

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1180

INTRODUCER: Senator Latvala

SUBJECT: Transportation

DATE: March 17, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

SB 1180 makes a number of revisions to statutes addressing the functions and responsibilities of the Florida Department of Transportation (FDOT, or department) and various transportation issues. Specifically, the bill:

- clarifies that the Florida Statewide Passenger Rail Commission has the exclusive authority to monitor all publicly funded passenger rail system in the state;
- provides a reduced penalty for operators of commercial motor vehicles who fail to possess a current medical examiner’s certificate as required by federal law;
- revises definitions and FDOT duties relating to road jurisdiction and transfer of public roads between governmental entities;
- authorizes use of additional forms of financial securities required prior to the installation of military monuments or memorials in rest areas;
- restores title of ch. 338, F.S., to pre-Florida Intrastate Highway System title; i.e., Limited Access and Toll Facilities;
- repeals the Florida Intrastate Highway System as a separate statewide highway network;
- repeals s. 338.001, F.S., the Florida Intrastate Highway System Plan;
- moves provision for the designation and function of limited access facilities to s. 338.01, F.S.;
- moves the current Florida Intrastate Highway System Plan language to chapter 339, F.S., to provide for Strategic Intermodal System Highway Corridors;
- repeals the Statewide Intermodal Transportation Advisory Council (SITAC);
- repeals federally required planning factors listed in state statute and replaces the factors with a reference to the United States Code containing the factors;
- repeals duplicative reporting requirements;

- establishes Strategic Intermodal System Highway corridors;
- conforms various provisions to changes made by the act; and
- provides an effective date.

This bill substantially amends the following sections of the Florida Statutes: 20.23, 163.3180, 288.063, 311.07, 311.09, 316.2122, 316.3025, 316.515, 334.03, 334.044, 334.047, 336.01, 336.021, 336.025, 337.111, 338.01, 338.222, 338.227, 338.2275, 338.228, 338.234, 339.155, 339.62, 339.63, 339.64, 341.8225, 341.840, 479.01, 479.07, and 479.261.

This bill creates the following sections of the Florida Statutes: 339.65

This bill repeals the following section of the Florida Statutes: 338.001

II. Present Situation:

Overlapping responsibility for Passenger Rail Systems

Section 20.23(2)(b)8., F.S., currently directs the Florida Transportation Commission (FTC) to:

Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349, including any authority formed using the provisions of part I of chapter 348 and any authority formed under chapter 343 which is not monitored under subsection (3). The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

Similarly, s. 20.23(3)(b)1., F.S., currently charges the Florida Statewide Passenger Rail Commission (FSPRC) with the function of:

Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under chapter 343, chapter 349, or chapter 163 if the authority receives public funds for the provision of passenger rail service. The commission shall advise each monitored authority of its findings and recommendations. The commission shall also conduct periodic reviews of each monitored authority's passenger rail and associated transit operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General in conducting such reviews and shall report the findings of such reviews to the Legislature. This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.

Commercial Motor Vehicle Medical Certificate

Federal law (49 CFR 391.41 and 391.43) prohibits a person from operating a commercial motor vehicle (CMV) unless he or she is medically certified as physically qualified to drive a CMV. Federal law also prescribes the form of the medical certificate. Currently, law enforcement

officers issue uniform traffic citations for no or improper medical certificate under either s. 316.215(1), F.S., or s. 316.302(1), F.S.

If written under s. 316.215(1), F.S., Florida law specifies that such violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318. Under s. 318.18(2), F.S., the penalty is \$30. The violator pays a total of approximately \$108 after the addition of court costs.

However, if written under s. 316.302(1), F.S., Florida law is not specific as to the penalty. Courts are either dismissing the citations, citing the absence of a specific penalty, or are imposing fines ranging anywhere from \$100 to \$500, plus court costs. If deemed a nonmoving violation, a violator pays \$108 in court costs and, if deemed a moving violation, \$158 for court costs.

