2002 Session Summary
Major Legislation Passed

Compiled and Edited by
Office of the Senate Secretary

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AGRICULTURE

HB 565 — Farm Labor Contractors

by Rep. Peterman and others (CS/SB 168 by Agriculture & Consumer Services Committee and Senator Miller)

This bill addresses a concern affecting farm workers that have been employed by farm labor contractors. It prohibits a farm labor contractor from making a charge or deduction from wages for tools, equipment, transportation, or recruiting fees that are for the benefit of the employer unless it is in compliance with the federal Fair Labor Standards Act. This may result in employers or farm labor contractors absorbing some costs that are presently passed on to farm workers.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 33-0; House 110-0

CS/SB 1002 — Cruelty to Animals

by Criminal Justice Committee and Senators King and Posey

This bill addresses a link that has been demonstrated by research to exist between animal cruelty and human violence. The American Society for the Prevention of Cruelty to Animals, the Humane Society of the United States and the American Humane Association all report that studies in psychology, sociology, and criminology show that violence directed against animals is often a foreshadowing clue to violence directed at people. This bill expands the authority of the court when dealing with persons who have committed an intentional act of cruelty against animals. For a first time violation of animal cruelty laws where the finder of fact determines that the torture of an animal was knowing and intentional, this bill mandates a minimum fine of $2,500 and requires psychological counseling or completion of an anger management program. For second or subsequent violations, the minimum mandatory fine is increased to $5,000 and is accompanied by a minimum mandatory period of incarceration of 6 months without any possibility of parole or any form of early release. A plea of nolo contendere shall be treated as a conviction.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 116-0

CS/SB 1772 — Agriculture/Crop Damage/Destruction

by Agriculture & Consumer Services Committee and Senator Smith

This bill clarifies the definition of agricultural products and adds damage to land, building, or equipment as an item that can be recovered in a civil action. It also increases the amount of damages that can be recovered from double to triple the value of the damage suffered.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 34-0; House 118-0

CS/SB 1926 — Citrus Canker

by Criminal Justice Committee and Senators Posey, Cowin, Futch, Sullivan, Wise, Saunders, Miller, Peaden, Carlton, Smith, Lawson, Pruitt, and Laurent

This bill (Chapter 2002-11, L.O.F.) addresses the state's ongoing citrus canker eradication efforts. Citrus canker is a highly contagious bacterial disease which infects citrus plants, including oranges, sour oranges, grapefruit, tangerines, lemons, and limes. Scientific studies indicate that eradication of citrus canker requires destruction of all citrus trees located within 1900 feet of an infected tree. The Department of Agriculture and Consumer Services (department) has been removing and destroying trees within this 1900-foot zone based upon language in the preamble to Chapter 2000-308, L.O.F., that cited the scientific study. This bill provides the department with the specific statutory authority to remove and destroy citrus trees located within 1900 feet of an infected tree. It also provides for issuance of an immediate final order (IFO) authorizing destruction of the trees and provides for a method for property owners to appeal the IFO. Simultaneously with delivery of the IFO, the property owner is to be given information about the infected tree that is the cause of destruction of the exposed trees. The bill also provides for issuance of search warrants relating to the spread of citrus canker. It authorizes the department to obtain a search warrant for an area that may include all of the county in which the search warrant is issued. Prior to issuance of a warrant, a judge must hold a court hearing at which objections of property owners are received, heard, and determined.

These provisions were approved by the Governor and take effect upon becoming a law.
Vote: Senate 22-13; House 89-26

CS/HB 1681 — Agriculture and Consumer Services

by Competitive Commerce Council; Agriculture & Consumer Affairs Committee; and Rep. Spratt and others (CS/CS/SB 2072 by Finance & Taxation Committee; Agriculture & Consumer Services Committee; and Senator Geller)

This bill contains a number of major provisions relating to Florida's agricultural industry and other related issues. It makes the following changes in the statutes to the functions of the Department of Agriculture and Consumer Services (department):

- Increases the Commissioner of Agriculture's authority to address animal infectious diseases caused by mosquitoes or arthropods and revises state assistance and matching fund requirements for county and district mosquito and arthropod control.

- Creates the Pest Control Enforcement Advisory Council.

- Increases the annual registration fees for registered pesticides from $225 to $250.

- Allows condemnation and destruction of any animal that is liable to spread contagious, infectious, or communicable disease when a state or agricultural emergency is declared.

- Revises requirements relating to guarantees and warranties in contracts for treatment of wood-destroying organisms; requires that for each new contract for the treatment of wood-destroying organisms issued after October 1, 2003, the contract must specify one of the following: 1) that it is offered for repair and re-treatment; 2) that it is offered for re-treatment only; or 3) that no warranty or guarantee is offered.

- Allows cooperation with and payment for services rendered by the United States Department of Agriculture accredited veterinarians.

- Reclassifies forgery of certain marketing orders or failure to produce certain marketing orders from a second degree misdemeanor to a third degree felony.

- Provides for all aquaculture licenses and certificates to expire annually.

- Transfers the Sturgeon Production Working Group from the Department of Environmental Protection to the Department of Agriculture and Consumer Services.

- Requires that the Commissioner of Agriculture appoint a member of a private, nonprofit organization involved in sturgeon production work to the Sturgeon Production Working Group.

- Requires specific actions for continued violations of nutritional claims on food labeling.

- Authorizes the department to keep the official list for noxious weeds and invasive plants.

- Allows Brazilian pepper and other invasive exotic plant species to be processed at permitted construction and demolition debris recycling facilities or disposed of at permitted construction and demolition debris disposal facilities or Class III facilities.

- Creates the T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act.

- Requires all government aircraft to abide by the state Wildfire Aviation Plan while operating near wildfires.

- Provides penalties for leaving recreational fires unattended.

- Provides that certain managerial positions within the Division of Forestry be classified as Selected Exempt Service.

- Provides an exemption from amusement ride set-up inspections for kiddie rides, provided that no more than three rides are operated at the event, none of which exceed a capacity of 12 persons, and the ride has been inspected within the past six months.

- Revises reporting requirements for fair ride accidents.

- Permits best management practices to be developed and voluntarily implemented for any water body, regardless of whether a total maximum daily load has been established.

- Revises provisions relating to conservation easements and rural land protection easements.

- Allows the Department of Agriculture and Consumer Services, as well as the office of the state attorney and the Department of Legal Affairs, to enforce price-gouging laws.

- Authorizes farm equipment to be stored, maintained, or repaired by the owner within the boundaries of the owner's farm and at least 50 feet away from any public road without limitation.

- Revises the types of equipment authorized for transporting farm products to include cotton module movers; includes "cotton" as a farm product to be transported.

- Clarifies the definition of a "nonresidential farm building."

- Designates the USDA Service Center Building in Bartow, Florida as the John W. Hunt Building.

- Renames the Cross City Work Center as the L. Earl Peterson Forestry Station.

- Expands the jurisdiction and duties of the Office of Agricultural Law Enforcement to include violation of laws that threaten the overall security and safety of Florida's agriculture and consumer services and specifies that such officers have the full powers granted to other peace officers of the state. Authorizes the commissioner to appoint part-time, reserve, or auxiliary law enforcement officers.

- Transfers the Division of Licensing of the Department of State to the Department of Agriculture and Consumer Services, including the Concealed Weapons Permit Program.

- Revises the Florida Interlocal Cooperation Act of 1969. Expands the types of local and regional projects that local governments can undertake.

- Appropriates $73,671 and one position to the Department of Agriculture and Consumer Services from the General Inspection Trust Fund of the Division of Food Safety, to carry out the provisions of this act.

- Appropriates $10,000 to the Department of Agriculture and Consumer Services from the General Inspection Trust Fund of the Division of Agricultural Environmental Services, to provide for the cost of per diem for the members of the Pest Control Enforcement Advisory Council.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 38-0; House 117-0

CS/HB 1611 — Agriculture Education and Promotion Facilities

by Competitive Commerce Council and Rep. Brummer (CS/SB 2276 by Agriculture & Consumer Services Committee and Senator Lawson)

This bill designates the Department of Agriculture and Consumer Services as the state agency responsible for developing rules and processing applications from local government units for the funding of agriculture education and promotion facilities, as defined in the bill. It sets forth qualification and evaluation criteria and places restrictions on the use of funds.

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

CONSUMER SERVICES

SB 2094 — Misbranded Food Products

by Senators Geller and Crist

This bill requires the Department of Agriculture and Consumer Services (department) to take certain actions when it has determined that a food offered in a food establishment has been labeled with nutrient claims that have repeatedly been in violation of ch. 500, F.S., the Florida Food Safety Act. The department's Food and Residue Laboratories test products to determine if the nutritional claims on food labels are accurate. False claims could cause either a consumer to pay premium prices for what is claimed to be a specialty diet product for weight loss or a person

with diabetes to suffer serious health problems. When it has been determined that a violation of food labeling laws has occurred, the department has had the authority to impose several sanctions. However, this authority is permissive rather than mandatory. The bill requires the department to retest or reexamine a product that has been misbranded after giving the manufacturer or vendor sufficient notice to correct the violation. If the product is found in violation again, the department shall test or examine the product for the third time after sufficient notice has been given. If the product is found in violation for the third time, the department shall issue a stop-sale or stop-use order, and impose additional sanctions. If a third test or examination is needed, the manufacturer must reimburse the department for the cost of the test or examination.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 113-0

APPROPRIATIONS

SB 98 — Regional Cultural Facilities

by Senators Silver and Crist

This bill authorizes the Division of Cultural Affairs of the Department of State to accept and administer funds to provide grants for acquiring, renovating, or constructing regional cultural facilities. It establishes eligibility requirements for these grants and designates the Florida Arts Council as the body that reviews grant applications. The council is required to submit an annual list of applicants and recommended grant recipients to the Secretary of State.

Under the bill, the annual amount of a grant under the section may not exceed the lesser of $2.5 million or 10 percent of the total costs of the regional cultural facility. Further, the total amount of the grants awarded to a regional cultural facility in a 5-year period may not exceed the lesser of $10 million or 10 percent of the total costs of a regional cultural facility.

The bill establishes standards for matching state funds and grants the division rulemaking authority.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 34-0; House 114-0

TRUST FUNDS

Justice Administrative Commission

The following trust funds are recreated within the commission:

		Effective Date
S 736	Child Support Trust Fund	11/04/2004
S 738	State Attorney RICO Trust Fund	11/04/2004
S 742	Forfeiture and Investigative Trust Fund	11/04/2004
S 744	Grants and Donations Trust Fund	11/04/2004
S 746	Indigent Criminal Defense Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

State Courts System

The following trust funds are recreated within the courts system:

		Effective Date
S 750	Grants and Donations Trust Fund	11/04/2004
S 756	Mediation and Arbitration Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

Department of Legal Affairs

The following trust funds are recreated within the department:

		Effective Date
S 760	Crimes Compensation Trust Fund	11/04/2004
S 762	Grants and Donations Trust Fund	11/04/2004
S 764	Legal Services Trust Fund	11/04/2004
S 766	LA Revolving Trust Fund	11/04/2004
S 768	Motor Vehicle Warranty Trust Fund	11/04/2004
S 770	Revolving Escrow Trust Fund	11/04/2004
S 778	Elections Commission Trust Fund	11/04/2004
S 780	Crime Stoppers Trust Fund	07/01/2002
S 782	FL Crime Prevention Training Trust Fund	11/04/2004
S 830	Crime Stoppers Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

Department of Corrections

The following trust funds are recreated within the department:

		Effective Date
S 786	Sales of Goods and Services Clearing Trust Fund	11/04/2004
S 788	Correctional Work Program Trust Fund	11/04/2004
S 790	Inmate Welfare Trust Fund	07/01/2002
S 792	Grants and Donations Trust Fund	11/04/2004
S 794	Criminal Justice Standards and Training Trust Fund	11/04/2004
S 798	Privately Operated Institutes Inmate Welfare Trust Fund	07/01/2002
S 800	Employee Benefit Trust Fund	07/01/2002
S 832	Inmate Welfare Trust Fund	11/04/2004
S 834	Private Operated Institutions Inmate Welfare Trust Fund	11/04/2004
S 836	Employee Benefit Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

Department of Law Enforcement

The following trust funds are recreated within the department:

		Effective Date
S 802	Criminal Justice Standards and Training Trust Fund	11/04/2004
S 806	Grants and Donations Trust Fund	11/04/2004

S 810	Revolving Trust Fund	11/04/2004
S 812	Federal Law Enforcement Trust Fund	07/01/2002
S 838	Federal Law Enforcement Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

Department of Juvenile Justice

The following trust funds are recreated within the department:

		Effective Date
S 814	Administrative Trust Fund	11/04/2004
S 816	Grants and Donations Trust Fund	11/04/2004
S 818	Juvenile Crime Prevention and Early Intervention Trust Fund	11/04/2004
S 820	Juvenile Justice Training Trust Fund	11/04/2004
S 822	Social Services Block Grant Trust Fund	11/04/2004
S 824	Juvenile Welfare Trust Fund	07/01/2002
S 826	Juvenile Care and Maintenance Trust Fund	07/01/2002
S 840	Juvenile Welfare Trust Fund	11/04/2004
S 842	Juvenile Care and Maintenance Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

Executive Office of the Governor

The following trust funds are recreated within the executive office:

		Effective Date
S 846	Economic Development Transportation Trust Fund	11/04/2004
S 848	Economic Development Trust Fund	11/04/2004
S 850	FL International Trade and Promotion Trust Fund	11/04/2004
S 854	Planning and Budgeting System Trust Fund	11/04/2004
S 856	Professional Sports Development Trust Fund	11/04/2004

Vote: Senate 39-0; House 110-0

		Effective Date
S 852	Grants and Donations Trust Fund	11/04/2004
S 860	Tourism Promotion Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

The following trust fund was created in the Executive Office of the Governor for the purpose of allocating to various agencies those appropriations that are made under the administered funds budget entity. The trust fund is a clearing account to be used solely for the distribution of budget authority and is not intended to receive or distribute cash.

		Effective Date
S 910	Administered Trust Fund	07/02/2002

Vote: Senate 39-0; House 115-0

Department of Transportation

The following trust funds are recreated within the department:

		Effective Date
S 862	Federal Law Enforcement/DOT Trust Fund	05/25/2004

Vote: Senate 39-0; House 112-0

		Effective Date
S 864	Toll Facilities Revolving Trust Fund	11/04/2004
S 866	DOT Disadvantaged Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

Public Service Commission

The following trust fund is recreated within the commission:

		Effective Date
S 868	FL Public Service Regulatory Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

Department of Military Affairs

The following trust funds are recreated within the department:

		Effective Date
S 870	Armory Board Trust Fund	11/04/2004
S 872	Camp Blanding Management Trust Fund	11/04/2004
S 874	Federal Law Enforcement Trust Fund	07/01/2002

Vote: Senate 39-0; House 106-0

The following trust fund was created in the Department of Military Affairs to be used to pay all operational costs incurred by the Florida National Guard when called to active duty.

		Effective Date
S 912	Emergency Response Trust Fund	07/01/2002

Vote: Senate 39-0; House 115-0

Department of Highway Safety and Motor Vehicles

The following trust funds are recreated within the department:

		Effective Date
S 876	Highway Safety Operating Trust Fund	11/04/2004
S 878	DUI Programs Coordination Trust Fund	11/04/2004
S 880	Fuel Tax Collection Trust Fund	11/04/2004
S 882	Grants and Donations Trust Fund	11/04/2004
S 884	Highway Patrol Insurance Trust Fund	11/04/2004
S 886	Law Enforcement Trust Fund	11/04/2004
S 888	Mobile Home and Recreational Protection Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

		Effective Date
S 892	Federal Law Enforcement Trust Fund	07/01/2002
S 894	Working Capital, Kirkman Data Trust Fund	11/04/2004

Vote: Senate 39-0; House 110-0

Department of Management Services

The following trust funds are recreated within the department:

		Effective Date
S 896	Architects Incidental Trust Fund	11/04/2004
S 898	Bureau of Aircraft Trust Fund	11/04/2004
S 900	Communications Working Capital Trust Fund	11/04/2004

Vote: Senate 39-0; House 106-0

		Effective Date
S 904	Surplus Property Revolving Trust Fund	11/04/2004
S 906	Working Capital Trust Fund	11/04/2004

Vote: Senate 39-0; House 110-0

Department of Business and Professional Regulation

The following trust fund is recreated within the department:

		Effective Date
S 908	Federal Law Enforcement Trust Fund	07/01/2002

Vote: Senate 39-0; House 110-0

Department of Education

The following trust fund is recreated within the department:

		Effective Date
S 916	Excellent Teaching Program Trust Fund	07/01/2002

Vote: Senate 39-0; House 106-0

PROPERTY INSURANCE

CB/SB 1418 — Citizens Property Insurance Corporation

by Banking & Insurance Committee and Senators Garcia, Campbell, Pruitt, and Villalobos

This bill changes the structure of the two state-created residual market associations that provide property insurance to persons unable to obtain coverage and merges them into a single entity named the "Citizens Property Insurance Corporation" (CPIC), effective July 1, 2002. Specifically, the policies, obligations, and liabilities of the Florida Residential Property and Casualty Joint Underwriting Association (JUA) would become those of CPIC and the policies, obligations, and liabilities of the Florida Windstorm Underwriting Association (FWUA) would be transferred to CPIC. The FWUA would operate subject to the supervision and approval of the CPIC Board.

Under current law, the FWUA provides coverage for the perils of windstorm (including hurricanes) and hail in specified coastal areas while the JUA provides full homeowners' and similar coverages statewide, except that it is prohibited from providing windstorm coverage in areas eligible for the FWUA. These associations comprise what is known as the "residual market" for property insurance in Florida.

The Citizens Property Insurance Corporation is structured to meet Internal Revenue Service (IRS) requirements so that its income will be exempt from federal income taxation and it will be able to issue tax-free bonds. On February 20, 2002, the Department of Insurance received an IRS "private letter ruling" stating that CPIC, as structured under this legislation, and if operated consistently with such legislation, would be tax exempt and be able to issue tax-free bonds.

In summary, the bill provides for the following:

- CPIC functions under a 7-member Board of Governors who are Florida residents and who are appointed by the State Treasurer, effective July 1, 2002. All board members serve at the pleasure of the Treasurer who also appoints the CPIC executive director and senior managers, as well as a technical advisory group which provides information and advice to the Board.

- CPIC will issue personal residential and commercial residential full coverage, all perils policies on a statewide basis (excluding FWUA eligible areas) and offer wind-only coverage for personal residential, commercial residential, and commercial nonresidential risks in current FWUA-eligible areas of the state. The Corporation will assess authorized insurers and assess surplus lines policyholders to pay regular and emergency assessments.

The Florida Surplus Lines Office is responsible for identifying surplus lines premiums subject to assessments and verifying and collecting such assessments.

- The Corporation operates three separate accounts: personal lines, commercial lines, and a high risk (in FWUA areas) account and the high risk account must include "quota share policies." Quota share policies allow authorized insurers to offer hurricane coverage within FWUA areas, whereby the insurer and CPIC is each solely responsible for a specified percentage of hurricane coverage of an eligible risk. The Corporation may enter into quota share primary insurance agreements with authorized insurers at coverage levels of 90 and 50 percent; however, neither the insurer nor CPIC will be responsible beyond their specified percentage of coverage of hurricane losses. Quota share agreements are further subject to review and approval by the Department of Insurance. Notice of the quota share percentages and responsibilities under quota share agreements will be provided to policyholders. The Corporation is required to establish standards in its plan of operation to ensure that quota share agreements (as to terms, pricing, incentives, and consideration) are implemented among insurers in a non-discriminatory manner.

- A market equalization surcharge must be levied upon CPIC's policyholders in all 3 accounts should there be a deficit occurring in any of the 3 CPIC accounts. Emergency assessments would be for as many years as necessary to cover a deficit and emergency assessments must be held by CPIC solely in the applicable (high risk, personal lines, or commercial lines) account. When financing obligations are no longer outstanding, CPIC may use a single account for all revenues, assets, liabilities, losses, and expenses.

- The Department of Insurance may remove territory from the area eligible for wind-only and quota share coverage (the CPIC high-risk account) after a public hearing, under specified conditions.

- There will be a cap on CPIC rates for personal lines residential "wind-only" policies issued or renewed between July 1, 2002, and June 30, 2003, at no more than 10 percent above the June 30, 2002, FWUA rate. Beginning July 1, 2003, the current JUA rate formula will apply to CPIC personal lines residential wind-only rates (i.e., the highest wind rate in the county among the top 20 insurers with the greatest total direct written premium in the state). The current JUA rating law provisions will also apply to CPIC personal lines residential policies (i.e., the highest rate in the county among the top 20 insurers with the greatest total direct written premium in the state, but excluding wind). With respect to mobile homes, the five insurers with the greatest total written premium for that line of business in the preceding year will be used. Rates for commercial lines coverage will be subject to the rate standards under current law, s. 627.062, F.S.

- It is the Legislature's intent that CPIC should, over time, reduce the 100-year probable maximum loss (PML) in the residual markets and thus reduce assessments levied on property insurers and policyholders statewide. An annual report must be provided to the

President of the Senate and the Speaker of the House of Representatives showing the reduction or increase in the 100-year PML attributable to wind-only coverages and the quota sharing program combined under CPIC, as compared to the benchmark 100-year PML of the FWUA (calculated in February 2001, and based on November 30, 2000, exposures). The bill mandates reduction of the boundaries of the high risk eligible areas (wind-only) in CPIC, beginning on February 1, 2007, if the PML is not reduced 25 percent from the benchmark. Furthermore, beginning on February 1, 2012, the bill requires a further reduction of the CPIC high risk area boundaries by eliminating any area that is not seaward of a line 1,000 feet inland from the Intracoastal Waterway, if the PML is not reduced by 50 percent from the benchmark. The Corporation is prohibited from requiring flood insurance as a condition of coverage subject to the insured executing a specified form.

- The existing financial obligations of the JUA and the FWUA in the newly created CPIC will be preserved. Creditors of existing FWUA and JUA debt will have recourse only against accounts upon which the debt is secured.

- No part of CPIC's income may inure to the benefit of any private person.

- Policyholders within CPIC will have the right or "choice" to select and maintain an insurance agent and may retain coverage in CPIC, notwithstanding take-out or keep-out offers, under specified depopulation programs. Also, commissions to producing agents are increased under such programs. Further, an offer of full property insurance coverage by an insurer writing either the ex-wind or wind-only coverage on a policy to which the offer applies is not considered a take-out or keep-out offer.

- The area within Port Canaveral is made eligible for coverage in the high-risk CPIC account.

- The current arbitration provision for the residual market would be deleted which means that the administrative hearing procedure under ch. 120, F.S., is the only avenue to litigate rate filing disputes between CPIC.and the Department of Insurance.

- CPIC may impose and collect an amount equal to the premium tax from policyholders to augment its financial resources. However, CPIC is exempt from corporate income tax.

- The same public records and open meeting exemptions which are currently in place for the JUA, apply to CPIC.

- The Treasurer may postpone, for a period not to exceed 180 days after the effective date of the bill, the implementation of CPIC or the transfer of FWUA policies, assets, and liabilities into the high risk account, if the Treasurer determines postponement is necessary due to specified conditions.

- The State Board of Administration (SBA), when developing factors to determine premiums for the Florida Hurricane Catastrophe Fund (CAT Fund), may consider the factor of providing for a more rapid cash buildup in the CAT Fund, until its capacity for a "single hurricane season" is fully funded. The term "losses" under the CAT Fund is expanded to include losses for additional living expenses under specified percentages, however, losses do not include losses for fair rental value associated with personal and commercial residential exposures or business interruption losses associated with commercial residential exposures.

- Effective January 7, 2003, references to "Treasurer" in specified provisions in the bill would be deemed references to the Chief Financial Officer and references to the Department of Insurance would be references to the Department of Insurance and Finance Services or other lawful successor.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-0

CS/SB 1126 — Insurance Policy Holder Protection Act

by Banking & Insurance Committee and Senators Posey, Wasserman Schultz, and Latvala

This bill creates the "Insurance Policy Holder Protection Act" which establishes a policyholder's right to select and maintain an insurance agent, increases agent commission payments by insurers, and revises agent policy servicing procedures under specified insurance risk apportionment plans.

Currently, the Florida Windstorm Underwriting Association (FWUA) and the Residential Property and Casualty Joint Underwriting Association (JUA) are property insurers of last resort (termed "residual market" insurers), one insuring against the peril of wind, the other against "all perils," (except wind in FWUA areas), respectively. These entities are also referred to as insurance risk apportionment plans under s. 627.351, F.S. The FWUA and the JUA presently must refuse coverage to those risks who receive an offer of coverage in the voluntary market and these entities charge rates generally higher than insurers in the voluntary market. Specifically, the bill provides for the following:

Eligibility for Coverage in the Residual Market

The bill creates an exception to the current requirement that the FWUA and the JUA deny coverage to a policyholder receiving an offer of coverage in the voluntary market. These entities would not be allowed to refuse coverage if the policyholder's agent is "unable" or "unwilling" to be appointed by the insurer making the offer of coverage.

Agent Compensation

The bill changes the way in which agents are compensated when a FWUA and JUA risk is removed before policy issuance, during the first 30 days of coverage (termed a keep-out plan), or as part of a take-out plan. If a risk accepts coverage with a voluntary market insurer before policy issuance or during the first 30 days, that insurer would be required to pay the agent of record either the insurer's or the FWUA's usual and customary commission, whichever is greater, for the first year. As is now the case for policies removed from the JUA under a take-out plan, if the policy is removed from the FWUA under a take-out plan, the agents also would be entitled by law to retain any unearned commission on the policy.

For the JUA, the applicable agent commission will no longer be limited to that paid by the take-out insurer, but will be the greater of that rate and the rate paid by the JUA, regardless of whether the policy is removed before policy issuance, during the first 30 days of coverage, or as part of a take-out plan. Agents will be entitled by law to retain any unearned commission on the policy removed under a take out plan, regardless of whether or not the insurer is paid a bonus.

An exception is provided to the above procedure when an offer of "full" property insurance coverage is made by the insurer *currently insuring* either the ex-wind or wind-only coverage on the policy to which the offer applies. This type of offer will not be considered a take-out or keep-out offer and so the agent commission provisions would not apply.

Florida Windstorm Underwriting Association Eligible Area

The bill provides that the area within Port Canaveral in Brevard County will be eligible for windstorm coverage from the Florida Windstorm Underwriting Association.

The provisions of this bill are contained in CS/SB 1418. However, under CS/SB 1418, these provisions will apply to the newly created Citizens Property Insurance Corporation.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 110-0

BANKING

CS/SB 2262 — Florida Fair Lending Act

by Banking & Insurance Committee and Senators Meek, Posey, and Holzendorf

The Florida Fair Lending Act ("the Act") imposes restrictions on high-cost home loans, to be enforced by the Department of Banking and Finance. In recent years the sub-prime mortgage market has grown substantially, providing access to credit to borrowers with less than perfect credit and who are not served by prime lenders. With this increase in sub-prime lending, there

has also been an increase in reports of abusive lending practices. The Act makes legislative findings regarding the problems of abusive mortgage lending.

The Act imposes requirements on high cost mortgage loans that mirror the requirements of the federal Home Ownership and Equity Protection Act (HOEPA), but adds other restrictions and enforcement provisions. These requirements would be enforced by the Department of Banking and Finance and would apply to high cost mortgage loans that charge interest or points that exceed the same triggers as provided in HOEPA.

Definition of "High-Cost Home Loan"

The definition of "high-cost home loan" is the same as in the federal (HOEPA) law. The *interest rate trigger*, for a first mortgage lien, is 8 percentage points above U.S. Treasury Securities of comparable maturity. For second and subordinate lien mortgages, the interest rate is 10 percentage points above U.S. Treasury Securities. The *fee-based trigger* is reached if total points and fees exceed the greater of 8 percent of the loan amount or $480 for 2002, adjusted annually based on the Consumer Price Index. Fannie Mae and Freddie Mac loans are exempt from the act.

Prohibited Provisions for High-Cost Home Loans

A high-cost home mortgage loan is permitted, but the following loan provisions and practices would be prohibited for high-cost home loans:

- Prepayment penalties are prohibited after the first 36 months of the loan; prepayment penalties during the first 36 months are permitted under certain conditions.
- The interest rate may not be increased after default.
- Balloon payments are prohibited for loans of less than 10 years, except for bridge loans of less than 18 months.
- Negative amortization schedules are prohibited, where interest payments do not reduce the principal.
- No more than two payments may be consolidated and paid in advance from the loan proceeds.
- A lender may not engage in a pattern or practice of making high-cost home loans based upon the collateral without regard to the borrower's ability to repay the loan.
- Payments under home improvement contracts may not be made directly to the contractor.

- The lender may not call or accelerate the indebtedness, except for the borrower's failure to abide by the terms of the loan, or fraud or material misrepresentation by the consumer.

- Refinancing within the first 18 months is prohibited, unless the new loan has a reasonable benefit to the borrower considering all of the circumstances.

- A lender may not make an open-ended loan in order to evade the provisions of this act.

- A lender may not recommend or encourage default.

- A lender may not make a loan at the residence of the borrower, without an appointment or express invitation.

- A lender may not charge a late payment fee unless the payment is at least 15 days late and the fee may not exceed 5 percent of the amount due.

- A lender may not charge a borrower any fees to defer payment or to modify the loan, for a minimum of one deferral or modification per each 12 months of the length of the loan.

Required Disclosures for High-Cost Home Loans

Lenders must provide certain disclosures to the borrower at least 72 hours before the closing of a high-cost home loan, including notice that the borrower should consider consulting a qualified independent credit counselor, and that the borrower should contact the U.S. Department of Housing and Urban Development for a list of credit counselors available in the area. Other disclosures (among others) inform the borrower that the borrower could lose their home if they do not meet their obligations; that the borrower should shop around and compare loan rates and fees; that the mortgage is subject to the Florida Fair Lending Act and purchasers and assignees of the mortgage could be liable for all claims and defenses which the borrower can assert against the creditor; and that the borrower has the right to rescind the loan within 3 business days.

Any person who purchases or is assigned a high-cost home loan shall be subject to all claims and defenses that the borrower could assert against the creditor of the mortgage, to the same extent and limitations as provided in the federal HOEPA law (15 U.S.C. 1641).

Right to Cure Default

The bill requires a lender to notify the borrower 45 days prior to taking any action to foreclose a high-cost home loan and to allow the borrower to cure the default and prevent foreclosure, within this 45-day period. However, the lender is only required to do this two times over the term of the loan.

Penalties/Enforcement

The Department of Banking and Finance (Department) is authorized to impose an administrative penalty of up to $5,000 for a violation of the act, up to $500,000 for all violations that could have been asserted at the time of the order. The Department may adopt rules to implement this act; conduct investigations and examinations; bring an action on behalf of the State to enjoin any person violating the act; and issue cease and desist orders.

Any person or the agent, officer, or other representative of any person committing a material violation of the act shall forfeit the entire interest charged, and only the principal sum can be enforced. (Current law provides this penalty for lenders making loans with interest rates in excess of the usury limits.)

Any violation of this Act shall also be deemed to be a violation of chs. 494, 516, 520, 655, 657, 658, 660, 663, 665, and 667, F.S., under which different types of lenders and brokers are licensed in Florida. Of particular importance, is that a violation of ch. 494, F.S. (Mortgage Brokerage and Mortgage Lending), gives rise to a civil action for damages pursuant to s. 494.0019, F.S., for which the person making the transaction and every licensee, director, or officer who participated in making the transaction, are jointly and severally liable for damages incurred by every party to the transaction. In addition, for a willful violation of part IV of ch. 520, F.S. (the Home Improvement Sales and Finance Act), with respect to any home improvement sale or contract, the owner may recover from the person committing the violation, or may set off or counterclaim in any action against the owner by such person, an amount equal to any finance charge and fees charged to the owner by reason of delinquency, plus attorney's fees and costs incurred by the owner.

A creditor who unintentionally violates the act, due to a good faith, bona fide error, shall not be deemed to have violated the act if the creditor notifies the borrower within 60 days of the error and makes appropriate restitution and adjustment to the loan.

Preemption of Local Government Ordinances

The Act broadly prohibits all counties and municipalities from enacting and enforcing ordinances, resolutions and rules regulating financial or lending activities of persons who are subject to the jurisdiction of the Department of Banking and Finance (except entities licensed to make title loans), or subject to the jurisdiction of any one of specified federal agencies that regulate financial and lending activities, or persons who originate, purchase, sell, assign, secure, or service property interests or obligations created by financial transactions or loans made by such persons.

Credit Insurance Enrollment Forms

The Act requires all credit insurance enrollment forms to be approved by the Department of Insurance pursuant to ss. 627.410 and 627.682, F.S.

If approved by the Governor, these provisions take effect October 2, 2002.
Vote: Senate 36-0; House 118-0

WORKERS' COMPENSATION

CS/CS/SB 108 — Workers' Compensation

by Appropriations Committee; Banking & Insurance Committee; and Senator Smith

Workers' Compensation Coverage for Firefighters

This bill broadens the circumstances in which firefighters are considered to be acting within the course and scope of employment and, accordingly, covered by workers' compensation by providing that a firefighter, an emergency medical technician, or a paramedic that is engaged in responding to an emergency within Florida, but outside of the employer's jurisdiction or off-duty, and not engaged in services by a private employer, is considered to be acting within the course of employment and thereby covered by workers' compensation.

Under current Florida law, workers' compensation insurance only covers an employee's injury if the injury arises out of and occurs within the course and scope of employment. An employee is not considered to be acting within the course and scope of employment when "going to or coming from" work, unless engaged in a special errand or mission for the employer (this is known as the "going or coming" rule).

Law enforcement officers now enjoy a limited exception to the "going or coming" rule when injured while carrying out their "primary responsibility" to prevent or detect crime or enforce the penal, criminal, traffic, or highway laws of the state, while off-duty. They are deemed by operation of s. 440.091, F.S., to have been injured within the course of employment, and therefore are covered by workers' compensation. Currently, firefighters responding to fire emergencies while off duty or outside of the employer's jurisdiction do not enjoy a similar exception to the "going or coming rule."

Other Workers' Compensation Provisions

The bill provides significant changes to the workers' compensation system that are designed to expedite the dispute resolution process, eliminate exemptions from coverage for most commercial construction job sites, provide greater enforcement authority for the Division of Workers' Compensation of the Department of Labor and Employment Security to enforce

exemption and coverage requirements of ch. 440, F.S., and reduce costs for the overall administration of the workers' compensation system. These changes include:

Informal Dispute Resolution

1. Eliminates the mandatory request for assistance process in order to expedite the resolution process.

2. Authorizes the Division of Workers' Compensation to contact the injured worker or the workers' representative directly upon receipt of the notice of injury or death to provide information and facilitate resolution.

Formal Dispute Resolution

1. Revises the statutory dispute resolution time line in order to expedite the process. A mediation conference would be required to be held within 40 days after the receipt of the petition for benefits. The bill also requires that *all* final hearings be held within 210 days after receipt of the petition.

2. Authorizes the use of private mediation, at the carrier's expense, prior to the date of mandatory mediation in order to expedite the resolution process.

3. Requires use of expedited hearings for claims relating to determination of pay or claims for $5,000 or less for medical benefits only.

4. Limits the conditions under which a continuance for a mediation conference may be granted by a judge of compensation claims to circumstances beyond the party's control and requires that any order granting a continuance must set forth the date of the rescheduled mediation.

5. Provides that a mediation conference cannot be used solely for the purpose of mediating attorney's fees.

6. Authorizes the judge of compensation claims to dismiss claims that have been inactive for the previous 12 months unless good cause is shown.

7. Provides that attorneys fees would not attach until 30 days after the date the carrier/employer receives the petition.

Medical Fees and Medical Cost Containment

1. Authorizes medical providers and carriers to negotiate medical fees for independent medical examinations for workers' compensation in excess of the fee schedule.

Presently, s. 440.13, F.S., provides that medical fees, except for managed care arrangements, must be charged pursuant to the fee schedule adopted by the Division of Workers' Compensation by rule.

2. Requires the three-member panel, (the Insurance Commissioner, or designee, and two members appointed by the Governor) which establishes the statewide schedule of maximum reimbursement allowances for workers' compensation health care treatment to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules, and alternative reimbursement methods of medical providers and health care facilities. In addition, the three-member panel is required to survey carriers and providers to determine the availability and accessibility of health care delivery and the potential impact of changing the reimbursement method. The panel is required to submit a report to the Legislature. The Division of Workers' Compensation is required to provide administrative support, services, and data to the panel.
3. Clarifies that the managed care opt-out provision adopted by the Legislature in 2001 was intended to allow a carrier/employer to opt-out of mandatory managed care without regard to the date of accident.

Exemptions From Workers' Compensation Coverage

1. Revises the exemption criteria for businesses primarily engaged in the construction industry by eliminating exemptions for persons engaged in commercial construction. For any commercial construction job site estimated to be valued at $250,000 or greater, a person who is actively engaged in the construction industry is not considered an independent contractor, would be either an employer or employee, and is not exempt from the coverage requirements of ch. 440, F.S. Exemptions continue to be available to persons engaged in residential construction.

2. Provides greater enforcement tools for the Division of Workers' Compensation. Persons claiming an exemption would be required to maintain certain business records and to provide such records to the division upon request. If such records were not produced within 3 business days, the division is authorized to issue a stop-work order. The division is *required* to issue a stop-work order within 72 hours of making a determination that a person failed to secure compensation coverage, as required by law. The division is *required*, rather than allowed, to assess a penalty in the amount of the premium evaded or up to twice the amount of the premium evaded, or $1,000, whichever is greater, against employers that failed to secure compensation, as required by ch. 440, F.S.

Compliance and Enforcement

1. Revises reward eligibility requirements for the Anti-Fraud Reward Program of the Department of Insurance in order to encourage greater participation in the program. The department is authorized to provide a reward of up to $25,000 to persons providing information to the department which leads to the arrest and conviction of persons committing insurance fraud. An employer is required to post a notice informing employees of the Anti-Fraud Reward Program, for information leading to the arrest and conviction of persons committing insurance fraud, including employers who illegally fail to obtain workers' compensation coverage.

2. Revises required disclosures on the insurance application form.

Death and Disability Benefits for Local Law Enforcement and Correctional Officers

The bill revises death and disability benefits for correctional officers and local law enforcement officers. Current law (s. 112.18, F.S.) provides that any condition or impairment of health of any firefighter or state law enforcement officer caused by tuberculosis, heart disease, or hypertension that results in total or partial disability or death is presumed to have been accidental and to have been suffered in the line of duty unless the contrary is shown by competent evidence. In order for the presumption to apply, the firefighter or state law enforcement officer must have successfully passed a physical examination upon entering into service as a firefighter or state law enforcement officer that failed to reveal any evidence of tuberculosis, heart disease, or hypertension.

The bill expands that legal presumption to include any local law enforcement officer, correctional officer, or correctional probation officer. The bill does not mandate that a correctional officer or a correctional probation officer undergo a mandatory pre-employment physical examination requirement that is currently required for firefighters and state law enforcement officers.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 31-0; House 117-1

CS/CS/HB 319 — Self-Insurers

by Competitive Commerce Council; Insurance Committee; and Rep. Clarke (CS/SB 398 by Banking & Insurance Committee and Senator Latvala)

The bill transfers regulatory authority over individual employers that self-insure for purposes of workers' compensation coverage from the Division of Workers' Compensation to the Department of Insurance and to the Florida Self-Insurers Guaranty Association (association), a not-for-profit corporation. Currently, the Florida Self-Insurers Guaranty Association is under the general supervision of the Department of Labor and Employment Security. The bill transfers

powers, functions, duties, rules, records, and property relating to the regulation of self-insured employers from the Department of Labor and Employment Security to the Department of Insurance.

The Department of Insurance will exercise oversight authority over the association, including approval of the plan of operation and appointment of the board members. Division authority to assess association members is transferred to the association, subject to approval by the Department of Insurance. The Department of Insurance is required to act in accordance with recommendations of the association regarding the qualifications of an applicant to be approved as a self-insured employer, and determining whether the financial strength of a current or former member, unless the department finds by clear and convincing evidence that the recommendations are erroneous. The authority to commence delinquency proceedings and be appointed receiver is transferred from the Division of Workers' Compensation to the Department of Insurance and the association. The association is given a number of additional responsibilities.

The Department of Insurance will be required to contract with the association for services that could include processing applications from self-insurers, collecting and reviewing financial statements, processing compliance documentation, and inspecting and auditing payroll records of individual self-insurers. The Department of Insurance is required to contract with attorneys recommended by the association, in certain instances.

The prohibition against the use of state funds of any kind by or for the association is removed. State funds may not be used for claims payments; however, state funds may be paid to the association under a contract for performing services required by law.

