

STORAGE NAME: h1757.go
DATE: March 10, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1757
RELATING TO: Planning and Budgeting
SPONSOR(S): Representatives Healey and others
COMPANION BILL(S): SB 0400 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS
 - (2) FINANCE & TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

SUMMARY:

HB 1757 repeals s. 216.349, F.S., relating to Financial review of grants and aids appropriations; audit or attestation statement. It creates s. 216.3491, the "Florida Single Audit Act" (Act), which establishes audit and accountability requirements for units of local government and non-profit organizations which function as contract vendors to public agencies and to which monies from the General Appropriations Act are channeled each year. It implements findings and recommendations of the Auditor General which will provide: state audit requirements parallel with federal audit requirements for pass-through financial assistance, uniform state audit requirements for state financial assistance, and more state oversight for grants and aid appropriations which the Auditor General estimates at over \$500 million per year.

HB 1757 requires the Governor's Office to take a lead role in identifying projects and entities subject to a "state single audit".

HB 1757 requires the Comptroller to modify the state's accounting system to assist in tracking state grants and aid appropriations.

HB 1757 requires state agencies distributing state grants and aid appropriations to review audits, management letters, and corrective action taken by recipients of the appropriations.

HB 1757 requires recipients to provide access to their records, and to provide information to sub-recipients needed by sub-recipients to comply with the audit requirements.

HB 1757 requires independent auditors to have knowledge of internal controls pertaining to major state projects, and to apply generally accepted accounting principles to general, and various specific aspects of each audit.

HB 1757 requires the Auditor General to conduct audits as directed by the Legislative Auditing Committee, to promulgate rules relative to audit standards and parameters, and to review of financial package samples.

HB 1757 provisions apply to nonstate entities with fiscal years beginning on, or after, July 1, 1998.

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HB 1757 appears to provide sufficient rulemaking authority for the implementation of the Act.

I. SUBSTANTIVE RESEARCH

PRESENT SITUATION:

Section 11.40, F.S., creates the Legislative Auditing Committee as a standing joint committee of the Legislature. The committee is composed of 10 members, five from each house of the Legislature. The committee is the nominal supervising entity for the Office of the Auditor General, which is created in s. 11.41, F.S. The Auditor General is the state entity responsible for post-audit financial integrity of publicly funded organizations, and also of private organizations acting as instrumentalities of public agencies. Section 11.40, F.S., provides that the Legislative Auditing Committee is a standing committee of the Legislature with interim powers, and that the Auditor General is an office under the legislative branch of government. They are not agencies of government within the intention of the Legislature as expressed in chapter 216.

In Audit Report 12869, *Audit of the State of Florida Oversight of Grants and Aids to Nonprofit Organizations*, and Audit Report 12870, *Audit of the State of Florida Review of State Governmental Nonprofit Organizations*, the Auditor General reviewed the State oversight of grants and aids appropriations disbursed to nonprofit organizations, including nonprofit organizations that have been created by the State to perform various State related purposes. In Audit Report 12869, the Auditor General made the following findings and recommendations:

- ◆ Better Records are Needed to Improve State Oversight of Grants and Aids to Nonprofit Organizations.
- ◆ Guidance and Oversight of Audits of Nonprofit Organizations Could be Improved.
- ◆ Surveys of State Agencies, Nonprofit Organizations, and Auditors of Nonprofit Organizations Indicate a Need for Improvement in State Oversight Laws.
- ◆ A Florida Single Audit Act to Parallel, but Not Duplicate the Federal Single Audit Act, Would Assist in Resolving the Confusion.

In Audit Report 12870, the Auditor General made the following findings and recommendations:

- ◆ The Legislature Should Review Legislation Authorizing Governmental Nonprofit Organizations (GNPOs).
- ◆ Model Legislation for the Creation of Future GNPOs Should Be Adopted.
- ◆ Guidelines for Determining GNPOs Should Be Established for Determining GNPOs in a Financial Emergency.
- ◆ A Central Depository Should Be Established for Maintaining Information on GNPOs.
- ◆ GNPOs Have a Significant Impact on State Government.

