**

Staff of the appropriations committees of the House and Senate will jointly prepare the long-range financial outlook under the direction of the Legislative Budget Commission. Implementation decisions need to be made prior to development of the outlook. The tentative schedule for developing the outlook is as follows:

June – Identify initial decisions required for plan development

July – Conduct estimating conference process

August – Develop strategies incorporating workload and revenue projections

September – Plan approval by the LBC by September 15<sup>th</sup>

## Issue Briefs

*(None)*

## Monitor Projects

*(None)*



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# REAPPORTIONMENT

## Interim Projects

(None)

## Issue Briefs

(None)

## Monitor Projects

<b>INTERIM MONITOR PROJECT TITLE:</b>
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<i>Information Resources for Redistricting in 2011-2012</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-368

**ISSUE DESCRIPTION and BACKGROUND:**

Article III, Section 16 of the Florida Constitution provides: “The legislature at its regular session in the second year following each decennial census [i.e., 2012], by joint resolution, shall apportion the state ... into senatorial districts ... and into representative districts ...”

The 2010 Census is underway. State-level population counts for determining representation in the United States House of Representatives will be reported to the President on or before December 31, 2010. Block-level population counts for redistricting by state legislatures will be reported on or before April 1, 2011.

Professional staff of the Committee on Reapportionment must develop computer programs and reports to make the vast quantities of Census data and other redistricting information conveniently accessible for modeling and analyzing redistricting plans.

**OBJECTIVE:**

- Assemble core information resources to support modeling and analysis of senatorial, representative, and congressional districts based on the 2010 Census.
- Document technical requirements and project plans so strategic knowledge acquired during three redistricting cycles can be passed to successive generations.

**METHODOLOGY:**

Professional staff of the Committee on Reapportionment will:

- Construct precinct-level databases for Florida elections in 2002 through 2010, as required for submission of statewide redistricting plans to the United States Department of Justice for Section 5 preclearance (see 28 C.F.R. § 51.28). Precinct-level election results, voter



registration counts, and geographic coordinates (map data) will be compiled and loaded into an integrated geographic information system.

- Construct remaining tools and features of the District Builder redistricting web application (iterations 3 and 4). The 5<sup>th</sup> and final iteration of redistricting application development involves deploying District Builder with precinct-level databases, Census 2010 geography and Census 2010 population counts that come available in the spring of 2011. The 5<sup>th</sup> iteration will be completed in early summer after the 2011 Regular Session.
- Conduct usability testing of the District Builder application with Senate users.
- Begin planning and testing of deployment of the District Builder application on OLITS servers, on the Internet “cloud”, and on laptop computers.
- Thoroughly document technical requirements and project plans.

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# REGULATED INDUSTRIES

## Interim Projects

**INTERIM PROJECT TITLE:**

*Review Expansion of Casino Gaming in Other States*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-133

**ISSUE DESCRIPTION and BACKGROUND:**

There are 27 pari-mutuel wagering facilities located throughout the state. In addition to pari-mutuel wagering facilities, gaming occurs on Indian Reservations. Other than gaming that is regulated and connected to a pari-mutuel facility or allowed on Indian lands, there are no free standing traditional casinos in the state. During the 2010 Regular Session, the Legislature ratified a gaming compact between the state and Seminole Tribe of Florida. In exchange for substantial exclusivity over gaming in the state, the Tribe agreed to pay revenue sharing payments to the state. If gaming is expanded, the Tribe may be entitled to a reduction or cessation of payments due to the state under the provisions of the compact. Recently, other states including Pennsylvania Michigan, Louisiana, Mississippi, Kansas and Iowa have legalized casino gaming. Prior to these changes, only New Jersey and Nevada had legal casino gaming. The Las Vegas Sands Corporation made a presentation on the establishment of casino destination resorts in Florida before the House Select Committee on Seminole Indian Compact Review. The Sands Corporation, as well as other gaming corporations, are exploring expansion plans in the United States and around the world, most notably in Macau, China, and Singapore.

**OBJECTIVE:**

This issue brief will identify federal and state laws that regulate gaming, examine the expansion of casinos that have occurred in other states, examine the impact of existing Tribal-state compacts on the expansion of casino gaming in those states, and examine the effect of authorizing casino gaming would have on the Seminole Indian Gaming Compact in the state of Florida. The Senate professional staff will provide alternatives regarding the establishment of casino gaming in Florida.