The bill appropriates the sum of $183,750 from the Workers' Compensation Administration Trust Fund to the Department of Insurance for the purpose of contracting with the association for FY 2002-2003. Six positions within the Division of Workers' Compensation responsible for the regulation and oversight of the individual self-insured employers are eliminated.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 36-1; House 119-0

CS/HB 1643 — Department of Labor and Employment Security

by Smarter Government Council and Rep. Clarke (CS/CS/2340 by Commerce & Economic Opportunities Committee; Banking & Insurance Committee; and Senator Clary)

The bill abolishes the Department of Labor and Employment Security and transfers the department's divisions, functions, and responsibilities to other executive branch agencies. The bill transfers the Division of Workers' Compensation to the Department of Insurance, by a Type II transfer, except as otherwise provided. The Department of Insurance is authorized to reassign,

reclassify, and reorganize the transferred positions. The bill transfers other programs and functions from the Department of Labor and Employment and Security, as summarized below:

- Positions and funding for the rehabilitation and reemployment of injured workers within the Division of Workers' Compensation are transferred to the Department of Education by a Type II transfer;

- Positions and funding for the oversight of medical services within the Division of Workers' Compensation are transferred to the Agency for Health Care Administration by a Type II transfer;

- Positions and funding for the regulation of child labor, farm labor, and migrant labor are transferred to the Department of Business and Professional Regulation by a Type II transfer;

- Positions and funding for the Unemployment Appeals Commission are transferred to the Agency for Workforce Innovation by a Type II transfer; and

- The Office of Information Systems is transferred to the State Technology Office within the Department of Management Services by a Type II transfer.

The bill reorganizes the responsibilities of the offices within the Agency For Workforce Innovation. The bill also provides certain other substantive changes affecting the administration of the Workers' Compensation Law. The Department of Insurance is: 1) authorized to share confidential medical records with the Agency for Health Care Administration and the Department of Education to assist them in fulfilling their responsibilities, which are both required to maintain the confidentiality of the information; 2) required to develop reporting requirements for health care providers in consultation with the agency; and 3) authorized to monitor and audit workers' compensation carriers under the provisions of the Florida Insurance Code. Certain reporting and administrative functions are revised or eliminated, and the Workers' Compensation Oversight Board is abolished.

If approved by the Governor, these provisions take effect July 1, 2002, except as otherwise provided.
Vote: Senate 35-0; House 115-0

HEALTH INSURANCE

CS/CS/SB 1412 — Prescription Drug Claim Identification Cards

by Health, Aging & Long-Term Care Committee; Banking & Insurance Committee; and Senators Posey, Peaden, and Crist

The bill requires any health insurer or health maintenance organization and all state and local government entities that provide outpatient prescription drug coverage to issue a prescription drug benefits-identification card containing certain specified information.

The benefits-identification card must contain certain information, including the name of the claims processor, the insured's name, identification number and prescription group number, the help desk telephone number, and the claims submission name and address. The bill does not require the information to be formatted in any specified manner. The information must be printed on the card, or it may be embedded in the card and available through magnetic stripe, smart card, or other electronic technology. Certain information is not required if the card provides instructions on how such information may be readily accessed by electronic means. An entity affected by the bill could issue temporary stickers containing the required information that policyholders can affix to the existing card.

If approved by the Governor, these provisions take effect October 1, 2002, and would apply to policies or contracts issued or renewed on or after that date.
Vote: Senate 34-0; House 117-0

CS/SB 2192 — Solvency of Insurers and Health Maintenance Organizations

by Banking & Insurance Committee and Senator Sanderson

This bill revises various provisions relating to the authority of the Department of Insurance (DOI) in regulating the solvency of insurance companies and health maintenance organizations (HMOs). It also provides for the transfer of HMO payment obligations to other entities, and the payment of dividends or distributions by HMOs. The bill specifically provides for the following:

- Authorizes the DOI to issue an order placing an insurer in administrative supervision and allows such insurer to contest the order by requesting an administrative hearing under ch. 120, F.S. Such a request stays the effect of the order.

- Specifies that if the DOI and the insurer are not able to agree on a plan to correct the conditions set forth in the order placing the insurer in administrative supervision, the DOI may require the insurer to take corrective action as is necessary to remove the causes giving rise to the need for administrative supervision.

- Provides that during the period of administrative supervision in which the insurer may contest an action taken by the DOI, that contesting such action does not stay the action pending reconsideration by the DOI.

- Expands the definition of "unsound condition," by adding a provision to the criteria that the DOI uses to determine whether an insurer is in such condition. It adds the condition that if an insurer meets one or more of the grounds for which the DOI may currently petition for an order directing it to rehabilitate a domestic insurer, the insurer is in an unsound condition.

- Authorizes the DOI to adopt rules to define standards of hazardous financial condition and corrective action substantially similar to that indicated in the 1997 National Association of Insurance Commissioners' (NAIC) model rule.

- Specifies that for determining the financial condition of an insurer writing workers' compensation insurance, the insurer must accrue a liability on its financial statements for all Special Disability Trust Fund (SDTF) assessments that are due within the current calendar year. Such insurers must disclose in the notes to the statements, an estimate of future SDTF assessments, if the assessments are likely to occur and can be estimated with reasonable certainty.

- Revises the financial requirements for charitable organizations that are authorized by the DOI to issue donor annuity agreements. Clarifies the method for calculating reserves and surplus, reduces the required surplus from 25 to 10 percent of required reserves, and removes the specified diversification requirements and replaces such requirements with particularized investments.

- Mandates that HMOs include in their annual actuarial certifications assurance that they have adequately reserved for specified liabilities. Eliminates the requirement for HMOs to file a 4th quarter report, and specifies the due dates for the filing of their 1st, 2nd, and 3rd quarterly reports. Also, requires HMOs to file quarterly reports and the annual report with the NAIC and to pay fees to the NAIC rather that to the DOI, which they must do currently.

- Provides that if an HMO, through a health care risk contract, transfers to any entity the obligation to pay a provider for any claim, that the liabilities of the HMO must include the amount of those losses and claims to the extent that the provider has not received payment. No liability need be established if the entity has provided the HMO a financial instrument acceptable to the DOI which secures the obligations under the contract or if the HMO has an escrow or withhold agreement approved by the DOI which assures full payment of those claims. A "health care risk contract" is defined as a contract under which an individual or entity receives consideration or other compensation in an amount greater than 1 percent of the HMO's annual gross written premium in exchange for

providing to the HMO a provider network or other services, which may include administrative services. The 1 percent threshold must be calculated on a contract-by-contract basis for each such individual or entity and not in the aggregate for all health care risk contracts.

- Allows HMOs to invest a portion (5 percent of admitted assets or 25 percent of excess surplus, whichever is less) of their excess surplus in investments not specifically authorized under current law as long as the investment is not expressly prohibited by ch. 641, F.S. This would allow HMOs to invest in similar types of investments as insurers are allowed to do currently.

- Unless prior written approval is obtained from the DOI, HMOs would be prohibited from paying dividends or distributing cash to stockholders if payment would create negative retained earnings. Dividends equal to or less than the greater of 10 percent of retained earnings or prior year net income would be permitted if surplus is 115 percent of the minimum requirement, and the DOI is notified 30 days prior to the dividend or distribution payment. Criteria is also set forth in the bill for the DOI to consider before approving dividend or distribution payments in excess of the maximum amount authorized above.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 37-0; House 115-0

INSURANCE AGENTS

CS/HB 1841 — Insurance Company Representatives

by Competitive Commerce Council; Insurance Committee; and Reps. Waters, Wiles, Brown, Lee, Kallinger, McGriff, and others (CS/CS/SB 1436 by Governmental Oversight & Productivity Committee; Banking & Insurance Committee; and Senator Posey)

The provisions of this bill seek to bring Florida into compliance with the uniformity and reciprocity provisions of the federal Gramm-Leach-Bliley Act ("Act"), while preserving certain "consumer protection" laws. Under the Act, certain state regulatory authority over producer (insurance agent) licensing is pre-empted to the National Association of Registered Agents and Brokers (NARAB), unless a majority of the states and territories (29) achieve uniformity or reciprocity by November 12, 2002. The Act requires states and territories either to enact uniform producer licensing laws or to ensure non-discriminatory treatment through reciprocity for non-resident agents. According to the National Association of Insurance Commissioners (NAIC), thirty-seven states have enacted uniformity or reciprocity legislation.

This bill makes numerous changes to the licensing of insurer representatives in Florida and includes the following provisions:

- Establishes legislative intent to achieve compliance with the uniformity and reciprocity requirements of the Gramm-Leach-Bliley Act, while preserving applicable insurance consumer protection laws which are not inconsistent with these requirements.

- Creates a broad "definitions" section by consolidating terms contained in Part I of ch. 626, F.S., into one section. It corrects references and repeals the various statutory provisions that have been consolidated and creates new definitions for the terms "uniform application," "home state," "limited lines insurance," and "line of authority." Adds the term "producer" to the definition of "agent" so that such terms will have the same meaning when used throughout the Florida Insurance Code.

- Identifies certain license requirements as consumer protections.

- Beginning November 1, 2002, mandates that the Department of Insurance (DOI) accept the NAIC's "Uniform Application" as acceptable for use for licensure for nonresident insurance agents. Applicants may submit or transmit the Florida application or a Uniform Application.

- Combines sections in current law addressing temporary licensing provisions and authorizes the DOI to issue a single temporary license for multiple lines for a period not to exceed 6 months.

- Gives the DOI the authority to promulgate rules establishing waiting periods for applicants to become eligible for licensure following denial, suspension, or revocation of a license and provides penalties for violations.

- Provides additional exemptions from the examination requirement for certain licensees.

- Facilitates the transfer of a license from another state by allowing certain agents who become Florida residents to transfer their licenses from other states. Also exempts specified applicants from having to meet Florida's prelicensing or examination requirements if the applicant was previously licensed in another state which has substantially equivalent requirements.

- Requires insurance agents to report to the DOI certain final dispositions of administrative actions taken against them.

- Extends the time period allowed for licensees to notify the DOI of a change of address or name, and imposes fines for failure to provide timely notification.

- Establishes prohibitions against the unlicensed transaction of general lines, life, and health insurance.

- Allows the DOI to utilize a national producer database to verify the license status of producers.

- Cancels all current solicitor licenses effective October 1, 2002, and allows existing solicitor licensees to be licensed as general lines agents.

- Extends the express authority of the DOI to enter into reciprocal agreements with other states waiving the examination requirement as to nonresident general lines agent licensing.

- Increases the penalties for insurance agents who represent or aid an unauthorized insurer.

- Exempts persons adjusting only multiple peril crop or crop hail claims from the Insurance Adjuster Law.

If approved by the Governor, these provisions take effect on October 1, 2002.
Vote: Senate 37-0; House 119-0

MISCELLANEOUS

CS/CS/SB 432 — Insurer Rehabilitation and Liquidation/Withdrawal of Insurers from Florida

by Judiciary Committee; Banking & Insurance Committee; and Senator Klein

This bill provides for major changes to the "Insurers Rehabilitation and Liquidation Act" (Act) under ch. 631, F.S. Currently, when solvency protections fail, the Department of Insurance (DOI) may seek to be appointed Receiver of an insurer through a judicial proceeding for the purpose of rehabilitating an impaired insurer or liquidating the insolvent company. The DOI, as Receiver, is placed in control of the impaired or insolvent insurer. The provisions of the bill are summarized as follows.

Protection and Collection of Insurer Assets, Funds, and Property and Payment of Claims

The "purposes" section of the Act is clarified to provide a comprehensive scheme to administer insurer receiverships; establish a system to equitably apportion any unavoidable loss; administer receiverships more efficiently on an interstate and international basis; and, to maximize recovery of assets for the benefit of the insurer's estate, policyholders, creditors, and other claimants, and the public. Certain operative terms are defined to help identify legitimate transfers of insurer

funds, assets, and property and aid in recovering funds and property that have been inappropriately transferred in accordance with the provisions of the Act.

Reciprocity in the treatment of policyholders in receiverships is extended to those states that have enacted the National Association of Insurance Commissioner's (NAIC) model act or the specified uniform liquidation act. The jurisdiction of the receivership court is expanded to include actions against third parties involved in insurance, in lieu of collateral actions for related matters in other courts in other parts of the state. The statutes of limitation provisions are tolled for a period of 4 years from the date the court enters an order placing the insurer in receivership to prevent the loss of rights that might not be immediately apparent to the Receiver. The Receiver is authorized to exercise the rights of certain third parties that could add to the value of the estate and is allowed to recover costs "expended in," rather than "necessary to," the recovery of funds and property from third parties.

Investigation Authority

The DOI, as Receiver, is allowed to conduct an investigation into the cause of the insolvency during the delinquency proceeding under the direction of the receivership court. The scope of the DOI's authority to examine books, records, and documents of authorized insurers is expanded to include those of third parties currently or formerly associated with the insolvent insurer, other than reinsurance companies.

Civil and Criminal Sanctions/Prohibitions Against Officers of Insolvent Insurers

New civil and criminal penalties are created and applied to certain persons for specified fraudulent acts that are a significant cause of the delinquency proceeding. Sanctions are also applied to persons who make false or misleading statements relating to transactions of insurers. The bill further prohibits a person who was an officer or director of an insolvent insurer and who served in that capacity within the 2-year period prior to the date the insurer became insolvent, from thereafter serving in such capacity for an insurer unless the person demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency.

Claims Payments by Guaranty Associations

In addition to the current prohibition on claims for subrogation, claims for contribution and indemnity against the Florida Insurance Guaranty Association (FIGA) by reinsurers, insurers, insurance pools, or underwriting associations would be prohibited. The defenses available to insurers in defending claims are specifically granted to the FIGA. The bill also amends s. 631.904, F.S., which provides definitions applicable to the Florida Workers' Compensation Insurance Guaranty Association, to revise the definition of the term "covered claim" to exclude any return of premium for retrospective rating plans or return of premium from a policy that was not in force on the date of the final order of liquidation.

Withdrawal of Insurers from Florida

Under a separate provision of the bill that amends s. 624.430, F.S., a procedure is authorized to allow an insurer to surrender its certificate of authority or withdraw from this state. It provides that a solvent insurer can submit a plan for withdrawal to the DOI (surrender its certificate of authority) and, upon approval of the plan, the insurer may initiate corporate dissolution proceedings pursuant to ch. 607, F.S. The DOI must, within 45 days from receipt of the withdrawal plan submitted by the insurer, either approve, disapprove, or approve with conditions the plan, and the failure to do so is deemed an approval of the surrender of the insurer's certificate of authority.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 35-0; House 118-0

CS/SB 1822 — Insurance

by Banking & Insurance Committee and Senator Holzendorf

This bill makes the following changes to miscellaneous provisions of the Florida Insurance Code:

- Amends s. 627.4072, F.S., to extend a current exemption from state insurance premium taxes, municipal premium taxes, and regular assessments (but not emergency assessments) of the Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association for residential property insurance policies issued by minority-owned property and casualty insurers licensed after May 1, 1998. Insurers qualifying under this section are currently eligible for exemptions for up to 5 years from the date of receiving a certificate of authority, which the bill extends to 10 years. All exemptions terminate on July 1, 2003, which the bill extends to December 31, 2010. However, the bill limits the exemption to insurers issued a certificate of authority before January 1, 2002. There is currently only one insurer that qualifies for this exemption.

- Amends s. 215.555, F.S., to require that collateral protection insurance be covered by the Florida Hurricane Catastrophe Fund (FHCF), under certain conditions. The FHCF is a state trust fund administered by the Florida State Board of Administration, which fund provides coverage for a portion of an insurer's residential property insurance losses resulting from a hurricane. Each insurer writing residential property insurance in the state must purchase coverage from the FCHF. Collateral protection insurance covers the interest of a creditor arising out of a credit transaction secured by real or personal property, if the borrower allows his or her coverage to lapse. The bill provides that collateral protection insurance which covers personal residences is covered by the FHCF if the policy coverage protects both the borrower's and the lender's financial interests in

an amount at least equal to the coverage for the dwelling, and if such policy can be accurately reported to the FHCF.

- Amends s. 324.031, F.S., related to the manner of proving financial responsibility for owners or operators of motor vehicles. Currently, under the Financial Responsibility Law, motor vehicle owners and operators involved in an accident causing injuries or convicted of certain traffic offenses must demonstrate their ability to respond to damages in an accident. The main option is obtaining, for each vehicle, a motor vehicle liability insurance policy with minimum limits of $10,000 bodily injury for one person in one crash, $20,000 bodily injury to two or more persons in one crash, and $10,000 property damage in any one crash (i.e., $10,000/$20,000/$10,000). Other options are posting a surety bond, furnishing a deposit of cash or securities, or self-insuring, under certain conditions. The bill revises the excess insurance requirements for business entities (any person other than a natural person) that meet their financial responsibility requirements by posting a surety bond or depositing cash or securities with the Department of Highway Safety and Motor Vehicles. For such entities, the bill increases the minimum required excess liability insurance limits from $50,000/$100,000/$50,000 or $150,000 combined single limits to $125,000/$250,000/$50,000 or $300,000 combined single limits. The bill maintains the current claim amount at which point the excess insurance attaches, which is $10,000/$20,000/$10,000 or $30,000 combined single limits.

- Amends s. 324.032, F.S., also related to the manner of proving financial responsibility for owners or operators of motor vehicles. Under current law, an owner or lessee of at least 300 taxicabs, limousines, jitneys, or any other for-hire passenger transportation vehicles may prove financial responsibility by securing a motor vehicle liability policy meeting minimum insurance liability requirements or by self-insuring. Under the bill, those choosing to satisfy the financial responsibility requirements by self-insuring would be permitted to self-insure up to a maximum of $300,000 on a per-occurrence basis, rather than the current maximum of $100,000 on a per-occurrence basis.

- Amends s. 631.904, F.S., which provides definitions applicable to the Florida Workers' Compensation Insurance Guaranty Association, to revise the definition of the term "covered claim" to exclude any return of premium for retrospective rating plans or return of premium from a policy that was not in force on the date of the final order of liquidation.

- Amends s. 625.041, F.S., to specify that for determining the financial condition of an insurer writing workers' compensation insurance, the insurer must accrue a liability on its financial statements for all Special Disability Trust Fund (SDTF) assessments that are due within the current calendar year. Such insurers must disclose in the notes to the statements, an estimate of future SDTF assessments, if the assessments are likely to occur and can be estimated with reasonable certainty.

- Amends s. 626.926, F.S., which applies to the liability of surplus lines insurers when a loss of premium occurs. Under current law, when surplus lines coverage has been bound and if the premium has been received by the surplus lines agent or originating agent who placed such insurance, then in all circumstances concerning coverage between the insurer and the insured (policyholder), the insurer is deemed to have received the premium due for the coverage. Furthermore, the insurer is liable to the insured as to losses covered by such insurance and for the unearned premiums if the insurance is cancelled. The bill provides an exception to the current law when an insurance premium is financed (for example, by the originating agent or by a premium finance company), and the surplus lines insurer or the surplus lines agent does not receive the premium. In such a case, the surplus lines insurer may cancel the insurance policy pursuant to s. 626.9201, F.S., which requires the insurer to give at least 10 days' written notice of cancellation. Therefore, if a policyholder makes a premium payment (a "down payment") to an originating agent or premium finance company which finances the premium and if such agent or premium finance company steals or misappropriates the funds, or fails to pay the premium to the surplus lines agent or surplus lines insurer, the insurer may cancel the policy.

- Amends s. 641.35, F.S., to allow health maintenance organizations (HMOs) to invest a portion (5 percent of admitted assets or 25 percent of excess surplus, whichever is less) of their excess surplus in investments not specifically authorized under current law as long as the investment is not expressly prohibited by ch. 641, F.S. This would allow HMOs to invest in similar types of investments as insurers are allowed to do currently.

- Amends s. 627.351, F.S., contingent upon Senate Bill 1418 becoming a law (which was also ordered enrolled) to revise certain provisions that are contained in such other Senate Bill, which is the bill that creates the Citizens Property Insurance Corporation. (See the summary for this bill, above.) The amendment in CS/SB 1822 revises the provisions that allow the Department of Insurance to dissolve the corporation, to provide that no dissolution shall take effect as long as the corporation has bonds or other financial obligations outstanding, unless adequate provision has been made for the payment of the bonds or other financial obligations. The bill makes other clarifying changes to the language regarding the Legislature's intent that nothing be construed to compromise, diminish, or interfere with the rights of creditors under financing arrangements entered into by the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association.

If approved by the Governor, these provisions take effect July 1, 2002, except as otherwise expressly provided.
Vote: Senate 34-0; House 117-0

CS/SB 1916 — Bail Bond Agencies and Agents

by Banking & Insurance Committee and Senator Silver

This bill revises the laws regulating bail bond agents, based on recommendations of the Bail Bond Blue Ribbon Panel appointed by the Treasurer and Insurance Commissioner. Bail bond agents are regulated by the Department of Insurance, under ch. 648, F.S. A bail bond serves as a pledge by a bail bond agent that a defendant will appear at all scheduled proceedings before a court.

The bill makes the following changes:

- Prohibits any person owning a bail bond agency who is not a licensed and appointed bail bond agent;
- Requires the owner of a bail bond agency to designate a primary bail bond agent who is responsible for the overall operation and management of the agency;
- Authorizes the issuance of a temporary permit, valid for 24 months, if the owner of a bail bond agency dies or becomes mentally incapacitated;
- Increases the standards for education and qualifications for bail bond agents, including increasing the required pre-licensing course from 80 hours to 120 hours;
- Prohibits certain acts related to solicitation of bail bond business;
- Requires all build-up funds used to indemnify the insurer by the bail bond agent to be held in an individual fund trust account and maintained in an FDIC or FSLIC approved bank or savings and loan, subject to examination and accounting requirements;
- Requires a temporary bail bond agent to be accompanied by a supervising bail bond agent when apprehending defendants;
- Requires bail bond agents to file a sworn affidavit with a new appointing insurer that no funds are owed to another insurer;
- Provides more specific prohibitions against misleading advertising;
- Provides more specific prohibitions against bail bond agencies hiring persons convicted of a felony;
- Requires bail bond agents that surrender a defendant to provide the defendant with a statement of surrender;

- Provides additional accountability and penalties for requirements related to collateral held by a bail bond agent;

- Increases the maximum fee that a bail bond agent can charge for the actual expenses related to converting collateral to cash, from 10 percent to 20 percent of the face value of the bond, and allows the agent to charge a credit card fee;

- Increases administrative fines that may be imposed by the department for violations from $500 to $5,000 for a nonwillful violation, and from $2,500 to $20,000 for a willful violation;

- Authorizes the department to impose a "civil assessment" of up to $5,000 against a licensee who fails to comply with solicitation requirements, subject to a preponderance of the evidence standard, rather than the clear and convincing standard that has been determined by the Florida Supreme Court to be required for agency fines.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 116-0

CS/SB 2102 — Motor Vehicle Service Agreements/Service Warranty Associations

by Banking & Insurance Committee and Senator Villalobos

This bill allows a motor vehicle service agreement company to be licensed by the Department of Insurance (DOI) to sell certain guarantees associated with "vehicle protection" products, defined as a product or system installed to a motor vehicle or designed to prevent the theft of the vehicle or assist in its recovery.

A motor vehicle service agreement including such a guarantee must cover "vehicle protection expenses" incurred by the service agreement holder for loss or damage to a covered vehicle resulting from the failure of the vehicle protection product to prevent the theft of the vehicle or to assist in its recovery. Such expenses must be clearly stated in the service agreement form. The agreement must either provide reimbursement for a pre-established flat amount *or* for the following expenses which, at a minimum include:

- Deductibles applicable to comprehensive coverage under the service agreement holder's insurance policy;
- Temporary vehicle rental expenses;
- Sales taxes and registration fees on a replacement vehicle; and
- The difference between the benefits paid to the service agreement holder for the stolen vehicle under his or her insurance coverage and the actual cost of a replacement vehicle.

Such coverage may only be sold to a service agreement holder that has comprehensive insurance coverage for the vehicle in question. But, payments to the service agreement holder cannot duplicate the benefits or expenses paid to the holder by the insurer providing comprehensive coverage.

Service agreement companies offering vehicle protection coverage must meet the financial solvency requirements through purchasing contractual liability insurance, rather than maintaining reserves.

DOI may disapprove any service agreement form for vehicle protection expenses which does not clearly indicate the method for calculating the benefit to be paid; the term of the agreement; whether new or used cars are eligible for the vehicle protection product; that a claim may not be made against the Florida Insurance Guaranty Association; and that the service agreement holder must have comprehensive coverage at the time of loss.

The bill also amends s. 634.405, F.S., relating to service warranty associations. Currently such an association must either maintain a specified financial reserve or purchase a contractual liability insurance policy to insure 100 percent of its claims exposure under all of its contracts, "wherever written." The bill provides that if specified conditions are satisfied, that the scope of coverage under an association's contractual liability policy is not required to exceed its claims exposure under contracts delivered in Florida.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-0

PUBLIC RECORDS EXEMPTIONS

HB 281 — Public Records Exemption for Risk-Based Capital Information

by State Administration Committee and Rep. Brummer (CS/SB 238 by Banking & Insurance Committee and Senator Holzendorf)

This bill reenacts the public records and public meetings exemptions for certain information regarding risk-based capital information held by the Department of Insurance. The public records exemption provides that the initial risk-based capital report, any adjusted risk-based capital report, any risk-based capital plan, any revised risk-based capital plan, working papers, and reports of examination or analysis of an insurer performed pursuant to a plan or corrective order, or regulatory action level, subsequently filed at the request of the Department of Insurance (DOI), with respect to any domestic insurer or foreign insurer, held by DOI are confidential and exempt from public disclosure. Hearings relating to DOI's actions regarding any insurer's risk-based capital report are closed to the public. Transcripts of those hearings are confidential and exempt from public disclosure. The public records and public meetings exemptions will

terminate either one-year following the conclusion of any risk-based capital plan or revised risk-based capital plan, or on the date of entry of an order of seizure, rehabilitation, or liquidation.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 36-0; House 114-0

HB 543 — Public Records Exemption/Abandoned Property

by Rep. Detert (CS/SB 468 by Banking & Insurance Committee and Senators Burt, Sanderson, and Wasserman Schultz)

The bill creates a public records exemption for certain information related to reports of unclaimed property held by the Department of Banking and Finance. The social security number and the financial account numbers of apparent owners of the abandoned or unclaimed property will be confidential and exempt. This exemption applies to social security numbers and financial account numbers held by the Department of Banking and Finance before, on, or after the effective date of this exemption. However, an attorney, Florida-certified public accountant, or private investigative agency licensed in Florida under ch. 493, F.S., and registered with the Department of Banking and Finance under ch. 717, F.S., will continue to have access to the social security number if the information was used for the limited purpose of locating unclaimed property or unclaimed property owners. This public records exemption is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, F.S., and will stand repealed October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill also provides that the exemption of this information from public records is necessary to prevent identity theft, related crimes and the misuse of such information to claim entitlement to property and defraud the rightful property owner or the State. The release of this confidential and exempt information to an attorney, a certified public accountant, or a private investigator is necessary to facilitate the return of unclaimed property to the rightful owners.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

CS/HB 1355 — Public Records/Department of Insurance Workpapers

by State Administration Committee and Rep. Mealor and others (CS/SB 1478 by Banking & Insurance Committee and Senator Clary)

The bill makes confidential and exempt from public record requirements workpapers and other information held by the Department of Insurance (DOI), and workpapers and information received from another governmental entity or the National Association of Insurance Commissioners (NAIC), for use by the DOI in the performance of its examination or

investigation duties. Confidential and exempt information includes workpapers and other information held by the DOI before, on, or after the effective date of this exemption.

The bill provides that such confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, and may be disclosed to the NAIC. The receiving governmental entity or the NAIC must maintain the confidential and exempt status of the information. Use of the confidential and exempt information is authorized in a criminal, civil, or administrative proceeding, if its confidential and exempt status is maintained. This provision is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2007, unless saved from repeal through reenactment by the Legislature.

The bill provides a public necessity statement which states that such exemption is necessary in order to effectively administer a government program and that disclosure of such information would reveal information that could be used in preparing examination and investigations reports, and could thus thwart the state's interest in ensuring the integrity of the regulatory process. Also, such confidential information is at times incomplete and misleading and revealing such information would be detrimental to persons and insurers examined or investigated. Furthermore, disclosure of such information could impair the ability of the DOI to gather pertinent information it needs to complete such examinations and investigations because individuals or entities which would otherwise disclose information to DOI would be unwilling to do so for fear that the information would not remain confidential.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 18-12; House 96-22

CS/HB 1767 — Public Records/Personal Identification Information

by Smarter Government Council and Rep. Allen (CS/SB 1480 by Banking & Insurance Committee and Senator Clary)

The bill makes confidential and exempt from public record requirements certain personal or financial information held by the Department of Insurance, or its service providers or agents, relating to a consumer's complaint or inquiry regarding a matter or activity regulated by the Department of Insurance (DOI). Confidential and exempt information includes bank account numbers, debit, charge, and credit card numbers, and all other personal financial and health information of a consumer held by the Department of Insurance. However, this exemption does not include the name and address of an inquirer or complainant to the department or the name of an insurer or other regulated entity which is the subject of the inquiry or complaint.

The DOI is authorized to disclose the confidential and exempt information to another governmental entity if that entity needs the information to perform its duties and may disclose the information to the National Association of Insurance Commissioners. A receiving entity must

maintain the confidential status of the information. Use of the confidential and exempt information is authorized in a criminal, civil, or administrative hearing, if its confidential and exempt status is maintained.

The bill provides a public necessity statement which states that such exemption is necessary in order to protect a person's financial interests as well as their personal medical information and to prevent the opportunity for identity theft or fraud. Disclosure of such information could cause unwarranted damage to the good name or reputation of individuals and could jeopardize their health and safety.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 29-4; House 102-17

CHILDREN

HB 161 — Children/Relative Caregiver Program

by Rep. Garcia and others (CS/CS/SB 360 by Appropriations Committee; Children & Families Committee; and Senators Dawson and Holzendorf)

This bill expands the financial assistance and support services of the Relative Caregiver Program to a dependent child who is a half-brother or half-sister of a dependent child placed with a relative caregiver. The half-sibling must have been determined dependent pursuant to ch. 39, F.S., and is only eligible for the Relative Caregiver Program if the child with the direct relationship to the relative caregiver is in the home. Children for whom the state is paying a relative caregiver payment are included in the priorities delineated for participation in the school readiness programs. An exemption from the registration, matriculation, and laboratory fees for the workforce development education program and the fees for community colleges is provided for students for whom a relative caregiver payment is or was being made at the time they reached the age of 18 years.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 112-0

CS/HB 245 — Road to Independence Act

by Healthy Communities Council and Rep. Detert and others (CS/SB 996 by Children & Families Committee and Senators Saunders and Crist)

This bill, titled the "Road to Independence Act," creates a new section in the Florida Statutes that is dedicated to older children in foster care, young adults who were formerly in foster care, and the services that facilitate their successful transition to adulthood. The framework for Florida's independent living transition services to these older youth is set forth by this bill and both incorporates existing statutory language for independent living services and provides for enhanced services allowed for with the increased federal Chafee Foster Care Independent Living Program grant funds. Included in this framework are goals, service eligibility, and an integration workgroup to address issues facing older youth. The services available to older children in foster care include pre-independent living services, life skills services, and subsidized independent living services, as well as opportunities to participate in life skills activities in which children not in foster care would normally engage. The services available to the young adults who were formerly in foster care include aftercare support services, the road to independent scholarship program and transitional support services.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 36-0; House 114-0

CS/SB 288—Children

By Judiciary Committee and Senator Campbell

This bill amends ss. 39.013(10) and 39.402(14), F.S., to revise provisions relating to continuances in dependency proceedings. Statutory emphasis is given to the need to adhere to time frames and to limit extensions in order to preserve the rights of the child. The bill expands the list of persons, to include any party, rather than just the department attorney or petitioner, who may request a continuance based on the grounds that evidence is not available. The bill prohibits granting a continuance or extension of time in advance of circumstances creating the delay. The number of days for which continuances or extensions may be granted for dependency proceedings cannot total more than 60 days within any 12-month period. An exception to this limitation will be made for extraordinary circumstances necessary to preserve the constitutional rights of a party or the child's best interests.

Section 39.402, F.S., is amended, to remove the 15-day periodic review of a shelter placement. It is within the court's discretion whether to hold a review hearing for shelter placement at any time, if necessary.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 116-0

SB 592 — Adoption Assistance

by Senator Peaden

This bill creates the Interstate Compact on Adoption and Medical Assistance and authorizes the Department of Children and Family Services to enter into interstate compacts with other states to provide for interstate protection of adoption assistance and medical assistance for children with special needs. The interstate compacts provide an agreed-upon process for facilitating an immediate and smooth reestablishment of Medicaid eligibility for families with special-needs children under adoption-assistance programs who move into or out of Florida. The bill allows non-Title IV-D children with special needs in the state funded adoption subsidy program to receive Medicaid from their state of residence, as is currently provided to children with special needs in the Title IV-D adoption program.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 29-0; House 111-0

CS/CS/SB 632 — Out-of-Home Care

by Appropriations Committee; Children & Families Committee; and Senator Peaden

Community-Based Care

This bill addresses a number of issues in the implementation of community-based care in Florida's child welfare system by amending s. 409.1671, F.S., with the following provisions:

Modifies the requirement that foster care and related services be privatized statewide by January 1, 2003, to provide that the Department of Children and Family Services (department) must have initiated the competitive-procurement process statewide by that date and must have completed the privatization process by December 31, 2004.

Specifies that the department must assure access to a model comprehensive residential services program as described in s. 409.1677, F.S., in any county in which full privatization is not accomplished by December 31, 2004. Assuring access to a model program does not substitute for full conversion to community-based care.

Requires that staff of lead community-based providers and their subcontractors who transport client children and families as part of their job responsibilities obtain $100,000 per claim and $300,000 per incident of bodily injury liability insurance on their personal automobile and limits related liability.

Requires that the department adopt written policies and procedures for monitoring the contract for delivery of services by lead community-based providers specifying minimal provisions such as: the evaluation of fiscal accountability and program operations including provider achievement of performance standards, provider monitoring of subcontractors, and timely follow-up of corrective actions for significant monitoring findings.

Reduces the necessity for community-based providers to provide status reports and otherwise notify the department regarding client cases, including planned case closures. Case closure notification is limited to voluntary cases.

Requires that the department, in consultation with existing lead community-based providers, develop a statewide proposal regarding the long-term use and structure of a shared-earnings program addressing the financial risk to eligible lead community-based providers. At a minimum, the proposal must allow for using federal earnings in excess of the amount appropriated in the General Appropriations Act for specific purposes such as changes in the number or composition of eligible clients, changes in the services eligible for reimbursement, shortfalls in state funds, or changes in the availability of federal funds. The final proposal must be submitted to the Legislative Budget Commission before December 31, 2002, and if the Commission refuses to concur, the proposal must be submitted to the Legislature in the form of a legislative budget request.

Permits the department to request and the Governor to recommend, beginning in FY 2003-2004, funding that is necessary to assure continuity of care in the event of lead agency failure, discontinuance of services, or financial misconduct. The General Appropriations Act will include any funds in a lump sum in the Administered Funds Program which constitute partial security for lead agency contract performance that the department must use to offset the need for a performance bond for that fiscal year after a comparison of risk to the funds available. The required performance bond may not exceed 2.5 percent of the annual contract value.

Expands participation in the excess federal earnings distribution program to include community-based agencies in place on July 1, 2002.

Requires that for purposes of competing for a privatization project, an agency must have written agreements with Healthy Families Florida lead entities in their community to promote cooperative planning for the provision of prevention and intervention services.

The bill amends s. 409.906, F.S., to expand the ability to earn Medicaid funds under the child-welfare-targeted case management option to all counties in which the department has a contract with a lead-community based agency if approved by the department. The bill removes the inappropriate requirement specifying that results of the targeted case management earnings be reported to the Child Welfare Estimating Conference, limiting the reporting requirement to the Social Services Estimating Conference.

Residential Group Care/Family Foster Care

The bill includes provisions that strengthen residential group care and family foster care as follows:

Creates s. 39.523, F.S. [previously s. 39.521(5), F.S.] and expands to all Florida counties, rather than only Districts 4, 11, 12, and the Suncoast Region, the assessment procedure for the placement of children in residential group care who are at least 11 years of age, have been in foster care for 6 months or longer, and who are moved among foster homes more than once. The criteria for the required assessment are further narrowed to apply to children who have "extraordinary needs" as defined in s. 409.1676, F.S.

Requires the department to include additional information in their annual report to the Legislature on expenditures relating to the placement of children in licensed residential group care.

Requires that funds included in the General Appropriations Act for Residential Group Care be appropriated in a separately identified special category, "Special Categories: Grants and Aids—Residential Group Care," that funding increases be appropriated in a "lump-sum" category as defined in s. 216.011(1)(aa), F.S., and that the department submit a spending plan that identifies

a bed capacity shortage for residential group care and proposes a distribution formula by district addressing these deficiencies.

Allows funds from "Special Categories: Grants and Aids—Residential Group Care" to be used as one-time startup funding for certain remodeling or renovation purposes in residential group care facilities.

Redefines, in s. 409.1676, F.S., "children with extraordinary needs" to mean a dependent child who has a serious behavioral problem or who has been determined to be without the options of either reunification with family or adoption. "Serious behavioral problems" means children determined by an assessment to meet certain risk factors such as an adjudication of delinquency with conditional release or a history of physical aggression or violent behavior toward himself, other persons, animals, or property within the past year.

Directs the department and the Department of Juvenile Justice to establish an interagency agreement by December 1, 2002, for referral, placement, service provision, and service coordination for dependent and delinquent youth who are referred to residential group care facilities pursuant to s. 409.1676, F.S.

Expands comprehensive residential group care services to areas of the state for which the Legislature appropriates funds.

Amends the definition of "family foster home" in s. 409.175(2), F.S., by specifying that the total number of children placed in each foster home must be based on the recommendation of the department or the community-based care lead agency based on the needs of the child in care, the ability of the foster family to meet the needs of each child, the amount of safe physical plant space, the ratio of active and appropriate adult supervision, and the background, experience, and skill of the foster parents.

Modifies the provision for dual licensure for foster parents licensed under s. 409.175, F.S., and under s. 402.313, F.S., as family day care providers by removing the requirement for Gold Seal Quality Care designation and specifies that the provider may receive both an out-of-home care payment and a subsidized child care payment for the same child.

Placement of Dependent Children in Residential Mental Health Treatment Facilities

The bill requires that the Office of Program Policy Analysis and Government Accountability, in consultation with the department and the Agency for Health Care Administration, review and report to the Legislature on the process for placing children for residential mental health treatment [s. 39.407(5), F.S.] to determine whether changes are needed in this process.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 40-0; House 116-0

CS/CS/SB 1550 — Child Care/Home Operator Training

by Appropriations Committee; Children & Families Committee; and Senator Silver

This bill requires passage of a competency examination for child care personnel in child care facilities, family child care homes, and large family child care homes as a criterion for the successful completion of the introductory child care course. The topic of computer technology for professional and classroom use has been added to the specialized areas of the child care training course for child care facilities which the Department of Children and Families may develop. The specific degrees, credentials, and courses that exempt child care personnel from certain portions of the required training are stipulated. The bill provides that the 40-hour introductory child care course completed by child care personnel is to articulate into community college credit in early childhood education, as approved by the Articulating Coordinating Council. The Department of Children and Families is provided with the authority to modify the child care training to meet the requirements of articulation. The deadline for child care facility operators to earn the required director's credential is extended by 1 year to January 1, 2004. Finally, the bill allows the state to enter into arrangements with not-for-profit entities to provide child care services at state facilities to both public and private employees with the condition that the child care needs of public employees be met before these child care services are extended to private-sector employees.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 117-0

MENTAL HEALTH AND SUBSTANCE ABUSE

CS/SB 682 — Substance-Abuse Services

by Children & Families Committee and Senator Peaden

Licensure of Residential Treatment Facilities

The bill amends the definition of "licensed service provider," in s. 397.311(19)(c), F.S., to specify that licensure provisions for residential treatment apply to facilities that provide room and board, treatment, and rehabilitation within the primary residential facility and to facilities that are used for room and board only when treatment and rehabilitation activities are provided on a mandatory basis at locations other than the primary residential facility. In the latter case, all facilities must be operated under the auspices of the same provider. Licensing and regulatory requirements apply to both the residential facility and all other facilities in which treatment and rehabilitation activities occur.

Background Screening Requirements

Section 397.451, F.S., is amended to specify that background checks for all owners, directors, and chief financial officers of service providers are subject to level 2 background screening requirements contained in ch. 435, F.S. All service provider personnel who have direct contact with children receiving services or adults who are developmentally disabled receiving services are subject to level 2 background screening as a provider under ch. 435, F.S.

The bill amends s. 397.403, F.S., to require that the application for licensure as a substance abuse provider under ch. 397, F.S., includes sufficient information to conduct background screening as provided in s. 397.451, F.S.

The bill provides that a license may not be issued to an applicant service provider if any owner, director, or chief financial officer has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to any offense prohibited under the level 2 screening unless an exemption from disqualification has been granted by the department pursuant to ch. 435, F.S. The owner, director, or chief financial officer has 90 days to obtain the required exemption during which time the license remains in effect. If an owner, director, or chief financial officer is arrested or found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to any offense prohibited under the level 2 screening standard while acting in that capacity, the provider shall immediately remove the person from that position and notify the department within 2 days after removal, excluding weekends and holidays. Failure to remove that person will result in revocation of the provider's license.

The bill removes the fingerprinting and background check exemption for several groups such as:

- Students in the health care professions who are interning with a service provider licensed under ch. 395, F.S., that does not treat unmarried minors or persons who are developmentally disabled,

- Personnel working for a service provider licensed under ch. 395, F.S., who have fewer than 15 hours a week of direct contact with unmarried minors or persons who are developmentally disabled.