Section 216.349(1), F.S., provides that, before disbursing any funds from a grants and aids appropriation pursuant to a grant or contract, the state agency,¹ or the judicial branch,

¹Section 216.001, F.S., provides that, except as otherwise provided, "state agency" or "agency" means any unit of organization of the executive branch, including any official, officer, department, board, commission, division, bureau, section, district, office, authority, committee, or council or any other unit of government, however designated, and the Public Service Commission. For purposes of chapter 94-249, "state agency" shall not include the judicial branch. For purposes of chapter 94-249, "judicial branch" shall mean all officers, employee, and offices of the Supreme Court, district courts of appeal, circuit courts, county courts, Justice Data Center, and the Judicial Qualifications Commission.

authorized by the appropriations act to administer the funds and the Comptroller must independently ensure that the proposed expenditure is in accordance with all legal and regulatory requirements, and find that the terms of the grant or contract specifically prohibit the use of funds for the purpose of lobbying. Subsection (2) of the section provides that any local governmental entity, nonprofit organization, or for-profit organization that is awarded funds from a grants and aids appropriation must:

- (a) if the amounts received exceed \$100,000, have an audit performed in accordance with the rules of the Auditor General;
- (b) if the amounts received exceed \$25,000, but do not exceed \$100,000, have an audit performed in accordance with the rules of the Auditor General promulgated pursuant to s. 11.45, F.S., or have a statement prepared by an independent certified public accountant which attests that the receiving entity or organization has complied with the provisions of the grant; or
- (c) if the amounts received do not exceed \$25,000, have the head of the entity or organization attest, under penalties of perjury, that the entity or organization has complied with the provisions of the grant.

Public Law 104-156 from the 104th Congress amended Chapter 75 of Title 31, United States Code, to revise pre-existing requirements for the conduct of audits governing non-federal entities receiving federal awards in excess of \$300,000. The stated purposes of the amendments, titled "The Single Audit Act Amendments of 1996", were to promote sound financial management, and to support uniform expectations of audit work products.

A. EFFECT OF PROPOSED CHANGES:

The bill repeals s. 216.349, F.S., which provides that the state agency or the judicial branch and the Comptroller must ensure that the proposed expenditure is in accordance with all legal and regulatory requirements, and that the terms of the grant or contract specifically prohibit the use of funds for the purpose of lobbying. The tiered audit requirements of subsection (2) would be repealed, as well.

The bill establishes the "Florida Single Audit Act". The intent of the act is to establish state audit and accountability requirements for state financial assistance provided to nonstate entities.²

Federal financial assistance passed through the state to nonstate entities is subject to mandatory federal audit requirements. The Legislature recognizes that significant amounts of state financial assistance are provided to nonstate entities to carry out state projects, and heretofore have not been subject to state audit requirements that parallel federal audit requirements. It is the intent of this act that state audit and accountability requirements, to the extent possible, parallel the federal audit requirements.

Each of the stated purposes of the federal amendments are repeated in the proposed s. 216.3491, F.S., in this bill, as well.

²A "nonstate entity" is defined by the bill to mean a local governmental entity, nonprofit organization, or for-profit organization that receives a state award.

Section 216.3491(5), F.S., in the bill, provides that the Executive Office of the Governor (EOG) must, after conferring with the Comptroller and all state agencies that make state awards, adopt guidelines necessary to provide appropriate guidance to state awarding agencies,³ recipients,⁴ subrecipients,⁵ and independent auditors of state financial assistance relating to the requirements of the section. The bill specifically refers to:

- (1) The types or classes of financial assistance considered to be state financial assistance that would be subject to the requirements of the section, including guidance to assist in identifying when the state agency or recipient has contracted with a vendor rather than with a recipient or subrecipient;
- (2) The criteria to be used for identifying a major state project; and
- (3) The criteria to use in selecting state projects for audit based on inherent risk.

The bill also requires the EOG to be responsible for coordinating the initial preparation and subsequent revisions of the Catalog of State Financial Assistance and the State Projects Compliance Supplement. These two projects must be performed after consultation with the Comptroller and all state agencies that award state financial assistance to nonstate entities.

The bill also assigns the Comptroller duties. The Comptroller must make enhancements to the state's accounting system so that particular recording and identification measures are performed.⁶ As well, the Comptroller is to adopt guidelines, after conferring with the EOG and all state agencies that make state awards, which guidelines provide appropriate guidance to state awarding agencies, recipients and subrecipients, and independent auditors of state financial assistance relating to the format for the Schedule of State Financial Assistance. The Comptroller also must perform any inspections, reviews, investigations, or audits of state financial assistance considered necessary in carrying out the Comptroller's legal responsibilities for state financial assistance and the section.