**METHODOLOGY:**

Senate professional staff will review the federal and state laws that pertain to gaming and will research the procedures used by other states and jurisdictions that have expanding casino gaming. Senate professional staff may also receive input from representatives for the Department of Business and Professional Regulation, states that have expanded casino gaming, casino resort representatives, and other interested parties. In addition, Senate professional staff will review any other information deemed relevant by the committee.

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**  
*Review Internet Poker*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-223

**ISSUE DESCRIPTION and BACKGROUND:**

Internet poker is a game of poker played over the internet or online instead of at a traditional casino or pari-mutuel facility. In 2009, proposed federal legislation sought to legalize internet poker. In addition, multiple states including Florida proposed legislation to legalize intrastate poker. Representative Abruzzo introduced HB 1441 to authorize intrastate Internet poker, regulate the operation of the games, and tax the operators. The bill died in the House Insurance, Business, & Financial Affairs Policy Committee.

**OBJECTIVE:**

This issue brief will identify federal and state laws that cover internet and online poker and examine the impact of regulating internet and online poker in the state of Florida.

**METHODOLOGY:**

Senate professional staff will review the federal and state laws that pertain to internet poker. Senate professional staff will contact representatives of the Department of Business and Professional Regulation, representatives of the pari-mutuel industry, Internet poker organizations, the staff of the Congressional committees considering the federal legislation, and other interested parties. In addition, Senate professional staff will review any other information deemed relevant by the committee.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**  
*Implementation of the Seminole Tribe of Florida Gaming Compact*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-369

**ISSUE DESCRIPTION and BACKGROUND:**

During the 2010 Regular Session, the Legislature passed ch. 2010-29, L.O.F. that ratified the Tribal-state compact between the Seminole Tribe of Florida and the State of Florida. The compact requires certain payments to be made to the State of Florida and designated the Department of Business and Professional Regulation as the State Compliance Agency to oversee the gaming activities at the tribal facilities. The compact limits the number of facilities that are allowed to conduct banked table games to the facilities in Broward County – Hollywood Hard Rock Hotel and Casino, Hollywood Classic Casino, and Coconut Creek Casino, the Immokalee Casino, and the Tampa Hard Rock Hotel and Casino. All the tribal facilities are authorized to conduct slot machine gaming.

**OBJECTIVE:**

To monitor the implementation of the Tribal-state compact to track the amount of money received by the state under the compact, to scrutinize the oversight of the compact by the department, and to examine the impact of the compact on other gaming interests in Florida.

**METHODOLOGY:**

Senate professional staff will monitor the submission of the compact to the United States Department of the Interior for approval pursuant to 25 U.S.C. s. 2710. Senate professional staff will also maintain continuous contact with the Office of Economic and Demographic Research to track the payment amounts received by the state. Contact will also be maintained with the DBPR to monitor the procedures and applicable rules for the oversight of the compact. The revenue reports of the Department of the Lottery and the pari-mutuel industry will be reviewed to determine if the compact has impacted the revenue of these entities. The Senate professional staff will survey news articles, federal activity, and litigation regarding the implementation of the compact.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of Chapter 2009-170, Laws of Florida, Relating to Pari-mutuel Facilities*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-370

**ISSUE DESCRIPTION and BACKGROUND:**

Chapter 2009-170, L.O.F., passed during the extended 2009 Regular Session. The legislation provided terms for a gaming compact to be negotiated by the Governor and ratified by the Legislature and amended various provisions related to the pari-mutuel facilities including extending cardroom hours, removing wager limits on poker games, lowering the tax rate and license fees for slot machine facilities, and reducing other regulatory burdens. The provisions would take effect only if the Governor and the Seminole Tribe of Florida signed a gaming compact that substantially mirrored the provisions related to the compact that were found in ch. 2009-170, L.O.F., and only if that compact was ratified by the Legislature and approved or deemed approved by the Department of Interior. Although the Tribe entered into a compact with the Governor, that compact was not ratified by the Legislature. As a result, the provisions related to the pari-mutuel facilities never took effect.

During the 2010 Regular Session, the Legislature passed ch. 2010-29, L.O.F., that ratified the Tribal-state compact between the Seminole Tribe of Florida and the State of Florida. The legislation also amended the effective date of ch. 2009-170, L.O.F., making the effective date of the pari-mutuel provisions July 1, 2010.

