

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1247 Uniform Traffic Control  
**SPONSOR(S):** Reagan and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2558

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Expansion & Infrastructure Council	_____	Owen	Tinker
2) Policy & Budget Council	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

HB 1247 creates the “Mark Wandall Traffic Safety Act”. The bill authorizes counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifies the required content of the ordinance. The penalty for failing to stop at a steady red light, as determined through the use of a traffic infraction detector, is a fine of \$125. The bill describes requirements that must be met when issuing a ticket through documentation by the traffic infraction detector and the procedure to be followed if someone other than the vehicle owner was driving the vehicle at the time of the alleged violation.

The bill provides a complaint process for complaints that a county or municipality is employing traffic infraction detectors for purposes other than the promotion of public health, welfare, and safety or in a manner inconsistent with the law. Each county or municipality that operates a traffic infraction detector must submit an annual report to the Department of Highway Safety and Motor Vehicles (Department) which details the results of the detectors and the procedures for enforcement. The Department must submit a summary report to the Governor and Legislature on or before December 1, 2008, which includes a review of the information submitted by the counties and municipalities and any recommendations or necessary legislation.

The bill revises the definition of “habitual traffic offender” to include three convictions for a violation of a traffic control red light within a three-year period. Violations detected by use of a traffic infraction detector are not considered convictions for habitual traffic offender purposes. A severability clause is also provided.

To the extent local governments choose to enact ordinances to permit the use of traffic infraction detectors there will be a fiscal impact to the local governments for the cost of the installation and maintenance of the devices, the amount of which will vary depending on the negotiated agreement between the local government and any private vendor providing the equipment. There will be an increase in fine revenue for the state government and local governments that choose to enact ordinances permitting the use of traffic infraction detectors, the amount of which is indeterminate.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- The bill authorizes a local government to enact an ordinance to permit the use of traffic infraction devices to photograph motor vehicles that run red lights. The local government is also authorized to impose a fine of \$125 on vehicle owners whose vehicle ran a red light, as determined by a traffic infraction device.

Promote Personal Responsibility- The use of traffic infraction devices by local governments may promote personal responsibility by increasing the likelihood of a sanction for failure to obey a traffic control device.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

According to the Department, in 2005 there were 96 fatalities and 6,300 injuries related to motor vehicle drivers who disregarded a traffic signal in Florida. Nationally, in 2005, more than 800 people were killed and an estimated 165,000 injured in crashes that involved red light running.<sup>1</sup> Red-light-running crashes have become an increasing concern to many traffic safety advocates.

Traffic infraction detectors, or “red light cameras”, are used to enforce traffic laws by automatically photographing vehicles whose drivers run red lights. A red light camera is connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system continuously monitors the traffic signal, and the camera is triggered by any vehicle entering the intersection above a pre-set minimum speed and following a specified time after the signal has turned red. A second photograph typically shows the red light violator in the intersection. In some cases video cameras are used. Cameras record the license plate number, the date and time of day, the time elapsed since the beginning of the red signal, and the vehicle speed. Over 110 cities and towns in 20 states across the country currently participate in a red light camera program<sup>2</sup>. Red light cameras have been used in at least 33 foreign countries since the 1970s.

An Insurance Institute for Highway Safety review of international red light camera studies concluded that cameras reduce red light violations by 40-50 percent and reduce injury crashes by 25-30 percent.<sup>3</sup> A 2005 study of red light camera programs in seven metropolitan communities by the Federal Highway Administration concluded that there was a 25 percent reduction in right-angle collisions, but a 15 percent increase in rear-end collisions. Some believe the volume of rear-end collisions will decline as drivers get used to the idea that the vehicle in front of them will stop at a red light.

Currently there are no recognized, independent standards or certifications for the red light camera industry. The industry is subject to no oversight at this time. The Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA) have developed guidelines for the use of State and local agencies on the implementation and operation of red light camera systems, which were updated in January 2005.<sup>4</sup> Although not a regulatory requirement, the guidance is

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<sup>1</sup> Insurance Institute of Highway Safety

<sup>2</sup> National Campaign to Stop Red Light Running, [www.stopredlightrunning.com/html/rlc\\_cities.htm](http://www.stopredlightrunning.com/html/rlc_cities.htm)

<sup>3</sup> Retting, R.A. et al. 2003. Effects of red light cameras on violations and crashes: a review of the international literature. *Traffic Injury Prevention* 4:17-23.

<sup>4</sup> U.S. Department of Transportation, “Red Light Camera Systems” (January 2005).

intended to provide critical information for State and local agencies on relevant aspects of red light camera systems in order to promote consistency and proper implementation and operation.