Section 216.3491(7), F.S., in the bill, requires each state agency that makes state awards: (a) to provide information needed by the recipient to comply with the requirements of the section;⁷ (b) require the recipient, as a condition of receiving state

³A "state awarding agency" is defined by the bill to mean the state agency that provided state financial assistance to the nonstate entity for purposes of carrying out a state project.

⁴A "recipient" is defined by the bill to mean a nonstate entity that receives a state award directly from a state awarding agency.

⁵A "subrecipient" is defined by the bill to mean a nonstate entity that receives a state award through another nonstate entity but does not include an individual who receives state financial assistance through such state awards.

⁶Specifically, the enhancements must provide for the: (a) recording of state financial assistance and federal financial assistance appropriations and expenditures as separate categories within the state awarding agencies' operating funds; (b) recording of state project number identifiers, as provided in the Catalog of State Financial Assistance, for state awards; and (c) establishment and recording of an identification code for each financial transaction, including state agencies' awards of state financial assistance and federal financial assistance, as to the corresponding type or organization that is party to the transaction (e.g., other governmental agencies, nonprofit organization, and for-profit organizations).

⁷Included under this informational section are: (a) the audit and accountability requirements for state projects and applicable rules of the EOG, the Comptroller, and rules of the Auditor General; (b) information from the Catalog of State Financial Assistance, including the standard state project number identifier, official title, legal authorization, and description of the state project; (c) information from the State Projects Compliance Supplement, including the significant compliance requirements, eligibility requirements, matching requirements, suggested audit procedures, and other relevant

financial assistance, to allow the state awarding agency, the Comptroller, and the Auditor General access to the recipient's records and the recipient's independent auditor's working papers as necessary for complying with the bill's requirements; (c) notify the recipient that the section does not limit the authority of the state awarding agency to conduct, or arrange for the conduct of additional audits or evaluations of state financial assistance, or limit the authority of any state agency inspector general, the Auditor General, or any other state official; (d) to be provided one copy of each financial reporting package prepared in accordance with the requirements of the section; and (e) to review the recipient financial reporting package to determine whether timely and appropriate corrective action has been taken with respect to audit findings and recommendations.

Section 216.3491(8), F.S., in the bill provides that, as a condition of receiving state financial assistance, each recipient that provides state financial assistance to a subrecipient must: (a) provide for each state award to a subrecipient information needed by the subrecipient to comply with the requirements of the section; (b) review the subrecipient audit reports, including the management letters, to the extent necessary to determine whether timely and appropriate corrective action has been taken with respect to audit findings and recommendations pertaining to state awards made by the state agency; (c) perform such other procedures as specified in terms and conditions of the written agreement with the state awarding agency; (d) require subrecipients, as a condition of receiving state financial assistance, to permit the independent auditor of the recipient, the state awarding agency, the Comptroller, and the Auditor General access to the subrecipients records and the subrecipient's independent auditor's working papers as necessary to comply with the requirements of the section.

Section 216.3491(9), F.S., in the bill, requires each recipient or subrecipient of state financial assistance to obtain an audit that meets particular requirements. The audit must comply with the following: (a) nonstate entities that receive an award that meets the audit threshold requirements⁸ must have a state single audit conducted for that fiscal year; nonstate entities that receive state awards that do not meet the threshold requirements are exempt for that fiscal year. Regardless of the amount of the award, the section does not exempt nonstate entities from compliance with the provisions of law relating to maintaining records concerning state awards to nonstate entities or allowing access and examination of those records.

These annual audits must be conducted by independent auditors in accordance with auditing standards as stated in rules of the Auditor General. Copies of the recipient's financial reporting package must be filed with the state awarding agency and the Auditor General upon completion of the audit. All financial reporting packages must be available for public inspection.

information determined necessary.

⁸Section 216.3491(2)(a) of the bill defines "audit threshold" to mean the amount to use in determining when a state single audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state awards equal to or in excess of \$300,000 in any fiscal year of such nonstate entity shall be required to have a state single audit for such fiscal year in accordance with the requirements of this section. Every 2 years the Auditor General, after consulting with the EOG, the Comptroller, and all state agencies that provide state financial assistance to nonstate entities, shall review the amount for requiring audits under the section and may adjust such dollar amount consistent with the purpose of the section.