The bill specifies that service provider personnel must submit a request for exemption from disqualification within 30 days of being notified of a pending disqualification. This employee may not be adversely affected pending disposition of his or her request.

The bill provides that the department may grant exemptions from disqualification that would limit service provider personnel to working with adults in substance abuse treatment facilities.

The bill requires that an applicant for licensure also provide proof of compliance with local zoning ordinances. Service providers operating under a regular annual license will have 18

months from the expiration date of their regular license to meet local zoning requirements. Applicants for a new license must demonstrate proof of compliance with zoning requirements prior to the department issuing a probationary license.

Exemptions From Licensure

Section 397.405, F.S., exemptions for licensure, is amended to:

- Remove the provision that a sect which is exclusively religious, spiritual or ecclesiastical in nature and providing substance abuse services is exempt from licensure requirements under ch. 397, F.S., and

- Specify that DUI education and screening services must be licensed under ch. 397, F.S., if providing treatment services, require that physicians licensed under chs. 458 and 459, F.S., psychologists licensed under ch. 490, F.S., and social workers, marriage and family therapists, and mental health counselors licensed under ch. 491, F.S., must be licensed under ch. 397, F.S., if providing services to involuntary clients under part V of ch. 397, F.S.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 38-0; House 116-0

CS/HB 751 — Community Mental Health Services

by Healthy Communities Council and Rep. Murman and others (CS/SB 598 by Children & Families Committee and Senator Peaden)

The bill requires that the Department of Children and Family Services (department) expand community mental health services with funds appropriated under the General Appropriations Acts for fiscal years 2001-2002 and 2002-2003 and under future legislative appropriations by implementing programs that emphasize crisis services, treatment, rehabilitation, support, and case management as defined in ch. 394, F.S. Funding increases in the General Appropriations Act must be appropriated in a "lump-sum" category and a spending plan developed by the department pursuant to ch. 216, F.S. Status reports must be submitted to the Governor and the Legislature on October 1, 2002, and October 1, 2003, concerning the progress made toward expanding these community mental health services with new legislative appropriations.

The bill specifies that a report be submitted to the Governor and Legislature on August 1 of each year that estimates the costs of expanding community mental health services. This report will be developed by the department in collaboration with the Agency for Health Care Administration and will include forecasts of Baker Act expenditures based on periodic actuarial analysis, caseload estimates of adults with serious mental illness and children with serious emotional

disturbances, associated costs per person served, and recommendations for maximizing the use of federal funds to meet these needs.

The bill requires that crisis services be implemented by January 1, 2004, and mental health services be implemented by January 1, 2006, in Florida's publicly funded community mental health system if legislative appropriations are specified for these purposes.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-0; House 116-0

CS/CS/SB 2254 — Supportive Housing

by Health, Aging & Long-Term Care Committee; Children & Families Committee; and Senator Brown-Waite

This bill directs the Department of Children and Families to establish a workgroup to review the issues associated with the services provided through supportive housing and develop recommendations for supportive housing living arrangements. The bill provides for representation on the workgroup from the Department of Children and Families, the Agency for Health Care Administration, the Department of Elderly Affairs, and designated organizations in the field. Recommendations of the workgroup are to be included in the January 2003 update of the Mental Health and Substance Abuse master plan.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-0; House 117-0

DEVELOPMENTAL AND OTHER DISABILITIES

CS/CS/HB 295 — Persons with Disabilities

by Healthy Communities Council; Health & Human Services Appropriations Committee; and Rep. Littlefield, Mahon, and others (CS/CS/SB 576 by Finance & Taxation Committee; Health, Aging & Long-Term Care Committee; and Senators Wise and Crist)

The bill creates s. 413.402, F.S., directing the Florida Association of Centers for Independent Living (FACIL) to develop the Personal Care Attendant Pilot Program for personal-care attendants to individuals:

- At least 18 years of age and seriously disabled due to a traumatic spinal cord injury;
- Living in a nursing home or who have moved out of a nursing home within the preceding 180 days due to participation in a Medicaid home and community-based waiver program targeted to persons with brain or spinal cord injuries; and

- Determined eligible for training services from the Division of Vocational Rehabilitation of the Department of Education.

The association is required to develop memorandums of understanding with the Department of Revenue, the Brain and Spinal Cord Injury Program in the Department of Health, the Florida Medicaid Program in the Agency for Health Care Administration, the Florida Endowment Foundation for Vocational Rehabilitation, and the Division of Vocational Rehabilitation of the Department of Education. FACIL will develop a training program for persons selected to participate in the pilot program in order to prepare each recipient to manage his or her own personal-care attendant.

The Florida Association of Centers for Independent Living, in cooperation with the Florida Endowment Foundation for Vocational Rehabilitation, will:

- Develop a program to recruit, screen, and select candidates to be trained as personal-care attendants;

- Develop a training program for personal-care attendants; and

- Establish procedures for selecting persons eligible to participate in the pilot program.

Nurse registries licensed under s. 400.506, F.S., are authorized to recruit and screen candidates and to operate as a fiscal intermediary through which payments are made to individuals performing services as personal care attendants under this pilot program. The Agency for Health Care Administration must seek federal waivers necessary to implement these provisions.

The Florida Association of Centers for Independent Living, in cooperation with the Division of Vocational Rehabilitation in the Department of Education, will assess the selected participants and make recommendations for their placement into appropriate work-related training programs. The association is to develop a plan for implementation of the program with the Department of Revenue, the Brain and Spinal Cord Injury Program in the Department of Health, the participating state attorneys' offices, the Florida Medicaid Program in the Agency for Health Care Administration, the Florida Endowment Foundation for Vocational Rehabilitation, and the Division of Vocational Rehabilitation of the Department of Education.

The bill requires that an implementation plan for the pilot program be presented by FACIL to the Legislature by March 1, 2003, that includes a timeline for implementation, estimates of the number of participants to be served, and cost projections for each component of the pilot program. The pilot program will be implemented by July 1, 2003, unless there is specific legislative action to the contrary.

The Department of Revenue in coordination with FACIL and the Florida Prosecuting Attorneys Association will select four counties in which to operate the pilot program. The Association and the state attorneys' offices in Duval County and the four pilot program counties will develop and implement a tax collection enforcement diversion program that will collect revenue from persons who have not remitted their collected sales tax. The criteria for referral to the diversion program will be determined cooperatively between the state attorneys' offices in those counties and the Department of Revenue.

Notwithstanding the normal sales tax distribution provisions of s. 212.20, F.S., 25 percent of the funds collected under the diversion program will be deposited in the operating account of the Florida Endowment Foundation for Vocational Rehabilitation and used to implement the program, and the program will operate only from funds deposited into that account. Each year the revenue estimating conference is to project the amount of money likely to be generated from the tax collection enforcement diversion program.

An appropriation of $250,000 of nonrecurring funds from the Brain and Spinal Cord Injury Program Trust Fund transferred to the Florida Endowment Foundation for Vocational Rehabilitation for FY 2002-2003 will be used for the initial development of the program. The initial $50,000 from each of the pilot program counties and Duval County deposited with the Florida Endowment for Vocational Rehabilitation will be used to repay the $250,000 to the Brain and Spinal Cord Injury Program Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 34-0; House 116-0

DOMESTIC VIOLENCE

SB 716 — Domestic Violence Program

by Senator Peaden

This bill completes the process of transferring the domestic violence programs from the Department of Community Affairs to the Department of Children and Families by providing for the following:

- A new formula for distributing the funds deposited in the Additional Court Cost Clearing Trust Fund that specifically designates a portion of the trust funds to the Department of Children and Families for the domestic violence programs;

- Clear authority for the Department of Children and Families to operate the domestic violence programs and receive trust fund dollars; and

- A repeal of conflicting statutory and Laws of Florida language.

A number of revisions are made to the injunction for protection against domestic violence by this bill and include the following:

- Clarifying the mandatory co-residency requirement in the definitions of "domestic violence" and "family or household member" except under specified circumstances;

- Revising the venue requirements for domestic violence injunctions to allow the additional option of filing the petitions in the circuit where the petitioner currently or temporarily resides without a minimum residency period;

- Prohibiting charging a fee for filing a petition for injunction for protection against domestic violence;

- Clarifying the circumstances under which injunctive relief against domestic violence may be sought and providing a list of factors to be considered by the court in determining whether a petitioner is in imminent danger of becoming a victim of domestic violence;

- Requiring the recording of all proceedings on protective injunctions against domestic violence;

- Requiring the court to allow the presence of advocates for the petitioner and respondent in the proceeding or hearing for protective injunctions against domestic violence, if requested;

- Expanding the list of underlying actions that constitute violations of an injunction for protection against domestic violence; and

- Clarifying the law regarding the court's role in ordering a person charged with domestic violence to a pre-trial diversion program.

The bill also establishes an injunction for protection against dating violence. This injunctive relief is created in s. 784.046, F.S., injunctions for protection against repeat violence, but as a separate cause of action. Injunctions for protection against dating violence would be provided using the same stipulations as provided for injunctions for protection against repeat violence. However, a petition for a dating violence injunction can be filed if the person is a victim of dating violence or in imminent danger of becoming a victim of dating violence. Dating violence is specifically defined and requires that the violence is between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. Factors are provided to consider in determining the existence of such a relationship, and casual acquaintanceships and ordinary fraternization in a business or social context are specifically excluded.

If approved by the Governor, these provisions take effect January 1, 2003, except as otherwise provided in the act.
Vote: Senate 36-0; House 115-0

CHILD SUPPORT

CS/SB 1272 — Child Support/Health Care Coverage

by Children & Families Committee and Senator Peaden

This bill provides for Florida's use of the national medical support notice which implements a standard order and process for notifying the employer of the health care coverage required of a Title IV-D support obligation and instituting the non-custodial parent's health care coverage for the child. A process and directive are provided for liquidating securities to pay for overdue support. The bill aligns the terminology pertaining to "abandoned property" for the Department of Revenue Child Support Enforcement Program with that provided in ch. 717, F.S. A threshold is set forth for determining when adequate grounds exist for effectuating a modification resulting from the required 3-year review of Title IV-D cases. The requirement for the Office of Program Policy Analysis and Government Accountability to evaluate the State Disbursement Unit and the State Case Registry every two years is eliminated.

Statutory provisions establishing the pilot program for the administrative establishment of child support are amended to address issues identified in the first year of operation and issues pertaining to statewide application of this administrative process as is provided for with the passage of HB 1689. These revisions to the administrative process include using a financial affidavit developed by the department, requiring the department to terminate the administrative process and file a civil action in circuit court to determine child support if requested by the noncustodial parent, requiring the department to confirm that the notice of proceeding was received under certain circumstances, allowing for the use of restricted delivery when serving the notice of proceeding to establish child support, eliminating the requirement that the amount of support for each child be specified in the administrative order, clarifying that the administrative law judge may issue an income deduction order and include unemployment compensation withholding, allowing the department to suspend and terminate the administrative support order and informing parents of the self-help programs available to persons filing action in circuit court.

If approved by the Governor, these provisions take effect upon becoming law, except as expressly provided for in the act.
Vote: Senate 37-0; House 117-0

HB 1689 — Child Support

by Judicial Oversight Committee; Rep. Crow and others (CS/CS/SB 2012 by Judiciary Committee; Children & Families Committee; and Senator Peaden)

This bill provides for the statewide application and implementation of the pilot program for administrative establishment of child support orders for Title IV-D cases. With this administrative process, the Department of Revenue is authorized to issue a final order of child support obligation that is binding and enforceable. However, all Title IV-D parents retain the right to use the court for determining their child support, if they desire. A number of revisions are made to the administrative process created for the pilot program for establishment of child support orders as it is to be implemented statewide, including using a financial affidavit developed by the department, requiring the department to terminate the administrative process and file a civil action in circuit court to determine child support if requested by the noncustodial parent, requiring the department to confirm that the notice of proceeding was received under certain circumstances, allowing for the use of restricted delivery when serving the notice of proceeding to establish child support, eliminating the requirement that the amount of support for each child be specified in the administrative order, clarifying that the administrative law judge may issue an income deduction order and include unemployment compensation withholding, allowing the department to suspend and terminate the administrative support order and informing parents of the self-help programs available to persons filing action in circuit court. The Department of Revenue is required to submit a report by June 30, 2004 to the Legislature, the Governor and Cabinet on the implementation and results of the administrative process for establishing child support, and the Office of Program Policy Analysis and Government Accountability is to conduct an evaluation of this administrative process with a report submitted by January 31, 2005.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-0; House 112-0

ECONOMIC DEVELOPMENT

CS/SB 1844 — Economic Development

by Commerce & Economic Opportunities Committee and Senators King and Klein

This bill creates the Florida Technology Development Act, provides for the operation of certain bond-financed projects in research and development parks, provides for the maintenance of a website relating to the information technology industry, authorizes the Learning Gateway demonstration program, establishes the Tourism Industry Recovery Act of 2002, creates an account for matching funds for an existing economic development incentive program, and requires the Legislature's Office of Program Policy Analysis and Government Accountability to conduct a technology review previously required in law.

Florida Technology Development Act

This bill creates the Florida Technology Development Act (act), which establishes a process for the State Board of Education (board) to develop, approve, and authorize expenditures for a plan for establishing one or more "centers of excellence" at or in collaboration with universities in the state. The term "center of excellence" is defined as an organization of personnel, facilities, and equipment which, among its functions, identifies and pursues opportunities for research and technology transfer, recruits and retains world-class researchers, and stimulates and supports the growth of the state's technology industry.

The process created by this bill includes, subject to legislative appropriation, the creation of the Emerging Technology Commission (commission) within the Governor's Office for the purpose of recommending preliminary plans to the board for consideration. When developing these plans, the commission must consider certain input from Florida Research Consortium, Inc., and individual experts in relevant fields. The board must approve its final plan, including applicable performance and accountability measures, by March 15, 2003. Until the act expires on July 1, 2004, the commission must report quarterly to the Commissioner of Education on the progress of plan implementation. The bill appropriates $50,000 to the Governor's Office for the provision of staff support to the commission and per diem and travel expenses for commission members.

Bond-Financed Projects in Research and Development Parks

This bill specifies that, notwithstanding any other provision of ch. 159, F.S. (relating to bond financing), a project that is located in a research and development park and that is financed through the Florida Industrial Development Financing Act may be operated by a research and development authority, a state university, a state community college, or a governmental agency if

the purpose and operation of the project are consistent with the policies governing research and development authorities.

Internet-Based System for the State Information Technology Industry

This bill reassigns responsibility for the development and maintenance of a website for information technology industry promotion and workforce recruitment to Workforce Florida, Inc. (WFI), from the Department of Labor and Employment Security. The bill charges WFI with ensuring coordination and compatibility between the website and the larger workforce information system required under s. 445.011, F.S. WFI must also coordinate its work with the high-technology marketing campaign of Enterprise Florida, Inc., and with the State Technology Office's efforts to ensure consistency with the state's information system strategy and enterprise architecture. The bill authorizes WFI to contract with public agencies for assistance in developing/maintaining the website and authorizes WFI to procure services necessary to fulfill its responsibilities under this bill, provided it utilizes competitive procurement practices.

Learning Gateway

This bill implements recommendations of the Commission on the Study of Children with Developmental Delays. The bill authorizes pilot or demonstration programs in Orange, Manatee, and St. Lucie counties to identify and address learning problems in children from birth to age 9, earlier and more efficiently than currently happens. Each pilot program will develop a Learning Gateway to provide a single point of access for parents who suspect that their child has a potential learning problem. The Learning Gateway will inform parents, pediatricians, and teachers of the early warning signs of learning problems according to the best current research. The Learning Gateway pilot programs will provide information and referral but will not provide direct services to children or parents.

The bill also creates a steering committee of parents, practitioners, and individuals with scientific, medical, and business expertise to support and oversee the pilot program. By January 2005, the steering committee will make recommendations to the Governor, the Legislature, and the Commissioner of Education regarding the merits of expanding the pilot projects.

Tourism Industry Recovery Act of 2002

This bill amends s. 125.0104(3)(l), F.S., to provide that the additional local option tourist development tax presently authorized to pay the debt service on bonds to finance the construction, reconstruction, or renovation of a professional sports franchise facility, a retained spring training franchise facility, or a convention center, and to pay for the planning and design costs incurred prior to the issuance of the bonds, may also be used to promote and advertise tourism. This bill also amends s. 125.0104(3)(n), F.S., to provide that the additional tax authorized under this paragraph for bonds for facilities for a new professional sports franchise or a retained spring training franchise may also be used to promote and advertise tourism.

Matching-Fund Account for the Semiconductor, Defense, and Space Tax Exemption Program

This bill provides that matching funds deposited in the Trust Fund for Major Gifts for the existing semiconductor, defense, and space tax exemption program under s. 212.08(5)(j), F.S., and interest earnings thereon, must be maintained in a separate account within the trust fund and may be used only to match qualified sales tax exemptions that a certified business designates for use by state universities and community colleges to support research and development projects requested by the certified business.

Technology Review

This bill requires the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct, before December 1, 2002, the review required under section 14 of Chapter 93-187, L.O.F., relating to the sunset of certain Enterprise Florida, Inc., technology development programs. OPPAGA must perform this review using applicable program evaluation and justification review criteria.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 116-3

CS/HB 777 — Public Records Exemption/Business Information

by Competitive Commerce Council and Rep. Kilmer (CS/SB 2430 by Commerce & Economic Opportunities Committee and Senator Diaz de la Portilla)

This bill creates a public records exemption for specified business information (including certain proprietary, trade-secret, and personal data) that is held by the Governor's Office of Tourism, Trade, and Economic Development (OTTED); Enterprise Florida, Inc., (EFI), the state's principal economic development organization (s. 288.901, F.S.); county or municipal governmental entities; or the employees or agents of OTTED, EFI, or local government entities under the following state economic development programs and incentives: the Capital Investment Tax Credit Program (CITC Program) under s. 220.191, F.S.; the Qualified Defense Contractor Tax Refund Program (QDC Program) under s. 288.1045, F.S.; the Qualified Target Industry Tax Refund Program (QTI Program) under s. 288.106, F.S.; the High-Impact Business Performance Incentive Grants Program (HIPI Program) under s. 288.108, F.S.; and the Quick Action Closing Fund Awards Program (QAC Program) under s. 288.1088, F.S. The bill provides that this exemption expires October 2, 2007, unless reenacted after review by the Legislature under the Open Government Sunset Review Act. This public records exemption is comparable to a public records exemption contained in a section of the Florida Statutes (s. 288.1066, F.S.) that stands repealed as of October 2, 2001.

Notwithstanding the public records exemption created by this bill, the bill provides that economic development program administrators may publish statistics in the aggregate, so classified as to prevent the identification of a single qualified business, and that OTTED may release the following information:

- The names of qualified businesses, the total number of jobs each business expects to create, the total number of jobs created by each business, and the amount of tax refunds awarded to and claimed by each business under the QTI Program or the QDC Program;

- The amount of incentives awarded and claimed by each business under the HIPI Program or the QAC Program; and

- The names of qualified businesses, the total number of jobs each business expects to create, and the total number of jobs created by each business under the CITC Program.

This bill also makes changes to public records information-sharing provisions related to the administration of certain state economic development programs and incentives.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 34-2; House 68-51

CS/CS/CS/SB 386 — Florida Black Business Investment Board

by Appropriations Committee; Governmental Oversight & Productivity Committee; Commerce & Economic Opportunities Committee; and Senator Holzendorf

This bill substantially amends ch. 288, part IV, F.S., by removing the Florida Black Business Investment Board (BBIB or board) from the Office of Tourism, Trade, and Economic Development and providing that the BBIB become a not-for-profit corporation. The board membership is expanded, and the membership appointment process is diversified. The board is authorized to lease its employees who are employed prior to the effective date of the bill from the Department of Management Services until June 30, 2004. Under the employee leasing program, current board employees will retain their status as state employees and have the right to participate in the state retirement system.

The bill provides criteria to measure Florida's return on investment from activities of the board. The bill requires the board to seek private sector support that will equal the state's support by July 1, 2007, and it prescribes items constituting private sector support.

Additional board responsibilities provided by the bill include:

- Delivering, where practicable, economic development services relating to black business enterprises under a contract with Enterprise Florida, Inc.;

- Working with Enterprise Florida, Inc., and local economic development organizations to promote the retention and expansion of existing black business enterprises and to promote the formation and recruitment of new black business enterprises;

- Facilitating the formation of Black Business Investment Corporations in communities not currently served by such corporations;

- Providing for an annual financial audit report of its accounts and records to be conducted by an independent certified public accountant;

- Complying with the performance measures, standards, and sanctions in its contract with the Office of Tourism, Trade, and Economic Development; and

- Reporting to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2003, on the feasibility of including all minority business enterprises within the scope of its duties.

If approved by the Governor, these provisions take effect on July 1, 2002.
Vote: Senate 37-0; House 117-0

CS/SB 688 — Spaceport Florida Authority

by Commerce & Economic Opportunities Committee and Senator Futch

This bill changes the statutory name of the Spaceport Florida Authority (authority) to "Florida Space Authority," in order to reflect the name change adopted by the authority's board of supervisors. This bill also provides a name reference for certain authority territory and revises the description of authority territory to more accurately reflect existing territorial boundaries; conforms the authority's statutory fiscal year to the fiscal year it administratively adopted in October 2000; revises the membership of and procedures related to the authority's board of supervisors; and revises the membership, mission, administration, and reporting requirements of the Spaceport Management Council.

Spaceport Florida Authority Board of Supervisors

This bill changes the membership of the authority's board of supervisors from seven regular members, appointed by the Governor, and two ex officio nonvoting members who are legislators to the following:

- The Lieutenant Governor as chair of the board and the state's space policy leader;

- Two ex officio nonvoting members who are legislators; and

- Eight regular members, appointed by the Governor. Four of the regular members must represent private-sector space-industry entities, and at least one of those members must also be from a small business. A private-sector legal entity may not have more than one person serving on the board at any one time. Although this bill does not affect the terms or conditions of current members of the board, vacancies created by or occurring subsequent to the passage of this bill must be filled by representatives of the space industry until the composition of the board is in compliance with the provisions of this bill.

Spaceport Management Council

This bill changes the Spaceport Management Council (council), which provides coordination and recommendations regarding space-related policies, projects, and activities in the state, by:

- Clarifying the council's working relationship with federal and state agencies;

- Removing representatives of the federal government *(i.e.*, the director of the John F. Kennedy Space Center, the Commander of the United States Air Force 45th Space Wing, and the Commander of the Naval Ordnance Test Unit) from the council's executive board but allowing for federal liaison officials to attend council meetings while recognizing that the role of these officials is limited by federal statutes and other constraints;

- Requiring the council to submit its recommendations to the Governor and the Lieutenant Governor, as well as to other state and federal agencies; and

- Providing for the executive board, rather than the full council, to adopt council bylaws.

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

CS/SB 1912 — Defense Contractors

by Commerce & Economic Opportunities Committee and Senator Peaden

This bill revises the eligibility criteria for the Qualified Defense Contractor Tax Refund Program (s. 288.1045, F.S.), under which tax refunds are provided to a certified contractor that has secured a new Department of Defense (DOD) contract, consolidated an existing DOD contract in Florida, converted defense production jobs to non-defense production, or contracted for the reuse of a defense-related facility. This bill increases the number of businesses potentially eligible for the program by:

- Expanding the meaning of the term "Department of Defense contract" to include competitively bid DOD subcontracts, competitively bid federal agency subcontracts issued on behalf of the DOD, and contracts or subcontracts for products or services for military use which contracts or subcontracts are approved by the DOD, the United States Department of State, or the United States Coast Guard; and

- Reducing various gross-receipt thresholds that program applicants must meet or exceed in order to qualify for review by the Governor's Office of Tourism, Trade, and Economic Development.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 115-0

SB 1794 — Enterprise Zones

by Senator Geller

This bill amends s. 290.0065, F.S., to authorize Alachua, Broward, Hendry, Highlands, Jackson, Palm Beach, and Volusia counties to apply to the Office of Tourism, Trade, and Economic Development by December 31, 2002, to amend their existing enterprise zones by replacing areas not suitable for development with areas suitable for development.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

BUSINESS ENTITIES AND TRANSACTIONS

CS/HB 787 — Limited Liability Companies

by Smarter Government Council and Rep. Rubio (SB 944 by Senator Sanderson)

This bill clarifies technical and administrative items and corrects internal inconsistencies and oversights within the Florida Limited Liability Company Act (ch. 608, F.S.) resulting from, or remaining after, the 1999 revision of the act (Chapter 1999-315, L.O.F.), which incorporated modern language adapted from the Uniform Limited Liability Company Act published by the National Conference of Commissioners on Uniform State Laws and from the laws of certain model states, such as Delaware.

The bill specifies that references to the term "company" throughout the act mean a "limited liability company" (LLC). The bill provides LLCs with enhanced flexibility in adopting articles of organization and operating agreements, revises the rights and obligations of managing members vested with the management of member-managed companies, reflects that the basis of membership interest in LLCs may be represented using a method other than capital accounts, and

conforms provisions for foreign LLCs. The bill also reserves the Legislature's power to amend or repeal statutes and governs how LLCs are affected by the amendment or repeal of those statutes.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 38-0; House 113-0

BUSINESS/CONSUMER REGULATION

SB 1020 — Payment-Card Transactions

by Senators Burt, Klein, Wise, Meek, and Crist

This bill prohibits a merchant who accepts payment cards from printing more than the last five digits of a payment card's account number or printing a payment card's expiration date on an electronically printed receipt provided to the cardholder. The term "payment card" includes credit cards, charge cards, debit cards, and any other cards that are issued to cardholders and that allow cardholders to obtain, purchase, or receive goods, services, money, or anything else of value from the merchant. The bill specifically exempts receipts from transactions in which the sole means of recording the payment card's account number or expiration date is by handwriting or by an imprint or copy of the payment card.

The bill imposes noncriminal penalties for violations by merchants. A first violation is subject to a $250 fine, and a second or subsequent violation is subject to a $1,000 fine. The bill authorizes the office of the state attorney to bring actions in county court for violations occurring in or affecting the judicial circuit under the office's jurisdiction.

The bill applies prospectively to receipts printed by cash registers or other machines or devices that are first used on or after July 1, 2003. The bill delays implementation until July 1, 2005, for receipts printed by cash registers or other machines or devices that are first used before July 1, 2003.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 37-0; House 118-0

SB 1832 — Negligence

by Senator Peaden

This bill creates s. 768.093, F.S., which provides that a "powered shopping cart" of the type generally used in a retail establishment by customers to transport customers and their goods is not a dangerous instrumentality. Dangerous instrumentalities, according to courts, are certain types of motor vehicles in operation that have the ability to inflict injury or death. The owner of

such a motor vehicle is vicariously liable, under the dangerous instrumentality doctrine, to a third party for damages caused by the negligence of a person operating the motor vehicle with the owner's consent. However, as a result of this bill, courts will be prohibited from finding that powered shopping cart owners have vicarious liability for damages caused by the negligence of customers using the carts. Powered shopping cart owners will remain liable for damages caused by their own negligence.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 34-2; House 114-0

LOCAL GOVERNMENT

CS/CS/HB 313 — Homestead Exemption/Elderly Housing

by Smarter Government Council; Local Government & Veterans Affairs Committee; and Rep. Gibson and others (CS/SB 506 by Comprehensive Planning, Local & Military Affairs Committee and Senators Brown-Waite, Cowin, and Crist)

This is the implementing bill associated with Committee Substitute for House Joint Resolution 317, which allows counties to provide for a reduction in the assessed value of homestead property where the value is associated from the construction or reconstruction of the property for the purposes of providing living quarters for the parents or grandparents of the owner of the property or the owner's spouse. The bill provides that the value to be excluded may not exceed the lesser of: a) the increase in assessed value resulting from the construction or reconstruction of the property or b) twenty percent of the total assessed value of the property as improved. The bill provides an application procedure for perfecting the exemption, penalties for false applications, and a recapture provision for placing the just value of the improvements excluded back on the ad valorem rolls after the property no longer qualifies for the exemption. The recapture provision requires that when the property owner no longer qualifies for the reduction in assessed value for living quarters of parents or grandparents, the previously excluded just value of the improvements as of the first January 1 after the improvements were substantially completed shall be added back to the assessed value of the property.

If approved by the Governor, these provisions take effect on the effective date of the constitutional amendment contained within CS/HJR 317.
Vote: Senate 32-0; House 116-0

CS/HJR 317 — Homestead Property/Elderly Housing

by Local Government & Veterans Affairs Committee and Rep. Gibson and others (CS/SJR 504 by Comprehensive Planning, Local & Military Affairs Committee and Senators Brown-Waite and Cowin)

This joint resolution proposes a constitutional amendment to give counties the option of reducing the assessed value of homestead property resulting from the construction or reconstruction of property for the purposes of housing the natural or "adoptive" parents or grandparents of the owner of the property or the owner's spouse. To qualify for the exemption the individual for whom the living quarters are provided must be 62 years of age or older.

The reduction in property assessment cannot exceed the lesser of:

- The increase in the assessed value resulting from construction or reconstruction of the property.

- Twenty percent of the total assessed value of the property as improved.

The Senate Joint Resolution will be submitted to the electors at the next general election or at an earlier special election authorized by law for that purpose.
Vote: Senate 32-1; House 115-3

CS/SB 460 — Special Assessments

by Comprehensive Planning, Local & Military Affairs Committee and Senator Carlton

This bill provides that recreational vehicle parks regulated under ch. 513, F.S., for the enforcement of public health laws, be assessed by counties and cities as a commercial entity in the same manner as a hotel, motel, or other similar facility.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 119-0

CS/HB 491 — Civil Legal Assistance Act

by Smarter Government Council and Rep. Goodlette and others (CS/CS/SB 512 by Judiciary Committee; Comprehensive Planning, Local & Military Affairs Committee; and Senators Saunders, Lawson, Sanderson, Peaden, Rossin, Sullivan, Dawson, Miller, Holzendorf, Mitchell, Wise, Campbell, Garcia, and Crist)

This bill creates the Florida Access to Civil Legal Assistance Act to create an administrative framework in the Department of Community Affairs to distribute public funds to pay for the delivery of civil legal assistance to poor or indigent persons through nonprofit legal aid organizations.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 114-1

SB 954 — County and Municipal Employees and Contractors

by Senator Smith

This bill authorizes a county or municipality to require, by ordinance, screening of employee applicants or appointments if the position is found to be critical to security or public safety, or screening of any private contractor, employee of a private contractor, vendor, repair person, or delivery person who has access to any public facility or publicly operated facility if the facility is found to be critical to security or public safety.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 118-0

CS/HB 1307 — Building Code Development

by Smarter Government Council and Rep. Cantens and others (CS/CS/SB 2078 by Governmental Oversight & Productivity Committee; Comprehensive Planning, Local & Military Affairs Committee; and Senator Constantine)

This bill addresses a number of issues relating to building code development and administration. Specifically, it:

- Exempts modular structures used as temporary offices from the requirements of the Florida Building Code;

- Requires the Florida Building Commission to develop building code provisions to facilitate rehabilitation and use of existing structures;

- Amends ch. 399, F.S., to transfer from DBPR to the private sector the responsibility for inspecting elevators for temporary use while it is installed or under alteration; to allow a local government that assumes elevator inspection duties to hire a private inspector to conduct inspections; to require an annual inspection for all elevators, regardless as to whether they are under service maintenance contracts; to restrict the use of elevator inspection program revenue to program uses; and to make a number of technical changes and clarifications;

- Requires the Florida Building Commission to grant a waiver from the accessibility requirements of the Florida Building Code if the applicant demonstrates an economic hardship in accordance with the federal law;

- Specifies additional criteria for, and effective dates of, local amendments to the Florida Building Code;

- Changes the membership of the Florida Building Commission;

- Requires the Building Commission to establish an informal process of rendering non-binding interpretations of the Florida Building Code;

- Prescribes an alternative method for the use of private professionals to perform building code inspection services, and prescribes requirements for private professionals, duties of local officials, and procedures for review and appeal of private code inspection services;

- Amends s. 533.842, F.S., to specify that product approval reports, certification marks, or listing of an approved certification agency is equivalent to a test report and test procedure as referenced in the Florida Building Code;

- Narrows the definition of non-residential farm buildings, which are exempt from the requirements of the Florida Building Code; and

- Revises the timeframe for rate filing for residential property insurance.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.
Vote: Senate 31-2; House 107-9

CS/HB 1341 — Community Redevelopment

by Smarter Government Council and Reps. Dockery, Clarke, and others (CS/SB 102 by Comprehensive Planning, Local & Military Affairs Committee and Senator Constantine)

This bill revises statutory provisions relating to community redevelopment agencies (CRAs). Current definitions of "slum area" and "blighted area" are substantially amended to restrict the areas to which these definitions apply. In order to meet the definition of "blighted area," two of a list of 14 factors, such as falling property values, high incidence of crime, and high number of building code violations must be present. If the taxing entities that must contribute tax increment revenue to the CRA agree by interlocal agreement with the agency, the presence of one of the factors may qualify as a "blighted area."

The bill revises current statutory provisions governing a finding of necessity to require a local government to adopt a resolution, supported by a detailed justification that finds that conditions in the area meet the revised definition of a "slum area" or of a "blighted area" prior to establishing a CRA.

The bill also requires that before a community redevelopment plan is modified, the CRA must notify each taxing authority of the proposed modification and requires that any change in the boundaries of the redevelopment area to add land must be supported by a resolution with accompanying justification.

The bill expands the maximum number of commissioners sitting on the board of a CRA from seven to nine, and allows a charter county having a population less than or equal to 1.6 million to create more than one CRA.

The bill also limits the time period each taxing authority is required to appropriate incremental ad valorem tax revenues to a redevelopment trust fund to no more than 40 years after the fiscal

year in which the plan is approved or adopted. Similarly, the maturity date for redevelopment revenue bonds and repayment bonds issued by CRAs created on or after July 1, 2002 is limited to 40 years.

This bill includes a number of specific exclusions to application of the provisions of the bill including: to any ordinance or resolution authorizing the issuance of any bond, note, or other form of indebtedness to which are pledged increment revenues pursuant to a community redevelopment plan, or amendment or modification thereto, as approved or adopted before July 1, 2002; to agreements effective before July 1, 2002 which provide for the delegation of community redevelopment powers, and to Miami-Dade County. In addition, certain sections of the bill do not apply to existing CRAs or community redevelopment plans that were in place before the effective date of the bill, unless the community redevelopment area is expanded, in which case only changes relating to the definition of slum and blight and changes to the finding of necessity apply to the new area.

The bill also extends the life of the coastal resort area redevelopment pilot project created by s. 163.336, F.S., by 4 years, from December 31, 2002 to December 31, 2006. The purpose of the pilot project is to determine the feasibility of encouraging redevelopment of economically distressed coastal resort and tourist area. The Department of Environmental Protection is required to administer the pilot project between the St. John's entrance and Ponce de Leon Inlet.

The bill increases the number of businesses potentially eligible for brownfield redevelopment bonus refunds by replacing certain wage requirement thresholds with a criterion that an eligible business provides benefits to its employees; and distinguishes between brownfield redevelopment bonus refunds to qualified target industry businesses and other eligible businesses. For other eligible businesses, defined as those businesses with a fixed capital investment of at least $2 million in mixed use business activities and who provide benefits to their employees, the bill provides that a bonus refund of up to $2,500 must be allowed for each new Florida job created in a brownfield. The amount of the refund must be equal to 20 percent of the average annual wage for the jobs created.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 34-1; House 109-6

CS/SB 1554 — Civil Penalties

by Criminal Justice Committee and Senator Silver

This bill provides that if a municipality maintains an independent 800-megahertz radio communication program that can communicate with the county's radio system or if the mutual-aid channels are compatible with the county's system, certain civil traffic penalties collected within the territorial jurisdiction of the municipality must be distributed to the municipality in

which the violation occurred and such funds must be used to fund local law enforcement automation.

In addition, this bill removes the current restriction against government entities providing a list of driver improvement schools or course providers.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 113-0

CS/SB's 1906 & 550 — Growth Management

by Comprehensive Planning, Local & Military Affairs Committee and Senators Peaden and Constantine

The bill makes a number of changes to part II of ch. 163, F.S., the Local Government Comprehensive Planning and Land Development Act of 1985, and the Development-of-Regional-Impact program contained in ch. 380, part I, F.S. A major purpose of the bill is to increase coordination between school districts and local governments in the planning of educational facilities.

The bill revises provisions in s. 163.3177(6), F.S., governing the inclusion of specific standards for the density or intensity of use allowed in each land category to clarify that the standards must relate to the control and distribution of population densities and building and structure intensities.

The bill requires local governments to amend their intergovernmental coordination, potable water and conservation elements to consider the appropriate water management district's regional water supply plan and to adopt, by January 1, 2005 or the Evaluation and Appraisal Report deadline, whichever occurs first, a 10-year or more workplan for constructing water supply facilities that are necessary to meet projected water demand.

The bill provides that the concurrency requirement, except for transportation facilities, as implemented in local government comprehensive plans, may be waived by a local government for urban infill and redevelopment areas, if such a waiver does not endanger public health or safety as defined by the local government in its local government comprehensive plan.

The bill broadens standing under the local government comprehensive planning act to abutting property owners (who may reside outside of the jurisdiction taking the comprehensive planning action).

This bill revises the process for adoption of local government comprehensive plans or plan amendments from a two-step to a one-step process decreasing the timeframes required for state review in some circumstances. In addition, the bill allows the Department of Community Affairs

(DCA) to publish notices of intent on the Internet in addition to legal notice advertising as an alternative to publishing larger and more expensive newspaper advertisements.

By January 1, 2004, local governments within counties with a population of 100,000 or greater are required to inventory their service delivery agreements and identify deficits or duplication in the provision of services. In addition, by February 1, 2003, representatives of municipalities and counties are to recommend statutory changes regarding annexation to the Legislature.

Local governments with areas within a coastal high hazard area are required to address in their evaluation and appraisal report, redevelopment feasibility taking into account whether any past reduction in land use density impairs the property rights of current residents. The property rights of current residents must be balanced with public safety considerations.

Amendments to a local government comprehensive plan directly related to providing transportation improvements to enhance life safety on Controlled Access Major Arterial Highways identified in the Florida Intrastate Highway System with a traffic fatality problem are exempt from the twice a year limitation on the adoption of comprehensive plan amendments.

Section 163.3194, F.S., regarding the legal status of a comprehensive plan, is amended to prevent a local government from denying a development order for a construction and demolition debris landfill when the facility has obtained a permit from the Department of Environmental Protection, and the local government has previously approved a land use change in its comprehensive plan or rezoned the property to allow such a landfill.

This bill makes available to owners, developers, and applicants the same methods available to third parties to appeal and challenge the consistency of a development order with a local comprehensive plan under s. 163.3215, F.S. Local governments are authorized to establish a special master process to address quasi-judicial proceedings associated with development order challenges. If a local government establishes such a process, the bill provides that the sole method by which an aggrieved and adversely affected party may challenge any decision of a local government granting or denying an application for a development order which materially alters the use or density or intensity of use on a particular piece of property on the basis that it is not consistent with the comprehensive plan, is by a petition for certiorari filed in circuit court. If the special master process is not adopted, circuit court challenges will be allowed to any aggrieved party under a “de novo” proceeding, rather than certiorari review based on the record below.

The bill creates a Local Government Comprehensive Planning Certification Program, as a successor to the Sustainable Communities Program, to be administered by DCA. The purpose of the program is to reward local governments who: 1) identify a geographic area for certification within which they commit to directing growth; 2) have a demonstrated record of effectively adopting, implementing, and enforcing their comprehensive plan; and 3) have a commitment to implement exemplary planning practices; with less state and regional oversight of the

comprehensive plan amendment process. Certification areas must be compact, contiguous, appropriate for urban growth and development and include areas within which public infrastructure is existing or planned within a 10-year time frame. The bill contains eligibility criteria, requires the execution of a certification agreement, and provides for the revocation of the certification if the local government does not substantially comply with the agreement. Upon certification, comprehensive plan amendments for lands within the boundaries of the certification area will be exempt from state and regional review. The bill provides for third party challenges to adopted comprehensive plan amendments and to challenge the compliance of the local government with the certification agreement.

A number of provisions designed to increase the coordination between local governments and school boards are included in the bill.

- All local planning agencies must include a voting or nonvoting representative of the school board to attend meetings at which the local planning agency considers comprehensive plan amendments and rezonings that could increase residential density on property. In addition, a school board member must be included on the board of each regional planning council.

- Local governments and school boards within the geographic jurisdiction of a school district are required to enter an interlocal agreement that addresses school siting, coordination between school board and local governments, and participation of the school district in the local government comprehensive plan-amendment, rezoning, and development approval processes. The interlocal agreement must be entered by deadlines established by DCA, beginning March 1, 2003 and concluding December 1, 2004. The Administration Commission is authorized to impose the withholding of at least 5 percent of state revenue available for infrastructure spending within the local government if the local government fails to comply with the interlocal agreement requirement and withhold from a district school board at least 5 percent in state education dollars.