**OBJECTIVE:**

To monitor the implementation of the pari-mutuel provisions found in ch. 2009-170, L.O.F., and to track whether or not the pari-mutuel facilities experience any positive revenue growth.

**METHODOLOGY:**

Senate professional staff will monitor the submission of the taxes and reports submitted to the Department of Business and Professional Regulation, Division of Pari-mutuel Wagering by the pari-mutuel wagering facilities. The Senate professional staff will survey news articles, federal activity, and litigation regarding the implementation of the law.

**INTERIM MONITOR PROJECT TITLE:**

***The Department of Lottery's Effectiveness and Efficiency, and Rulemaking Authority***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-371

**ISSUE DESCRIPTION and BACKGROUND:**

The Department of the Lottery is authorized by Art. X, s. 15, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. In the 2010 Regular Session, Senator Jones introduced SB 674 to amend the type of player activated games that the department may utilize among other provisions dealing with the Lottery. That bill died in House Messages. In addition, Representative Ford and others introduced HB 1537 to change the department's rulemaking exemptions and emergency rulemaking powers. That bill died in Senate Messages.

**OBJECTIVE:**

The objective is to monitor the Department of Lottery to determine its effectiveness and efficiency of the agency, and the utilization of emergency rulemaking by the department.

**METHODOLOGY:**

Senate professional staff will monitor the agency's emergency rules and activities, information submissions, relevant OPPAGA reports and studies, relevant Auditor General and any relevant agency inspector general reports and any other information deemed relevant by the committee.

**INTERIM MONITOR PROJECT TITLE:**

***Remediation of Homes with Imported Drywall***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-372

**ISSUE DESCRIPTION and BACKGROUND:**

Many homes around the nation have been affected by imported drywall. During the 2010 Regular Session, several bills were introduced in the Senate dealing with the imported drywall problem. The bills ranged from a limitation of liability for imported drywall remediators (SB 2196 by Senator Bennett) to creating a task force to study the issue (SB 1044 by Senator Aronberg) to providing for various regulatory and licensing provisions (SBs 498, 500, and 1042 by Senator Aronberg). These bills died in the Committee on Regulated Industries. The chair of the committee, Senator Jones, believed that no action should be taken on these bills until the results of the various activities across the nation had been determined. The Committee on Community Affairs prepared an Issue Brief on the subject, *Imported Drywall*, Issue Brief 2010-311. The brief identified action being taken at the federal level through the U.S. Consumer Product Safety Commission, the U.S. Environmental Protection Agency, and the U.S. Centers for Disease Control.

In addition, there were several federal lawsuits filed relating to imported drywall manufactured in China, four in the U.S. Southern District of Florida, three in the U.S. Middle District of Florida, and one each in the U.S. Eastern District of Louisiana, the U.S. Northern District of Florida, and the U.S.

Southern of Ohio. All of these lawsuits were transferred to the U.S. Eastern District of Louisiana and assigned to the Honorable Eldon E. Fallon for consolidated hearing, *see In re: Chinese-Manufactured Drywall Products Liability Litigation*, 626 F.Supp.2d 1346, 2009 WL 1725973 (U.S.Jud.Pan.Mult.Lit.). The judge has awarded damages and ordered remediation in some of the cases.

The Federal Interagency Task Force on Problem Drywall has issued *Interim Remediation Guidance for Homes with Corrosion from Problem Drywall*, by the Consumer Product Safety Commission and the Department of Housing and Urban Development, April 2, 2010. According to the National Homebuilders Association, the Department of Housing and Urban Development may provide some financial relief for home owners. The department has stated that it would make Community Development Block Grant funds available for this purpose, although no money has been dispensed yet (*see* [http://www.nahb.org/news\\_details.aspx?newsID=10490](http://www.nahb.org/news_details.aspx?newsID=10490), last visited, May 14, 2010).

**OBJECTIVE:**

To monitor the status of remediation and funding efforts for homes that are affected by the problem of imported drywall.

**METHODOLOGY:**

Senate Professional Staff will review the status of the ongoing litigation in the U.S. Eastern District of Louisiana. The status of drywall remediation regulations and funding from the federal government will also be monitored. Senate Professional Staff will also contact affected homebuilders and other interested parties to monitor the problem, and will coordinate with the Senate Professional Staff of the Senate Committee on Community Affairs.