Road System Definitions/Functional Classification/Jurisdiction

Prior to 1995, the department assigned road jurisdiction over a roadway based on a functional classification system. In 1995, the law was revised to recognize existing road jurisdiction and establish a system whereby any future transfer of public roads would be effectuated by mutual agreement between affected governmental entities. This change was accomplished by revisions to ch. 335, F.S., (State Highway System), in which section s. 335.04, F.S., was repealed and s. 335.0415, F.S., was enacted.

Certain definitions and duties contained in ch. 334, F.S., (Transportation Administration) related to the functional classification/road jurisdiction process formerly contained in ch. 335, F.S., should have been revised or repealed consistent with the 1995 changes, but were not.

Ninth Cent Fuel Tax

The Ninth-Cent Fuel Tax is a tax of 1 cent on every gallon of motor and diesel fuel sold within a county. The tax may be authorized by an ordinance adopted by an extraordinary vote of the governing body or voter approval in a county-wide referendum. Generally, the proceeds may be used to fund transportation expenditures.

Pursuant to ss. 206.41(1)(d), 206.87(1)(b), and 336.021 F.S., any county in the state may levy a 1 cent per gallon tax on motor and diesel fuels sold in the county by extraordinary vote of the membership of its governing body or voter approval in a county-wide referendum. However, this tax shall be imposed on diesel fuel in each county as the result of statewide equalization. The tax must be imposed before July 1 in any given year to be effective January 1st of the following year.

1 to 6 Cents Local Option Fuel Tax

Local governments are authorized to levy a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold in a county. This tax may be authorized by an ordinance adopted by a majority vote of the governing body or voter approval in a county-wide referendum. Generally, the proceeds may be used to fund transportation expenditures.

Pursuant to ss. 206.41(1)(e), 206.87(1)(c), and 336.025, F.S., this tax may be levied by an ordinance adopted (under one of two sets of circumstances, whichever is applicable) by a majority vote of the county's governing body or upon approval by referendum. If no interlocal

agreement or resolution is adopted pursuant to the procedures setting out the two sets of specified circumstances, then municipalities representing more than 50 percent of the county population may, prior to June 20th, adopt uniform resolutions approving the tax, establishing the duration of the levy and the rate, and setting the date for a county-wide referendum on whether or not to levy the tax. A referendum shall be held in accordance with the provisions of such resolution and applicable state law, provided that the county shall bear the costs of such referendum. The tax shall be levied and collected countywide on January 1st, following 30 days after voter approval.

This tax shall be imposed on diesel fuel in each county at the maximum rate of 6 cents per gallon as the result of statewide equalization.

1 to 5 cents Local Option Fuel Tax

County governments are authorized to levy a tax of 1 to 5 cents upon every net gallon of motor fuel sold within a county. Diesel fuel is not subject to this tax. Pursuant to ss. 206.41(1)(e) and 336.025, F.S., the tax may be levied by an ordinance adopted (under one of two sets of circumstances) by a majority plus one vote of the county's governing body or upon approval by referendum. The tax proceeds may be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted local government comprehensive plan. With certain exception, this tax shall be levied before July 1st to be effective January 1st of the following year.

Removal or Relocation of Monuments from Rest Areas

The 2005 Legislature created the "Ellwood Robinson 'Bob' Pipping, Jr., Memorial Act" (act), codified in s. 337.111, F.S. The stated purpose of the act was creating "an environment in which state residents and visitors will be reminded of the accomplishments made by military veterans in past conflicts and the continuing sacrifices made by veterans and their families to protect the freedoms we enjoy today." The act authorizes FDOT to enter into contracts, as approved by a reviewing committee, with not-for-profit groups or organizations, for the installation of monuments and memorials honoring Florida's military veterans at highway rest areas around the state.

The act requires the group or organization making the proposal to be responsible for all costs of the monument and its installation. The act also requires the group or organization to provide a 10-year bond securing the cost of removal or relocation or necessary modifications of the monument in the event the department determines such actions are necessary.

