2005 Regular Session

Summary of Legislation Passed

Revised 07/22/05 to amend HB 1877

Compiled and Edited by
Office of the Senate Secretary

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HB 1717 — Agriculture

by Agriculture Committee and Rep. Stansel (CS/CS/CS/SB 858 by Judiciary Committee; Environmental Preservation Committee; Agriculture Committee; and Senator Smith)

This bill addresses various issues related to agriculture and the powers and duties of the Department of Agriculture and Consumer Services. The bill:

- Clarifies that the regulation of bison for food or agricultural purposes is within the jurisdiction of the Department of Agriculture and Consumer Services and the regulation of the display or exhibition of bison is within the jurisdiction of the Fish and Wildlife Conservation Commission.
- Revises the membership of the Florida Agriculture Center and Horse Park Authority.
- Clarifies the value for purpose of assessment for ad valorem taxes of certain property leased by the department.
- Provides criteria for the department to investigate complaints.
- Establishes an environmental stewardship program which agricultural producers could voluntarily join.
- Defines the term "invasive plant."
- Requires special permits for persons wishing to engage in biomass plantings.
- Revises provisions regarding civil liability for prescribed burns.
- Authorizes the department to continue to use its own on-line procurement system and additionally requires vendors to be prequalified as meeting mandatory requirements and qualifications.
- Insures that uniform standards are used in food inspection, regulations and fines throughout the state.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

HB 1231 — Agricultural Products Dealers

by Agriculture Committee and Reps. Poppell, Stansel, and others (CS/SB 1780 by Judiciary Committee and Senator Smith)

This bill makes changes to the Florida License and Bond Law to enable the license and bond program to better serve Florida's agricultural industry and to make the program more self-sufficient. The bill:

- Adds, revises, and clarifies several definitions to better fit today's agriculture industry and its practices.
- Removes tropical foliage from the list of exemptions and adds timber and timber by-products.
- Requires every dealer in agricultural products to provide the mailing address of the dealer's primary location prior to engaging in business and to notify the department of any changes in the address of the primary location; also, to provide the mailing address of all principals.
- Increases the maximum license fee from $300 to $500.
- Increases the maximum license fee for additional locations from $50 to $100.
- Clarifies the conditions under which a complaint may be filed against a dealer in agricultural products.
- Increases the minimum amount for filing a complaint from $250 to $500 and requires the complainant to pay a $50 filing fee to the department. If the complainant is successful in proving the claim, the $50 is reimbursed.
- Increases the maximum fine for violation of any of the law's provisions from $1,000 to $2,500.
- Increases the continuing violation fine from $50 to $100 per day.
- Increases the late payment penalty from "not to exceed $35" to "not to exceed $100."
- Provides expenditure authority in the amount of $285,000 for 4 FTEs to implement this act during FY 2005-2006.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 115-0

HB 643 — Sales Tax Exemption/Farm Equipment

by Rep. Bowen and others (CS/SB 696 by Government Efficiency Appropriations Committee and Senators Smith, Haridopolos, Fasano, Argenziano, and Bullard)

The bill deletes the statutory definition for self-propelled, power-drawn and power-driven farm equipment and creates a new definition for "power farm equipment" and exempts such equipment from sales tax.

It is estimated that this will save purchasers of such equipment approximately $12.2 million annually.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 112-0

SB 292 — Citrus Canker Eradication

by Agriculture Committee and Senator Dockery

This bill (Chapter 2005-26, L.O.F.) will save from automatic repeal the definition of the term "exposed to infection" as it pertains to the Citrus Canker Law. It follows a statutorily required legislative review.

In September 1995, citrus canker disease was discovered in a residential area near the Miami International Airport. Initial surveys showed that an area of about 50 square miles contained many citrus canker infected trees. Since the discovery, much has transpired as the Citrus Canker Eradication Program (CCEP) has worked to protect the state's citrus trees and the citrus industry.

Based upon scientific research by Dr. Timothy Gottwald, a scientist of the United States Department of Agriculture (USDA), the term "exposed to infection," was more clearly written in statute by the Legislature in the 2002 Regular Session to mean "citrus trees located within 1,900 feet of an infected tree." Additionally, the Legislature provided for a repeal of the definition, effective July 1, 2005, with a mandatory review by the Legislature prior to that date.

Citizens in the eradication zone challenged the constitutionality of the eradication program with filings in the state's courts. The Florida Supreme Court found the Citrus Canker Law to be constitutional, including the definition of "exposed to infection."

These provisions became law upon approval by the Governor on April 14, 2005.
Vote: Senate 37-0; House 105-8

SB 516 — Citrus Department/Districts

by Senators Alexander and Haridopolos

This bill (Chapter 2005-6, L.O.F.) increases the number of citrus districts in the state from three to four. It reduces the commission members for each district from four to three so that the total commission membership remains constant at twelve. It assigns citrus producing counties to citrus districts based upon production during the prior 5-year period. This complies with the legislative intent that commission redistricting take place every 5 years.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 37-0; House 115-0

SB 574 — Official Fruit of Florida

by Senators Haridopolos and Posey

This bill designates the orange (Citrus sinensis and hybrids thereof) as the official state fruit.

Chapter 15, F.S. designates official state emblems. Currently, there are designations for a state tree, beverage, citrus archive, shell, stone, gem, wildflower, play, animal, freshwater fish, saltwater fish, marine mammal, saltwater mammal, butterfly, reptile, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera program, renaissance festival, railroad museums, transportation museum, soil, fiddle contest, band, and sports hall of fame.

The Florida citrus industry generates more than $8 billion in economic activity in the state and employs over 100,000 people in the industry or related businesses. As of 2002, there were over 600,000 acres of orange groves in the State of Florida and over 85,000,000 orange trees. Total orange production in 2002 was over 200,000,000 boxes.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 117-0

HB 255 — Rabies Vaccination

by Rep. Russell and others (CS/SB 898 Health Care Committee and Senators Rich and Wilson)

This bill revises requirements for the frequency of rabies vaccinations for dogs, cats and ferrets four months of age or older. The bill:

- Would require each dog, cat, and ferret to have a revaccination 12 months after the initial vaccination. Thereafter, revaccination requirements would conform to the vaccine manufacturer's direction.

- Provides that evidence of circulating rabies-virus-neutralizing antibodies may not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.

- Requires each agency and veterinarian to use Form 51 "Rabies Vaccination Certificate," of the National Association of State Public Health Veterinarians or an equivalent form approved by the local government which contains all the information required by Form 51.

- Prohibits local governments from establishing requirements that would mandate revaccination of currently vaccinated animals, except for instances involving the post exposure treatment of rabies.

If approved by the Governor, these provisions take effect January 1, 2006.
Vote: Senate 40-0; House 110-0

PROPERTY INSURANCE

CS/SB 1486 — Property Insurance

by Banking and Insurance Committee and Senators Garcia and Lynn

This bill makes significant changes to the laws regulating property insurance. The bill makes the following changes:

Florida Hurricane Catastrophe Fund (FHCF)

Lowers the "retention" or amount of residential hurricane losses that all insurers must meet in total (on average) in order to be reimbursed from the FHCF, from an estimated $4.96 billion to $4.5 billion per hurricane, for the 2005 contract year. The bill further reduces the retention to one-third of the full retention for the third and each additional hurricane in a year (in order of loss magnitude). As under current law, the retention increases each year by the same percentage as the increase in the Fund's exposure to losses.

Low-interest loan program for hurricane loss mitigation

Requires the Department of Community Affairs (DCA) to establish a low-interest loan program, by subsidizing or guaranteeing private sector loans, for homeowners to retrofit their homes to reduce hurricane losses, beginning in FY 2006-2007. For FY 2005-2006, up to $1 million of the $10 million annually appropriated to DCA from the FHCF could be used for establishing a pilot project in one or more counties.

Insurance Rating Law

- Requires a public hearing for property insurance rate filings exceeding 15 percent, (rather than 25 percent, currently) if based on a computer model.

- Provides that hurricane loss models approved by the Florida Commission on Hurricane Loss Projection Methodology are admissible and relevant in a rate proceeding only if the Commission, the Office of Insurance Regulation (OIR) and the insurance consumer advocate have access to all aspects of the model. This provision does not take effect unless HB 1939, which was passed by the Legislature, becomes law which provides a public records exemption for such information that qualifies as a trade secret.

- Requires OIR to propose to the Legislature, by January 15, 2006, a standard territory rating plan for residential property insurance, but not to be implemented unless authorized by further act of the Legislature.

- Prohibits an insurer from recouping more than one year of reimbursement premium paid to the FHCF at a time.

Public Hurricane Loss Model

Requires insurers to report loss and exposure data to OIR or to a type I center within the state university system (currently, the Hurricane Research Center at Florida International University) for developing and updating the public hurricane loss model. This provision does not take effect unless HB 1939 becomes law which provides a public records exemption for such data that is specific to a particular insurance company.

Citizens Property Insurance Corporation ("Citizens")

- Changes appointments to the board of governors from seven appointed by the Chief Financial Officer (CFO), to two members each appointed by the Governor, CFO, President of the Senate, and Speaker of the House or Representatives (eight total).

- Authorizes a pilot project in Monroe County to require that rates be actuarially sound and not excessive, inadequate, or unfairly discriminatory, rather than the highest average rate in a county compared to the 20 leading insurers in the state, for those areas where OIR determines that a reasonable degree of competition does not exist.

- Requires Citizens to create a Market Accountability Advisory Committee to report at each board meeting, consisting of members appointed by agent associations, insurers, OIR, the Citizens board, a realtor association, and a bankers association.

- Provides legislative intent that Citizens provide service that is of the highest possible level.

- Clarifies that Citizens may issue bonds to refinance outstanding debt.

- Requires Citizens to make its best efforts to procure reinsurance to cover its projected 100-year probable maximum loss.

- Requires the Auditor General to conduct an operational audit of Citizens.

- Requires Citizens to submit a report to the Legislature.

Standard Personal Lines Residential Policies

Requires the CFO to appoint an advisory committee to develop standard personal lines policies to submit to the Legislature by January 15, 2006, but insurers would not be required to offer a standard policy unless required by further act of the Legislature.

Disapproval of Policy Forms

Authorizes OIR to disapprove a policy form for residential property insurance if it contains provisions that are unfair, inequitable, or that encourage misrepresentation.

Checklist of Coverage

Requires that insurers provide a checklist of coverage for personal lines residential policies, on a form adopted by the Financial Services Commission, including whether certain specified risks are covered, premium discounts, deductibles, replacement cost or actual cash value coverage, etc.

Hurricane Deductibles

- Increases the maximum allowable deductible for personal lines residential policies from 5 percent to 10 percent of the dwelling limits.

- Requires insurers to offer deductibles of 2 percent, 5 percent, and 10 percent of dwelling limits for personal lines residential policies, rather than just 2 percent.

- Requires that the dollar amount of a percentage deductible be specified and provides other disclosure requirements.

- Requires that for condominiums and other commercial residential policies, the insurer must offer both an annual hurricane deductible and a per event deductible, beginning January 1, 2006. The mandatory annual hurricane deductible enacted in the December, 2004 Special Session, would be limited to personal lines residential policies.

Building Code ("Law and Ordinance") Coverage

Requires insurers to offer coverage in homeowners policies equal to 50 percent of dwelling limits for the additional costs to meet applicable building codes, as an option to the 25 percent coverage that must currently be offered or provided. The (OIR) would be required to study the issue of requiring insurers to provide law and ordinance coverage.

Replacement Cost Coverage

Requires that if a loss is insured for replacement cost, the insurer must pay the replacement costs without holdback of any depreciation in value, whether or not the insured replaces or repairs the dwelling or property.

Mediation Program

Expands the mediation program for resolving property insurance disputes, administered by the Department of Financial Services, to commercial residential policies, and provides a penalty for insurers failing to notify claimants of their right to mediation.

Valued Policy Law (Mierzwa)

In response to a recent district court opinion (*Mierzwa v. Florida Windstorm Underwriting Assoc.*, 877 So.2d 774, Fla. 4th DCA 2004) the bill provides legislative intent that the valued policy law is not intended to create new or additional coverage, or to require an insurer to pay for a loss caused by a peril other than the covered peril. If a loss is caused in part by a covered peril and in part by a noncovered peril, the insurer's liability is limited to the amount of the loss caused by the covered peril. However, if the covered perils alone would have caused the total loss, then the valued policy law applies and the insurer must pay policy limits, not exceeding the amounts necessary to repair, rebuild or replace the insured structure. These provisions will not be applied retroactively and shall apply only to claims filed after the effective date of this bill.

Sinkhole Claims

Revises the law on sinkhole claims, as follows:

- Specifies that sinkhole coverage includes the costs to stabilize the land and building and to repair the foundation.

- Allows an insurer to deny a sinkhole claim if the insurer determines there is no sinkhole loss, but the insurer must provide written notice to the policyholder of their right to demand testing.

- If the policyholder demands testing, the insurer must engage an engineer or a geologist to conduct testing.

- Testing must be conducted in compliance with specified standards and a report must be issued as to the cause of the loss, with recommendations for stabilization and repair.

- The findings and recommendations of the engineer and geologist are presumed correct and the insurer must pay the costs of stabilization and repair in accordance with the recommendations.

- The insurer may limit its payment to the actual cash value of the sinkhole loss until such time as expenses related to land and building stabilization and foundation repairs are incurred, including underpinning and grouting. But, the insurer cannot require the policyholder to advance payments. The insurer must pay the expenses after a

policyholder enters into a contract for stabilization or foundation repairs, and pay amounts necessary to begin and perform repairs as the work is conducted.

- If repair has begun and the engineer selected or approved by the insurer determines that the repair cannot be completed within the policy limits, the insurer must either complete the engineer's recommended repair or tender the policy limits to the policyholder without a reduction for the repair expenses incurred.

- If an insurer pays a sinkhole claim, it must file a copy of the professional report with the county property appraiser.

- Establishes a sinkhole database to track sinkhole insurance claims.

- Requires the seller of real property to disclose to the buyer that a sinkhole claim has been paid and whether or not the insurance proceeds were used to repair the sinkhole damage.

Notice of Premium Discounts for Hurricane Loss Mitigation

Requires insurers to notify applicants and policyholders of the availability and amount of premium discounts and credits for fixtures and construction techniques that reduce the amount of loss in a windstorm.

Prohibited Cancellation of Coverage

Prohibits an insurer from canceling or nonrenewing a residential property insurance policy covering a dwelling damaged by a hurricane until 90 days after the dwelling has been repaired, with certain exceptions. It also prohibits an insurer from canceling coverage for anyone during the duration of a hurricane, until 72 hours after the last hurricane watch or warning is issued anywhere in the state.

Additional Staffing for Insurance Consumer Advocate

Appropriates $350,000 from the Insurance Regulatory Trust Fund and four positions to the Office of the Consumer Advocate appointed by the CFO.

Task Force on Long-Term Solutions for Florida's Hurricane Insurance Market

Creates the Task Force to consider issues relating to the creation and maintenance of insurance capacity in the private sector and public sector which is sufficient to ensure that all property owners in the state are able to obtain appropriate insurance coverage for hurricane losses. The Task Force is also charged with studying various issues relating to Citizens Property Insurance Corporation. The report and recommendations are due by April 1, 2006. The Task Force is administratively housed within the office of the CFO and has twelve members consisting of three members each appointed by the Governor, CFO, the Senate President, and Speaker of the House.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided in the act.
Vote: Senate 38-1; House 99-17

HB 1939 — Public Records and Meetings (Hurricane Loss Data)

by Insurance Committee and Rep. Ross and others (CS/CS/SB 1478 by Governmental Oversight and Productivity Committee; Banking and Insurance Committee; and Senator Garcia)

The bill creates a public records exemption for reports of hurricane loss and associated exposure data which are specific to a particular insurance company, as reported by an insurer or licensed rating organization to the Office of Insurance Regulation (OIR) or to a type I center at a state university, for the development of a public hurricane loss model. The bill defines "loss data and associated exposure data." A separate bill, CS/SB 1486, would require insurers to report such data in a time and manner as specified by OIR. The Legislature finds that revealing such information could substantially harm insurers in the insurance market and give competitor insurers an unfair economic advantage.

The bill would also provide a public records exemption for a trade secret, as defined in s. 812.081, F.S., that is used in designing and constructing a hurricane loss model, that is provided by a private company to the Florida Commission on Hurricane Loss Projection Methodology (Commission), OIR, or the consumer advocate. The bill also creates a public meetings exemption for that portion of a meeting of the commission or of a rate proceeding on an insurer's rate filing at which confidential information is discussed. This provision is also related to CS/SB 1486, that provides that the findings of the Commission are admissible and relevant in a rate proceeding only if OIR and the consumer advocate have access to all of the assumptions and factors that were used in developing the model and are not precluded from disclosing such information in a rate proceeding. The Legislature finds that disclosing a trade secret used in the design and construction of a hurricane loss model would negatively impact the business interests of a private company that has invested substantial economic resources in developing the model and that competitor companies would gain an unfair competitive advantage if provided access to such information. Also, reliable projections of hurricane losses are necessary in order to ensure that rates are neither excessive or inadequate and that this goal is served by enabling the Commission, OIR, and the consumer advocate to have access to all aspects of such models and encouraging private companies to submit such models for review without concern that trade secrets will be disclosed.

The exemptions are subject to repeal on October 1, 2010, unless reviewed and reenacted pursuant to the Open Government Sunset Review Act of 1995.

If approved by the Governor, these provisions take effect on the same date as HB 1937 or substantially similar legislation (CS/SB 1486) takes effect.
Vote: Senate 39-0; House 83-30

INSURANCE

HB 811 — Health Insurance

by Rep. Kreegel and others (CS/CS/SB 1660 by Ways and Means Committee; Banking and Insurance Committee; and Senators Fasano, Lawson, and Baker)

The bill makes the following statutory changes relating to the individual and group health insurance market:

- Provides that an insurance contract may not prohibit the payment of benefits directly to a licensed hospital, physician, or dentist who provides emergency care required under s. 395.1041, F.S. Claims forms are required to provide for direct payment to the licensed hospital, physician, or dentist that provides emergency care. The insurer may require written assignment of benefits. The reimbursement to the provider is limited to the amount the insurer would have paid without the assignment.

- Provides that the small group law requirements (guaranteed-issue and modified community rating) would not apply to individual coverage marketed to an employee of a small employer that provides for payroll deduction of the premium, if the employer does not contribute to the premium and has not had group coverage within the prior 6 months.

- Increases from 30 days to 63 days after group coverage has terminated, within which an individual is required to notify the insurance carrier of coverage termination and preserve the right to continue group coverage. This change comports Florida's law to the federal Health Insurance Portability and Accountability Act of 1996.

- Provides that insurers and health maintenance organization (HMOs) may offer high-deductible plans that meet the federal requirements for a health savings account, without being subject to Florida mandates that prohibit deductibles from applying to certain benefits.

- Authorizes the Office of Insurance Regulation to disapprove a health flex plan if the officers or directors are incompetent, untrustworthy, or lacking in insurance company managerial experience.

- Provides that individual health policies and individual HMO contracts, may elect to offer, rather than are required to offer, premium rebates to policyholders who participate in a wellness program. The bill also revises provisions relating to premium rebates for group policies and contracts.

- Changes the required frequency of financial examinations of HMOs by the Office of Insurance Regulation from once every 3 years to once every 5 years; deletes the use of an independent CPA audit by the HMO in lieu of an examination by OIR; and increases the maximum amount an HMO is charged for an examination from $20,000 to $50,000.

If approved by the Governor, these provisions take effect July 1, 2005, and shall apply to all policies or contracts issued or renewed on or after July 1, 2005, except as otherwise provided. *Vote: Senate 39-0; House 118-0*

CS/SB 1662 — Unauthorized Insurance

by Judiciary Committee and Senators Fasano and Atwater

Insurance companies transacting insurance in Florida or from offices located in the state are required to obtain a certificate of authority (COA) issued by the Office of Insurance Regulation. An unauthorized insurer is an insuring entity that does not have a COA to transact insurance business in Florida, and the law provides specific penalties for entities, or their representatives, that engage in such activity. This bill provides for the following changes to the unauthorized insurance law (ch. 626, part VIII, F.S.):

- Provides that the Office of Insurance Regulation (OIR) and the Department of Financial Services (DFS) may issue an immediate final order against an unauthorized insurer to cease and desist activity that violates the unauthorized insurance law.

- Specifies a legislative finding that a violation of the prohibitions relating to representing or aiding unauthorized insurers constitutes an imminent threat to the health, safety, and welfare of the residents of this state.

- Authorizes the OIR to investigate the accounts, records, documents, and transactions pertaining to activities of any unauthorized insurer or person aiding or representing such insurer.

- Clarifies what is meant by independent procurement of insurance coverage for the purposes of an exception to the prohibition against aiding unauthorized insurers, to specify that such coverage is not solicited, marketed, negotiated, or sold in Florida.

- Requires that unauthorized insurers must initially obtain a COA or deposit, securities, cash, or a bond when such insurers seek to defend against an enforcement action filed in circuit court by the OIR or DFS.

- Places a time limit of 30 days after the service of process in which unauthorized insurers or their representatives may file a motion to challenge the service of process.

- Provides that the penalties for representing an unauthorized insurer do not apply to the actions of persons who assist the OIR, at the agency's direction, in the administration of OIR's responsibilities under the Unauthorized Insurers Process Law (ss. 626.904-626.912, F.S.).

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 116-0

CS/SB 1432 — Insurance Administrators

by Banking and Insurance Committee and Senator Baker

Insurance administrators provide various services to life or health insurers or self-insured programs such as soliciting coverage, collecting premiums, claims handling, and settling claims. Administrators must be licensed by the Office of Insurance Regulation (OIR) and are regulated under ch. 626, part VII, F.S., (ss. 626.88-626.899). CS/SB 1432 makes changes that are consistent with the National Association of Insurance Commissioners Model Act 090, the NAIC Third Party Administrator Statute. The bill amends the definition of "administrator" to exempt from licensure requirements wholly owned direct or indirect subsidiaries of an employer that provide administrative services for the employer or the employer's subsidiaries or affiliated corporations. The bill creates additional exemptions from licensure for entities meeting certain criteria.

New applicants for licensure as an administrator must file audited financial statements for the past two fiscal years. New applicants must also submit a business plan that details staffing levels and the applicant's ability to provide a sufficient number of qualified personnel to carry out specified duties. The annual report filed by an administrator must include an audited financial statement performed by an independent certified public accountant under the bill, which also provides authority for the electronic submission of such documents. The bill requires the insurer and its administrator to enter into a written agreement whereby the insurer determines the benefits, premium rates, underwriting criteria, and claims payment procedures the administrator is to follow. The insurer is solely responsible for the competent administration of its programs. Also, an insurer must semiannually review the operations of an administrator handling over 100 insurance certificateholders, with one such review being an on-site audit of the administrator's operations. The bill also provides rulemaking authority to the Financial Services Commission.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 118-0

SB 450 — Motor Vehicle Insurance

by Senators Geller and Lynn

Insurance companies are prohibited from committing various activities defined under the Unfair Insurance Trade Practices Act, ch. 626, part IX, F.S. Such activities range from misrepresentations in advertising of insurance policies and making false statements to defamation and illegal dealings in premiums. Insurers may be subject to suspension or revocation of their certificate of authority or fines for violations of the Act's provisions imposed by the Office of Insurance Regulation (OIR).

This bill creates a new unfair or deceptive trade practice provision which would prohibit auto insurers from imposing premium increases for persons in military service under certain circumstances. Specifically, the bill would make it unlawful for insurers to charge an increased premium for reinstating a motor vehicle insurance policy that was cancelled or suspended by the insured solely for the reason that he or she was transferred out of this state while serving in the United States Armed Forces or on active duty in the National Guard or United States Armed Forces Reserve.

The bill also provides that it is an unfair or deceptive trade practice for an insurer to charge an increased premium for a new motor vehicle insurance policy if the applicant for coverage, or his or her covered dependents, were previously insured with a different insurer and cancelled that policy solely for the reason that he or she was transferred out of this state while serving in the United States Armed Forces or on active duty in the National Guard or United States Armed Forces Reserve. For purposes of determining premiums under these circumstances, an insurer shall consider such persons as having maintained continuous coverage.

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

HB 1081 — Discount Medical Plan Organizations

by Rep. Berfield and others (CS/SB 2214 by Banking and Insurance Committee and Senators Saunders and Wilson)

Discount medical plan organizations (DMPO) that provide access for plan members to providers of medical services at a discounted fee in exchange for fees or other consideration are subject to licensure and regulation under ch. 636, part II, F.S., by the Office of Insurance Regulation (OIR). The bill provides the following changes related to the licensure and regulation of these entities:

- Authorizes OIR to impose an administrative penalty and cease and desist orders in lieu of suspending or revoking the license of a DMPO.

- Provides that any charge or form is deemed approved on the 60th day after filing unless OIR has previously disapproved it.

- Authorizes OIR to disapprove any form that does not comply with ch. 636, part II, F.S., or that is unreasonable, discriminatory, misleading, or unfair.

- Authorizes a DMPO to retain up to a $30 one-time processing fee if a membership is canceled within 30 days of joining the plan.

- Revises the DMPO's liability for the actions of its marketer.

- Eliminates audited financial statement requirements for licensure, if the applicant is a subsidiary of a parent company and certain conditions are met by the parent company.

- Eliminates the filing of annual, audited financial statements for a subsidiary of a parent company if certain conditions are met, and instead, requires a DMPO to file a sworn affidavit certifying compliance with net worth requirements.

- Repeals the civil remedies provision.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

HB 105 — Life Insurance and Annuity Contracts

by Rep. Liorente and others (CS/SB 1508 by Banking and Insurance Committee and Senator Garcia)

This bill provides that a certificate of authority (COA) is not required of an insurer domiciled outside the United States which operates from offices within Florida and which issues life insurance policies and annuity contracts covering only persons who, at the time of issuance, are not residents of the United States and are not nonresidents illegally residing in this country. The legislation requires the insurer to meet the following specified financial and disclosure provisions:

- The insurer must be an authorized insurer in its country of domicile for the prior 3 years, or a wholly owned subsidiary thereof, and must have offered the types of insurance it proposes to offer in Florida.

- The Office of Insurance Regulation (OIR) may waive the above 3-year requirement if the insurer has operated successfully for the past year and has capital and surplus of at least $25 million.

- Specific disclosures must be made to the applicant of a policy or contract, including:

  - A copy of the insurer's most recent quarterly financial statement;
  - The date of organization of the insurer;
  - The identity of and rating assigned by each rating entity that has rated the insurer or, that the insurer is unrated;
  - A statement that the insurer does not hold a COA from Florida and is not regulated by the OIR; and
  - The identity and address of the regulatory authority exercising oversight of the insurer.

- The insurer is required to provide the OIR with annual and quarterly financial statements in English; to maintain a surplus as to policyholders of at least $15 million represented by specified investments; to have a 'good reputation' as to providing service to insureds and the payment of losses and claims; and allow access to the OIR to its books and records.

- The OIR has no responsibility to determine the actual financial condition or claims practices of the insurer.

- If, at any time, the OIR has reason to believe the insurer is insolvent, in unsound financial condition, does not make reasonable prompt payments, or is no longer eligible under specified conditions, the OIR may conduct an examination or investigation (which would be done at the expense of the insurer) and, if the findings warrant, may withdraw the eligibility of the insurer to issue policies or contracts.

- The insurer is not exempt from the agent licensure requirements under the Insurance Code; is subject to the Unfair Trade Practices provisions under ch. 626, F.S., and its written policies are exempt from the Florida premium tax provisions.

- The provisions of the Florida Money Laundering Act (ch. 896, F.S.) apply to all single premium life insurance policies and annuity contracts issued to persons who are not residents of the United States and who are not nonresidents illegally residing in the United States.

- The insurer must provide a disclosure in its life insurance application in specified point type that the policy is primarily governed by the laws of a foreign country; that the rating and underwriting laws applicable to policies filed in Florida do not apply to this coverage; and, if the insurer becomes insolvent, the policy is not covered by the Florida Life and Health Insurance Guaranty Association.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 118-0

INSURANCE AGENTS

SB 1912 — Insurance Agents and Agencies

by Judiciary Committee; Banking and Insurance Committee; and Senator Argenziano

Under current law, the Department of Financial Services (DFS) licenses insurance agents while the Office of Insurance Regulation (OIR) issues certificates of authority to insurance companies to operate in Florida. However, insurance agencies, which employ agents and agency owners, are not licensed. According to the National Association of Insurance Commissioners, Florida is the only state in the country that does not require insurance agencies to obtain licenses.

This bill mandates that insurance agencies be licensed or registered with the DFS and provides for the following regulatory changes:

- Requires insurance agencies to be licensed or registered by October 1, 2006.
- Provides that insurance agencies that are wholly owned by licensed agents and were engaged in business before January 1, 2003, incorporated agencies whose voting shares are traded on a securities exchange, and agencies that offer insurance as a service to members of nonprofit corporations must register with the DFS in lieu of obtaining a license.
- Authorizes the DFS to obtain background information on insurance agency applicants and to obtain additional information as required to ascertain the trustworthiness and competence of such applicants.
- Authorizes fingerprints of agency sole proprietors, partners, owners, and other persons to be taken by a law enforcement agency or other entity approved by the DFS.
- Authorizes the DFS to impose administrative penalties for insurance agencies that are not licensed or registered, as required.
- Prohibits the use of deceptive insurance agency names that may mislead the public or imply that the agency is a state or federal entity or a charitable organization.
- Repeals the requirement that a primary agent be designated for each agency location.
- Requires each agency to display its license or registration prominently in a manner that is clearly visible to a customer.
- Allows persons who live outside the state, but who work in a Florida insurance agency, to obtain a Florida “resident” agent’s license.

- Allows DFS to electronically scan records of insurance entities and agents related to investigations or examinations.

- Eliminates the examination requirement for adjusters who apply to change from one adjuster license type to another.

- Requires insurers to be bound by the acts of their agents that are committed within the scope of the agent's appointment.

- Deletes the disciplinary authority that allowed DFS to take action against an insurance agent when such agent committed acts that were "detrimental to the public interest," because the phase was ruled unconstitutionally vague.

- Clarifies that an agent who had his or her license revoked or suspended will not necessarily be granted a new license after the required waiting period.

- Provides a minimum age of 18 to qualify for a customer representative license.

- Allows nonresident title insurance agents to become licensed in Florida in the same manner as nonresident general lines agents.

- Provides that licensed insurance agents may not be prohibited from competing or negotiating for any insurance product purchased by any political subdivision of the state on the basis of the compensation, contractual, or employment arrangement granted to the agent by the employer, insurer, or licensed agency.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 117-0

HB 501 — Insurance Agents and Communication Equipment Insurance

by Rep. Berfield (CS/CS/SB 1002 by Commerce and Consumer Services Committee; Banking and Insurance Committee; and Senator Posey)

This bill provides for changes pertaining to entities offering communications equipment insurance for wireless phones and similar devices and for qualifications for general lines agents. Specifically the legislation does the following:

- Allows entities offering communications equipment property insurance and communications equipment inland marine insurance to sell service warranty agreements for such equipment without having to obtain a separate license to sell service warranties.

- Authorizes limited agent licenses to be issued to the "lead" business location of a retail vendor of communications equipment and its branch locations.

- Allows a communications equipment branch location to obtain a single appointment from its associated lead business licensee, in lieu of obtaining an appointment from an insurer or warranty association.

- Allows a communications equipment branch location appointed by an insurer prior to January 1, 2006, to replace its appointment with an appointment from its associated lead business licensee at no charge, and to renew its appointment every 24 months thereafter with the Department of Financial Services.

- Reduces the renewal appointment fee for branch locations from $60 to $30 beginning July 1, 2006.

- Allows a general lines agent to be licensed in Florida and be licensed as a managing general agent in another state.

- Deletes the requirement that an insurance company include in its rate filing a $10 maximum per-policy fee currently allowed by law to be charged by insurance agents for administrative costs associated with selling only a personal injury protection and property damage liability policy.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 117-0

TITLE INSURANCE/MORTGAGES

HB 75 — Title Insurance

by Rep. Mahon and others (CS/SB 638 by Banking and Insurance Committee and Senators Wise, Geller, King, and Campbell)

The bill authorizes the issuance of personal property title insurance policies for Uniform Commercial Code (UCC) transactions under Article 9 of the Revised UCC. The insurance product will be available for sale in conjunction with a transaction involving a UCC security interest. It is designed to insure against challenges to attachment, perfection, and priority (such as fraud, filing office errors, inaccuracies in a search report, and errors in documentation and perfection) and provides for the defense of the insured lender if a claim is made regarding the lender's collateral position.

The legislation will allow a title insurer to sell UCC personal property insurance, but would disallow a property and casualty insurer from selling the product no later than January 1, 2006, because of the title insurance monoline statute contained in s. 627.786, F.S., which prohibits an insurer from selling both title insurance and any other kind of insurance in Florida. The provisions of the bill authorizing the issuance of such insurance as a title product shall be

effective once the Office of Insurance Regulation has approved the title insurance form and rate for UCC personal property insurance, which it must do no later than January 1, 2006.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 114-0

HB 531 — Mortgages/Certificates of Release

by Rep. Hasner and others (CS/CS/SB 1258 by Judiciary Committee; Banking and Insurance Committee; and Senator Atwater)

The bill permits a title insurer to execute and record a certificate of release of a mortgage in the event that a satisfaction or release of a mortgage with a principal amount of $500,000 or less has not been executed and recorded after the mortgage has been paid in full. The certificate of release operates as a release of the mortgage described in the certificate. The certificate of release is to be recorded in the real property records of each county in which the mortgage is recorded. A title insurer who records a certificate of release is liable to the holder of an obligation under the mortgage (mortgagee) for actual damage sustained due to the recording of the certificate of release, unless the title insurer relied upon a payoff statement provided by the mortgagee and can prove that the mortgage was paid in full in accordance with the payoff statement.

The bill repeals s. 701.05, F.S., which provides that any person entitled to and receiving payment for money due upon a mortgage, lien, or judgment who fails for 30 days after written demand to cancel and satisfy the record (as provided in s. 701.04, F.S.) is guilty of a second degree misdemeanor.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 37-0; House 118-0

VIATICAL SETTLEMENT AGREEMENTS

CS/SB 2412 — Viatical Settlement Investments

by Banking and Insurance Committee and Senators Garcia and Fasano

This bill provides that viatical settlement investments are securities for purposes of regulation under the Florida Securities and Investor Protection Act (Act) under ch. 517, F.S. The effect of declaring such investments to be securities is that these investments must be registered with either the Florida Office of Financial Regulation (OFR) under the Department of Financial Services (DFS) or the federal Securities and Exchange Commission (SEC). In addition, persons offering such investments must register with the OFR and provide full and fair disclosures concerning viatical settlement investments to prospective investors.

In 1996, Florida established the framework for the regulation of the viatical settlement industry under ch. 626, F.S. In general, a viatical settlement transaction is an agreement under which the owner of a life insurance policy ("viator") sells the policy to another person ("viatical settlement provider") in exchange for an up-front payment, which is generally less than the expected death benefit under the policy. Rather than retaining the policy, the provider usually sells all or a part of the policy to one or more investors ("viatical settlement purchasers"). In return for providing funds, these investors receive the death benefit, or a proportionate share thereof, upon the passing of the insured. It is the investment transaction which would be regulated as a security under this legislation. The bill also makes the following changes:

- Defines a viatical settlement investment as an agreement for the purchase, sale, assignment, transfer, devise, or bequest of any legal or equitable interest in a viaticated policy as defined in ch. 626, part X, F.S. (Viatical Settlement law).