- An optional public educational facilities element is created, which may be adopted by a county, in conjunction with the municipalities within the county. If adopted, the element must include how the local government will consider the existing and planned capacity of public schools when reviewing comprehensive plan amendments and rezonings that are likely to have an impact on the demand for public school facilities, and methodologies for determining school capacity. In addition, the local government must incorporate the obligations of the interlocal agreement with the school board into the intergovernmental coordination element of its comprehensive plan.

- A number of sections of ch. 235, F.S., governing the planning and siting of educational facilities are modified to combine the educational plant survey and education facility work program into a single document. Parallel language requiring school boards to enter interlocal agreements with local governments is included, that is identical to the language

in s. 163.31777, F.S., and district school boards are subject to the withholding of certain state education dollars if the school board fails to comply with the adoption schedule which begins March 1, 2003.

The bill makes a number of changes to the Development-of-Regional-Impact program. The bill revises the definition of what is not considered development under the DRI process; and provides a bright line test for developments that are between 80 and 100 percent of DRI thresholds by providing that they are not DRIs. The bill provides for biennial reports on DRIs rather than annual reports, unless otherwise specified. The bill eliminates acreage standards for office development and retail developments. The bill exempts marinas, petroleum storage facilities and any renovation or redevelopment within the same land parcel that does not change land use or increase density or intensity of use from DRI review. Marinas located in local government jurisdictions that have adopted a siting plan or policies are exempt from DRI review. Petroleum storage facilities are exempt if consistent with the local government comprehensive plan or part of an approved port master plan.

The bill authorizes counties and municipalities to create educational facilities benefit districts (benefit districts) to finance school construction by entering into an interlocal agreement with the school board and any local general purpose government within whose jurisdiction a portion of the benefit district is located, and adoption of an ordinance. Creation of a benefit district is conditioned upon the consent of the school board, all affected local general purpose governments, and all landowners within the benefit district. The governing board of any benefit district must include representation of the school board, each cooperating local general purpose government, and the landowners within the benefit district. If the school board confirms that the benefit district is committing its revenue for the construction of an educational facility, the benefit district or CDD receives, until the benefit district's financial obligations are completed:

- An annual amount equal to one-half of the remaining construction costs, up to the cost per student criteria established by the School Infrastructure Thrift (SIT) program; and

- All educational facilities impact fee revenue collected for new development within the benefit district or CDD.

The bill authorizes several new enterprise zones. It authorizes Miami-Dade County to apply to the Office of Tourism, Trade, and Economic Development (OTTED) to make two amendments to expand its existing enterprise zone. One amendment may include up to four square miles for an area with a high concentration of Haitian immigrants. The other amendment may include up to four square miles for an area targeted for revitalization by the Miami River Commission. The bill authorizes Brevard County, the City of Cocoa, or Brevard County and the City of Cocoa jointly to apply for designation of one enterprise zone, including three community redevelopment areas, by December 31, 2002, and the City of Pensacola to apply, by December 31, 2002, for designation of an enterprise zone of up to 10 contiguous square miles within the city. In addition, the bill also authorizes Leon County, or Leon County and the City of

Tallahassee, jointly, to apply, by December 31, 2002, for designation of one enterprise zone, not to exceed 20 square miles.

The bill amends s. 373.4595, F.S., to provide that certain projects are eligible for available grants from coordinating agencies under the Lake Okeechobee Protection Program. For projects of otherwise equal priority, funding priority for such grants will be given to projects that involve public/private partnerships or that obtain federal match money. Preference ranking above the special funding priority must be given to projects located in a rural area of critical economic concern designated by the Governor. The Department of Health shall require entities disposing of septage within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades and Hendry Counties, to develop and submit to that agency by July 2003, an agricultural use plan that limits applications based upon phosphorus loading. By July 1, 2005, phosphorus loading originating from these application sites and similar sites for the disposal of domestic wastewater residuals shall not exceed the limits established in the water management district's works-of-the-district program.

Several provisions relating to various water programs are included in the bill. The domestic wastewater treatment facility permit process is amended to require applicants to prepare a plan of study for the reuse feasibility study required under existing law. Nonpotable water used for fireflow purposes is exempt from Public Service Commission regulation. The water management districts are required to develop an information program on existing hydrologic conditions of major surface and groundwater sources in the state. Current limits on water management district funding of alternative water supply development to projects within water resource caution areas are removed and specific time requirements for encumbering and disbursing funds for these projects are established.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 32-4; House 116-0

CS/SB 2014 — Additional Homestead Exemption for Persons 65 or Older

by Comprehensive Planning, Local & Military Affairs Committee and Senator Futch

This bill revises the requirements with respect to the taxpayer's statement of household income and supporting documents required to obtain the additional homestead exemption for persons 65 and older in counties and municipalities that grant the exemption. This bill also provides for penalties and a lien on property for taxpayers who improperly take this exemption.

If approved by the Governor, these provisions take effect January 1, 2003.
Vote: Senate 34-0; House 113-0

CS/SB 2178 — Non-Ad Valorem Assessments
by Comprehensive Planning, Local & Military Affairs Committee and Senator Laurent

This bill creates a new section of law to allow certain rural counties to levy a special assessment to fund Emergency Medical Services.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-0; House 105-10

HOMEOWNERS' ASSOCIATIONS

CS/SB 148 — Homeowners' Associations
by Comprehensive Planning, Local & Military Affairs Committee and Senators Geller, Lee, Brown-Waite, Jones, Lawson, Miller, Klein, Silver, Smith, Mitchell, Campbell, and Meek

This bill provides that any homeowner may display a portable, removable US flag in a respectful way, regardless of any homeowner association restrictions. The bill applies retroactively.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 108-4

VETERANS

HB 165 — Ad Valorem Tax Exemption
by Rep. Paul and others (SB 136 by Senators Burt and Pruitt)

This bill increases from $500 to $5,000 the property tax exemption for certain disabled ex-service members.

If approved by the Governor, these provisions take effect January 1, 2003.
Vote: Senate 32-0; House 118-0

SB 496 — Educational Benefits for Dependent Children
by Senator Mitchell

This bill provides educational opportunity at state expense for dependent children of certain military personnel who die or suffer a service-connected 100-percent total and permanent disability in Operation Enduring Freedom, a military operation that began on October 7, 2001.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 119-0

SB 962 — Veterans

by Senator Sanderson

This bill revises provisions relating to the administration of state veterans' homes and revises the duties and procedures for the appointment of the homes' administrators. This bill also provides for the accounting of certain funds and deletes requirements for the deposit of certain interest into the Grants and Donations Trust Fund.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 115-0

ANTI-TERRORISM

CS/SB 622 — Public or Commercial Transportation

by Criminal Justice Committee and Senators Miller, Lawson, and Smith

This bill provides that it is a third degree felony for a person to attempt to obtain, solicit to obtain, or obtain any means of public or commercial transportation or conveyance, including any vessel, aircraft, railroad train, or "commercial vehicle," with the intent to use such public or commercial transportation or conveyance to commit a felony or facilitate the commission of a felony.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 39-0; House 115-0

CS/SB 998 — Criminal Justice

by Criminal Justice Committee and Senator Smith

This bill makes unlawful the false reporting of weapons of mass destruction. Regarding various offenses involving or relating to bombs and hoax bombs, and weapons of mass destruction and hoax weapons of mass destruction, the sentence for any of these offenses may not be suspended, deferred, or withheld. However, state attorneys are authorized to move for a reduction or suspension of sentence if substantial assistance is provided by the defendant in the identification, arrest, or conviction of accomplices, accessories, coconspirators, and principals. Also, the court is authorized to order restitution.

Other major provisions of the bill do the following:

- Amend the elements of the offense of planting a hoax bomb to make them consistent with the elements of planting a hoax weapon of mass destruction, and raise the felony degree of the crime from a third degree felony to a second degree felony.

- Create a second degree felony offense that applies to any person who possesses, displays, or threatens to use a hoax weapon of mass destruction while committing or attempting to commit a felony.

- Amend the definition of "weapon of mass destruction."

- Create some permissive inferences relating to false reporting of a bomb or weapon of mass destruction and to use of a weapon of mass destruction. Proof of certain basic facts allows for inferences of certain elemental facts, which the jury may accept or reject.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 113-0

HB 1439 — Interception of Communications

by Rep. Gelber (CS/SB 1774 by Criminal Justice Committee and Senator Smith)

This bill expands law enforcement's authority to intercept wire, oral and electronic communications and conduct other surveillance under specified circumstances and conditions, based primarily on the recent enactment of the federal USA Patriot Act and amendments to ch. 943, F.S., in the 2001 Special Session C. Major provisions of the bill do the following:

- Permit a state judge having felony jurisdiction to authorize initial and ongoing interception of communications ("continued interception") anywhere in the state based on a specified showing. The bill also removes a current sunsetting requirement for this "continued interception" provision and extends that provision beyond interceptions involving investigations of acts of terrorism.

- Authorize a person acting under color of law, in order to determine if any violations of law are taking place, to intercept communications of an entity that is trespassing in the "protected computer" of another person when so authorized by the owner/operator of the "protected computer."

- Authorize a court to order interception in cases relating to offenses involving bombs, destructive devices, and weapons of mass destruction.

- Authorize the Department of Law Enforcement to use resources, including personnel from other agencies acting at the direction of the department, to conduct interceptions in investigations relating to acts of terrorism. The department may be brought into a local agency's wire intercept investigation when it turns out that those being intercepted have turned to terrorism-related crimes.

- Authorize an emergency intercept when there is evidence that there are communications that involve conspiratorial activities threatening national or state security.

- Provide for special release to the government or others of the contents of communications, records, or other information pertaining to a subscriber/customer in the custody of a provider of a remote computing service or electronic communications service in an emergency involving immediate danger of death or serious physical injury.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 113-2

CONTROLLED SUBSTANCES AND DRUG CONTROL

SB 612 — Controlled Substances/Carisoprodol

by Senator Peaden

This bill places carisoprodol, a prescription muscle relaxant, in Schedule IV of Florida's controlled substance schedules. The effect of this scheduling will be to restrict the number of allowable refills within specified periods, make various drug offenses in s. 893.03, F.S., applicable to this new controlled substance, and make it a third degree felony to possess carisoprodol without a prescription.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 114-0

HB 1935 — Controlled Substances

by Crime Prevention, Corrections & Safety Committee and Rep. Bilirakis and others
(CS/SB 2300 by Criminal Justice Committee and Senator Crist)

This bill provides legislative findings that, for any offense under ch. 893, F.S. (controlled substances), the State is not required to prove that a person knew of the illicit nature of the controlled substance, and such knowledge is not an element. Lack of knowledge of the illicit nature of a controlled substance is an affirmative defense to the offenses of ch. 893, F.S. If the defendant asserts this defense, the possession of the controlled substance, whether actual or constructive, gives rise to a permissive presumption that the defendant knew of the illicit nature of the substance. Where the affirmative defense is raised, the jury must be instructed on the permissive presumption.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 27-10; House 115-0

CORRECTIONS

CS/SB 408 — DOC/Criminal Investigations

by Criminal Justice Committee and Senator Crist

The bill amends s. 944.31, F.S., to permit the Secretary of the Department of Corrections (department) to designate certain personnel in the Inspector General's Office as law enforcement officers. A designated person must be an experienced prison inspector or law enforcement officer who holds Florida law enforcement certification. Once designated, an inspector is empowered to arrest persons for offenses uncovered in criminal investigations related to department operations. Specific arrest authority is as follows:

- *Arrest with or without a warrant:* An offender who has escaped or absconded from custody; a prisoner of or visitor to a state correctional institution for any offense occurring on department property; a department staff member or contract employee on department property for any offense classified as a felony in chs. 944 or 893, F.S.

- *Arrest with warrant:* Any person for any offense, without restriction as to the location of the offense or the arrest.

The bill requires that the department and the Florida Department of Law Enforcement (FDLE) maintain a Memorandum of Understanding requiring that FDLE be notified of certain serious incidents, and providing such incidents be investigated by FDLE.

The bill also amends s. 944.35(1), F.S., to require that department employees who use force against an inmate must prepare and sign a use of force report within one day of the incident. The inspector general must review the report; if he determines that inappropriate force was used, he shall conduct a complete investigation.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 118-0

CS/SB 560 — Inmate Welfare Trust Fund

by Criminal Justice Committee and Senator Futch

The bill amends s. 945.215, F.S., to add the purchase, rental, maintenance, and repair of wellness equipment to the list of expenditures that are authorized from the Inmate Welfare Trust Fund. However, purchase of weight training equipment is prohibited regardless of the fund source or use. Purchase, rental, maintenance and repair of audiovisual and electronic equipment is authorized, but purchase or rental of such equipment or related media used primarily for recreation purposes is specifically prohibited. Purchase of cable television service for inmate training or education is no longer specifically prohibited.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 35-1; House 109-4

HB 1289 — HIV Testing of Inmates

by Rep. Wilson and others (SB 308 by Senators Dawson and Miller)

This bill amends s. 945.355, F.S., to require the Department of Corrections to test inmates for HIV infection not less than 60 days prior to release from prison, unless the inmate is known to be HIV positive, has been tested within the previous year, or is released by emergency court order. This testing does not require informed consent. The department must provide HIV positive inmates with transitional assistance including HIV/AIDS education, an individualized discharge plan, and a 30-day supply of all HIV/AIDS-related medications that the inmate is taking prior to release.

The department is also required to notify the Department of Health and the relevant county health department of the anticipated release of an HIV-positive inmate. Section 945.10, F.S., is amended to provide an exception to confidentiality requirements to permit the department to transfer HIV status information of released inmates.

The bill provides an appropriation of $793,244 for FY 2002-2003, and requires the department make a report to the Legislature by March 1, 2003, concerning implementation of the bill.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 35-0; House 97-9

SB 1636 – Prisoner Defined/Corrections Code

by Senator Crist

This bill amends s. 944.02(6), F.S., to redefine the term "prisoner" as used in the Florida Corrections Code. A prisoner is a person who is under civil or criminal arrest and in the lawful custody of a law enforcement official, or who has been committed to or detained in any county jail, state prison, prison farm, or penitentiary, or to the custody of the Department of Corrections, pursuant to lawful authority.

The bill would apply the crime of escape to persons who escape from civil detention, such as aliens who are being held pending deportation by the Immigration and Naturalization Service.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 34-0; House 117-0

CRIMINAL PROCEDURE

SB 196 — Exclusionary Rule

by Senator Villalobos

The exclusionary rule operates as a judicially created remedy designed to safeguard against future violations of Fourth Amendment rights through the rule's general deterrent effects. The Florida Supreme Court held in, *Shadler v. State*, 761 So.2d 279 (Fla. 2000), cert.den., 121 S.Ct.298 (2000), "that the exclusionary rule applies to an error committed by the Florida Department of Highway Safety and Motor Vehicles through its Division of Driver Licenses."

This bill amends the evidence code to provide legislative findings and prohibit the application of the exclusionary rule in any case where a law enforcement officer effects an arrest based on objectively reasonable reliance on information obtained from the Division of Driver Licenses or the Division of Motor Vehicles. The bill provides that "evidence found pursuant to such an arrest shall not be suppressed by application of the exclusionary rule on the grounds that the arrest is subsequently determined to be unlawful due to erroneous information obtained from the divisions."

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 36-0; House 113-0

CS/SB 952 — Statute of Limitations/Exploitation of Elderly or Disabled Adults

by Criminal Justice Committee and Senators Sanderson and Cowin

The bill provides for a five-year statute of limitation time period for prosecuting cases involving financial exploitation of an elderly person or disabled adult. Currently, such cases must be prosecuted within four years of the violation if the exploitation rises to the level of a first degree felony (value of funds involved is over $100,000), or within three years of the violation for all other exploitation cases.

Accordingly, under this legislation, the state gains an additional year to prosecute a case of first degree felony exploitation of an elderly person or disabled adult, and an additional two years to prosecute all other felony cases of exploiting an elderly person or disabled adult.

The bill also extends the current four-year time limitation for bringing a felony prosecution for physically abusing or neglecting an elderly person or disabled adult to five years.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 33-0; House 113-0

SB 1568 — Capital Collateral Proceedings
by Senator Burt

The bill requires attorneys in private practice who want to represent capital defendants in postconviction collateral proceedings as a member of the statewide Registry to attend a continuing legal education course of at least ten hours' duration that is specifically devoted to the defense of capital cases.

The bill provides for payment of Registry counsel in the active death warrant stage of a case. It deletes the statutory provision for payment of Registry counsel to represent a capital defendant before the United States Supreme Court.

The bill also clarifies legislative intent that Registry counsel must be paid according to the statutory payment schedule, and it provides a method whereby the director of the Commission on Capital Cases may remove an attorney from the Registry if the attorney seeks compensation above those specified amounts.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 119-0

CRIMINAL JUSTICE ADMINISTRATION

HB 861 — State Attorneys/Reporting Requirements
by Rep. Flanagan and others (CS/SB 948 by Criminal Justice Committee and Senator Smith)

The bill amends or repeals several subsections of the Florida Statutes which require State Attorneys to keep certain records regarding case prosecutions and forfeiture-generated funds and to file various reports with the Governor, or the presiding officers and minority leaders of the Legislature.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 35-0; House 116-0

CRIMINAL OFFENSES AND PENALTIES

SB 140 — Public Records/Criminal Use
by Senator Burt

This bill makes it a crime to knowingly use any public record, as defined in s. 119.011, F.S., or information obtainable only through such public record, to facilitate or further the commission of

a first degree misdemeanor or a felony. The crime is a first degree misdemeanor, if such public record is used to facilitate or further the commission of a first degree misdemeanor. It is a third degree felony, if such public record is used to facilitate or further the commission of a felony. The third degree felony offense receives a Level 1 offense severity ranking for the purpose of sentencing.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 33-0; House 119-0

CS/HB 163 — Sexual Offenses

by Crime Prevention, Corrections & Safety Committee and Rep. Paul and others (CS/SB 934 by Criminal Justice Committee and Senator Wasserman Schultz)

This bill amends s. 825.1025, F.S., which prohibits lewd or lascivious battery, molestation, and exhibition upon or in the presence of an elderly person or disabled adult, by changing the term "disabled adult" to "disabled person." The change would allow for prosecution of offenses under this statute which might otherwise be precluded because the disabled person was under the age of eighteen.

The bill ranks the offense in level 8 of the offense severity ranking chart. As a result, the lowest permissible sentence for the offense will increase from 51 months to 64.5 months. The maximum punishment for the offense will remain 15 years in prison. This ranking will correspond to the ranking for the offense of sexual battery.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 34-0; House 116-0

CS/SB 188 — Manslaughter, Law Enforcement Officer, Firefighter, EMT

by Criminal Justice Committee and Senators Smith, Wise, Crist, Cowin, and Campbell

The bill creates the criminal offense of aggravated manslaughter where the death of a law enforcement officer, firefighter, emergency medical technician, or paramedic is the result of culpable negligence, and the victim is performing duties that are within the course of his or her employment. The act is named in memory of Gainesville Police Officer, Scott Baird.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 116-0

HB 219 — Open House Parties

by Rep. Ball and others (SB 380 by Senator Futch)

The bill expands the category of persons who are prohibited from holding open house parties as prescribed under s. 856.015, F.S., to include persons who are 18 years of age or older. This essentially means persons who are 18, 19, or 20 years of age will be affected by the bill because currently this section only applies to adults who are 21 years of age or older.

Thus, if an 18-, 19-, or 20-year-old who has control of a residence holds an open house party and knowingly permits a person under 21 years of age to consume or possess alcohol or drugs at the residence, and the 18-year-old does not take reasonable steps to prevent the possession or consumption of alcohol or drugs, he or she can be prosecuted for a second degree misdemeanor offense under the bill.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 111-0

CS/SB 306 — Driver's Licenses and ID Cards

by Criminal Justice Committee and Senator Burt

This bill makes it a third degree felony to knowingly sell, manufacture, or deliver, or knowingly offer to sell, manufacture or deliver, a blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver's license or identification card, or an instrument in the similitude of a driver's license or identification card, unless that person is authorized to do so by the Department of Highway Safety and Motor Vehicles. A violation of s. 322.12, F.S. (unlawful acts in relation to a driver's license or identification card), may be investigated by any law enforcement agency, including the Division of Alcoholic Beverages and Tobacco.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 31-0; House 118-0

CS/SB 570 — Project Hope/Prostitution

by Criminal Justice Committee and Senator Miller

The bill creates a two-year, community-based early intervention pilot program (Project HOPE) in Pinellas and Hillsborough Counties requiring participation for those persons convicted two or more times of prostitution related offenses as defined in s. 796.07, F.S. This legislation also provides that a person who is convicted for the first or second time of soliciting or buying prostitution services under s. 796.07, F.S., can chose to complete a six-class rehabilitation educational program and pay $350 in fees. Adjudication will be withheld pending the completion of the program requirements. An appropriation is provided for FY 2002-2003 of $100,000 to Pinellas County and $100,000 to Hillsborough County for this project.

The Office of Program Policy Analysis and Government Accountability is required to conduct a program review of Project HOPE for fiscal years 2002-2003 and 2003-2004 and report to the Legislature on or before December 1, 2004.

This legislation also enhances the penalty for a third or subsequent violation of the prostitution activities prohibited under s. 796.07(2), F.S., including in part, committing prostitution, procuring another to commit prostitution, or purchasing the services from a prostitute, from a first degree misdemeanor to a third degree felony. However, persons charged with a third or subsequent prostitution offense must be offered admission into a pretrial intervention program or a substance-abuse treatment program.

The bill also requires a person convicted of soliciting prostitution services to pay a $500 civil penalty, which must be used to pay for the administrative costs of drug court programs. Finally, a person convicted of soliciting prostitution services a second or subsequent time will have his or her driver's license revoked for at least one year, if the violation occurred in a motor vehicle.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 33-0; House 116-0

SB 626 — Laser Lighting Devices

by Senator Saunders

This bill creates a section of the Florida Statutes to address the misuse of laser lighting devices. Under the provisions of the bill, knowingly and willfully shining a laser pointer at a law enforcement officer while he or she is engaged in the performance of his or her duties, in such a manner that would cause a reasonable person to believe that a firearm is being pointed at them, would constitute a noncriminal violation, punishable by a fine.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 36-0; House 118-0

HB 835 — Theft from Persons Age 65 or Older

by Rep. Gardiner and others (CS/SB 992 by Criminal Justice Committee and Senator Futch)

The bill creates a specialized statute, s. 812.0145, F.S., for theft victims who are 65 years of age or older. It reclassifies penalties for theft when the offender knew or had reason to believe that the victim was 65 years of age or older, as follows:

- If the funds, assets, or property involved in the theft is valued at $50,000 or more (general theft statute requires over $100,000), the offense is a first degree felony;

- If the funds, assets, or property involved in the theft is valued at $10,000 or more but less than $50,000 (general theft statute requires between $20,000 and $100,000), the offense is a second degree felony; and

- If the funds, assets, or property involved in the theft is valued at $300 or more, but less than $10,000 (general theft statute requires between $300 and $20,000), the offense is a third degree felony.

These new offenses are ranked within the offense severity ranking chart of the Criminal Punishment Code in Levels 7, 5, and 3 respectively.

The bill also requires a person who is convicted of theft of more than $1,000 from a person age 65 or older to make restitution to the victim and to perform up to 500 hours of community service work. Restitution and community service work are in addition to any fine or sentence that can be imposed.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 36-0; House 116-0

CS/CS/HB 1057 — DUI/BUI

by Healthy Communities Council; Crime Prevention, Corrections & Safety Committee; and Reps. Simmons, Slosberg, and others (CS/CS/CS/SB 1024 by Appropriations Committee; Governmental Oversight & Productivity Committee; Criminal Justice Committee; and Senator Burt)

The bill requires the court to order the placement of an interlock device on all vehicles either individually or jointly leased or owned and routinely operated by a person:

- Who is convicted of a second or third DUI when the person qualifies for a permanent or restricted driver's license, or

- Who is convicted of DUI with a blood alcohol level (BAL) of .20 or higher or while accompanied by a child under the age of 18.

The interlock device must be approved by the Department of Highway Safety and Motor Vehicles, and must be paid for by the convicted person. The department, rather than probation officers, will become responsible for monitoring the operation of these devices. The department must adopt rules for the implementation of the ignition interlock devices. Finally, the installation of these devices may not occur before July 1, 2003.

The bill also increases the penalty for a third DUI or BUI offense that occurs within 10 years after a prior DUI or BUI conviction to a third degree felony. A third DUI or BUI offense that

occurs more than 10 years after a prior DUI or BUI conviction remains punishable under the bill as it is in current law, by a fine of not less than $1,000 and not more than $2,500, and by imprisonment for not more than 12 months.

The bill also provides that a person who commits DUI or BUI, and **contributes** to the cause of damage to property or person, serious bodily injury, or death will be subject to current penalties under ss. 319.193(3) and 327.35(3), F.S.

The bill makes it a first degree misdemeanor for a person whose driving privilege is previously suspended for a prior refusal to submit to a lawful test of his or her breath or urine, or both, to refuse to submit to a lawful test of his or her own breath or urine. Specifically, it is a misdemeanor for any person to refuse to submit to a test of his or her breath, blood, or urine, where: (a) the arresting officer has probable cause to believe the person was driving or in actual physical control of a motor vehicle while under the influence; (b) the person was placed under lawful arrest for DUI; (c) the person was informed that if he or she refused to submit to such test that his or her privilege to drive would be suspended for one year or, in the case of a second or subsequent refusal, for 18 months; (d) the person was informed that refusal is a misdemeanor if his or her driver's license is previously suspended for a prior refusal; and (e) the person, after being so informed, refuses to submit to the test.

Under the bill, the department's records showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of breath, urine, or blood will be admissible and will create a rebuttable presumption of such suspension.

The bill makes these same changes for boat operators who refuse to submit to any lawful test of their breath, blood, or urine. The bill also provides that a court cost of $135 is to be imposed for BUI convictions, just as it is for DUI convictions under current law.

The bill also requires a law enforcement officer to order blood testing of all drivers or boat operators involved in accidents involving death or serious bodily injury where there is probable cause to believe the driver or boat operator is under the influence. Current law permits, but does not require, an officer to order a blood test under these circumstances. Further, the bill provides that this testing need not be incidental to a lawful arrest.

The bill amends the Criminal Punishment Code to rank a Felony DUI, 3rd conviction, or Felony BUI as a Level 3 offense in the Offense Severity Ranking Chart. Further, the bill provides that BUI manslaughter, when the offender fails to stop and render aid or give information, is ranked as a Level 9 offense in the Offense Severity Chart, just as DUI manslaughter is under the same circumstances.

The bill provides that the Criminal Justice Information Program within the FDLE shall adopt rules and forms that prescribe uniform arrest or probable cause affidavits and alcohol influence reports to be used by all law enforcement agencies in this state when making DUI arrests under

s. 316.193, F.S. The adoption and implementation of these forms and rules will become effective on July 1, 2004.

The bill also provides an appropriation of $216,062 from recurring General Revenue to the Department of Corrections to offset the fiscal impact from this bill.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 119-0

CS/HB 1157 — Criminal Mischief

by Healthy Communities Council and Rep. Diaz-Balart and others (CS/SB 1580 by Criminal Justice Committee and Senator Villalobos)

The bill amends s. 806.13, F.S., to provide for the imposition of minimum fines and community service requirements in sentencing offenders who violate the criminal mischief statute where the offense is graffiti-related. The bill also provides that the parent or legal guardian of a minor who commits a delinquent act of graffiti-related criminal mischief, in violation of the newly-created section of s. 806.13, F.S., may be held liable for the payment of the fine imposed by the sentencing court unless the court finds the parent or guardian is indigent or for other reasons is unable to pay.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 111-0

CS/HB 1819 — Guide Dogs/Service Animals

by Healthy Communities Council and Rep. Kottkamp and others (CS/SB 2210 by Criminal Justice Committee and Senators Saunders and Cowin)

The bill creates new criminal offenses related to interference with, or the injury or death of guide dogs or service animals, through either reckless disregard or an intentional act.

The bill provides that a person, or a dog owned by that person or under the immediate control of that person, who interferes with the use of a guide dog or service animal by obstructing, intimidating, or jeopardizing the animal's safety or its user's safety commits a second degree misdemeanor. For a subsequent violation, the crime is punishable as a first degree misdemeanor. Likewise, if the guide dog or service animal is injured or killed, under the circumstances outlined above, the offense is a first degree misdemeanor.

If a person commits an intentional act, or permits a dog owned by them or in their immediate control to commit an act which injures or kills a guide dog or service animal, the offense is punishable as a third degree felony.

The bill requires full restitution for all resulting damages.

The bill also extends certain rights related to service animals already enjoyed by other people with disabilities to those who have seizure disorders.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 38-0; House 116-0

LAW ENFORCEMENT

HB 285 — Public Records/Victim and Witness Information

by State Administration Committee and Rep. Brummer (SB 394 by Criminal Justice Committee)

The bill reenacts the public records exemption in s. 914.27, F.S., for information held by the state or local law enforcement agency, state attorney, statewide prosecutor; Victim and Witness Protection Review Committee, or the Florida Department of Law Enforcement, which discloses:

- The identity or location of a victim or witness who has been identified or certified for protection or relocation;
- The identity or location of an immediate family member of a victim or witness who has been identified or certified;
- Relocation sites, techniques, or procedures utilized or developed as a result of the victim and witness protective services afforded by s. 914.25, F.S.; or
- The identity or relocation site of any victim, witness, or immediate family member of a victim or witness who has made a relocation of permanent residence by reason of the victim's or witness's involvement in the investigation or prosecution giving rise to certification for protective or relocation services.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 36-0; House 115-0

HB 287 — Public Records/Violent Crime Council

by State Administration Committee and Rep. Brummer (SB 396 by Criminal Justice Committee)

This bill reenacts s. 943.031(7)(c) and (d), F.S., which authorizes the Florida Violent Crime and Drug Control Council to close to the public that portion of any meeting of the council in which active criminal intelligence information or active criminal investigation information is presented and discussed.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 38-0; House 115-0

HB 1427 — Sheriff's Budgets

by Rep. Kendrick and others (CS/SB 1190 by Criminal Justice Committee and Senators Posey and Crist)

This bill amends s. 30.09(4), F.S., to specifically include special deputy sheriffs who are appointed in response to an act of local terrorism or a national terrorism alert in the category of special deputy sheriffs exempt from statutory bonding requirements. Special deputy sheriffs may be given full power to arrest and are not subject to the Criminal Justice Standards and Training Commission's law enforcement officer requirements.

The bill also amends s. 30.49(2), F.S., to modernize the format of annual sheriff's budget proposals submitted to the board of county commissioners. Sheriffs will divide expenditures into three functional categories, itemizing in accordance with the uniform chart of accounts prescribed by the Department of Banking and Finance. Requests for construction, repair, or capital improvements of sheriff-operated or occupied buildings are to be included separately from other categorized and itemized costs and expenses. The sheriff may move appropriated funds between categories, but the total budget may not exceed the total funding appropriated by the county commission.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 118-0

CS/HB 1447 — Arrest Without Warrant

by Healthy Communities Council and Rep. Harrell and others (CS/SB 2270 by Criminal Justice Committee and Senator Cowin)

This bill creates a new subsection of s. 901.15, F.S., authorizing a law enforcement officer to arrest a person without a warrant when there is probable cause to believe that the person has either: (1) committed assault upon an officer specified in s. 784.07, F.S., (which enhances the penalty for assault upon certain persons); or (2) committed assault or battery upon any employee of a receiving facility designated by the Department of Children and Families to receive and hold involuntary patients under emergency conditions, or for psychiatric evaluation and short-term treatment, when the employee is engaged in the lawful performance of his or her duties.

The bill amends s. 947.141, F.S., to require a law enforcement officer to arrest an offender who is on conditional release, control release, conditional medical release, or addiction-recovery supervision if the officer has probable cause to believe that the releasee has committed a felony offense in violation of the conditions of release. Section 947.22, F.S., is amended to require an

officer to arrest and take a parolee into custody if the officer has probable cause to believe that the parolee has violated the terms or conditions of parole. If a warrantless arrest is made in accordance with either of these sections, the Parole Commission is not required to issue a warrant for revocation of parole or release.

If approved by the Governor, these provisions take effect on October 1, 2002.
Vote: Senate 30-0; House 116-0

CS/HB1641 — Law Enforcement

by Healthy Communities Council and Rep. Evers (CS/SB 2288 by Criminal Justice Committee and Senator Futch)

This bill amends s. 943, F.S., dealing with the Criminal Justice Standards and Training Commission (CJSTC) and law enforcement officer training. It allows the CJSTC to adopt rules from other entities and to revise entry requirements for specialized training programs and adopt new training programs; authorizes the CJSTC to conduct official inquiries of law enforcement instructors; allows experienced law enforcement officers from other jurisdictions to be certified without repeating basic training if they pass exams and show proficiency in certain skills; and removes the requirement that traffic accident investigation training include more than 200 hours of instruction.

The bill also amends s. 790.065(14), F.S., to extend the Firearm Purchase Program, by which the Florida Department of Law Enforcement conducts background checks of prospective firearms purchasers, until June 1, 2004.

If approved by the Governor, the extension of the Firearm Purchase Program takes effect upon becoming law, and the remaining provisions take effect on July 1, 2002.
Vote: Senate 33-0; House 117-1

SENTENCING ENHANCEMENTS AND MINIMUM MANDATORY TERMS OF IMPRISONMENT

HB 1393 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.

by Healthy Communities Council and Reps. Fasano, Justice, and others (SB 1968 by Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 5 and 12 of Chapter 1999-188, L.O.F. It provides for a minimum mandatory three-year prison sentence for a person who is convicted of aggravated assault or

aggravated battery upon a person 65 years of age or older, and requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.
Vote: Senate 37-0; House 104-13

HB 1395 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.

by Healthy Communities Council and Reps. Fasano, Needelman, and others (SB 1966 by Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 4 and 12 of Chapter 1999-188, L.O.F. The bill also includes corrections made to a cross-reference, by section 96, Chapter 1999-3 and section 315, Chapter 1999-248, L.O.F. It provides for a minimum mandatory three-year prison sentence for a person who is convicted of aggravated assault upon a law enforcement officer, a five-year minimum mandatory if the offense against the law enforcement officer is aggravated battery, and, further, requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.
Vote: Senate 36-1; House 106-11

HB 1397 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.

by Healthy Communities Council and Reps. Fasano, Kottkamp, and others (SB 1970 by Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 1, 3, 6, and 12 of Chapter 1999-188, L.O.F., as well as an amendment thereto enacted in Chapter 1999-201, L.O.F., which created the "Three-Strike Violent Felony Offender Act." The bill redefines the terms "habitual felony offender," "habitual violent felony offender," and "violent career criminal." The bill provides that enhanced penalties be imposed upon the three time violent felony offender, based upon the nature of the current offense and his or her prior record. The bill also requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.
Vote: Senate 35-2; House 102-11

HB 1399 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.

by Healthy Communities Council and Reps. Fasano, Kyle, and others (CS/SB 1964 by Criminal Justice Committee and Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 2, 7, 8, and 12 of Chapter 1999-188, L.O.F., as well as amendments thereto found in Chapter 2001-239, L.O.F. It provides an expanded definition of a "prison releasee reoffender," and further reflects legislative intent that these offenders receive the maximum prescribed punishment unless the state attorney determines that extenuating circumstances exist. The bill creates a category of repeat offender referred to as the "repeat sexual batterer" and requires a ten-year minimum mandatory sentence if the court finds certain criteria are met. The sexual battery statute is amended to include references to the newly created repeat sexual batterer statute. The bill also requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.
Vote: Senate 33-2; House 101-12

HB 1401 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.

by Healthy Communities Council and Reps. Fasano, Bilirakis, and others (SB 1972 by Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 9, 10 and 12 of Chapter 1999-188, L.O.F., as well as amendments thereto enacted in Chapters 2000-320, 2001-55, and 2001-57, L.O.F. The bill requires certain minimum mandatory sentences for drug trafficking offenses, prohibits most types of discretionary early release for drug traffickers, more precisely defines "cannabis plant" for trafficking purposes, and refines certain definitions and penalties with respect to "designer drugs." The bill also requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.
Vote: Senate 37-0; House 107-9

SEXUAL OFFENDERS

HB 841 — Sexual Predators and Offenders

by Rep. Bowen and others (CS/SB 1510 by Criminal Justice Committee and Senator Burt)

This bill makes changes to the laws governing sexual predator and sexual offender registration to maintain Florida's compliance with the federal Jacob Wetterling Act by addressing the requirements made by the federal Campus Sex Crimes Prevention Act. Compliance must be shown with these federal laws by the Fall of 2002 to protect 10 percent of the state's Federal Byrne Grant funding monies. The bill also clarifies and revises several provisions of the registration laws to ensure their consistency and enhance their operability. Major provisions of the bill do the following:

- Require those sexual predators and sexual offenders who are attending a university or college or working on a campus to register that activity. It also requires registration for any transfer between campuses of the same school. This information is made available both to the state registry as well as to the schools.

- Clarify the registration process for sexual predators and offenders upon change of residence or name.

- Update the criteria offenses of sexual offenders to include recently adopted pornography transmission offenses.

- Clarify sexual offender obligations for offenders required to register in another state that move to Florida; and sexual offenders residing in Florida who are under another state's supervision.

This bill also provides that when a victim of any specified sexual offense, regardless of whether bodily fluid was transmitted from one person to another, is a minor, a disabled adult, or elderly person, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian, the court shall order the person charged with the offense to undergo HIV testing. Results of required HIV testing shall be disclosed, no later than two weeks after the court receives such results, to: the person charged with or alleged by petition for delinquency to have committed any specified sexual offense; or the person convicted of or adjudicated delinquent for any specified sexual offense. Further, such results must be disclosed to the victim or the victim's legal guardian or parent, and to specified public health agencies, upon their request.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 34-0; House 119-0

HB 949 — Sexually Violent Offenders

by Reps. Trovillion, Fasano, and others (CS/SB 1824 by Children & Families Committee and Senators Peaden and Crist)

This bill amends s. 394.913, F.S., to increase the time frames for processing cases of inmates and juvenile offenders who have been convicted of a sexually violent offense and who are being considered for involuntary civil confinement in the sexually violent predator treatment program (SVPP). The agency with custody must notify the state attorney and Department of Children and Families (DCF) of a pending release at least 545 days in advance for adult offenders and at least 180 days in advance for juvenile offenders. Notification of anticipated release of persons confined for less than the stated times must be made as soon as practicable. The DCF multidisciplinary team is allowed 180 days to evaluate whether a person qualifies for commitment to the SVPP.

The DCF psychiatric hospitals are required to provide notification 180 days prior to the anticipated hearing regarding possible release of a person incarcerated as not guilty by reason of insanity.

The bill also amends s. 349.917, F.S., to clarify that persons "detained" as well as those "committed" to the SVPP under the Jimmy Ryce Act must be housed in a secure facility segregated from persons not detained or committed under the Act. The catch line of s. 349.929, F.S., is amended to correct a misstatement that DCF is responsible for all costs of the commitment process.

If approved by the Governor, these provisions take effect on July 1, 2002.
Vote: Senate 31-0; House 116-0

VICTIMS AND PUBLIC PROTECTION

CS/CS/CS/SB's 90 & 554 — Career Offenders

by Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senators Laurent and Burt

This bill creates a system and process for the registration of certain career offenders and authorizes community and public notification of certain registration information. A "career offender" is any person who is designated as a habitual violent felony offender, a violent career criminal, a three-time violent felony offender, or a prison releasee reoffender. The registration system and process are similar to that used to register sexual predators and sexual offenders. The Department of Law Enforcement, the Sheriffs, the Department of Corrections and private

correctional facilities, and the Department of Highway Safety and Motor Vehicles are responsible for implementing the system, and the Department of Law Enforcement serves as the hub and central repository for registration information.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 117-0

CS/CS/SB 1974 —Crime Victims

by Judiciary Committee; Criminal Justice Committee; and Senator Crist

The bill requires the courts to inform crime victims of their constitutional and statutory rights in one of two manners. The judge presiding over a criminal docket for arraignment, sentencing, or a case management proceeding, can orally advise crime victims of their constitutional and statutory rights. This oral advisement parallels the language in the constitutional amendment for crime victims, as well as the statutory language in the guidelines for crime victims and witnesses. Alternatively, the courts may display posters on the courtroom doors that advise crime victims of their rights. The posters are to be provided by the Department of Legal affairs.

The bill also requires the circuit court administrator to provide the clerk of the court with victim rights information. Additionally, it provides a statement that the failure of the court to advise a victim of his or her rights does not affect the validity of the sentence, conviction, or hearing.

If a victim's restitution order is converted to a civil lien or civil judgment against a defendant, the bill requires the clerk of the court to make available at their office, as well as their website, information provided by the Secretary of State, the court, or The Florida Bar on enforcing such civil lien or judgment.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 119-0

STUDENT FINANCIAL AID

SB 1914 — Grants for Part-Time Students at Public Community Colleges and Universities

by Senators Klein, Sullivan, Wise, Lawson, Miller, Holzendorf, Geller, Rossin, Wasserman Schultz, Dawson, and Sanderson

This bill allows public community colleges and universities to award Florida Student Assistance Grants to part-time students.

This grant program is governed by s. 240.409, F.S., and is the state's major financial assistance program that is based on the student's financial need rather than academic merit. The individual colleges and universities administer the program and award a grant to each student who demonstrates need of $200 or more. In 2000-2001, 11,742 part-time students were attending public colleges and universities.