Following passage of the act, an interested group sought installation of a monument (a replica of the Iwo Jima Memorial) in a department rest area but was unable to obtain a 10-year bond from the bonding industry. It appears that the bonding industry has reservations about issuing such bonds, and the monument has not been installed. As a result, no installations have occurred under the act.

Florida Intrastate Highway System and the Strategic Intermodal System

The 1990 Legislature created s. 338.001, F.S. requiring the department to develop a Florida Intrastate Highway System (FIHS) Plan. The department identified candidate routes after reviewing local transportation plans, Metropolitan Planning Organization (MPO) plans, and the

results of statewide planning studies. In January 1991, the department submitted the Florida Transportation Plan to the Legislature, including an initial FIHS network map and preliminary standards and formally adopted the standards in 1992. The section also requires a status report on the FIHS Plan be provided annually to the Legislature's transportation committees.

The Strategic Intermodal System Plan (SIS) was established by the Florida Legislature in 2003 to enhance Florida's economic prosperity and competitiveness. FDOT works with its partners to determine investment needs based on the performance of the transportation system relative to the goals and objectives of the SIS. Chapter 339, F.S., includes provisions for developing and updating the SIS. The system encompasses transportation facilities of statewide and interregional significance and is focused on the efficient movement of passengers and freight. The SIS Highway Component was designated using the SIS/Emerging SIS criteria and thresholds and comprises:

- Interstate Highways;
- Florida's Turnpike;
- Selected urban expressways;
- Major arterial highways;
- Intermodal connectors between SIS; and
- Emerging SIS hubs and SIS corridors.

The SIS Highway Component consists of 3,531 miles of SIS Highways and 761 miles of Emerging SIS Highways. In total, the SIS Highway Component is less than 4% of Florida's roads, yet carries almost 30% of all traffic. It carries more than two-thirds of all truck traffic using the State Highway System.

All but a few highway miles in the FIHS are also in the SIS, which is why the 2010 SIS Strategic Plan, developed by the department and its partners, includes a recommendation to sunset the FIHS as a separate statewide highway network to simplify the planning process. Currently, s. 338.001, F.S., only deals with the FIHS, a portion of the SIS highway component. Chapter 339, F.S., defines the entire SIS, including the highway component. The continued planning for and reporting on the FIHS and the SIS highway components as separate systems is redundant.

Statewide Intermodal Transportation Advisory Council

Chapter 339, F.S., also created the Statewide Intermodal Transportation Advisory Council (SITAC) and provided for initial membership appointment in January 2005. This council assisted in developing the initial 2005 SIS Strategic Plan. Subsequent to January 16, 2005, no further appointments to the SITAC have occurred and the council no longer officially convenes; however, all of the members' organizations have been included in the ongoing planning and updating of the SIS plan.

Transportation Planning

Federal law requires states to adhere to certain requirements in the transportation planning process. On occasion, these federal requirements have been amended, and the State of Florida has revised its statutes from time to time in accordance with federal revisions as they have occurred. As to more recent changes, the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) contained 23 planning factors to be considered in the statewide planning

process and 16 planning factors to be included in the metropolitan planning process. Subsequently, the Transportation Equity Act for the 21st Century (TEA-21) was passed by Congress in June of 1998, which consolidated the statewide and metropolitan planning factors into seven broad areas to be considered. Florida law was amended by the 1999 Legislature (HB 591) to accommodate the TEA-21 revisions, and s. 339.155, F.S., currently reflects the seven broad factors to be considered in the planning process. However, the 2005 federal legislation, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), separated the "safety and security" factor into two separate factors and modified the wording of other factors. Once again, Florida's statutes do not accurately reflect the most recent federal requirements that must be adhered to in statewide transportation planning.