- Clarifies that a viatical settlement investment does not include certain transfers or assignments of a viaticated policy to large institutional financial investors, banks, special purpose entities, qualified institutional buyers, accredited investors, or transfers of viaticated policies pursuant to a court's order.

- Provides that a viatical settlement investment is not an exempt security under certain provisions in the Act and that the offering of a viaticated settlement investment is not an exempt transaction under certain provisions in the Act, unless the offering is to a qualified institutional buyer.

- Defines a "qualified institutional buyer" to mean a designated institution under the federal SEC rule which invests at least $100 million of either its own funds or funds of others on a discretionary basis or any foreign buyer that satisfies the minimum financial requirements set forth under the SEC rule.

- Grants rule authority to the Financial Services Commission to:

    - establish requirements and standards for the filing, content, and circulation of a prospectus or other sales literature for several types of securities in order to determine whether such offering is fair, just, and equitable;
    - establish disclosures to purchasers of viatical settlement investments and recordkeeping requirements for sellers of such investments;
    - specify requirements for investment advisors deemed to have custody of client funds; and,
    - govern the conduct by and prohibited business practices for investment advisors, dealers, and their associated persons.

- Amends the definition of a "special purpose entity" which is an entity created by a licensed viatical settlement provider to provide access to institutional capital markets to provide that such entity "may not obtain capital from any natural person or entity with less than $50 million in assets" and may not enter into a viatical settlement contract.

- Eliminates the requirement for a separate viatical settlement broker license because brokering may now be done by a licensed life insurance agent who is self appointed and requires brokers to obtain an agent's license by October 1, 2006.

- Outlines grounds for the DFS to deny an application, or suspend or revoke a license, for specified persons involved in viatical settlement contract transactions.

- Defines "life expectancy provider" as a person who determines the life expectancies or mortality ratings used to determine life expectancies and mandates that after July 1, 2006, a person may not perform the functions of a life expectancy provider without being registered with and providing specified information to the Office of Insurance Regulation (OIR).

- Requires life expectancy providers to develop an anti-fraud plan and file such plan with the Division of Insurance Fraud and authorizes the OIR to deny the application, suspend, revoke, fine, or refuse to renew the registration of a life expectancy provider under specified circumstances.

- Provides that it is a prohibited practice for any person to knowingly or with intent to defraud, for the purpose of depriving another of property, issue or use a pattern of false, misleading, or deceptive life expectancies or to intentionally facilitate the change of state of residency of a viator to avoid the provisions of the Viatical Settlement law.

- Requires viatical settlement providers to:

    - file annual audited financial statements prepared by independent certified public accountants and reports of all life expectancy providers who have provided life expectancies for use in connection with a viatical settlement contract to the OIR;
    - maintain a deposit of $100,000 in securities to ensure faithful performance of their obligations to viators;
    - utilize life expectancies from registered life expectancy providers or be subject to suspension, revocation, or denial of their license.

- Clarifies that the OIR regulates viatical settlement purchase agreements prior to the effective date of the bill (July 1, 2005) and may examine persons in possession of records relating to viatical settlement purchase agreements executed before that date.

- Repeals s. 626.99245(4), F.S., which provides that the offer, sale and purchase of viatical settlement contracts, and the regulation of viatical settlement providers shall be within the exclusive jurisdiction of the OIR.

- Establishes a "grace period" to provide that any person who, on July 1, 2005, is effectuating a viatical settlement purchase agreement made before July 1, must proceed within 30 days after July 1, to conclude all viatical settlement purchase transactions in progress, provided, if funds have not been matched with a viaticated policy, such funds must be returned to the viatical settlement purchaser within 30 days after July 1.

- Eliminates definitions, deletes obsolete references, and makes changes in the Viatical Settlement law to conform to the security requirements of the Act.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 25-15; House 112-0

FINANCIAL INSTITUTIONS

CS/SB 1330 — Financial Institutions/Credit Unions

by Judiciary Committee and Senator Atwater

The bill amends provisions contained in chapters 655 and 657, F.S., of the financial institutions codes relating to financial institutions, in general, and the regulation of credit unions in particular. The bill:

- Incorporates changes to provide consistency with the National Credit Union Administration guidelines and federal regulations.

- Authorizes the Financial Services Commission to adopt rules to establish criteria under which the Office of Financial Regulation may place a credit union in involuntary liquidation.

- Updates accounting requirements to conform with generally accepted accounting principles of the United States.

- Revises procedures governing a merger of credit unions.

- Removes specific powers of a credit union in favor of broader business powers.

- Broadens the authority of the Office of Financial Regulation to issue an emergency order to require merger, conversion, or other appropriate action for a failing bank or trust company to apply to other financial institutions, including credit unions.

- Removes obsolete language relating to the Florida Credit Union Guaranty Corporation, which no longer exists, and provides other clarifying and conforming changes.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-1

HB 897 — Trusts and Other Agency Relationships

by Rep. Hukill and others (CS/SB 1688 by Judiciary Committee and Senator Atwater)

The bill amends the definition of "security account" within the Florida Uniform Transfer-on-Death Security Registration Act (ch. 711, F.S.) to allow banks and trust companies to open investment management accounts or other accounts that include transfer on death benefits.

House Bill 897 makes changes to the powers of trustees under ch. 737, part IV, F.S. It specifies that a trustee has the authority to use trust assets to pay compensation and costs incurred in connection with employing attorneys, auditors, investment advisers or agents to assist the trustee in performing his or her administrative duties. The bill also states that trust assets may be used to prosecute or defend a legal action and to pay compensation and costs to attorneys and other agents that assist the trustee in doing so. The bill adds "appeals" to the legal proceedings covered under this authority.

This legislation also establishes the means by which a trustee may resign his or her post by creating s. 737.309, F.S. The trustee may resign upon giving at least 30 days written notice to the settler (if living), all co-trustees, and all persons entitled to a trust accounting (beneficiaries), or with approval of the court. The resignation of a trustee does not affect or discharge any liability the trustee or surety on the trustee's bond may have for acts or omissions. If the resignation requires a successor trustee, the resigning trustee must continue to serve until the successor assumes the trusteeship. Notice of the resignation must be provided to beneficiaries, and notice and all records pertaining to the resignation must be provided to a co-trustee or the successor trustee.

The bill amends various provisions of the Florida Uniform Principal and Income Act. Chapter 738, F.S., governs the identification of principal and income in or from a trust property through a trust instrument, will, or other governing instrument, the allocation of principal and income, and the apportionment of assets between income and principal. It provides four situations for which a trustee does not need court authorization to exercise power that may currently be considered a conflict of interest. The legislation enacts an exception to the rule that the trustee may not make an adjustment if the adjustment would benefit the trustee, allowing a trustee to make an adjustment if the trustee's compensation is based upon the value of trust assets. The bill defines the terms "fair market value" and "unitrust amount," and amends the definition of "income trust" and "undistributed income."

If a trustee or disinterested person does not act in good faith, the provisions of s. 738.105(3), F.S., apply. Thus, if a trustee of a unitrust does not act in good faith in submitting or failing to submit a unitrust plan or modification, a court will have authority to correct the trustee's actions. The bill makes it clear that when the administration of a trust is governed by Florida law, but the substantive provisions are governed by the laws of another state, adjustments under s. 738.104, F.S., are administrative and thus governed by Florida law. The bill also allows the settlor of a trust to create a unitrust from the inception of the trust. This will allow settlors the option to initially draft their trust documents in unitrust form. The legislation also provides guidelines for the allocation of certain types of money and property received from targeted entities and investment entities.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 114-0

HB 871 — Investment of Public Funds

by Rep. Bilirakis and others (SB 1998 by Senator Alexander)

The bill allows banks and savings associations that serve as qualified public depositories for state and local governments to accept public deposits in amounts greater than $100,000 that would maintain full Federal Deposit Insurance Corporation coverage, if the following conditions were met:

- The funds must be initially deposited through a qualified public depository, as defined in s. 280.02, F.S., selected by the Chief Financial Officer or unit of local government;
- The selected depository must arrange for deposit of the funds in certificates of deposit in one or more federally insured banks or savings and loans associations, wherever located, in the account of the state or unit of local government;
- The full amount of principle and accrued interest of each certificate of deposit must be insured by the Federal Deposit Insurance Corporation;
- The selected depository is to act as custodian for the state or unit of local government with respect to such certificates of deposit issued for its account; and
- At the same time the state's funds are deposited and the certificates of deposit are issued, the selected depository receives an amount of deposits from customers of other federally insured financial institutions, wherever located, equal to or greater than the amount of the funds initially invested by the Chief Financial Officer or unit of local government through the selected depository.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

HB 627 — Office of Financial Regulation/Public Records

by Rep. Detert (CS/CS/SB 698 by Governmental Oversight and Productivity Committee; Judiciary Committee; and Senator Sebesta)

The bill creates a public records exemption for information obtained by the Office of Financial Regulation (OFR) of the Financial Services Commission in connection with investigations and examinations under the Florida Consumer Finance Act, ch. 516, F.S. The effective date of this bill was contingent on the passage of HB 381 or similar legislation, CS/CS/CS/SB 304; however, neither bill passed.

If approved by the Governor, these provisions take effect October 1, 2005, if HB 381 or substantially similar legislation is adopted in the same legislative session or an extension thereof becomes a law. Since the legislation was contingent upon passage of substantive legislation which ultimately did not pass, this bill will not become a law.
Vote: Senate 39-0; House 115-0

WORKERS' COMPENSATION

HB 423 — Workers' Compensation Employee Definition

by Rep. Ross (SB 2118 by Senators Atwater and Lynn)

The bill loosens the requirements that must be met in order for an owner-operator of a motor vehicle to be excluded from workers' compensation coverage as an employee of a motor carrier. These changes make it less likely that an owner-operator would be considered an employee who is required to be covered by the workers' compensation of the motor carrier. The changes in criteria for an owner-operator to be excluded from the definition of "employee" are as follows:

- Requires the owner-operator to furnish the motor vehicle equipment "identified in the written contract" between the motor carrier and the owner-operator, rather than furnishing the "necessary equipment" as currently required;

- Requires the owner-operator to furnish the "principal costs" rather than "all costs" incidental to the contract between the motor carrier and the owner-operator;

- Allows the motor carrier to advance costs to the owner-operator as long as the written contract between the motor carrier and the owner-operator requires the owner-operator to reimburse the advanced costs;

- Deletes the requirement that the owner-operator must be paid on commission (but retains the prohibition on being paid by the hour or other time-measured basis).

If a person meets the preceding criteria as well as the other aspects of the definition of "owner-operator," provided under s. 440.02, F.S., the person would be excluded from the definition of "employee" and the motor carrier would not be required to provide workers' compensation benefits for work-related injuries.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 117-0

HB 729 — Florida Self-Insurers Guaranty Association/Public Records Exemption

by Rep. Goodlette (CS/CS/SB 1442 by Governmental Oversight and Productivity Committee; Banking and Insurance Committee; and Senator Atwater)

The Legislature created the Florida Self-Insurers Guaranty Association, Incorporated (association), as a nonprofit entity, effective January 1, 1994. Generally, most self-insured employers are required to join the association and meet certain financial requirements to self-insure for purposes of workers' compensation coverage requirements. In the event a self-insured employer becomes insolvent, the association assumes responsibility for the administration and payment of the employer's workers' compensation claims.

The bill creates a public record exemption for certain claims files and minutes of portions of meetings of the association until termination of all litigation and settlement of all claims arising out of the same accident. Once the litigation is resolved regarding all claims related to an accident, the medical records contained in the claims files and other information relating to the medical condition of a claimant would continue to be exempt from the provisions of s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.

The bill provides statements of public necessity and provides for future review and repeal of the exemptions.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 109-0

WARRANTY ASSOCIATIONS

CS/SB 2006 — Warranty Associations

by Banking and Insurance Committee and Senators Garcia and Lynn

Committee Substitute for Senate Bill 2006 permits the inclusion in motor vehicle service agreements of paintless dent-removal services performed by a company whose primary business is paintless dent removal. Paintless dent removal is the process of removing dents, dings, and

creases, including hail damage from a vehicle without affecting the existing paint finish. It does not include services that involve replacing vehicle body panels, sanding, bonding, or painting.

The committee substitute permits a licensed motor vehicle service agreement company that maintains net assets of $10 million or greater and that files audited financial statements with the Department of Financial Services, to use either a 50 percent reserve or contractual liability coverage for specific blocks of new service. "Specific new blocks of service agreements" are the service agreements sold by a single designated licensed salesperson. The service agreement must distinguish how each individual service agreement is covered, and the service agreement company must maintain in its register information regarding whether the agreement is covered by contractual liability insurance or the unearned premium reserve account. If the 50 percent reserve is used for new blocks of service agreements, the company must obtain contractual liability insurance for any future deficits in the premium reserve caused by the new agreements.

The bill also expands the definition of a "service warranty" that may be sold by a licensed service warranty association. Currently, service warranties cover "repair or replacement" of a consumer product. The bill expands the possible coverage to include normal wear and tear, power surge damage, and accidental damage from handling. But, any warranty contract that includes coverage for accidental damage from handling must be covered by a contractual liability policy purchased by the warranty association covering 100 percent of its total claim exposure. The bill also revises the definition to cover warranties of 1 year or longer. The current definition refers only to warranties that are longer than 1 year.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 117-0

CS/CS/SB 2498 — Warranty Associations

by Judiciary Committee; Banking and Insurance Committee; and Senator Campbell

The bill creates an exception to certain specific penalty provisions for any violation of ch. 520, ch. 521, and ch. 634, part I, F.S., relating to the sale or the failure to disclose in a retail installment contract or lease, a vehicle protection product or agreement that provides for vehicle protection expenses as defined in s. 634.011(7)(b)1., F.S. The failure to disclose must have occurred prior to April 23, 2002, the date on which legislation became effective classifying vehicle window etching as a vehicle protection product authorized to be sold under a motor vehicle warranty contract. The exception applies only if the sale of the product, contract, or agreement was otherwise disclosed to the consumer in writing at the time of the purchase or lease of the automobile. In the case of a violation of these sections for which the specified statutory penalties do not apply, the court must award actual damages and costs, including a reasonable attorney's fee. The exception applies retroactively to January 1, 1998.

The bill also expands the definition of a "service warranty" that may be sold by a licensed service warranty association. Currently, service warranties cover "repair or replacement" of a consumer product. The bill expands the possible coverage to include normal wear and tear, power surge damage, and accidental damage from handling. However, any warranty contract that includes coverage for accidental damage from handling must be covered by a contractual liability policy purchased by the warranty association covering 100 percent of its total claim exposure. The bill also revises the definition to cover warranties of 1 year or longer. The current definition refers only to warranties that are longer than 1 year.

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

UNCLAIMED PROPERTY

HB 1527 — Disposition of Unclaimed Property

by Rep. Lopez-Cantera and others (CS/CS/SB 2494 by Judiciary Committee; Banking and Insurance Committee; and Senator Clary)

The bill makes the following changes to the Florida Disposition of Unclaimed Property Act:

- Reduces the period after which the Department of Financial Services (department) must provide information contained in an unclaimed property report to a qualified party from 90 to 45 days after the report is added to the unclaimed property database.

- Simplifies the "due diligence" process required of property holders before they turn property over to the department. The holder of an inactive account must attempt to notify the owner between 60 and 120 days before filing an unclaimed property report.

- Defines "health care provider" and "managed care payor" and provides a limited exception to the reporting requirements for certain types of accounts maintained by these types of entities.

- Increases the threshold amount at which the department must make at least one attempt to contact the owner of an unclaimed property from $100 to $250.

- Requires a power of attorney to be executed by the claimant in order to give a claimant's representative the authority to recover property on his or her behalf.

- Voids a power of attorney or agreement for compensation to recover or purchase unclaimed property worth more than $250 if entered into less than 45 days after the holder or examination report was processed and added to the unclaimed property data base.

- Caps the fees and costs that a claimant's representative may charge on any unclaimed property account at $1,000. The cap may only be exceeded if, as a condition of exceeding the cap, the claimant's representative makes full disclosure as required by law.

- Mandates that the purchaser of unclaimed property cannot pay a purchase price that is over $1,000 less than the value of the unclaimed property account, unless the required full disclosure statement is made that the property is held by the Bureau of Unclaimed Property.

- Presumes that stock, equity interests in a business, dividends, profits, or other specified sums are unclaimed after three years with no contact from the owner, rather than five years.

- Requires funds from the sale of unclaimed firearms be deposited in the State School Fund.

- Prohibits entering of false information on the Bureau of Unclaimed Property website.

- Permits the department to sell certificates for unclaimed stock or other equity interests of business associations at auction for the value of the certificate (collector's value) if it cannot be placed in the department's name or readily sold and converted to cash.

- Requires a claimant using a notarized statement to establish identity to present a United States, state, or foreign government issued photographic identification to the notary.

- Changes the filing requirements for claims made on behalf of a corporation.

- Clarifies the rules the department applies when it receives multiple claims for the same unclaimed property account. Contains a series of tiebreakers that apply when the bureau receives multiple property claims on the same day.

- Makes clear that an unclaimed property buyer's sole remedy for damages is against the claimant's representative, seller (owner of property), or both.

- Requires an estate or estate heir to pay the department's costs and attorney's fees in opposing a probate court order directing payment of property to a specified party, if the department is the prevailing party.

- Permits the department to require any information necessary to make a determination of entitlement to property when an estate beneficiary uses an affidavit to make a claim for unclaimed property. Permits the department to take live testimony in lieu of the affidavit.

- States that if any person files a petition for writ of garnishment seeking to obtain property, the petitioner must pay the department's costs and attorney's fees if it opposes,

appeals, or collaterally attacks the petition or writ if the department is the prevailing party.

- Clarifies that claimants' representatives and the buyers of unclaimed property must maintain records for three years following each power of attorney or agreement between the property owner and the claimant's representative or buyer.

- Allows a court to impose a fine on a person the department finds has committed a violation.

- Provides for civil enforcement of the chapter's provisions in a court with jurisdiction.

- States that a license of a claimant's representative may be suspended for up to five years, and that a license that is revoked must be revoked for a minimum of five years.

- Permits the department to estimate the amount of unclaimed property due and owing by a holder if the records of a property holder are insufficient make a clear determination.

- Prohibits the purchaser of unclaimed property from paying a purchase price that is over $1,000 less than the value of the unclaimed property account, unless the required full disclosure statement is made that the property is held by the Bureau of Unclaimed Property.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 115-0

FIRE MARSHAL

HB 69 — Fire Prevention and Control

by Rep. Quinones and others (CS/SB 108 by Criminal Justice Committee and Senator Constantine)

This bill amends several provisions relating to the Division of State Fire Marshal (SFM) within the Department of Financial Services and is named for two firefighters who lost their lives during a live fire training exercise. Cited as the "Lieutenant John Mickel and Dallas Begg Act," the bill requires the SFM to adopt rules for the purpose of protecting firefighters during live fire training exercises by January 1, 2006. The legislation requires that these safety rules be modeled upon safety and training standards recommended in National Fire Protection Association, Publication 1403. The legislation also mandates live fire training instructors be state certified and that all live fire training commenced on or after January 1, 2007, is conducted by certified live fire instructors. This bill does not apply to wild land or prescribed live fire training exercises

sanctioned through the National Wildfire Coordinating Group or the Division of Forestry of the Department of Agriculture and Consumer Services.

The bill creates a Fire and Emergency Incident Information Reporting Program (Program) within the SFM for the purpose of establishing an electronic communication system which is designed to transmit and receive fire and emergency incident information among fire protection agencies. The SFM must adopt rules for the Program and prepare annual reports to the Governor, President of the Senate, Speaker of the House of Representatives and fire protection agencies. An advisory panel is created (Fire and Emergency Incident Information System Technical Advisory Panel) to make recommendations to the SFM regarding the Program. The SFM is directed to consult with the Division of Forestry within the Department of Agriculture and Consumer Services and the Bureau of Emergency Medical Services within the Department of Health to coordinate data, ensure its accuracy, and limit duplication of efforts in data collection, analysis, and reporting.

The legislation strengthens the regulation of pyrotechnic displays by making it a third-degree felony for persons to initiate pyrotechnic displays within "any structure" unless:

- The structure has a fire protection system;
- The owner of the structure has authorized in writing the pyrotechnic display;
- The local government requires a permit for use of a pyrotechnic display in an occupied structure, and the permit has been obtained and all conditions of the permit are complied with. If the government does not require a permit, the person initiating the display has complied with the National Fire Protection Association standard for pyrotechnic displays. An exception is provided for the manufacture, distribution, wholesale or retail sale, or seasonal sale of products, e.g., fireworks and sparklers, regulated under ch. 791, F.S., so long as such products are not used in an occupied structure. Pyrotechnic terms are defined in the bill.

The legislation further requires that proceeds from property seized under the Florida Contraband Forfeiture Act (ss. 932.701-932.707, F.S.) by the SFM be deposited into the Insurance Regulatory Trust Fund to be used for arson suppression, arson investigation, and funding anti-arson rewards. Currently, such proceeds are required to be deposited in the State's General Revenue Fund.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 115-0

HB 41 — Criminal Penalties Relating to Fire Alarm Systems

by Rep. Gibson and others (CS/CS/SB 634 by Regulated Industries Committee; Criminal Justice Committee; and Senator Bennett)

The Division of State Fire Marshal within the Department of Financial Services (DFS) and certified local firesafety inspectors are responsible for inspecting any building or fire alarm system regarding the issues of fire safety, prevention, and control under ch. 633, F.S. The Electrical Contractors Licensing Board (ECLB) within the Department of Business and Professional Regulation (DBPR) under ch. 489, part II, F.S., regulates fire alarm system contractors, certified unlimited electrical contractors, and their employees, who are termed fire alarm system agents, as to the installation, testing, inspection, and repair of fire alarm systems.

This bill amends ch. 633, F.S., to provide that it is a first degree misdemeanor for a person to intentionally or willfully install, service, test, repair, improve, or inspect a fire alarm system unless that person is one of the following:

- A holder of a valid and current active license as a certified unlimited electrical contractor;
- A holder of a valid and current active license as a licensed fire alarm contractor;
- An authorized fire alarm system agent; or
- A person who is exempt under the contract licensing provisions of s. 489.503, F.S.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 38-0; House 116-0

HB 1267 — Nursing Homes

by Rep. Stargel and others (SB 2572 by Senator Webster)

This legislation requires all nursing homes licensed under ch. 400, part II, F.S., to be protected by approved, supervised automatic sprinkler systems in accordance with the following schedule:

- Each “hazardous area” of a nursing home must be protected by a sprinkler system by December 31, 2008; and

- The “entire” nursing home must be protected by a sprinkler system by December 31, 2010.

The bill authorizes the Division of State Fire Marshal (SFM) within the Department of Financial Services (DFS) to grant two 1-year extensions for installing sprinkler systems in the “entire” nursing home (or non-hazardous areas) if it determines that the nursing home has been prevented from complying for reasons beyond its control.

The bill establishes a loan guarantee program called the "State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program" (Program) which will help nursing homes defray the cost of installing sprinkler systems. This Program provides up to $4 million in any fiscal year from the Insurance Regulatory Trust Fund (Fund) to provide nursing homes that might not otherwise be able to secure a loan for capital improvements, e.g., installing sprinkler systems.

The SFM, with the assistance of the Division of Treasury, may enter into limited loan guarantee agreements with one or more qualified public depositories in Florida and such agreements must provide a limited guarantee by the state covering up to 50 percent of the principal sum loaned by the financial institution to an eligible nursing home for the sole purpose of the initial installation of a fire protection system approved by the SFM. The funds may not be used to guarantee any limited loan guarantee agreement for a period longer than 10 years. Further, no limited loan guarantee agreement based on invested funds may be entered into after December 1, 2005.

The Agency for Health Care Administration (AHCA) estimates that there are 35 nursing homes in the state which would have to comply with the measure's provisions at a total cost of $4.41 million. The agency estimates that Medicaid would pay a total of $669,419 or $275,198 in General Revenue, and $394,221 from the Medical Care Trust Fund. The bill authorizes use of Medicaid funds for capital improvements to help pay for sprinkler system installation and authorizes a 5 year repayment period. Any Medicaid funds used for sprinkler system installation must come from existing Medicaid appropriations. The total estimated cost to Medicaid over the 5 year period is $3,347,097. The bill authorizes DFS to adopt rules, enforce the sprinkler system standards, impose administrative sanctions for nursing homes in violation of these provisions, and govern the establishment and operation of the loan guarantee program.

The bill authorizes that residents of nursing homes may request a change in the placement of their bed in their room under certain conditions, even though the placement will not comply with the Florida Building Code. The location of the bed may be changed only if it does not infringe on any roommate or interfere with care or safety of the resident as determined by the facility. The bill requires documentation of the resident's request.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 115 -0

ORGANIZATIONAL ISSUES

CS/CS/CS/SB 1476 — Department of Children and Family Services/Contracts/Service Provider

by Health and Human Services Appropriations Committee; Governmental Oversight and Productivity Committee; Children and Families Committee; and Senators Campbell, Margolis, and Lynn

The bill removes a provision of law exempting the Department of Children and Family Services (DCF) from the requirements of ch. 287, F.S. In addition, the bill requires that, when DCF uses the exemption from competitive procurement set forth in s. 287.057(5)(f)13., F.S., to procure services from postsecondary institutions, DCF must provide an opportunity for all postsecondary institutions to bid on the procurement. The bill provides that when this exemption is used, it applies only to the contract between DCF and the postsecondary institution and not to any services or commodities provided by the postsecondary institution agency through a private vendor.

The bill sets forth the requirements and processes for DCF contract managers and contract monitors.

The bill authorizes DCF to enter into agreements, not to exceed 23 years, with a private contractor to finance, design, and construct a secure facility, as described in s. 394.917, F.S., of at least 600 beds and to operate all aspects of daily operation within the facility. It describes allowable financing structures for the facility and directs DCF to begin implementation of this initiative by July 1, 2005. This section of the bill is repealed July 1, 2006.

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct two reviews of the contract management and accountability structures of DCF and to report its findings to the Legislature by February 1, 2006 and February 1, 2007.

The bill amends s. 409.1671, F.S., to conform definitions.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 118-0

SB 904 — Privatization of Foster Care

by Senator Dockery

This bill relieves community-based care agencies and their subcontractors providing foster care and related services from the obligation of including references to the State of Florida or including the logo of the Department of Children and Families (DCF) in their advertising and descriptions of their programs unless the agency or subcontractor receives more than 35 percent of their total funding from the state.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-1; House 109-0

CHILD WELFARE

SB 1090 — Minors/Psychotropic Medication

by Judiciary Committee; Children and Families Committee; and Senators Campbell, Dawson, Lynn, and Crist

This bill amends s. 39.407, F.S., establishing the process by which children in the custody of the Department of Children and Families are provided psychotropic medications.

- Unless a parent's rights have been terminated, the bill provides that the prescribing physician must first attempt to obtain express and informed consent from the parent prior to prescribing a psychotropic medication for a child except in certain specified circumstances. The provisions in s. 394.459, F.S., relating to express and informed consent, are strengthened.

- If a parent's express and informed consent is not obtained, the department may, after consulting with the prescribing physician, seek court authorization to provide the psychotropic medication to the child. The evaluating physician is to be provided all pertinent medical information known to the department. Section 39.402, F.S., is amended requiring the parent to provide all known medical information to the department.

- If the department seeks court authorization to initiate or continue a psychotropic medication, the bill specifies that the motion be supported by specific documents, including a signed and detailed medical report, and, if any party objects to the motion, the bill requires that a hearing be held.

- The court is authorized to order the discontinuation of prescribed psychotropic medication if a psychiatrist, if available, or another physician states that, more likely than not, discontinuing the medication would not cause significant harm to the child or if the

child's treating physician states that continuing the medication would cause significant harm due to a diagnosed non-psychiatric medical condition.

- The bill provides for the court's periodic review of a child receiving psychotropic medication.

- The department is directed to adopt rules to ensure that children receive timely access to clinically appropriate psychotropic medications and to address other related issues.

This bill also creates s. 1006.0625, F.S., relating to public schools. The term "psychotropic medication" is defined, and a public school is prohibited from denying a student access to programs or services because a parent refuses to place the student on psychotropic medication. The bill authorizes school personnel to share observations of a student's performance with the student's parent and offer options and other assistance but prohibits such personnel from compelling any specific actions by the parent or from requiring that a student take medication. The bill provides that a parent may refuse psychological screening of a student and that any medical decision made to address a student's needs is a matter between the student, parent, and a competent health care professional chosen by the parent.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 118-0

CS/CS/CS/SB 1314 — Independent Living

by Health and Human Services Appropriations Committee; Judiciary Committee; Children and Families Committee; and Senators Rich, Lynn, Dawson, Smith, Wilson, Campbell, Bullard, and Klein

This bill amends s. 39.013, F.S., authorizing a youth in foster care to petition the court for continued jurisdiction for up to one year after their 18th birthday for the purpose of determining whether appropriate services have been provided to the formerly dependent foster child. This bill further provides for continued court jurisdiction up to the 22nd birthday for those formerly in foster care with pending Special Immigrant Visa status solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. The court is directed to encourage the Statewide Guardian Ad Litem office to provide greater representation to foster children aging out of foster care.

This bill amends s. 39.701, F.S., requiring the Department of Children and Family Services to provide information in each judicial review report that the young adult was informed regarding the Medicaid program; of the young adult's right to petition the court for continued jurisdiction; that, if eligible for the Road-to-Independence Scholarship, of the young adult's ability to remain in a licensed foster home; and that the child has been encouraged to attend all judicial review hearings occurring after his or her 17th birthday. This bill also amends s. 409.1451, F.S.,

expanding the young adult's current right to remain with the licensed foster family or group care provider with whom the child was residing at the time of reaching their 18th birthday, to provide that the young adult may reside in another licensed foster home or group care provider arranged by the department.

Additionally, this bill requires the department to enroll in the Florida KidCare program young adults who were formerly in foster care if they do not have health insurance or are not eligible for Medicaid and requires the Independent Living Advisory Council to study and report to the Legislature on the most effective way of providing health insurance for young adults formerly in foster care not eligible for the Florida KidCare program.

A nonrecurring sum of $1,100,000 is appropriated from the General Revenue Fund to the Department of Children and Family Services to implement the provisions of this act.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 115-0

SB 498 — Immigrant Children/Residency Status

by Senators Margolis and Wilson

Senate Bill 498 clarifies the requirements for seeking Special Immigrant Juvenile Status (SIJS) and lawful permanent residency for undocumented alien children who have been abused, neglected, or abandoned and who are under the jurisdiction of the court. It directs the Department of Children and Families (DCF) or a community-based care provider to determine whether a child is a citizen of this country by the time of the first judicial review for the child. It provides guidance to DCF, community-based care providers, and the courts as to the findings necessary to support a petition for SIJS and an application for lawful permanent residency. It requires DCF or the community based care provider to seek SIJS status and permanent residency within 60 days after the entry of a court order determining that such action is in the best interest of the child. It allows the jurisdiction of the court to be extended for the sole purpose of permitting the continued consideration of the application and petition of the child when the application and petition have been submitted prior to the child's 18th birthday.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 115-0

CS/CS/SB 758 — Child Protective Investigations

by Judiciary Committee; Children and Families Committee; and Senator Wise

Committee Substitute for Committee Substitute for Senate Bill 758 prohibits the use of information contained in a report from a closed investigation of child abuse, neglect, or

abandonment in any way which adversely affects the interests of a person when that person has not been identified as a caregiver responsible for the abuse, neglect, or abandonment.

The prohibition extends to closed investigations of institutional abuse, neglect, or abandonment, as well, but the committee substitute provides that when the person is a licensee of the Department of Children and Family Services (DCF), the information may be considered if relevant in relicensing or revocation-of-license decisions when three or more instances have occurred over a five-year period.

The bill also authorizes staff of a children's advocacy center to access DCF records generated as a result of reports of child abuse, abandonment, or neglect to the child abuse hotline. All records of such reports and all records resulting from those reports are currently made confidential and exempt by the provisions of s. 39.202, F.S., and are available only to entities listed in s. 39.202, F.S. This bill adds the staff of children's advocacy centers to the list of those who may have access to the reports.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 118-0

CHILD SUPPORT

HB 1283 — Child Support Enforcement

by Rep. Galvano and others (CS/SB 1884 by Judiciary Committee and Senators Campbell and Lynn)

This bill includes a number of provisions that increase coordination between state and local agencies to establish orders for paternity and support, to enforce the parent's responsibility to pay support, and to ensure that the monies collected get to children and their families. Provisions in the bill include the following:

Paternity Establishment

The bill requires a feasibility study to be conducted on electronic processing of birth records, allows paternity to be established administratively based on genetic testing results of 99 percent or greater, allows amended birth record information to be available to the Department of Revenue (DOR or the department) without a court order, permits genetic testing in correctional facilities based on an administrative order, establishes a licensing application requirement for hospital paternity programs, and clarifies that hospitals will not be sanctioned or fined for noncompliance with requirements to assist unmarried parents execute voluntary acknowledgments of paternity.

Order Establishment

The bill reduces retroactive support for noncustodial parents who agree to a support order, increases the number of cases that support orders can be established for by allowing parents who receive food stamps or Medicaid to be ordered to pay support if financially able to do so, and requires electronic processing of child support judicial actions.

Child Support Remittance and Distribution

The bill permits the posting of undistributed child support collection information on the Internet, provides for electronic disbursement of support to families, and requires electronic remittance of child support payments by certain employers.

Child Support Enforcement

The bill amends the procedure for reporting child support obligations to consumer reporting agencies, requires a method to transmit income withholding and medical support notices electronically, provides notice to the department when a judgment by operation of law is recorded, and improves criminal nonsupport procedures to increase the use of this enforcement tool for the most serious non-payers by removing the limitation of a remedy of last resort, the required notice to a noncustodial parent prior to commencing criminal action, and the requirement for a prior adjudication of contempt.

Medical Support

The bill provides a penalty for those employers who refuse to enroll children in available health plans after receiving notice of federal and state requirements to do so and permits data exchange between DOR and the Agency for Health Care Administration (AHCA) to ensure that children have health care coverage and increase the number of children with private coverage, when it is available.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.
Vote: Senate 40-0; House 117-0

HB 775 — Child Support Enforcement

by Future of Florida's Families Committee and Rep. Galvano and others (CS/SB 1262 by Judiciary Committee and Senator Campbell)

This bill contains provisions enhancing the enforcement tools of the Florida Child Support Enforcement Program. The bill:

- Provides for civil penalties for employers or unions who violate provisions in a National Medical Support Notice.

- Allows the Florida Department of Revenue (DOR) to continue to report a current child support obligation as an open account after a delinquency reported to a consumer reporting agency has been paid.

- Provides that once a settlement agreement is reached related to a workers' compensation claim, no proceeds of the settlement or attorney's fees can be disbursed until after a judge of compensation claims reviews the disbursement proposal and enters an order finding that the settlement provides for appropriate recovery of any existing child support arrearage.