Senate Bill 1914 amends substantive law to conform with the General Appropriations Act of 2001 and with the Senate budget bill for 2002-2003. The 2001 Legislature appropriated almost $4 million for part-time students enrolled in public institutions. As of March 18, 2002, the Senate budget bill contains an appropriation of $3,828,086 for student assistance grants for part-time students and provides that the appropriation is in accordance with SB 1914 but is not contingent upon the bill's becoming law (SB 2500, 1st Eng., Specific Appropriation 78).

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-0

NATIONAL GUARD/RESIDENCY/TUITION

CS/HB 7 — National Guard/Residency/Tuition

by Colleges and Universities Committee and Rep. Baker and others (CS/SB 128 by Appropriations Committee and Senators Pruitt and Crist)

This bill amends s. 240.1201, F.S., which classifies certain students as residents for purposes of tuition fees when attending a public community college or university. It provides that active members of the Florida National Guard, who qualify under s. 250.10 (7) and (8), F.S., for the tuition assistance program, are residents for tuition purposes.

The act is named for Sergeant Larry Bowman, a former Army minister and Lake County resident, who was killed on September 11, 2001, in the World Trade Center while assisting others to evacuate the building.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 35-0; House 116-0

VOCATIONAL REHABILITATION

CS/CS/HB 1825 — Vocational Rehabilitation

by Lifelong Learning Council; Workforce & Technical Skills Committee; and Reps. McGriff, Murman, and others (CS/SB 2206 by Education Committee and Senators Mitchell and Sebesta)

This bill repeals the statutes that authorize the Occupational Access and Opportunity Commission and govern its administrative responsibilities. It designates the Department of Education as the agency authorized to receive and administer vocational rehabilitation funds from the federal government. It merges the membership of the Occupational Access and Opportunity Commission and of the Florida Rehabilitation Council and gives that council a stronger role in strategic planning and oversight of the vocational rehabilitation program.

In addition, the bill:

- Defines terms relating to vocational rehabilitation to conform with federal requirements.
- Requires the Division of Vocational Rehabilitation to develop a new 5-year plan that organizes its priorities according to identified needs, including the priority for privatization.
- Requires the Division of Vocational Rehabilitation to assure that providers of direct services maintain quality-assurance and due-diligence regarding services.
- Renames the Rehabilitation Advisory Council the Rehabilitation Council and revises council membership and duties.
- Revises cross-references to conform the division's transfer to the Department of Education.
- Amends statutes to conform with the transfer to the Department of Health of the programs related to brain and spinal cord injuries and other trauma.

- Requires the Office of Program Policy Analysis and Government Accountability to conduct a review.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 116-1

FIRESAFETY PREVENTION AND CONTROL

CS/HB 443 — Firesafety Prevention and Control

by Lifelong Learning Council and Reps. Barreiro, Heyman, and others (CS/SB 532 by Education Committee and Senator Silver)

The bill requires the State Fire Marshal to adopt uniform standards for educational facilities and a firesafety evaluation system for use as an alternate standard in existing facilities. It provides for enforcement of the standards and the alternate system and subjects the local fire official's decision about life-threatening deficiencies to review by the State Fire Marshal. The State Fire Marshal must ensure that the deficiencies are corrected or the facility is withdrawn from use. The State Fire Marshal must adopt and administer other rules related to the safety and health of occupants of educational facilities.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 113-0

ELECTIONS

CS/SB 618 — Election Administration

by Ethics & Elections Committee and Senator Sanderson

This committee substitute contains primarily technical revisions to a number of election administration provisions adopted in the Florida Election Reform Act of 2001, including repealing a provision requiring county supervisors of elections to provide one voting booth for each 125 registered voters in the county.

The committee substitute also makes a few substantive changes to provisions of the Florida Election Code that were not directly impacted by the 2001 Election Reform Act, including: re-enacting a blanket prohibition against making indirect campaign contributions (identical provision adopted in CS/SB 1350 and CS/SB's 1842, 1124, and 498); modifying the current prohibition against candidates making contributions to charitable organizations, to prohibit these contributions *only* if made in *exchange for* political support (identical provision adopted in CS/SB 1350 and CS/SB's 1842, 1124, and 498); allowing candidates and others to be reimbursed from a campaign account for expenses relating to travel, food and beverage, office supplies, and thank you notes to campaign supporters (applicable retroactively); and, moving the qualifying date for judicial candidates from July to May of each general election year, to generally coincide with the qualifying period for federal candidates.

If approved by the Governor, these provisions take effect upon becoming law (except as otherwise provided).
Vote: Senate 28-1; House 112-0

CS/SB 1350 — Election Administration

by Ethics & Elections Committee and Senator Sanderson

This committee substitute embraces a number of provisions targeted at providing greater ballot access and polling place access for voters with disabilities. The committee substitute is implemented in phases. Beginning on November 30, 2002, all county supervisors of elections must include sensitivity training as part of their poll worker education program, to assist poll workers in understanding and accommodating the special needs of disabled voters attending the polls. By July 1, 2004, all polling places must be accessible to disabled voters unless the supervisor has certified that the polling place will not be ready, in which case the division of elections must grant a variance until the first primary election in 2006.

The committee substitute requires each polling place to have at least one disability-friendly voting machine in each precinct (requirements specified in the committee substitute) one year after a specific appropriation by the Legislature for that purpose. Also, the committee substitute evinces the Legislature's intent that all voting forms and ballots be made available in alternative formats to facilitate voting by the disabled, contingent upon the technical feasibility of the forms and a specific appropriation by the Legislature for that purpose.

The committee substitute also makes other changes. It increases the penalty for knowingly and willfully making or accepting cash contributions of more than $5,000, from a first-degree misdemeanor to a third-degree felony. It prohibits lobbyists from serving on the Florida Elections Commission, and precludes persons from lobbying while serving on the Commission. Members of the Commission on July 1, 2002, are temporarily exempted from the prohibition, and may engage in lobbying activities for the remainder of their term. Finally, the committee substitute adopts prohibitions against making indirect campaign contributions and making certain charitable contributions in exchange for political support (identical provisions adopted in CS/SB 618 and CS/SB's 1842, 1124, and 498).

If approved by the Governor, these provisions take effect, except as otherwise provided, one year after the Legislature adopts a general appropriations act specifically appropriating to the Department of State, for distribution to the counties, $8.7 million or such other amounts as it determines and appropriates for the specific purpose of funding this act.
Vote: Senate 38-0; House 119-0

CS/SB's 1842, 1124, & 498 — Campaign Finance

by Ethics & Elections Committee and Senators Lee, Futch, Smith, Constantine, King, Sanderson, Pruitt, Latvala, Campbell, Sullivan, Geller, Klein, Crist, Sebesta, Posey, Dyer, Brown-Waite, and Lawson

The committee substitute is a campaign finance reform measure embracing a variety of issues. Specifically, the committee substitute makes the following changes:

- ***"Political Committee" Definition:*** Amends the definition of "political committee" for campaign finance purposes to include essentially any group that: 1) makes or accepts contributions; or, 2) expressly advocates any candidate or ballot issue, in an aggregate amount of more than $500 in a calendar year.

- ***Debit Cards:*** Authorizes campaign expenditures to be made by debit card tied to the primary campaign depository, as well as with traditional paper bank checks.

- ***Reports on Disposition of Surplus Campaign Funds:*** Modifies the fines for late-filed termination reports on the disposition of surplus funds, and establishes a notice requirement to apprise candidates that the report is coming due.

- ***Petty Cash Expenditures:*** Increases the petty cash amount that a campaign can spend on a single transaction from a maximum of $30 to $100.

- ***Office Accounts:*** Increases the amount of surplus funds that certain successful candidates can deposit in an office account.

- ***Use of Government Workers for Campaign Purposes:*** Expands the current prohibition against using state workers during work hours for campaign purposes to include county, municipal, and district officers and employees.

- ***Indirect Contributions:*** Re-enacts a prohibition against making indirect campaign contributions, which was stricken by the federal courts (identical provision adopted in CS/SB 618 and CS/SB 1350).

- ***Charitable Contributions:*** Prohibits candidates, political committees, and political parties from making contributions to charitable organizations *only if* those contributions are made *in exchange for* political support --- in response to an adverse ruling by the federal courts striking Florida's existing prohibition as unconstitutional (identical provision adopted in CS/SB 618 and CS/SB 1350).

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 38-0; House 114-0

TAX ADMINISTRATION AND COMPLIANCE

HB 165 — Ad Valorem Exemption for Disabled Veterans

by Reps. Paul, Fasano, and others (SB 136 by Senators Burt and Pruitt)

This bill amends s. 196.24, F.S., to increase from $500 to $5,000 the reduction in taxable value to any resident ex-service member who has been disabled to a degree of 10 percent or more while serving during a period of wartime service or by misfortune.

If approved by the Governor, these provisions take effect January 1, 2003.
Vote: Senate 32-0; House 118-0

CS/SB 426 — Tax Administration

by Finance & Taxation Committee and Senator Campbell

CS/SB 426 includes the Department of Revenue's General Tax Administration Bill and the recommendations of the State Tax Reform Task Force and the Tax Section of The Florida Bar. The bill's provisions are intended to improve fairness to taxpayers, make it easier for taxpayers to comply with Florida tax laws, and to reduce unnecessary filings. The major provisions of the bill are as follows:

Reinstates the sales tax exemptions for parent-teacher associations that were inadvertently eliminated due to a change in the definition of "educational institution."

- For sales tax purposes the bill replaces the definition of certain machinery and equipment with a definition that is consistent with a past federal explanation of the term.

- For sales tax purposes, the bill modifies the law to impose certain requirements on the removal of motor vehicles from the state.

- Provides consistent treatment under the sales tax statutes for vessels, railroads, and motor vehicles engaged in interstate or foreign commerce.

- Provides that general tax administration provisions of the Department of Revenue would apply to the collection of unemployment compensation taxes.

- Lowers unemployment compensation tax electronic filing and payment thresholds from $50,000 to $10,000.

- Provides for an automatic compromise of penalties where the dealer made a good faith effort to comply with the law.

- Limits sales tax penalties for inadvertent registration errors and encourages voluntary self-disclosure.

- Clarifies that payments to utility companies by a regional transmission organization are not subject to the sales tax on rentals.

- Provides for the forgiveness of sales tax, penalty, and interest resulting from failure to use the traditional rounding of tax, under certain circumstances.

- Extends for an additional 3 years, from 2003 to 2006, the sales tax exemptions awarded to facilities such as civic centers, convention halls, stadiums, and performing arts centers.

- Reenacts the aviation fuel tax credit for certain airlines. This provision expired July 1, 2001.

- The bill reenacts language regarding the Municipal Revenue Sharing calculations for Metro-Dade's distribution that was contained in Supplemental Appropriations Bill SB 2-C, which expires on June 30, 2002.

- Provides that a taxpayer's liability for interest shall be settled or compromised whenever the DOR determines that a delay in the determination of the amount of interest due is attributable to the action or inaction of a DOR employee.

- Reduces from 5 percent to 4.7 percent, the upper threshold that triggers a downward tax rate adjustment due to excessive unemployment compensation trust fund balances, and reduces from 4 percent to 3.7 percent, the lower threshold that triggers an upward tax rate adjustment due to low unemployment trust fund balances.

- Clarifies that the "Rewards Program" is the only means available to obtain compensation for information regarding another person's failure to comply with the state's tax laws.

- Provides that tax does not apply to a contract to sell the residence of an employee relocation company, but tax does apply to the transfer by deed that names the grantee.

- Includes a change in the apportionment of adjusted federal income for certain industries.

- Extends the certified audit program for an additional 4 years.

- Eliminates the requirement for certain intangibles tax and corporate income tax returns when no tax is due.

- Repeals the documentary stamp tax on stock certificates, and caps the tax on unsecured loans.

- Authorizes the Department of Revenue to waive registration fees for online registrations.

- Provides that interest on any corporate income tax deficiency accrues from the date fixed for filing the original return.

- Allows certain employers of domestic service employees to file annually for unemployment tax.

- Provides that for a certain industry, if the ultimate destination of the product is a location outside the state, the sale is not deemed to occur in this state.

- Provides for an additional choice of venue for initiating action in tax cases, and allows improperly filed cases to be transferred, rather than dismissed.

- Allows a taxpayer to establish overpayment of sales and use tax through statistical sampling when applying for a refund.

- Requires that penalties in excess of 25 percent of the tax be settled or compromised under certain conditions, and provides for a de novo review of challenges to penalty assessment.

- Provides that certain single-member limited liability companies that are disregarded for federal income tax purposes must be treated as separate legal entities for non-income tax purposes.

- Expands the definition of "qualified student," for purposes of granting tax credits for contributions to eligible non-profit scholarship funding organizations.

If approved by the Governor, except as otherwise expressly provided, these provisions take effect upon becoming law.
Vote: Senate 28-7; House 73-43

CS/SB 462 — Limit on the Documentary Stamp Tax on Unsecured Notes

by Finance & Taxation Committee and Senator Pruitt

This bill amends s. 201.08, F.S., to provide that the documentary stamp tax shall not exceed $2,450 on new or renewed promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries, wages, or other compensation made, which are executed,

delivered, sold, transferred, or assigned in the state, including those documents relating to sales made under retail charge account services, incident to sales which are not conditional in character and which are not secured by mortgage or other pledge of purchaser. (Under current law, $2,450 is the amount of documentary stamp tax that is due on a promissory note or other unsecured obligation in the amount of $700,000.) The bill also provides that if a mortgage, trust deed, security agreement, or other evidence of indebtedness is subsequently filed or recorded in this state to evidence an indebtedness or obligation upon which tax was capped at $2,450, tax shall be paid on the amount of the indebtedness which was not taxed because of the cap.

This bill also amends s. 601.155(5), F.S., to eliminate an exemption from an equalizing tax that currently exists for certain citrus products that are produced in whole or in part from citrus fruit grown outside of Florida, but within the United States. As a result of the amendment, the exemption from the equalizing tax will apply only to products, or parts of those products, made from citrus fruit grown and placed into the primary channel of trade in this state.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 117-0

SB 1104 — Continuation of the Certified Audit Program

by Senator Sullivan

The bill extends the Department of Revenue's Certified Audit Program through July 1, 2006. Under current law this program is repealed July 1, 2002. The Certified Audit Program is a cooperative pilot effort between the Florida Department of Revenue and the Florida Institute of Certified Public Accountants. This program gives taxpayers the opportunity to hire, at their own expense, qualified CPA firms to review their tax compliance. As an incentive to incur the cost of a certified audit, penalties are waived and interest abated if tax is owed as a result of the audit. Additionally, except in cases of fraud or misrepresentation, the Department will not audit taxpayers for the same period or tax covered by the certified audit period.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 39-0; House 117-0

CS/CS/SB 1360 — Property Tax Administration

by Finance & Taxation Committee; Comprehensive Planning, Local, & Military Affairs Committee; and Senator Pruitt

This bill makes several changes to the administration of property taxes. Many are derived from recommendations of the Department of Revenue's Property Tax Administration Advisory Council and are intended to improve the Value Adjustment Board process, provide for timely updates to guidelines for tangible personal property assessment, make it easier for tax collectors

to provide property tax refunds, and allow for flexibility in the format of Truth-In-Millage (TRIM) notices. Specifically, the bill:

- Provides that the Taxpayer Bill of Rights for property taxes includes the right to have special district taxes and assessments stated on TRIM notices;
- Authorizes the Department of Revenue (DOR) to specify the form used to petition the County Value Adjustment Board (VAB);
- Increases from 15 to 20 days the time the Clerk of the Court has to notify a petitioner to the VAB of his or her scheduled appearance;
- Establishes a uniform timeline for petitioners and property appraisers to exchange information used in VAB hearings;
- Grants DOR authority to establish, by rule, uniform procedures for VAB hearings;
- For counties with populations over 75,000, requires VABs to use special masters, and revises the qualifications for those special masters;
- Authorizes DOR to update the guidelines for tangible personal property assessment upon the approval of the executive director, rather than by administrative rule, unless an objection is filed with the department;
- Establishes procedures and a schedule for processing property tax refund claims;
- Provides DOR flexibility in printing TRIM forms to accommodate individual county needs;
- Provides that an independent special district created prior to July 1, 1993, is exempt from the tax increment financing requirements of a community redevelopment agency if ad valorem taxation is the only source of revenue that the district has authority to levy;
- Provides for exceptions to the assessment of property for back taxes, if the property has been acquired by a bona fide purchaser;
- Allows an error in the notice of proposed property taxes to be corrected by an advertisement in a newspaper of general circulation, if the error involves only the date and time of public hearings;
- Clarifies the assessment of low income properties that receive tax credits under federal and state housing programs;

- Provides that liens of special districts and community development districts survive tax deeds;

- Provides that property that has received an agricultural classification is entitled to receive such classification until agricultural use of the land is abandoned; and

- Creates s. 197.1722, F.S., which provides that a board of county commissioners may, by ordinance, extend the date of tax certificate sales and waive the 3-percent minimum mandatory charges and additional 30 days' interest under s. 197.172, F.S., for hotels, restaurants, and tourism facilities which demonstrate an inability to pay their property taxes because of a contraction in business income of 25 percent or more. This provision expires April 1, 2003.

This bill substantially amends the following sections of the Florida Statutes: 192.0105, 194.011, 194.032, 194.035, 195.062, 197.182 and 200.069, 125.271, 163.387, 193.092, 196.161, 200.065, 420.5093, and 420.5099. It creates s. 197.1722, F.S.

If approved by the Governor, these provisions take effect January 1, 2003.
Vote: Senate 36-0; House 107-1

CS/HB 1511 — Communications Services Tax

by Ready Infrastructure Council and Reps. Ritter and Attkisson (CS/CS/SB 1610 by Finance & Taxation Committee; Regulated Industries Committee; and Senator Pruitt)

This bill makes several technical, non-substantive changes to the Communications Services Tax law. It is the product of the Communications Services Tax Workgroup, which includes representatives of the Department of Revenue, local governments, and the communications industry. Nothing in this bill changes tax rates or adds to the number of taxable services.

The bill:

- Conforms the communications services tax exemptions for the sale of communications services to, and the sale of communications services by, religious and educational facilities to those in the sales tax statute;

- Clarifies that use tax is due on transactions that are taxable under the state and local communications services tax, as well as taxes administered under ch. 202, F.S.;

- Provides an exception for the public lodging industry from the requirement that dealers separately state the communications services tax on bills and invoices;

- Creates a transition rule for counties and municipalities to reduce their local communications services taxes on a specified date;

- Clarifies provisions governing the electronic database used to determine local tax situs for the communications services tax;

- Eliminates inadvertent double taxation by repealing the state sales tax on substitute equipment that was not repealed last year;

- Clarifies that the monthly E911 fee applies to a mobile communications services customer whose place of primary use is within the state;

- Clarifies that municipalities and counties may impose charges on pass-through providers up to $500 per linear mile per year; and

- Instructs the Department of Revenue to report to the Legislature and the Governor on the accuracy of the state and local communications services tax rates adopted in 2001.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 32-0; House 114-0

SB 2028 — Corporate Income Tax Update

by Senator Pruitt

This bill updates the Florida Income Tax Code to reflect the changes Congress has made to the U.S. Internal Revenue Code of 1986. The definition of "Internal Revenue Code" is updated to include those provisions of the 1986 Code that existed and were in effect on January 1, 2002. This definition provides for "piggybacking" each change made during 2001 in the U.S. Internal Revenue Code.

If approved by the Governor, these provisions take effect upon becoming law and operate retroactively to January 1, 2002.
Vote: Senate 39-0; House 112-0

AD VALOREM TAXATION

CS/CS/HJR 833 — Tax Reform

by Fiscal Responsibility Council; Local Government & Veterans Affairs Committee; and Rep. Carassas (CS/SB 938 by Finance & Taxation Committee and Senators Pruitt, Carlton, McKay, Latvala, King, Lee, Rossin, Silver, Smith, Diaz de la Portilla, Holzendorf, Clary, Villalobos,

Laurent, Peaden, Saunders, Futch, Sullivan, Campbell, Brown-Waite, Geller, Dawson, Miller, Meek, Webster, Garcia, and Sebesta)

The joint resolution creates a Joint Committee consisting of six Senators appointed by the President of the Senate and six Representatives appointed by the Speaker of the House. The committee shall conduct a review of all exemptions from the sales and use tax and all exclusions of sales of services from the sales and use tax.

No later than the end of the next session in May 2003, the Legislature must agree on joint rules to govern this committee. These rules must establish a schedule for review of such exemptions and exclusions and provide criteria to be considered by the committee in conducting its review. Over the next three years, the committee must meet to review all exemptions and exclusions from the tax. The committee must submit its findings and recommendations to the presiding officers of each house of the Legislature no later than March 1 of 2004, 2005, and 2006.

The committee may decide to repeal an exemption or exclusion from the sales and use tax by a vote of seven members of the committee. A decision to de-authorize or repeal an exemption or exclusion is codified in the form of a resolution and submitted to the Legislature. The Legislature then has two regular sessions to consider the resolution. If the Legislature believes the exemption should be reinstated or the exclusion should be re-authorized, the Legislature can reinstate it by a simple majority vote of both chambers.

If the Legislature concurs with the committee's recommendations and takes no action, on July 1, following the second regular session after the committee's finding, the repeal of the exemption or the de-authorization of the exclusion becomes law.

The Joint Committee is dissolved July 1, 2006.

If approved by the voters in the November 5, 2002, general election, the constitutional amendment will take effect on that date.
Vote: Senate 30-9; House 74-43

OTHER TAX ISSUES

HB 173 — Calculation of Documentary Stamp Tax on a Certificate of Title Granted in a Foreclosure Proceeding

by Rep. Goodlette and others (CS/SB 180 by Finance & Taxation Committee and Senator Silver)

This bill (Chapter 2002-8, L.O.F.) creates s. 201.02(8), F.S., to provide that the documentary stamp tax on a certificate of title is calculated solely on the final bid amount if the certificate of title is issued to the party in whose favor the judgment of foreclosure is granted in the foreclosure

proceeding, notwithstanding the amount of any underlying indebtedness. It further provides that this provision applies retroactively, except that all taxes that have been collected must be remitted and taxes remitted before the effective date are not subject to refund.

The bill also amends s. 201.132, F.S., to allow the notation placed on documents to be recorded to include the initials or stamped initials or signature of the county comptroller or clerk of the court, as well as his or her signature. This conforms the law to current practice.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 119-0

RETIREMENT/EMPLOYEE BENEFITS

CS/HB 683 — Municipal Police/Firefighter Pension Plans

by Smarter Government Council and Rep. Mack and others (CS/SB 666 by Governmental Oversight & Productivity Committee and Senator Sanderson)

The bill amends various provisions in chs. 175 and 185, F.S., as they affect the governance of local government police and firefighter pension plans. Each of these plans, whether constituted by a special act of the Legislature or by ordinance of the local government itself, is headed by a board of trustees. A prior enactment of the Legislature in 1999 significantly upgraded the minimum benefits to be provided to employees in such plans. The bill extends those changes by permitting qualifying police and firefighter pension plans to have an extended time period for the recognition of the receipt of insurance premium tax distributions they are qualified to receive. The effect is to release funds held in escrow by the Division of Retirement to the few plans that were constructed in a non-qualifying manner. The bill also defines the circumstances under which alternate appointees can be made to a plan's board of trustees when the active membership falls below a certain size.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 36-0; House 115-0

CS/HB 807 — Florida Retirement System/Pension Choice Compliance

by Fiscal Responsibility Council and Rep. Fasano and others (CS/SB 2132 and CS/SB 1102 by Governmental Oversight & Productivity Committee and Senator Sanderson)

The bill provides required benefit administration, investment management, and federal agency compliance for the implementation of the Public Employees Optional Retirement Program (PEORP) in the Florida Retirement System (FRS). It also provides additional service upgrades to several enumerated classes of officers and employees.

The bill gives the State Board of Administration the legal authority to transfer participant account funds and to interrupt that transfer in the event of a major disruption in financial markets. It provides that employer payrolls are to be received by the fifth day of the succeeding month without the imposition of late charges. Such charges may be waived in the event of extenuating circumstances. Contributions to PEORP accounts are to be made in compliance with requirements of the Internal Revenue Code and subject to board rule. Interest earned on account balances of terminated and unvested participants will be based on actual earnings rather than 3.0 percent. If a participant designates a beneficiary who is not the spouse, spousal notification is required, unless the designation is a contingent beneficiary. The PEORP participants who are

retired state employees or officers are entitled to receive health insurance coverage under s. 110.123, F.S.

The bill provides a number of service upgrades to designated officers and employees, as follows: county health department directors and administrators in the Department of Health are transferred from the Selected Exempt Service to the Senior Management Service; the sheriff and clerk of the circuit court in a consolidated government with countywide jurisdiction are permitted to enroll in the Elected Officers' Class of the FRS; the chief deputy court administrator is permitted to enroll in the Senior Management Service Class; and creditable service funded for fire prevention and training personnel shall be recognized in the Special Risk Retirement Class, the cost of which is funded from excess actuarial assets.

The committee substitute provides to university members who have enrolled in the higher education optional annuity program the same account distribution options afforded PEORP participants, namely, full or partial distribution or roll-over to a qualified successor retirement plan.

For purposes of the calculation of the present value of a member's accumulated benefit obligation prior to the transfer to PEORP, year 2002 estimates will be set at midnight on June 30, September 30, and December 31, respectively, for state, education, and local government employees. The bill continues the policy of enrolling a participant in the defined benefit program by default in the event no affirmative, timely enrollment materials are received by the plan administrator. The bill creates s. 121.591, F.S., to establish a procedure for the payment of benefits under the PEORP. A participant, generally, must have terminated employment and notified the plan administrator of the desire to receive benefit payments from the account. Disability income benefits in lieu of a normal benefit are also provided with the same definition of disabling condition and reexamination as is now provided members of the FRS defined benefit plan: inability to render useful and efficient service as an officer or employee. The Department of Management Services (DMS) is authorized to contract with a private sector company for the administration of the disability benefits program and may provide a system for the commercial insurance coverage and administration of the disability benefits program. The DMS is directed also to seek a private letter ruling from the Internal Revenue Service on the steps necessary to maintain the tax qualified status of the disability benefits program in PEORP and in the defined benefit plan of the FRS.

The committee substitute amends year 2001 provisions governing the participation of elected officers in the Deferred Retirement Option Program (DROP). It repeals language enacted in that year and replaces it with provisions permitting elected officers to continue in that program for sixty months after which no further contributions, except interest, shall be paid. Elected officers in DROP do not have to terminate their office until the completion of the current term or another elective office eligible for coverage under the FRS. An affected officer may terminate office at any time but with the exception of those officers affected by Chapter 2001-135, L.O.F., may not receive a benefit payment and accrue active service credit simultaneously.

An FRS participating employer may reemploy after retirement, for up to 780 hours annually, a retired firefighter or paramedic without invoking the suspension of retirement benefits penalty imposed during the first twelve months of retirement. Benefits received in excess of this 780-hour level must be reimbursed to the FRS and future benefits will be suspended if violation of the employment limitation is evidenced.

The bill permits a one-time transfer to the defined benefit program of the FRS of participants in the Senior Management Optional Annuity Program. Participants must elect this transfer between July 1 and September 30, 2002, and agree to pay for the transfer out of their liquidated accounts balances, or such other funds should those amounts prove insufficient.

The bill provides for retirement service credit recognition of salary supplements paid to instructional personnel under ss. 231.700 and 236.08136, F.S., for mentoring or merit-based achievement.

If approved by the Governor, these provisions take effect June 1, 2002.
Vote: Senate 39-0; House 117-0

HB 935 — Florida Retirement System, Public Records

by Rep. Rubio (CS/SB 1886 by Governmental Oversight & Productivity Committee and Senator Sanderson)

This bill amends s. 121.4501, F.S., to provide an exemption from public records for the personally identifying financial information maintained by the State Board of Administration and the Department of Management Services on behalf of participants in the Public Employees Optional Retirement Program. The bill declares it to be a public necessity to avoid inundating participants with information from unapproved provider companies offering non-qualified investment products. The exemption is subject to the review cycle for public records exemptions provided by law.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-2; House 106-3

HB 1575 — Florida Retirement System

by Rep. Fasano (CS/SB 2134 by Governmental Oversight & Productivity Committee and Senator Sanderson)

In order to provide federal tax compliance for the separation of employee retirement funds, HB 1575 creates s. 121.4503, F.S., to establish a distinct Florida Retirement System Contributions Clearing Trust Fund. This non-expiring trust account will receive employer retirement contributions prior to their transfer to individual defined contribution employee

accounts, or to the defined benefit program of the Florida Retirement System. These accounts are themselves being established as public employees choose to initiate or transfer their membership to the new alternative pension plan established in 2000, the Public Employees Optional Retirement Program, and made operational this year. The trust account is made exempt from the service charges to the General Revenue Fund imposed under s. 215.20, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-0; House 118-0

CS/HB 1673 — Public Records Exemption for Social Security Numbers

by Smarter Government Council; State Administration Committee; and Rep. Brummer and others (CS/CS/SB 1588 by Judiciary Committee; Governmental Oversight & Productivity Committee; and Senators Burt and Cowin)

Effective October 1, 2002, this bill makes confidential and exempt social security numbers held by an agency or its employees, agents or contractors. The exemption is retroactive in effect. Exceptions to the exemption are provided by the act. An agency may share a social security number with another governmental entity, its employees, agents, or contractors if disclosure is necessary to perform its duties and responsibilities, but the receiving entity must maintain the confidential and exempt status of the social security number. Additionally, an agency may not deny a commercial entity access to social security numbers provided that the numbers will be used in the normal course of business for legitimate business purposes. The bill defines "legitimate business purpose" to include verification of the accuracy of certain information, use in a civil, administrative or criminal proceeding, use for insurance purposes, use in law enforcement and for the investigation of crimes, use in identifying and preventing fraud, use in matching, verifying or retrieving information, or use in research. The bill explicitly excludes the bulk sale of social security numbers to the public or distribution to any customer that is not identifiable to the business entity. A business entity must make a written request for the information which contains contact information for the business entity and it must state the purpose for which the information is to be used. A violation of the act may be a felony of the third degree.

Additionally, the bill prohibits on or after October 1, 2002, inclusion of a social security number in any document to be recorded in the official records of the county recorder, unless otherwise provided by law. The bill requires posting of notice on the Internet and in a newspaper of general circulation that social security numbers in previously filed documents can be redacted upon request in writing. A request must identify the page number where the information is located. A fee for redaction is expressly disallowed.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-1; House 110-0

HB 1973 — Florida Retirement System

by Fiscal Responsibility Council and Rep. Lacasa (CS/SB 590 by Governmental Oversight & Productivity Committee)

This bill introduces a new funding methodology for the setting of payroll contribution rates to be charged to member employers in the Florida Retirement System (FRS). With the adoption of the Public Employees Optional Retirement Program (PEORP) in 2000, the Legislature provided a choice in the type of retirement coverage employees could select. The bill develops what is termed a "blended" rate structure. In such a form, the statutory employer payroll contribution rates are adjusted to reflect the estimated 150,000 public employees who will choose the new retirement plan as their exclusive choice. This blending takes into account the attrition of employees by employer group over the next year and the delayed effect of the enrollment period. For current employees choosing to transfer their account balances from the legacy pension plan into the new investment plan, the rate also takes into account two additional factors: the recognition of their asset transfer, and the simultaneous loss of their payment liability.

The cumulative effect of the legislation is to reduce employer payroll costs to the defined benefit plan by about 4.50 percent overall due also to the additional recognition of the rate equivalent of some $1.24 billion in available pension surplus. For the first time, the surplus is used to reduce employer costs for the Deferred Retirement Option Program (DROP). Rates for the alternative investment plan are set at normal cost and provide the participant with a full equity contribution after satisfaction of the one-year vesting period. The bill also sets the individual retirement class rates for the disability income and death benefit for the PEORP participants which is otherwise incorporated within the overall rate design of the FRS defined benefit plan. A five basis point increase (.0005) is provided to fund the information and education program to be delivered to all employers and employees. The rates charged the employers with members in the defined benefit plan are set for one year only; they revert to normal, unsubsidized costs on July 1, 2003. The bill also provides for transmission of employer retirement contributions to the FRS by the fifth day of the succeeding month, unless extraordinary hardship circumstances are evidenced, before imposition of penalties on the employer.

The bill permits a one-time transfer to the FRS defined benefit plan of members of the Senior Management Optional Annuity Program. Such members must elect this transfer between July 1 and September 30, 2002, and agree to pay for the transfer out of their liquidated account proceeds or such other higher amount if that balance proves insufficient. The bill also permits an upgrade in service credit for elected state attorneys and public defenders that have prior service as assistant state attorneys or public defenders.

If approved by the Governor, these provisions take effect June 1, 2002.
Vote: Senate 34-0; House 119-0

PUBLIC RECORDS

CS/HB 735 — Public Records Exemption for Certain Building Plans

by Smarter Government Council; Select Committee on Security; and Rep. Gelber and others (CS/SB 982 by Governmental Oversight & Productivity Committee and Senators Brown-Waite and Crist)

The bill creates an exemption from public records requirements for building plans, blueprints, schematic drawings, and diagrams which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency. The bill is retroactive in effect. This information may be disclosed to another governmental entity if necessary to perform its duties, to a licensed architect, engineer, or contractor who is performing work on the structure, or upon good cause shown to a court of competent jurisdiction. Any person or entity receiving this information must maintain its status.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-4; House 101-14

PURCHASING/INFRASTRUCTURE MANAGEMENT

CS/HB 1407 — Public Buildings and Security/Capitol Complex

by Smarter Government Council; State Administration Committee; and Reps. Brummer and Cantens (CS/CS/SB 1144 by Criminal Justice Committee; Governmental Oversight & Productivity Committee; and Senators Garcia and Crist)

This bill represents a complete revision in the organization and operation of the security apparatus for buildings in the State of Florida Capitol Complex. It provides for the intergovernmental transfer of the Division of Capitol Police from the Department of Management Services (DMS) to the Florida Department of Law Enforcement (FDLE) where it will retain its separate identity. The committee substitute enlarges the scope of security coverage for buildings within the state capitol area and further adds the Capital Circle Office Complex of state buildings to the security inventory. The FDLE may contract with the DMS for the provision of security services in buildings not otherwise specifically designated, but which house state employees.

A major feature of the bill is its restatement of the prerogatives of the Legislative Branch to maintain its independence of action and assembly. The presiding officers of the respective houses may also establish enhanced security plans to meet their own unique needs.

The Capitol Police division is required to provide security within the named complex of buildings and to the public officials heading the resident state agencies or offices. It will also

provide protection to other officials, employees, and visitors who occupy or visit the buildings. Other law enforcement responsibilities shall be considered secondary to the above. Its budget may not be reduced except in the manner provided in ch. 216, F.S. The Director of the Capitol Police is appointed by and serves at the pleasure of the Executive Director of the Florida Department of Law Enforcement. The Director of Capitol Police is subject to approval by the Governor, the House of Representatives, and the Senate no later than 30 days after adjournment of the next regular or special legislative session. The manner of approval by the House and Senate is to be determined by each presiding officer unless the approval process is included in the rules of the respective house.

For purposes of funding Capitol Police after its organizational change, the Department of Management Services is directed to transfer funds on a calendar quarter basis to the Department of Law Enforcement from the office space rental assessment made of tenant agencies occupying buildings in the bonded Florida Facilities Pool.

Lastly, the bill provides that the Office of Legislative Services is to commission a security inventory of facilities and personnel by an outside vendor, but makes the inventory's completion contingent upon specific appropriation.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 34-0; House 115-0

HB 1977 — State Procurement

by Fiscal Policy & Resources Committee and Rep. Wallace (CS/SB 1132 by Governmental Oversight & Productivity Committee and Senator Garcia)

During the 2001 interim, the Governmental Oversight and Productivity Committee reviewed two new methods of procurement, i.e., Invitations to Negotiate (ITNs) and Request for Quotes (RFQs), that were enacted by the 2001 Legislature, and considered whether clarifying changes for the statutory sections governing these methods were warranted. *See* Interim Project Report 2002-133, "Chapter 287: Competitive Procurement Process for Acquisition of Property and Services." This report recommended several changes to the statutes creating ITNs and RFQs and, additionally, provided recommendations for other ch. 287, F.S., improvements that were suggested during the project's review. These recommendations were the basis for House Bill 1977 as explained below.

Invitations to Negotiate

The bill sets forth new requirements and accountability measures for agency use of ITNs. Under the bill, an ITN may not be used unless the agency first explains in writing why negotiation is necessary for the state to achieve the best value. The bill also requires an ITN to be made available to all vendors simultaneously and to include a statement of: (a) the commodities or

contractual services sought; (b) the time and date for receipt and opening of replies; (c) all terms and conditions applicable to the procurement, including the criteria to be used during selection; and (d) whether the agency contemplates renewal. Replies submitted by vendors in response to an ITN are to be ranked by the agency; based on this ranking, the agency may select one or more vendors for negotiations.

The bill requires agencies to award contracts in ITN procurements to the vendor that it determines will provide the best value to the state. The agency must document the basis for vendor selection and explain how the vendor's deliverables and price will provide the state with the best value. The agency's determination of best value must be based on objective factors that may include, but are not limited to, price, quality, design, and workmanship.

Requests for Quotes

The bill places limits on the use of a request for quote, so that this tool may not be used by agencies to obviate competitive procurement requirements. It provides that agencies and eligible users may only use a request for quote to obtain written pricing or services information from a state term contract vendor for commodities or contractual services available on a state term contract from that vendor. The stated purpose of a request for quote is to determine whether a price, term, or condition more favorable to the agency or eligible user than that provided in the state term contract is available. The bill specifies that a request for quote is not subject to protest under s. 120.57(3), F.S.

Notice of Procurement Decisions and Protests

The bill creates a new system for agency notice of procurement decisions. It revises current law that permits a variety of noticing methods, including mail, hand delivery, and posting at the place where bids were opened, to require all procurement decisions to be posted on a centralized website that is to be maintained by the Department of Management Services (DMS). This change is expected to lower current costs associated with procurement noticing due to the elimination of delivery fees, and to provide greater public notice with its requirement of uniform agency notice that may be easily accessed through the Internet.

Further, the bill clarifies the time for filing a notice of protest. It provides that the posting of notice on the Internet triggers the 72-hour time frame for filing a notice of protest to a procurement decision; whereas, under current law, either posting or receipt of notice, depending upon the method of notice selected by the agency, triggers this time frame. Current law's provisions can result in several different 72-hour windows for the same procurement decision; however, under the bill, only one 72-hour window will be available.

The bill also provides that the amount of the bond to be filed by a protestor is one percent, rather than current law's requirement of one percent or $5,000, whichever is less. The amount of the bond is to be determined by the agency based on the contract price submitted by the protestor, or

if no price was submitted, based on the price of previous or existing contracts for similar purchases, the amount appropriated for the purchase, or the fair market value of similar purchases. The agency must provide the amount to the protestor within 72 hours after the notice of protest is filed.

Exceptional Purchases

The bill enhances requirements for agency use of sole source and emergency purchase exceptions. Under the bill, an agency must electronically post a description of the desired commodity or contractual service on the DMS purchasing website for at least seven days whenever the agency believes that the purchase is only available from a single source. Current law requires only that an agency document its determination that only a single source is available. Further, the bill requires agencies to obtain pricing information from at least two vendors prior to making a non-competitive emergency purchase, unless doing so will increase the immediate danger to the state. Current law requires only that an agency make an emergency purchase with such competition as is practicable.

These new exceptional purchase requirements are in response to an Auditor General report which faulted agencies for failing to: (a) document their decisions to use the single source exception; (b) provide documentation that supported the assertion that the vendor was the single source available; and (c) demonstrate the impracticability of competition during an emergency procurement. See "Single Source and Emergency Procurement, Selected State Agencies and the Department of Management Services Operational Audit," Auditor General, September 2001.