Further, the federal requirement that each state have a "Long-Range Transportation Plan" was amended in the SAFETEA-LU legislation to be a "Long-Range Statewide Transportation Plan." Federal legislation has not required a short-range component of the long-range plan or an annual performance report. The department has, in the past, issued a separate Short Range Component of the Florida Transportation Plan and an Annual Performance Report, but most recently combined those reports into a single report. The Short Range Component is not an annual update of the Florida Transportation Plan but rather documents FDOT's efforts to implement the Florida Transportation Plan. The department and the Florida Transportation Commission conduct extensive performance measurement of Florida's transportation system and FDOT's activities. An annual Long Range Program Plan is also submitted by the department to the Governor and Legislature reflecting state goals, agency program objectives, and service outcomes.

Florida Transportation Plan

The Florida Transportation Plan (FTP) establishes long range goals to provide a policy framework for expenditure of federal and state transportation funds in Florida. Development of the FTP includes local, regional, and state partners who make decisions about future transportation investments. Every five years, FDOT updates this plan to respond to new trends and challenges to meet the future mobility needs of Florida's residents, visitors and businesses. In 2010, FDOT and its partners worked to update the FTP. After six meetings of a 29 member Steering Committee, twenty four web meetings of four advisory groups, one statewide summit, two statewide webinars, twelve regional workshops, nearly three hundred briefings at regularly scheduled meetings of transportation partners, and an interactive website helping to gather input and feedback from more than ten thousand Floridians, the update process is completed. The 2060 FTP establishes Florida's transportation vision and identifies goals, objectives, and strategies to guide transportation decisions and investments over the next 50 years.

Florida High Speed Rail Authority/Florida Rail Enterprise

Chapter 2009-271, L.O.F., repealed the Florida High-Speed Rail Authority Act and related provisions and converted much of the act to establish the Florida Rail Enterprise within the department. However, s. 341.830, F.S., still contains references to the repealed "authority" that should have been changed to the "enterprise" at the time of the repeal/creation. "Enterprise" is now defined in s. 341.8203(2), F.S., to mean the Florida Rail Enterprise.

III. Effect of Proposed Changes:

Section 1: Amends s. 20.23(3)(b)1., F.S., to provide that the FSPRC has the primary and exclusive function of monitoring all publicly funded passenger rail systems in the state. Further, the bill removes current law providing that the FTC is not precluded from conducting its performance and work program monitoring activities. As a result, the FSPRC would be the only entity statutorily authorized to monitor all publicly funded passenger rail systems in the state.

Section 2: Amends s. 316.3025(3)(b), F.S., to specify a reduced, uniform civil penalty of \$100 for a violation of the requirement to possess a proper medical certificate when operating a CMV as required by 49 CFR 391.41 and 391.43.

Section 3: Amends s. 334.03, F.S., deleting definitions for the following terms:

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| • arterial road | • arterial road |
| • collector road | • urban principal arterial road |
| • local road | • Florida Intrastate Highway System |
| • urban minor | |

At one time, these terms were used to determine the functional classification of roads under s. 335.04, F.S., which was instrumental in determining a road's jurisdiction, i.e., whether the state, a county, or a municipality was responsible for the facility. However, the repeal of s. 335.04, F.S., and the adoption of s. 335.0415, F.S., rendered the use of these terms for functional classification obsolete. These terms are not used in chs. 334 or 335, F.S., except in s. 335.04(11), and in s. 334.047, F.S., which this bill also amends.

The bill also revises the following definitions contained in s. 334.03, F.S.:

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|----------------------|-----------------------------|
| • City street system | • functional classification |
| • county road system | • State Highway System |

The definitions are revised to remove conflict with s. 334.0415, F.S. and s. 335.188(3)(c)1, F.S., clarifying these definitions to be:

- Roads under the appropriate jurisdiction on June 10, 1995;
- Roads constructed by the city, county, or state for the appropriate jurisdiction;
- Roads subsequently transferred to that jurisdiction, but not roads transferred from the appropriate jurisdiction.