- Allows the department access to any acknowledgment or affidavit of paternity that results in an original birth certificate being amended and allows the Office of Vital Statistics to amend birth records of children born in Florida upon paternity establishment by another state, based upon certification by the Title IV-D agency accompanied by supporting documentation.

- Limits the exemption for support order establishment to recipients of temporary cash assistance or Supplemental Security Income (SSI) only.

- Eliminates the requirement for a monthly report on public assistance collections.

- Allows the Agency for Health Care Administration (AHCA) to share KidCare information with the department for Title IV-D purposes.

- Requires DOR to stop disbursing child support payments to a person when DOR has determined that the child no longer lives with the person; describes requirements for making the determination that the child is no longer living with the person; requires notice; directs the tribunal which entered the original support order to determine whether the support should continue and to whom payments should be made.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.
Vote: Senate 40-0; House 115-0

SB 166 — Child Support

by Senators Aronberg, Fasano, and Posey

Senate Bill 166 requires the Department of Revenue (DOR) to make reasonable efforts to locate and notify persons to whom collections or refunds of child support are owed. In making these efforts, DOR is authorized to disclose names and other information on the Internet but is required

to take reasonable steps to protect the privacy of persons to whom money is owed when placing information on the Internet. Any actions taken to protect privacy must be in compliance with the requirements of the public records law, s.119.01(2)(a), Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 114-0

MISCELLANEOUS

HB 1921 — Domestic Violence Fatality Review (Open Government Sunset Review)

by Governmental Operations Committee and Rep. Kottkamp (CS/SB 974 by Governmental Oversight and Productivity Committee and Children and Families Committee)

HB 1921 reenacts and expands the public records and public meetings exemptions relating to the duties of domestic violence fatality review teams. The exemption is expanded to include information that identifies a victim of domestic violence or the children of the victim that is contained in a record created by a review team. It also reenacts and expands the public meetings exemption. The public meetings exemption is expanded to include discussions of confidential or exempt information.

The bill also repeals the public records exemption on October 1, 2010, unless reviewed and re-enacted by the Legislature.

If approved by the Governor, these provisions take effect October 1, 2005
Vote: Senate 39-0; House 116-0

SB 356 — Substance Abuse Treatment

by Senator Lynn

This bill amends the definition of "licensed service provider" provided by s. 397.311(18), F.S., to include a service component for "intensive inpatient treatment." This component includes a planned regimen of professionally directed evaluation, observation, medical monitoring, and clinical protocols that are provided 24 hours a day, seven days per week in a highly structured, live-in environment. The changes proposed by this bill more accurately describe the services that are being provided by facilities that are experiencing problems with third party reimbursement. It is anticipated by some in the substance abuse provider community that designating this new service component will have a positive impact on the providers' ability to collect third party payments.

A definition is created for "medical monitoring," one of the services included in the "intensive inpatient treatment" component that is not typically included in other residential treatment levels. This bill specifies that "medical monitoring" means oversight and treatment 24 hours per day by medical personnel of clients whose subacute biomedical, emotional, psychosocial, behavioral, or cognitive problems are so severe that the clients require intensive inpatient treatment by an interdisciplinary team. Medical personnel, as used in the term "medical monitoring," is limited to persons who are Florida-licensed medical physicians, osteopathic physicians, physician assistants, or nurses.

Additionally, this bill amends s. 394.499, F.S., to authorize the Department of Children and Family Services and the Agency for Health Care Administration to expand the children's behavioral crisis unit demonstration model currently located in the SunCoast Region to other areas of the state after July 1, 2005. Community mental health and substance abuse treatment providers benefit from the authorization to develop additional treatment sites and children who are suffering with concurrent mental health and substance abuse disorders will have improved access to treatment.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate39-0; House 117-0

HB 17 — Developmental Disabilities

by Rep. Kravitz and others (CS/CS/SB 428 by Health and Human Services Appropriations Committee; Health Care Committee; and Senators Rich and Klein)

This bill amends s. 409.912, F.S., and directs the Agency for Health Care Administration (AHCA) and the Agency for Persons with Disabilities to develop a model Medicaid home and community-based waiver program to serve children diagnosed with Familial Dysautonomia, also known as Riley-Day Syndrome. The Agency for Health Care Administration is further directed to seek a federal waiver and, upon approval, implement the program subject to the availability of funds and any limitations provided in the General Appropriations Act. The bill authorizes AHCA to adopt the rules necessary to administer this waiver program.

Funding in the amount of $171,840 from General Revenue and $246,160 from the Medical Care Trust Fund is appropriated to AHCA for the purpose of implementing this act during FY 2005-2006.

Currently, families with children who suffer with FD receive no financial assistance from the publicly funded Agency for Persons with Disabilities unless the condition is combined with a covered developmental disability. The implementation of this bill could provide some assistance to these children and their families.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 111-0

CS/SB 1098 — Public Records/General Bill

by Governmental Oversight and Productivity Committee and Senators Smith, Lynn, and Wilson

This bill adds the executive director or equivalent and his or her designee of a child advocacy center meeting the standards set forth in s. 39.3035, F.S., to the list of individuals and entities entitled to have access to confidential records resulting from allegations of child abuse, neglect, or abandonment when the staff is actively involved in providing the services of the center to a child. This change will help to facilitate a more coordinated response to meeting children's needs, ensure a more thorough case planning process, as well as facilitate counseling and referrals for additional community resources to be provided to victims and non-offending parents.

The bill also makes certain information obtained by a guardian ad litem under Part I of ch. 39, F.S., in the discharge of official duty confidential and exempt, continuing the exemption previously held when guardians ad litem were employees of the court. The information protected is similar to that held by a judge, employee of the court, authorized agency of the department, correctional probation officer, or law enforcement agent.

Further, the bill makes home addresses, telephone numbers, places of employment, and photographs of current or former guardians ad litem and the names, telephone numbers, places of employment of the spouses and children of guardians exempt if the guardian ad litem provides a written statement indicating that reasonable effort has been made to prevent the information from becoming publicly accessible

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 117-0

CS/SB 1722 — Multiservice Senior Centers

by Health Care Committee and Senators Fasano, Lynn, and Crist

This bill changes the definition of "multiservice senior center" in s. 430.203, F.S., moves the definition and purpose of the centers to a newly created section of statute, and further specifies the purpose of these centers. The bill provides that a multiservice senior center is:

- A community facility that is a focal point for the organization and provision of a broad spectrum of services suited to the diverse needs and interests of independent older persons;

- An entity authorized to partner with an aging resource center in order to provide easier access to long-term care services by seniors and their families who reside within the local community;

- A setting that provides opportunities that enable participants to stay connected to their communities and support networks; and

- A setting designed to offer preventive screenings, activities, and services that may divert seniors from more extensive in-home services and to help reduce, delay, or prevent premature institutionalization.

The bill specifies that multiservice senior centers should be centrally located and easily accessible by seniors with varying levels of physical abilities. Multiservice senior centers are encouraged to seek national accreditation by the National Institute of Senior Centers.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

CONSUMER SERVICES

HB 481 — Unlawful Use of Personal Identification Information

by Rep. Waters and others (CS/SB 284 by Judiciary Committee and Senators Aronberg, Fasano, Lynn, Crist, Miller, Campbell, Klein, and Wilson)

This committee substitute provides that any person who willfully and fraudulently uses or possesses with the intent to use, personal identification information concerning a deceased individual commits a third-degree felony. The committee substitute also provides for enhanced penalties and the imposition of three-, five-, or ten-year minimum mandatory sentences depending on the value of the pecuniary benefit or injury or the number of deceased individuals whose personal identification information is used. The committee substitute creates a third-degree felony offense for willfully and fraudulently creating, using, or possessing with the intent to use, counterfeit or fictitious personal identification information for the purpose of committing a fraud upon another person.

The committee substitute also provides for the reclassification of an identity theft offense that involves misrepresenting oneself to be a law enforcement officer, or an employee of a bank, credit card company, credit counseling company, or a credit reporting agency, or any person who wrongfully represents that he or she is seeking to assist the victim with a problem with the victim's credit history.

The committee substitute also requires a person who maintains computerized personal identification information for another person or business entity to notify the person or business entity for whom computerized records are maintained when there is a breach of security in the system.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 112-0

CS/SB 552 — Game Promotion / Consumer Products

by Commerce and Consumer Services Committee and Senators Margolis and Crist

This committee substitute amends s. 849.094, F.S., to provide that an operator of a game promotion in which the total announced value of prizes offered is greater than $5,000 need include only material terms of rules and regulations of a game in all advertising copy used in connection therewith if advertising copy contains information for obtaining full rules and regulations of game.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

CS/CS/SB 572 — Consumer Protection/Emergencies

by Criminal Justice Committee; Commerce and Consumer Services Committee; and Senators Garcia, Fasano, Lynn, and Crist

This committee substitute provides that upon the Governor's declaration of a state of emergency, any person who offers goods and services for sale to the public during a declared state of emergency without possessing an occupational license commits a second-degree misdemeanor. The committee substitute provides an exemption for religious, charitable, fraternal, civic, educational, or social organizations.

This committee substitute also authorizes the Governor, during the emergency period, to exempt businesses who sell essential commodities from curfew restrictions. In addition, the Governor may authorize solid waste disposal facilities to operate with extended hours to ensure the health, safety, and welfare of the general public.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 114-0

CS/SB 1312 — Pilot RV Mediation and Arbitration Program

by Commerce and Consumer Services Committee and Senator Carlton

This committee substitute provides that the Department of Transportation is to incorporate markers on logo signs for RV friendly establishments. This committee substitute also provides that the current recreational vehicles mediation and arbitration pilot program becomes a permanent program for the mediation of disputes between recreational vehicle manufacturers and consumers. This committee substitute removes the department's responsibility for administrative oversight of the mediation and arbitration programs, requires additional training and impartiality of program arbitrators and mediators, and retains department oversight of final settlements and awards, requiring regular reports to the Department of Legal Affairs.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 118-0

CS/SB 1438 — Repossession Services

by Criminal Justice Committee and Senator Wise

The committee substitute expands state regulation of recovery agents and agencies, to require agents who repossess aircraft, personal watercraft, all-terrain vehicles, farm equipment, or industrial equipment be licensed.

This committee substitute limits the insurance requirements for licensure by the Department of Agriculture and Consumer Services by only applying them to a Class "B" license as a security agent, thus eliminating the requirement for private investigators not licensed as security agents and all recovery agents. This committee substitute revises the insurance requirements for a Class "B" licensed security agent by removing the requirement for comprehensive general liability coverage for false arrest, detention or imprisonment, malicious prosecution, libel, slander, defamation of character, and violation to the right of privacy.

This committee substitute also provides additional grounds for disciplining recovery agencies, agents, and interns, and provides that it is a third degree felony for these newly defined recovery agents who violate certain terms of the existing statutes.

Further, this committee substitute removes recovery agents from the group of people exempted from s. 493.6102, F.S., thereby requiring them to be licensed and regulated under ch. 493, F.S.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 118-0

CS/SB 1454 — Public Lodging Establishments

by Judiciary Committee and Senator Webster

This committee substitute prohibits the distribution of handbills at or in a public lodging establishment without permission where, in a conspicuous manner, a sign is posted stating that advertising or solicitation is prohibited. This committee substitute also makes it a first-degree misdemeanor to violate this prohibition or to direct another person to violate the prohibition. Further, a person who directs another to violate the prohibition is subject to pay a minimum fine of $500.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

CS/CS/CS/SB 1520 — Consumer Protection

by General Government Appropriations Committee; Judiciary Committee; Commerce and Consumer Services Committee; and Senator Lynn

The committee substitute directs the State Technology Office to provide, through the state's official website, linkages and information relating to consumer protection and human and social services. The committee substitute designates the Department of Agriculture and Consumer Services' (department) Division of Consumer Services as the state clearinghouse for matters relating to consumer protection, information, and services and deletes the requirement of an outdated report.

The committee substitute revises the following programs and activities under the jurisdiction of the department:

- Requires an applicant for a Class "D" security license to complete terrorism training or other specialized training prescribed by the department.

- Incorporates within the state's anti-telephone solicitation law a prohibition against transmission of unsolicited advertising materials via facsimile.

- Preempts the regulation of refunds by retail sales establishments to the department.

- Clarifies provisions prohibiting local governments from imposing a monetary penalty on owners of shopping carts removed from their premises.

- Repeals the provisions of the Amusement Ride and Attraction Insurance Act under ch. 546, F.S., while retaining comparable insurance provisions in s. 616.242, F.S.

- Clarifies the statutory definition of a business opportunity.

- Exempts certain governmental entities from amusement ride insurance requirements.

- Defines "travel clubs" for the purposes of the Florida Sellers of Travel Act.

- Authorizes operators of game promotions to include only the material terms of a game promotion in advertisements – if the advertisement includes a website, toll-free telephone number, or mailing address where the full rules and regulations may be heard, viewed, or obtained.

- Clarifies that amusement games or machines that operate using "other currency" are not included in the prohibition against gambling as provided under ch. 849, F.S.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 40-0; House 116-0

CS/SB 1602 — State Tax Funds

by Commerce and Consumer Services Committee and Senator Baker

This committee substitute provides that, in any action by a purchaser against a retailer, dealer, or vendor, to recover taxes collected: the purchaser has the burden of proving all elements by clear and convincing evidence; the damages available is the difference between what was collected and what was paid to the taxing authority; and it is an affirmative defense if the tax collected by the retailer, dealer, or vendor from the purchaser was remitted to the appropriate taxing authority.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 113-0

CS/SB 2228 — Asbestos-related Claims

by Judiciary Committee and Senator Webster

This committee substitute limits the liability of successor corporations that have assumed asbestos-related liabilities as the result of a merger or consolidation that occurred prior to January 1, 1972. The liability of the successor corporations is limited to the adjusted fair market value of the total gross assets of the merged or consolidated corporation on the date of the merger or consolidation.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 112-0

CS/SB 2278 — Private Security Officers/Firearms

by Criminal Justice Committee and Senators Baker and Jones

This committee substitute permits private investigator, private investigator intern, and security officer licensees who have been issued a Class "G" statewide firearm license by the Department of Agriculture and Consumer Services, to carry a .380 caliber or 9 millimeter semiautomatic pistol.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 35-2; House 117-0

ECONOMIC DEVELOPMENT

SB 114 — Entertainment Industry Financial Trust Fund

by Senators Saunders, Crist, and Bullard

Senate Bill 114 creates the Entertainment Industry Financial Incentive Trust Fund within the Governor's Office of Tourism, Trade, and Economic Development. The trust fund is created to facilitate the payment of incentives under the entertainment industry financial incentive program as outlined in s. 288.1254, F.S.

The bill also requires that balances in the trust fund at the end of each fiscal year not revert to the General Revenue Fund or other trust funds.

The trust fund is terminated on July 1, 2009, and must be reviewed before that date.

The bill creates an unnumbered section of the Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 115-0

CS/SB 1056 — Business Entities

by Judiciary Committee and Senators Klein, Lynn, Campbell, and Aronberg

This committee substitute replaces the Florida Revised Uniform Limited Partnership Act (1986) with the Florida Revised Uniform Limited Partnership Act (2005), to incorporate reforms from the model act developed by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and modified by the Florida Bar. This committee substitute also incorporates some of these organizational and administrative reforms into provisions relating to other business entities regulated by the state (corporations, limited liability companies, not-for-profit corporations, and partnerships). This includes harmonization of the merger and conversion provisions, to allow the conversion of business entities from one form to another in a one-step process.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 112-0

CS/HB 1129 — Economic Development/Entertainment

by Tourism and Rep. Davis (CS/SB 1372 by Commerce and Consumer Services Committee and Senators Saunders and Crist)

The committee substitute:

- Increases financial incentive program reimbursement caps to $2 million for television productions, music videos, commercials, industrial films, and educational films.

- Expands the definition of "filmed entertainment" and applies it in the context of qualified productions for the financial incentive program, thereby qualifying promotional videos and films, documentary films, and new types of television programming for financial incentives.

- Establishes two "queues" for the distribution of incentive funds.

- Broadens and clarifies several definitions.

- Changes the due date for the Office of Film and Entertainment's annual report.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

CS/SB 1154 — Enterprise Florida, Inc. Board

by Commerce and Consumer Services Committee and Senator Dockery

This committee substitute revises a number of provisions regarding the duties and management of Enterprise Florida, Inc. (EFI). Specifically, the committee substitute:

- Removes references to solar energy industry promotion and workforce development.

- Deletes a requirement that EFI report on whether the Office of Tourism, Trade, and Economic Development "managed and expended in a prudent, fiducially sound manner," the funds appropriated by the Legislature to the Economic Development Incentives Account.

- Repeals a requirement that EFI and the Florida Seaport Transportation and Economic Development Council establish the International Trade Data Resource and Research Center.

- Allows for the appointment of at-large board members to an executive committee and an extension of their terms from one to three years.

- Deletes an obsolete requirement that EFI, through its Workforce Development Board, develop a comprehensive approach to workforce development.

- Revises return-on-investment and customer satisfaction reporting requirements.

- Revises requirements for supermajority votes and restrictions on contracts between EFI and organizations represented on EFI's board.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 95-14

HB 1483 — Tax Refund Program/Defense Contractors

by Economic Development, Trade and Banking Committee and Rep. Bilirakis and others (CS/SB 2216 by Transportation and Economic Development Appropriations Committee and Senators Saunders, Klein, Haridopolos, King, Dockery, and Lynn)

This bill extends the expiration date of the Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) programs to 2010, and amends these programs to:

- Require tax refunds under QTI and QDC be paid in the order they are approved.

- Require the Office of Tourism, Trade and Economic Development (OTTED) to pay tax refunds that exceed the appropriation for a given fiscal year from appropriations for the following year, and to report anticipated shortfall in funds needed to satisfy the refunds.

- Require OTTED to report its success in amending tax refund agreements to require claims to be submitted by January 31, and report on refund claims for the previous year.

- Clarify that communications services taxes are eligible for refund and authorize OTTED to make retroactive payments to October 1, 2001, for taxes paid.

- Revise QDC application requirements to show the number of jobs to be retained and to eliminate an application requirement to show prior taxes paid.

- Allow a QTI or QDC business to seek up to a 2 year "economic stimulus exemption" due to the effects of a named hurricane or tropical storm.

- Authorize OTTED to waive the 20 percent local financial support requirement for certain counties through FY 2006-2007 in response to the named hurricanes of 2004, but only if OTTED determines that the local financial support cannot be provided or that doing so would impose a demonstrable hardship on the local government providing the support.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 112-2

HB 1725 — Enterprise Zone Program Re-enactment

by Economic Development, Trade and Banking Committee and Rep. Bilirakis and others (CS/CS/CS/SB 1770 by Government Efficiency Appropriations Committee; Community Affairs Committee; Commerce and Consumer Services Committee; and Senator Crist)

This bill reenacts and extends the Florida Enterprise Zone program, and it's related various state and local enterprise zone incentives, until 2015. Additionally, this bill:

- Establishes a maximum number of enterprise zones (58).
- Requires re-designation of existing enterprise zones, establishes a procedure for the designation of new zones (if an existing zone is not re-designated), and establishes a procedure for zone boundary changes.
- Revises the "Building Materials Used in an Enterprise Zone" incentive to provide more time to an enterprise zone resident or business to file for the refund, and to allow a resident or business to use the incentive more than one time per parcel, as long as the refund amount is a minimum of $500.
- Provides greater flexibility to a governing body when making appointments to an enterprise zone development agency (EZDA).
- Revises the powers and responsibilities of the EZDA to, among other things, require an annual review and update of the zone's strategic plan or measurable goals.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

HB 1817 — Public Records – Certified Capital Company Act

by Governmental Operations Committee and Rep. Kottkamp (CS/SB 1024 by Government Efficiency Appropriations Committee and Commerce and Consumer Services Committee)

This committee substitute reenacts the public records exemption for information related to an investigation or Office of Financial Regulation (OFR) review of a certified capital company (CAPCO). In addition, this committee substitute removes the exemption for:

- Personal information of OFR employees who may be involved in an investigation or review of such nature as to endanger their lives or physical safety or that of their families;
- All information obtained by the office from any person which is only made available on a confidential or similarly restricted basis; and

- The social security number of any customer of a CAPCO, complainant, or person associated with a CAPCO or qualified business.

The committee substitute also removes the requirement for a future Open Government Sunset Review and removes the repeal date.

The committee substitute repeals Program Two of the Certified Capital Company Act, and repeals, in five years, Program One and the related public records exemption.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 113-0

SB 1980 — Florida Commission on Tourism

by Senator Sebesta

This bill adds a member of the restaurant industry to the Florida Commission on Tourism; revises financial disclosure requirements for commission members; and deletes the requirement that the commission establish a statewide nature and heritage tourism advisory committee.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 114-0

WORKFORCE

HB 307 — Physical Examinations

by Rep. Brown and others (SB 1042 by Senators Crist and Wilson)

This bill authorizes physician assistants and advanced registered nurse practitioners to conduct physical examinations of Class "G" permit (security officers and private investigators) and firefighting applicants.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 111-0

HB 691 — Citizen Soldier Grant Program

by Rep. Seiler and others (CS/SB 72 by Transportation and Economic Development Appropriations Committee; and Senators Geller, Klein, Crist, and Wilson)

The bill directs the Agency for Workforce Innovation (AWI) to establish the Citizen Soldier Matching Grant Program. This program will provide for matching grants to private sector

employers in this state which pay wages to their employees who are Florida residents serving on federal active duty in the United States Armed Forces Reserves or the Florida National Guard. The bill limits each grant to one-half of the difference between:

- The amount of monthly wages paid by the employer to the employee at the level paid before the employee was called to federal active duty; and
- The amount of the employee's active duty base pay and benefit package.

The bill further limits each grant to one-half of the monthly wages paid by the employer to the employee for the actual period of federal active duty, which in effect requires the employer, at a minimum, to match the state grant dollar-for-dollar. The bill appropriates $1.8 million from General Revenue and two positions to AWI to implement this program.

This bill also provides that a professional license issued in the state to activated members of the Florida National Guard and US Armed Forces Reserves remains active until, and is extended for up to, 90 days after his or her return from federal active duty.

This bill creates unnumbered sections of the Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 118-0

HB 747 — Citizen Soldier Matching Grant Trust Fund

by Rep. Seiler and others (CS/SB 74 by Transportation and Economic Development Appropriations Committee; and Senators Geller, Klein, Crist, and Wilson)

This bill creates the Citizen Soldier Matching Grant Trust Fund to be administered by the Agency for Workforce Innovation in conjunction with the Citizen Solder Grant Program created by HB 691 (CS/SB 72). The program authorizes matching grants for private sector employers who pay wages to employees serving in the United States Armed Forces Reserves or the Florida National Guard while those employees are on federal active duty.

The bill provides the trust fund will terminate on July 1, 2009 unless terminated earlier. Pursuant to s. 215.3206, F.S., the trust fund shall be reviewed by the Legislature prior to this termination date to determine whether it should be terminated or re-created.

If approved by the Governor, these provisions take effect July 1, 2005 if HB 691 (CS/SB 72 or similar legislation) is also passed and approved by the Governor.
Vote: Senate 39-0; House 118-0

CS/CS/SB 1650 — Workforce Innovation

by Governmental Oversight and Productivity Committee; Commerce and Consumer Services Committee; and Senators King and Lynn

This committee substitute makes substantive and technical changes to the statutes related to the Agency for Workforce Innovation (AWI), Workforce Florida, Inc. (WFI), and regional workforce boards, including:

- Deleting descriptions of the specific duties of AWI and its offices.
- Imposing term limits on WFI board members, increases the length of terms from 2 to 3 years, provides for staggered terms, and authorizes the board to conduct it's meetings through any method of telecommunications.
- Granting WFI increased program flexibility in designing a workforce development strategy for the state, and requiring WFI to establish an operational plan to implement the state strategic plan.
- Authorizing regional workforce boards to conduct its meetings through any method of telecommunications.
- Granting WFI the authority to establish a dispute resolution procedure to address disputes that may arise between AWI and the regional workforce boards.
- Deleting descriptions of a limited number of regional workforce boards' specific duties.
- Deleting a number of references to obsolete or repealed programs.
- Repealing a number of unfunded or obsolete programs.

If approved by the Governor, these provisions take effect on July 1, 2005.
Vote: Senate 40-0; House 113-4

HB 1693 — Unemployment Compensation

by Economic Development, Trade & Banking Committee and Rep. Bilirakis and others (CS/CS/SB 1652 by Criminal Justice Committee; Commerce and Consumer Services Committee; and Senators King and Lynn)

This bill amends Florida's Unemployment Compensation (UC) law to prevent "SUTA dumping," a tax avoidance plan used by some employers to decrease their tax rate. These amendments are required by the Federal "SUTA (State Unemployment Tax Avoidance) Dumping Prevention Act of 2004."

This bill also makes technical and substantive changes to the administration and enforcement of the UC program by:

- Exempting special deputies from the Administrative Procedure Act (APA) uniform rules of procedure.
- Creating new penalties and standards of evidence related to "remote filing" for UC benefits.
- Clarifying benefit eligibility for persons in approved training programs.
- Authorizing an official seal for AWI.
- Streamlining the claims appeal process.
- Extending time for recovery of non-fraud overpayments by one year.
- Including the "creation of fictitious employer scheme to commit unemployment compensation fraud" in the definition of racketeering activity under the "Florida RICO Act."

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

HB 1695 — Voluntary Pre-K Education Program

by Rep. Arza and others (CS/SB 2220 by Governmental Oversight and Productivity Committee and Senators King, Lynn, and Crist)

This bill makes confidential and exempt individual records of children enrolled in Florida's Voluntary Prekindergarten Program (VPK) held by an early learning coalition, the Agency for Workforce Innovation, or a Voluntary Prekindergarten Education Program provider. The exemption is retroactive in effect.

The bill authorizes a parent to inspect and review the record of his or her child and to obtain a copy. The bill also authorizes release of these records to specified governmental and other appropriate entities. These entities are required to preserve the confidentiality of the identity of the enrolled child or his or her parents in the records.

The provisions of this bill are subject to the Open Government Sunset Review Act of 1995 and will be repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

HB 1861—School Readiness Record/OGSR

by Governmental Operations Committee and Rep. Kottkamp (CS/SB 1028 by Governmental Oversight and Productivity Committee; Commerce and Consumer Services Committee; and Senator Crist)

This bill reenacts the public records exemption for school readiness outlined in s. 411.011, F.S. Under the bill, the records of children enrolled in school readiness programs are confidential and exempt from public disclosure. The exemption applies to such records when held by an early learning coalition or the Agency for Workforce Innovation.

The bill authorizes a parent to inspect and review the record of his or her child and to obtain a copy. The bill also authorizes release of these records to specified governmental and other appropriate entities. These entities are required to preserve the confidentiality of the identity of the enrolled child or his or her parents in the records.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 40-0; House 116-0

CS/CS/SB 1910 — Workforce Innovation

by Transportation and Economic Development Appropriations Committee; Children and Families Committee; and Senators King, Lynn, and Crist

This committee substitute permits Workforce Florida, Inc. (WFI), to expand the Passport to Economic Progress demonstration program statewide. The committee substitute authorizes WFI to designate regional workforce boards to participate in the program. The committee substitute permits WFI to offer incentive bonuses, provides requirements for those bonuses and specifies that such bonuses are not entitlements. This committee substitute amends s. 445.048, F.S.

The committee substitute also creates the Florida Youth Summer Jobs Pilot Program, which will provide summer jobs to at-risk and disadvantaged youth between the ages of 14 and 18 in workforce development district 22 in Broward County. The committee substitute requires educational enrichment and life skills training as part of the program. The program will be funded by specific legislative appropriations.

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

COMMUNICATIONS

CS/CS/SB 620 — Wireless Emergency Telephone System

by Governmental Oversight and Productivity Committee; Communications and Public Utilities Committee; and Senators Bennett, Clary, and Wilson

The bill modifies the standards that local governments must apply to wireless providers in regulating the placement, construction, or modification of wireless communications facilities. The bill amends existing provisions for collocation and divides collocations into three types — those on existing towers that meet certain conditions, those on existing structures that meet certain conditions, and all other collocations.

The bill sets forth the procedures that local governments and wireless providers must follow in regards to submission of applications and notification of deficiencies in applications. It also provides time limits that local governments must adhere to in granting or denying properly completed applications. The bill establishes limitations on local government regulation, including the following:

- A local government's authority to evaluate a wireless provider's application for placement of a wireless facility is limited to issues concerning land development and zoning, and a local government may not require information on, or evaluate the provider's business need for a location unless the wireless provider voluntarily offers the information, nor request information on or evaluate a provider's service quality or network design unless the information directly relates to a specific land development or zoning issue.

- A local government may exclude the placement of wireless facilities in residential areas or residential zoning districts, but only in a manner that does not constitute an actual or effective prohibition of the provider's service in that residential area or zoning district, and if the residential area cannot reasonably be served, the municipality or county and the provider must work together to find a suitable location to provide service to the residential area.

- Local governments may impose a reasonable fee on wireless providers for review and permitting of wireless facilities only if similar fees are imposed on applicants seeking similar zoning, land use, or building-permit reviews.

The bill creates a cause of action for any person adversely affected by a local government's action or failure to act in the review or regulation of wireless communication facilities.

The bill gives the Wireless E911 Board the authority to utilize revenues from the Wireless Providers Trust Fund to provide grants to rural counties and loans to medium counties to upgrade their E911 systems. "Medium county" is defined as any county that has a population of 75,000 or more but less than 750,000. These revenues are to be fully repaid in a manner and timeframe as approved by the Board. Any county that receives these funds must establish a fund to be used exclusively for the receipt and expenditure of 911 revenues collected, with expenditures limited to 911 costs.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 116-1

HB 1923 — OGSR Telecommunications/Cable/Info.

by Governmental Operations Committee and Rep. Kottkamp (CS/SB 680 by Governmental Oversight and Productivity Committee and Communications and Public Utilities Committee)

This bill reenacts and amends s. 202.195, F.S., which is a public records exemption for proprietary confidential business information obtained by a local governmental entity from a telecommunications company or a franchised cable company.

The bill provides that the records protected by the exemption include only those for which the disclosure of the information would be reasonably likely to be used by a competitor to harm the company's business interests and for which the information is not otherwise readily ascertainable.

If approved by the Governor, these provisions take effect September 30, 2005.
Vote: Senate 38-0; House 115-0

CS/CS/SB 1322 — Regulation of Communications

by Governmental Oversight and Productivity Committee and Communications and Public Utilities Committee

This bill combines provisions of numerous related bills including the Public Service Commission (PSC or commission) nominating process and ethics reform, regulation of communications including deregulation of broadband and Voice-over-Internet-Protocol, storm infrastructure recovery, government-owned communications-network services, and Lifeline.

The process for nominations and appointments to the Public Service Commission is revised. The Nominating Council will continue to receive applications, conduct interviews, and select a minimum of six nominees per vacancy on the commission. Under the bill, the list of nominees will go to a newly created joint legislative Committee on Public Service Commission Oversight, which will select three nominees to recommend to the Governor as the appointee, with the Governor to appoint one commissioner from the list. If the Governor fails to make a timely

appointment, the joint committee must select a commissioner from the list within 30 days. The bill also codifies the independence of the PSC.

The bill requires that commissioners avoid impropriety and act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission. It also provides for the application of the gift prohibition statute to commissioner attendance at conferences and associated meals and events. It would not be a violation for a commissioner to attend a conference that has differential registration fees, that is, for which some conference participants pay a higher fee than others. So, it would not be unlawful for a commissioner to attend a conference and pay a lower fee than a conference attendee who is employed by a regulated utility. It also would not be a unlawful for a commissioner to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee and that is sponsored, in whole or in part, by a regulated utility. Additionally, while attending a conference, a commissioner could attend meetings, meals, or events that 1) are not sponsored, in whole or in part, by any representative of any regulated utility and 2) that are limited to commissioners only, committee members, or speakers (if the commissioner is a member of a committee of the association of regulatory agencies that organized the conference or is a speaker at the conference).

The bill creates a penalty for a person who gives a prohibited gift to a commissioner or who is involved in an ex parte communication with a commissioner. If, during the course of a Commission on Ethics investigation into an alleged violation by a commissioner of one of these restrictions allegations are made as to the identity of the person giving the gift or participating in the ex parte communication, that person must be given notice and an opportunity to participate and present a defense against the allegations. If the Ethics Commission determines that the person violated one of these prohibitions, the person may not appear before the Public Service Commission or otherwise represent anyone before the commission for a period of 2 years.

The bill provides that the new joint committee is to select the Public Counsel. It also codified the independence of the Public Counsel. Finally, the bill authorizes the Nominating Council to spend up to $10,000 to advertise vacancies on the Council.

The bill provides for the deregulation of broadband and voice-over-Internet-protocol. This bill revises ch. 364, F.S., to recognize the evolution of the telecommunications technologies and markets and provides specificity to commission authority, particularly as it relates to new and emerging technologies and services. Specifically the bill provides that communications activities that are not regulated by the PSC are subject to the state's generally applicable business regulation and deceptive trade practices and consumer protection laws. The bill exempts from commission jurisdiction Intrastate interexchange telecommunications services, Broadband services, VoIP, and wireless communications and requires that broadband and VoIP be provided free of regulation, including regulation by local governments. The commission is required to maintain continuous liaisons with federal agencies. Definitions for "Broadband" and "VoIP" are added and the definition of "Service" is amended. VoIP, regardless of the platform, provider or

protocol, is added to the prohibition that local governments may not directly or indirectly regulate terms and conditions of the provisioning of certain communications services. The provisions governing video programming services is repealed. The commission is authorized to increase by rule its regulatory assessment fee to a maximum of $1,000 and its application for certificate fee to $500 for competitive providers. The rights of local governments and duties of cable services providers to comply with certain laws and regulations are clarified.

The bill incorporates changes to s. 364.10, F.S., relating to Lifeline Assistance. The bill changes the applicability from telecommunications companies serving as carriers of last resort to Eligible Telecommunications Carriers and defines the term. Changing to eligible telecommunications carriers broadens the Lifeline applicability as some competitive carriers have been so designated. The bill places certain requirements on Eligible Telecommunications Carriers such as offering free call blocking and not collecting deposits or charging certain fees to its Lifeline subscribers. The PSC is required to establish procedures for notification and termination of the Lifeline credit. The bill provides criteria for connection, reconnection, and discontinuation of basic local telecommunications service for Lifeline assistance customers and provides criteria for blocking access to long-distance service. The Department of Education and the Office of Public Counsel are added as agencies that will cooperate in developing procedures for promoting Lifeline participation. The income threshold for eligibility for Lifeline services is increased to 135 percent. Finally, the commission is required to adopt rules.

The bill provides for recovery by local telecommunications companies having carrier-of-last-resort responsibility to recover costs and expenses for damages to plant, lines and other infrastructure as a result of a named tropical storm. The bill sets forth the process and limitations as to any recovery.

The bill provides how a local government can provide specified communications services. The terms “advanced services,” “cable services” and “telecommunications services,” which, in the aggregate are “communications services,” are defined. It defines a “governmental entity,” which would not include special districts that were so designated before 1970. In the definition of “provide” or “provision,” any governmental entity that provides services for free, to itself, or to any other governmental entity is not included in this act.