Other Chapter 287, F.S., Changes

The bill revises numerous other provisions in ch. 287, F.S., that include: (a) clarifying that state term contracts must be competitively procured; (b) clarifying that agency contracts may only be renewed if competitively procured and for a period no longer than three years or the original term of the contract, whichever is greater; (c) permitting "eligible users," as defined by DMS rule, to participate in state term contracts and the online procurement system so that greater economies of scale may be achieved in state purchasing; (d) clarifying that information technology must be competitively procured in the same manner as commodities; (e) creating a request for an information tool that allows agencies to make a written request to vendors for information about available commodities or services; (f) providing RESPECT, a nonprofit agency for the blind and other severely handicapped, with the same purchasing preferences statutorily accorded to PRIDE, a nonprofit corporation for correctional work programs; (g) requiring that persons selected to negotiate contracts in ITN procurements have prior negotiation experience; (h) alphabetizing the definition section; (i) defining new terms for purposes of clarity and consistency of use; and (j) striking duplicative and outdated provisions.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 31-7; House 115-0

PUBLIC HEALTH

HB 615 — Federally Qualified Health Centers

by Reps. Bilirakis, Murman, and others (SB 2058 by Senator Silver)

The bill creates a program to provide financial assistance to federally qualified health centers that apply and demonstrate a need for such assistance in order to sustain or expand their provision of primary and preventative health care to low-income Floridians. A seven-member review panel must be established, made up of four persons appointed by the Secretary of the Department of Health and three persons appointed by the chief executive officer of the Florida Association of Community Health Centers, Inc., to review all applications for financial assistance under the program. Criteria for the evaluation of the applications are specified and the panel must determine the weight for scoring and evaluating specified elements. The Department of Health is authorized to contract with the Florida Association of Community Health Centers, Inc., to administer the program and to provide technical assistance to health centers selected to receive assistance.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 106-0

CS/CS/HB 817 — Newborn Infant Screening

by Healthy Communities Council; Health Regulation Committee; and Rep. Sobel and others (CS/CS/SB 2002 by Governmental Oversight & Productivity Committee; Health, Aging & Long-Term Care Committee; and Senators Wasserman Schultz and Saunders)

The bill creates the Infant Screening Programs Task Force within the Division of Children's Medical Services Prevention and Intervention of the Department of Health. Fifteen members are assigned to the task force. The task force is required to conduct comparative research regarding the infant screening programs currently operating in other states, make recommendations regarding the state's newborn infant screening requirements, and develop a newborn infant screening plan tailored to the needs of Florida's population. The task force's research must be completed by August 1, 2002, and its recommendations and plan submitted to the Secretary of the Department of Health, the Governor, and the Legislature by September 1, 2002.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 116-0

SB 968 — Florida Healthy Kids Corporation/Operating Fund

by Senator Silver

Senate Bill 968 allows the Florida Healthy Kids Corporation to maintain an operating fund equal to no more than 25 percent of annualized operating expenses. The bill requires that upon the dissolution of the Corporation, any remaining cash balances of state funds shall be returned to the state General Revenue Fund, or other state funds consistent with appropriated funding, as provided by law.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 93-26

CS/SB 1262 — Bioterrorism Threats/Department of Health

by Health, Aging & Long-Term Care Committee and Senator Brown-Waite

The bill revises the rulemaking authority of the Department of Health by authorizing the department to require vaccination or quarantine under certain conditions. The bill amends s. 381.00315, F.S., relating to public health advisories, to define "public health advisory" to mean any warning or report giving information to the public about a potential public health threat. A "public health emergency" is defined to mean any occurrence, or threat thereof, whether natural or man made, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters.

The State Health Officer is required to consult with the Governor and to notify the Chief of Domestic Security Initiatives before declaring a public health emergency. A declaration of a public health emergency may continue only for 60 days unless the Governor concurs in the renewal of the declaration.

The bill authorizes the State Health Officer to take specified actions to protect the public health during a declared public health emergency, including: giving shipping priorities for specified drugs; directing the compounding of bulk prescription drugs and specifying the use of such drugs; reactivating the inactive licenses of certain practitioners to provide services during the emergency; and ordering an individual to be examined, tested, vaccinated, treated, or quarantined for certain communicable diseases under specified circumstances. Benefits for volunteers acting under a public health emergency are specified. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to quarantine.

The bill extends immunity from civil liability under the Good Samaritan Act to persons who gratuitously and in good faith render emergency care or treatment in direct response to emergency situations related to and arising out of a public health emergency declared pursuant to

s. 381.00315, F.S. Immunity from civil liability under the Good Samaritan Act is also extended to any licensed hospital, any employee of such hospital working in a clinical area within the facility and providing patient care, and any person licensed to practice medicine who in good faith renders medical care or treatment necessitated by a public health emergency declared pursuant to s. 381.00315, F.S.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 34-0; House 118-0

CS/SB 1766 — Shaken Baby Syndrome - "Kimberlin West Act of 2002"

by Health, Aging & Long-Term Care Committee and Senators Sullivan and Cowin

The bill requires every hospital, birthing facility, and provider of home birth which has maternity and newborn services to provide parents of a newborn, before they take their newborn home from the hospital or birthing facility, with written information concerning the dangers of shaking infants and young children. The Department of Health must prepare a brochure that describes the dangers of shaking infants and young children, ways to manage the causes that lead a person to shake infants and young children, and ways to reduce the risks that can lead a person to shake infants and young children.

A hospital, birthing facility, or a home-birth provider is not precluded from providing the required information as a part of any other required information. The state or any hospital, birthing facility, or home-birth provider is not civilly liable for failure to give or receive the information required under the bill.

The bill revises provisions relating to the abrogation of privileged communications in cases involving child abuse, abandonment, or neglect. The privileged quality of specified communications shall not constitute grounds for failure to cooperate with law enforcement. The bill also extends to a law enforcement officer the existing authority of the Department of Children and Family Services to petition a court for an order to gain access to specified records relevant to abuse allegations under investigation when any person refuses access to such records.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 35-0; House 114-0

NURSING SHORTAGE SOLUTIONS

CS/CS/CS/HB 519 — *Nursing Shortage Solutions/Public School Volunteer Health Care Practitioners*

by Lifelong Learning Council; Health & Human Services Appropriations Committee; Colleges & Universities Committee; and Reps. Murman, Fasano, Green, Harrell, and others (CS/SB 1618 by Health, Aging & Long-Term Care Committee and Senators Saunders, Geller, Sanderson, Miller, Cowin, and Lawson)

Nursing Shortage Solution Act

The bill creates the Nursing Shortage Solution Act to make it easier for individuals to enter the nursing profession and for nurses from other states and territories to become licensed to practice nursing in Florida. The bill modifies the repayment provisions of the Nursing Student Loan Forgiveness Program to make them more consistent with the provisions of similar state loan forgiveness programs. The bill removes the provisions requiring a certain percentage of the loan to be retired per year and provides that the Department of Health (DOH) may make loan principal repayments of up to $4,000 per year for up to a maximum of four years on behalf of selected graduates of accredited or approved nursing programs. All repayments are contingent upon continued proof of employment in a designated facility in this state. The repayments are made directly to the holder of the loan. The state is not responsible for the collection of any interest charges or other remaining balance.

The bill provides for continuity of repayments on behalf of the employee should the designated facilities be changed after repayment has begun. In the event that the designated facilities are changed, a nurse shall continue to be eligible for loan forgiveness as long as he or she continues to work in the facility for which the original loan repayment was made and otherwise meets all conditions of eligibility.

Students receiving a nursing scholarship pursuant to s. 240.4076, F.S., are not eligible to participate in the Nursing Student Loan Forgiveness Program.

The bill simplifies the eligibility provisions of the Nursing Scholarship Program by providing that a scholarship applicant must be enrolled in an approved nursing program leading to the award of an associate degree, a baccalaureate degree, or a graduate degree in nursing. The bill removes the requirement that a student enrolled in the upper division of a baccalaureate program or a graduate degree program be enrolled in a nursing program that upon graduation will qualify the student for a nursing faculty position or as an advanced registered nurse practitioner.

The bill simplifies the repayment provisions of the Nursing Scholarship Program by restructuring the penalty provisions for scholarship recipients who fail to fulfill the obligations of the scholarship. A recipient must repay to DOH, on a schedule determined by the department, the entire amount of the scholarship plus 18 percent interest accruing from the date of the

scholarship payment, if the recipient fails to fulfill the obligations of the scholarship under any of the following conditions:

- The recipient does not complete an appropriate program of study.
- The recipient does not become licensed.
- The recipient does not accept employment as a nurse at an approved health care facility.
- The recipient does not complete 12 months of approved employment for each year of scholarship assistance.

The bill creates the Sunshine Workforce Solutions Grant Program to provide grants for middle school exploratory programs and high school nursing programs. Grants are to be provided to school districts on a competitive basis and may be used for instructional equipment, laboratory equipment, supplies, personnel, student services, or other expenses associated with development of a nursing program.

The bill extends the licensure by endorsement option to nurses currently licensed in a territory of the U.S. whose exams and requirements are determined to be substantially equivalent to Florida and to those who have actively practiced nursing in another state, jurisdiction, or territory for two of the preceding three years without having had his or her license acted against.

The bill modifies the provisions governing approval of nursing programs by the Board of Nursing (the Board). An exemption from certain Board rules is provided for any nursing program that maintains accreditation through a nursing accrediting body recognized by the United States Department of Education, provided that the program maintains a student pass rate on the National Clinical Licensure Exam of not less than ten percentage points below the national average pass rate as reported annually by the National Council of State Boards of Nursing. The Board must review an institution whose passing rate on the National Clinical Licensure Examination falls below the standard established in the bill and may assist an institution in complying with the standard.

The bill amends the grounds for denial of a nursing license or disciplinary action, to add "engaging in acts for which the licensee is not qualified by training or experience" as grounds for those actions.

Public School Volunteer Health Care Practitioner Act

The bill creates the Public School Volunteer Health Care Practitioner Act to provide incentives for health care practitioners to provide their services in the public schools without receiving compensation. The practitioner must be a licensed physician, physician assistant, nurse, pharmacist, optometrist, dentist, dental hygienist, midwife, speech pathologist or physical therapist who has submitted fingerprints, passed a background check and completed all forms and procedures in order to participate in the program.

A participating practitioner will receive a waiver for his or her biennial license renewal fee and 25 hours of continuing education credits. Active practitioners must volunteer at least 80 hours per school year and retired practitioners must volunteer 400 hours per school year to receive the waiver and education credits. School districts may schedule the practitioners at their discretion.

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

CS/SB 1806 — Florida Center for Nursing Trust Fund

by Health, Aging & Long-Term Care Committee and Senator Silver

The bill creates the Florida Center for Nursing Trust Fund to be administered by the Department of Health. Section 464.0195(3), F.S., (as created in CS/SB 1808) requires the Board of Nursing to include on its initial and renewal application forms a question on whether the nurse would voluntarily contribute to the Florida Center for Nursing. Revenues collected from the nurses must be deposited in the Florida Center for Nursing Trust Fund and must be used solely to support and maintain the goals and functions of the Florida Center for Nursing.

This bill exempts the trust fund from service charges imposed under s. 215.20, F.S. This bill provides that any balance in the trust fund at the end of the fiscal year must remain in the trust fund at the end of the year and must be available for carrying out the purposes of the trust fund. In accordance with s. 19(f)(2), Art. III of the State Constitution, the Florida Center for Nursing Trust Fund is scheduled to terminate on July 1, 2006, and must be reviewed prior to that repeal date as provided by s. 215.3206(1) and (2), F.S.

If approved by the Governor, these provisions take effect July 1, 2002, if Senate Bill 1808 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.
Vote: Senate 32-0; House 116-0

CS/SB 1808 — The Florida Center for Nursing

by Health, Aging & Long-Term Care Committee and Senator Silver

The bill requires the Board of Nursing to include on its initial and renewal nursing licensure application forms a question on whether the nurse would voluntarily contribute to the Florida Center for Nursing, in addition to paying the license fees imposed on licensure applicants. The bill provides that revenues collected from the nurses must be deposited in the Florida Center for Nursing Trust Fund and must be used solely to support and maintain the goals and functions of the Florida Center for Nursing.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 115-0

MEDICAID

CS/SB 2048 — The Jennifer Knight Medicaid Lung Transplant Act

by Health, Aging & Long-Term Care Committee and Senator Saunders

This bill requires the Agency for Health Care Administration Medicaid program to pay for medically necessary lung transplant services for Medicaid recipients, subject to the availability of funds and subject to any limitations or directions provided for in the General Appropriations Act or ch. 216, F.S. The bill exempts adult lung transplants from the requirement for county contributions to Medicaid for inpatient hospitalization.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 111-0

LONG-TERM CARE

CS/SB 276 — Nursing Homes/Assisted Living Facilities

by Governmental Oversight & Productivity Committee and Senator Crist

This bill revises the membership of the Governor's Panel on Excellence in Long-Term Care and adds three members: one representing the Florida Silver Hair Legislature; one representing the Florida Alliance for Retired Americans; and an elder law attorney appointed by The Florida Bar. In addition, in the revised panel membership, four of the appointees must be consumer advocates for senior citizens who meet criteria specified in the bill. The terms of panel members are staggered, and a member may a serve a maximum of two 4-year terms.

The bill amends s. 400.4195, F.S., to delete the specific terms "physician" and "surgeon" from the list of entities for whom patient brokering is prohibited in assisted living facilities (ALF) and replaces those terms with the broader terms "health care practitioner" and "health care facility." The bill permits an ALF to market the facility for a fee or commission based on the volume or value of referrals to the facility, provided that specified conditions apply:

- The facility is not subject to the provisions of 42 U.S.C. s. 1320a-7b (penalties for acts involving federal health care programs);
- Payment to the contract provider is made under a nonexclusive contract;
- The contract provider represents multiple facilities with different owners;

- The employee or contract provider indicates to all clients prior to referral that he or she represents the facility in addition to all other facilities represented by the person or agency; and

- The employee or contract provider is not a health care practitioner in a position to make a referral to an ALF; is not employed by a health care facility or any other organization or agency in a position to make a referral to an a ALF; does not have an ownership interest in an ALF; does not contract with a health care facility, its employees, or other contract providers for access to discharge of disabled persons to an ALF; and cannot offer the client any money or gift as an enticement for services.

The contract provider must undergo a level 2 background screening and must register with the Agency for Health Care Administration (AHCA). If the contract provider does not meet the requirements of the law, AHCA will deny the registration. If a contract provider fails to meet the requirements of the law, AHCA may revoke or suspend the registration or may impose a fine, not to exceed $1,000 per nonwilling violation up to a total of $10,000 for all nonwilling violations arising out of the same action. For a knowing and willful violation, the fine may not exceed $10,000 for each violation and may not exceed $100,000 for all knowing and willful violations arising out of the same action.

AHCA may adopt rules to implement these requirements.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 36-0; House 116-0

CS/SB 1276 — Health and Human Services Eligibility Access/Consumer Directed Care/Long-Term Care

by Appropriations Committee and Senator Silver

Florida Health and Human Services Eligibility Access System

The bill creates the Florida Health and Human Services Access Act which establishes a framework for phased implementation of improvements in the delivery of state-funded health and human services. The improvements anticipated by the bill relate to better access to information about available services through the development of a statewide information and referral system using the 211 telephone number, a simplified eligibility determination process linked to information and referral services, and development of coordinated care management for families and individuals with multiple needs.

The first phase of implementing these improvements is a pilot project to be conducted by the Agency for Health Care Administration (AHCA) to determine the feasibility of integrating state-funded health care benefit eligibility determination with information and referral services. The

bill establishes a steering committee to guide the implementation of the pilot project, to evaluate the pilot project, and to make recommendations to the Governor and the Legislature regarding expansion of the pilot project, both geographically and to include eligibility determination for other human services. The bill requires the steering committee to also develop a detailed implementation plan for the care-management component of the system, contingent upon success of the pilot project and the appropriation of necessary resources.

The bill authorizes the planning, development, and, subject to appropriations, the implementation of a statewide Florida 211 Network, establishes objectives for the network, and requires information and referral services to be certified by AHCA in order to participate in the network. The bill also provides a mechanism for the revocation of a 211 number from an information and referral provider, if the provider is not certified by AHCA.

Model Integrated Long-Term Care System

The bill amends s. 409.912, F.S., to authorize AHCA to contract with an entity that has been authorized under s. 430.205, F.S., to contract with AHCA and the Department of Elderly Affairs (DOEA) to provide health care and social services on a prepaid or fixed-sum basis to elderly recipients. Such entities are granted an exemption from the requirements of part I of ch. 641, F.S. (requirements for Health Maintenance Organizations), for the first three years of operation. An entity that is backed by the full faith and credit of a county is also allowed an exemption from s. 641.225, F.S. (HMO surplus requirements).

The bill creates a new subsection (6) of s. 430.205, F.S., which directs DOEA and AHCA to develop a model system to transition all state-funded services for elderly individuals over the age of 65 in one of the department's planning and service areas to a managed, integrated long-term-care delivery system under the direction of a single entity. The bill specifies the duties of the model system, which include organizing the system, obtaining contracts for services, monitoring the quality of services provided, determining need and disability for payment purposes, and other activities determined by the department and the agency in order to operate the model system.

AHCA and DOEA are to integrate all funding for services to individuals over the age of 65 into a single per-person, per-month payment rate, and the funding sources to be integrated are specified in the bill. Payments for services provided to the elderly are to be made only through the model delivery system. The entity selected to administer the model system is to develop a comprehensive service delivery system through contracts with providers and may not directly provide services other than intake, assessment, and referral services.

The department is to determine which of its planning and service areas is to be designated as the model area through a request for proposals process and must select the model area and entity to administer the model system based on demonstration of capacity to perform certain functions specified in the bill. Preference is to be given to an existing area agency on aging or community-care-for-the-elderly lead agency that demonstrates the ability to perform the functions.

The bill specifies payment rates and risk-sharing agreements. DOEA and AHCA are authorized to seek federal waivers necessary to implement the model system. The Department of Children and Family Services is to develop a streamlined and simplified eligibility system and outstation Medicaid eligibility determination staff with the administering entity. DOEA is to outstation nursing home preadmission screening staff in the model area for timely assessment of level of need for long-term-care services and is to conduct, or contract for, an evaluation of the pilot project and submit a report to the Governor and Legislature by January 1, 2005, addressing specified issues.

The Office of Long-Term Care Policy

The bill establishes the Office of Long-Term Care Policy in DOEA to evaluate, improve, and coordinate the long-term care service delivery process, and to make recommendations to increase the availability and use of noninstitutional settings. The Director of the Office of Long-Term Care Policy is to be appointed by, and serve at the pleasure of, the Governor and must be under the general supervision of the Secretary of Elderly Affairs. The Office is to have a thirteen-member advisory council, whose chair is to be the Director of the Office of Long-Term Care Policy, to provide assistance and direction to the office and ensure that the appropriate state agencies are properly implementing recommendations from the office. DOEA is to provide administrative support and services to the Office of Long-Term-Care Policy. Each state agency represented on the advisory council is to make at least one employee available to work with the office. All state agencies and universities are to assist the office in carrying out its responsibilities.

The office is to submit to the advisory council, by December 1, 2002, a preliminary report of its policy, legislative and funding recommendations and is to revise and update the report annually and resubmit it to the advisory council by November 1 of each year. The advisory council is to review and recommend changes to the preliminary report and each subsequent annual report within 30 days after the receipt of the preliminary report and recommend suggested changes to the Director of the Office of Long-Term-Care Policy. The office is to submit the final report, and subsequent annual reports, to the Governor and Legislature within 30 days after receipt of any revisions suggested by the advisory council.

The Consumer-Directed Care Program

The bill creates s. 409.221, F.S., the "Florida Consumer-Directed Care Act," which establishes the consumer-directed care program. The bill provides legislative findings regarding community-based care and consumer choice and control in selecting services and providers, and specifies that the intent of the Legislature is to nurture the autonomy of Floridians who have disabilities by providing long-term care services in the least restrictive, appropriate setting and to give such individuals more choices in, and greater control over, the long-term care services they receive.

AHCA is required to establish the consumer-directed care program, and to establish interagency cooperative agreements with and work with DOEA, the Department of Health (DOH), and the Department of Children and Family Services (DCF) to implement and administer the program. The program must allow enrolled persons to choose the providers of services and to direct the delivery of services, to best meet their long-term care needs. The program must operate within the funds appropriated by the Legislature.

Persons who are enrolled in one of the Medicaid home and community-based waiver programs and are able to direct their own care, or to designate an eligible representative, may choose to participate in the program. The bill defines the terms "budget allowance," "consultant," "consumer," "fiscal intermediary," "provider," and "representative" for the purposes of s. 409.221, F.S.

Consumers enrolled in the program will be given a monthly budget allowance based on their assessed functional needs and the financial resources of the program. Consumers are to receive the budget allowance directly from an AHCA-approved fiscal intermediary. Each department must develop purchasing guidelines, approved by AHCA, to assist consumers in using the budget allowance to purchase needed, cost-effective services. Enrolled consumers must use the monthly budget allowance only to pay for home and community-based services that meet their long-term care needs and are cost efficient. The bill provides a list of services consumers can purchase, but does not limit the allowable services to those on the list.

The bill describes the roles and responsibilities of the consumers, the agencies involved in the program, and the fiscal intermediary. Consumers must be allowed to choose the providers of services and how services are to be provided. A consumer's neighbor, friend, spouse, or relative may be a provider. The consumer's roles and responsibilities are listed and differentiated according to whether the consumer is, or is not, the employer of record.

All persons who render care through the program must comply with the background screening requirements of s. 435.05, F.S. Persons excluded from employment may request an exemption from disqualification. AHCA must reimburse, as allowable, the costs of background screening of caregivers who actually become employed by consumers. A person who has been screened, who is qualified for employment, has not been unemployed more than 180 days following screening and who attests under penalty of perjury to not having been convicted of a disqualifying offense since completing the screening is not required to be re-screened.

AHCA, DOEA, DOH, and DCF may adopt and enforce rules to implement the bill. AHCA is required to ensure compliance with federal regulations and apply for necessary federal waivers or waiver amendments needed to implement the program. AHCA, DOEA, DOH and DCF are required to review and assess the implementation of the program. By January 15 of each year, AHCA must submit a report to the Legislature that includes each department's review of the program, and contains recommendations for improvements.

Plan to Reduce Nursing Home Bed Days Under Medicaid

The bill requires AHCA, in consultation with DOEA, by December 1, 2002, to submit a plan to reduce the number of nursing home bed days purchased by the state Medicaid program and to replace such nursing home care with care provided in less costly alternative settings. The plan is to include specific statutory and operational changes to achieve the reductions and must include an evaluation of the cost-effectiveness and relative strengths and weaknesses of programs that are alternatives to nursing homes.

Certificate of Need for Nursing Facilities

The bill amends s. 408.034, F.S., modifying the methodology by which AHCA determines need for additional community nursing facility beds. Prior to determining that there is a need for additional community nursing facility beds, AHCA must determine that the need cannot be met through the provision, enhancement, or expansion of home and community-based services. As part of this determination, the agency must examine nursing home placement patterns and demographic patterns of persons entering nursing homes and the effectiveness of existing home and community-based service delivery systems in meeting the long-term care needs of the population. The agency is to recommend changes to the existing home and community-based delivery system to lessen the need for additional nursing home beds.

Medicaid In-Home Physician Services Expansion

The bill amends s. 409.912, F.S., to allow AHCA to contract with an entity on a risk-sharing basis, to provide in-home physician services for the purpose of testing the cost effectiveness of enhanced home-based medical care to Medicaid recipients with degenerative neurological diseases and other diseases or disabling conditions associated with high costs to Medicaid. The program is to be designed to serve very disabled persons and to reduce Medicaid costs for inpatient, outpatient, and emergency services.

The CARES Program

The bill creates a new subsection (13) of s. 409.912, F.S., to add requirements for the CARES nursing facility-preadmission screening program to ensure that Medicaid payment for nursing facility care is made only for individuals who require such care and to ensure that long-term care services are provided in the most appropriate setting and in the most economical manner possible. The program is also to ensure that participants in Medicaid home and community-based services programs meet criteria for those programs consistent with approved federal waivers.

AHCA must operate the CARES program through an interagency agreement with DOEA. Prior to making payment for nursing facility services for a Medicaid recipient, AHCA must verify that the nursing facility preadmission screening program has determined that the person requires nursing facility care and cannot be safely served in community-based programs. The agency is to

submit a report by January 1 of each year to the Legislature and to the Office of Long-Term Care Policy describing the rate of diversion to alternatives, staffing needed to improve the diversion rate, reasons the program is unable to place individuals in less restrictive settings, barriers to appropriate placement, including those due to operations of other agencies or state-funded programs, and statutory changes necessary to ensure that individuals in need of long-term care services receive such care in the least restrictive environment.

The Nursing Home Transition Program

The bill creates s. 430.7031, F.S., establishing the Nursing Home Transition Program to assist individuals in nursing homes to regain independence and to move to less costly settings. DOEA and AHCA are to work together to identify long-stay residents who could be moved out of nursing homes, and to provide services to assist these individuals to move to less expensive and less restrictive care. The two agencies are to modify existing service delivery systems or develop new systems, and are required to offer long-stay residents priority placement in all home and community-based care programs. DOEA and AHCA may seek federal waivers necessary to administer the program.

Provisions Relating to Nursing Homes and Assisted Living Facilities

The bill provides that a lease agreement that is required as a condition of bond financing, required by a health facilities authority, or required by a county or municipality is not a leasehold for the purposes of s. 400.179(5)(d), F.S., and is not subject to the requirement that a leaseholder acquire and maintain a 30-month bond in an amount equal to 3 months' Medicaid payments to the facility.

The bill amends s. 400.141, F.S., to permit a state-designated teaching nursing home and its affiliated assisted living facilities, in lieu of general and professional liability coverage, to demonstrate financial responsibility by means of a dedicated escrow account or irrevocable letter of credit in the amount of $750,000. These funds are to be used to satisfy a judgment or settlement agreement in a liability action against the facility.

The bill exempts nursing homes and assisted living facilities from certain cosmetology salon requirements when a licensed cosmetologist provides salon services exclusively for facility residents.

Long-Term Care Insurance Standards

The bill authorizes the Department of Insurance to adopt, by rule, those provisions of the National Association of Insurance Commissioners model long-term care insurance regulation that are not in conflict with the Florida Insurance Code.

Changes to Long-Term Care Ombudsman Program

The bill makes changes to the membership, training requirements, and independent status of the Long-Term Care Ombudsman Program. Rather than being administratively housed in DOEA, the program will be administered by the Secretary of DOEA. The State Long-Term Care Ombudsman will be appointed by, and serve at the pleasure of, the Secretary of DOEA, and the secretary will also approve the hiring of local ombudsman council staff. The DOEA will develop, and the secretary will approve, procedures for Long-Term Care Ombudsman Council investigations.

All volunteers and appropriate employees of the Office of the State Long-Term Care Ombudsman must be given 20 hours of initial training and 10 hours of continuing education annually, on subjects specified in the bill. The State Long-Term Care Ombudsman Council must publish quarterly reports of the number and types of complaints received. The maximum number of members on a local long-term care ombudsman council is increased from 30 to 40 members.

The bill repeals s. 400.0066(2) and (3), F.S., which required that DOEA, AHCA, and DCF not interfere in the performance of official duties of ombudsman staff or volunteers, and which delineated administrative support services DOEA would provide for the Ombudsman program. The repeal conforms the section with the transfer of administration of the program to DOEA.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 36-0; House 120-0

SB 1378 — Health Care/Union Organizing

by Senator Meek

Senate Bill 1378 provides that nursing home employees may not participate in any activity related to union organizing during time that is counted toward minimum staffing requirements and that salaries paid by any health care provider to an employee for union organizing may not be an allowable cost for Medicaid cost reporting. Furthermore, the bill provides that any expenses incurred for activities directly relating to influencing employees with respect to unionization are not an allowable cost for Medicaid cost reporting purposes. The bill specifies, however, that its prohibitions do not apply to protected labor activities, such as addressing grievances or negotiating collective bargaining agreements; performing activities required by federal or state law or by a collective bargaining agreement; or normal personnel management communication between employees and employers.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 35-0; House 119-0

HEALTH CARE REGULATION

SB 264 — Drug-free Workplaces

by Senators King and Crist

Senate Bill 264 requires construction contractors, electrical contractors, and alarm system contractors, who contract to perform construction work under state contracts for educational facilities, public property and publicly owned buildings, and state correctional facilities to implement a drug-free workplace program. The bill requires an employer to conduct drug testing of employees and job applicants in order to qualify as having established a drug-free workplace under s. 440.102, F.S.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 39-0; House 117-1

SB 604 — Pharmacy

by Senators Saunders and Crist

The bill creates a mechanism for Florida-licensed pharmacies that have the same owner, or that have a written contract specifying the services to be performed, to share pharmacy duties. The bill defines "centralized prescription filling," requires each pharmacy performing or contracting for the performance of centralized prescription filling to maintain a policy and procedure manual containing specified information, and clarifies that the filling of a prescription by one pharmacy for another pharmacy is not the filling of a transferred prescription or wholesale distribution. The bill requires the Board of Pharmacy to adopt rules to implement the requirements for centralized prescription filling by Florida-licensed pharmacies.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 39-0; House 113-0

CS/CS/SB 640 — Criminal Offenses/Health Care Practitioners; Controlled Substances

by Judiciary Committee; Health, Aging & Long-Term Care Committee; and Senator Burt

The bill provides that in any criminal proceeding against a person who is licensed by the Department of Health to practice a health care profession in Florida, a representative of the department may voluntarily appear and furnish pertinent information, make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote justice or protect the public. The court is authorized to require a representative of the Department of Health to appear if the criminal proceeding relates to the qualifications, functions, or duties of the health care professional.

The bill enhances the penalty applicable to the existing criminal offense for withholding information from a practitioner from whom a person seeks to obtain a controlled substance or a prescription for a controlled substance. Failure to notify a practitioner that the person has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the last 30 days is changed from a first degree misdemeanor to a third degree felony offense. The bill creates third degree felony offenses for a health care practitioner to knowingly assist a person in obtaining a controlled substance through fraud; employ a trick or scheme to assist a person to obtain a controlled substance; prescribe a controlled substance for a fictitious person; or prescribe a controlled substance for purposes of monetary benefit. The bill reclassifies any of these third degree felonies to a second degree felony if the practitioner received $1,000 or more in payment or if the quantity of the controlled substance prescribed meets the threshold for the offense of drug trafficking.

The bill provides that if a health care practitioner writes a prescription that is not medically necessary, or is in excess of what is medically necessary, that fact may be considered with other competent evidence in determining whether the practitioner knowingly assisted the patient in obtaining a controlled substance through deceptive, untrue, or fraudulent representations. The bill expressly provides that this provision does not create a presumption that the practitioner knowingly assisted the patient in obtaining a controlled substance through deceptive, untrue, or fraudulent representations.

The bill amends the law to revise the offense severity ranking chart in the Criminal Punishment Code to move the offenses for affixing a false or forged label to a package of controlled substances and for withholding information from a practitioner regarding the previous receipt of, or prescription for, a controlled substance from level 1 to level 3. In addition, offenses created in the bill that prohibit a prescribing practitioner from specified acts are ranked as level 3 offenses on the offense severity ranking chart.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 35-0; House 116-1

SB 1028 — Pharmacy/Continuing Education

by Senator Peaden

The bill revises the continuing education requirements for pharmacy license renewal. Any Florida-licensed pharmacist who submits satisfactory proof to the Board of Pharmacy that he or she has participated in not less than 30 hours of continuing professional pharmaceutical education courses approved by the board during the two year license renewal period no longer has to show that he or she participated in no less than 15 hours per year to satisfy the continuing education requirement.

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

HB 1405 — Health Care Practitioner Student Loans and Service Scholarship Obligations

by Health Regulation Committee and Rep. Farkas and others (SB 2298 by Senator Wise)

This bill requires the Department of Health, upon receipt of information that any Florida-licensed health care practitioner has defaulted on a student loan issued or guaranteed by the state or the federal government, to notify the licensed health care practitioner by certified mail that he or she is subject to immediate suspension of license unless, within 45 days after the date of mailing, the licensee provides proof that new payment terms have been agreed upon by all parties to the loan. The Department of Health must issue an emergency order suspending the license of any licensed health care practitioner who, after 45 days following the date of mailing from the department, has failed to provide such proof.

The bill revises a ground for discipline for failure to perform any statutory or legal obligation placed upon a licensed health care practitioner to provide that failing to repay a student loan issued or guaranteed by the state or the federal government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation. The minimum disciplinary action imposed must be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to ten percent of the defaulted loan amount.

The Department of Health must obtain from the United States Department of Health and Human Services information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations. The Department of Health must include statistics in its annual report to the Legislature regarding the number of practitioners in default, along with the results of its investigations and prosecutions, and the amount of fines collected from licensed practitioners for violating the provision of failing to perform a statutory or legal obligation.

If approved by the Governor, these provisions take effect upon becoming law and apply to any loan or scholarship that is in default on or after the effective date.
Vote: Senate 33-2; House 115-0

EVIDENCE CODE AND CIVIL ACTIONS

SB 528 — Attorney's Fees

by Senator Campbell

This bill amends s. 57.105, F.S., which provides for attorney's fees as sanctions for filing frivolous pleadings in civil actions or for delays in discovery. The bill provides that a party seeking sanctions under this section must give the opposing party 21 days to correct the offending action prior to filing the motion for sanctions or presenting the motion to the court.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 40-0; House 117-0

CS/HB 795 — Wrongful Death/Surviving Spouse

by Smarter Government Council and Rep. Seiler and others (SB 2144 by Senator Campbell)

This bill amends s. 768.21(3), F.S., which provides for damages that children may recover in a wrongful death action for the death of a parent. Currently, adult children of a deceased parent may not recover damages for mental pain and suffering, loss of parental companionship, guidance and instruction when the deceased parent leaves a surviving spouse. This bill provides that, if both spouses die within 30 days of one another as the result of the same wrongful act or series of acts arising out of the same incident, then each spouse is considered to have been predeceased by the other. Accordingly, in such situations, adult children of the deceased parents will be able to recover damages for mental pain and suffering arising from the death of both parents.

If approved by the Governor, these provisions take effect upon becoming law and will apply to any action accruing on or after such date.
Vote: Senate 30-1; House 119-0

SB 1946 — Premises Liability/Burden of Proof

by Senators Sebesta and Brown-Waite

This bill creates s. 768.0710, F.S., to provide standards relating to the standard of care and burden of proof in premises liability cases involving an injury to a business invitee that is caused by a transitory foreign object or substance. Specifically, the bill states that a person in possession or control of a business premises owes a duty to business invitees to exercise reasonable care to

maintain the premises in a reasonably safe condition. The bill also provides that the injured business invitee has the burden of proof to prove by a greater weight of the evidence that:

- The business premises owner or operator owed a duty to the claimant;
- The person or entity in possession or control of the business premises acted negligently by failing to exercise reasonable care in the maintenance, inspection, repair, warning, or mode of operation of the business premises; and
- The failure to exercise reasonable care was the legal cause of loss, injury, or damage.

Actual or constructive notice of the transitory foreign object or substance is not a required element of proof to the claim. However, evidence of notice or lack of notice offered by any party may be considered together with all of the evidence.

The provisions of this act apply to all causes of action pending on or after the effective date of the act.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 118-0

SB 2158 — Sexually Violent Offenders

by Senator Crist

This bill amends the "Jimmy Ryce Act," which provides for the post-sentence civil commitment of a sexually violent predator subsequent to his or her release from custody or termination of the sentence. It specifies a statutory mechanism for a sexually violent predator to raise habeas corpus claims based on challenges to the conditions, terms and location of confinement in an action other than the involuntary civil commitment proceeding, provided all administrative remedies have been exhausted. It also accords employees and officers of the Department of Legal Affairs the same immunity from civil liability as other agency, legal and professional staff for good faith conduct during the civil commitment process.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 117-0

FAMILY LAW

CS/SB 268 — Persons/Trust and Confidence Position

by Finance & Taxation Committee and Senator Carlton

This bill implements a number of measures relating to the authority and responsibility of persons who are in positions of trust and confidence, and the conduct of such persons as it affects the particularly vulnerable sector of the population of the elderly, minors, and physically and mentally disabled persons. Specifically, the bill:

- Creates another civil cause of action and a criminal theft offense based on the exploitation of an elderly person or disabled adult;

- Clarifies that the medical proxy provisions are applicable to allow someone to exercise health care decisions on behalf of a developmentally disabled person in the absence of an health care advance directive or surrogate designation, and any medical proxy authority can be amended or revoked by a person who regains his or her legal ability to exercise a health care decision;

- Authorizes the court to take action to protect a ward when a fiduciary has breached his or her duty to the ward;

- Expands a natural guardian's (i.e., a parent's) authority to settle a minor's claim from $5,000 to $15,000 without court approval or formal appointment of a legal guardian or guardian ad litem;

- Enhances the accountability of a professional guardian by requiring registration with the Statewide Public Guardianship Office (SPGO) by January 2003, who may in turn contract with the clerks of the court in each county to perform the administrative functions associated with registration, and by extending credit and background screening requirements to the professional guardian's employees except if the guardian is a financial institute; and

- Amends provisions governing public guardians by authorizing the establishment and professional staffing of local offices under the SPGO, by reducing the period from 10 years to 5 years in which unclaimed funds held by guardians escheat to the state for deposit into the Department of Elderly Affairs Trust Fund; by clarifying that those escheated funds are to be used for the benefit of public guardianships as now represented by the SPGO; and by creating a non-profit fundraising organization for the SPGO.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 115-0

SB 1222 — Public Records/Parents ID/Newborns

by Senator Saunders

This bill accords the same public records exemption for the identity of a parent who leaves a newborn infant at an emergency medical services station as already exists for the identity of a parent who leaves a newborn infant at a hospital or fire station in accordance with s. 383.50, F.S., relating to abandoned newborn infants. This bill is tied to substantive changes that were enacted last year in Chapter 2001-53, L.O.F., which expanded the types of facilities and personnel that may accept abandoned newborns.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 109-0

CS/SB 1236 — Marital Assets and Liabilities

by Judiciary Committee and Senators Jones and Crist

This bill amends s. 61.075(5), F.S., which provides for the equitable distribution of marital assets and liabilities in dissolution of marriage proceedings. The bill provides that nonmarital assets and liabilities include any liability incurred by forgery or the unauthorized signature of one spouse signing the name of the other spouse. Any such liability shall be a nonmarital liability only of the party who committed the forgery or affixed the unauthorized signature. The court may award attorney's fees and costs occasioned by the forgery or unauthorized signature. The provisions of this subsection do not apply to any forged or unauthorized signature that was subsequently ratified by the other spouse.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 34-0; House 118-0

CS/HB 549 — Child Custody Jurisdiction/Enforcement

by Smarter Government Council and Rep. Cantens and others (CS/SB 1312 by Judiciary Committee and Senator Campbell)

This bill amends provisions relating to child custody matters. It repeals the outdated Uniform Child Custody Jurisdiction Act (ss. 61.1302- 61.1348, F.S.) and enacts an updated Uniform Child Custody Jurisdiction and Enforcement Act (ss. 61.501- 61.542, F.S.), which has been adopted in more than 27 states. This Act attempts to facilitate the resolution and enforcement of interstate child custody matters by addressing ambiguities and inconsistencies arising from court interpretations and applications and subsequently adopted federal and international law over the last 25 years. Specifically, it establishes priority court jurisdiction based on the child's home state, provides mechanisms for granting temporary emergency jurisdiction, and sets forth procedures for the enforcement of out-of-state custody orders and the location of children, including assistance from law enforcement and prosecutors.

This bill also gives the court the discretion in child custody and visitation proceedings, where there is a risk a parent may remove or conceal a child out of the state or country, to impose one or more preemptive measures including requiring a bond or security to be posted. The court may only order one or more of these measures if there is competent substantial evidence of such risk or by stipulation of the parties. This court discretion may not be exercised in those cases involving a person who qualifies as an actual or threatened victim of domestic violence. When determining whether there is a risk of flight, the court may consider a number of factors but must consider a parent's financial resources if ordering the posting of a bond. Upon a material violation of an order against removal or concealment, the court may order that the bond be forfeited. The proceeds must then be used solely to reimburse costs and damages incurred for enforcement, for the location and recovery of a child, and for reasonable attorney's fees and costs in such enforcement and recovery. Any remaining funds are to be held as further security, to pay child support arrears or allocated by the court in the best interest of the child.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 35-2; House 119-0

CS/CS SB 1656 — Rape Crisis Centers

by Children & Families Committee; Judiciary Committee; and Senators Burt, Saunders, and Crist

This bill amends s. 90.5035, F.S., to provide that information provided to a trained volunteer providing services through a rape crisis center is privileged and confidential in the same manner as information provided to a sexual assault counselor.

Section 794.024, F.S., is amended to allow government employees or officers to provide rape crisis centers or sexual assault counselors with personal information related to victims or alleged victims of sexual offenses. This allows the rape crisis centers or the sexual assault counselors to then offer services to the victim.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 35-0; House 116-0

BUSINESS LAW

CS/SB 1066 — Secured Transactions - Uniform Commercial Code

by Judiciary Committee and Senators Campbell and Crist

Article 9 of the Uniform Commercial Code governs the process of establishing and foreclosing liens against personal property. Article 9 is found at ch. 679, F.S., entitled "Uniform Commercial

Code: Secured Transactions." In the 2001 legislative session, the Revised Article 9 of the Uniform Commercial Code, as prepared by the National Conference of Commissioners on Uniform State Laws, with Florida modifications, passed and was subsequently enacted into law as Chapter 2001-198, L.O.F. This bill corrects errors in that enactment and clarifies the relationship between fixtures filings and Florida real property law.

Some of the more significant aspects of the bill include:

- The bill creates a new subsection (10) to s. 679.2031, F.S., that provides that a security interest in an account consisting of a right to payment of a monetary obligation for the sale of real property that is the debtor's homestead under the laws of this state is not enforceable unless certain conditions are satisfied.

- The bill adds a new subsection (5) to s. 679.3011, F.S., which provides that Florida law governs the perfection of a security interest in goods that are, or are to become, fixtures in this state by the filing of a fixture filing. Also, Florida law governs the effect of perfection or nonperfection and the priority of a security interest in goods that are or are to become fixtures in this state.

- The bill adds a new subsection (6) to s. 679.3171, F.S. This new subsection provides that an encumbrancer or owner, other than the debtor or a lien creditor, who acquires an interest in real property in which goods are or become fixtures, takes free of any security interest in the goods when the interest in the goods is perfected only with a financing statement that is not filed as a fixture filing. The interest is free of the security interest even if the encumbrancer or owner knows of the existence of the security interest.