The bill amends the definition of “functional classification” to link the usage of “functional classification” in state statute to the functional classification that is done according to federal procedures, rather than what FDOT previously used for jurisdictional requirements. The only reference to this term in state statute relates to the access management classification system.

Section 4: Amends ss. 344.044(11) and (13), F.S., relating to department powers and duties, removing references to assigning jurisdictional responsibility and designating facilities as part of the State Highway System.

Section 5: Amends s. 334.047, F.S., to remove a prohibition against FDOT establishing a maximum number of miles of urban principal arterial roads, as defined in s. 334.03, F.S. Since the definition of the term “urban principal arterial road” is being deleted, the prohibition will become obsolete.

Section 6: Amends s. 336.021, F.S., to revise from July 1 to October 1 the date on which the ninth-cent fuel tax will be levied, to be effective January 1 of the following year.

Section 7: Amends s. 336.025(1)(a) and (b), F.S., to revise from July 1 to October 1 the date on which impositions or rate changes of the local option fuel tax will be levied, to be effective January 1 of the following year.

Section 8: Amends s. 337.111(4), F.S., to provide for other forms of security (besides a 10-year bond) an annual bond, irrevocable letter of credit, or other form of security approved by the FDOT comptroller which could be provided by groups installing monuments and memorials in rest areas. The bill also removes language requiring the automatic renewal of the 10-year bond upon its expiration.

Section 9: Repeals s. 338.001, F.S., which directed the department to plan and develop the “Florida Intrastate Highway System Plan.” The proposed changes eliminate the FIHS designation and extract the FIHS Plan components from ch. 338, F.S. The provisions are re-established in ch. 339, F.S., (see Section 18 of the bill), thereby grouping FDOT’s highway planning provisions with the majority of SIS provisions.

Section 10: Amends s. 338.01(1), F.S., relocating language relating to FDOT’s authority to establish limited access facilities from the repealed s. 338.001, F.S.

Sections 11 through 15 correct various cross-references:

- *Section 11* amends s. 338.227(4), F.S., relating to Turnpike Revenue Bonds, to replace a reference to the “Florida Intrastate Highway System Plan” with a reference to the “Strategic Intermodal System Plan developed pursuant to s. 339.64, F.S.”
- *Section 12* amends s. 338.2275, F.S., relating to approved Turnpike projects, to replace a reference to the repealed s. 338.001, F.S., with the new s. 339.64, F.S.
- *Section 13* amends s. 338.228, relating to Turnpike bonds, to replace a reference to the repealed s. 338.001, F.S., with the new s. 339.65, F.S.
- *Section 14* amends s. 338.234(2), F.S., relating to concessions on the Turnpike, to replace a reference to the FIHS with a reference to the SIS.

- *Section 15* amends s. 339.62, F.S., to replace a reference to the FIHS with a reference to “highway corridors,” which are required to be established under newly created s. 339.65, F.S.

Section 16: Amends s. 339.63(2), F.S., to add military access facilities to the types of facilities included in the SIS and Emerging SIS.

Section 17: Amends s. 339.64, F.S., to repeal the obsolete SITAC and related provisions.

Section 18: Creates s. 339.65, F.S., to establish SIS “highway corridors” provisions, including planning and policy language, and to continue necessary functions previously included in the FIHS Plan. Essentially, this newly-created section maintains the substantive provisions applicable to FIHS facilities but applies them to SIS highway corridors instead. Both limited and controlled access facilities established as components of the FIHS are designated as components within the SIS. All facility descriptions, designations, and other definitions provided within the FIHS have been included within the SIS highway component. However, while the FIHS plan required consistency with the FTP, this requirement was omitted from the provisions of this bill.

Section 19: Amends s. 339.155, F.S., to provide a reference to that portion of the United States Code in which the planning factors are contained and avoid the need to modify state law to match the federal requirements each time the planning factors are changed. This proposal would also delete the short-range component of the long-range plan and the annual performance report requirements from state law, as these reports duplicate information provided in other required reports and are not required by federal law.