The bill creates a notification and public hearing process. Governmental entities must hold two public hearings no sooner than 30 days apart to consider whether the governmental entity will provide communications services. All communications dealers will be electronically notified before the first hearing. The notice is to include the geographic area proposed to be served and the services that are not believed to be adequately provided. The bill sets forth a list of minimum considerations the governmental entity must deliberate at the public hearing and make a finding regarding those factors. The authorization to provide communications services must be by majority vote and memorialized by resolution, ordinance**,** or other formal means of adoption. The governmental entity is required to make available to the public a written business plan for the proposed communications service venture and sets forth the minimum requirements to be

included in the plan. The bill allows the governing body to issue bonds to finance capital costs for facilities to provide communications services with limitations. It has further requirements such as prohibiting below cost pricing of services, specifying accounting and books and records requirements, requiring the establishment of an enterprise fund, and limiting eminent domain authority so as to level the playing field with competitive providers of communications services.

The bill further requires the governmental entity to hold a public hearing to consider certain action if the business plan goals are not met including selling off, partnering with a private provider, cutting costs and expenses, or continuing in business and requires compliance with certain federal and state law regulating respective communications services. The bill provides for a grandfather clause for current governmental enterprises and prohibits restraint on trade or monopolization. The bill also provides an exemption for airport authorities or governmental entities with airports. Communications services to subscribers that are airlines and emergency service entities on airport property are exempt. In this situation, the airport authority could be providing dial tone or shared tenant service. The airport authority can also provide shared tenant services, but not dial tone, to subscribers within the airport layout plan, which would include retail. However, communications services where the airport authority provides dial tone to customers that are retail shops, restaurants, hotels or rental car companies on or off airport would not be exempt.

Lastly, the bill clarifies that the local communication services tax (CST) is in lieu of application fees, transfer fees, renewal fees, or claims for related costs that a local taxing jurisdiction may impose for certain uses and allows revenues distributed to a local government under the CST may be used for any public purpose.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 34-2; House 111-4

CS/SB 2070 — Communications Services

by Communications and Public Utilities Committee and Senator Constantine

The bill repeals the tax on substitute communications systems and provides that the Department of Revenue will not assess this tax back to October 1, 2001, when the communications services tax was implemented. The bill creates a task force of experts in the areas of telecommunications policy, taxation, law, or technology to study the implications of emerging technologies on Florida's communication service tax. It provides an appropriation to the Department of Revenue to hire consultants and expert witnesses in the areas of communications technology and computer telephony. These experts will provide information, technical consulting, analysis, and testimony regarding the current and future development of network and telecommunications architecture, products and services, and they will also help identify issues regarding taxation of those products and services.

It clarifies that voice-over-Internet-protocol (VoIP) and other enhanced services are included in the definition of "communications services" in order to maintain a level playing field for all VoIP providers and other providers of telephone service. It provides for access by the Department of Revenue to communications services companies' books and records to properly assess taxes. This will allow the Department to administer the recently revised exemption for Internet access sold as part of a bundle for a single price. It requires registration of all sellers of communications services that have established nexus, and provides that if a seller maintains an office or place of business in the state, or solicits business from a Florida location, the seller has established nexus. It allows the Department of Revenue to adopt emergency rules.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 116-0

ELECTRIC

CS/CS/CS/SB 1366 — Storm Infrastructure Recovery

by Transportation and Economic Development Appropriations Committee; Government Efficiency Appropriations Committee; and Communications and Public Utilities Committee; and Senators Constantine and Dockery

This bill provides for electric utility recovery of costs of restoring service after a hurricane or named tropical storm. The bill creates a new tool, issuance of special bonds, for the electric utilities and the Public Service Commission to use to recover these costs. The bonds will be secured by, and bond payments will be made from, a nonbypassable charge to customers. This dedicated income stream is expected to result in significantly better financing terms than other methods of cost recovery. The bill provides that these bonds may be issued only if it will lessen the rate impact on customers, restricting issuance to those cases where the commission finds that the issuance of the storm-recovery bonds is reasonably expected to result in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with alternative methods of financing.

Additionally, the issuance of bonds will replenish reserve funds quicker to better prepare for following storm seasons.

Bonds issued under the bill will not be public debt and the state is not obligated to make any payment on the bonds. Additionally, there will be no impact on state taxes.

A utility seeking to issue bonds will petition the commission for authorization. In its petition, the utility is required to set out in detail the activities undertaken to restore its electric systems, the related costs it seeks to recover, and how recovery of these costs using this bonding mechanism will be better for its customers than alternative methods of financing.

The commission will review the evidence and determine the amount of each type of costs to be recovered, with authorization to adjust storm-recovery costs by making any offsetting adjustments that the commission determines appropriate. The commission also will determine whether issuance of bonds is appropriate, using the customer impact criteria. If so, the commission will issue a financing order approving issuance of bonds in the amount determined. In the order, the commission may include any other conditions that it considers appropriate and that are not inconsistent with the bill.

Any violation of the bill or a financing order subjects the utility to statutory monetary penalties and to any other penalties or remedies that the commission determines are necessary to achieve the intent of the bill and the intent and terms of the financing order and to prevent any increase in financial impact to the utility's ratepayers above that set forth in the financing order.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 112-5

LOCAL GOVERNMENT FINANCE

CS/CS/SB 202 — Community Contribution Tax Credit

by Government Efficiency Appropriations Committee; Commerce and Consumer Services Committee; and Senators Saunders, Crist, and Bullard

This bill extends the Community Contribution Tax Program through June 30, 2015, increases from $10 million to $12 million the total annual amount of tax credits that may be granted under the program, and reserves 80 percent of $10 million of the available tax credits for businesses that contribute to home ownership opportunities for low-income and very-low-income households for the first 6 months of each fiscal year. For credits in excess of $10 million, 70 percent is reserved for businesses that contribute to low income housing programs. The bill also revises the procedures governing the distribution of tax credits.

Additionally, the bill revises the eligibility requirements for the Capital Investment Tax Credit Program to include a new or expanded facility engaged in a specified target industry that creates or retains at least 1,000 jobs (100 of which must be new and pay 130 percent of the average private sector wage in the area), and makes a cumulative capital investment of at least $100 million after July 1, 2005. The bill limits the amount of tax credits to 50 percent of the increased annual corporate income or premium tax liability generated by the qualifying project.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 36-0; House 113-0

SB 470 — Indigent Care Surtax

by Senators Argenziano and Lawson

This bill reenacts subsection (7) of s. 212.055, F.S., authorizing counties with a population of less than 800,000 to impose the Voter-Approved Indigent Care Surtax up to the rate of 0.5 percent, except that if a publicly supported medical school is located in the county, the rate shall not exceed 1 percent.

In addition, the bill authorizes counties with a population of fewer than 50,000 residents to levy an indigent care surtax of up to 1 percent, rather than 0.5 percent as authorized in current law, pursuant to an ordinance conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. The bill expands the purposes for which the tax may be used in counties with fewer than 50,000 residents to include issuing bonds to finance, plan, construct, or reconstruct a public or not-for-profit hospital in the county and any land acquisition, land improvement, design, or engineering costs related to such hospital, if the

governing body determines that a hospital in existence at the time of the issuance of the bonds would, more likely than not, otherwise cease to operate. The bill requires the clerk of the circuit court, as the ex officio custodian of the funds of the authorizing county, to disburse the funds to service bond indebtedness upon a directive from the authorizing county.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-2; House 110-3

SB 878 — Delinquent Property Taxes

by Senators Baker and Posey

This bill provides for a 2-year pilot program in Lake, Marion, Seminole, and Sumter counties to study the effectiveness of requirements governing the advertisement of properties with delinquent taxes. Specifically, the bill provides that specified tax collectors must submit a report which compares the effectiveness of single publication versus triple publication by listing the number and percentage of properties on which delinquent taxes were paid after single publication in comparison to the number and percentage of properties on which delinquent taxes were paid after three publications.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-2; House 58-56

CS/SB 1194 — Homestead Assessments

by Community Affairs Committee, and Senators Bennett and Lynn

This bill provides that the assessment at just value for changes, additions, or improvements to homestead property rendered uninhabitable in one of the named storms of 2004 shall be limited to the square footage exceeding 110 percent of the property's pre-storm square footage. In addition, eligible homes having square footage less than 1,350 square feet may rebuild up to 1,500 square feet without incurring additional assessment. Repairs to homestead properties must be completed by January 1, 2008, in order to qualify for these assessment limitation provisions.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 117-0

HB 349 — Auditor Selection Procedures

by Rep. Brummer and others (CS/SB 1072 by Governmental Oversight and Productivity Committee and Senator Atwater)

This bill (Chapter 2005-32, L.O.F.) implements a number of revisions to financial auditor selection procedures used by local governmental entities. The bill clarifies existing statutory

language to provide that financial audits undertaken pursuant to s. 218.39, F.S., must be prepared by a certified public accounting firm licensed under ch. 473, F.S., and qualified to conduct audits in accordance with government auditing standards adopted by the Florida Board of Accountancy.

The bill provides that the governing body of a charter county, municipality, special district, district school board, charter school, or technical career center must establish an audit committee. Similarly, the bill provides that noncharter counties must establish an audit committee that, at a minimum, consists of each of the county officers elected pursuant to s. 1(d), Art. VIII of the State Constitution, or a designee, and one member of the board of county commissioners or its designee. Audit committees are also specifically authorized to establish factors for use in the evaluation of proposals for audit services. Factors to be considered include, but are not limited to: (1) ability of personnel; (2) experience; (3) ability to furnish the required services; and (4) other applicable factors.

Audit committees are required to publicly announce the opportunities for auditing services through the issuance of requests for proposals (RFP). The RFP must include information on how proposals are to be evaluated and other information necessary to enable interested firms to respond. In addition, audit committees are to evaluate proposals submitted by qualified firms. Compensation may be used as a factor in evaluating audit proposals, however, it cannot be the sole or predominant factor used to evaluate proposals. Finally, audit committees are directed to rank and recommend in order of preference a minimum of three firms deemed to be the most highly qualified.

The bill provides that after inquiring of qualified firms as to the basis of compensation, the appropriate governing body is required to select one of the firms recommended by the audit committee and negotiate a contract using one of the following methods: (1) if compensation is not one of the established evaluation factors, the governing body must negotiate a contract with the firms according to ranked order; (2) if compensation is one of the established evaluation factors, the governing body must select the highest ranked qualified firm, or if another firm is selected, document in the public record its reason for selecting a firm other than the highest-ranked firm; and (3) a governing body may select a firm recommended by the audit committee and negotiate a contract using an appropriate alternative procurement method which does not use compensation as the sole or predominant factor in firm selection. Finally, the bill requires the use of written contracts for audit services.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 40-0; House 113-0

HB 499 — Property Appraiser Assessments

by Rep. Antone and others (CS/SB 1270 by Government Efficiency Appropriations and Senators Saunders and Constantine)

This bill requires real property to be physically inspected every 5 years for purposes of assessing the value of the property rather than every 3 years. Additionally, the bill revises the definition of the term "outdoor recreational and park purposes" (for the assessment of certain lands) to clarify the meaning of the term, "open to the general public" as applied to a golf course.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 106-7

GROWTH MANAGEMENT

CS/CS/CS/SB 360 — Infrastructure Planning and Funding

by Ways and Means Committee; Transportation Committee; Community Affairs Committee; and Senator Bennett

The bill appropriates $1.5 billon in new money for various transportation, water and school infrastructure programs and makes numerous changes to the laws governing growth management in Florida.

Specifically, the bill requires a local government's comprehensive plan to be financially feasible and the capital improvements element in a local comprehensive plan to include a schedule of improvements that ensure the adopted level-of-service standards are achieved and maintained. Also, it requires an annual review of the capital improvements element to maintain a financially feasible 5-year schedule of capital improvements. Capital improvements element amendments must be adopted and transmitted no later than December 1, 2007. The bill provides for sanctions if the amendment and subsequent updates are not transmitted timely.

The bill strengthens the link between development approval and water supply planning. Specifically, the potable water element must incorporate water supply projects identified by the local government from the regional water supply plan or proposed by the local government within 18 months after the update of the regional water supply plan. Prior to the approval of a building permit or its functional equivalent, a local government is required to consult with the applicable water supplier to determine whether adequate water supplies will be available to serve the new development at the certificate of occupancy.

Adequate school facilities must be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval. Each local government must adopt a public school facilities element and the required update to the interlocal agreement by December 1,

2008. The state land planning agency shall provide a phased schedule for these amendments. The bill requires a local government's comprehensive plan to include proportionate fair-share mitigation options for schools.

Transportation facilities must be in place or under actual construction within 3 years from the local government's approval of a building permit or its functional equivalent that results in traffic generation. Each local government must adopt a methodology for assessing proportionate fair-share mitigation options by December 1, 2006. A developer may choose to satisfy transportation concurrency requirements by contributing or paying proportionate fair-share mitigation for those facilities or segments that are identified in the 5-year schedule of capital improvements. Updates to the 5-year schedule may not be found not in compliance by the state land planning agency if additional contributions or payments are reasonably anticipated during a 10-year period to fully mitigate impacts on the transportation facilities. If the funds in an adopted 5-year schedule are insufficient to fully fund construction of the transportation improvements required by the local government's transportation concurrency management system, the local government may still enter into a binding proportionate share agreement with the developer. This agreement would allow a developer to construct the amount of development on which the proportionate fair share is calculated if the amount in the agreement is sufficient to pay for an improvement that will, in the opinion of a governmental entity, significantly benefit the impacted transportation system.

The bill revises the rural land stewardship area program to require a plan amendment establishing such an area to provide a process for mixed land uses that include adequate available work force housing and affordable housing. Also, a stewardship receiving area must have a listed species survey. The bill addresses the issue of balancing the impacts to areas developed as receiving areas and the environmental benefits of protected areas when determining the adequacy of protection of listed species habitat within rural land stewardship areas. Following adoption of the plan amendment, the local government must adopt a methodology for the transfer of credits within the rural land stewardship area by ordinance.

This bill increases the 10-acre residential density limitation for small scale amendment review within a rural area of critical economic concern as designated under s. 288.0656(7), F.S., if the local government certifies that certain economic objectives are met. The bill also amends the 10-acre residential density threshold for small scale review to include amendments for which the proposed future land use category allows a maximum residential density that is the same or less than the density allowable under the existing future land use category. Small scale amendment review is also provided for amendments involving the construction of affordable housing units meeting certain criteria.

A local government is encouraged to develop a community vision. The process of developing a community vision requires the local government to hold a workshop with stakeholders and two public hearings. Also, a local government is encouraged to adopt an urban service boundary. This area must be appropriate for compact, contiguous urban development within a 10-year

planning timeframe. The establishment of an urban service boundary does not preclude development outside the boundary.

As an incentive for development within an urban service boundary established under the provisions of the bill or in an urban infill and redevelopment area as designated under s. 163.2517, F.S., the bill provides for small scale review of map amendments within the urban service boundary or designated urban infill and redevelopment area. However, this provision does not apply in areas of critical state concern or to amendments that would increase densities in high hazard coastal areas. As an additional incentive, development within an urban service boundary is exempt from development-of-regional-impact review if the local government has entered into a binding agreement with certain jurisdictions and the FDOT regarding the mitigation of certain impacts and has adopted a proportionate share methodology. This exemption from development-of-regional-impact review is also extended to proposed development within a Rural Land Stewardship Area and proposed development or redevelopment within an urban infill and redevelopment area designated under s. 163.2517, F.S.

The bill address the evaluation and appraisal report process under s. 163.3191, F.S. Amendments to update a comprehensive plan based on an evaluation and appraisal report (EAR) must be adopted during a single amendment cycle within 18 months after the report is determined to be sufficient by the state land planning agency. Beginning July 1, 2006, failure to timely adopt and transmit update amendments to the comprehensive plan based on the EAR shall result in a prohibition on plan amendments until the EAR-based amendments are adopted and transmitted to the state land planning agency.

The Office of Program Policy Analysis and Government Accountability is directed to perform a study by December 31, 2005, regarding adjustments to the boundaries of the Florida Regional Planning Councils, Florida Water Management Districts, and Florida Department of Transportation Districts. The written report will be submitted to the Governor and the Legislature by January 15, 2006.

The bill creates the 15-member Century Commission for a Sustainable Florida with its members to be appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. One member will be designated by the Governor as Chairman. The members will represent diverse interests, with the first meeting to be held not later than December 1, 2005. Beginning January 16, 2007, the Century Commission will send an annual written report to the Governor and the Legislature. The President of the Senate and the Speaker of the House of Representatives will create a joint select committee in 2007 to review the findings and recommendations of the commission.

This bill creates the School Concurrency Task Force to review the requirements for school concurrency in law and make recommendations regarding streamlining the process and procedures for establishing school concurrency. The 11-member task force must report to the

Governor and the Legislature by December 1, 2005, with specific recommendations for revisions to the Florida Statutes and administrative rules.

In addition, the bill creates the Florida Impact Fee Review Task Force to be composed of 15 members who are charged with surveying and reviewing the current use of impact fees as a method of financing local infrastructure to accommodate new growth and current case law controlling the use of impact fees. The Legislative Committee on Intergovernmental Relations will serve as staff to the task force. The task force shall provide a report to the Governor and the Legislature by February 1, 2006.

The bill establishes the Transportation Regional Incentive Program for the purpose of providing funds to improve regionally significant facilities in regional transportation areas. Funding awarded for projects under this program require a 50-percent local match from funds other than a state-funded infrastructure bank loan. For a 2-year period, the bill allows the Florida Department of Transportation to include right-of-way services as part of certain design-build contracts and to combine the design and construction phases of any project into a single contract.

This bill provides funding for the Water Protection and Sustainability Program in s. 403.890, F.S., which is created in SB 444. Also, this bill establishes the High Growth District Capital Outlay Assistance Program in s. 1013.78, F.S., to provide funds for qualifying high student enrollment growth school districts. This bill provides additional funding for school construction to districts meeting the program's criteria. The eligibility criteria for this program includes a requirement that the school district must have levied the full 2 mills of nonvoted discretionary capital outlay millage for each of the past 4 fiscal years. Under the criteria, a district must have also equaled or exceeded twice the statewide average of growth in capital outlay FTE students over this same 4-year period. Although the Legislature may appropriate additional funds for the program, the annual appropriation contained in the bill is $30 million.

Under this bill, a landowner that filed an application for development of regional impact review before the adoption of an optional sector plan may elect to have the application reviewed under the development-of-regional-impact program and the comprehensive plan provisions in place before the adoption of the sector plan. The bill grandfathers developments of regional impact from the provisions of the bill amending chs. 163 and 380, F.S., if the development order has been issued or the application submitted prior to May 1, 2005.

The bill appropriates $3 million annually from the Grants and Donations Trust Fund to the Department of Community Affairs for technical assistance. Also, $250,000 is annually appropriated to support the Century Commission.

The bill appropriates $1.5 billion, consisting of $750 million nonrecurring and $750 million recurring, for 2005-2006 to fund specified transportation, school, and water projects. It appropriates $750 million annually, thereafter, to fund these types of projects. The following table outlines the appropriations contained in this bill.

Appropriations in S 360	Recurring DOC Stamp	Non-recurring General Revenue
State Transportation Trust Fund		
New Starts Transit Program	$54.175 million	
Small County Outreach Program	$27.0875 million	
Strategic Intermodal System	$345.3656 million	$175 million*
Transportation Regional Incentive Program	$115.1219 million	$275 million
State Infrastructure Bank		$100 million
County Incentive Grant Program		$25 million
Subtotal	**$541.75 million**	**$575 million**
Department of Environmental Protection		
Water Protection and Sustainability Trust Fund	$100 million	$100 million
Subtotal	**$100 million**	**$100 million**
Public Education Capital Outlay		
Classrooms For Kids	$75 million**	$41.65 million
High Growth District Capital Outlay Assistance Grant Program	$30 million	$30 million
Subtotal	**$105 million**	**$71.65 million**
DCA Grants and Donations Trust Fund		
Technical Assistance	$3 million	$3 million
Century Commission	$250,000	$250,000
School Concurrency Task Force		$50,000
Impact Fee Task Force		$50,000
Subtotal	**$3.25 million**	**$3.35 million**
Totals for 2005-2006	**$750 million**	**$750 million**

* S 360 appropriates $200 million for 2005-2006 to fund projects on the Strategic Intermodal System. This appropriation should be reduced to $175 million in the glitch bill for the 2006 session.

** S 360 appropriates $75 million from doc stamp revenue to PECO, but only transfers $41.75 million to the Classrooms for Kids program in 2005-2006. The balance of $33.25 should be transferred in the glitch bill for the 2006 session or transferred pursuant to a budget amendment before the LBC during the fiscal year.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 114-0

HB 517 — University Campus Planning

by Rep. Cannon and others (SB 2614 by Senator Constantine)

The bill amends s. 1013.30, F.S., which governs the development and adoption of university campus master plans. It requires a university campus master plan to identify the general location of structures. The bill provides for an electronic copy of the draft master plan to the host local government, any affected local government, reviewing agencies, and the applicable water

management district and regional planning council. At the request of a governmental entity, a hard copy must be made available within 7 business days after the electronic copy is available.

The bill requires an informal public information session prior to the two scheduled public hearings before the university board of trustees may adopt a campus master plan. The first public hearing must be held prior to sending the draft master plan to specified agencies. The second public hearing must be held in conjunction with the adoption of the draft master plan.

The bill limits an individual's petition challenging the campus master plan to a person who has submitted oral or written comments, recommendations, or objections during the time period between the advertisement of the first public hearing and the adoption of the campus master plan or plan amendment. If the plan or plan amendment is amended at the adoption hearing, the time period for such comments shall be extended by 7 calendar days. Comments, recommendations, and objections submitted during the extension are limited to the amendments adopted at the adoption hearing. The bill permits the university to negotiate and execute a campus development agreement while a challenge to the campus master plan is pending.

The bill amends s. 1013.30(8), F.S., replacing the state land planning agency's informal hearing with an evidentiary hearing, to be held by the Division of Administrative Hearings. Under this bill, the state land planning agency issues the final order instead of the Administration Commission. The bill also creates s. 1013.30(8)(d), F.S., to allow an administrative law judge to impose sanctions on the person challenging the campus master plan or their representative if the challenge was filed for improper or frivolous purposes.

Finally, the bill authorizes the Florida Gulf Coast University, subject to approval by the Board of Governors, to establish a School of Engineering that would award bachelor of science degrees in bioengineering, environmental and civil engineering, and engineering management.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 113-1

HB 955 — Waterfront Property

by Rep. Berfield and others (CS/CS/SB 1316 by Environmental Preservation Committee; Community Affairs Committee; and Senator Posey)

This bill addresses a range of issues relating to recreational and commercial waterfront property and the preservation of public boating access to waterways. In addition to providing legislative findings and a definition for the term "recreational and commercial working waterfronts," the bill provides for the following:

- Requires counties to include strategies for preserving recreational and commercial working waterfronts within their comprehensive plans.

- Provides that the Board of Trustees of the Internal Improvement Trust Fund must encourage the use of sovereign submerged lands for water-dependent uses and public access.

- Includes more applicable forms of authorization so the Board of Trustees and the Department of Agriculture and Consumer Services have the opportunity to consider alternative forms of authorization which may be more appropriate for aquaculture support facilities.

- Directs the Department of Environmental Protection and water management districts to adopt programs to expedite the processing of certain permits for marina projects that reserve a portion of the boat slips for public access.

- Provides technical assistance and support to waterfront communities through the creation of the Waterfronts Florida Program within the Department of Community Affairs.

- Directs the Department of Environmental Protection to evaluate the current use of state parks for recreational boating and identify appropriate locations for the future expansion of public boating access.

- Provides that $1 from fees paid on boat registration in the state be deposited into the Marine Conservation Trust Fund for public launching facilities.

- Authorizes local governments to establish a property tax deferral program for qualifying recreational and commercial working waterfront properties.

- Exempts a local government and certain military installations from review under the developments-of-regional-impact program.

If approved by the Governor, these provisions take effect January 1, 2006.
Vote: Senate 39-0; House 114-0

MISCELLANEOUS LOCAL GOVERNMENT

SB 252 — Municipal Personnel/Annuities

by Senator Fasano

Currently, s. 121.182, F.S., permits counties to purchase annuities for employees with 25 or more years of creditable service who have reached age 50 and have applied for retirement under the

Florida Retirement System. These annuities may not provide for more than the total difference in retirement income between the retirement benefit based on average monthly compensation and creditable service as of the member's early retirement date and the early retirement benefit. This bill extends the same option to cities for employees who meet the same criteria and places the same limitation on the annuity amount. The bill also authorizes cities to purchase annuities for employees for up to 5 years of validated out-of-state service, which counties also are currently authorized to do. The bill also permits cities to invest funds, purchase annuities, and provide local supplemental retirement programs for purposes of providing annuities for city personnel, which counties are authorized to do.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 113-0

CS/CS/SB 434 — Disabilities/Service Animals

by Commerce and Consumer Services Committee; Governmental Oversight and Productivity Committee; and Senators Wise, Fasano, Haridopolos, Rich, and Jones

This bill significantly amends ss. 413.08 and 413.081, F.S., by updating the language so that it coincides with federal language in the Americans with Disabilities Act of 1990, which preempts state and local law and regulations in this area. Specifically, s. 413.08, F.S., is updated to include the following definitions using language that is similar to the federal statutes: housing accommodation, individual with a disability, hard of hearing, physically disabled, public accommodation, and service animal. Additionally, the proposed language changes the way in which state and local governments and public accommodation facilities must provide access to service animals that accompany individuals with disabilities to more closely track federal law. It deletes certain references to "dog guide" and replaces the term with "service animal." Finally, the bill directs the Florida Americans with Disabilities Act Working Group and the Commission on Human Relations to provide recommendations to the Governor on policies the state can implement to ensure the effectiveness of the act and to improve access for individuals with disabilities who are accompanied by service animals.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 114-0

CS/SB 1922 — Public Records/Meetings Exemptions

by Community Affairs Committee and Senators Sebesta and Miller

Currently, s. 112.324, F.S., provides a public records and public meetings exemption for the Commission on Ethics and a county-established Commission on Ethics and Public Trust, with regards to information concerning a complaint or preliminary investigation conducted by those commissions. This bill extends the existing exemption to a Commission on Ethics and Public

Trust that is established by a municipality. Additionally, the bill provides for future review and repeal of the exemptions on October 2, 2010, and includes a statement of public necessity.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 111-1

HB 951 — Small Cities Community Development Block Grant Program

by Rep. Carroll (CS/SB 2284 by Community Affairs Committee and Senator Bennett)

This bill expands the statutorily-approved objectives of the state's Small Cities Community Development Block Grants (CDBG) to include the two remaining objectives of the federal program: eliminating slum and blight and fortifying communities in urgent need. It adds project planning and design to the list of activities that are funded under the program. The bill also adds project planning and design to the list of grant program funding categories within the CDBG program. It changes the method by which funds are allocated to each program category, and changes the amount of federal funds to be set aside for emergency or natural disasters.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 113-1

HB 1159 — Florida Retirement System

by Rep. Bogdanoff and others (CS/SB 1624 by Community Affairs Committee and Senator Campbell)

This bill authorizes a municipality to receive the state excise tax on property tax premiums for firefighter pension plans from another municipality when there is an interlocal agreement in place to provide fire protection services. In addition, the bill allows a local agency senior management service class employee who has withdrawn from the Florida Retirement System a one-time opportunity to elect to participate in either the defined benefit program or the Public Employee Optional Retirement Program.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 40-0; House 112-0

BUILDING SAFETY

CS/CS/CS/CS/SB 442 — Building Safety

by Government Efficiency Appropriations Committee; Banking and Insurance Committee; Regulated Industries Committee; Community Affairs Committee; and Senators Bennett, Haridopolos, and Campbell

This bill addresses a number of issues relating to the development and administration of the Florida Building Code (code) and related building safety requirements. Specifically, the bill implements the following provisions:

- Revises the distribution of funds from the Hurricane Loss Mitigation Program and provides for the use of such funds for specified code-related education initiatives, effective July 1, 2006.

- Provides that the Office of Insurance Regulation must review the performance of the Hurricane Loss Mitigation Program and make recommendations to the insurance industry, and such recommendations may be used by insurers for potential discounts or rebates to residential property insurance pursuant to s. 627.0629, F.S.

- Allows nursing home residents or their representatives to request a change in the placement of the bed in their room, provided it does not infringe on the resident's roommate or interfere with the resident's care or safety.

- Provides that it is grounds for discipline for a building code administrator, engineer, or registered architect to perform building code inspections without the necessary insurance.

- Bars cities and counties from imposing additional certification or licensure requirements for state certified electrical and alarm contractors.

- Revises procedures governing the adoption and amendment of the Florida Building Code.

- Provides new procedures for binding review of building code decisions by local building officials.

- Clarifies provisions relating to truss placement plans and the code.

- Allows a fee owner's contractor, rather than only the fee owner, to use a private provider for building code inspection services.

- Eliminates the requirement that the private provider of code inspection services maintain comprehensive general liability insurance and increases professional liability insurance requirements.

- Restricts local governments' ability to use building code fee revenues for non-related activities.

- Exempts commission and hearing officer panels from Administrative Procedures Act rule requirements when reviewing decisions of local building officials.

- Revises the administration and operation of the Florida Building Code Training Program.

- Modifies provisions relating to the local product approval and evaluation process and includes the International Code Council Evaluation Service as an authorized product evaluation entity.

- Requires a local government that adopts a fire sprinkler requirement for one and two family residences to investigate the economic consequences of the requirement.

- Establishes an informal process for rendering non-binding interpretations of the Florida Fire Prevention Code.

- Provides a standard for the construction and retrofitting of doors and windows in essential facilities.

- Requires the inspection of backflow prevention assemblies every three years.

- Provides for the regulation of employees of fire suppression contractors who conduct inspections.

- Creates certain requirements for the design of interior stairways in dwelling units.

- Authorizes the State Fire Marshall to adopt, by rule, standards for inspection tags for fire protection systems.

- Requires inspection of fire protection systems using national standards.

- Creates the Water-Based Fire Protection Inspector permit classification.

- Decreases the amount of the biennial renewal fee for fire protection certificate holders from $250 to $150, and provides for other fees.

- Establishes continuing education requirements for certain categories of permit holders.

- Requires that inspection of fire protection systems be conducted by certificate holders or permit holders employed by certificate holders, and provides for discipline of permit holders.

- Specifies that swimming pool exit alarms that comply with Underwriters Laboratory Standard Number 2017 satisfy the requirement of ch. 515, F.S.

- Incorporates by reference into the Florida Building Code permitted standards for unvented attic assemblies in the International Residential Code.

- Provides that an application to a county or municipality for a site development plan, building permit, or other permit must be acted upon within 120 days, unless the applicant agrees to an extension.

- Directs the Florida Building Commission to update the Florida Building Code with the most recent and relevant design standards for wind resistance of buildings issued by the American Society of Civil Engineers (ASCE Standard 7).

- Provides that the option for designing for internal pressure for buildings within the windborne debris region shall be repealed immediately upon adoption of standards and conditions within the International Building Code or International Residential Code prohibiting such option design.

- Appropriates $200,000 from the Insurance Regulatory Trust Fund to the Department of Financial Services to develop a joint program between the Florida Insurance Council and the Florida Home Builders to educate builders on the benefits and options of designing buildings for windborne debris protection.

- Requires the Florida Building Commission and local building officials to evaluate the damage from Hurricane Ivan and make recommendations to the Legislature for changes to the Building Code as it relates to the region from the eastern border of Franklin County to the Florida-Alabama line.

- Provides that the effective date of the Florida Building Code, 2004 Edition, shall be October 1, 2005, however, the bill stipulates that building plans submitted for review between July 1, and October 1, may elect to undergo compliance review using either the current edition of the code or the new 2004 edition of the code.

- Instructs the commission to evaluate the definition of “exposure category C” in the Florida Building Code and make recommendations for changing the definition to the Legislature.

- Repeals s. 553.851, F.S., relating to the procedure for recording and determining the location of underground gas pipelines.

- Provides that any disaster recovery mitigation organization or not-for-profit organization using volunteer labor to repair or replace disaster-impacted one-, two-, or three-family residences must obtain necessary building permits, obtain all required building code

inspections, and provide for the supervision of all work by an individual with construction experience.

- Creates the Manufactured Housing Regulatory Study Commission to review programs regulating manufactured and mobile homes currently within the Department of Highway Safety and Motor Vehicles.

- Delays the implementation of two technical modifications (relating to the use of certain plywood for roofing) to the Florida Building Code pending further review by the Building Code Commission.

- Instructs the commission to amend the Florida Building Code to allow use of enclosed and unenclosed areas under mezzanines for the purpose of calculating the permissible size of mezzanines in sprinklered S2 occupancies of Type III construction.

- Instructs the Florida Building Commission to convene a workgroup to study the recommendation for a single product validation entity.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 115-1

HB 567 — Alternative Plan Review and Inspection

by Rep. Galvano and others (CS/SB 1470 by Regulated Industries Committee and Senator Constantine)

Currently, s. 553.791, F.S., establishes an alternative plans review and inspection program which authorizes the use of private providers for the overview of construction projects and compliance with building code standards. This section authorizes the fee owner of a building or structure to use and pay a private provider (an engineer or architect) to perform building code inspection services, subject to a written contract between these parties. The owner may use a private provider to offer both plans review and required building inspections, or to use the local enforcement agency for one or both of these purposes.

This bill provides that a contractor, in addition to the owner of the property and upon written authorization from the owner, may choose a private provider to furnish building plans review and inspection services. In addition, the bill eliminates the requirement that the private provider maintain comprehensive general liability insurance with minimum policy limits of one million dollars per occurrence, but retains the requirement that private providers are to maintain certain professional liability insurance.

In addition, the bill requires that the private provider maintain insurance for professional liability with minimum policy limits of $1 million per occurrence and $2 million in the aggregate for any

project with a construction cost of $5 million or less. If the project has a construction cost of over $5 million, the insurance must have minimum policy limits of $2 million per occurrence and $4 million in the aggregate. Finally, the fee owner may require additional insurance.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 38-0; House 113-1

HB 835 — Wind-Protection/Florida Building Code

by Rep. Detert and others (CS/SB 1232 by Community Affairs Committee and Senators Lynn and Wilson)

This bill directs the Florida Building Commission to update the Florida Building Code with the most recent and relevant design standards for wind resistance of buildings issued by the American Society of Civil Engineers (ASCE Standard 7). The bill also repeals the current option for designing buildings to resist internal pressures when the commission adopts the relevant national standards prohibiting such design options.

The bill appropriates $200,000 from the Insurance Regulatory Trust Fund to the Department of Financial Services to develop a joint program between the Florida Insurance Council and the Florida Home Builders to educate builders on the benefits and options of designing buildings for windborne debris protection. The bill also requires the commission and local building officials to evaluate the damage from Hurricane Ivan and make recommendations to the Legislature for changes to the code as it relates to the region from the eastern border of Franklin County to the Florida-Alabama line. Finally, the bill instructs the commission to evaluate the definition of "exposure category C" in the code and make recommendations for changing the definition to the Legislature.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

AFFORDABLE HOUSING

CS/CS/SB 334 — Public Housing

by Governmental Oversight and Productivity Committee; Commerce and Consumer Services Committee; and Senators Saunders, Lynn, Fasano, Dockery, and Bennett

This bill authorizes public housing authorities (PHAs) to create for-profit and not-for-profit corporations, limited liability companies, and similar business entities in which the PHA may have ownership or management interests in order to develop specified residential projects. These projects may include nonresidential uses and may utilize public and private funds to serve individuals and families who: (1) meet the applicable income requirements of the state and

federal programs involved; (2) have income that does not exceed 150 percent of the applicable median income for the area; and (3) in the opinion of the PHA, lack sufficient income or assets to enable them to purchase or rent a decent, safe, and sanitary dwelling.