If an audit indicates any material noncompliance with requirements, the nonstate entity must submit as part of the audit package a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary.

The bill also includes requirements upon the independent auditor when conducting a state single audit of recipients or subrecipients. Included among these requirements are determinations of whether the nonstate entity's financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles, and whether the state awards shown on the Schedule of State Financial Assistance are presented fairly in all material respects in relation to the nonstate entity's financial statements taken as a whole. Additionally, the independent auditor must determine whether the nonstate entity has internal controls in place to provide reasonable assurance of compliance with the law and rules, and must determine whether each major state project⁹ complied with the law.

The bill provides that when major state projects are less than 50 percent of the nonstate entity's total expenditures for all state awards, the auditor must, as necessary, select and test additional state projects as major state projects to achieve audit coverage of at least 50 percent of the expenditures for all state awards to the nonstate entity.

Section 216.3491(11), F.S., in the bill, provides that the Auditor General has power to: (a) audit state financial assistance when determined to be necessary by the Auditor General or when directed by the Legislative Auditing Committee; (b) adopt rules that state the auditing standards to be followed by independent auditors that audit nonstate entities; (c) adopt rules that describe the contents and the filing deadlines for the financial reporting package; (d) provide technical advice upon request of the Comptroller, EOG, and state agencies relating to financial reporting and audit responsibilities; (e) be provided one copy of each financial reporting package; and, (f) perform ongoing reviews of a sample of financial reporting packages to determine compliance.

The bill provides that the act applies to any nonstate entity fiscal year beginning on or after July 1, 1999.

B. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

⁹A "major state project" is defined by the bill to mean any state project meeting the criteria as stated in the rules of the EOG.

- (1) any authority to make rules or adjudicate disputes?

Yes. This bill requires the Auditor General to promulgate rules dealing with auditing standards of independent auditors, describing the contents of, and filing deadlines for financial reporting packages.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. There would not only be auditing activity of qualifying nonstate entities, but there would be additional responsibilities of various governmental entities. See Section 2 notes in Section by Section Research.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

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d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No, except that there would be additional, or improved accountability measures related to some qualifying nonstate recipients of state financial assistance.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

N/A

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

N/A

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

C. STATUTE(S) AFFECTED:

Repeals s. 216.349, F.S.; creates s. 216.3491, F.S.; amends s. 265.2861, F.S.

D. SECTION-BY-SECTION RESEARCH:

Section 1 - Repeals s. 216.349, F.S.

Section 2 - Creates s. 216.3491, F.S.

Provides for the short title of "Florida Single Audit Act" (Act);

States the objective and purposes of s. 216.3491, F.S., as: 1) establishing an audit system of uniform state audit requirements for state financial assistance administered by nonstate entities, 2) to the extent possible, having the requirements parallel the federal audit requirements in the same, or similar projects, 3) promoting sound financial management of state financial assistance, and improving accountability of recipients through a unified auditing system; providing applicable definitions;

Provides duties of the Executive Office of the Governor, including: 1) conferring with the Comptroller, and all state agencies making state awards, to promulgate identifying criteria and guidelines for use by various participants involved in the receipt or auditing of state financial assistance, 2) coordinating the preparation and revisions of the "Catalog of State Financial Assistance", 3) coordinating the preparation and revisions of the "State Projects Compliance Supplement";

Provides duties of the Comptroller, including: 1) making enhancements to the state's accounting system to provide for the requirements of the Act, 2) upon conferring with the Executive Office of the Governor and all state awarding agencies, promulgating guidelines for agencies, auditors, recipients, and subrecipients relating to the format for the Schedule of State Financial Assistance, 3) performing inspections, reviews, investigations, or audits necessary in carrying out the Comptroller's responsibilities under the Act;

Provides duties of state awarding agencies, including: 1) providing recipients with information necessary for them to comply with the Act, 2) requiring recipients, as a condition of receiving state financial assistance, to allow appropriate authorities access to their records, 3) notifying recipients of parameters or conditions related to existing authority, or of additional audit activity, 4) receiving a copy of each financial reporting package pursuant to the Act, and, 5) reviewing recipient's documentation to determine, or verify compliance;