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# TRANSPORTATION

## Interim Projects

(None)

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

***Review Florida Department of Transportation Budget Entity – Transportation Systems Development***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-224

**ISSUE DESCRIPTION and BACKGROUND:**

The Florida Department of Transportation's (FDOT) Transportation Systems Development budget entity encompasses those agency functions which support or lead to the construction of transportation infrastructure. Resources in this entity provide services related to Planning and Environment; Pre-construction and Design Services; Public Transportation; and Right-of-Way Acquisition.

**OBJECTIVE:**

The issue brief will examine the programs and functions funded by FDOT's Transportation Systems Development budget entity.

**METHODOLOGY:**

Staff will identify all statutorily assigned duties and responsibilities of FDOT offices funded through the budget entity. Staff will review agency information submissions, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant.

**INTERIM ISSUE BRIEF TITLE:**

***Review Expressway Authority Lease-purchase Agreements***

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-227

**ISSUE DESCRIPTION and BACKGROUND:**

The Florida Department of Transportation (FDOT) often enters lease-purchase agreements with Florida expressway and bridge authorities as part of its responsibility to operate and maintain toll facilities. Under lease-purchase agreements, FDOT may loan monies to pay the annual operations and maintenance costs for an authority's toll facilities to enable the toll revenues collected by the authority to be primarily used to pay its facilities' bond debt. Reimbursement to FDOT is typically not made until the authority has met these debt service requirements. Upon completion of the lease-purchase



agreement, ownership of the facility is transferred to the State and FDOT retains all operations and maintenance responsibility. Currently, Florida expressway and bridge authorities owe an estimated \$547,000,000 pursuant to the terms of various loans and lease-purchase agreements.

**OBJECTIVE:**

The report will identify and quantify, where appropriate, the costs and benefits borne by or accrued to the State through lease-purchase agreements with expressway authorities.

**METHODOLOGY:**

The report will examine the provisions of current lease-purchase agreements and review historical repayment schedules. Staff will interview stakeholders and review all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, and any other information deemed relevant.

**INTERIM ISSUE BRIEF TITLE:**

*Review Florida Department of Transportation's Cash Balance Requirements*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-228

**ISSUE DESCRIPTION and BACKGROUND:**

Section 339.135(6), F.S., requires the Florida Department of Transportation (FDOT) to have on hand at the close of business, at the end of each quarter of the fiscal year, an available cash balance of not less than \$50 million or five percent of the unpaid balance of all State Transportation Trust Fund obligations, whichever amount is less. In the event this cash position is not maintained, no further contracts or other fund commitments shall be approved, entered into, awarded, or executed until the cash balance has been regained.

The \$50 million provision was enacted in 1992 when \$50 million approximately equaled five percent of FDOT's unpaid obligations. Subsequent to 1992, FDOT's obligations have increased, but the statutory \$50 million provision has not been adjusted. Today, \$50 million equals less than one percent of FDOT's unpaid obligations.

**OBJECTIVE:**

Senate Professional Staff of the Transportation Committee in coordination with Senate Professional Staff of the Transportation and Economic Development Appropriations Committee will determine the appropriateness of the cash balance requirements established in s. 339.135(6), F.S.

**METHODOLOGY:**

Senate professional staff will examine FDOT's cash balance records, interview various stakeholders, review applicable statutes, policies and procedures associated with FDOT's cash forecasting, and research and report reasonable and prudent business practices of similar organizations.

## Monitor Projects

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of Legislation Regarding the Transition of Driver's License Issuance Services*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-373

**ISSUE DESCRIPTION and BACKGROUND:**

During the 2010 Session, the Legislature adopted HB 5501 which requires a transition plan for tax collectors that are Constitutional officers under s. 1(d) Art. VIII of the State Constitution to render all driver licenses services by June 30, 2015. The changes would also allow charter appointed tax collectors, comprised of Miami-Dade, Broward, and Volusia counties, to provide driver licenses services on a limited basis as directed by the Department of Highway Safety and Motor Vehicles (Department).

The Department, in conjunction with the Tax Collectors Association, must develop the transition plan including a timeline, to comply with full transition no later than June 30, 2015. The plan may include, but is not limited to, recommendations on the use of regional service centers to be manned and equipped by the state. This plan must be submitted to the Speaker of the House of Representatives and President of the Senate by February 11, 2011.