The bill also ratifies the existence of any existing for-profit or not-for-profit entity or public-private partnership entered into by a PHA prior to the effective date of the bill if the existence of that entity would be authorized under the terms of the bill. Further, the acts of those entities are validated and ratified under the bill if those acts would be lawful under the terms of the bill. Finally, the bill clarifies that PHA governing boards may adopt policies for per diem, travel, and other expenses that are consistent with federal guidelines.

The bill authorizes the Florida Housing Finance Corporation to waive the annual recertification of occupant income for certain projects funded under the State Apartment Incentive Loan Program.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

SB 724 — Affordable Housing/Elderly

by Senators Margolis, Baker, and Bullard

This bill increases the maximum loan amount under the State Apartment Incentive Loan Program for projects funded through the Elderly Housing Community Loan Program from $200,000 to $750,000 per housing community.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

VETERANS AND MILITARY AFFAIRS

SB 550 — Property Tax Exemption/Disabled Veterans

by Senators Clary, Fasano, Bennett, Posey, and Lynn

This bill grants a $5,000 property tax exemption to the un-remarried surviving spouse of a veteran who is otherwise entitled to the exemption. To obtain the exemption, the un-remarried spouse must have been married to the veteran for at least 5 years. This exemption is in addition to the $500 property tax exemption currently available to all resident widows and widowers in this state, pursuant to s. 196.202, F.S.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

HB 1069 — Family Readiness Program/Military

by Rep. Negron and others (CS/SB 1592 by Community Affairs Committee and Senators Haridopolos, Pruitt, Villalobos, Baker, Fasano, Atwater, Bennett, Clary, Saunders, Lynn, Sebesta, Jones, Wise, Alexander, Webster, King, Posey, Peaden, Constantine, Diaz de la Portilla, Argenziano, Crist, Rich, and Wilson)

This bill creates the Family Readiness Program under the Department of Military Affairs. The purpose of the program is to provide need-based assistance to families of members of the Florida National Guard and United States Reserve Forces, including the Coast Guard Reserve, who are on active duty serving in the Global War on Terrorism or Homeland Defense operations.

The program's implementation depends on an appropriation expressly provided for the program. All funds are intended for the purpose of assisting families of deployed members of the Florida National Guard and Reserve Forces and are not to be used for staffing or administrative costs. Program funds may be used in emergency situations to purchase critically needed services, including, but not limited to, living expenses, housing, vehicles, equipment or renovations necessary to meet disability needs, and health care.

Those eligible to receive awards under this program are military dependents or those appearing on an eligible service member's Emergency Data Record (Department of Defense Form 93). The Adjutant General (or his or her designee) shall receive recommendations from the program director and is authorized to award funds from the program to the families to assist with the requests. The Department of Military Affairs is to conduct monthly internal audits through its inspector general and provide data every year in an annual report to the Governor and Legislature. The bill also authorizes the Department of Military Affairs to establish rules governing eligibility requirements and implementation of the program.

Finally, the bill appropriates $5,000,000 from the General Revenue Fund for the program.

These provisions became law upon approval by the Governor on July 1, 2005.
Vote: Senate 40-0; House 117-0

HB 1189 — Child's Education/Deceased Veteran

by Rep. Jordan and others (CS/SB 1458 by Community Affairs Committee and Senators Constantine, Klein, and Crist)

This bill amends s. 295.01, F.S., to revise provisions relating to post-secondary educational benefits for the dependents of deceased or disabled military veterans. The bill revises program eligibility to eliminate the requirement that the deceased or disabled veteran must have been a Florida resident at the time of entry into the Armed Forces. Similarly, the bill eliminates the

requirement that the qualifying veteran must have been a resident of the state for 5 years preceding the application for benefits, and provides that the veteran must have been a resident of the state for 1 year immediately preceding the death or occurrence of such disability.

The bill also extends program eligibility to the dependents of veterans who die or are disabled while serving in Operation Iraqi Freedom.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 118-0

CRIMINAL OFFENSES AND PENALTIES

HB 71 — Motor Vehicle Speed Competitions

by Rep. Quinones and others (CS/SB 1428 by Judiciary Committee and Senator Haridopolos)

This bill increases the misdemeanor degree of unlawful racing from a second degree misdemeanor to a first degree misdemeanor, and the range of fines (minimum raised from $250 to $500; maximum raised from $500 to $1,000).

The bill also defines the term "conviction" and clarifies that the definitions of the terms "drag racing" and "racing" apply to motor vehicles. The unlawful racing offense relates to a number of proscribed acts. The bill clarifies that the proscribed acts include races, competitions, tests, or exhibitions. The bill also modifies the proscribed act of riding as a passenger in an unlawful race to indicate that the passenger must know he or she is riding as a passenger in an unlawful race.

The bill also provides that a law enforcement officer is authorized to impound the motor vehicle that was used in unlawful racing for a period of 10 business days, if the person who is arrested and taken into custody for the unlawful racing is the registered owner or co-owner of the vehicle. The law enforcement officer impounding the vehicle shall notify the Department of Highway Safety and Motor Vehicles of the impoundment. Any motor vehicle used for unlawful racing by a person within 5 years after the date of a prior conviction of that person for unlawful racing may be seized and forfeited as provided by the Florida Contraband Forfeiture Act, if the owner of vehicle is the person charged with unlawful racing.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 38-0; House 111-1

HB 207 — Criminal Acts/State of Emergency

by Rep. Benson and others (CS/SB 282 by Domestic Security Committee and Senators Aronberg and Fasano

This bill reclassifies the felony degree of certain unarmed burglary offenses and theft offenses, if any of those offenses are committed in an area that is subject to a state of emergency declared by the Governor under chapter 252, F.S. A reclassified offense is ranked one ranking level above the ranking of the offense committed and ranked in the offense severity level ranking chart of the Criminal Punishment Code. A person arrested for committing any of the specified burglary offenses in an area that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first-appearance hearing. Therefore, the person can only be admitted to bail after appearance before a judge.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 111-0

HB 233 — Unborn Quick Child

by Rep. Planas and others (CS/CS/SB 1526 by Justice Appropriations Committee; Criminal Justice Committee; and Senators Baker and Posey)

This bill expands the scope of s. 316.193(3), F.S., relating to driving under the influence, to include the death of an "unborn quick child" within the definition of DUI manslaughter.

The bill also expands the application of s. 782.09, F.S. Currently, that section punishes the willful killing of an unborn quick child "by any injury to the mother of such child which would be murder if it resulted in the death of such mother" as manslaughter, a second-degree felony. This bill creates new subsections which would punish the unlawful killing of an unborn quick child by any injury to the mother at the same level as if the mother had died.

In other words, if a person kills an unborn quick child by an act which would constitute first degree murder if the act were committed against the mother and she died, the offender could be charged with first-degree murder for the death of the unborn quick child. The same is true in cases of second- and third-degree murder, and manslaughter under the provisions of the bill. The bill specifies that the death of the mother resulting from the same act or criminal episode which caused the death of the unborn quick child shall not bar prosecution for the death of the unborn quick child.

The definition of viable fetus, as set forth in s. 782.071, F.S., is adopted for purposes of proving the death of an unborn quick child. A fetus is considered to be viable under the terms of s. 782.071, F.S., when "it becomes capable of meaningful life outside the womb through standard medical measures." s. 782.071(2), F.S.

Section 782.09, F.S., is further amended to provide that it does not authorize the prosecution of any person in connection with a termination of pregnancy pursuant to ch. 390, F.S.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 40-0; House 113-2

HB 319 — Freedom to Worship Safely Act

by Rep. Ryan and others (CS/SB 1096 by Judiciary Committee and Senators Smith, Klein, Atwater, Campbell, Aronberg, Wilson, and Crist)

This bill creates the Freedom to Worship Safely Act.

This bill creates s. 775.0861, F.S., which provides for the reclassification of certain felony offenses committed on the property of a religious institution while the victim is on the property for the purpose of attending or participating in a religious service. The term "religious service" is defined as a religious ceremony, prayer, or other activity according to a form and order prescribed for worship, including a service related to a particular occasion. The definition covers more than just traditional worship services, it covers activities such as daily prayers, weddings, and funerals.

The bill references the definition of religious institution at s. 496.404, F.S. Section 496.404(19), F.S., provides that the term "religious institution" means "any church, ecclesiastical or denominational organization, or established physical place for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on, and includes those bona fide religious groups which do not maintain specific places of worship. 'Religious institution' also includes any separate group or corporation which forms an integral part of a religious institution which is exempt from federal income tax under the provisions of s. 501(c)(3) of the Internal Revenue Code, and which is not primarily supported by funds solicited outside its own membership or congregation."

The definitions of religious institution and religious service are non-denominational.

The reclassification applies to any offense that involves the use or threat of physical force or violence against an individual, and includes the following offenses:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary;
- Aggravated battery;
- Aggravated stalking;
- Assault;
- Aggravated assault; and
- Battery.

The reclassification is as follows:

- A second degree misdemeanor is reclassified to a first degree misdemeanor.
- A first degree misdemeanor is reclassified to a third degree felony.
- A third degree felony is reclassified to a second degree felony.
- A second degree felony is reclassified to a first degree felony.
- A first degree felony is reclassified to a life felony.

The reclassification increases the maximum sentence that a court could impose for the offense, and also increases the "lowest permissible sentence" required under the Criminal Punishment Code, ss. 921.002-.0027, F.S. (The Criminal Punishment Code prescribes a mathematical formula for calculating the lowest permissible sentence for any offense. Offenses are categorized into 10 levels; higher numbered levels accrue more sentencing points than lower numbered levels.) Under the bill, a first degree misdemeanor reclassified to a third degree felony will be ranked as a Level 2 offense. (Currently, an unranked third degree felony defaults to Level 1.) A reclassified second or third degree felony will be ranked one level above its current ranking under the bill.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 113-0

HB 411 — Criminal Punishment Code

by Rep. Kravitz and others (CS/SB 316 by Justice Appropriations Committee and Senators Fasano, Lynn, and Crist)

The bill (Chapter 2005-33, L.O.F.) increases the level ranking of various offenses by ranking those offenses within the offense severity ranking chart of the Criminal Punishment Code. The bill ranks in Level 5 the previously unranked (Level 1) offenses of possession of child pornography, electronic transmission of child pornography, and electronic transmission of material harmful to a minor. The bill also ranks in level 6 the unranked (Level 1) offense of facilitating sexual conduct of or with a minor, and increases from a Level 6 to a Level 7 the offense of computer solicitation of a minor to commit an unlawful sex act. The result of these changes is that an offender convicted of any of these offenses is more likely (than under the law prior to these changes) to receive a prison sentence.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 39-0; House 114-0

SB 1020 — Police, Fire, SAR Dogs/Police Horses

by Senators Haridopolos and Fasano

Senate Bill 1020 modifies the current third degree felony offense in s. 843.19, F.S., to include elements of intentionally and knowingly causing great bodily harm, permanent disability or death, or the use of a deadly weapon upon a police dog, fire dog, search and rescue dog, or police horse.

The bill creates a first degree misdemeanor where a person actually and intentionally maliciously touches, strikes, or causes bodily harm to one of the animals protected by the statute.

Under the provisions of the bill, it is a second degree misdemeanor if a person intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with one of the animals protected by the statute, while the animal is in the performance of its duties.

The bill also requires that where a person is convicted of an offense prohibited by the statute, he or she must make restitution for injuries caused to the animal and pay the replacement cost of the animal if, as a result of the offense, the animal can no longer perform its duties.

This bill substantially amends s. 843.19, F.S.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 117-1

CRIMINAL PROCEDURE

SB 538 — Sentencing/Victim Impact Evidence

by Senators Smith and Lynn

This bill clarifies that the state may introduce and subsequently argue victim impact evidence to the jury during the sentencing phase of a capital trial once it has provided evidence of the existence of one or more aggravating circumstances. The bill amends subsection (7) of s. 921.141, F.S. The bill is known as the "Caroline Cody Act."

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 118-0

SB 730 — Prohibition on Prostitution

by Senator Fasano

This bill provides that a police officer may testify as an offended party in an action regarding charges filed under s. 796.07, F.S., which prohibits lewdness, prostitution, and assignation. This new language is put in subsection (3) of this statute which addresses admissible testimony at trial to support these charges, such as the reputation of the defendant, the reputation of the place involved in the charge, and any person frequenting such place.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 115-1

SB 1440 — Time Limitations/Criminal Offenses

by Criminal Justice Committee

Section 775.15, F.S., sets forth time limitations for commencing criminal prosecutions, commonly known as the "statute of limitations." The purpose of the statute of limitations for a criminal prosecution is to protect people from being indefinitely threatened by possible criminal prosecution, which might otherwise be delayed until such a time when defense witnesses become unavailable, judges change office, or other time hazards develop which could impede an otherwise good defense. *State v. Hickman*, 189 So.2d 254 (Fla. 2nd DCA 1966), cert. denied, 194 So.2d 618 (1966).

This bill makes the statute of limitations easier to understand and more "user friendly" to practitioners and ordinary citizens by reorganizing it into a more logical and understandable format. The bill groups the general time limitation periods together, followed by the "administrative" provisions such as when an offense is committed and when a prosecution is commenced. The various exceptions and extensions to the general time limitation periods will become the final subsections in the statute.

This reorganization is technical and clarifying in nature; there are no substantive law changes made to s. 775.15, F.S.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

JUVENILE JUSTICE

HB 577 — Interstate Compact for Juveniles

by Rep. Needelman and others (CS/SB 274 by Governmental Oversight and Productivity Committee and Senators Crist and Lynn)

Currently, ss. 985.501-.507, F.S., regulate the movement of juveniles across state lines and are collectively referred to as the Interstate Compact on Juveniles. The compact was established in 1955 to manage the interstate movement of adjudicated youth, the return of non-adjudicated runaway youth, and the return of youth to states where they were charged with delinquent acts. Due to changes in technology, transportation, laws, and population, however, the original compact has become outdated and has led to increasing concern about the safety of the public, as well as the welfare of juveniles.

The national Council of State Governments, in cooperation with the federal Office of Juvenile Justice and Delinquency Prevention, has developed a new Interstate Compact for Juveniles and is currently supervising the introduction of this legislation throughout the United States and its territories. Currently, 21 states have enacted this new compact.

House Bill 577 revises the provisions of the current compact contained in s. 985.502, F.S. The new compact includes the following major changes to the original compact:

- Establishment of an independent compact operating authority to administer ongoing compact activity, including a provision for staff support.
- Gubernatorial appointments of representatives from member states to a national governing commission, which meets annually to elect the compact operating authority members and to attend to general business and rule-making procedures.
- Rule-making authority and provision for significant sanctions to support essential compact operations.
- A mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, training/education, etc.).
- Collection of standardized information and information-sharing systems.
- Coordination and cooperation with other interstate compacts including the Interstate Compact on the Placement of Children and the Interstate Compact for Adult Offender Supervision.
- Requirement of each state to create a state council.

In addition, the bill creates the Interstate Commission for Juveniles (commission) to oversee the administration and operations of the interstate movement of juveniles subject to the compact in the compacting states, an executive council to oversee the day-to-day activities of this commission, and the State Council for Interstate Juvenile Offender Supervision to oversee Florida's participation in the commission.

If approved by the Governor, these provisions take effect July 1, 2005, or upon ratification of the 35th state, whichever occurs later.
Vote: Senate 39-0; House 113-0

HB 1917 — Juvenile Justice

by Justice Appropriations Committee and Rep. Barreiro and others (CS/CS/SB 1978 by Children and Families Committee; Criminal Justice Committee; and Senator Crist)

This bill makes the following changes to ch. 985, F.S.:

- Classifies day treatment programs as a minimum-risk non-residential level of commitment, rather than a probation option (as they were before 2000).

- Creates a definition for the term "day treatment," which provides that day treatment is available during probation, conditional release, or commitment to a minimum-risk non-residential level and specifies the type of services that day treatment must include.

- Provides that the period of commitment for juveniles placed in the minimum-risk non-residential level may last up to six months for second degree misdemeanors.

- Requires parents to pay $1 for each day that their child is in the minimum-risk non-residential level in conformity with current fee requirements for home detention and probation status.

- Allows juveniles committed to a high-risk residential program to have court approved temporary release providing up to 72 hours of community access for family emergencies and in the final 60 days of placement for specified purposes.

- Requires the Department of Juvenile Justice (DJJ) to report the juvenile's treatment plan progress to the court quarterly, rather than monthly as now required, unless the court requests monthly reports.

- Requires DJJ to reconvene the Task Force on Juvenile Sexual Offenders and their Victims to re-evaluate the laws, practices, and procedures for serving juvenile sex offenders and their victims.

- Requires DJJ to establish a Task Force to study the feasibility of a certification system for juvenile justice provider staff.

- Allows the membership of juvenile justice county councils and circuit boards to consist of specified types of representation (rather than mandate it as does current law).

- Authorizes the payment of detention costs, subject to appropriation, for Highlands, Sumter, and Wakulla Counties during FY 2005-2006.

- Strengthens the DJJ employment background screening requirements.

- Updates several cross-references to conform with changes made by the bill.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 116-0

LAW ENFORCEMENT

SB 308 — Law Officer/Investigative Interview

by Senator Fasano

The bill amends current law relating to the rights of a law enforcement or a correctional officer while under investigation by his or her own agency. The bill requires the investigating agency to interview all identifiable witnesses, whenever possible, and provide the officer with all witness statements and the complaint before interviewing the accused officer.

This bill substantially amends s. 112.532, F.S.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 115-0

CS/CS/SB 328 — Automated External Defibrillators

by Justice Appropriations Committee; Community Affairs Committee; and Senators Fasano, Bennett, Lynn, Crist, and Klein

This bill requires the Florida Department of Law Enforcement (FDLE) to administer a competitive grant program during FY 2005-2006 for placing automated external defibrillators (AEDs) in law enforcement vehicles. Grants awarded by the FDLE are limited to amounts specifically appropriated each year for the AED grant program. The FDLE is authorized to spend up to three percent of the grant funds for administrative costs. The FDLE is required to adopt rules for administration by September 1, 2005.

Participation in the grant program by law enforcement agencies is discretionary. A law enforcement agency that does not serve a rural community must provide matching funds of at least 25 percent to be considered for funding. A law enforcement agency that serves a rural community must provide matching funds of at least 10 percent to be considered for funding. The FDLE is to give priority consideration to grant applications from rural law enforcement agencies.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

HB 345 — Capitol Police

by Reps. Gardiner and Coley (SB 1746 by Senator Wise)

This bill expands the powers and duties of FDLE, and Capitol Police, by granting traffic enforcement authority to all agents, inspectors, and officers of FDLE. The bill also amends the list of powers and duties of Capitol Police to require it to carry out transportation and protective services described in s. 943.68, F.S.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 112-0

CS/SB 656 — Deputy James M. Weaver Act

by Ways and Means Committee and Senators Haridopolos, Posey, Wise, Peaden, Fasano, Campbell, Klein, and Garcia

This bill provides that the sum of $50,000 in death benefits, adjusted as provided in s. 112.19(2)(j), F.S., shall be paid if a law enforcement, correctional, or correctional probation officer is accidentally killed at the scene of a traffic accident to which the officer responded or while enforcing what is reasonably believed to be a traffic law or ordinance.

The bill also provides, with certain exceptions, that no disciplinary action, demotion, or dismissal shall be undertaken by an agency against a law enforcement officer or correctional officer for an allegation of misconduct if the investigation of the allegation is not completed within 180 days after the date the agency receives notice of the allegation by a person authorized by the agency to initiate the investigation of the misconduct. The bill also provides a time limitation for completing an investigation and giving notice when the agency determines disciplinary action is appropriate, and provides for circumstances in which this limitations period may be tolled. The bill also provides a time limitation for completing a disciplinary action resulting from an investigation that is reopened, and provides circumstances in which the investigation may be reopened, notwithstanding the limitations period for commencing a disciplinary action.

The bill also revises the definition of the term "accredited college, university, or community college" in s. 943.22, F.S., which provides a salary incentive program for certain law enforcement officers who obtain a community college degree or bachelor's degree, or who complete 480 hours of approved career development program training. The revision adds to the definition of the term an accrediting agency or association that is recognized by the database created and maintained by the United States Department of Education.

If approved by the Governor, these provisions take effect July 1, 2005, and apply to actions arising on or after that date.
Vote: Senate 39-0; House 114-0

CS/SB 738 — Criminal Justice Standards and Training Commission

by Governmental Oversight and Productivity Committee and Senators Fasano, Haridopolos, Crist, Wise, Smith, and Webster

This bill revises the process regarding the appointment of some members of the Criminal Justice Standards and Training Commission (commission). In appointing the three sheriffs to the commission, the Governor shall choose each appointment from a list of six nominees submitted by the Florida Sheriffs Association, which shall submit its list before the expiration of the term of any sheriff member. In appointing the three chiefs of police to the commission, the Governor shall choose each appointment from a list of six nominees submitted by the Florida Police Chiefs Association, which shall submit its list before the expiration of the term of any police chief member.

In appointing the five law enforcement officers and one correctional officer of the rank of sergeant or below to the commission, the Governor shall choose each appointment from a list of 6 nominees submitted by a committee comprised of three members of the collective bargaining agent for the largest number of certified law enforcement bargaining units, two members of the collective bargaining agent for the second largest number of certified law enforcement bargaining units, and 1 member of the collective bargaining agent representing the largest number of state law enforcement officers in certified law enforcement bargaining units. At least one of the names submitted for each of the five appointments who are law enforcement officers must be an officer who is not in a collective bargaining unit.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-1; House 115-1

CS/SB 1436 — Automated External Defibrillators

by Community Affairs Committee and Senators Geller and Lynn

This bill provides legislative intent that each state and local law enforcement vehicle may carry an automated external defibrillator, and also authorizes a local government to use funds from forfeitures to purchase automated external defibrillators for use in law enforcement vehicles.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 118-0

SEXUAL PREDATORS AND OFFENDERS

HB 1877 — Jessica Lunsford Act

by Criminal Justice Committee and Reps. Dean, Kravitz, Rice, and others (CS/CS/SB 1216 by Justice Appropriations Committee; Criminal Justice Committee; and Senators Argenziano, Fasano, Klein, Aronberg, Haridopolos, Lynn, Smith, Crist, Miller, and Campbell)

The bill (Chapter 2005-28, L.O.F.), entitled the "Jessica Lunsford Act," contains the following major provisions:

- Mandates a 25-year minimum mandatory term of imprisonment followed by lifetime supervision with electronic monitoring for persons convicted of lewd and lascivious molestation of a child under 12 (currently there is no lifetime supervision mandate).

- Expands from 20 years to 30 years the period of time before someone can petition to have the sexual predator designation removed.

- Creates a new aggravating circumstance to qualify a murdering sexual predator for a death sentence.

- Creates two new 3rd degree felonies: (1) for harboring a registered sex offender/predator, and (2) for tampering with an electronic monitoring device.

- Strengthens and expands the background screening requirement for contract employees working on school grounds. There is already a screening requirement in current law. This amendment clarifies that the screening requirement applies to individuals who are permitted access on school grounds when students are present.

- Requires the Florida Department of Law Enforcement (FDLE) to provide information to local law enforcement officials about sexual predators and sexual offenders who fail to register or fail to respond to address verification attempts or otherwise abscond from registration requirements.

- Requires the Department of Corrections (DOC) to purchase and operate fingerprint-reading equipment for probation offices to better track the probationer when they are rearrested.

- Increases the penalty for the failure of a sex offender or sexual predator to register and creates a penalty for failure to report to the sheriff's office.

- Enhances the penalty for lewd and lascivious molestation of a child younger than 12 years of age from a 1st degree felony to a life felony.

- Requires county misdemeanor probation officials to search the sex offender/predator registry.

- Requires contracts with private misdemeanor probation providers to include procedures for accessing criminal history records of probationers.

- Requires the Office of Program Policy and Government Accountability (OPPAGA) to study every three years the registry and report findings to the Legislature every three years. Also, EDR is asked to look at sentencing information and plea negotiation practices and report back to the Legislature by March of 2006.

- Requires FDLE to implement a bi-annual check-in process for sexual predators and offenders. Twice a year the registered offenders will need to report to their local county jail or be subject to criminal prosecution.

- Almost triples the funding of electronic monitoring units used by state probation officials and requires the purchase of the new units to be competitively bid.

- Creates a task force within FDLE to examine the collection and dissemination of criminal history records.

- Directs DOC to review and report serious offenses committed by probationers.

- Directs DOC to develop a risk assessment system to monitor high risk offenders and to provide cumulative histories to the court on high risk sex offenders.

- Requires a court to make a finding that the sex offender on probation does not pose a danger to the public before he or she is released with or without bail on a violation of probation.

- Expands the types of mandatory conditions that the court must impose on sex offenders when they sentence them to community control supervision, such as maintaining a driving log and submitting to polygraph testing. We already have these conditions for

those offenders placed on sex offender probation; this amendment expands it to all community controllees.

- Prospectively mandates that the Parole Commission order electronic monitoring for persons who are leaving prison on conditional release and who have been convicted of various unlawful sex acts against a child 15 years of age or younger.

- Retroactively requires the court to electronically monitor registered sex offenders and sexual predators whose victims were 15 years of age or younger and who violate their probation or community control and the court imposes a subsequent term of probation and community control.

- Prospectively mandates the court to order electronic monitoring for persons placed on probation or community control who: are convicted or previously convicted of various unlawful sex acts against a child 15 years of age or younger; or are registered sexual predators.

These provisions were approved by the Governor and take effect September 1, 2005.
Vote: Senate 40-0; House 115-0

CS/SB 1354 — Sexual Offenders

by Children and Families Committee and Senators Fasano, Klein, and Lynn

This bill amends portions of chs. 947 and 948, F.S., to establish the narrow circumstances under which a sexual offender on conditional release, probation, or community control may have supervised contact with a minor. If the offender's victim was under the age of 18, the offender may only have supervised contact with a minor if it is approved by the Parole Commission or the sentencing court and is recommended by a qualified practitioner who has performed a risk assessment and issued a written report based upon a lengthy list of criteria. The visit may not take place unless the minor's parent or legal guardian has agreed in writing to the visit and has reviewed a safety plan detailing the acceptable conditions of contact during the visit.

The bill also prohibits the offender from accessing or using the Internet until the qualified practitioner approves a safety plan for the offender's use of the Internet or similar service.

If approved by the Governor, these provisions take effect January 1, 2006.
Vote: Senate 40-0; House 114-1

VICTIMS AND PUBLIC PROTECTION

CS/CS/SB 436 — Protection of Persons/Use of Force

by Judiciary Committee; Criminal Justice Committee; and Senators Peaden, Argenziano, Clary, Wise, Lawson, Crist, Baker, Bennett, Posey, Villalobos, Garcia, Fasano, Webster, Lynn, Haridopolos, King, Dockery, Diaz de la Portilla, Bullard, Campbell, Jones, Sebesta, Pruitt, Constantine, Smith, Alexander, Saunders, Aronberg, and Klein

This bill (Chapter 2005-27, L.O.F.) substantially amends s. 776.012, F.S., and s. 776.031, F.S. This bill also creates two new sections of the Florida Statutes: s. 776.013, F.S., and s. 776.032, F.S.

The bill permits a person to use force, including deadly force, without fear of criminal prosecution or civil action for damages, against a person who unlawfully and forcibly enters the person's dwelling, residence, or occupied vehicle. Additionally, the bill abrogates the common law duty to retreat when attacked before using deadly force that is reasonably necessary to prevent imminent death or great bodily harm.

Presumed Fear of Death or Great Bodily Harm

The bill creates a presumption that a defender in his or her home, in a place of temporary lodging, as a guest in the home or temporary lodging of another, or in a vehicle has a reasonable fear of imminent death or great bodily harm when an intruder is in the process of unlawfully and forcibly entering or enters. It also creates the presumption that the intruder intends to commit an unlawful act involving force or violence. These presumptions protect the defender from civil and criminal prosecution for unlawful use of force or deadly force in self-defense.

These presumptions about the intent of the intruder, however, do not apply when the intruder:

- Has a right to be in the home, place of temporary lodging, or vehicle, unless there is a domestic violence injunction or written pretrial supervision order of no contact against that person;
- Is seeking to remove a person lawfully under his or her care from a home, place of temporary lodging, or vehicle; or
- Is a law enforcement officer, acting lawfully, and the defender knew or had reason to know that the intruder was a law enforcement officer.

Additionally, a defender is not entitled to the benefit of the presumptions created by the bill if the defender was engaged in unlawful activity at the time of the unlawful and forcible entry or if the defender was using his or her home, place of temporary lodging, place of temporary lodging of another, or vehicle to further unlawful activity. The bill does not require any connection between the unlawful activity and the unlawful and forcible entry.

Expansion of Castle-Doctrine Concept

This bill expands the castle doctrine by expanding the concept of what is a "castle" and by expanding the group of persons entitled to the castle's protection.

Under the castle doctrine, a person has no duty to retreat from his or her "castle" (a person's home or workplace), before resorting to deadly force necessary for self-defense. The bill expands the concept of the castle to include attached porches, any type of vehicle, and places of temporary lodging, including tents.

Under the castle doctrine, only persons lawfully residing in a dwelling have no duty to retreat before resorting to deadly force necessary for self-defense. Under the provisions of the bill, invited guests in another person's "castle" will have the same rights to self-defense as a resident of the expanded castle.

Abrogation of Florida Common Law Duty to Retreat

Under Florida common law, a person has a duty to retreat, if outside his or her home or place of business, before resorting to deadly force reasonably believed necessary to prevent imminent death or great bodily harm. A person attacked within his or her home by a co-occupant or invitee must also retreat, if possible, within the home, but not from the home, before resorting to deadly force. Under the bill, a person will no longer have any duty to retreat, as long as the person is in a place where he or she is lawfully entitled to be.

Immunity

The bill provides that a person who acts in self-defense in accordance with the provisions of the bill is immune from criminal prosecution and civil actions. This provision is slightly different than the defense to civil actions under s. 776.085, F.S., in that the bill does not require proof that the intruder was attempting to engage in a forcible felony. Under the bill, the intruder's actual intent is irrelevant. The bill, in effect, creates a conclusive presumption of the intruder's malicious intent.

These provisions were approved by the Governor and take effect October 1, 2005.
Vote: Senate 39-0; House 94-20

DOMESTIC SECURITY

SB 288 — Seaport Security Plan Open Government Sunset Review

by Domestic Security Committee and Senator Wilson

This bill reenacts and amends s. 311.13, F.S., to continue the public records exemption for seaport plans and certain specific documents related to those plans. The exemption applies to seaport authorities created by acts of the Legislature or to the seaport departments of any county or municipality that operates an international seaport.

The exemption of public disclosure of seaport security plans and certain photographs, maps, blueprint drawings, and other similar materials that depict critical seaport operating facilities is necessary to ensure the safety and security of Florida's public seaports.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 118-0

HB 1715 — Domestic Security Oversight Council

by Domestic Security Committee and Rep. Adams and others (CS/SB 1414 by Governmental Oversight and Productivity Committee and Domestic Security Committee)

This bill amends ss. 943.03101, 943.0311, and 943.0312, F.S., and creates s. 943.0313, F.S.

The bill establishes legislative findings regarding the need to coordinate counter-terrorism efforts and responses with the state comprehensive emergency management plan. It also revises aspects of the statewide domestic security strategy to add prevention, protection, and recovery along with detection and response in addressing acts of terrorism.

In addition, the bill clarifies and revises the duties of the Chief of Domestic Security related to the continuing security assessment of state buildings, facilities, and structures. The bill codifies the representation of several organizations on the Regional Domestic Security Task Forces (RDSTF) and allows the co-chairs of each of the RDSTF to appoint subcommittees and chairs for those subcommittees.

In order to implement the Governor's Executive Orders in the aftermath of the events of September 11, 2001, the Department of Law Enforcement called together a new oversight panel, generally known as the "State Domestic Security Oversight Board" (DSOB), to assist in coordinating interagency consensus on domestic security issues. This bill codifies the Domestic Security Oversight Council in statute and delineates its organization and functions.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 111-0

HB 1801 — Domestic Security Oversight Public Meetings and Records Exemption

by Domestic Security Committee and Rep. Adams (CS/SB 1416 by Domestic Security Committee)

This bill creates s. 943.0314, F.S. The bill provides for the exemption of portions of meetings and records of the Domestic Security Oversight Council from public-meetings and public records laws. The bill provides criteria for determining when a portion of the council meeting may be closed, how the council chair shall declare closing a portion of the meeting, who may attend a closed council meeting, and what records must be kept of the proceedings of the council during a closed meeting.

In conjunction with codification of the Domestic Security Oversight Council, pursuant to HB 1715, the bill recognizes the need to protect certain subjects brought before the council such as hearing or discussion of active criminal investigative or intelligence information or security system plans information.

If approved by the Governor, these provisions take effect on the same date that HB 1715 takes effect.
Vote: Senate 39-0; House 110-0

DOMESTIC SECURITY EMERGENCY PREPAREDNESS

CS/SB 200 — Florida Emergency Planning and Community Right-to-Know Act

by Community Affairs Committee and Senator Constantine

This bill (Chapter 2005-5, L.O.F.) updates the applicability of a hazardous substances list in the federal Emergency Planning and Community Right-to-Know Act (EPCRA). This update will allow for proper inventory procedures, notification required under the federal law, and fee payments. Use of the current hazardous substances list allows the State Hazardous Materials Emergency Response Commission to provide assistance and support to local emergency planning committees in performance of their duties.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 37-0; House 111-0

HCB 6001 (for HBs 337, 737) — Sales Tax/Hurricane Preparedness

by Finance and Tax Committee and Reps. Benson, Greenstein, and others (CS/CS/SBs 1462 and 648 by Government Efficiency Appropriations Committee; Domestic Security Committee; and Senators Baker and Campbell)

This bill provides for a sales tax exemption for the purchase of items of tangible personal property typically associated with hurricane preparedness such as self powered light sources (flashlights), radios, and batteries to power these devices. In addition, the bill provides for a sales tax exemption for the purchase of certain items used to protect a residence or business from possible damage resulting from a hurricane or tropical storm such as tarpaulins or other flexible waterproof sheeting and anchoring or tie down systems. Other sales tax exempted items include first-aid kits, small gas or diesel fuel tanks, non-electric food storage coolers, and portable electric generators.

The bill provides maximum allowed purchase price limits for each item and specifies a period of tax exemption from June 1 through June 12, 2005.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-1

PUBLIC SCHOOLS

HB 281 — School Districts/Paperwork Reduction

by Rep. Sansom and others (SB 784 by Senators Haridopolos and Crist)

The bill (Chapter 2005-31, L.O.F.) creates a Paper Reduction Task Force to recommend ways to minimize the paperwork burden placed on school districts and school district personnel. The task force will consist of the Commissioner of Education, three members appointed by the President of the Senate, three members appointed by the Speaker of the House of Representatives, three individuals appointed by the Governor, and three teachers appointed by the Commissioner of Education. The task force is to report its findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by February 1, 2006. The task force shall be abolished upon the transmittal of the report.