Provides responsibilities of recipients which provide state financial assistance to subrecipients, including: 1) providing subrecipients with information necessary for them to comply with the Act, 2) reviewing subrecipient documents to determine, or verify compliance by the subrecipient, 3) compliance with other conditions of the written agreement with the state awarding agency, 4) requiring subrecipients, as a condition of receiving state financial assistance, to permit the independent auditor of the recipient, state awarding agencies, the Comptroller, and the Auditor General to have access to the subrecipient's records, and related audit working papers;

Provides the conditions when: 1) "single state audits" will be conducted, and by whom, 2) documents, including those related to corrective action, will be filed, 3) additional assurances will be required of recipients or subrecipients;

Provides duties of independent auditors, including: 1) determining whether financial statements are presented fairly, 2) determining whether state awards are presented fairly in relation to the nonstate entities' financial statements, taken as a whole, 3) understanding, assessing and monitoring internal controls pertaining to major state projects, 4) monitoring compliance related to major state projects, 5) reporting audit results, 6) providing a management letter pursuant to Auditor General rules, and, 7) upon notification by the nonstate entity, making working papers available to the appropriate authority;

Provides authority and duties of the Auditor General, including: 1) having authority to conduct audits as determined necessary, 2) promulgating rules relative to auditing standards for independent auditors, and for describing contents and deadlines for financial reporting packages, 3) providing technical advice to other authorities, upon request, 4) receiving financial reporting packages, 5) performing ongoing reviews of a sample of financial reporting packages;

Provides that the provisions of this section, which is Section 2, shall be effective for any nonstate entity's fiscal year which begins on, or after July 1, 1998.

Section 3 - Amends s. 265.2861, F.S., removing a reference to the repealed s. 216.349, F.S.

Section 4 - Provides an effective date of July 1, 1997.

II. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Unknown.

2. Recurring Effects:

Under the Florida Single Audit Act, the State Comptroller would be charged with making improvements to the State's accounting system. The **Office of the Comptroller** has provided the following fiscal impact to facilitate these changes:

	Year 1	Year 2	Year 3
Payroll, OCO, Exp.	\$494,151	\$468,341	\$258,174
FTE	9	9	5

Once the changes to the accounting system are made, more reliable data will be available to identify the impact of the threshold.

3. Long Run Effects Other Than Normal Growth:

Unknown. See Recurring Effects.

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Unknown.

2. Recurring Effects:

Unknown.

3. Long Run Effects Other Than Normal Growth:

Unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Unknown.

2. Direct Private Sector Benefits:

Unknown.

3. Effects on Competition, Private Enterprise and Employment Markets:

Unknown.

D. FISCAL COMMENTS:

**Florida Single Audit Act
Impact of Proposed \$300,000 Threshold
Based on 1994-95 Fiscal Year Data (1995-96 Data for Nonprofits)**

Type of Entity	Total Number of Entities	Number Over \$300,000 in Revenue From State	Number Less Than \$300,000 in Revenue From State	Number with No Revenue From State	Dollar Coverage Greater Than \$300,000	Dollar Coverage Less Than \$300,000	Percentage of Dollar Coverage at \$300,000
Cities	392	44	171	177	\$78,246,204	\$11,736,007	87%
Nonprofits	233	130	103	N/A	\$301,192,483	\$12,077,999	96%
Districts	391	16	30	345	\$159,619,542	\$1,491,759	99%

Totals	1016	190	304	522	\$539,058,229	\$25,305,765	96%
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The Office of the Auditor General reviewed 4 of the smaller counties in the state, and all had State Revenue in excess of \$300,000. Although it has not analyzed all counties, the Office of the Auditor General states that it is relatively certain that all counties would be required to be audited under the \$300,000 threshold.

The information above is based on the Department of Banking and Finance data base and considers only state revenues, and does not consider expenditures. The Auditor General indicated that expenditures would roughly parallel revenue over time. In addition, since CPA firms verify data in the annual reports of local governments, the Auditor General believes that the data is reasonably accurate and reliable.

The data on nonprofits comes from audit reports that were filed with the Auditor General. As noted in their report on nonprofits, about 50% do not file reports with the Auditor General, as required by law.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 1757 does not require counties or municipalities to spend funds or take action which requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 1757 does not reduce the authority of counties or municipalities to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 1757 does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

1) The effective date will have to be amended from July 1, 1997, as currently provided.

2) The Section 2 effective date provision for nonstate entities with fiscal years beginning on, or after July 1, 1998, may also need to be amended to conform to the amended effective date of the bill becoming law.

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V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

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