The Red Light Camera Systems “Operational Guidelines” produced by the U.S. Department of Transportation in January 2005 discusses the “Countermeasures and their Applications”. The guidelines claim that research has shown that engineering improvements, safety education and increased enforcement by law enforcement officers can significantly reduce red light violations. Examples of engineering improvements include:

- Improving signal head visibility. Signal head visibility can be improved by increasing the size of the traffic signal lamps from 8 to 12 inches. The addition of backplates can also make signals more visible.
- All-red interval. An all-red clearance interval, where the traffic signals on all sides are red for a period of time, provides additional time for motorists already in the intersection to proceed through the intersection on the red indication while holding cross traffic on the cross street approaches. The red clearance interval is not intended to reduce the incidence of red light running; rather it is a safety measure.
- Appropriate yellow times. The likelihood of a motorist running a red light increases as the yellow interval is shortened. Lengthening the yellow interval, within appropriate guidelines, has been shown to significantly reduce the number of inadvertent red light violations.
- Traffic signal coordination. A coordinated traffic signal operation where motorists are able to move smoothly in platoons from intersection to intersection reduces the risk of red light violations and collisions.

Cameras are permitted by current Florida law to enforce violations of payment of tolls.<sup>5</sup> For example, toll facility operators use a digital camera to capture an image of the vehicle’s license plate as the vehicle travels through the tolling zone. If the system receives payment from a SunPass, the image is deleted. If no payment is received, the image is processed for video tolling or is considered a toll violation and a Uniform Traffic Citation is issued.

In response to the city of Pembroke Pines’ inquiry regarding the use of unmanned cameras to enforce violations of traffic signals, the Attorney General issued an advisory legal opinion on July 12, 2005<sup>6</sup>. The opinion concluded that it was within the local government’s scope of authority “to enact an ordinance authorizing the city to monitor violations of traffic signals within the city and to use unmanned cameras to monitor intersections and record traffic violations”; “to monitor violations of traffic signals within the city and to use unmanned cameras to record the license tag numbers of cars involved in such violations”; and “to advise a car owner that his or her license tag number has been recorded in a violation of the traffic laws”.

The problem identified by a 1997 Attorney General Opinion<sup>7</sup> was whether unmanned electronic traffic infraction detectors may independently be used as the basis for issuing citations for violations of traffic laws. Current statute requires that citations be issued when an officer “observes the commission of a traffic infraction”.<sup>8</sup> The 1997 Attorney General Opinion concluded that nothing precludes the use of unmanned cameras to record violations of s. 316.075, F.S., but “a photographic record of a vehicle violating traffic control laws may not be used as the basis for issuing a citation for such violations.” The 2005 Attorney General Opinion reached the same conclusion, stating, “legislative changes are necessary before local governments may issue traffic citations and penalize drivers who fail to obey red light indications on traffic signal devices” as collected from a photographic record from unmanned cameras monitoring intersections.

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<sup>5</sup> s. 316.1001(2)(d), F.S

<sup>6</sup> Attorney General Opinion 05-41

<sup>7</sup> Attorney General Opinion 97-06

<sup>8</sup> s. 316.640(5)(a), F.S.

However, several local governments in Florida have participated in the use of red light cameras enforcement of red light violations. Due to the Attorney General's Advisory Opinions, the majority of local governments have used the cameras in pilot projects solely for data collection purposes or as a warning system to motorists, by sending a letter and attaching no penalty. Sarasota County, Manatee County, Palm Beach County, Polk County, and the cities of Orlando and Melbourne are examples of local governments that have at one time participated in a red light camera pilot project. The Palm Beach County Commission reported that their two-month pilot project using traffic cameras at a test intersection in Palm Beach County showed alarming results. One fifth of those who ran a red light did so two seconds after the light had changed. On average, fifty cars a day ran the light at the test site during the first month of the pilot project. During the second month of the project, following publicity about the program, that number dropped to less than twenty.<sup>9</sup>

The city of Gulf Breeze passed a local ordinance in 2005 allowing use of red light cameras. A violation by any motor vehicle running a red light that is recorded by a traffic enforcement photographic system is deemed a civil, noncriminal violation and a \$100 civil fee is assessed against the motor vehicle owner. The city has installed one red light camera at Daniel Drive and U.S. 98 in front of Gulf Breeze Middle School. The Gulf Breeze City Council adopted the ordinance despite the opinion issued by the Attorney General. The Gulf Breeze Police Chief said that after the signs went up, violations dropped from 150 a month to 95 in a little over a year.<sup>10</sup> The camera was installed by "Traffipax". According to the police chief, the vendor fronted the cost of setting up the program. In return, the vendor takes a percentage of the \$100 fine. "Peek Traffic", the vendor who donated the equipment and monitoring for Sarasota County's pilot project, states that a camera typically costs approximately \$50,000 and is \$10,000 to install.