These provisions became law upon approval by the Governor on May 10, 2005.
Vote: Senate 40-0; House 115-0

HB 279 — Students/Administering Epinephrine

by Rep. Grimsley and others (CS/SB 890 by Education Committee and Senators Wise and Crist)

The bill authorizes K-12 students who have experienced or are at risk for life-threatening allergic reactions to carry an epinephrine auto-injector and self-administer epinephrine by auto-injector if the school is provided with parental and physician authorization. After the school has received the appropriate authorization, the student may carry and self-administer epinephrine from an auto-injector while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities.

The bill also requires the State Board of Education, with the cooperation of the Department of Health, to adopt rules for student use of epinephrine auto-injectors, and these rules must include provisions to protect the safety of all students from the misuse or abuse of auto-injectors. Additionally, a school district, county health department, public-private partner, and their employees and volunteers are indemnified by the parent of a student authorized to carry an auto-injector for any and all liability with respect to the student's use of an epinephrine auto-injector.

If approved by the Governor, these provisions take effect January 1, 2006.
Vote: Senate 39-0; House 114-0

HB 227 — Ms. Willie Ann Glenn Act/Children's Summer Nutrition Programs

by Rep. Greenstein and others (SB 752 by Senators Wise, Bullard, Klein, and Crist)

The bill requires school districts to develop a plan for sponsoring a summer nutrition program in each school district beginning in 2006, subject to specific criteria. The legislation sets forth requirements for the Department of Education and school districts to operate a summer program and also provides a procedure districts may use to seek an exemption from participation. Nonparticipating school districts are directed to encourage nonprofit entities to agree to operate the programs in their stead. School superintendents may collaborate with local government and private, nonprofit leaders to develop the plan. School districts must report to the Department of Education those summer nutrition program sites that comply with the new law.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 37-0; House 113-0

SB 1678 — Determination of Public School Class Size Averages

by Senators Alexander, Lynn, and Crist

The bill provides that if a school district's actual October survey of student membership exceeds the student membership which had been projected for the district in the Florida Education Finance Program first calculation, then the projected number shall be the number used to determine whether the school district is in compliance with meeting the class size reduction requirement.

The bill further provides that if a district has had funds transferred from its class size reduction operating categorical to an approved fixed capital outlay appropriation for class size reduction and the school district meets the class size reduction in the subsequent year, then the transfer may be reversed and moneys moved back to the class size reduction operating categorical from the fixed capital outlay appropriation for class size reduction.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-1

HB 579 — Acceleration Mechanisms

by Rep. Proctor and others (CS/SB 664 by Education Committee and Senators Clary and Crist)

The bill amends several sections of law to incorporate references to the Advanced International Certificate of Education (AICE) and codifies the International General Certificate of Secondary Education (pre-AICE) program.

The AICE program is an international pre-university curriculum and examination system similar to the International Baccalaureate (IB) program. Its courses are designed to be the equivalent of

those offered at universities in the United States. Students who obtain a sufficient score on an AICE examination may be exempt from certain college requirements.

The pre-AICE curriculum program is for students in grades 9 and 10; its courses are designed to be the equivalent of upper-level high school courses. Students who participate in pre-AICE programs may be more successful in IB, Advanced Placement, and AICE classes.

Specifically, the bill:

- Adds AICE and pre-AICE to the list of school choice options that may be available in school districts.
- Adds AICE to the list of educational programs that postsecondary institutions must collaborate on to develop articulated programs.
- Adds AICE and pre-AICE courses to the list of advanced fine arts courses that state universities can use if a state undergraduate admission candidate requests a recalculation of his or her grade point average.
- Requires that pre-AICE examinations be provided free of charge to students.
- Adds pre-AICE and AICE programs to the list of courses for which the DOE must assign additional weight for purposes of calculating grade point averages for Bright Futures Scholarships.
- Requires that the AICE curriculum and diploma are recognized for certain purposes in determining eligibility for the Florida Academic Scholars Award and the Florida Medallion Scholars Award.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 113-0

HB 209 — School Students/Psychotropic Medication

by Rep. Barreiro and others (CS/CS/SB 1766 by Health Care Committee; Education Committee; and Senators Crist and Posey)

This bill provides that a recipient of state funds may not require that a student be prescribed or administered psychotropic medication as a prerequisite to attending school, receiving school services, or participating in extracurricular activities. The administration of psychotropic medication in public schools must be done pursuant to s. 1006.062, F.S. The term "psychotropic medication" is defined to mean a prescription medication that is used for the treatment of mental disorders. The bill also requires parental notification prior to the evaluation of a student for

classification or placement as an exceptional student for any disorder listed in the Diagnostic and Statistical Manual of Mental Disorders. Parents must be advised that an underlying physical condition may be the cause of the behaviors prompting the evaluation and they are encouraged to consult with a physician. In addition, parents must be advised of their right to decline an evaluation, and that an evaluation and subsequent classification may be documented in the student's cumulative record.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

POSTSECONDARY EDUCATION

HB 1089 — Independent Postsecondary Education

by Rep. Greenstein (SB 1250 by Senator Wise)

The bill places new reporting requirements upon independent postsecondary educational institutions licensed by the Commission for Independent Education (commission). The bill broadens the powers of the commission to investigate complaints and to conduct hearings about complaints against institutions under its jurisdiction. The commission may select specific penalties as authorized by the bill upon a finding of violation of the law or commission rules.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 114-0

HB 1091 — Independent Education/Public Records Exemption

by Rep. Greenstein (CS/CS/SB 1272 by Governmental Oversight and Productivity Committee; Education Committee; and Senator Wise)

The bill provides a public records exemption to the Commission for Independent Education. The exemption covers investigatory records, those portions of a probable cause panel meeting at which such records are discussed, and the minutes and findings of a probable cause panel meeting conducted in conjunction with the investigation of a complaint.

The bill also provides for the Open Government Sunset Review of this exemption before October 2, 2010 and, unless reviewed and saved from repeal through reenactment by the Legislature, the public records exemption shall stand repealed on that date.

If approved by the Governor, these provisions take effect upon the same date that HB 1089 or similar legislation takes effect, if such legislation is adopted in the same legislative session and becomes law.
Vote: Senate 39-0; House 111-2

CS/SB 658 — University of South Florida St. Petersburg/Student Center Support Fee

by Education Appropriations Committee and Senators Sebesta and Wilson

The bill authorizes the Campus Board of the University of South Florida St. Petersburg to submit a proposal to levy a student-center-support fee. The fee may be used to retire bonds or other debt issued for the planning, constructing, equipping, or operating of the student center facility.

The fee must be recommended by a committee, at least half of whom are students appointed by the president of the student body and the remainder appointed by the campus board. The campus board and the president of the student body shall jointly appoint a chairperson, who only votes in case of a tie. A fee may not be levied until approved by the University of South Florida (USF) president and the USF Board of Trustees.

The fee would not be included in calculating the amount a student receives under the Bright Futures Scholarships Program.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 113-2

HB 1001 — Board of Governors/State University System

by Reps. Goodlette, Mealor, and others (CS/SB 1920 by Education Committee and Senator Lynn)

This bill seeks to clarify the lines of authority and constitutional duties of the Board of Governors and the Legislature with regard to the State University System. In particular, the Board of Governors, or its designee, is responsible for the following duties:

- Defining the distinctive mission of each constituent university;
- Defining the articulation of each constituent university in conjunction with the Legislature's authority over the public schools and community colleges;
- Ensuring the well-planned coordination and operation of the State University System;
- Avoiding wasteful duplication of facilities or programs within the State University System;
- Accounting for expenditure of funds appropriated by the Legislature for the State University System as provided by law;

- Submitting a budget request for legislative appropriations for the institutions under the supervision of the board as provided by law;

- Adopting strategic plans for the State University System and each constituent university;

- Approving, reviewing, and terminating State University System degree programs;

- Governing admissions to the state universities;

- Serving as the public employer with respect to all public employees of state universities for collective bargaining purposes;

- Establishing a personnel system for all state university employees; however, the Department of Management Services shall retain authority over state university employees for programs established in s. 110.123, F.S., (state group insurance program), s. 110.1232, F.S., (health insurance coverage for certain retirees under state-administered retirement systems), s. 110.1234, F.S., (health insurance for retirees under the Florida Retirement System), s. 110.1238, F.S., (state group health insurance plan; refunds of provider overcharges), and s. 110.161, F.S., (pretax benefits program); and in ch. 121, F.S., (Florida Retirement System), ch. 122, F.S., (State and County Retirement System), and ch. 238, F.S., (Teachers' Retirement System); and

- Complying with, and enforcing for institutions under the board's jurisdiction, all applicable local, state, and federal laws.

In addition, the bill prohibits any member of the statewide Board of Governors of the State University System, and any member of a state university board of trustees, from having any employment or contractual relationship as a legislative lobbyist requiring annual registration and reporting pursuant to s. 11.045, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 111-5

CS/CS/SB 2236 — Tuition Rates/State Universities and Community Colleges

by Education Appropriations Committee; Education Committee; and Senators Constantine and Campbell

The bill enacts an excess credit hour policy that requires students to pay 75 percent over the in-state tuition rate for credit hours a student takes in excess of 120 percent of the credit hours required for their associate or baccalaureate degree requirements. The excess credit hour policy contains several exemptions.

The bill also authorizes university boards of trustees to set tuition and fees for graduate, graduate professional, and nonresident students, unless otherwise provided by law. At least 20 percent of any tuition increase authorized by a university board of trustees under this committee substitute must be allocated for need-based financial aid for students.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 112-5

CS/CS/SB 2264 — Instructional Costs/Postsecondary Education Students

by Education Appropriations Committee; Education Committee; and Senator Atwater

The bill revises the determination of residency for tuition purposes at the state universities and community colleges by requiring a student or his or her parent, if the student is a dependent child, to establish and maintain legal residency for at least 12 consecutive months immediately before the student's initial enrollment at a public postsecondary institution.

The term "dependent child" is revised for purposes of establishing residency for tuition purposes to provide that a dependent child is a student who is eligible to be claimed by his or her parent as a dependent under the federal income tax code and who receives at least 51 percent of true cost-of-living expenses from his or her parent as further defined in rules of the State Board of Education and postsecondary residential guidelines. However, if a dependent child and his or her parent moves to this state while the child is a high school student and the child graduates from a high school in this state, the dependent child may become eligible for reclassification as a resident for tuition purposes when the parent qualifies for permanent residency.

Additionally, the bill establishes reclassification requirements for those students who want to change their classification from nonresident to resident for tuition purposes. To meet reclassification requirements, a student, or his or her parent if the student is a dependent child, must provide documentation of non-temporary, full-time employment and domicile in the state for 12 consecutive months while not enrolled at an institution of higher education.

The bill also authorizes each university board of trustees to set tuition and fees for graduate, graduate professional, and nonresident students, unless otherwise provided by law. At least 20 percent of any tuition increases authorized by a university board of trustees under this bill must be allocated for need-based financial aid for students.

The bill further provides that private postsecondary institutions that admit students under the Florida Resident Access Grants and the Access to Better Learning and Education Grant must comply with the residency determination as provided in s. 1009.21, F.S., the rules implementing that section, and the postsecondary guidelines of the Department of Education. Finally, a student enrolled at a private postsecondary institution is prohibited from receiving more than one state tuition assistance grant during a single semester.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-1

SB 670 — Community College Capital Improvement Fee

by Senators Jones and Wilson

The bill allows each community college board of trustees to increase the fee for capital improvements, technology enhancements, or equipping student buildings. The calculation for determining the fee is changed from a flat rate of $1 per credit hour to 10 percent of tuition. The bill limits the amount of the increase for state residents to $2 per credit hour over the prior year. The fee may be bonded, but all bonds must be issued by the state's Division of Bond Finance.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 107-2

HB 1729 — Florida College Savings Program/Open Government Sunset Review

by Governmental Operations Committee and Rep. Kottkamp (CS/SB 896 by Governmental Oversight and Productivity Committee; Education Committee; and Senator Wilson)

This bill reenacts and narrows the public records exemption contained in the Florida College Savings Program in accordance with the Open Government Sunset Review Act. The bill maintains the exemption for information that identifies the benefactors or the designated beneficiary of any account initiated under the program. The exemption is narrowed by deleting that portion of the exemption that protects "individual account activities" conducted through the savings program as that term is undefined and because the exemption still protects the identity of the benefactors or designated beneficiaries of those accounts.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 113-0

GENERAL EDUCATION

HB 193 — Chad Meredith Act/Hazing

by Rep. Hasner and others (CS/CS/SB 782 by Justice Appropriations Committee; Criminal Justice Committee; and Senators Campbell and Bullard)

The bill expands the definition of "hazing" as it applies to postsecondary institutions and prohibits high school hazing for grades 9 through 12. "Hazing" means any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student for

purposes, including, but not limited to, initiation or admission into or affiliation with any organization operating under the sanction of a high school or postsecondary institution, as applicable. "Hazing" does not include customary athletic events or other similar contests or competitions.

Hazing at the high school or college level shall be a first degree misdemeanor if the hazing creates a substantial risk of physical injury or death, or a third degree felony if the hazing results in serious bodily injury or death. A court is required to order an individual convicted of hazing to attend and complete a 4-hour hazing education course and may also impose a condition of drug or alcohol probation.

The bill provides that certain defenses to a criminal action are not applicable to the crime of hazing. These prohibited defenses include consent of the victim, the hazing was not part of an official organizational event, or the hazing was not conducted as a condition of membership into the organization.

If approved by the Governor, these provisions take effect July 1, 2005, and apply to offenses committed on or after that date.
Vote: Senate 39-0; House 115-1

HB 449 — H. Lee Moffitt Cancer Center and Research Institute/Public Records Exemption

by Rep. Ambler and others (CS/SB 1082 by Governmental Oversight and Productivity Committee and Senators Miller, Atwater, Wilson, and Crist)

The bill revises the definition of "trade secrets" for purposes of the public records exemption for proprietary confidential business information owned or controlled by the not-for-profit corporation operating the H. Lee Moffitt Cancer Center and Research Institute and its subsidiaries to include: (1) information relating to methods of manufacture or production; (2) potential trade secrets; (3) potentially patentable materials; and (4) proprietary information received, generated, ascertained, or discovered during the course of research conducted by the not-for-profit corporation or its subsidiaries.

In addition, the bill expands the public records exemption to exempt from public disclosure any information received by the not-for-profit corporation or its subsidiaries from an agency in Florida or another state or nation, or from the federal government which is otherwise exempt or confidential pursuant to the state or federal laws of the respective state or nation.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 113-0

CS/CS/SB 2550 — Assistive Technology Device/Services

by Commerce and Consumer Services Committee; Education Committee; and Senators Wise and Lynn

The bill requires interagency agreements for assistive technology devices for individuals with disabilities and delineates the parties to these agreements, including the Voluntary Prekindergarten Education Program and entities within the Department of Health and the Department of Education. One of the purposes of the agreements is to ensure that individuals with disabilities who are given assistive technology devices may retain these devices as they transition through the home, educational system, employment, and independent living. The agreements must contain a mechanism enabling the individual or his or her parent to request retention of an assistive technology device for use during transitions.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 37-0; House 117-0

HB 1099 — Assistive Technology Council

by Rep. Justice (CS/SB 1704 by Education Committee and Senators Klein and Lynn)

The bill reestablishes and revises Florida's Assistive Technology Advisory Council, an appointed group responsible for statewide policy development and advocacy of technology-related assistance to persons with disabilities. The bill aligns the council's work to conform to recent revisions in federal law related to assistive technology for persons with disabilities. These changes to federal law are prescribed in Public Law No. 108-364, a reauthorization of the Assistive Technology Act of 1998, which established assistive technology resource networks in states. The reauthorization of federal law redefines the primary purpose of the program from establishing assistive technology resource networks in states to directly helping individuals with disabilities who need assistive technology devices.

The bill also requires that the majority of council members must include family members of disabled persons and expands council membership to include representatives from specific agencies that work directly with individuals with disabilities. The bill allows for the appointment of retired, former council members who have been retired from the council for at least one year.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 114-0

HB 885 — Regional Autism Centers

by Rep. Goldstein and others (CS/CS/SB 1716 by Children and Families Committee; Education Committee; and Senators Klein and Rich)

The bill increases the number of regional autism centers from six to seven and modifies the service area for two existing centers. The new center is created at the Department of Exceptional Student Education at Florida Atlantic University. The service area for this regional center consists of Palm Beach, Indian River, Martin, Okeechobee, and St. Lucie Counties. The bill further designates the Department of Psychology as an additional site at the University of Miami regional center. The bill requires consistent service delivery for all centers and encourages the board for each center to raise funds that are equivalent to two percent of the center's total fund allocation for each fiscal year. Finally, the bill prohibits direct medical intervention or pharmaceutical intervention at any center effective July 1, 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 114-0

CS/SB 388 — Education Funding

by Education Appropriations Committee and Senator Alexander

The conference report eliminates the requirement to "double budget" certain funds which in the past has resulted in the General Appropriations Act being overstated. This change is made in the use of the State Student Financial Assistance Trust Fund for the Florida Student Assistant Grant Program, and the Florida Resident Access Grant Program. The "double budget" requirement is also eliminated in the use of the Dale Hickam Excellent Teaching Trust Fund, the Trust Fund for University Major Gifts, and the Alec P. Courtelis Capital Facilities Matching Trust Fund.

The conference report clarifies that a freeze on noncapital taxes, for three years after a district levies a discretionary half cent (0.5) sales surtax for capital outlay, does not apply to taxes authorized in the General Appropriations Act.

Clarification is also made that PreK funds are to be allocated based on actual student enrollment in each Early Learning Coalition's attendance area along with the establishment and authorization of three existing coalitions notwithstanding the 30 coalition limit. These coalitions are in Sarasota, Osceola, and Santa Rosa counties.

The conference report conforms the amount of the annual incentive grant, to the amount provided in the appropriations act, for each member of a regional educational consortium service organization and authorizes lab schools and the School for the Deaf and the Blind to be consortium members.

The method of calculating the wealth adjustment in the FEFP Sparsity Supplement is revised so no district will have a wealth adjustment that will cause its average funds per FTE from total potential funds to be less than the state average funds per FTE from total potential funds.

Two statutory provisions that have never been implemented are repealed: s. 1008.31(2), F.S., relating to performance-based funding, and s. 1012.231, F.S., relating to a teaching salary career ladder.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

HB 77 — Renewable Energy

by Rep. Littlefield and others (CS/SB 494 by Community Affairs Committee and Senators Bennett, Crist, and Posey)

This bill requires public utilities and specified municipal electric utilities and rural electric cooperatives to offer a purchase contract to producers of renewable energy basing payment on the utility's avoided cost. The provision uses the current avoided cost payment price to minimize the cost impact on utilities' customers while encouraging renewable energy. Definitions of "biomass" and "renewable energy" are provided to allow additional generators to sell to the utilities. Municipal and cooperative utilities are included. A minimum 10-year contract is required.

This bill also provides that prior to the construction of a new waste-to-energy facility or the expansion of an existing waste-to-energy facility, the county must implement and maintain a solid waste management and recycling program designed to meet the 30 percent waste reduction goal. If a waste-to-energy facility is built in a county with a population of less than 100,000, that county would have to have a program designed to achieve the 30 percent waste reduction goal, and not just provide the opportunity to recycle.

The bill also encourages local government applicants for a permit to construct or expand a Class I Landfill to consider the construction of a waste-to-energy facility as an alternative to additional landfill space.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 117-0

HB 155 — Lake Okeechobee Protection Program

by Rep. Machek and others (CS/SB 502 by Environmental Preservation Committee and Senator Alexander)

This bill (Chapter 2005-29, L.O.F.) establishes legislative findings that in order to achieve the goals and objectives of the Lake Okeechobee Protection Program and to effectively implement the Lake Okeechobee Watershed Phosphorus Control Program, the state must expeditiously implement the Lake Okeechobee Protection Plan. It establishes that a continuous source of funding is needed to implement a phosphorus control program that initially targets the most significant sources contributing to phosphorus loads within the watershed, and continues to address other sources as needed to achieve the phased phosphorus load reductions.

The "Lake Okeechobee watershed" is redefined to mean Lake Okeechobee and the area surrounding and tributary to Lake Okeechobee, composed of the surrounding hydrologic basins, as defined by the Lake Okeechobee Protection Plan dated January 1, 2004.

The Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the South Florida Water Management District are jointly responsible for implementing the Lake Okeechobee Protection Plan. Annual funding priorities are to be jointly established and the highest priority shall be assigned to programs and projects that address phosphorus sources that have the highest relative contribution to phosphorus loading and the greatest potential for phosphorus reduction. In determining funding priorities, the coordinating agencies shall also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal matching funds or other nonstate funding, including public-private partnerships. Federal and other nonstate funding shall be maximized to the greatest extent practicable.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 38-0; House 110-0

HB 331 — Inland Lakes and Canals

by Rep. Bowen and others (SB 772 by Senator Dockery)

This bill provides that the placement of certain informational markers by counties, municipalities, or other governmental entities on inland lakes and their associated canals is exempt from permitting by the Division of Law Enforcement, Fish and Wildlife Conservation Commission. Such information markers include, but are not limited to, end of boat ramp, no swimming, swimming area, lake name, trash receptacle, public health notice, underwater hazard and canal, regulatory emergency, and special event markers.

The placement of any safety, navigational, or informational marker on state submerged lands does not subject such lands to the lease requirements of ch. 253, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-1

CS/CS/SB 332 — Water Protection and Sustainability Trust Fund

by Ways and Means Committee; Environmental Preservation Committee; and Senators Dockery and Lynn

The bill creates the Water Protection and Sustainability Trust Fund for the purposes of implementing s. 403.890, F.S. which is created in CS/CS/CS/SB 444.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 115-0

HB 395 — Recreational Licenses and Permits

by Rep. Kendrick and others (CS/SB 1610 by Governmental Efficiency Appropriations Committee and Senators Atwater and Fasano)

The bill creates the annual military gold sportsman's license for $18.50. The military gold sportsman's license covers all hunting and freshwater and saltwater fishing licenses, including activities authorized by a management area permit and muzzle-loading gun, turkey, Florida waterfowl, archery, snook, and crawfish permits, for any resident who is an active or retired member of the U.S. Armed Forces, the U.S. Reserve Forces, the Florida National Guard, the U.S. Coast Guard, or the U.S. Coast Guard Reserve.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 118-0

CS/CS/CS/SB 444 — Water Supplies

by Ways and Means Committee; Governmental Oversight and Productivity Committee; Environmental Preservation Committee; and Senators Dockery, Argenziano, and Lynn

The bill provides for numerous changes to the state's water resource development efforts.

Section 373.196, F.S., is substantially reworded to provide legislative direction to guide the development of alternative water supplies. Provisions set out legislative purposes, define the roles of local governments and water management districts, and establish a goal for the districts to provide a 100 percent match of state funds for the development of alternative water supplies.

Section 373.1961, F.S., is amended to create a new program to guide the water management districts in funding alternative water supply projects. Included in the bill are provisions that: detail how the funds shall be allocated to each water management district; direct that all applicants must provide for at least 60 percent of the projects' capital costs; provide factors that the governing board must consider in determining the priority order for projects; require certain rate setting structures for utilities receiving funds; and allow the water management districts to impose certain conditions for reuse projects that receive funds.

The bill amends current law concerning requirements for the issuance of consumptive use permits to provide that any project funded under this new program shall be presumed to be in the public interest.

Current law is amended to direct that the water management districts issue 20-year permits for projects that develop alternative water supplies.

Section 373.459, F.S., relating to surface water improvement and management programs is amended to require a 50 percent match for all projects.

Section 373.0361, F.S., which governs the development of regional water supply plans, is substantially amended. The bill primarily changes requirements concerning the data and analysis that must be provided for in the report. A new provision is added that allows local governments to undertake their own water supply assessment which must be evaluated by the water management districts and used if possible in the development of these plans. In addition, provisions are added to improve the flow of information between water planners, utility planners, and the water management district staff.

The bill makes a series of changes to existing growth management laws. Specifically local governments: will now be required to select and include in their capital improvement element those alternative water supplies needed to meet their future water needs; be required to determine, prior to the issuance of a building permit, that adequate water will be available; and include in their evaluation and appraisal reports the extent to which water projects are being implemented.

Numerous changes are made to s. 403.067, F.S., relating to the development and implementation of total maximum daily loads. The bill adds specific criteria that will be followed in the development of basin management action plans; implementation of the loads; and development and use of best management practices. The practical purpose of these new criteria is to address the inclusion of non-point sources into the program and provide guidance for how the plans will interact with existing permitting programs.

Section 403.885, F.S., is amended to change the existing Water Quality Improvement and Water Restoration Grant Program. This program is used to determine the eligibility of individual projects submitted annually to the legislature. The bill removes provisions that made the program competitive, prohibits drinking water programs from future consideration, and provides new criteria for projects. The new criteria provide that the project must be approved by a water management district, be part of a previously approved project, and provide a local match.

The bill creates s. 403.890, F.S., the Water Protection and Sustainability Program. This new program is designed to provide funding for the new alternative water supply program provided in the bill and to also fund a series of existing state programs. The existing state programs include: surface water improvement and management; total maximum daily loads; and disadvantaged small community wastewater grant program. The bill provides two distribution methods. One for use in the 2005-2006 FY and the other for future fiscal years. For FY 2005-2006: $100 million for alternative water supply; $50 million for total maximum daily loads; $25 million for surface water improvement and management; and $25 million for the disadvantaged small community

wastewater grant program. For future years the distribution is: 60 percent for alternative water; 20 percent for daily loads; 10 percent for water improvement and management; and 10 percent for small communities.

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

HB 473 — Water Management District Security

by Rep. Poppell and others (SB 1612 by Senators Atwater and Lynn)

This bill authorizes water management districts to conduct fingerprint based criminal history checks of current or prospective employees and others with regular access to restricted access areas. Water management districts with structures or facilities identified as critical infrastructure by the Regional Domestic Security Task Force will be required to conduct the criminal history checks while water management districts without such infrastructures will be authorized to conduct the checks.

Water management district security plans for buildings, facilities, and structures will be required to identify criminal convictions or other criminal history factors that disqualify a person from either initial employment or restricted area access. Any person who has within the past 7 years been convicted of certain offenses will not qualify for employment or access to a restricted area. A person must remain conviction-free for a period of at least 7 years after release from incarceration before he or she may be able to qualify for employment or restricted area access.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-3; House 115-0

CS/CS/SB 486 — Enterprise Zones

by General Government Appropriations Committee; Environmental Preservation Committee; and Senators Dockery and Haridopolos

This bill allows the City of Lakeland, the Cities of Vero Beach and Sebastian jointly, Sumter County, and Orange County and the municipality of Apopka jointly, to apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone each. Each zone shall encompass an area up to 10 square miles. The applications must be submitted by December 31, 2005, and must comply with the requirement of s. 290.0055, F.S., relating to the local nominating procedure.

The Office of Program Policy Analysis and Government Accountability shall conduct an evaluation of the tax incentives available to rural enterprise zones and the effectiveness of rural enterprise zones in creating jobs. In particular, the evaluation must consider whether existing tax and other financial incentives available under the Enterprise Zone Act are appropriate for

businesses located in rural enterprise zones and whether incentives such as the transfer of unused tax credits would enhance the effectiveness of rural enterprise zones. The evaluation shall include an estimation of the costs of new tax incentives. The evaluation shall also identify obstacles faced by rural enterprise zones and recommend possible solutions. The Office of Program Policy Analysis and Government Accountability shall conduct its evaluation and make a report containing its findings and recommendations to the Legislature by December 1, 2005.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 115-0

HB 655 — Florida Inland Navigation District

by Rep. Machek and others (SB 1352 by Senator Aronberg)

This bill (Chapter 2005-35, L.O.F.) expands the responsibilities and authority of the board of the Florida Inland Navigation District (District) with respect to the improvement and maintenance of the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Miami-Dade County, to add responsibilities for that portion of the Okeechobee Waterway (which crosses Lake Okeechobee) located in Martin and Palm Beach counties and which was authorized as a federal project under the River and Harbor Act of March 2, 1945. The bill also provides that the District is not required to undertake actions to restore navigation when Lake Okeechobee water levels are less than 12.5 feet National Geodetic Vertical Datum.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 40-0; House 112-0

HB 727 — Water Management Districts Planning and Reporting

by Rep. M. Davis and others (CS/CS/SB 2462 by Government Efficiency Appropriations Committee; Environmental Preservation Committee; and Senator Atwater)

This bill (Chapter 2005-36, L.O.F.) would codify a pilot project undertaken by the South Florida Water Management District regarding the consolidation of numerous statutorily required reports into a single annual report. Changes made by the bill to reporting requirements would now apply to all of the state's water management districts.

The bill also gives the water management districts the option to develop a strategic management plan in lieu of a district water management plan. The strategic plan may be substituted for the district management plan, provided it meets a series of minimum requirements.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 40-0; House 116-0

HB 759 — Environmental Permitting Programs

by Rep. Williams and others (CS/CS/SB 2502 by Governmental Oversight and Productivity Committee; Environmental Preservation Committee; and Senator Dockery)

This bill provides that financial responsibility must be provided for permitted phosphate mining activities that affect wetlands. For permitted phosphate mining activities which will occur over a period of 3 years or less, financial responsibility demonstration must be provided to the Department of Environmental Protection (DEP) prior to the commencement of mining operations in an amount equal to 110 percent of the estimated mitigation costs for wetlands and other surface water affected under the permit. For permitted activities which will occur over a period of more than 3 years of mining operations, the initial financial responsibility demonstration shall be in an amount equal to 110 percent of the estimated mitigation costs for wetlands and other surface waters affected in the first 3 years of operation under the permit. For each year thereafter, the financial responsibility demonstration shall be updated, to provide an amount equal to 110 percent of the estimated mitigation costs for the next year of operations under the permit for which financial responsibility has not already been demonstrated and to release portions of the financial responsibility mechanisms. The mechanisms for providing financial responsibility are provided.

The financial responsibility requirements for phosphate mining operations do not apply to any mitigation for wetlands that is required pursuant to a permit or permits initially issued by the DEP or district prior to January 1, 2005.

The bill also directs the DEP to develop on or before October 1, 2005, a mechanism or plan to consolidate the federal and state wetland permitting programs. The bill's stated intent is to have the state process all dredge and fill activities impacting 10 acres or less in wetlands or water as part of the environmental resource permitting program. The mechanism or plan shall analyze and propose the development of an expanded state programmatic general permit program in conjunction with the U.S. Army Corps of Engineers pursuant to s. 404 of the federal Clean Water Act and s. 10 of the Rivers and Harbors Act of 1899.

The DEP shall file a report with the Speaker of the House of Representatives and the President of the Senate proposing any required federal and state statutory changes that would be necessary to accomplish the expanded state programmatic general permit. The DEP must coordinate with the Florida Congressional Delegation on any necessary changes to federal law to implement the directives.

The date for the Northwest Florida Water Management District to implement an Environmental Resource Permit program is extended from July 1, 2005, to July 1, 2010.

The date by which the Peace River Basin resource management plan must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives is extended to January 31, 2007.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-0; House 105-11

CS/SB 786 — Fees Imposed on Tire and Battery Sales

by General Government Appropriations Committee and Senator Clary

This bill clarifies that governmental entities are required to pay the $1 per tire fee imposed on the retail sale of new motor vehicle tires and the $1.50 fee imposed on the retail sale of any new or remanufactured lead-acid battery.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 36-0; House 111-1

HB 805 — Exemption From The Tax on Sales, Use, and Other Transactions for Solar Energy Systems

by Rep. Williams and others (SB 1620 by Senators Atwater, Dockery, Rich, Margolis and Wilson)

This bill deletes the repeal of the sales tax exemption for solar energy systems.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

SB 908 — Wekiva Parkway and Protection Act

by Senator Constantine

This bill amends the Wekiva Parkway and Protection Act to correct certain glitches that have been discovered since the passage of the act.

Each local government within the Wekiva Study Area is required to develop a master stormwater management plan. This bill clarifies that for those local governments located partially within the Wekiva Study Area, this requirement applies only to that portion located within the Wekiva Study Area.

Local governments within the Wekiva Study Area are required to develop a wastewater facility plan for joint planning areas and utility service areas where central wastewater systems are not readily available. This bill clarifies that for those local governments located partially within the Wekiva Study Area, this requirement applies only to that portion located within the Wekiva Study Area.

Within 1 year after the establishment of the interchange location, the local government hosting an interchange on the Wekiva Parkway shall adopt an interchange land use plan amendment. This bill exempts interchanges located on Interstate 4.

By December 1, 2006, the local government must provide an up-to-date 10-year water supply facility work plan for building potable water facilities necessary to serve existing and new development and for which the local government is responsible. This bill corrects a date conflict with s. 163.3177, F.S., which requires that by December 1, 2006, the general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element must consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361, F.S.

Also, any local comprehensive plan amendment adopted by a city or county that applies to land located within the Wekiva Study Area shall protect surface and groundwater resources and be reviewed by the Department of Community Affairs (DCA) pursuant to ch. 163, F.S., and ch. 9J-5, F.A.C. The effect of adding the reference to ch. 163, F.S., is to omit small-scale amendments from DCA review.

This bill also corrects a reference to the East Central Florida Regional Planning Council.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

HB 913 — Littering

by Rep. Culp and others (CS/SB 1774 by Government Efficiency Appropriations Committee and Senator Rich)

This bill increases the penalty for a litter violation of an amount not exceeding 15 pounds in weight or 27 cubic feet in volume from $50 to $100. The $50 increase in the litter fine shall be deposited into the Solid Waste Management Trust Fund and used for the solid waste management grant program pursuant to s. 403.7095, F.S.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 117-0

HB 937 — Contamination Notification

by Rep. Galvano and others (CS/CS/SB 330 by Governmental Oversight and Productivity Committee; Environmental Preservation Committee; and Senator Dockery)

The bill requires that a person provide notice to the Department of Environmental Protection (DEP) when contamination is discovered as a result of site rehabilitation activities. The DEP is responsible for notifying the affected public.

Should the person responsible for site rehabilitation, or his or her authorized agent, discover from laboratory analytical results that comply with appropriate quality assurance protocols specified in DEP rules, that contamination exists beyond the boundaries of the property at which site rehabilitation was initiated, the person responsible for site rehabilitation shall give actual notice as soon as possible, but no later than 10 days from such discovery to the Division of Waste Management at DEP's Tallahassee office. The actual notice shall be on a form adopted by the department and mailed by certified mail, return receipt requested. The person responsible for site rehabilitation shall simultaneously mail a copy of the notice to the appropriate department district office, county health department, and all known lessees and tenants of the source property. The notice must contain certain specified information.

Within 30 days after receiving the actual notice, or within 30 days of the effective date of this act if the department already possesses information equivalent to that required by the notice, the department shall send a copy of the notice to all record owners of any real property, other than the property at which site rehabilitation was initiated, at which contamination has been discovered. If the property at which contamination has been discovered is the site of a school, the department must also send a copy of the notice to the chair of the school board of the district in which the property is located and direct the school board to provide actual notice to teachers and parents of students attending the school during the period of site rehabilitation. Along with the notice, the department shall include a letter identifying sources of additional information about the contamination and a telephone number to which further inquiries should be directed. The department may collaborate with the Department of Health to develop such sources of information and to establish procedures for responding to public inquiries about health risks associated with contaminated sites.