- The bill also adds a new subsection (7) to s. 679.3171, F.S. This provision states that the holder of a mortgage or other lien against real property arising under the laws of Florida, other than ch. 679, F.S., has priority with respect to rents, issues, profits, and proceeds of the real property, including proceeds from the sale thereof, over a security interest in an account consisting of a right to payment of a monetary obligation for the sale of the real property.

- The bill amends s. 679.334(4), F.S., to clarify that only a security interest filed as a fixtures filing is sufficient to establish the priority of the security interest in goods, which are or become fixtures.

- The bill amends s. 679.5011(1), F.S., to specify that the filing office for collateral that is or is to become fixtures is the office of the clerk of the circuit court and to specify that the filing office for all other security is the Florida Secured Transaction Registry.

- The bill makes changes to the provisions in s. 627.527(2), F.S., which governs the relationship between the Department of State and the vendor selected to operate the

Florida Secured Transaction Registry. Specifically, the bill provides that the Department of State may immediately reclaim and take possession and control of the financing statements and other records from the vendor when the vendor is adjudicated a debtor in an insolvency proceeding.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-0; House 117-1

JUDICIARY AND BAR

CS/SB 434 — Jury Lists/Current Information

by Transportation Committee and Senators Smith, Pruitt, Campbell, and Sanderson

This bill amends s. 40.011(1), F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV) to deliver to the clerk of the circuit court in each county, on a quarterly basis, a list of persons qualified for jury duty in that county. Currently, s. 40.011(1), F.S., only requires DHSMV to provide the jury lists to the clerks once a year.

The bill also amends s. 40.022(4), F.S., to direct the Department of Law Enforcement to establish procedures to enable each clerk to submit monthly the names and other identifying information about persons selected for the jury list. The Department is instructed to search its databases and return an automated file of matching records that will assist the clerk in evaluating whether a member of the jury pool should be disqualified under the provisions of s. 40.013(1), F.S. Section 40.013(1), F.S., provides that no person who is under prosecution for any crime, or who has been convicted in this state, any federal court, or any other state, territory, or country of bribery, forgery, perjury, larceny, or any other offense that is a felony in this state or which if it had been committed in this state would be a felony, unless restored to civil rights, shall be qualified to serve as a juror.

The bill also amends ss. 322.051(1) and 322.08(2), F.S., to require the Department of Highway Safety and Motor Vehicles to capture county of residence information from each holder of a Florida driver's license or identification card.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 38-0; House 114-0

CS/HB 1679 — Study Commission on Public Records

by Smarter Government Council; State Administration Committee; and Rep. Brummer (CS/CS/SB 668 by Governmental Oversight & Productivity Committee; Judiciary Committee; and Senator Burt)

The bill addresses provisions relating to the public records law and privacy within the context of and as affected by the Internet and other advanced technologies. It creates a 22-member Committee on Public Records to conduct a study on this issue in two parts. The first part of the study must focus on information contained in court records (and in the custody of the clerks of court) and the second part must focus on information contained in official records. A committee report is due by January 1, 2003.

The bill also imposes a moratorium on the Internet publication of select records and files in the custody of the clerks of the court, i.e., military discharges, death certificates, and any and all records and documents governed by the Florida Rules of Family Law, Florida Rules of Juvenile Procedure, and the Florida Probate Rules. The clerks of the court are required to remove, upon an affected party's request, specific records if those records were published prior to the effective date of the moratorium. The clerks of the court must also post notices as to an affected party's right to request removal of such records. The bill leaves untouched the statutory directive requiring the clerks of the court to publish all other official records on the Internet website by January 1, 2006.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 27-7; House 112-0

PROBATE AND ESTATES

CS/SB 720 — Probate and Trusts

by Judiciary Committee and Senator Burt

This bill makes substantive and technical changes to the Florida Probate Code, which governs the process for distribution of assets and payment of obligations subsequent to a person's death and for the administration of an estate or trust. This bill reflects the continuing effort first begun in 1999 to modernize the Code. Specifically, the bill:

- Revises the elective share law to clarify the sources from which an elective share is payable and to accord surviving spouses who are ill the same right and treatment as spouses who are disabled under the provisions governing the qualified special needs trusts;

- Revises provisions governing estate proceedings to codify the statement that in will challenges "the presumption of undue influence" shifts the burden of proof, and to clarify the statute of limitations period in which a creditor may assert a claim against an estate;

- Revises provisions governing the duties and rights of a fiduciary, including a trustee, to clarify that the doctrine of virtual representation applies to the judicial and nonjudicial administration of a trust, and all of that which binds a sole- or co-holder of a power of appointment also binds those who may take by virtue of that representation. It also requires trustees to be on notice of their fiduciary duties and responsibilities under state and federal law, to allow trustees to recover improperly distributed assets, and to codify trust accounting standards as already exist in estate administrations;

- Expounds upon the 6-month statute-of-limitations period to provide a beneficiary notice regarding the short time in which to assert a claim against a trustee once a limitations notice accompanying a trust disclosure document is received and conforms a similar provision in the banking code as it relates to a beneficiary's claim against a financial institute trustee; and

- Provides for the creation, validity, enforceability, and termination of trusts for the care of animals.

If approved by the Governor, these provisions take effect upon becoming, law except as otherwise provided.
Vote: Senate 36-0; House 117-0

HB 585 — Florida Uniform Principal and Income Act

by Rep. Goodlette and others (CS/CS/SB 1166 by Banking & Insurance Committee; Judiciary Committee; and Senator Posey)

This bill repeals the current provisions of ch. 738, F.S., and enacts the updated model Uniform Principal and Income Act, with several modifications specific to Florida. The Act embodies the underlying principle that a trust creator's intent should govern the interpretation and construction of a trust or other governing instrument such that the Act acts as a default in the event a trust or other governing document is silent as to the trustee's intent. The cumulative effect of the Act is to:

- Provide more precise procedures for trustees and personal representatives to follow in the administration of a trust or an estate, respectively;

- Specify more clearly what constitutes income and principal;

- Set forth the formulas for allocation of assets to principal and income;

- Ensure the proper amount of distribution to beneficiaries, heirs and devisees; and

- Change principal and allocation rules that are consistent and reflective of modern trust investment principles and practices.

If approved by the Governor, these provisions take effect January 1, 2003.
Vote: Senate 32-0; House 115-0

HB 813 — Everglades Restoration

by Reps. Dockery, Greenstein, Lacasa, Goodlette, Harrington, Atwater, Alexander, Gannon, and others (CS/SB 684 by Appropriations Committee; Natural Resources Committee; and Senators Saunders, Constantine, and Pruitt)

This bill provides an alternative to the existing mechanism for funding the state's annual $100 million share for Everglades restoration through the Comprehensive Everglades Restoration Plan (CERP). The bill authorizes the issuance of not more than $100 million in Everglades restoration bonds annually in FY 2002-2003 through 2010, unless the Department of Environmental Protection indicates that the opportunity to achieve cost savings or accelerate the purchase of land warrants additional bond sales. The bond funding may be used in combination with any other state funds. No bonds may be issued unless the Legislature appropriates the first year's debt service. The bonds will be retired using currently unallocated documentary stamp tax proceeds.

The bill deletes a requirement that $25 million of the South Florida Water Management District's Florida Forever funding be deposited into the Save Our Everglades Trust Fund and be counted toward the state's share of the CERP and requires the $50 million already so deposited to be used to implement the CERP.

The bill also includes provisions amending s. 373.114, F.S., that prohibit an appeal to the Government and Cabinet sitting as the Land and Water Adjucatory Commission (commission) from a final order resulting from a water management district evidentiary hearing. The commission is authorized to remand a case for a formal evidentiary hearing should additional findings of fact be required.

Section 403.412(5), F.S., (the Environmental Protection Act) is amended to prohibit a citizen from using the act to initiate administrative proceedings under ch. 120, F.S. The change does not limit a person's existing right to initiate ch. 120, F.S., proceedings if the person meets existing standing requirements, although the bill specifies that a person initiating an action need not demonstrate any special injury different in kind from the general public. An exception is provided for any Florida not-for-profit environmental corporation having 25 members residing in the affected county, which may continue to use the act to initiate ch. 120, F.S., proceedings if the corporation has been in existence for at least one year prior to the filing of the application at issue.

In a matter pertaining to a federally delegated or approved program, a citizen of the state may also initiate an administrative proceeding using the act if the citizen meets the standing requirements for judicial review of a case or controversy pursuant to Art. III, United States Constitution.

If approved by the Governor, except as otherwise provided, these provisions take effect July 1, 2002.
Vote: Senate 38-0; House 87-30

CS/HB 851 — Solid Waste Management

by Ready Infrastructure Council and Rep. Dockery and others (CS/CS/CS/SB 710 by Appropriations Committee; Finance & Taxation Committee; Natural Resources Committee; and Senator Pruitt)

This bill provides for the reallocation of the sales tax proceeds that are currently deposited into the Solid Waste Management Trust Fund. Under this bill, these proceeds (approximately $30 million annually) will be deposited into the Ecosystem Management and Restoration Trust Fund to be used for water quality improvement and water restoration projects. The Solid Waste Management Trust Fund would then be funded almost exclusively from existing fees on tires purchased at retail. The requirement that the state solid waste program must provide guidelines for the collection and transportation of solid waste is deleted. The requirement that the state solid waste management program be updated every 3 years is deleted.

The detailed language regarding what information the counties must submit to the Department of Environmental Protection (DEP) annually is deleted. Instead, the DEP would periodically seek information from the counties to evaluate and report on the success of meeting the solid waste reduction goal.

The counties must implement a recyclable materials recycling program; however, the counties are no longer required to recover a majority of the "minimum five." Instead, they are encouraged to recover a significant portion of at least four of the following materials: newspaper, aluminum cans, steel cans, glass, plastic bottles, cardboard, office paper, and yard trash. Local governments which operate permitted waste-to-energy facilities may retrieve ferrous and nonferrous metal as a byproduct of combustion. Counties are encouraged to consider plans for composting or mulching of organic materials and work in partnership with the private sector. Specific language regarding the amount of construction and demolition debris, yard trash, white goods, and tires that may be considered when determining the 30 percent waste reduction goal is deleted. A small county is redefined for the purposes of having to provide an opportunity to recycle in lieu of achieving the 30 percent goal. The provisions relating to the information counties must submit to the DEP are streamlined.

Construction and demolition debris must be separated from the solid waste stream in separate locations at a solid waste disposal facility or other permitted site. For clarification, the permit section, s. 403.707, F.S., was amended to provide that no facility that uses processed yard trash or clean wood or paper waste as a fuel source is deemed to be a solid waste disposal facility. These provisions currently exist and are moved from other sections in ch. 403, F.S.

The Solid Waste Management Trust Fund's purposes are refocused toward the core solid waste management responsibilities of the Department of Environmental Protection, funding for mosquito control activities in the Department of Agriculture and Consumer Services, and a new competitive and innovative solid waste management grant program. The department would use the new, reallocated funds in the Ecosystem Management and Restoration Trust Fund for a competitive grant program for water quality improvement and water restoration projects. Specifically, the bill provides that of the annual revenues deposited in the trust fund, unless otherwise specified in the General Appropriations Act:

- Up to 40 percent shall be used for funding solid waste activities of the DEP and other state agencies;

- Up to 4.5 percent shall be used for funding research and training programs relating to solid waste management through the Center for Solid and Hazardous Waste Management and other organizations which can reasonably demonstrate the capability to carry out such projects;

- Up to 11 percent shall be used for funding to supplement any other funds provided to the Department of Agriculture and Consumer Services for mosquito control;

- Up to 4.5 percent shall be used for funding to the Department of Transportation for litter prevention and control programs coordinated by Keep Florida Beautiful, Inc.;

- A minimum of 40 percent shall be used for funding a competitive and innovative grant program pursuant to s. 403.7095, F.S., relating to recycling and reducing the volume of municipal solid waste, including waste tires requiring final disposal.

The DEP is required to develop a competitive and innovative solid waste management grant program for eligible recipients – counties, municipalities, special districts, and non-profit organizations that have legal responsibilities for solid waste management. Potential grant recipients are encouraged to demonstrate local support for grant proposals by the commitment of cash or in-kind matching funds. The new grant program will begin with FY 2003-2004.

The DEP shall develop a consolidated grant program for small counties having populations fewer than 100,000, with grants to be distributed equally among eligible counties.

The DEP shall also develop a waste tire grant program making grants available to all counties. The department shall ensure that at least 25 percent of the funding available for waste tire grants is distributed equally to each county having a population fewer than 100,000. Of the remaining funds distributed to counties having a population of 100,000 or greater, the department shall distribute those funds on the basis of population.

From the funds available for the solid waste management grants program, the distribution is to be as follows:

- Up to 15 percent for the competitive and innovative grant program;
- Up to 35 percent for the consolidated grant program for small counties; and
- Up to 50 percent for the waste tire grant program.

The DEP is directed to develop a competitive grant program that would use the $30 million annually transferred from the sales tax proceeds to the Ecosystem Management and Restoration Trust Fund for projects that improve water quality and restore lakes and rivers impacted by pollution. Beginning in FY 2003-2004, the DEP shall evaluate the annual grant proposals and present the annual list of projects recommended to be funded to the Governor and the Legislature as part of its annual budget request. At least 20 percent of the funds available shall be used for projects to assist financially disadvantaged small local governments. No later than February 1 of each year, projects submitted for funding through the legislative process shall be submitted to the department by the appropriate fiscal committees of the House of Representatives and the Senate. The department shall review the projects for funding eligibility and must, no later than March 1 of each year, provide each fiscal committee with a list of projects that meet the eligibility requirements under this grant program.

If approved by the Governor, except as otherwise provided in the bill, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 116-0

CS/HB 1085 — Fish and Wildlife Conservation Commission (Licenses and Fees)

by Ready Infrastructure Council and Rep. Baxley and others (CS/CS/SB 354 by Appropriations Committee; Finance & Taxation Committee; and Senator Pruitt)

This bill reorganizes the provisions relating to recreational saltwater fishing licenses and freshwater fishing license and merges them into ch. 372, F.S. There are several provisions that would improve the Fish and Wildlife Conservation Commission's customer service, including the creation of a Gold Sportsman's license which is an annual license that includes all saltwater fishing, freshwater fishing, and hunting licenses and permits. The price is the same as buying the licenses and permits separately, but the customer actually will save because only one administrative fee will be charged.

Provided in the bill is a statement of legislative intent that all citizens of Florida have a right to hunt, fish, and take game.

Other provisions include:

- Allowing a person cited for a violation of not having a photo identification and boater safety identification in his possession while operating a vessel may have the case dismissed by the clerk of the court for a $5 dismissal fee.

- Allowing a person cited for a violation of not having a license in his or her possession to have the case dismissed by the clerk of the court for a $5 dismissal fee.

- Allowing the commission to establish a process and vendor fee for credit-card purchases of license, permits, and authorization numbers over the telephone and a process and vendor for the electronic sale of licenses, permits, and authorization numbers. Various provisions relating to subagents are modified to conform to the possible development of an automatic license process.

- Effective July 1, 2003, reducing the fees paid to tax collectors for licenses sold by subagents to help pay for the system. At that time, tax collectors will no longer have to supervise subagents. Subagents will be appointed by the commission instead of the tax collectors.

- Allowing fishing in the Rainbow River, except within that portion of the Rainbow Springs State Park lying within a radius of 1700 feet from the head of Rainbow Springs.

If approved by the Governor, except as otherwise provided in the bill, these provisions take effect July 1, 2002.
Vote: Senate 38-0; House 114-0

CS/HB 1243 — Fish and Wildlife Conservation Commission

by Ready Infrastructure Council and Rep. Pickens (CS/CS/SB 556 by Judiciary Committee; Natural Resources Committee; and Senator Smith)

This bill includes a number of features primarily designed to increase the effectiveness of marine law enforcement by the Fish and Wildlife Conservation Commission (FWC). Major provisions include:

- Changes to deter violation of the constitutional limitations on nets, including restricting the presence of previous violators on boats involved in specified activities and prohibiting the knowing sale or purchase of illegally netted fish;

- Revisions to the FWC's forfeiture procedures. Amendments to s. 370.061, F.S., and s. 372.9901, F.S., provide increased protection to innocent parties whose property is used in crimes, consolidate and revise procedures, and provide increased discretion to the court in determining whether property should be forfeited for night hunting by certain first-time offenders;

- Increased penalties for knowingly selling or purchasing illegally harvested marine species;

- Authorization for the suspension or revocation of a saltwater products license (SPL) used by another for illegal activities, after notice to the licensee of such use;

- Designation of theft of freshwater gear or the contents of such gear as a third degree felony; and

- Authorization for a physician's written statement to qualify a disabled commercial fisher for an exemption from income requirements for a restricted species endorsement on an SPL.

In addition, the bill includes provisions specifying that the FWC may adopt rules regulating motorboat traffic for manatee protection only where manatee sightings are frequent and the best available scientific and other specified information supports the conclusion that manatees inhabit an area on a regular basis.

Except for emergency rules, all new proposed rules regulating motorboat operation for manatee protection must be reviewed by a local committee established by the county commission of an affected county. The committee must be equally balanced between manatee advocates and waterway users and its written recommendation may be submitted as evidence in a proceeding and must be considered by the FWC in its rulemaking.

The bill requires the counties identified in the Governor and Cabinet's October 1989 Policy Directive to develop manatee protection plans (MPPs) by July 1, 2004, and directs the FWC to designate other counties where manatees are at substantial risk. A substantial risk county must complete a MPP by July 1, 2006. A county required to adopt a MPP must incorporate the boating facility siting element of the plan into its comprehensive plan.

By February 15, 2003, the FWC must develop a measurable biological goal to define manatee recovery. The goal will be used by the FWC in developing management plans, evaluating rules, and determining progress in manatee recovery. Finally, the FWC must conduct standardized studies to determine public compliance with manatee protection rules; the information will be used to develop and implement law enforcement initiatives and boater education plans.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 33-0; House 116-0

CS/SB 678 — Pollution Reduction

by Natural Resources Committee and Senator Pruitt

This bill allows the Department of Environmental Protection to develop and voluntarily implement best management practices or other measures for any water body or segment for which a total maximum daily load or allocation has not been established.

The bill provides that the signing of a permit application by a person currently licensed as a professional engineer shall not make that person an agent of the owner or tenant with regard to dredge and fill or stormwater violations or mangrove trimming violations.

This bill provides that projects that make use of private lands, or lands held in trust for Indian tribes, to reduce nutrient loadings or concentrations within a basin by certain specified methods are eligible for grants available from the coordinating agencies in the Lake Okeechobee watershed. For projects of otherwise equal priority, funding priority will be given to projects that make the best use of the specified methods that involve public/private partnerships or that obtain federal match money. Grant applications may be submitted by any person or tribal entity, and eligible projects may include, but are not limited to, the purchase of conservation and flowage easements, hydrologic restoration of wetlands, creating treatment wetlands, development of a management plan for natural resources, and financial support to implement a management plan.

The Department of Health shall require all entities disposing of septage within the Lake Okeechobee watershed to develop and submit to that agency by July 1, 2003, an agricultural use plan that limits applications based upon phosphorus loading. By July 1, 2005, phosphorus concentrations originating from these application sites shall not exceed the limits established in the district's "works of the district" (WOD) program. Similarly, phosphorous concentrations originating from entities disposing of domestic wastewater residuals within the watershed shall not exceed the limits established in the district's WOD program by July 1, 2005.

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

CS/SB 508 — Environmental Control

by Natural Resources Committee and Senator Brown-Waite

This bill provides that a permit is not required for the removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, and the associated removal from lakes of organic detrital matter when such planting or removal is performed and authorized by an exemption provided that certain conditions are met:

- Organic detrital material that exists on the surface of natural mineral substrate shall be allowed to be removed to a depth of 3 feet or to the natural mineral substrate, whichever is less;

- All material removed shall generally be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state;

- All activities are to be performed in a manner consistent with state water quality standards; and

- No activities under an exemption are conducted in wetland areas that are supported by a natural soil as shown in applicable U.S. Department of Agriculture county soil surveys, except when a governmental entity is permitted to conduct such activities as part of a restoration or enhancement project.

The bill further provides that, notwithstanding any provision to the contrary in subsection 403.813(2), F.S., a permit or other authorization under chs. 253, 369, 373, or 403, F.S., is not required for an individual residential property owner for the removal of organic detrital material from freshwater rivers or lakes that have a natural sand or rocky substrate and that are not aquatic preserves, or for the associated removal and replanting of aquatic vegetation for the purpose of environmental enhancement provided that:

- No activities under this exemption are conducted in wetland areas that are supported by a natural soil as shown in applicable U.S. Department of Agriculture county soil surveys.

- No filling or peat mining is allowed.

- No removal of native wetland trees, including, but not limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

- When removing organic detrital material, no portion of the underlying natural mineral soils or rocky substrate is removed.

- Organic detrital material and plant material removed is deposited in an upland site in a manner that will not cause water-quality violations.

- All activities are conducted in such a manner and with appropriate turbidity controls to prevent any water-quality violations outside of the immediate work area.

- Replanting with a variety of aquatic plants native to Florida shall occur in a minimum of 25 percent of the preexisting vegetated areas where organic detrital material is removed, except for areas where the material is removed to bare rocky substrate. However, an area may be maintained clear of vegetation as an access corridor. The access corridor width

may not exceed 50 percent of the property owner's frontage or 50 feet, whichever is less, and may be a sufficient length waterward to create a corridor to allow access for a boat or swimmer to reach open water. Replanting must be at a minimum density of 2 feet on center and be completed within 90 days after removal of existing aquatic vegetation, except that under dewatered conditions replanting must be completed within 90 days after reflooding. The area to be replanted must extend waterward from the ordinary high water line to a point where normal water depth would be 3 feet or to the preexisting vegetation line, whichever is less. Individuals are required to make a reasonable effort to maintain planting density for a period of 6 months after replanting is complete and the plants, including naturally recruited native aquatic plants, must be allowed to expand and fill in the revegetation area. Native aquatic plants to be used for revegetation must be salvaged from the enhancement project site or obtained from an aquatic plant nursery regulated by the Department of Agriculture and Consumer Services. Plants that are not native to Florida may not be used for replanting.

- No activity occurs any farther than 100 feet waterward of the ordinary high water line; and all activities must be designed and conducted in a manner that will not unreasonably restrict or infringe upon the riparian rights of adjacent upland riparian owners.

- The person seeking this exemption notifies the applicable DEP district office in writing at least 30 days before commencing work and allows the department to conduct a preconstruction site inspection. Notice must include an organic-detrital-material removal and disposal plan and, if applicable, a vegetation-removal and revegetation plan.

The DEP is provided written certification of compliance with the terms and conditions of these provisions within 30 days after completion of any activity occurring under this exemption.

This bill also provides a permit exemption for a floating vessel platform or floating boat lift if such structures:

- Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;

- Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of ch. 373, F.S., or, when associated with a dock that is exempt under s. 403.812(2), F.S., or a permitted dock with no defined boat slip, do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water;

- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners;

- Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where no seagrasses exist if such areas are present and adjacent to the dock; and

- Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of ch. 373, F.S., or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund (Trustees) and are not subject to any more stringent regulation by any local government.

By January 1, 2003, the DEP shall adopt a general permit by rule for those floating vessel platforms which do not qualify for the exemptions, but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of a general permit also constitutes permission to use or occupy lands owned by the Trustees. Upon the adoption of the rule creating such a general permit, no local government may impose a more stringent regulation on floating vessel platforms covered by the general permit.

The DEP and the Fish and Wildlife Conservation Commission are required to jointly prepare a report evaluating the effects of implementing the exemption for the removal of detrital material on the overall water quality and aquatic and fishery habitat of waterbodies where the statutory exemptions have been utilized. The report is to be submitted to the Governor and the Legislature by November 1, 2004, and shall contain recommendations for improving the implementation of these provisions.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 38-1; House 112-0

CS/HB 1285 — Environmental Protection

by Ready Infrastructure Council and Rep. Clarke and others (CS/SB 510 by Natural Resources Committee and Senator Brown-Waite)

This bill requires the Department of Environmental Protection (DEP) and the water management districts to develop a uniform wetland mitigation assessment method. The DEP and the water management districts must develop a uniform mitigation assessment method for wetlands and other surface waters. The date by which the DEP must adopt by rule the wetland mitigation assessment method is extended from January 31, 2002, to July 31, 2002. The rule shall provide an exclusive and consistent process for determining the amount of mitigation required to offset impacts to wetlands and other surface waters, and once effective, shall supercede all rules,

ordinances, and variance procedures from ordinances that determine the amount of mitigation needed to offset such impacts. Deletes an obsolete provision that required the Office of Program Policy Analysis and Government Accountability to conduct a cumulative impact study.

Any water management district or the DEP may exempt from permit regulation under part IV, ch. 373, F.S., relating to the management and storage of surface waters, any system for a mining or mining related activity that is described in or covered by an exemption confirmation letter issued by the district pursuant to applicable rules implementing part IV that were in effect at the time the letter was issued, if it will not be harmful to the water resources. The rules may include provisions for the duration of this exemption.

Pursuant to Chapter 2000-304, L.O.F., the DEP was required to submit a copy of Chapter 2000-304, L.O.F., relating to Florida's revision to its Title V, Clean Air Act air emissions program with regard to citrus juice processing facilities to the Environmental Protection Agency (EPA) for its approval by February 1, 2001. If the EPA did not approve Florida's revisions within 2 years after submittal (by February 1, 2003), then Chapter 2000-304, L.O.F., would not take effect with regard to citrus processing facilities. Because of a change in the administration at the EPA, it has not acted on approving the revisions to Florida's program. The bill extends the time the EPA has to approve the revisions by one year to February 1, 2004.

The permit exemption for maintenance dredging activities is clarified to allow for better management of return flow waters.

The bill also provides for a permit exemption for a floating vessel platform or floating boat lift if such structures:

- Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;

- Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of ch. 373, F.S., or, when associated with a dock that is exempt under s. 403.812(2), F.S., or a permitted dock with no defined boat slip, do not exceed a combined total of 500 square fee, or 200 square feet in an Outstanding Florida Water;

- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners;

- Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where no seagrasses exist if such areas are present adjacent to the dock; and

- Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of ch. 373, F.S., or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund (Trustees) and are not subject to any more stringent regulation by any local government.

By January 1, 2003, the DEP shall adopt a general permit by rule for those floating vessel platforms that do not qualify for the exemptions, but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of a general permit also constitutes permission to use or occupy lands owned by the Trustees. Upon the adoption of the rule creating such a general permit, no local government may impose a more stringent regulation on floating vessel platforms covered by the general permit.

Further, a permit exemption is provided for the repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway within the Northwest Florida Water Management District if certain conditions are met. Those conditions include:

- The road and associated bridge had to be in existence and in use as a public road or bridge, and maintained by the county as a public road or bridge on or before January 1, 2002.

- The construction activity does not realign the road or expand the number of existing traffic lanes of the existing road. However, the work may include the provision of safety shoulders, clearance of vegetation, and other work reasonably necessary to repair, stabilize, pave, or repave the road, provided the work is constructed by generally accepted engineering standards.

- The construction activity does not expand the existing width of an existing vehicular bridge in excess of that reasonably necessary to properly connect the bridge with the road being repaired, stabilized, paved, or repaved to safely accommodate the traffic expected on the road, which may include expanding the width of the bridge to match the existing connected road. However, no debris from the original bridge shall be allowed to remain in waters of the state, including wetlands.

- Best management practices for erosion control must be used to prevent water quality violations.

- Roadside swales or other effective means of stormwater treatment must be incorporated as part of the project.

- No more dredging or filling of wetlands or waters of the state is performed than that which is reasonably necessary to repair, stabilize, pave, or repave the road or to repair or replace the bridge, in accordance with generally accepted engineering standards.

The DEP is required to submit a report to the Governor and the Legislature by March 1, 2004, to evaluate the effects of this exemption and make recommendations for the exemption to apply statewide.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 108-9

HB 1963 — Florida Coastal Management Program

by Fiscal Responsibility Council and Rep. Johnson (CS/SB 1064 by Natural Resources Committee and Senator Brown-Waite)

This bill transfers the Florida Coastal Management Program from the Department of Community Affairs (DCA) to the Department of Environmental Protection (DEP) by a type two transfer. It also requires the DEP, rather than the DCA, to assume responsibility for coordinating with the Department of State in matters relating to the rehabilitation of lighthouses.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-1; House 112-0

CONGRESSIONAL DISTRICTS

HB 1993 — Reapportionment; Congressional Districts of State

by Procedural & Redistricting Council and Rep. Byrd and others (CS/SB 594 by Reapportionment Committee and Senator Latvala)

Florida is currently divided into 23 congressional districts. Congressional apportionment, which occurs at the federal level, is the process of allocating 435 seats in the United States House of Representatives among the 50 states based on the population of each state. Based on the official apportionment counts submitted to the President of the United States by the Census Bureau on December 28, 2000, Florida is entitled to an additional two congressional seats, bringing the state total to 25. This bill apportions Florida into 25 contiguous congressional districts (Plan S19C0017).

The bill (Chapter 2002-12, L.O.F.) achieves exact population equality. Twenty-two districts have 639,295 persons, based on the 2000 census, and three have 639,296 persons. In accordance with s. 8(a), Art. X, State Constitution, the United States Decennial Census of 2000 is adopted for the purposes of the bill. The bill also provides for the treatment of omitted areas and for any areas specified for inclusion in one district that are entirely surrounded by other districts.

In accordance with Section 5 of the Voting Rights Act (42 U.S.C. §1973c), any statutory change to procedures relating to voting and elections, insofar as the change affects voters in Collier, Hardee, Hendry, Hillsborough, and Monroe County, is subject to preclearance by the United States Department of Justice.

If approved by the Governor, the congressional districts prescribed in the bill shall apply with respect to the qualification, nomination, and election to the office of representative to the Congress of the United States in the primaries and general elections held in 2002 and thereafter and shall take effect upon expiration of the terms of the incumbent members of the Florida Congressional Delegation.
Vote: Senate 25-14; House 76-41

LEGISLATIVE DISTRICTS

HJR 1987 — Reapportionment; Legislative Districts of State

by Procedural & Redistricting Council and Rep. Byrd and others (CS/SJR 580 by Reapportionment Committee and Senator Laurent)

This joint resolution apportions Florida into 40 consecutively numbered, single-member, senatorial districts of contiguous territory (Plan S17S0036), and into 120 consecutively numbered, single-member, representative districts of contiguous territory (Plan H062H001). Under the 2000 census, the target population per single-member district for a 40-seat Senate is 399,559, and 133,186 per single-member district for a 120-seat House. The joint resolution has a range of population of 118 persons (0.0 percent) for Senate districts, and a range of population of 3,733 persons (2.8 percent) for House districts.

In accordance with s. 8(a), Art. X, State Constitution, the United States Decennial Census of 2000 is adopted for purposes of the joint resolution. The joint resolution provides for the treatment of omitted areas and for any areas specified for inclusion in one district that are entirely surrounded by other districts.

Article III, s. 16(c), State Constitution, provides for review of this joint resolution of apportionment by the Florida Supreme Court. Also, in accordance with Section 5 of the Voting Rights Act (42 U.S.C. §1973c), any statutory change to procedures relating to voting and elections, insofar as the change affects voters in Collier, Hardee, Hendry, Hillsborough, and Monroe County, is subject to preclearance by the United States Department of Justice.

This joint resolution shall apply to the qualification, nomination, and election of members of the Florida Legislature in the primary and general elections of 2002 and thereafter.
Vote: Senate 28-9; House 74-43

BUSINESS AND PROFESSIONAL REGULATION

SB 332 — Athlete Agents

by Senator King

The bill substantially amends ch. 468, part IX, F.S. The definition of the term "athlete agent" is expanded to include all employees and other persons acting on behalf of an athlete agent; however, spouses, parents, siblings, grandparents, and guardians of the athlete are excluded. The term also excludes individuals acting on behalf of a professional sports team or association.

The bill revises numerous licensing provisions. Applicants for athlete-agent licenses are no longer required to pass an examination, remit a related fee, or post a $15,000 surety bond. Unlicensed individuals are permitted to act as athlete agents provided that contact is first initiated by a student athlete or someone acting on his or her behalf, and the unlicensed individual applies for licensure within seven days of such contact. Temporary licenses may be issued by the Department of Business and Professional Regulation (department) while an application is pending, and the bill provides for reciprocity for out-of-state licensees. For non-resident licensees, the department is designated as the agent for receipt of service of process in civil actions. An examination exemption for members of The Florida Bar is eliminated.

The bill expands contract requirements. The agent contract must be in a signed, or otherwise authenticated, record. The contract must include: (a) the amount and method of calculating the consideration paid by the student athlete to the athlete agent and any other consideration paid to the athlete agent from any source under the contract; (b) the name of any person not listed in the athlete-agent-license application who receives compensation from the agent contract; (c) a description of any expenses the student athlete agrees to reimburse; (d) a description of the services to be provided to the student athlete; (e) the duration of the contract; and (f) the date of execution. The bill modifies contract disclosures to the student-athlete's college or university to require that only the athletic director receive notice of the contract.

The bill reduces from 15 to 14 days the contract-rescission period, and provides the student athlete with additional rights. The student-athlete is not required to pay consideration under the contract or to return any consideration received by the athlete agent to induce the student athlete to enter the contract, in the event the student athlete cancels or voids the contract. This section requires that the athlete agent provide the student athlete with a record of the contract.

The bill increases the cap of the administrative fine assessed by the department from $5,000 to $25,000. It also provides additional grounds for criminal offenses and provides additional civil remedies to educational institutions.

Finally, the bill extends the athlete agent's records-retention period from four to five years and specifies the minimum content of those records.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 117-0

CS/CS/SB 990 — Business Regulation

by Appropriations Committee; Regulated Industries Committee; and Senator Campbell

The bill contains provisions on four subject areas: public lodging and food services establishments, elevator safety, engineers, and security for payment of cigarette taxes.

The public lodging and food services provisions:

- Require only one annual inspection of transient and nontransient apartments.

- Revise the requirements for temporary food vendors, including a requirement that a temporary food service vendor obtain either an individual license, for a fee of no more that $105, for each temporary food event, or an annual license, for a fee of no more than $1,000.

- Revise the statute on food service manager certification, establishing new standards and authorizing the Division of Hotels and Restaurants to contract with an organization offering a training and certification program.

- Clarify that late fees and fees to pay costs associated with initiating regulation of a public lodging or food service establishment are not subject to the aggregate cap on license fees.

- Require that the Secretary of the Department of Business and Professional Regulation and the Division of Hotels and Restaurants periodically review the division's budget and financial status with the advisory council for the purpose of maintaining the financial stability of the division. The council is to make recommendations on adequate funding levels.

- Authorizes the division to increase the annual fee to fund the Hospitality Education Program from $6 to $10.

The elevator safety provisions complete the privatization of elevator inspections begun in 2000 and continue the re-write of the chapter that was begun in 2001. Specifically, the provisions:

- Delete a requirement that the department review service maintenance contracts and determine whether they ensure safe operation of the elevator.

- Provide that temporary operation inspections be done by a private inspector, not a state elevator inspector. As these were the last inspections required of state elevator inspectors, this completes the privatization of elevator inspections.

- Require an annual inspection for all elevators.

- Extend the period of validity of a certificate of operation from one to two years.

- Allow a local government that assumes elevator inspection duties to hire private inspectors to conduct inspections.

The professional engineer provisions provide for licensing, not registration, of engineers. Most of the amendment changes existing language on registration to licensure to correctly reflect this. The amendment also:

- Deletes a statutory provision allowing a student in the final year of an engineering curriculum to be an engineer intern;

- Deletes a statutory provision on credit for passing a foreign national licensing examination; and

- Provides for multiple forms of seals, not just one "impression-type metal seal."

The provisions on security for payment of cigarette taxes authorize use of a certificate of deposit or irrevocable letter of credit as security as an alternative to the current surety bond requirement.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-1; House 111-5

CONDOMINIUMS, COOPERATIVES, TIMESHARES, AND MOBILE HOMES

CS/CS/SB 694 — Condominiums, Cooperatives, and Mobile Homes

by Judiciary Committee; Regulated Industries Committee; and Senator Geller

As to mobile homes in mobile home parks, the bill:

- Requires a park owner who is increasing rent to have a second meeting with the mobile home owner committee and sets a time limit for having the meeting.

- Requires payments from park owners evicting tenants for a change in land use to be made to the Relocation Corporation, not the department, for deposit into the relocation trust fund. It also sets a time limit for making the payment and authorizes the Relocation Corporation to bring an action to enforce these payments.

- Gives the Corporation an additional 30 days to approve payment to a mobile home owner evicted for change in land use.

As to condominiums and cooperatives, the bill includes assessment liens for these associations within the definition of the term "mortgage" for purposes of including them among those liens that are reinstated if a foreclosure judgment is vacated.

As to condominiums, the bill:

- Amends ss. 718.106 and 718.110(4), F.S., to authorize amendments to declarations of condominiums providing for the transfer of use rights with respect to limited common elements. The bill states that this is intended to clarify existing law and to apply to existing associations.

- Amends s. 718.113, F.S., to allow amendment of declarations to provide procedures for amendments to authorize approving material alterations to common elements. It states that the changes are intended to clarify existing law and apply to existing associations.

- Amends s. 718.1255, F.S., to require that arbitration petitions challenging the legality of the election of any director of a board of administrations be handled on an expedited basis.

- Amends a number of statutes to clarify that changes made in the 2000 Regular Session apply only to condominiums created on or after July 1, 2000, including:

    - Amendments to s. 718.104, F.S., providing for a formula to determine the fractional or percentage shares of liability for common expenses and of ownership of the common surplus to be allocated to the units in each condominium to be operated by the association.

    - Amendments to s. 718.405, F.S., providing for creation and operation of multicondominiums.

    - Amendments to s. 718.504(15), F.S., providing multicondominium prospectus or offering circular requirements.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 36-0; House 119-0

CS/SB 2252 — Timeshares

by Regulated Industries Committee and Senator Constantine

The bill provides that when the timeshare managing entity is renting units of delinquent purchasers, it may make a reasonable determination regarding the priority of rentals of timeshare periods to be rented and, in the event that the delinquent purchaser of a timeshare period so rented cannot be specifically determined due to the structure of the timeshare plan, may allocate such net rental proceeds by the managing entity in any reasonable manner. The bill also provides that, as an alternative to the existing requirement that the managing entity use reasonable efforts to secure a rental that is commensurate with other rentals of similar timeshare periods or use rights generally secured at that time, the managing entity may rent such units at a bulk rate that is below the rate described above but not less than $200 per week, which amount may be prorated for daily rentals.

The bill makes a timeshare unit owner who is delinquent in paying assessments liable for any costs of collection, including reasonable attorney's fees, but requires written notice before the purchaser becomes liable for the collection agency fees.

The bill also allows drawings in connection with offering or selling timeshare interests in which no more than 26 prizes are promoted, as opposed to the current limitation of 10 prizes.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

PARI-MUTUELS

CS/SB 160 — Debbie Wasserman Schultz Act of 2002

by Finance & Taxation Committee and Senator Wasserman Schultz

The bill requires each permitholder operating a pari-mutuel greyhound facility to provide for a greyhound-adoption booth to be located at the facility. The booth must be operated on weekends and must be operated by personnel or volunteers from a bona fide organization that promotes or encourages the adoption of greyhounds. The bill requires that information pamphlets and adoption applications be provided to the public upon request. The bill further requires kennel operators and greyhound owners to provide to the permitholders information that a greyhound is available for adoption and that the racing program contain specific adoption information. Permitholders are required to post adoption information at conspicuous locations throughout the greyhound facility and must allow greyhounds to be walked through the facility to publicize greyhound adoption.

A greyhound permitholder may fund the greyhound-adoption program by holding a charity racing day designated as "Greyhound Adopt-A-Pet Day." The profits must be used to fund activities at the facility that promote adoption of greyhounds.

The bill clarifies that the term "bona fide organization that promotes or encourages the adoption of greyhounds" means any organization that provides evidence of compliance with ch. 496, F.S., and possesses a valid exemption from federal income tax issued by the Internal Revenue Service. The bill requires that such organizations provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter. The fee for sterilization may be included in the cost of the adoption.

The bill requires that a percentage of funds collected for thoroughbred breeders' and stallion awards be designated as "special racing" awards to be distributed by permitholders to owners of thoroughbred horses participating in thoroughbred stakes and non-stakes races. The bill requires that thoroughbred permitholders make contributions for special racing awards from monies collected on all pari-mutuel pools and gross revenues derived from broadcasting out-of-state-races.

The bill also addresses cardroom operations by pari-mutuel permitholders. The definition of "authorized game" for the purpose of operating cardrooms refers to a game or series of games of poker. A permitholder that operated a cardroom in the two previous fiscal years but did not renew its request may amend its annual application to include cardroom operations. A harness-racing permitholder may apply for a cardroom license if it conducted a minimum of 140 live performances during the state fiscal year immediately prior to its application. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing; however, the annual cardroom license fee applies to each facility rather than each permitholder.