## **Proposed Changes**

### **Local Ordinance Authorization**

HB 1247 creates the "Mark Wandall Traffic Safety Act". The bill authorizes counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifies the required content of the ordinance. The ordinance must:

- provide for the use of a traffic infraction detector to enforce s. 316.075(1)(c), F.S., which requires the driver of a motor vehicle to stop when facing a traffic signal steady red light on the streets and highways under the jurisdiction of the county or municipality;
- authorize a traffic infraction enforcement officer to issue a ticket for violation of s. 316.075(1)(c), F.S., and to enforce the payment of tickets for such violation;
- require signs to be posted at locations designated by the county or municipality providing notification that a traffic infraction detector may be in use;
- require the county or municipality to make a public announcement and conduct a public awareness campaign of the proposed use of traffic infraction detectors at least 30 days before commencing the enforcement program;
- establish a fine of \$125 to be assessed against the owner of a motor vehicle whose vehicle fails to stop when facing a red light, as determined through use of a traffic infraction detector; and
- provide for the use of a traffic infraction detector to impose a fine on the registered owner of a motor vehicle for violation of an ordinance established under s. 316.008, F.S.

### **Fines**

The fine imposed by the local ordinance is done so in the same manner and is subject to the same limitations as provided for parking violations under s. 316.1967, F.S. Chapter 318 and s. 322.27, F.S., authority of the Department to suspend or revoke a license, do not apply to a violation of an ordinance

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<sup>9</sup> Palm Beach County Board of County Commissioners, "FY 2007 State Legislative Program", <http://www.pbcgov.com/legislativeaffairs/pdf/LegProg.pdf>

<sup>10</sup> Ginny Laroe, "Police Research Traffic Cameras", [Sarasota Herald Tribune](#) 26 March 2007.

enacted under s. 316.008, F.S. A violation is not a conviction of the operator, may not be made a part of the operator's driving record, may not be used for purposes of setting motor vehicle insurance rates, and points may not be assessed based upon such a violation.

The fine imposed must be remitted to the Department of Revenue (DOR) for distribution as follows:

- \$65 of the fine amount is deposited into the Administrative Trust Fund of the Department of Health for distribution pursuant to s. 395.4036, F.S., which relates to trauma centers.
- The remaining \$60 is distributed pursuant to s. 318.21(1) and (2), F.S., which relates to disposition of civil penalties by county courts. The penalties are distributed monthly as follows:
  - \$1 is remitted to the DOR for deposit into the Child Welfare Training Trust Fund for child welfare training purposes.
  - \$1 is remitted to the DOR for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes.

Of the remainder:

- Twenty and six-tenths percent is remitted to the DOR for deposit into the General Revenue Fund, except that the first \$300,000 shall be deposited into the Grants and Donations Trust Fund in the Justice Administrative Commission for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels in a constitutional charter county as provided for in s. 39.702, F.S.
- Seven and two-tenths percent is remitted to the DOR for deposit in the Emergency Medical Services Trust Fund.
- Five and one-tenth percent is remitted to the DOR for deposit in the Additional Court Cost Clearing Trust Fund established pursuant to s. 938.01, F.S., for criminal justice purposes.
- Eight and two-tenths percent is remitted to the DOR for deposit in the Brain and Spinal Cord Injury Rehabilitation Trust Fund.
- Two percent is remitted to the DOR for deposit in the endowment fund of the Florida Endowment Foundation for Vocational rehabilitation.
- Five-tenths percent is paid to the clerk of the court for administrative costs.
- If the violation occurred within a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe, 56.4 percent is paid to that special improvement district.
- If the violation occurred within a municipality, 50.8 percent is paid to that municipality and 5.6 percent shall be deposited into the fine and forfeiture trust fund established pursuant to s. 142.01, F.S.
- If the violation occurred within the unincorporated area of a county, 56.4 percent is deposited into the fine and forfeiture fund established pursuant to s. 142.01, F.S., for use by the clerk of the circuit court in performing court-related functions.

Pursuant to the distribution formula found in the bill, municipalities and counties would receive at a minimum \$30 per paid citation for violation of the local ordinance.