If approved by the Governor, these provisions take effect September 1, 2005.
Vote: Senate 39-0; House 115-0

HB 989 — Natural Resources

by Rep. Mayfield and others (SB 2288 by Senators Bennett and Posey)

This bill contains the provisions of CS/SB 1866 relating to the Fish and Wildlife Conservation Commission. The bill increases and changes the membership of the Boating Advisory Council and increases the terms of office from 2 years to 3 years.

The bill also provides that a firm or corporation may only receive a saltwater products license issued to a valid commercial vessel registration number. That license may not be transferred to another individual, firm, or corporation.

Certain license fees are increased.

The provisions relating to environmental education and the Advisory Council on Environmental Education are repealed.

The bill also provides that the Department of Environmental Protection shall adopt by rule one or more general permits for local governments to construct, operate, and maintain public marina facilities, public mooring fields, public boat ramps, including associated courtesy docks, and associated parking facilities located in uplands. The general permits shall include provisions to ensure compliance with ch. 373, part IV, F.S., s. 373.118(1), F.S., relating to general permits, and the criteria necessary to include the general permits in a state programmatic general permit issued by the U.S. Army Corps of Engineers. A facility authorized under such general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. The facilities shall be consistent with the local government manatee protection plan and must obtain Clean Marina Program status prior to opening for operation and must maintain that status for the life of the facility. Marinas and mooring fields authorized under any such general permit shall not exceed an area of 50,000 square feet over wetlands and other surface waters. All facilities permitted under this general permit shall be constructed, maintained, and operated in perpetuity for the exclusive use of the general public.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-1

HB 1031 — Reuse and Recycling of Campaign Signs

by Rep. Russell and others (CS/SB 1542 by Environmental Preservation Committee and Senators Dockery and Lynn)

This bill requires the Department of Environmental Protection to design a pilot project for implementation in 2006, to encourage the reuse or recycling of campaign signs. At a minimum, the department shall identify two large counties and two small counties to establish a central depository for used campaign signs and to make such signs available, at no cost to the receiving entity, to schools and other entities that may have a use for them and to companies that can recycle the materials from which the signs are made into new materials or products. As part of the pilot project, the department is required to submit details for the program along with a budget request for use of funds from the Solid Waste Management Trust Fund prior to the start of the 2006 Regular Session.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 112-0

HB 1141 — Greenways and Trails

by Rep. M. Davis and others (CS/CS/SB 774 by General Government Appropriations Committee; Environmental Preservation Committee; and Senators Dockery, Argenziano, Klein, Lynn, and Crist)

This bill renames chapter 260, F.S., as the "Florida Greenways and Trails." The bill establishes the Legislature's intent to recognize the Florida National Scenic Trail (Trail) as Florida's official statewide non-motorized trail from the Florida Panhandle to the Everglades and the Florida Keys, and recognizes the federal government's major contributions and the efforts of private landowners, state government and non-profit entities in establishing the Trail. The bill establishes the Legislature's intent to encourage private landowners to continue to allow the use of private property for Trail purposes through incentives and liability protection, and encourages state and local agencies responsible for ecotourism to recognize the importance of the Trail in providing nature-based recreational opportunities to local communities along the Trail route.

The term limits and duties for members of the Florida Greenways and Trails Council are revised.

Outside appraisals for Trail acquisitions are required regardless of the estimated value of the property. The Legislature's intent to encourage all state and local agencies to assist various public and private entities in securing public access to linear corridors suitable for trails is established.

The bill creates the "Florida Circumnavigation Saltwater Paddling Trail" as part of the Florida Greenways and Trails System. The Department of Environmental Protection is directed to establish the starting and ending points of the paddling trail within 180 days after the effective date of the act, and is provided with exclusive authority to name and locate the segments of the paddling trail, with the exception of the Big Bend Saltwater Paddling Trail. The Paddling Trail is composed of 26 segments starting at the Florida/Alabama border on the west and ending at the Florida/Georgia border on the east. The department is authorized to name and locate the segments of the trail based on specific criteria, including logical geographical boundaries.

The bill creates the Conserve by Bicycle program within the Department of Transportation to study how resources may be conserved, health may be improved, safety improved, and traffic congestion reduced by enhancing bicycling in Florida.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 116-0

HB 1289 — Signing and Sealing by Professional Geologists

by Rep. Jordan (CS/SB 1988 by Regulated Industries Committee and Senator Saunders)

This bill provides that if a permit or license, or the performance of an activity regulated under ch. 373, F.S., requires the services of a professional geologist, the Department of Environmental

Protection or the governing board of a water management district may require that a licensed geologist sign and seal any documents and reports submitted in connection with the permit application or regulated activity. The cost of such signing and sealing by a professional geologist shall be borne by the permit applicant or permittee.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 115-0

CS/SB 1318 — Underground Petroleum Storage Tanks

by General Government Appropriations Committee and Environmental Preservation Committee

This bill amends the underground petroleum storage tank program. Specifically, the bill:

- Directs the Department of Environmental Protection to establish a process to uniformly encumber funds appropriated for underground petroleum storage tank cleanups throughout the state fiscal year.

- Authorizes the Department of Environmental Protection to establish a prioritization system within a particular scoring range.

- Provides funding for limited interim soil source removals for eligible sites that will become inaccessible due to Department of Transportation road projects.

- Provides funding for limited interim soil source removals for eligible sites that upgrade their underground petroleum storage tanks to secondary containment in advance of the site's priority ranking for cleanup.

- Provides that the funding for the soil source removals is limited to $50,000 per site, but can be as much as $100,000 under certain conditions. A maximum of $1 million per year is available for the Department of Transportation projects and a maximum of $10 million per year is available for the upgrading of tanks to secondary containment.

- Extends the life of the Inland Protection Financing Corporation from 2011 to 2025, and authorizes the corporation to issue bonds, notes, etc. to pay for large-scale cleanups such as ports, airports, and terminal facilities that are eligible for state funding. Before the corporation can issue bonds, the project must be identified, and the corporation must submit a detailed financing plan to the Governor, President of the Senate and the Speaker of the House of Representatives. The Legislature must specifically approve the cleanup project to be financed. The impact to the Inland Protection Trust Fund is limited to $10 million in any state fiscal year and the total amount of the debt is limited to $100 million.

- Creates the Innocent Victim Petroleum Storage System Restoration Program for property owners with contaminated sites that were acquired prior to July 1, 1990. To be eligible

for cleanup, the site must have ceased operating as a petroleum storage or retail business prior to January 1, 1985.

If approved by the Governor, these provisions take effect July 1, 2005
Vote: Senate 39-0; House 117-0

HB 1389 — Water Control Districts

by Rep. Domino (SB 2460 by Senators Atwater and Lynn)

This bill will allow the board of supervisors of a water control district to purchase, sell, lease, convey, or transfer real or personal property.

A water control district located entirely within an unincorporated portion of a county and which has an adopted water control plan would be allowed to be the exclusive provider within the district for services and facilities under ch. 298, F.S.

A water control district's engineer's report that meets certain criteria is exempt from the water control plan adoption process. The board of supervisors of the water control district must hear all proposed revisions to the engineer's report, the water control plan, or plan amendments, and the board of supervisors may approve or amend the engineer's report, the water control plan, and plan amendments.

The water control district assessments constitute a lien on the assessable property.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 101-13

HB 1395 — Beach Safety

by Rep. Murzin and others (CS/CS/SB 2426 by Governmental Oversight and Productivity Committee; Environmental Preservation Committee; and Senator Clary)

This bill provides that the Department of Environmental Protection (DEP) must develop, direct, and coordinate the uniform beach warning and safety flag program. The purpose of the program is to encourage the display of uniform warning and safety flags at public beaches along the coast of the state and to encourage the placement of uniform notification signs that provide the meaning of such flags.

Only warning and safety flags developed by the DEP may be displayed. Participation in the program shall be open to any governmental entity having jurisdiction over a public beach along the coast, whether or not the beach has lifeguards.

The DEP may use any appropriations or grants available to establish and operate a program to encourage the display of uniform warning and safety flags at all public beaches along the coast and to encourage the placement of uniform notification signs that provide the meaning of the flags displayed.

The bill specifically provides that due to the inherent danger of constantly changing surf and other naturally occurring conditions along the coast of the state, state, local, or regional governmental entities or authorities, and their individual employees or agents may not be held liable for any injury or loss of life caused by changing surf or other naturally occurring conditions along coastal areas whether or not uniform warning and safety flags or notification signs developed by the DEP are displayed or posted.

The DEP, through the Florida Coastal Management Program, may also develop and make available to the public other educational information and materials related to beach safety.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 116-0

HB 1855 — Natural Resources

by Environmental Regulation Committee; Rep. Needelman and others (CS/SB 2510 by Environmental Preservation Committee and Senator Lawson)

This bill amends several provisions relating to the natural resources and the environment.

Natural Resources Damage Assessments

The bill provides that as an alternative to the compensation schedule specified in s. 376.121, F.S., the Department of Environmental Protection may, when no responsible party is identified, when a responsible party opts out of the formula under subsection 376.121(10)(a), F.S., or when the department conducts a cooperative damage assessment with federal agencies, use methods of calculating natural resources damages in accordance with federal rules implementing the Oil Pollution Act of 1990, as amended.

For cases in which the department may use a method of natural resource damage assessment other than the compensation schedules described in subsections (4), (5), (6), and (9) of s. 376.121, F.S, the department may use the methods described in federal rules implementing the Oil Pollution Act of 1990, as amended. When a responsible party is identified and the department is not conducting a cooperative damage assessment with federal agencies, the person responsible has the option to pay the amount of compensation calculated under the statutory compensation schedule or pay the amount determined by a damage assessment performed by the department. If the person responsible for the discharge elects to have a damage assessment

performed, such person shall notify the department in writing of the decision within 30 days after identification of the discharge by the department.

In the event the person responsible for a discharge elects to have a damage assessment performed, said person shall pay to the department an amount equal to the statutory compensation for the discharge using the lesser of the volume of the discharge or a volume of 30,000 gallons.

Heavy Mineral Mining

The bill provides that an increase in the size of a heavy mineral mine as defined s. 378.403(7), F.S., will only constitute a substantial deviation subject to additional development-of-regional-impact review if the average annual acreage mined is more than 500 acres and consumes more than 3 million gallons of water per day.

Coastal Zone Management Act Reviews

The bill specifies that the state may review permits and licenses required for the siting and construction of any new electrical power plants as defined in s. 403.503(12), F.S., and the licensing and relicensing of hydroelectric power plants under the Federal Power Act, 16 U.S.C. ss. 791a et seq., as amended.

Further, the state may review permits and licenses required under the Mining Law of 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as amended; the Federal Land Policy and Management Act, 43 U.S.C. ss 1701 et seq., as amended; or the OCS Land Act 43 U.S.C. ss. 1331 et seq., as amended, for drilling, mining, pipelines, geological and geophysical activities, or rights-of-way on public lands and permits and licenses required under the Indian Mineral Development Act, 25 U.S.C. ss. 2101 et seq., as amended.

The provision allowing for broad review of permits for pipeline rights-of-way for oil and gas transmissions is deleted. The bill also clarifies the review provisions for activities permitted under the Deepwater Port Act of 1974.

When an environmental impact statement or environmental assessment that is required by the National Environmental Policy Act has been prepared for a specific activity, use, or project that is subject to federal consistency review, the environmental impact statement or environmental assessment shall be the data and information necessary for the state's review of the consistency of that activity, use, or project.

Total Maximum Daily Loads

Numerous changes are made to s. 403.067, F.S., relating to the development and implementation of total maximum daily loads. The bill adds specific criteria that will be followed in the development of basin management action plans; implementation of the loads; and development and use of best management practices. The practical purpose of these new criteria is to address the inclusion of nonpoint sources into the program and provide guidance for how the plans will interact with existing permitting programs.

Oceans and Coastal Resources Management Act

This bill contains the provisions of CS/CS/SB 1670 relating to Oceans and Coastal Resources. The bill creates ch. 161, part IV, F.S., to be entitled the Florida Oceans and Coastal Resources Conservation and Management Act.

Specifically, the bill would:

- Create the Florida Oceans and Coastal Council within the Department of Environmental Protection comprised of 18 members and three ex-officio members;
- Direct the council to review and compile existing and ongoing ocean and coastal research and monitor activities relevant to the state of Florida;
- Require the council to develop a library to serve as a repository of information for use by those involved in ocean and coastal research;
- Direct the council to complete a Florida Oceans and Coastal Scientific Research Plan with specified objectives by January 15, 2006, to be used by the Legislature in making funding decisions;
- Require the council to prepare a comprehensive oceans and coastal resource assessment to serve as a baseline of information for the research plan by December 1, 2006; and
- Provide a pilot project to demonstrate the feasibility of collaborative research efforts to evaluate the potential for inland, recirculating, and aquaculture technology to produce marine species and to implement new marine stock enhancement initiatives.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

CS/CS/SB 2502 — Water Management Districts

by Governmental Oversight and Productivity Committee; Environmental Preservation Committee; and Senators Dockery and Bullard

This bill would allow each water management district to implement a small business program designed to help small businesses, including those owned by women and minorities, to participate in district procurement and contract activities. The purpose of the program is to spur economic development and support small businesses, including women-owned and minority-owned businesses, to successfully expand in this market place.

Water management district governing board members whose terms have expired may continue to serve until a successor is appointed, but not more than 180 days.

The grandfather provisions relating to jurisdictional declaratory statements for wetlands delineation are clarified.

For any regional water supply plan that is scheduled to be updated before December 31, 2005, the deadline for such update shall be extended by 1 year.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

ELECTIONS

HB 1673 — Second Primary Election

by Rep. Kottkamp and others (CS/SBs 1268 and 1956 by Ethics and Elections Committee and Senators Clary and Posey)

House Bill 1673 permanently eliminates the second primary election, and provides for nine weeks between the primary and general election.

The bill also makes numerous conforming changes to the Florida Election Code. For example, it repeals the 45-day overseas advance balloting system for the second primary and general elections. The nine-week period between the primary and general election allows sufficient time for overseas ballots to be printed, mailed, and returned. This should place the State of Florida in a position to petition the federal court for release from a consent agreement entered into in 1982, whereby votes cast in federal races on general election ballots received up to 10 days after the election must be included in the official vote tally.

If approved by the Governor, these provisions take effect January 1, 2006, provided the United States Department of Justice preclears the law pursuant to s. 5 of the Voting Rights Act.
Vote: Senate 25-14; House 76-37

HB 1589 — Florida Voter Registration System

by Rep. Brown (CS/CS/SB 2176 by Transportation and Economic Development Appropriations Committee; Governmental Oversight and Productivity Committee; and Senators Posey, Baker, and Lynn)

The bill sets out requirements for the new Florida Voter Registration System ("FVRS") that must be operational by January 1, 2006, to comply with the Help America Vote Act of 2002 ("HAVA"). In addition, the bill:

- Requires the Department of State to provide a report of specific voter information to the Legislature within certain timeframes.
- Requires the reporting of election results by precinct.
- Clarifies that a mark must be placed by a voter registration applicant in the various check boxes on the voter registration application affirming the applicant's eligibility in order for an application to be complete.

- Gives the Secretary of State authority to bring and maintain actions at law or by mandamus or injunction to enforce the performance of any duties of a county supervisor of elections or any election official performing duties with respect to chs. 97-102 and ch. 105, F.S., or to enforce compliance with department rules. The Secretary is required to confer or make a good faith effort to confer with the affected election official prior to initiating legal action.

- Change the qualifying date for persons seeking the office of Public Defender and State Attorney to coincide with the qualifying dates for judicial office.

- Expands the rulemaking authority of the Department of State to encompass the interpretation and implementation of any provision of the Election Code.

- Restricts candidates for statewide office from accepting contributions from national or state political parties, including subordinate committees, when the aggregate contribution exceeds $250,000, no more than $125,000 of which may be accepted prior to the 28-day period immediately preceding the date of the general elections.

- Revises the method of calculating a candidate's expenditures, if the candidate is requesting contributions from the Election Campaign Financing Trust Fund.

- For any candidate who requests contributions from the "Election Campaign Financing Trust Fund," the total expenditure limit is increased for a candidate for Governor and Lieutenant Governor from $5 million to $2 dollars for each Florida-registered voter, and for Cabinet officers from $2 million to $1 dollar for each Florida-registered voter.

If approved by the Governor, these provisions, unless otherwise provided for in the bill, take effect January 1, 2006.
Vote: Senate 33-5; House 77-38

HB 1591 — Public Records Exemption for Voter Registration Information

by Rep. Brown (CS/CS/SB 2178 by Governmental Oversight and Productivity Committee; Ethics and Elections Committee; and Senators Posey and Aronberg)

The bill is linked to HB 1589, which sets out requirements for the new Florida Voter Registration System ("FVRS") that must be operational by January 1, 2006, to comply with the Help America Vote Act of 2002 ("HAVA").

The bill expands and creates, and makes retroactive, a number of public-records exemptions:

- The bill makes a voter's social security number, driver's license number, and Florida identification number of a voter confidential and exempt from disclosure.

- The bill makes a voter's signature on any document (i.e., voter registration form, absentee ballot request, absentee ballot mailing envelope, provisional ballot voter's certificate) exempt from public records for the purpose of copying; voter's signatures may still be inspected.

- The bill exempts from disclosure address information in voter registration records for participants in the Address Confidentiality Program for Victims of Domestic Violence.

The bill also reenacts existing public records exemptions for declinations to register to vote, and information relating to the place where a person registered or updated a voter registration.

In addition, the bill deletes a current exemption that bans the copying of a voter's telephone number.

If approved by the Governor, these provisions take effect January 1, 2006.
Vote: Senate 39-0; House 111-0

HB 1567 — Elections Code Revision

by Rep. Reagan and others (CS/CS/SB 2086 by Judiciary Committee; Ethics and Elections Committee; and Senator Posey)

The bill primarily contains numerous conforming, technical, and clarifying changes to the Florida Election Code stemming from Florida's overhaul of its election administration system originating with passage of the Florida Election Reform Act of 2001.

The bill makes the following substantive changes:

- **Voter Registration**
  Regulates voter registration activities by third-party voter registration organizations. It also removes the affirmation of citizenship that is contained in the oath a voter must sign on a voter registration application.

- **Provisional Ballots**
  Permits a person casting a provisional ballot to present written evidence supporting his or her eligibility to vote to the supervisor no later than 5 p.m. on the third day following an election. It also permits any elector or poll watcher to challenge the right of any voter to vote 30 days or less before an election by filing a completed copy of the oath, and provides a penalty for a voter or poll watcher who files a frivolous challenge. However, an elector or poll watcher is not subject to liability for any action taken in good faith and in furtherance of any activity or duty permitted of such elector or poll watcher by law. Each instance where any elector or poll watcher files a frivolous challenge of any person's right to vote constitutes a separate offense.

- **Voter Solicitation**
  Prohibits anyone from soliciting a voter at a polling place, early voting site, or within 100 feet of such locations, in an effort to provide the voter with assistance in casting their vote. The bill also prohibits the solicitation of voters inside the polling place or within 100 feet of the entrance to a polling place or early voting site, and removes all exceptions to the no-solicitation zone. The bill prohibits photography in the polling room or early voting area.

- **Replacement Candidates**
  Allows the political party to nominate a replacement candidate if a vacancy occurs in nomination for any reason.

- **Absentee Ballots**
  Requires a voter's request for an absentee ballot to be received by the supervisor no later than 5 p.m. on the sixth day prior to the election, and requires a supervisor to mail an absentee ballot to the voters requesting ballots no later than four days before the election. The bill also requires a supervisor to track when a ballot is delivered to a voter, or the voter's designee, or when the ballot was delivered to the post office.

- **Early Voting**
  Requires supervisors of elections to designate early voting sites no later than 30 days before an election, and requires all early voting sites in a county to be open on the same days for the same amount of time. In addition, the bill permits poll watchers at early voting areas, and allows political committees registered to support or oppose a ballot issue to have one watcher in each polling room and early voting area.

- **Recounts**
  Prohibits a manual recount from being ordered if the number of overvotes, undervotes, and provisional ballots is fewer than the number of votes needed to change the outcome of the election. The bill also removes the provision allowing a candidate who was defeated by between one-quarter and one-half percent of the votes from requesting a manual recount.

- **In-Kind Contributions**
  Prohibits a political party from accepting an in-kind contribution that does not provide a direct benefit to the political party.

- **Powers of the Department of State**
  Permits any employee of the Department of State, with expertise in the matter of concern to the Secretary, to have full access to all premises, records, equipment, and staff of a supervisor of elections, upon the written direction of the Secretary of State.

If approved by the Governor, these provisions, unless otherwise provided for in the bill, take effect January 1, 2006.
Vote: Senate 29-9; House 82-36

ETHICS

HB 1377 — Ethics Code Revision; Providing for Additional Restrictions on the Conduct of Elected Officials and Former and Current Government Employees; Prohibiting Lobbyists from Serving as Members of the Ethics Commission

by Rep. Ryan (CS/CS/SBs 1944 and 2008 by Judiciary Committee; Ethics and Elections Committee; and Senators Posey and Sebesta)

The bill clarifies and revises portions of the ethics code of the State of Florida, and provides for additional restrictions on the conduct of current and former government employees and elected officials. The bill also prohibits persons who are registered to lobby the legislative and executive branches of state government, or any local governmental entity, from serving as members of the Commission on Ethics, and further prohibits any member of the commission from lobbying the Legislature or executive branch of state government, or any local governmental entity, while serving as a member of the Ethics Commission.

Specifically, the bill extends the Little Hatch Act to prohibit all state employees, or employees of any political subdivision, from being involved in political campaigns while on duty.

The bill amends the prohibition against using inside information gained while in a public position to benefit oneself or another, clarifying that the prohibition applies to former employees and officers — except for information relating exclusively to governmental practices or procedures. The "revolving door" prohibition against representing a client before one's former agency is revised to make the prohibition applicable to other-personal-services (OPS) employees and to exempt from prohibition's applicability any agency employees whose positions were transferred from Career Service status to Select Exempt Service status under the "Service First" law. Additionally, the bill applies the two-year prohibition for former local elected officials representing another person or entity to prohibit representation before the government body *or agency* they served (which would include staff), rather than just the body of which they were a member.

The bill further revises post-employment restrictions to allow state employees whose jobs are privatized to work for a private entity under certain circumstances. A prohibition is added to keep state executive branch employees from leaving government and then representing a client before their former agency in connection with the same matter in which they participated while an agency employee.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 118-0

CONSTITUTIONAL AMENDMENTS

HJR 1177 — Term Limits

by Rep. Troutman and others (CS/SJRs 1210 and 1362 by Ethics and Elections Committee and Senators Sebesta and Clary)

HJR 1177 increases term limits for state legislators from eight to twelve years. The 12-year term limit applies only to legislators whose *consecutive years* in office *begin* on November 7, 2006, or thereafter; office holders prior to and continuing through November 7, 2006, remain subject to the current eight-year term limit restriction in s. 4(b), Art. VI, State Constitution.

The bill also removes unconstitutional term-limit restrictions in the State Constitution applicable to federal office holders; the U.S. Supreme Court has ruled that state-imposed term limits on federal officers violates the qualifications clause of the U.S. Constitution. See, *U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995).*

If approved by vote of the electors at the general election on November, 7, 2006, these provisions take effect at that time.
Vote: Senate 35-4; House 92-24

HJR 1723 — 60 Percent Passage Requirement

by Rep. Simmons and others (CS/SJR 6 by Judiciary Committee and Senators King, Smith, Fasano, Haridopolos, and Atwater)

House Joint Resolution 1723 amends s. 5, Art. XI, State Constitution.

The joint resolution increases the current affirmative passage requirement for proposed constitutional amendments or revisions, however proposed, (i.e., initiative, legislative joint resolution, Constitutional Revision Commission, Taxation and Budget Reform Commission, and constitutional convention) from a simple majority of those voting on the measure (50 percent plus one vote) to 60 percent of those voting on the measure.

If approved by the electors of the state of Florida in November 2006, the new threshold will take effect on January 2, 2007.
Vote: Senate 37-3; House 86-30

BILLS IMPLEMENTING GENERAL APPROPRIATIONS

CS/SB 392 — Water Quality Assurance Trust Fund

by General Government Appropriations Committee and Senator Clary

This bill authorizes the use of funds in the Water Quality Assurance Trust Fund for administering and regulating Brownfield sites at the Department of Environmental Protection.

If approved by the Governor, this provision takes effect July 1, 2005.
Vote: Senate 39-0; House 114-0

CS/SB 394 — Enforcement of Farm Labor Laws

by General Government Appropriations Committee and Senator Clary

This bill authorizes the use of funds in the Workers' Compensation Administration Trust Fund for the Farm Labor program administered by the Department of Business and Professional Regulation.

If approved by the Governor, this provision takes effect July 1, 2005.
Vote: Senate 39-0; House 114-0

CS/SB 400 — Procurement of Commodities and Contractual Services

By General Government Appropriations Committee and Senator Clary

This bill requires that all fees collected for the use of the state's on-line procurement system are to be deposited into the State Treasury.

The bill requires that the provider of the state's on-line procurement system provide transaction data to the state, and requires vendors using the system to remit fees due to the state within 40 days.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 116-0

TRUST FUND BILLS

Fish and Wildlife Conservation Commission

The following trust funds are recreated within the commission:

			Effective Date
S 1376	Dedicated License Trust Fund/FWC	Ch. 2005-7	11/04/2008
S 1378	Fla. Panther Research and Management Trust Fund	Ch. 2005-8	11/04/2008
S 1380	Fla. Forever Program Trust Fund	Ch. 2005-9	07/01/2008
S 1382	Land Acquisition Trust Fund	Ch. 2005-10	11/04/2008
S 1384	Lifetime Fish and Wildlife Trust Fund	Ch. 2005-11	11/04/2008
S 1386	Marine Resources Conservation Trust Fund	Ch. 2005-12	11/04/2008
S 1388	Nongame Wildlife Trust Fund	Ch. 2005-13	11/04/2008
S 1390	Save the Manatee Trust Fund	Ch. 2005-14	11/04/2008
S 1392	State Game Trust Fund	Ch. 2005-15	11/04/2008
S 1394	Conservation and Recreation Lands Trust Fund	Ch. 2005-16	07/01/2008

Vote: Senate 40-0; House 114-0

The following trust funds are created within the commission:

			Effective Date
S 1398	Administrative Trust Fund/Fish and Wildlife	Ch. 2005-18	07/01/2005
	This trust fund is established to be used for management activities that are commission-wide in nature and funded by indirect cost earnings or assessments against trust funds.		
S 1400	Federal Grants Trust Fund	Ch. 2005-19	07/01/2005
	This trust fund is established to be used for allowable grant activities funded by restricted program revenues.		
S 1402	Grants and Donations Trust Fund	Ch. 2005-20	07/01/2005
	This trust fund is established to be used for allowable grant and donor agreement activities funded by restricted contractual revenue.		

Vote: Senate 40-0; House 114-0

The following trust funds are terminated within the commission:

			Effective Date
S 1396	Trust Funds/Termination/FWCC	Ch. 2005-17	07/01/2005
	This bill provides for termination of the Florida Preservation 2000 Trust Fund and the Federal Law Enforcement Trust Fund, which are obsolete.		

Vote: Senate 40-0; House 114-0

TAX ADMINISTRATION

SB 300 — Repeal of the Repeal of Certain Tax Administration Provisions Adopted in Chapter 2000-312, Laws of Florida

by Government Efficiency Appropriations Committee

During the 2000 Regular Session, a number of bills were amended onto HB 509, which passed the Legislature, becoming ch. 2000-312, L.O.F. One of the bills contained a repealer section that, once amended into HB 509, was not limited in its scope. This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed effective October 1, 2005, unless they are reenacted by the Legislature. SB 300 continues the following provisions of law:

- The authorization that a taxpayer may be awarded costs and attorney's fees in a contest of a sales tax assessment if the Department of Revenue rejects or modifies an Administrative Law Judge's conclusions of law and an appellate court finds for the taxpayer.

- The repeal of the tourist development tax cannot apply to any portion of taxes initially levied in November 1989, which has been pledged or are being used to support bonds, until after the retirement of those bonds.

- Authorizes counties that elect to audit the tourist development tax and the convention development tax to continue to use CPAs.

- The statutory authority for Miami-Dade County to continue to levy the County Public Hospital Surtax.

- The statutory authority for qualified counties to levy the Voter-Approved Indigent Care Surtax. As of January 1, 2005, Alachua and Polk counties impose the surtax.

- An exception to the requirement that the Department of Revenue approve a refund of property taxes. When a payment has been made in error by a taxpayer because of an error in the tax notice sent to the taxpayer, a refund must be made directly by the tax collector.

- An exemption from the tax on intangible personal property for a leasehold estate in governmental property where the lessee is required to furnish space on the leasehold estate for public use by governmental agencies at no cost to those agencies.

- Authorization for the Department of Revenue to share information with CPAs for participants in the Registration Information Sharing and Exchange Program.

- The Department of Revenue may continue to compromise taxes and interest if a taxpayer establishes reasonable reliance on written advice issued by the department.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 115-0

SB 1796 — Property Tax Administration

by Senator Atwater

SB 1796 changes the Department of Revenue's response to a finding of an excessive error rate in the property appraiser's sales qualification determinations. It requires the department to issue a post-audit notification of defects, instead of issuing a review notice. It provides a higher degree of supervision by the department, and allows sufficient time for the problems to be corrected without triggering roll disapproval.

The bill requires the department to use all practicable steps to maximize the representativeness or statistical reliability of samples in conducting assessment ratio studies.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

HB 1813 — Tax Administration

by Finance and Tax Committee and Rep. Brummer and others (CS/SB 2032 by General Government Appropriations Committee and Senator Atwater)

The bill makes the following changes to current tax administration and taxes that are administered by the Department of Revenue:

- Allows an estate that is not required to file a federal tax return to file an affidavit with the clerk of the court attesting that no Florida estate tax is due.

- Provides special provisions on the sale of a timeshare interest in a timeshare plan for the imposition of the nonrecurring intangibles tax and the documentary stamp tax.

- Provides an additional definition of the term "service address" for the purposes of the tax on communications services.

- Provides that penalties relating to fuel taxes shall be deposited into the Fuel Tax Collection Trust Fund.

- Expands the authorized uses of convention development tax revenues to include the acquisition, construction, extension, enlargement, remodeling, repair, improvement, planning for, operation, management, or maintenance of golf courses.

- Clarifies the tax treatment for nonresident purchasers of airplanes.

- Clarifies that no tax shall be imposed on any vessel imported into Florida for the sole purpose of being offered for sale at retail by a yacht broker or dealer registered in Florida, provided the vessel remains under the care, custody, and control of the registered broker or dealer and the owner makes no personal use of the vessel during that time.

- Includes in the definition of "tax fraud," willful attempts to evade a tax, surcharge, or fee imposed by ch. 212, F.S..

- Authorizes the expanded sharing of confidential information between the Department of Revenue and the Department of Agriculture and Consumer Services for the Bill of Lading Program.

- Retroactive to July 1, 2003, the bill specifies that tourist development taxes, the tourist impact tax, and all taxes imposed under ch. 212, F.S., except for the rental car surcharge, qualify for the automatic penalty compromise or settlement of liability.

- Clarifies that the notification by the DOR to the taxpayer that the taxpayer's account is being referred to a debt collection agency must be made at least 30 days before the referral.

- Authorizes the Florida Surplus Lines Service Office to collect the Emergency Management, Preparedness, and Assistance Trust Fund surcharge and deposit the proceeds into the trust fund.

- Requires employers who transfer their business to a related entity to retain their unemployment experience history unless the successor was already an employer and the transfer was not solely or primarily for the purpose of obtaining a lower tax rate.

- Authorizes the DOR to send to employers by registered mail, notices of unemployment tax assessments and notices of the filing of liens.

- Creating a statute of limitations for assessments of the insurance premium tax if the amount of corporate income tax or a workers' compensation administrative assessment paid by the insurer is adjusted through an amended return or refund.

- Authorizes an affiliate group of corporations meeting certain criteria to irrevocably elect to take a credit against the insurance premium tax in an amount that shall not exceed 15 percent of the salary of certain employees of the affiliated group of corporations.

- Reenacts s. 213.21, F.S., scheduled to be repealed on October 1, 2005, relating to informal conference procedures within the DOR.

- Provides a documentary stamp tax exemption for documents that were recorded in error or by mistake in the period between April 15, 2000 and before April 10, 2005.

- Allows salary credit for employees of a service company subsidiary of a mutual holding company contingent on an appropriation to the GR Fund to offset the salary credits.

- Appropriates in FY 2005-06, $2.6 million from the Workers' Compensation Administration Trust Fund to the General Revenue Fund to pay for the salary credit.

- Eliminates a reference to the intangible tax and provides a new definition of "banking organization" for purposes of an exemption from documentary stamp taxes for notes issued in international banking transactions.

- Creates s. 196.1999, F.S., to exempt from ad valorem taxation, storage components used to transport or store cargo used for a space laboratory which is used for scientific purposes.

If approved by the Governor, except otherwise expressly provided in this act, these provisions take effect July 1, 2005.
Vote: Senate 39-1; House 116-0

SALES AND USE TAX

HB 101 — Florida Sales Tax Relief Act

by Rep. Sanson and others (CS/SB 476 by Government Efficiency Appropriations Committee and Senators Webster, Fasano, Haridopolos, Clary, Crist, and Wilson)

The bill provides that no sales and use tax will be collected on the sale of books, clothing, wallets, or certain bags having a selling price of $50 or less during the period from 12:01 a.m. on Saturday, July 23, 2005, through midnight on Sunday, July 31, 2005. The bill also provides that no sales and use tax shall be collected on the sale of school supplies having a selling price of $10 per item or less during the period from 12:01 a.m. on Saturday, July 23, 2005, through midnight on Sunday, July 31, 2005.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 112-1

DOCUMENTARY STAMP TAX

HB 1889 — Documentary Stamp Tax Revenue

by Fiscal Council and Rep. Negron (CS/CS/SB 1110 by Ways and Means Committee; Government Efficiency Appropriations Committee; and Senator Atwater)

The Senate strike all amendment to HB 1889 provides that, effective July 1, 2007, the amounts distributed from documentary stamp tax collections to the following trust funds may not exceed amounts specified in the bill.

- Land Acquisition Trust Fund;
- Water Management Lands Trust Fund;
- Invasive Plant Control Trust Fund;
- State Game Trust Fund;
- State Housing Trust Fund; and
- Local Government Housing Trust Fund.

The following distributions are not changed by the bill:

- CARL Trust Fund, including a distribution to the State Game Trust Fund for land management;
- Water Quality Assurance Trust Fund; and
- General Inspection Trust Fund.

Distributions in excess of these amounts will be paid into the State Treasury to the credit of the General Revenue Fund.

The bill includes a growth factor that will increase the cap for each fund based on growth in documentary stamp collections.

The bill is projected to redirect approximately $404 million to the General Revenue Fund in FY 2007-2008, and $455 million in FY 2008-2009.