A cardroom may only be operated at the location specified on the cardroom license, and the location may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to its valid pari-mutuel permit or as otherwise authorized by law. However, cardrooms may be operated during intertrack or simulcast pari-mutuel events, as well as live performances. The cardroom may begin operations within two hours prior to the first wagering event and may continue operations until 2:00 A.M. the following day.

Finally, the bill eliminates the $10-pot limit for cardrooms and provides, instead, for a $2 maximum wager with a maximum of three raises in any round of betting. The fee for playing the game cannot be included in the calculation of the bet size limit.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 21-13; House 86-26

LOTTERY

HB 2011 — Florida Lottery

by Fiscal Responsibility Council and Rep. Dockery and others (CS/SB 1570 by Regulated Industries Committee and Senator Burt)

The bill amends s. 24.121, F.S., to authorize the Department of the Lottery to determine a variable percentage of the gross revenue from the sale of instant lottery tickets that will be returned to players in the form of prizes, with the determination done in a manner designed to maximize the money deposited into the Educational Enhancement Trust Fund. The bill also makes the percentage of revenue required to be deposited into the trust fund from instant lottery ticket sales variable.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 35-0; House 115-0

UTILITY REGULATION

CS/HB 1683 — Switched Network Access Rates

by Ready Infrastructure Council; Utilities & Telecommunications Committee; and Rep. Maygarden (CS/SB 988 by Regulated Industries Committee and Senator Campbell)

The bill delegates to the Florida Public Service Commission (commission) authority to reduce switched network access rates. The bill creates a category of intrastate-switched network access revenues and basic local telecommunications services revenues and requires the total revenues within the category to remain neutral.

Beginning December 1, 2002, a company may petition the commission to reduce its switched network access rates to parity in a revenue neutral manner ("Revenue neutral" means that the total revenue within the revenue category established remains the same before and after the local exchange telecommunications company implements any rate adjustments. "Parity" means that the local exchange telecommunications company's intrastate switched network access rate is equal to its interstate switched network access rate in effect on January 1, 2002, if the company has more that 4 million access lines in service. If the company has 4 million or less and more than 1 million access lines in service, parity means that the company's intrastate switched network access rate is equal to 2 cents per minute, and for companies with less that 1 million access lines, the rate is equal to 8 cents per minute.). Within 90 days, the commission must grant the petition if it finds that granting the petition: (1) results in implementation during a period of between 2 to 5 years; (2) benefits residential consumers by reducing or eliminating the subsidy to

residential basic local telecommunications service rates provided by intrastate switched network access rates; (3) moves intrastate switched network access rates to parity; (4) creates a more favorable competitive environment; (5) is revenue neutral to the local telecommunications company; and (6) will result in benefits to toll customers.

Upon approval of the petition, the company will adjust its rates and prices with 45 days notice. The rates may not be adjusted more than once in any 12-month period, and the adjustments of rates may not be offset entirely by the monthly recurring rate for basic local telecommunications service. The commission is authorized to verify the pricing units to ensure that the company's specific adjustments make the revenue category revenue neutral for each filing. Once the intrastate-switched network access rates reach parity, they are capped for three years afterward.

Long distance companies are required to reduce their revenues to benefit residential and business customers. While the long distance company may determine specific rate decreases, residential and business customers should benefit proportionally. AT&T is required to first reduce its in-state connection fee ($1.95) by March 1, 2004, from offsetting reductions in switched network access rates.

Qualifications for the Lifeline Assistance Program are increased to 125 percent of the federal poverty level and local exchange telecommunications companies are required to provide qualifying agencies with applications, brochures, pamphlets, or other materials to give to eligible clients applying for agency benefits. Rate increases for Lifeline Assistance Plan service are prohibited for customers receiving this benefit until parity is reached or the customer no longer qualifies for the plan. Persons who have applied for assistance at a qualifying state agency must be notified by post card of his or her eligibility for Lifeline Assistance Plan service and the name of the local exchange telecommunications company providing service. The direct costs of production and mailing are to be paid by the large local exchange telecommunications companies. The commission is to report on the number of customers subscribing to the Lifeline Assistance Plan service. Interexchange telecommunications carriers are required to file after March 31, 2003, tariffs providing current Lifeline Assistance Plan benefits and exemptions.

The commission’s jurisdiction over rate adjustments, service quality, and complaint resolution is maintained.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 26-9; House 103-12

OTHER

CS/HB 1475 — Underground Facility Damage

by Ready Infrastructure Council and Rep. Hogan (CS/SB 2084 by Regulated Industries Committee and Senator Holzendorf)

Chapter 556, F.S., is the "Underground Facility Damage Prevention and Safety Act." The act is designed to prevent injury to persons and property resulting from damage to underground facilities caused by excavation or demolition operations. The act provides for a single toll-free telephone number for excavation contractors and the public to call for notification of their intent to engage in excavation or demolition. This notification system allows operators of underground facilities that provide water, sewage, electric, gas, communications, and other services an opportunity to locate and identify their facilities. Chapter 556, F.S., creates a non-profit corporation, Sunshine State One-Call of Florida, Inc. (SSOCF), to administer the notification system. Underground facility operators are required to be members of SSOCF pursuant to s. 556.103, F.S. SSOCF administers the provisions of the act through a board of directors, and revenues are generated through assessed contributions from the member operators. Cities with populations of 10,000 or less are not required to participate in the system until January 1, 2003.

The bill substantially revises ch. 556, F.S. It expands free access to the notification system to take into account other forms of technology, including facsimile transmissions and e-mail. It provides for additional sources of system funding through services performed by the system, such as records searches, and damage prevention and educational activities. It reserves to the state the power to regulate any subject matter specifically addressed in the act, authorizes local code enforcement officers to enforce the act without adopting local codes and ordinances, and clarifies that counties that own underground facilities are required to be members of SSOCF.

The bill revises procedures for excavation and notification. For example, it clarifies that the notice provided by excavators is measured in full business days. It provides that when an excavator cannot provide specific information regarding the location where the excavation or demolition work is going to be performed, and when the excavator and member operator have not agreed otherwise, the excavator is required to premark the proposed area prior to identifying the horizontal route of the facilities, but not beyond 500 feet in length. It provides different marking schedules for facilities under land and beneath water.

The bill also revises liability provisions for non-criminal and criminal offenses. If an underground facility operator fails to become a member of SSOCF, as required by the act, and that failure is a cause of damage to its underground facilities resulting from damage caused by an excavator who has complied with the provisions of the act and has used reasonable care, the underground facility operator has no right of recovery against the excavator. The bill provides for citations to member operators who fail to mark their facilities and provides that citations may be issued to any employee of an excavator or member operator. The bill clarifies that the

removal of valid stakes or physical markings constitutes a second-degree misdemeanor and clarifies what constitutes a valid stake or marking.

The bill prescribes requirements regarding design services to be provided by member operators to design engineers, architects, surveyors, and planners. The bill requires the system to conduct a feasibility study of implementing a notification procedure for design services, and to report its results to the Legislature before January 1, 2004.

The bill provides that it is not the purpose of the act to amend or void any permit issued by a state agency for placement or maintenance of facilities in its right-of-way. Finally, the bill provides that it does not affect existing laws governing the process of state agencies, municipalities, or counties regarding requests for design services from member operators or the responsibility for providing or paying for such services.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 35-0; House 117-0

CLAIM BILLS

During the 2002 session, 40 claim bills were filed in the Senate. There were 37 companion bills filed in the House of Representatives.

Of the 40 bills filed in the Senate, 25 were approved by the House and Senate. At this time, none of the claim bills have been approved by the Governor. If they all become law, they will authorize or direct payment of $29,587,206, of which $8,086,218 would be state funds and $21,500,988 would be local funds paid by local government.

Eight Senate bills died in a Senate committee, 6 of which were reported unfavorably by a Senate Special Master; 2 Senate bills died in House Messages; 3 Senate bills died on the Senate Calendar; and 3 Senate bills were withdrawn from further consideration by their sponsors.

The following claim bills were approved:

Bill	Sponsor	Relief	Vote Senate	Vote House
S 6	Senator Campbell	Laura D. Strazza/Dept. of Agriculture and Consumer Services; $882,322	27-7	104-9
S 8	Senator Campbell	Hopkins & Bowman/Bd. of Regents, University of South Florida, USF Health Sciences Center Ins. Co.; $3,693,896	34-3	109-4
7S 10	Senator Villalobos	Mark Schwartz/Coral Springs Medical Center; $400,000	33-3	106-8
S 14	Senator Clary	Billy Joe McIntire, et al./Dept. of Transportation; $1,000,000	30-6	104-8
S 16	Senator Lawson	Patsy Baucco/Dept. of Transportation; $550,000	30-7	105-9
S 18	Senator Holzendorf	McCarty & Deckers/Dept. of Children & Family Services; $400,000	31-4	106-7
S 22	Senator Pruitt	Kimberly Godwin/Dept. of Children & Family Services; $760,000	33-4	111-2
S 24	Senator Campbell	Margaret B. Helm/Martin Co. Volunteer Fire Dept.; $2,250,000	33-4	107-7
S 26	Senator Latvala	Eva Skowronek/City of Clearwater; $200,000	34-3	110-2
S 30	Senator Jones	Hilda De Paz/Miami-Dade County; $60,000	33-4	103-8
S 36	Senator Rossin	Jones & Fergusons/Palm Beach County; $1,800,000	33-4	99-12
S 38	Senator Rossin	Rosemary Falkinburg/City of West Palm Beach; $500,000	32-5	106-8

Bill	Sponsor	Relief	Vote Senate / House	
S 42	Senator Dyer	Maria Garcia/Orange County Sheriff's Office; $152,500	30-5	107-7
S 44	Senator Pruitt	James Torrence/Palm Beach Co. Health Care District; $400,000	31-5	105-9
S 46	Senator Pruitt	Sharon & Victor Dixon, Sr./Indian River Co. School Board; $1,224,394	32-5	104-7
S 50	Senator Campbell	Lawrence Bigney/Palm Beach Co. Sheriff's Office; $75,000	32-5	107-7
S 52	Senator Villalobos	Jessica Ann Calderon/Miami-Dade County; $2,100,000	30-7	107-8
S 56	Senator Silver	Joseph Arvay/City of Vero Beach; $4,349,094	30-7	103-8
S 60	Senator Jones	Joshua England/Monroe County District School Board; $2,500,000	31-6	104-4
S 62	Senator Meek	Millie Jackson/Miami-Dade County; $35,000	32-5	108-7
S 64	Senator Klein	Jesnor Exanor/City of Delray Beach; $1,305,000	29-6	104-8
S 66	Senator Klein	Harley & Dent/Palm Beach County School Board; $600,000	31-5	108-8
S 74	Senator Campbell	Steven Mitchell/Volusia Co. d/b/a Halifax Medical Center; $2,300,000	30-6	102-11
S 76	Senator Posey	William & Anne Hennelly/St. Lucie Co. Sheriff's Office; $1,250,000	32-3	102-13
S 82	Senator Diaz de la Portilla	Maria Verela, et al./Dept. of Transportation; $800,000	33-5	102-9

TRANSPORTATION ADMINISTRATION

CS/HB 261 — Transportation

by Ready Infrastructure Council and Rep. Russell and others (CS/CS/CS/SB 502 by Finance & Taxation Committee; Governmental Oversight & Productivity Committee; Transportation Committee; and Senator Sebesta)

This act is a comprehensive transportation package that consists of the substance of many transportation bills.

Commercial Trucks

Amends ss. 316.302 and 316.3025, F.S., to update the reference to the current safety regulations; authorizes specified law enforcement officers holding safety inspector certification to stop commercial motor vehicles; changing a statutory truck regulation to a CFR reference. Removes a permit requirement for auto haulers up to 14 feet. Amends s. 316.535, F.S., to include weight limits on specialty trucks, and to specify they have to meet all safety and operational requirements under law. Amends s. 316.515, F.S., authorizing the use of straight trucks and cotton module movers up to 50 feet, and amends s. 316.520, F.S., providing a tarp exemption for certain agriculture trucks.

Amends s. 334.044, F.S., to provide a definition of the primary mission, powers, and responsibilities of the Office of Motor Carrier Compliance. Amends s. 320.055, F.S., to revise registration dates for Florida commercial motor vehicles that are not apportioned.

Amends ss. 316.520 and 318.19, F.S., to provide that it is the duty of an owner and driver of a truck hauling a load, severally, to prevent inanimate objects from escaping the truck onto the roadway. Such violations are subject to punishment as a second-degree misdemeanor, and require a mandatory hearing. Section 316.520, F.S., is also amended to provide that vehicles carrying agricultural products locally on certain roads for certain distances are exempt from the requirement of covering the load with a close-fitting tarp or other preventive measure.

Turnpike Enterprise

Amends ss. 20.23, 337.025, 337.11, 338.165, 338.22, 338.221, 338.223, 338.227, 338.234, 338.235, 338.239, 338.241, 338.251, and 553.80, F.S., and creates ss. 338.2215 and 338.2216, F.S., to create the turnpike enterprise; to provide “economically feasible” for a turnpike project means the revenues of the project must pay 50 percent of debt service by the 12th year and 100 percent of debt service by the 22nd year; to remove the provision that federal and state transportation funds included in an adopted work program, or the General Appropriations Act,

for a turnpike project do not have to be reimbursed to the State Transportation Trust fund; to provide the turnpike enterprise may sell services, products or business opportunities, which benefit the traveling public, on the turnpike system, however the turnpike enterprise may not take property solely to create business opportunities; to provide approved Federal Highway Patrol expenses incurred patrolling the turnpike system will be reimbursed to the Department of Highway Safety and Motor Vehicles by the turnpike enterprise.

High-Speed Rail Authority

Creates ss. 341.8201, 341.8202, 341.8203, 341.827, 341.828, 341.829, 341.830, 341.831, 341.832, 341.833, 341.834, 341.835, 341.836, 341.837, 341.838, 341.839, 341.840, 341.841, 341.842, F.S., and amends ss. 341.821, 341.822, 341.823, 341.824, 288.109, 334.30, 337.251, and 341.501, F.S., amending the High-Speed Rail Authority act. Broadens the High-Speed Rail Authority's responsibilities and powers to proceed with implementing the provisions of s. 19, Art. X, State Constitution. Authorizes the Authority to establish and collect rates, fees and other charges; acquire land (not by eminent domain) and enter into leases and other contracts; accept donations; and, incur debt, but only in accordance with levels authorized by the Legislature. Authorizes the authority to develop and execute the systems of Prequalification, Qualification, and Request for Proposals. Deletes the Florida High-Speed Rail Transportation Act.

Other Transportation Issues

Amends s. 206.46, F.S., to increase the debt service cap for right-of-way and bridge construction bonds to $200 million. Amends s. 212.055, F.S., providing charter counties which adopted their charter prior to January 1, 1984 may levy the Charter County Transit System Surtax upon approval by the electorate by county referendum or charter amendment.

Amends ss. 189.441 and 311.09, F.S. providing Community Improvement Districts and the Florida Seaport Transportation and Economic Development Council must comply with s. 287.055, F.S., in regard to the procurement of professional services. Amends ss. 315.02 and 315.03, F.S. to include certain governmental units in the definition of the term "unit," and security measures in the definition of the term "port facilities." Authorizes the seaports to participate in federal loan guarantees or lines of credit.

Amends s. 212.0606, F.S., providing proceeds from the rental car surcharge must be returned to the FDOT district where the fee was collected, beginning in 2007. Amends ss. 215.615, 341.031, 341.051(5)(b), and 341.053 F.S., to delete the requirement that the Department of Transportation (DOT) develop a major capital investment policy for public transit capital projects.

Amends s. 337.11(6)(c), F.S., providing DOT may award fast response contracts up to $120,000, and amends s. 337.11(7)(a), F.S., to authorize, effective July 1, 2003, DOT to include right-of-way services in a design-build contract until July 1, 2005. Amends s. 337.185, F.S., providing 820 days for a contractor to file for arbitration. Repeals s. 59 of Chapter 1999-385, L.O.F., and

amends s. 73.071, F.S., providing businesses of 5 years standing are eligible for business damages starting in 2005. Amends Chapter 1988-418, L.O.F., to provide Crandon Boulevard may be modified to provide for vehicular ingress and egress of public safety vehicles.

Amends ss. 255.20, 336.41, 336.44, and 337.14 F.S., to provide any contractor prequalified with DOT and eligible to bid is presumed prequalified to obtain bid documents and submit bids for county and expressway authority road projects. Section 337.14, F.S., is amended to increase the validity period for a DOT certificate of qualification from 16 months to 18 months.

Amends ss. 332.004, 332.007 and 333.06, F.S., to include off-airport noise mitigation projects in the definition of "airport or aviation development project"; authorizing an extension for airport security expenditures; and providing a loan extension; requiring public owned and operated airports to prepare a master plan.

Amends ss. 334.175, 337.401 and 337.408, F.S., providing landscape architects must certify and register design plans; to authorize FDOT to accept a Utility Relocation Schedule and Relocation Agreement in lieu of a written permit; providing for the regulation of advertisements on street light poles.

Amends ss. 339.12 and 339.135, F.S., providing preference for FDOT grants for certain counties; deleting a provision which requires the Florida Transportation Commission to consider the list of projects identified as inconsistent with local comprehensive plans in their review of the tentative work program. Amends ss. 339.55, 341.501 and 768.28, F.S., expanding which facilities are eligible for infrastructure bank loans; authorizing DOT to match aid from other states or jurisdictions if the project is in Florida; providing sovereign immunity for operators, dispatchers and security providers of Tri-Rail.

Expressway Authorities

Amends ss. 348.7543, 348.7545, 348.755 and 348.765, F.S. Updates or clarifies provisions related to the Orlando-Orange County Expressway Authority (OOCEA) allowing the OOCEA to issue its own revenue bonds. Amends ss. 348.0003 and 348.0008, F.S., to provide the qualifications, terms of office, and obligations and rights of the members of the Miami-Dade Expressway Authority will be determined by the Miami-Dade County Commission; authorizing expressway authority employees or authorized agents to enter any premises, upon giving reasonable notice to the landowner, for the purpose of making examinations necessary for the acquisition of property.

Amends ss. 348.545 and 348.565, F.S., authorizing the Tampa-Hillsborough County Expressway Authority to finance toll facilities on the legislatively approved expressway system; adding the connector highway linking Lee Roy Selmon Crosstown Expressway to Interstate 4 to the list of projects that could be financed through the Tampa-Hillsborough County Expressway bonds. Amends s. 373.4137, F.S., to allow expressway authorities to utilize the process developed for

DOT to pay mitigation funds into escrow accounts, managed by the Department of Environmental Protection, which finance Water Management District mitigation projects to offset the adverse environmental impacts of expressway projects.

Development of Regional Impact

Amends ss. 163.3177, 380.04 and 380.06, F.S., providing for incorporation of airport master plans into local comprehensive plans, and exempts such airport developments from Development Regional Impact (DRI) review; adding electrical work to what is not considered development; providing a development that is below 100 percent of all numerical thresholds is exempt from DRI review. Provides procedures for developments that have received a DRI review orders, but are no longer required to comply.

Department of Highway Safety and Motor Vehicles

Amends s. 316.003, F.S. and creates s. 316.2068, F.S., defining motorized scooter and Segway and providing they are not vehicles; providing for the regulation of Segway. Amends s. 316.80, F.S., providing it is unlawful to possess any device for the transportation of motor or diesel fuel which does not conform to federal requirements for such fuel transportation devices.

Amends ss. 320.08056 and 320.08058, F.S., creating the Florida Firefighters and the Police Benevolent Association license plates. Creates the Dori Slosberg Safety Act providing county commissions may require a $3 additional fee with each civil traffic penalty to fund traffic education. Amends s. 316.006, F.S., to permit issuance of a citation for failure to obey a multi-party stop sign in a private community.

Amends s. 316.066, F.S., creating an exception to the 60-day public records exemption and confidentiality designation for crash reports for local government employees and agents. Amends s. 316.1975, F.S., to exempt solid waste and recovered waste collection vehicles from certain requirements relating to unattended motor vehicles, extending the same exemption that is currently applicable to delivery vehicles. Creates s. 316.2127, F.S., authorizing the operation of certain utility vehicles on public roads by homeowners' associations.

Amends s. 316.304, F.S., to provide that any person using a headset in conjunction with communicating with a central base operation while operating a vehicle is not subject to the traffic law prohibiting the wearing of headsets under certain conditions. Amends s. 318.18, F.S., providing the fine for speeding through a toll collection facility is double the standard speeding fine, and to provide that a willful violation of certain provisions in s. 316.520, F.S., proven in a hearing, are punishable by a fine of $100.

Section 316.640, F.S., is amended to authorize university police officers to enforce traffic laws on any property or facilities of direct-support organizations of the university, or other organization under the control of the university. Amends s. 322.056, F.S., to give courts

discretion to order the issuance of a business or employment purposes only license to certain juvenile violators. Amends ss. 316.640 and 570.073, F.S., to expand the traffic law and general law enforcement authority of agricultural law enforcement officers. Amends s. 319.23, F.S., to require DHSMV to retain the evidence of title presented by an applicant upon which a certificate of title is issued.

Amends s. 319.28, F.S., to delete the requirement that an original or certified copy of the underlying contract be included in an application title based on a contractual default. Amends s. 319.33, F.S., to provide that it is unlawful to remove any manufacturer or state VIN number from a vehicle. Amends s. 320.025, F.S., to include governmentally owned law enforcement vessels in provisions allowing the registration of vehicles owned or operated by a law enforcement agency under a fictitious name. Amends s. 320.05, F.S., to include the term "vessel" in this section relating to public inspection of registration information. Amends s. 320.06, F.S., to provide for only one validation decal on the upper right corner of a license plate with the month and year on the same decal.

Amends s. 320.0805, F.S., allowing personalized license plates to be reassigned to another individual one year following the expiration of registration. Amends ss. 320.083 and 320.089, F.S., increasing the weight restriction for private-use vehicles eligible for certain license plates to include vehicles weighing less than 8,000 pounds. Amends s. 320.0848, F.S. to eliminate the fee required to obtain a 4-year disabled parking permit.

Amends s. 321.02, F.S., to provide that DHSMV shall prescribe colors for FHP vehicles and that the colors shall be referred to as "FHP black and tan." Amends s. 322.051, F.S., to require persons accepting a driver's license as proof of identification to also accept a state identification card as proof of identification. Amends s. 860.20, F.S., providing that DHSMV rather than DEP shall adopt rules specifying the locations and the manner in which serial numbers on outboard motors shall be affixed. Provides all automotive service technology education programs must be industry certified by 2007.

Amends s. 319.30, F.S., redefining the term "total loss" to require the owner of a damaged vehicle or mobile home to request the DHSMV to brand "Total Loss Vehicle" on the certificate of title if the actual costs of repair exceed 100 percent of the cost of replacing the damaged vehicle or mobile home. Creates s. 319.41, F.S., requiring the DHSMV to create a title history database for vehicles to be implemented by July 1, 2003. Requires the program to provide access to information relating to the year, make, model, mileage, date of sales, and outstanding liens on motor vehicles. This database is required to be made available on the Internet. Amends s. 316.003(1) and 316.2397 F.S., to include the Department of Health's emergency vehicles in the definition of "Authorized Emergency Vehicles." The primary purpose of these vehicles is to respond to major disasters. Fixes a glitch in CS/CS/SB 1360 providing section 16 of that bill will apply retroactively to January 1, 2002.

If approved by the Governor, these provisions take effect, except as otherwise provided, July 1, 2002.
Vote: Senate 35-1; House 114-1

CS/HB 715 — Transportation

by Ready Infrastructure Council and Reps. Bense, Haridopolos, and others (CS/SB 728 by Transportation Committee and Senator Latvala)

The bill provides local governments must pay cash compensation for the alteration or removal of a billboard sign. The rights to select and proceed with a public project are recognized as the exclusive right of local government. Once a local government decides to proceed and it affects a sign, the owner must be notified and the parties are directed to meet and try and enter into a "relocation and reconstruction agreement." Parties are allowed to have the sign removed and relocated, substituted or replaced at another acceptable location.

If the parties fail to reach agreement, either the local government or the sign owner may request mandatory, non-binding arbitration. Each party picks an arbitrator and the two pick a third arbitrator. When the arbitration process is complete, the panel presents an agreement to the parties that they believe balances the rights of the parties. If the parties fail to reach an agreement and fail to sign the arbitration agreement presented by the arbitration panel, the local government may, at that point, proceed with the public project or purpose after paying cash compensation as determined through a traditional eminent domain process.

The bill also does not permit an indirect taking by local government. Removal of a sign cannot be a condition for obtaining a building permit or other development approval for the property, and it cannot be pre-condition to a voluntary acquisition of the property by the local government. The bill preserves the provisions of all current ordinances that are not inconsistent with the act, including restrictions or bans on new signs.

The bill exempts from the act disputes where the amortization period has run and litigation on the dispute was filed before May 1, 1997, and delays the effective date of the act for one year for three jurisdictions currently in litigation. The Department of Transportation is not covered by the bill and the department will continue to be governed by ch. 479, F.S. The bill provides for a study commission to be done by OPPAGA concerning the methodology and impact of just compensation for signs being taken by local government.

Further, the bill amends ss. 163.3180 and 339.135, F.S., to change the concurrency time frames from 3 years to 5 years for projects affecting the Florida Intrastate Highway System (FIHS).

The bill Amends s. 344.044(5), F.S., to include "scenic roads" among the topics for which the Department of Transportation can purchase promotional materials, and to delegate storm water permitting to a water management district or other entity, provided the permit is based on

requirements, as determined by the agency, that protect transportation facilities being affected by the runoff.

The bill amends s. 479.15, F.S., to provide a definition for the term "federal-aid primary highway system," and creates s. 479.25, F.S., to specify governmental entities may enter into agreements with billboard owners allowing a lawfully erected billboard to be raised when a sound barrier, visibility screen, or other highway improvement blocks the billboard from being seen.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 29-8; House 91-17

HB 325 — Historic Road

by Rep. Prieguez (SB 1010 by Senator Silver)

The bill designates a portion of Le Jeune Road within the city limits of Coral Gables as a state historic road. It prohibits the use of state funds to widen or broaden this section of road, or to alter, remove, or replace any existing landscaping, including the decades-old mahogany trees that line the road. The bill directs the Florida Department of State's Division of Historical Resources to provide for suitable markers noting the designation. The cost of the markers could range from $1,400 to $1,600. Under the provisions of s. 267.074, F.S., these costs will typically be paid, either in whole or part, by the local sponsors of the designation.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 112-0

HB 329 — Small Aircraft

by Rep. Baker and others (SB 1228 by Senator Mitchell)

This bill would make Florida a participant along with NASA, the Federal Aviation Administration, the aircraft industry, and various universities in the Small Aircraft Transportation System (SATS) project.

Small Aircraft Transportation System is an integration of new technologies that includes small airplanes with high-tech, user-friendly cockpits, quiet jet propulsion systems working with integrated airports' infrastructure technology to allow precision landings even in inclement weather. Small Aircraft Transportation System strategies are conceived to affect the nature of aviation operational capabilities for airports, airspace, and air traffic and commercial services. The strategy focuses on airborne technologies that expand the use of airports with excess capacity as well as underutilized, unmanaged airspace for transportation use.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 38-0; House 118-0

CS/HB 811 — Seaport Security Infrastructure

by Ready InfrastructureCouncil; Select Committee on Security; and Rep. Bense and others (CS/SB 972 by Transportation Committee and Senators Brown-Waite and Posey)

This bill authorizes the use of Florida Seaport Transportation and Economic Development (FSTED) funds for the purpose of seaport security measures. The bill stipulates that infrastructure security projects must be included within a seaport security plan approved by the Department of Law Enforcement and the Office of Drug Control in order to be eligible for funding. Specific projects not included within an approved seaport security plan must be reviewed and approved by the Department of Law Enforcement. Authorized uses for these funds include security fencing and lighting, equipment to be used for security monitoring and recording, remote surveillance systems, and other infrastructure or equipment that contributes to the overall security of the seaport and its facilities. Infrastructure security measures required by an approved seaport security plan or as otherwise found by the Department of Law Enforcement to be consistent with an approved security plan are not subject to the 50 percent matching fund requirement.

The bill provides for the use of FSTED funds for operational security measures mandated by federal, state, or local agencies, including the deployment of the Florida National Guard, local, and private law enforcement personnel at seaports. Applicable law enforcement measures are subject to the 50 percent matching fund requirements, except that funds provided for the Florida National Guard are exempt from this requirement through the period April 30, 2002.

Seaports are authorized to request the Department of Transportation to revise the purpose of a project contained in the 2000-2001 and 2001-2002 work programs to reflect changes in funding for certain security related projects. The bill also provides that additional consideration will be given to seaports with operating revenues of $14 million or less for seaport security grants not to exceed $350,000. Finally, the bill provides any federal funds provided to Florida seaports for seaport security infrastructure measures must be allocated consistent with federal guidelines and requirements. If a seaport receives FSTED funding for a specific security project, then subsequently receives federal funding for the same security project, the seaport must reimburse the FSTED Program.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 31-0; House 119-0

HB 275 — Public Records/Deepwater Ports

by State Administration Committee and Rep. Brummer (SB 476 by Transportation Committee)

Section 315.18, F.S., was certified by the Division of Statutory Revision and will repeal on October 2, 2002, unless otherwise reenacted by the Legislature. This bill (Chapter 2002-5, L.O.F.) maintains an exemption from public records requirements for any proposal or counterproposal exchanged between a nongovernmental entity and a deepwater port, or any financial records submitted by a nongovernmental entity to a deepwater port, relating to the sale, use, or lease of land or of port facilities. This bill provides, however, that in the 30-day period prior to the consideration of a proposal or counterproposal by a deepwater port, the information contained in such proposals is subject to public disclosure. If the proposal or counterproposal is not submitted to the governing body of the deepwater port for approval, the information contained within is subject to public disclosure after 90 days following the end of negotiations.

These provisions were approved by the Governor and take effect October 1, 2002.
Vote: Senate 39-0; House 114-0

HIGHWAY SAFETY AND MOTOR VEHICLES

CS/CS/SB 522 — Highway Safety and Motor Vehicles

by Criminal Justice Committee; Transportation Committee; and Senator Sebesta

Section 316.006, F.S., is amended to provide that if a county commission elects to abandon a road and convey the county's interest in such road to a subdivision, the county's traffic enforcement jurisdiction ceases, unless otherwise agreed to by the county.

Section 316.00825, F.S., is created establishing a standardized process by which a county commission can consider, and in its discretion agree to, a request from a subdivision for a return of roads it originally owned but deeded to the county. Counties would have an option to abandon such roads and simultaneously convey the county's interest in such roads, rights-of-way, drainage systems, lighting, and other appurtenant facilities, to a qualifying homeowners' association. A homeowners' association taking over ownership and control of such roads shall have traffic control jurisdiction over the roads unless an agreement stating otherwise has been entered into with the county.

Section 316.061, F.S., is amended to authorize employees and agents of law enforcement, the Department of Transportation, or an expressway authority to remove crashed vehicles and their debris from the roadway when a crash involves only vehicle or property damage. The bill also limits the liability of persons who move such a vehicle or debris.

Section 316.520, F.S., is amended to clarify that the penalty for allowing a vehicle load to escape onto the highway is a nonmoving violation.

Section 318.1451, F.S., is amended to repeal provisions prohibiting governmental agencies from providing any information regarding driver improvement schools or course providers, and directing all inquiries to the telephone directory. The bill authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) or court to issue a reference guide that contains the names and telephone numbers for approved course providers.

Section 319.001, F.S., is amended to revise the definitions of certain motor vehicle and motorcycle parts to provide greater specificity regarding the disposition of salvage and rebuilt motor vehicles.

Section 319.14, F.S., is amended to authorize the DHSMV to affix a decal to rebuilt vehicles to identify the vehicle as being rebuilt from parts, and to provide that removal of the decal with the intent to conceal the rebuilt status of the vehicle is a third degree felony.

Section 319.22, F.S., is amended to provide that it is illegal to transfer the title of a motor vehicle unless the purchaser's name appears on the title. A person who knowingly and willfully violates this provision with intent to commit fraud is guilty of a first degree misdemeanor.

Section 319.30, F.S., is amended to revise the definition of "major component parts" to provide greater specificity regarding the disposition of salvage and rebuilt motor vehicles. Anyone who willfully and knowingly directs a person to sign an affidavit that falsely asserts that a vehicle title has been surrendered to the DHSMV commits a third degree felony. The bill also clarifies requirements relating to "total loss" vehicles, and provides for the issuance of state-assigned vehicle identification number plates in certain circumstances.

The bill provides that motor vehicle and vessel titling and registration fees collected by county tax collectors must be transferred to the DHSMV within 5 days from the close of the business day in which the county officer received the funds. Applicable funds must be transferred electronically to the department.

Section 320.27, F.S., is amended to provide for the suspension or revocation of a motor vehicle dealer license for a single violation of prohibited criminal or fraudulent activities. A pattern of wrongdoing must be documented before administrative action can be taken against a motor vehicle dealer for lesser violations.

Section 322.095, F.S., is amended to repeal a provision prohibiting governmental entities from providing information on traffic law and substance abuse education schools or providers. The bill also authorizes the DHSMV to approve and regulate such courses that use technology as the delivery method.

Section 713.78, F.S., is amended to limit the number of reassignments allowable under a certificate of destruction to two before dismantling or destruction of the vehicle shall be required. The bill authorizes law enforcement officers and employees of the DHSMV to inspect records of those in the business of towing, storing, or transporting vehicles to ensure compliance. The bill provides that failure to maintain or produce required records when properly requested is punishable as a first degree misdemeanor.

The bill amends several provisions relating to the Pilot Recreational Vehicle Mediation and Arbitration Program. The bill provides that RV manufacturers must provide written notice to consumers of the claims process available under s. 681.1096, F.S. The bill also extends the operation of the RV Mediation and Arbitration Program through September 2006, and authorizes the Attorney General to delegate responsibility for screening of claims to the program administrator.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 34-0; House 118-0

SB 358 — Motor Vehicle Accidents/Distractions

by Senators Sebesta, Lee, Clary, Latvala, and Smith

This bill expressly preempts to the state the regulation of the use of cellular phones and other electronic communications devices by drivers and passengers of a motor vehicle.
In addition, the bill requires the Florida Department of Highway Safety and Motor Vehicles to collect and analyze data on the impact of driver distractions on crashes and report its findings to the Senate and the House of Representatives by February 28, 2003.

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

CS/SB 520 — Driver's Licenses

by Transportation Committee and Senators Brown-Waite, Burt, Geller, and Dyer

This bill amends s. 322.051, F.S., to require that applicants for a Florida identification card must identify their country of birth. Similarly, the bill limits reciprocity for the purpose of verifying the applicant's identity to those states that have adopted proof of identity requirements that are at least as stringent as Florida's. In addition, the bill provides that identification cards issued to foreign nationals who rely on certain United States Department of Justice documents (an employment authorization card, or proof of nonimmigrant classification) to establish proof of identity shall expire 4 years from the date of issuance or upon the expiration date cited on the applicable Department of Justice document, whichever date occurs first. Identification cards issued to specified foreign nationals may not be renewed or duplicated except in person. Finally, the bill authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to

incorporate fingerprints and other unique biometric means of identity into the application for an identification card.

The bill amends s. 322.08, F.S., to require that applicants for a Florida driver's license identify their country of birth. The bill limits reciprocity for purposes of verifying the applicant's identity to those states that have adopted proof of identity requirements that are at least as stringent as Florida's. Under this provision, Florida would continue to accept valid driver licenses issued through other jurisdictions for purposes of determining the applicant's driving qualifications. However, Florida would limit reciprocity for identification purposes to those jurisdictions that have adopted comparable proof of identity documentation requirements. Currently, Florida accepts the following five primary identification documents: (1) a certified copy of a United States birth certificate; (2) a valid United States passport; (3) an alien registration receipt card (green card); (4) an employment authorization card issued by the United States Department of Justice; or (5) proof of nonimmigrant classification provided by the United States Department of Justice. The bill provides that DHSMV may incorporate fingerprints and other unique biometric means of identity into the application for a driver's license.

The bill amends s. 322.17, F.S., to provide that a licensee who establishes his or her identity for a driver's license using certain Department of Justice documents (an employment authorization card or proof of nonimmigrant classification) may not obtain a duplicate or replacement driver's license except in person and upon submission of the appropriate identification documentation.

The bill amends s. 322.18, F.S., to provide that driver's licenses issued to foreign nationals who rely on certain Department of Justice documents (an employment authorization card, or proof of nonimmigrant classification) to establish proof of identity shall expire 4 years from the date of issuance or upon the expiration date cited on the applicable Department of Justice document, whichever date first occurs. Driver licenses issued to specified foreign nationals may not be renewed or duplicated except in person and upon submission of the appropriate identification documentation.

The bill amends s. 322.19, F.S., to provide that a licensee who establishes his or her identity for a driver's license using certain Department of Justice documents (an employment authorization card, or proof of nonimmigrant classification) may not change his or her name or address except in person and upon submission of the appropriate identification documentation.

The bill amends s. 322.212, F.S., to provide it is unlawful to sell, manufacture, or deliver any blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver's license or similar document without approval by DHSMV. Violation of this section would constitute a third-degree felony. The bill also provides that violations may be investigated by any law enforcement agency, including the Division of Alcoholic Beverages and Tobacco.

If approved by the Governor, these provisions take effect October 1, 2002.
Vote: Senate 31-6; House 112-1

CS/SB 366 — State Uniform Traffic Control

by Transportation Committee and Senator Crist

This bill (cited as the "Move Over Act") provides that when an emergency vehicle is parked and using its visual signals, motorists are to, as soon as it is safe, vacate the lane closest to the emergency vehicle when driving on a highway with two or more lanes traveling in the direction of the emergency vehicle. On two lane roads, motorists are required to reduce their speed to 20 miles an hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater, or 5 miles per hour when the posted speed limit is 20 miles per hour or less. A violation of this provision is punishable by a $30 civil penalty. Proceeds from this fine are to be paid to the Crimes Compensation Trust Fund administered by the Office of the Attorney General.

The Department of Highway Safety and Motor Vehicles is directed to provide an educational awareness campaign informing the motoring public of the requirements of this bill. In addition, the Department is required to incorporate information concerning this bill in all driver's license educational materials printed after July 1, 2002.

This bill specifies those public and private entities that are authorized to operate emergency lights and sirens. The bill also provides additional authority to wrecker operators with regard to the use of rotating amber lights while recovering or towing a vehicle.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 118-0

SB 441 — License Plate/Breast Cancer Research

by Reps. Cantens, Berfield, Lerner, Heyman, Romeo, and others (SB 722 by Senators Sanderson, Brown-Waite, Holzendorf, Sebesta, Pruitt, and Villalobos)

This bill creates the Breast Cancer Research license plate. The license plate will include a figure on the left side of the plate with a pink ribbon on the chest, and will display a pink banner containing the Florida Breast Cancer Coalition website. The background will be blue and the words "End Breast Cancer" will appear at the top of the plate. In addition to the applicable motor vehicle taxes and fees, a $25 annual use fee will be charged for this new specialty license plate.

All annual use fees will be distributed by the Department of Highway Safety and Motor Vehicles to the Florida Breast Cancer Coalition Research Foundation to fund a peer-reviewed grant process. Grant funding must be made available for various kinds of breast cancer related research and innovative ideas. In the first year the plate is issued, no more than 25 percent of the fees collected may be used for administrative costs associated with the operation of the Florida Breast Cancer Coalition Research Foundation, and marketing and promotion of the research concept

and license plate. In subsequent years, no more than 20 percent of the revenues may be used for such purposes.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 34-1; House 116-0

HB 561 — Parking Permits/Disabled Persons

by Rep. Ball and others (SB 350 by Senator Futch)

This bill (Chapter 2002-6, L.O.F.) amends s. 320.0848, F.S., to expand the statutory list of persons qualified to certify a person as disabled for the purposes of acquiring a parking permit for disabled persons to include an advanced registered nurse practitioner in a facility operated by the United States Department of Veterans Affairs under the protocol of a licensed physician, or by a licensed physician assistant in a facility operated by the United States Department of Veterans Affairs.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 39-0; House 117-0

HB 183 — Motor Vehicles/Pre-delivery Services

by Rep. Gardiner and others (SB 344 by Senator Latvala)

This bill repeals subsection (19) of section 29 of Chapter 2001-196, L.O.F. This repeals a provision of law that makes it a deceptive and unfair trade practice to add an additional charge for pre-delivery services other than those shown on a window sticker affixed to the vehicle. The bill applies retroactively to any motor vehicle sold on or after October 1, 2001. Motor vehicle dealers will still be required to disclose all pre-delivery charges to prospective purchasers before the final sale.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 118-0

CS/HB 1431 — Motor Vehicle Warranty Enforcement

by Smarter Government Council and Rep. Jordan (CS/SB 1882 by Transportation Committee and Senator Latvala)

This bill provides that the nameplate manufacturer of a recreational vehicle must provide written notice to the consumer, at the time of vehicle acquisition, of the procedures required to file a claim under the Pilot RV Mediation and Arbitration Program. The bill extends the operation of the RV Mediation and Arbitration Program until September 30, 2006. The bill also authorizes the

Department of Legal Affairs to delegate responsibility for the screening of claims under the Pilot RV Mediation and Arbitration Program to the program administrator.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 37-0; House 116-0

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