Procedure for Issuance and Contestation of Tickets

The procedures set forth in s. 316.1967(2)-(5), F.S., which address liability for payment of parking ticket violations and other parking violations, apply to a violation of an ordinance, except that the ticket must contain:

- the name and address of the person alleged to be liable as the registered owner or operator of the vehicle involved in the violation;
- the registration number of the vehicle;
- the violation charged;
- a copy of the recorded image;
- the location where the violation occurred;
- the date and time of the violation;

- information that identifies the device that recorded the violation;
- a signed statement by a specifically trained technician employed by the agency or its contractor that, based on inspection of recorded images, the motor vehicle was being operated in violation of s. 316.075(1)(c), F.S.;
- the amount of the fine;
- the date by which the fine must be paid;
- the procedure for contesting the violation alleged in the ticket; and
- a warning that failure to contest the violation in the manner and time provided is deemed an admission of the liability and that a default may be entered thereon.

The violation is processed by the county or municipality that has jurisdiction over the street or highway where the violation occurred or by any entity authorized by the county or municipality to prepare and mail the ticket.

If the driver received a citation from a police officer at the time of the violation, a ticket may not also be issued as determined by a traffic infraction detector.

The ticket is sent by first-class mail to the owner of the vehicle involved in the violation no less than 14 days after the date of the violation and the owner is responsible for payment of the fine unless the owner can establish that the vehicle:

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer; or
- Was, at the time of the violation, in the care, custody, or control of another person.

The owner of the vehicle must furnish an affidavit to the county or municipality that provides the name and address of the person who had custody of the vehicle at the time of the alleged violation or that the vehicle was stolen, along with a copy of the police report. Upon receipt of the affidavit, the agency may issue a ticket to the person designated as having had custody of the vehicle at the time of the violation within 14 days after receipt of the affidavit.

A person may elect to contest the determination that they failed to stop at a red light as evidenced by the traffic infraction detector by electing to appear before a judge authorized to adjudicate traffic infractions. If the person elects to appear before the court, they are deemed to have waived the limitation of civil penalties imposed for the violation and the court may impose a civil penalty not to exceed \$125 plus court costs. The court may take appropriate measures to enforce collection of any penalty not paid within the time permitted by the court.

A certificate sworn to or affirmed by a person authorized under s. 316.008, F.S., who is employed by or under contract with the county or municipality where the fraction occurred, or a fax of such a certificate, that is based upon inspection of photographs or other recorded images produced by the traffic infraction detector, is considered evidence of the facts contained in the certificate. A photograph or other recorded image evidencing a violation must be available for inspection in any proceeding to adjudicate liability for violation of an ordinance enacted under s. 316.008, F.S.

The bill authorizes counties and municipalities to provide the names of those who have one or more outstanding violations, as recorded by traffic infraction detectors, to the Department of Highway Safety and Motor Vehicles (Department). Pursuant to s. 320.03(8), F.S., if a person's name appears on the Department's list, a license plate or revalidation sticker may not be issued until the fine has been paid.

### Accountability

The bill provides for a complaint process for complaints that a county or municipality is employing traffic infraction detectors for purposes other than the promotion of public health, welfare, and safety or in a

manner inconsistent with the law. A complaint may be submitted to the governing board of the county or municipality.

Each county or municipality that operates a traffic infraction detector is required to submit an annual report to the Department, which must contain:

- the complaints received, along with any investigation and corrective action taken by the governing body;
- the results of using the traffic infraction detector; and
- the procedures for enforcement.

The Department must submit a summary report to the Governor and Legislature on or before December 1, 2008, which must contain:

- a review of the information received from the counties and municipalities;
- a description of the enhancement of the traffic safety and enforcement programs; and
- recommendations, including any necessary legislation.

The Legislature may exclude a county or municipality from further participation in the program.

Any traffic infraction detector installed on the state's streets or highways must meet requirements established by the Department of Transportation (DOT) and must be tested at regular intervals according to procedures prescribed by DOT.

#### Definition of Habitual Traffic Offender

The bill revises the definition of "habitual traffic offender". The current definition includes a person whose record, as maintained by the Department, shows that such person has accumulated the specified number of convictions for specified offenses within a five year period. The offenses currently include three or more convictions of any one or more of the following offenses:

- voluntary or involuntary manslaughter resulting from the operation of a motor vehicle;
- driving under the influence;
- any felony in the commission of which a motor vehicle is used;
- driving a motor vehicle with a suspended or revoked license;
- failing to stop and render aid in the event of a motor vehicle crash resulting in the death or personal injury of another; or
- driving a commercial vehicle while his or her privilege is disqualified.