**OBJECTIVE:**

Senate staff will monitor the implementation of the legislative provisions pertaining to the development of a plan, including a timeline, to transition the driver's license service from the Department to tax collectors who are constitutional officers by June 30, 2015.

**METHODOLOGY:**

Senate Professional Staff of the Transportation Committee in coordination with Senate Professional Staff of the Transportation and Economic Development Appropriations Committee will monitor the scheduled meetings between the Department, the Tax Collectors Association, and the Florida Association of Counties relating to transitioning the driver's license service to Tax Collectors who are constitutional officers.



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# TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS

## Interim Projects

**INTERIM PROJECT TITLE:**

*Florida Corporate License Plate*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-137

**ISSUE DESCRIPTION and BACKGROUND:**

Legislation was introduced during the 2010 Session proposing the implementation of a Florida Corporate License Plate. Senate Bill 1442 authorized the Department of Highway Safety and Motor Vehicles to create a Corporate License Program. The bill authorized the department to enter into agreements with entities who provide required legal documentation for the use of a corporate logo on a Florida license plate. Corporate participation in the program would have required an initial application fee of \$5,000 for the purchase of the initial inventory, and evidence of the ability to pay \$200 per vehicle owner for a minimum of 1,000 plates. Certain vehicle owners would be able to make application for a corporate plate for a fee of no more than \$25.00. The bill was not adopted by the Legislature.

**OBJECTIVE:**

The objective of the project is to determine the feasibility of authorizing the Department of Highway Safety and Motor Vehicles to implement a Florida Corporate License Plate Program including the potential for new revenues.

**METHODOLOGY:**

Staff will research the issuance of license plates in other states to determine if similar programs are currently in place and if so, the revenue impact and success of the programs. With the assistance of the Office of Program Policy and Government Accountability (OPPAGA), staff will research the potential for corporate participation as well as the interest of Florida citizens in purchasing corporate plates.

## Issue Briefs

**INTERIM ISSUE BRIEF TITLE:**

*Transportation Disadvantaged Trust Fund*

**DATE DUE:** October 1, 2010

**PROJECT NUMBER:** 2011-225

**ISSUE DESCRIPTION and BACKGROUND:**

The 2009 Legislature enacted Chapter 2009-71, Laws of Florida, to authorize certain fee increases associated with the registration and licensure of motor vehicles. The law authorized revenues from those fees to be transferred from the Highway Safety Operating Trust Fund in the Department of Highway Safety and Motor Vehicles (DHSMV) to the Transportation Disadvantaged Trust Fund in the Florida

Department of Transportation (FDOT). Beginning July 1, 2011, and annually thereafter, the DHSMV must transfer \$5 million to the Transportation Disadvantaged Trust Fund in FDOT.

The Commission for the Transportation Disadvantaged (Commission) is assigned to the office of the Secretary of the FDOT for administrative and fiscal accountability purposes. The Legislature appropriates funds for the Commission to coordinate transportation services provided to the transportation disadvantaged. The Transportation Disadvantaged Trust Fund has several dedicated revenue sources including a \$1.50 fee applied to the registration of private automobiles and certain trucks, a \$1 voluntary donation or “checkoff” on vehicle registrations, as well as formula funds from a federal public transit block grant and a transfer from the Agency for Health Care Administration for Medicaid services.

**OBJECTIVE:**

This issue brief will discuss both the revenues and expenditures in the Highway Safety Operating Trust Fund and the Transportation Disadvantaged Trust Fund.

**METHODOLOGY:**

Professional staff of the Senate Transportation and Economic Development Appropriations Committee will review the fees imposed in ch. 320, F.S., with attention to the fund distribution and any statutory limitations on the use of those revenues. Staff will interview DHSMV, FDOT and Commission personnel regarding current year expenditures and estimated expenditures for Fiscal Year 2011-2012.

## **Monitor Projects**

**INTERIM MONITOR PROJECT TITLE:**

*Early Learning Information System*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-374

**ISSUE DESCRIPTION and BACKGROUND:**

- The Agency for Workforce Innovation (AWI) started planning for the Early Learning Information System (ELIS) in fiscal year (FY) 2004-05, with an estimated project completion in FY 2007-08.
- By FY 2007-08, a total of \$16.3 million had been appropriated, of which \$10.7 million had reverted. A definitive project scope and unambiguous system requirements addressing this scope (fundamental for an IT initiative) had not yet been defined.
- In FY 2008-09, the agency requested \$7.4 million for additional requirements analysis and system design when the original requirements and design had not been completed (after approximately 3 years of effort). The estimated project cost had increased from \$15 million in FY 2005-06 to \$35.7 million.
- The agency revised the project completion date to FY 2010-11, 6 years after receipt of initial funding in FY 2005-06.