Sections 20 through 32 correct various cross-references:

- *Section 20* amends s. 341.840, F.S., to replace references to the now repealed High Speed Rail Authority to the new Florida Rail Enterprise.
- *Section 21* amends a cross-reference in s. 163.3180, F.S., relating to concurrency, resulting from the road system definitions revisions in s. 334.03, F.S.
- *Section 22* amends a cross-reference in s. 288.063(3), F.S., relating to contracts for transportation projects, resulting from the road system definitions revisions in s. 334.03, F.S.
- *Section 23* amends a cross-reference in s. 311.07(3)(b), F.S., relating to Florida Seaport Transportation and Economic Development funding, resulting from the road system definitions revisions in s. 334.03, F.S.
- *Section 24* amends a cross-reference in s. 311.09(7), F.S., relating to the Florida Seaport Transportation and Economic Development Council, resulting from the road system definitions revisions in s. 334.03, F.S.

- *Section 25* repeals cross-references to s. 334.03, F.S., in s. 316.2122, F.S., made obsolete by the road system definitions revisions.
- *Section 26* amends a cross-reference in s. 316.515(5)(c), F.S., relating to implements of husbandry, resulting from the road system definitions revisions in s. 334.03, F.S.
- *Section 27* amends a cross-reference in s. 336.01, F.S., relating to designation of a county road system, resulting from the road system definitions revisions in s. 334.03, F.S.
- *Section 28* amends a cross-reference in s. 338.222(2), F.S., relating to Turnpike projects, resulting from the road system definitions revisions in s. 334.03, F.S.
- *Section 29* amends a cross-reference in s. 341.8225(2), F.S., relating to high-speed rail projects, resulting from the road system definitions revisions in s. 334.03, F.S.
- *Section 30* amends a cross-reference in s. 479.01(27), F.S., relating to urban areas, resulting from the road system definitions revisions in s. 334.03, F.S.
- *Section 31* amends a cross-reference in s. 479.07(1), F.S., relating to sign permits, resulting from the road system definitions revisions in s. 334.03, F.S.
- *Section 32* amends a cross-reference in s. 479.261(5), F.S., relating to the logo sign program, resulting from the road system definitions revisions in s. 334.03, F.S.

Section 33: Provides an effective date of 7/1/11.

Other Potential Implications:

This proposal to reference federal law as it relates to planning factors would eliminate the need for repeated statutory revisions to accommodate changes in federal planning factors. Florida is required to follow the federal requirements, even if state law is not amended to reflect the new planning factors. The department acknowledges the responsibility to seek reenactment of the reference any time the federal requirements change but suggests re-enactment of the reference is more efficient than revising the current list of factors in state statute with each round of federal changes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 2: The provisions effecting a reduced penalty for certain CMV violations will result in unquantifiable but positive fiscal impact to the trucking industry.

Section 8: The provisions expanding the type of financial instruments securing the removal or relocation of monuments at rest areas will result in unquantifiable fiscal assistance to interested participants by facilitating use of other appropriate forms of security for the protection of the public.

C. Government Sector Impact:

Section 1: Currently, the only publicly funded passenger rail system in the state (Tri-Rail) is operated by the South Florida Regional Transportation Authority. Any administrative expense to the department associated with conducting the required monitoring activities is expected to be absorbed within existing department resources.

Section 2: The provisions will result in insignificant but negative fiscal impacts. Approximately 2,000 citations were issued statewide for the subject violations in the last fiscal year. The clerks of court, using the highest possible assessment of \$158 in court costs in each of the 2,000 cases, would receive \$316,000 less than under the current situation -- spread over the state's 67 counties, a reduction of approximately \$4,716.42 per county -- offset by the reduced burden on the clerks and the court system, as uniform traffic citations would no longer be issued for such violations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