The offenses currently include 15 convictions for:

- moving traffic offenses for which points may be assessed as set forth in s. 322.27, F.S.

The bill adds three or more convictions for a violation of a traffic control signal steady red light indication to the definition of "habitual traffic offender". In computing the number of convictions, all convictions during the last three years previous to July 1, 2007, will be used, provided at least one conviction occurs after that date.

This would not apply to those who are ticketed pursuant to evidence from a traffic infraction detector, since the bill specifies that such a violation is not a conviction of the operator. Only someone who is ticketed by a law enforcement officer and subsequently convicted of the violation is subject to the proposed provisions in the definition of "habitual traffic offender".

The bill provides a severability clause and is effective upon becoming law.

#### C. SECTION DIRECTORY:

Section 1. Cites the act as the "Mark Wandall Traffic Safety Act".

Section 2. Amends s. 316.003, F.S., to define the term "traffic infraction detector".

Section 3. Creates the "Mark Wandall Traffic Safety Program" to be administered by the Department; authorizes counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifies the topics of the required ordinances; exempts emergency vehicles from an ordinance enacted under this section; provides penalties for traffic control signal violations detected by traffic infraction detectors; provides for the issuance and disposition of tickets; provides for disposition of fine revenue; provides a process for complaints that a county or municipality is employing detectors in a manner inconsistent with this section; and requires the Department to submit a report to the Governor and Legislature.

Section 4. Amends s. 316.0745(6), F.S., to require traffic infraction detectors to meet requirements established by the Department of Transportation and be tested at regular intervals.

Section 5. Reenacts s. 316.1967, F.S.

Section 6. Reenacts s. 320.03, F.S.

Section 7. Amends s. 322.264, F.S., to revise the definition of "habitual traffic offender" to include 3 violations of a traffic control red light within a 3-year period.

Section 8. Reenacts s. 322.27, F.S.

Section 9. Reenacts s. 322.34, F.S.

Section 10. Provides a severability clause.

Section 11. Provides this bill is effective upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent local governments choose to enact ordinances to permit the use of traffic infraction detectors there may be a fiscal impact to the private sector. Traffic infraction detectors will increase the scope of a local government's enforcement of red light violations; therefore increasing the possibility of a motor vehicle owner receiving a citation for a red light violation. The fine for a violation of a red traffic light, as determined by a traffic infraction detector, is \$125. If a person chooses to contest the citation,



they may appear before a judge, but they are deemed to have waived the limitation of civil penalties imposed for the violation and, if the citation is upheld by the judge, may be charged the \$125 fee plus court costs.

**D. FISCAL COMMENTS:**

To the extent local governments choose to enact ordinances to permit the use of traffic infraction detectors there may be a fiscal impact to the local governments for the cost of the acquisition, installation and maintenance of the devices, the amount of which will vary depending on the negotiated agreement between the local government and any private vendor providing the equipment and service. The price of a traffic infraction detector ranges from \$50,000 to \$100,000 each. There may also be installation, maintenance and monitoring fees, based on the negotiated agreement. The number of local governments that will choose to enact local ordinances as authorized by this bill is unknown; therefore the exact fiscal impact to local governments is unknown.

There will be an increase in fine revenue for the state government and any local governments that choose to enact ordinances permitting the use of traffic infraction detectors, the amount of which is indeterminate. The state will receive a minimum of \$65 for trauma center funding from each \$125 paid citation and the local governments will receive a minimum of \$30 from each \$125 paid citation. However, the number of citations issued and the number paid is indeterminate.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

On lines 136 through 156, the bill provides an owner of a motor vehicle who receives a citation the opportunity to submit an affidavit to the county or municipality to establish that at the time of the violation they were either yielding to an emergency vehicle; part of a funeral procession; following the direction of a law enforcement officer; or that the vehicle was in the care, custody or control of another person. However, the required contents of the affidavit, as set forth in the bill, only address a situation where the owner of the vehicle claims to not have been in the care, custody or control of the vehicle, by requiring the owner to submit the name, address and driver's license number of the person who was in the care, custody or control of the vehicle or a police report indicating the vehicle was stolen at the time of the violation. The bill needs to address the information required of a vehicle owner who claims they were yielding to an emergency vehicle, part of a funeral procession, or following the direction of a law enforcement officer.

On line 227, the bill requires the Department to provide a "summary report" to the Governor and Legislature. However, on line 216, the bill references the "annual summary report" by the Department. Line 227 should be amended to add the word "annual".

The sponsor has indicated he will submit amendments to address these two issues.

D. STATEMENT OF THE SPONSOR

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**