The original business problems (from FY 2005-06) relating to the current Enhanced Fields System (EFS) were as follows:

- Insufficient budgeting, cash management and reporting capability;

- Inefficient fund management and provider payments;
- No checks and balances to prevent client/provider fraud;
- Inability to track coalition-specific program data; and
- No capacity for automating attendance tracking.

The 2008 General Appropriations Act (GAA) provided AWI \$500,000 to continue implementation planning for ELIS. Associated proviso directed the agency to refocus the project to the original scope to address core business problems. The proviso also required the agency to redefine business rules, interfaces, and known customer and systems needs at a sufficient level to enable design and development. Along with this project refocus, the early learning business processes had to be standardized across the early learning coalitions. During FY 2008-2009, the agency spent \$325,000 to rescope the project and provide a new project feasibility study. The study estimated the cost at \$23.7 million over a 3-year implementation period. Total estimated cost for FY 2009-10 (the first year funding) is \$6 million.

An additional \$11 million was provided in the FY 2010 GAA, \$2 million from state trust funds and \$9 million contingent on the availability of federal stimulus funds. The majority of this appropriation will be used by the system integration vendor to build and test the system. Other activities and costs included are Independent Verification and Validation, project management and quality assurance, organizational change management, technical and business analysis support, data conversion and migration support, software, hardware, operating facilities costs and travel costs.

**OBJECTIVE:**

To monitor the activities of AWI associated with this project, and to work with the Technology Review Workgroup (TRW) staff to develop information for legislators, as needed, in order to ensure that appropriate legislative oversight is maintained.

**METHODOLOGY:**

Staff will meet regularly with AWI and the TRW staff to discuss progress and developments in the project. Timely interim committee meeting agenda items will be recommended to the committee Chair as needed to help keep committee members apprised of any issues that may arise during project implementation.

**INTERIM MONITOR PROJECT TITLE:**

*Space Florida Transition and Aerospace Industry Job Recovery Efforts*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-375

**ISSUE DESCRIPTION and BACKGROUND:**

The 2010 Legislature approved several measures that will serve to aid in diversifying Florida's space industry and to increase the state's opportunities for participation in a national commitment towards commercial space activity. The focus of this investment is to improve recruitment and expansion efforts of aerospace-related businesses, to stimulate economic development and promote aerospace industry jobs.

- A summary of the Fiscal Year 2010-2011 funding of \$31.1 million follows:

- Section 53 of Committee Substitute for Senate Bill (CS/SB) 1752:
  - \$10 million in financing assistance benefiting launch service and payload processing providers
  - \$3.2 million for workforce development assistance
  - \$3 million for expanded business development and recruiting activities
- \$3.8 million for Space Florida operations (line item 2667, House Bill 5001, the General Appropriations Act)
- Authorizes additional uses for remaining 2008 Appropriation (\$11.1 million, House Bill 969), identified by Space Florida to include:
  - \$7.5 million for Exploration Park, Phase I
  - \$3.6 million for Space Launch Complex infrastructure (also in s. 53 of CS/SB 1752)

**OBJECTIVE:**

To monitor the implementation of the new and existing recruitment and expansion efforts of Space Florida and the development of the proposed uses of the resources provided to the entity. Senate professional staff will also provide briefing materials for legislators as needed.

**METHODOLOGY:**

Senate committee staff will monitor the use of funding and the progress of the implementation of the efforts for expansion and recruitment by Space Florida.

**INTERIM MONITOR PROJECT TITLE:**

*Unemployment Compensation Claims & Benefits Information System*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-376

**ISSUE DESCRIPTION and BACKGROUND:**

The 2007 Florida Legislature directed the Agency for Workforce Innovation (AWI) to evaluate the replacement of the 30 year old mainframe system used to process Unemployment Compensation (UC) benefit claims and appeals. As a result, a feasibility study was conducted by a third-party vendor. The study recommended that AWI implement a new system. The implementation time frame is over a 4-year period at a total project implementation cost of \$68.3 million. The agency anticipates that the project costs for the entire system will be funded from federal funds.

The study also concluded that a cost savings of up to \$43 million annually (including \$36 million in annual trust fund savings) can be expected due to enhanced efficiencies in program operations. Benefits of a new UC system include:

- Enhanced call center operations resulting in decreased caller wait times, reduced call duration, and increased customer satisfaction
- Improved efficiency of adjudication and appeals activities
- Reduced errors, fraud and overpayments
- Implementation of a simplified, robust technical infrastructure

In compliance with section 216.023, F.S., the 2009 Legislature adopted chapter 2009-273, Laws of Florida, authorizing the project, providing time frames for implementation and a governance structure for the project, and outlining the main business objectives that must be achieved. The governance structure is composed of an executive steering committee with voting powers. The membership and responsibilities are specified within the law.

From the national perspective, several states are also preparing to replace their inefficient UC mainframe systems. Florida and other states are experiencing similar challenges in the administration of the UC program including: increased customer demand, reduced or static funding levels, aging and retiring workforce, and an aging and inflexible technology system.

Although the project carries high risk as expected at this early stage of the project, the agency states that the overall project risk will diminish significantly by the conclusion of Phase 2 (Requirements Definition and Procurement Support) when low-level project requirements have been documented and a technology solution selected.

The projected cost for Fiscal Year 2009-2010 is \$2 million to complete Phase 2 of the project. During Phase 2 (Requirements Definition and Procurement Support) the agency is continuing to develop detailed requirements specifications and detailed business process requirements which would subsequently be included in a competitive procurement process that evaluates both Commercial-Off-The-Shelf applications and possible use of system(s) implemented in other states.

In the Fiscal Year 2010-11 General Appropriations Act, an additional \$26,801,727 is provided for the project. This funding will be used to validate the UC system requirements, to design and implement the Unemployment Compensation and Benefits Internet portal, and to continue the Independent Validation and Verification and Project Management Office contractors, and for other procurement services. The funds will also be used to begin the development of the Call Center Interactive Voice Response System, the Benefit Overpayment Screening System, the Internet and Intranet Appeals System and the Claims and Benefits Mainframe System.

**OBJECTIVE:**

To monitor the executive steering committee and the activities of AWI associated with this project, and to work with the Technology Review Workgroup to develop information for legislators, as needed, in order to ensure that appropriate legislative oversight is maintained.

**METHODOLOGY:**

Staff will monitor meetings held by the Steering Committee. Staff will meet regularly with AWI and TRW staff to discuss progress and developments in the project. Timely interim committee meeting agenda items will be recommended to the committee Chair as needed to help keep committee members apprised of any issues that may arise during project implementation.



**INTERIM MONITOR PROJECT TITLE:**

***Workforce Florida, Inc./ Regional Workforce Boards Proviso***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-377

**ISSUE DESCRIPTION and BACKGROUND:**

The Fiscal Year 2010-2011 General Appropriations Act (GAA) proviso and implementing bill language states the following as it relates to the Agency for Workforce Innovation (AWI), Workforce Florida, Inc. and the Regional Workforce Boards:

- Prohibits Regional Workforce Boards in the use of state and federal funds from paying for meals, food, beverages, entertainment costs, and recreational activities for board members and staff;
- Directs Workforce Florida to develop a statewide fiscal policy to hold boards accountable and ensure that they are subject to monitoring by the Agency for Workforce Innovation;
- Requires that any contract between a board and a member of that board be approved by a 2/3 vote of the entire board and extends this vote requirement to contracts with a member's relatives and Board employees;
- Specifies that such contracts must not be executed without Workforce Florida's approval. Contracts for less than \$25,000 are exempt from the review and must be approved by a 2/3 vote and reported to Workforce Florida and AWI within 30 days of being approved; and
- Requires Workforce Florida to develop a policy relating to contract review by AWI and approval by Workforce Florida.

**OBJECTIVE:**

To monitor implementation of proviso related to the restricted use of funding for the Regional Workforce Boards activities (food, beverage, entertainment, recreation) and changes in contracting procedures. Senate professional staff will also provide briefing materials for legislators as needed.

**METHODOLOGY:**

Senate professional staff will monitor and review the development of rules and policy guidelines employed by Workforce Florida and AWI as proviso is implemented.

**INTERIM MONITOR PROJECT TITLE:**

***Driver History Records Sales***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-378

**ISSUE DESCRIPTION and BACKGROUND:**

Chapter 322, Florida Statutes, authorizes the sale of driver history records by the Department of Highway Safety and Motor Vehicles (department) and the fees for the purchase of those records. Chapter 2009-71, Laws Of Florida, was enacted to increase the fees charged for 3 and 7 year driver history records from \$2.10 and \$3.10 to \$8.00 and \$10.00, respectively. The revenues are deposited into the Highway Safety Operating Trust Fund.

The post session revenue estimating conference forecast the new revenues for Fiscal Year 2009-2010 to be \$55.5 million and \$66.7 in Fiscal Year 2010-2011. Driver history records sales have dropped considerably during Fiscal Year 2009-2010. This drop in sales revenues appear to be a key factor contributing to the overall revenue shortfall in the Highway Safety Operating Trust Fund.

**OBJECTIVE:**

Monitor the revenue collections in the Highway Safety Operating Trust Fund with a focus on driver history records sales and the impact on total trust fund revenues. This monitor project will also include a review of how the department administers the sale of driver history records through private vendors.

**METHODOLOGY:**

Senate professional staff of the Transportation and Economic Development Appropriations Committee will interview major stakeholders to determine what factors, other than the increased costs, may have contributed decline of driver records sales. Interviews will include department staff, private vendors and other companies who purchase the records for individual use or for profit.

**INTERIM MONITOR PROJECT TITLE:**

*Impacts of State Transportation Trust Fund Sweep on the Transportation Work Program*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-379

**ISSUE DESCRIPTION and BACKGROUND:**

Chapter 2010-152, Laws of Florida, the Fiscal Year 2010-2011 General Appropriations Act (GAA) authorizes a \$160 million transfer from the State Transportation Trust Fund to the General Revenue Fund. The GAA restores \$40 million through an appropriation contingent upon a federal law extending the Federal Medical Assistance Percentage rate; and, ch. 2010-152, L.O.F. (the implementing bill for the GAA), requires a \$19 million payment on a portion of long term debt owed the Department of Transportation by an expressway authority.

The net reduction in cash available in the State Transportation Trust Fund for Fiscal Year 2010-2011 will require the Department of Transportation to work in coordination with district transportation offices and local governments to reduce projects to balance the Transportation Work Program finance plan and cash forecast to the revised funding levels.

**OBJECTIVE:**

Monitor the impact of cash reductions to the State Transportation Trust Fund as it relates to the deletion or deferral of planned commitments and the economic effects of the reduced funding for transportation infrastructure.

**METHODOLOGY:**

Professional staff of the Senate Transportation and Economic Development committee will research and analyze the methodology and financial model used to balance work program commitment to available financial resources. Staff will review correspondence, participate in meetings or conference calls with the department, district offices and local governments. Staff will review project variance reports, finance plans and cash forecasts used by the department to balance the Transportation Work Program to the revised funding levels resulting from reductions in the GAA.

**INTERIM MONITOR PROJECT TITLE:**

***Implementation of Legislation Regarding the Transition of Driver's License Issuance Services***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-380

**ISSUE DESCRIPTION and BACKGROUND:**

During the 2010 Session, the Legislature enacted Chapter 2010-XX, Laws of Florida, to require the Department of Highway Safety and Motor Vehicles (department) to develop a transition plan for certain tax collectors to render all driver licenses services by June 30, 2015. The changes also will allow appointed tax collectors from Miami-Dade, Broward, and Volusia counties, to provide driver's licenses services on a limited basis as directed by the department.

The plan may include, but is not limited to, recommendations on the use of regional service centers to be manned by the state; interlocal agreements; and equipment. This plan must be submitted to the Speaker of the House and President of the Senate by February 1, 2011.

**OBJECTIVE:**

Senate staff will monitor the implementation of the provisions pertaining to the development of a plan, including a timeline, to transition the driver's license services from the department to tax collectors who are constitutional officers by June 30, 2015.

**METHODOLOGY:**

Professional staff of the Senate Transportation and Economic Development Appropriations Committee and the Senate Transportation Committee will monitor the scheduled meetings between the department, the Tax Collectors Association, and the Florida Association of Counties relating to transitioning the driver's license services to Tax Collectors who are constitutional officers.