The bill provides that, if the payments required for bonds (that were outstanding on July 1, 2007), exceed the specified limitations, distributions to the trust fund from which these bond payments are made will be increased to the lesser of the amount needed to pay bond obligations or the applicable percentage distribution under ss. 201.15, F.S.

It also provides that the limit imposed on distributions to the State Housing Trust Fund shall not be construed to adversely affect the rights of holders of bonds or affordable housing guarantees.

The bill appropriates $250 million to fund the recommendations of the Hurricane Housing Workgroup chaired by Lt. Governor Toni Jennings. The funds are surplus nonrecurring balances in the State Housing Trust Fund and will be used for housing recovery, affordable rental housing

recovery, farm worker housing recovery, special housing assistance and several other efforts with a focus on assisting citizens with low incomes. The bill specifies that $208 million of the $250 million is to be allocated exactly as was recommended by the Hurricane Housing Workgroup. The funds will be targeted primarily to 28 counties most affected by the 2004 hurricanes, with emphasis on persons with low or extremely low incomes. The remaining $42 million is to be used for the rental recovery loan program.

It also allows the Florida Housing Finance Corporation to adopt emergency rules pursuant to s. 120.54, F.S., to provide additional funds to assist those areas of the state that sustained housing damage due to hurricanes during 2004.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 27-11; House 109-7

GROSS RECEIPTS TAX

CS/SB 1244 — Tax/Gross Receipts for Utility Services

by Government Efficiency Appropriations Committee and Senator Alexander

CS/SB 1244 imposes gross receipts tax on all utility services delivered to in-state retail consumers. It broadens the definitions of "utility services" and provides a definition of "distribution companies." It also provides an exclusion from the tax on natural or manufactured gas for certain industries.

The bill provides forgiveness for unpaid gross receipts tax, penalties, and interest which may be due on the sale or transportation of natural gas for consumption in this state if the sales were made prior to January 1, 2006, and:

- The sales were by persons not regulated by ch. 366, F.S., which regulates public utilities;
- The sales agreement provided for transfer of title to the gas outside of Florida; or
- The sales were of transportation services associated with the sales of gas.

The forgiveness, which is called amnesty in the bill, is limited to sellers that register with the Department of Revenue (if they are required to register) and apply for forgiveness by January 1, 2006.

If approved by the Governor, these provisions take effect January 1, 2006.
Vote: Senate 39-0; House 109-2

CORPORATE INCOME TAX

CS/SB 1300 — Corporate Income Tax/Limitation/Refunds

by Government Efficiency Appropriations Committee and Senator Campbell

CS/SB 1300 conforms the statute of limitations for refunds of estimated payments of corporate income tax to the statute of limitations for tax assessments. For tax years beginning on or after January 1, 2001, estimated tax payments are deemed to have been made when the tax return is required to be filed, including extensions of time allowed to the taxpayer for filing such returns.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 118-0

SB 1798 — Corporate Income Tax/2005 IRS Code

by Senator Atwater

Senate Bill 1798 updates references in ch. 220, F.S., (the Florida Income Tax Code) to reflect changes in the U.S. Internal Revenue Code adopted after January 1, 2004.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

PLANNING AND BUDGETING

CS/SJR 2144 — State Budget Planning, Spending, and Accountability

by Ways and Means Committee and Senator Atwater

This Joint Resolution puts before the voters at the next general election proposed changes to s. 19, Art. III of the State Constitution. Specifically it proposes to:

- Limit the amount of non-recurring general revenue that may be used to fund the recurring costs of state programs to 3 percent of total general revenue (approximately $800 million). This limitation may be waived by a 3/5 vote of the Legislature.

- Require the Joint Legislative Budget Commission to issue a long-range financial outlook, which will recommend fiscal strategies, including workload and revenue estimates. Agency legislative budget requests will be required to be based upon and reflect the long-range financial outlook.

- Establish the Joint Legislative Budget Commission in the Florida Constitution to operate essentially as it does now. The Joint Legislative Budget Commission will be required to

seek input from the public and from the executive and judicial branches when developing and implementing the long-range financial outlook.

- Create a Government Efficiency Task Force in 2007, and every 4 years thereafter, composed of legislators and private sector appointees, to make recommendations to improve government and reduce costs.

- Require that each state trust fund be re-created once, 4 years after its initial creation. This reduces the current requirement to re-create each non-exempt trust fund every 4 years in perpetuity.

- Require state planning to be long-range (and updated every 2 years as is done now), with statewide strategic goals and objectives, and to be consistent with the long-range financial outlook.

These provisions take effect upon approval of the electors of this state at the next general election.
Vote: Senate 39-0; House 116-2

CS/SB 2146 — State Budget Planning, Spending, and Accountability

By Ways and Means Committee and Senator Atwater

This bill conforms current statutes to the provisions of SJR 2144, which puts before the voters at the next general election proposed changes to s. 19, Art. III of the State Constitution. Specifically the bill:

- Limits the amount of non-recurring general revenue that may be used to fund the recurring costs of state programs to 3 percent of total general revenue (approximately $800 million). This limitation may be waived by a 3/5 vote of the Legislature.

- Establishes the Joint Legislative Budget Commission in the Florida Constitution to operate essentially as it does now. Membership remains at 7 Senators and 7 Representatives. The chair of the commission will be appointed in alternate years by the President of the Senate and the vice chair appointed by the Speaker of the House of Representatives (instead of the chairs of the appropriations committees serving as chair and vice chair); in alternate years, appointing authority is reversed. The commission will convene at the call of the presiding officers (instead of the chair and vice chair).

- Directs the Joint Legislative Budget Commission to develop a long-range 3-year financial outlook which will be updated each year with the assistance of each state agency providing information to support the commission's development and updates of the long-range financial outlook. The bill establishes a detailed calendar for commission

development of the fiscal strategies of the financial outlook and the required agency response to the financial outlook. The bill prescribes a plan to ensure an integrated state planning and budget process to assure consistency between the agency's long-range plan and the agency's legislative budget request.

- Creates a Government Efficiency Task Force in 2007, and every 4 years thereafter, composed of legislators and private sector appointees, to make recommendations to improve government and reduce costs. The task force will be composed of 13 members. Five members will be appointed by the President of the Senate, 5 members will be appointed by the Speaker of the House of Representatives, and 3 members will be appointed by the Governor. Members of the task force may include private sector representatives. The task force will complete its work within one year.

- Requires state planning to be long-range and updated every 2 years (as is done now), with statewide strategic goals and objectives, and to be consistent with the long-range financial outlook.

These provisions take effect upon the effective date of the amendment to the State Constitution contained in SJR 2144.
Vote: Senate 39-0; House 118-0

INTANGIBLES TAX

CS/SB 2348 — Intangible Personal Property Tax

by Government Efficiency Appropriations Committee and Senators Haridopolos, Wise, Peaden, Argenziano, Lynn, Fasano, Dockery, Sebesta, Baker, Bennett, Constantine, Atwater, Campbell, Saunders, Posey, Webster, Diaz de la Portilla, King, Alexander, Jones, Crist, and Lawson

This bill reduces the annual tax on intangible personal property by one-half, from one mill to 0.5 mill.

If approved by the Governor, this provision takes effect January 1, 2006.
Vote: Senate 28-11; House 86-30

PUBLIC EMPLOYEE BENEFITS

CS/SB 60 — Florida Retirement System

by Ways and Means Committee and Senators Campbell and Fasano

The Florida Retirement System provides enhanced pension benefits for numerous categories of public safety personnel employed by its more than 840 participating public employers. CS/SB 60 adds to the Special Risk Retirement Class in s. 121.0515, F.S., those personnel in forensic science disciplines employed by law enforcement agencies or medical examiners' offices. Such personnel and their direct supervisors must be eligible for membership in the International Association for Identification and have job duties that specifically encompass the collection, examination, and analysis of physical evidence, and testimony, in direct support of forensic science.

Personnel in this retirement class have a normal service length of the earlier achievement of twenty-five years' service or the attainment of age 55. Service credit in the Special Risk Class accrues at 3 percent per year compared to 1.60-1.68 percent and thirty years' normal service in the Regular Class of retirement. Enhanced benefits are prospective only and a person must have twenty-five years' service in this class to achieve full benefit of the earlier age level.

The bill provides a statement of important state interest in compliance with s. 14, Art. X , State Constitution, and appropriates $1.4 million to the Florida Department of Law Enforcement for the additional employer matching payroll costs for the first year.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 116-0

SB 106 — Florida Retirement System

by Senator Constantine

The multi-employer Florida Retirement System (FRS) requires certification by two Florida licensed physicians prior to the receipt of disability retirement benefits. Many employees have their official headquarters located outside the state and this statutory requirement poses a unique hardship upon them. SB 106 amends s. 121.091, F.S., to permit that disability certification by two physicians licensed in the state in which the full-time employee works, if that location is other than in the State of Florida.

The bill also corrects the quorum requirement for official action by the administrative body, the State Retirement Commission, created in s. 121.122, F.S., which adjudicates FRS benefit eligibility disputes.

Finally, the bill repeals the existing requirement in s. 121.35, F.S., that university faculty seeking enrollment in the State University System Option Annuity Program be employed or appointed for a minimum of one academic year.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 37-0; House 108-0

CS/SB 822 — State Group Insurance Program

by Ways and Means Committee and Senator Crist

Many State of Florida employees are retired from branches of the United States Armed Services and are eligible for continuation of their federal benefits. The 2004 Legislature authorized in budget proviso a self-repealing provision that permits such employees to have their federal TRICARE coverage recognized as the equivalent of state employee workplace benefits. CS/SB 822 places that expiring authorization in general law in ch. 110, F.S., and specifically references the federal benefits as those authorized in the United States Code.

The bill further states that the Department of Management Services may not refuse any properly licensed insurer from competing for any state benefit plan product solely due to the compensation arrangements for its agents.

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

HB 1907 — FRS Payroll Contribution Rates

by House Fiscal Council and Rep. Negron (CS/SB 1152 by Governmental Oversight and Productivity Committee and Senator Argenziano)

It has been the recent custom to enact annual legislation setting the employer payroll contribution rates for the funding of the multi-employer Florida Retirement System. HB 1907 enacts the rates changes for the fiscal year beginning July 1, 2005. It also publishes "default" rates, that is, those rates to take effect in the succeeding fiscal year beginning July 1, 2006, that do not recognize any use of surplus pension assets. The rates set for these two years are as follows:

Florida Retirement System, Employer Payroll Contribution Rates by Class, FYs 2006 and 2007, in Percent

Retirement Class	FY 2005-2006	FY 2006-2007
Regular	6.67	9.53
Special Risk	17.37	21.91
Special Risk, Administrative	8.76	12.39
Elected Officers, State	11.33	14.86
Elected Officers, Judges	17.49	20.43
Elected Officers, County	14.07	17.00
Senior Management	9.29	13.27
DROP	8.22	11.74

The bill also sets the biennial rates for the supplemental pension plan for cooperative extension personnel at the Institute for Food and Agricultural Sciences at the University of Florida. For the July 1, 2005 through June 30, 2007 biennium that rate increases from 13.83 percent to 20.23 percent.

The bill provides a statement of important state interest in compliance with s. 14, Art. X and s. 8, Art. VII, State Constitution, and Part VII of ch. 112, Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

CS/CS/SB 1446 — Public Employee Optional Retirement

by Ways and Means Committee; Governmental Oversight and Productivity Committee; and Senator Argenziano

CS/CS/SB 1446 makes a number of changes to the Public Employees Optional Retirement Program, the defined contribution alternative pension plan available to participants in the multi-employer Florida Retirement System (FRS) contained in Part II of ch. 121, F.S.

The bill provides that an employee terminating employment with a participating FRS employer may not resume employment and receive more than ten percent of an account distribution until three calendar months have expired. A participant in the FRS can make changes between plan selections only when actively employed in an employer-employee relationship.

Participants who are due money from their Investment Plan account but have not made a claim for the proceeds will have the account balance forfeited to the Investment Plan after the expiration of ten years.

The bill aligns the benefit distribution provisions due a surviving spouse and beneficiaries with like provisions in the defined benefit Pension Plan.

The State Board of Administration is given the additional authority in s. 215.47, F.S. to invest in asset-backed securities, that is, securities backed by the proceeds of accounts receivable.

Existing references to an advisory committee created at the inception of the Investment Plan are repealed as the committee has fully completed its duties and no longer exists.

Revisions to s. 121.35, F.S., recognize the different incorporation status of one of the provider companies in the State University System Optional Retirement Program and tailor the statute to permit its continued participation in light of its changed legal status.

Participants in the Pension Plan's Deferred Retirement Option Program are permitted to make an eligible rollover distribution of their account balance to the Investment Plan as an additional choice upon termination of employment.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 113-0

PUBLIC RECORDS/OPEN MEETINGS

CS/SB 1144 — Public Records Exemptions

by Governmental Oversight and Productivity Committee and Senator Argenziano

The Committee Substitute for Senate Bill 1144 was the result of Interim Project No. 2005-138, the second phase of a multi-year interim project to clarify and streamline public records requirements. During the 2004 legislative session, the substantive requirements of ch. 119, F.S., the Public Records Act, were reorganized topically so that agencies and the public could locate and determine applicable standards more easily. For example, in 2004 fees for copying public records were co-located, as were legislative policies on access, custodial requirements, and definitions.

In the second stage of the review, public records exemptions were the focus. There are approximately 1,000 exemptions to public records and meetings exemptions. While the Public Records Act contains many exemptions, most exemptions are contained in other sections of law. As the ability of the Legislature to create exemptions is limited to those instances where there is a public necessity to do so, pursuant to the requirements of s. 24, Art. I of the State Constitution, it is important that records custodians are able to determine what information must be protected. Given the number of exemptions in law, and the number of exemptions that are enacted every year, the task of protecting exempt information has become more difficult. In order to ease this burden, the interim project report recommended a reduction in the number of exemptions by creating uniform exemptions, where possible, relocating exemptions that apply to specific

agencies only, and reorganizing exemptions in the Public Records Act that apply to all agencies according to topic.

The Committee Substitute for Senate Bill 1144 removes from the Public Records Act exemptions that apply only to a specific agency or officer, such as the Department of Health or the chief inspector general, and relocates them to statutes that apply to that agency or entity. The committee substitute also relocates provisions that regulate capital postconviction public records. Additionally, the committee substitute creates headings and sub-headings for exemptions in the Public Records Act, and relocates the remaining exemptions in the act appropriately. The headings are: (1) Agency Administration; (2) Agency Investigations; (3) Security; (4) Agency Personnel Information; and (5) Other Personal Information. Finally, the Open Government Sunset Review Act of 1995 is revised to eliminate redundant provisions, and to add a requirement that during the review of an exemption, consideration be given to whether it would be appropriate to recreate that exemption as a uniform exemption.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 117-0

GENERAL GOVERNMENT OPERATIONS

CS/CS/SB 1146 — Center for Efficient Government

by General Government Appropriations Committee; Governmental Oversight and Productivity Committee; and Senators Argenziano, Dockery, and Lynn

Center for Efficient Government and Commission on Efficient Government

The bill establishes the Center for Efficient Government (Center) and the Commission on Efficient Government (Commission) within the Department of Management Services (DMS). The Center will implement a gate process for evaluating agency procurements, support the Commission in reviewing agency business cases, assist agencies in the procurement process, and maintain data on procurements. The Commission will oversee the Center, evaluate and grant approval of proposed procurements within the gate process, and monitor the performance of procurements which have advanced through the gate process. The Commission will consist of seven members, four of whom are agency heads, and three of whom are from the private sector. The DMS is appropriated $1,023,554 and nine FTEs for the Center and the Commission. The Center and the Commission will terminate on July 1, 2010.

Procurements for services costing $10 million or more in any fiscal year, procurements requiring adjustments to agency budgets of $1 million or more, and other specified procurements, must go through the gate process, which consists of the following gates:

- Proposal identification gate, including the business case
- Procurement preparation gate, including the solicitation documents
- Contract development gate, including the proposed unexecuted contract
- Transition management gate, including contractor's readiness to perform
- Post-implementation gate, including reporting on contractor performance.

At each gate, the Commission must review procurements required to go through the process, and either approve or deny the procurement, depending on whether the procurement has met the requirements of each gate. If the Commission withholds approval of a procurement, the Commission must notify the President of the Senate, the Speaker of the House of Representatives, and the Governor.

Business Case and Contract Terms

An agency must develop a business case and include certain contractual terms for procurements of contractual services worth $1 million or more, and provide a copy of the business case to the President of the Senate and the Speaker of the House of Representatives before releasing the solicitation, for those procurements not going through the Commission gate process. The business case describes and analyzes the procurement and must include, among other things, a cost-benefit analysis, performance standards, timeframes for key events, public records law plans, and a transition plan. The contractual terms must also include terms relating to elements from the business case, and provisions that the contractor annually verify its financial statements, that the contractor considers employment of displaced state workers, and that venue for any contract dispute must be Leon County.

Contract Amendments, Renewals, and Extensions

Contracts may not be amended without first submitting the proposed amendment to the Governor for approval, and to legislative appropriations committees for notice, when the amendment would increase the value of contracts between $1 and 10 million by $1 million, or contracts valued at more than $10 million by 10 percent or more. All contract extensions or renewals must be accompanied by documentation of contractor performance, and extensions or renewals of certain large contracts must pass through those gates in the gate process that the Commission deems appropriate.

Other Provisions

When the annual value of a contract exceeds $1 million, one of the persons conducting negotiations must be certified as a contract negotiator by the Department of Management Services.

The Chief Financial Officer may review and comment upon, prior to their execution, contracts exceeding $1 million in value.

If a contract shifts duties from state employees to a contractor, all affected FTEs must be identified in the business case, and placed in reserve until the end of the second year of the contract.

Only a public officer or public employee may select state employees, approve performance standards or salary adjustments for state employees, or hire, promote, or dismiss a state employee.

A contractor may not knowingly participate through decision approval, preparation of a purchase request, investigation, or auditing, in the procurement of services by an agency from an entity in which the contractor has a material interest.

The bill repeals s. 14.203, F.S., the unused State Council on Competitive Government, and conforms a reference to an existing public records exemption relating to social security numbers in repealed section.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-2

CS/CS/SB 1494 — Information Technology Management

by General Government Appropriations Committee; Governmental Oversight and Productivity Committee; and Senators Argenziano and Lynn

This bill substantially alters the organizational deployment and accountability for information technology operations and strategic policy development in the Executive Branch of state government.

The bill brings a closer coordination between information technology needs and the legislative budget instructions provided in s. 216.023, F.S.

The bill creates a Florida Technology Council to succeed to the role played by the State Technology Office (STO) since 2000. The State Technology Office is abolished. The role to be played by the successor Council is significantly altered as well. All operating duties assigned the STO in the areas of data center management, law enforcement radio communications, SUNCOM, and wireless communications are transferred back to its former parent agency, the Department of Management Services. The successor FTC becomes a strategic planning and policy development unit that will work with existing state agency chief information officers and a legislative oversight panel in the development of a comprehensive executive branch operating and governance template for the coordination of information technology operations.

The bill requires a system of progressive pecuniary accountability in which agency responsibility for technology project management and investment control becomes more significant as project scope and sophistication increases. The bill makes the Council the linchpin in the development of a more strategic vision on the marshalling of resources but does not place this entity in a control position over the plural executive branch agencies. The Council receives separate funding of $2 million and sixteen positions in the bill.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

CS/HB 1305 — Department of State

by Tourism Committee and Rep. Detert and others (CS/SB 2152 by Governmental Oversight and Productivity Committee and Senators Argenziano and Peaden)

This bill addresses numerous statutory responsibilities of the Department of State. The bill deletes obsolete statutory language, it clarifies responsibilities of departmental divisions, and it provides additional safeguards of state funds for the Cultural Endowment, Cultural Facilities, and Regional Cultural Facilities Programs.

The bill designates the Division of Cultural Affairs as the state arts administrative agency. It also requires a post-audit for cultural endowment recipients. It requires a recordation of a restrictive covenant for cultural facility and regional facility grantees, as well as a requirement for bonds and for repayment of grant awards. The bill also creates a citizen support organization to assist the division with its cultural and arts programs.

The bill permits members of the Florida Historical Commission to stay in office until a replacement is appointed and permits the presiding officer to appoint a designee to chair certain grant panels.

The bill also designates the Division of Library and Information Services as the state library administrative agency for federal purposes. The bill creates definitions for the statutory sections governing the Division of Library and Information Services. Further, the bill creates a citizen support organization to assist the division with its library, archives, and records management programs.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 114-0

CS/CS/CS/SB 1010 — Administrative Procedures

by Ways and Means Committee; Judiciary Committee; Governmental Oversight and Productivity Committee; and Senators Bennett and Dockery

This bill amends statutory provisions relating to Internet publication of the *Florida Administrative Weekly*, and revises and creates various duties of the Joint Administrative Procedures Committee (JAPC). The bill revises some duties of the Department of State and the Administration Commission, and revises duties with respect to rulemaking for agencies. The bill revises provisions relating to the timing and substance of petitions for administrative review of agency actions.

The bill also:

- Expands eligibility under the Florida Equal Access to Justice Act, through which small business parties may receive attorney's fees and costs when they prevail in certain adjudicatory or administrative proceedings, to include certain individuals whose net worth did not exceed $2 million at the time of the state agency action.

- Clarifies an agency's duty to report on changes made to proposed rules after a final public hearing.

- Requires the Division of Administrative Hearings and agencies to recommend types of cases or disputes suitable for a statutory summary hearing process.

- Requires an agency's final order in certain cases involving disputed issues of material fact to explicitly rule on the exceptions that parties raise to the recommended order.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

HB 509 — Prompt Payment for Construction Services

by Rep. Reagan and others (CS/CS/SB 632 by Regulated Industries Committee; Community Affairs Committee; and Senators Bennett, King, and Crist)

This bill re-designates the "Florida Prompt Payment Act," which currently applies to local governments, as the "Local Government Prompt Payment Act," and creates a new "Florida Prompt Payment Act" to apply to state projects.

The bill reduces time frames during which contractors and subcontractors must issue payments to their subcontractors and suppliers. It also provides procedures for payment of the retainage state and local governments may withhold from each payment to contractors during construction, and for settling disputes relating thereto. Upon substantial completion of construction projects, the bill requires state and local governments to develop a list of items (a punch list) for final acceptance of construction services purchased.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 38-0; House 113-0

CS/CS/SB 652 — Public Construction Bonds

by Judiciary Committee; Governmental Oversight and Productivity Committee; and Senator Sebesta

Amends the model bond form contained in s. 255.05(3), F.S., which may be used for public construction projects, to add a space for entry of a bond number, and include language on the face of the bond stating that any action instituted by a claimant under the bond for payment must be in accordance with the notice and time limitation provisions contained in s. 255.05(2), F.S. The bill amends s. 255.05(4), F.S., to provide that the payment bond provisions of all public construction bonds are to be construed as statutory bonds that shall not under any circumstances be converted into common law bonds. The bill amends s. 255.05(6), F.S., to provide that payment bond forms executed by a public owner must reference the time and notice limitation provisions in this section.

The bill provides that a surety issuing a payment or performance bond on certain projects is not an insurer for the purpose of specified civil remedies.

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

CONFORMING BILLS

CS/CS/SB 404 — Health Care

by Ways and Means Committee; Health and Human Services Appropriations Committee; and Senator Saunders

The bill provides statutory changes necessary to conform to the General Appropriations Act (GAA) for FY 2005-2006. Specifically, the bill:

- Delays the nursing home staffing increase from 2.6 to 2.9 hours of direct patient care per resident per day from July 1, 2005 until July 1, 2006.
- Deletes references to the Office of Long-Term Care Policy.
- Restores Medicaid coverage for pregnant women with incomes between 150-185 percent of the federal poverty level, effective July 1, 2005.
- Revises the Medicaid eligibility requirements for the Medicaid Aged and Disabled program (MEDS AD), effective January 1, 2006, by limiting coverage to those individuals who are age 65 or older or disabled, who are not eligible for Medicare or if eligible for Medicare are currently under institutionalized care.
- Restores Medicaid coverage for all services under the Medically Needy program, effective July 1, 2005.
- Restores Medicaid coverage for adult denture services effective July 1, 2005.
- Repeals the Silver Saver prescription drug program, effective January 1, 2006. Recipients in this program will receive prescription drug benefits through Medicare Part D beginning January 1, 2006.
- Deletes outdated hospital inpatient reimbursement rate language.
- Removes outdated language regarding nursing home rates.
- Provides the years in which audited data may be used to determine Medicaid days for hospital disproportionate share. The amendment also provides the years that audited data may be used to determine Medicaid days for public non-state hospitals in FY 2005-2006.

- Eliminates outdated language relating to the RPICC disproportionate share program and continues the language that does not allow distribution of funds through the program for FY 2005-2006.

- Eliminates outdated language relating to the teaching hospital disproportionate share program and continues the language that does not allow distribution of funds through the program for FY 2005-2006.

- Eliminates outdated language relating to the primary care disproportionate share program and continues the language that does not allow distribution of funds through the program for FY 2005-2006.

- Replaces the word "formulary" with the phrase "preferred drug list."

- Requires the Agency for Health Care Administration to post the preferred drug list on the agency's website.

- Extends the requirement for the Pharmaceutical and Therapeutics Committee review of newly approved drugs from the next scheduled meeting after FDA approval to the next scheduled meeting after the drug has been in distribution for 3 months.

- Removes outdated language allowing the agency to adopt a voluntary preferred drug list.

- Removes the 4 brand name drug limit.

- Implements prescription drug safety requirements by authorizing the Pharmaceutical and Therapeutics Committee to review and/or place certain drugs on prior authorization.

- Eliminates the exemption of the prior authorization requirements for mental health and drugs for nursing home recipients and other institutionalized individuals. The drugs will now be subject to the preferred drug list and prior authorization requirements.

- Requires the agency to publish the preferred drug list on the Internet.

- Requires the agency to contract in Area 11, on a capitated basis, with at least two comprehensive behavioral health care providers for Medipass recipients and requires a minimum of 50,000 Medipass recipients to be assigned to the existing provider service network in Area 11 for behavioral health services.

- Provides that the Medicaid preferred drug list include a list of cost effective therapeutic options with at least two products in each therapeutic class.

- Excludes antiretroviral agents from the preferred drug list.

- Eliminates the exemption from the preferred drug list for mental health drugs.
- Authorizes the dispensing of 100-day maximum supplies of maintenance medications.
- Eliminates the four brand name drug limit and the exception to the prior authorization requirements based on the treatment needs of the patient.
- Eliminates the exception which allows prior authorization requirements to be sought by the pharmacy rather than by the prescribing physician for nursing home residents and other institutionalized adults.
- Eliminates outdated language which established an advisory committee for the purpose of studying the feasibility of using a restricted formulary for nursing home residents.
- Eliminates outdated language which required the agency to negotiate a contract for a behavioral health management program by September 1, 2004.
- Allows the agency to set certain prior authorization requirements for certain products.
- Allows the agency to post prior authorization criteria and protocol updates on an internet web-site.
- Authorizes the agency, in conjunction with the Pharmaceutical and Therapeutics Committee, to place certain age related recipient prior authorization requirements for certain drugs.
- Authorizes the agency to implement a step therapy prior authorization process for prescriptions that are not included on the preferred drug list.
- Authorizes the agency to implement the program of all-inclusive care for children (PACC) to provide in-home hospice-like support services to children diagnosed with life-threatening illness and enrolled in the Children's Medical Services network.
- Requires equal assignment of recipients that do not choose a managed care plan to Medipass or a managed care plan in service areas 1 and 6 where the agency is contracting for prepaid behavioral health services.
- Requires the agency to include policy reductions when establishing managed care rates and limit payment of managed care rates to the amounts allowed in the GAA and requires the agency to develop two separate capitation rates for children under 1 year of age; 0-3 and 4-11 months.
- Repeals the Office of Long Term Care Policy in the Department of Elder Affairs.

- Establishes a memory disorder clinic at Florida Atlantic University, Boca Raton, in Palm Beach County.

- Allows Medicaid clients under chapter 393, F.S., who are excluded from the definition of employment and served by Adult Day Training Services under the Family and Supported Living waiver to be exempt for workers compensation purposes.

- Allows the Programs for All inclusive Care for the Elderly (PACE) to serve individuals in Lee and Martin Counties.

- Provides a severability clause in the act.

- Requires the bill to take affect, except as otherwise provided, on July 1, 2005.

The following changes made in this bill were repealed by the passage of CS/CS/SB 838:

- Deletes provisions authorizing the Agency for Health Care Administration to adopt emergency rules governing the home and community based service delivery system.

- Requires providers to accept payment for Medicaid goods and services through fees or rate schedules that are not incorporated into provider agreements and requires provider agreements to be renewed in writing.

- Requires the agency to reimburse Medicaid providers in accordance with state and federal law according to published methodologies.

- Allows the agency to make reimbursement adjustments to comply with the available funds in the GAA.

- Allows the agency to adopt fees, rates or other methods of payments consistent with the limitations or direction as provided in the GAA.

- Exempts the agency from chapter 120, F.S., requirements when setting rates and methods of payment.

- Requires that notice of proposed rate methodologies and justification for changes to be published in the Florida Administrative Weekly.

- Provides Legislative intent not to apply the provisions of sections 8, 9 and 10 to contracts, fees, rates and other methods of payment retroactive to the effective date of the bill.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 37-0; House 84-30

CS/SB 408 — Children and Family Services Department

by Health and Human Services Appropriations Committee and Senator Saunders

The bill streamlines the Economic Self Sufficiency (ESS) eligibility determination process. Temporary cash assistance eligibility requirements for minor children are changed to match the federal program requirements. The bill deletes language authorizing stepparents to receive temporary cash assistance and removes language allowing a protective payee to receive cash assistance. Finally, the bill repeals authorization to privatize the ESS eligibility determination program.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 102-7

CS/SB 410 — Health Department

by Health and Human Services Appropriations Committee and Senator Saunders

The bill provides statutory changes necessary to conform to the General Appropriations Act for FY 2005-2006. Specifically, the bill:

- Deletes the requirement from the Department of Health to issue wall certificates to licensed practitioners at the time of initial licensure.

- Clarifies the requirements pertaining to certifying national examinations and requests to challenge the examination. Candidates with a score no less than 10 percent below the minimum score required to pass the examination shall be entitled to challenge the examination in hearing. This section also allows the department to post examination grades on the Internet in a manner consistent with the requirements of chapter 120, F.S., instead of mailing the results.

- Creates a retired license status and authorizes a retired license fee not to exceed $50. Allows the appropriate board or the department, if there is no board, to impose conditions on a licensed practitioner who has held a retired license for more than five years or from another state who has not practiced for five years or more.

- Defines the scope of practice for certified nursing assistants (CNAs). The Board of Nursing will determine if a certified nursing assistant is in compliance with the scope of their practice and federal regulations.

- Provides rule making authority to the Board of Nursing to specify the scope of practice, and level of supervision required for CNAs.

- Provides for a renewal of a CNA certificate for a fee of $20-$50 biennially, to be established by rule. Any certificate not renewed by July 1, 2006 is void.

- Requires information from the National Practitioner Data Base be included in the physician profiles.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 68-47

TRUST FUND BILLS

SB 1404 — Administrative Trust Fund
by Senator Saunders

This bill (Chapter 2005-21, L.O.F.) creates the Administrative Trust Fund in the Agency for Persons with Disabilities.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 40-0; House 114-0

CS/SB 1406 — Federal Grants Trust Fund
by Health and Human Services Appropriations Committee and Senator Saunders

This bill (Chapter 2005-22, L.O.F.) creates the Federal Grants Trust Fund in the Agency for Persons with Disabilities.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 40-0; House 114-0

CS/SB 1408 — Operations and Maintenance Trust Fund
by Health and Human Services Appropriations Committee and Senator Saunders

This bill (Chapter 2005-23, L.O.F.) creates the Operations and Maintenance Trust Fund in the Agency for Persons with Disabilities.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 40-0; House 114-0

CS/SB 1410 — Social Services Block Grant Trust Fund

by Health and Human Services Appropriations Committee and Senator Saunders

This bill (Chapter 2005-24, L.O.F.) creates the Social Services Block Grant Trust Fund in the Agency for Persons with Disabilities.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 40-0; House 114-0

CS/SB 1412 — Tobacco Settlement Trust Fund

by Health and Human Services Appropriations Committee and Senator Saunders

This bill creates the Tobacco Settlement Trust Fund in the Agency for Persons with Disabilities.

If approved by the Governor, these provisions take effect July 1, 2005
Vote: Senate 39-0; House 115-0

HEALTH CARE PRACTITIONER REGULATION

CS/SB 366 — Health Care Practitioners

by Health Care Committee and Senators Peaden, Wise, Fasano, and Lynn

The bill amends the grounds for disciplinary action applicable to health care practitioners regulated under the Division of Medical Quality Assurance within the Department of Health to make a practitioner liable for discipline if the practitioner is terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensed practitioner, or for not successfully completing any drug-treatment or alcohol-treatment program.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 112-0

CS/SB 478 — Podiatric Medicine

by Health Care Committee and Senator Clary

The bill authorizes a registered resident podiatric physician to prescribe medicinal drugs described in schedules set out in ch. 893, F.S., and pursuant to the practice of podiatric medicine, if the resident is authorized by the hospital or teaching hospital to use an institutional Drug Enforcement Administration number issued to the hospital, prescribes only in the normal course of employment, and is identified by a discrete suffix appended to the institution's Drug Enforcement Administration number. The use of the institution's identification number and the resident's suffix must conform to the requirements of the Drug Enforcement Administration.

The bill requires each hospital that has a podiatric residency program to submit a list of podiatric residents annually, rather than semiannually, to the Board of Podiatric Medicine. The bill revises from 2 to 3 years the period during which a residency program may allow a podiatric physician resident to continue as an unlicensed resident. The bill provides that podiatric physicians registered under the Board of Podiatric Medicine to practice as residents are subject to disciplinary provisions applicable to the practice of podiatric medicine. The Board of Podiatric Medicine is required to adopt rules as necessary to administer the requirements of the bill.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 115-0

CS/SB 1180 — Practice of Medicine

by Health Care Committee and Senator Campbell

The bill revises conditions of appointment to and composition of, the Board of Medicine by increasing the number of consumer members on the board from three to five. The bill requires physician members on the board to be Florida licensed in good standing, Florida residents, and to have been engaged in the active practice or teaching of medicine in Florida with a full and unrestricted medical license for at least five, rather than four, years immediately preceding their appointment. Five consumer members must be Florida residents who have lived in Florida for at least five years immediately preceding their appointments, have never been licensed as a health care practitioner under ch. 456, F.S., or the applicable practice act, and do not have a substantial personal, business, professional, or pecuniary connection with a licensed health care practitioner or with a medical education or health care facility, except as patients or potential patients.

If any member of the Board of Medicine ceases to meet the requirements for appointment to the board, that person must be removed and a new qualified member appointed to the board. The bill's revisions to conditions for appointment to the Board of Medicine do not end the term of any member of the Board of Medicine who has been appointed to the board on the effective date of the bill. The term of office of the two new consumer members begins November 1, 2005.

The bill allows a medical physician licensure applicant to enroll in a 2-year externship in a licensed nonstatutory teaching hospital approved by the Board of Medicine in lieu of completing the required 1-year residency for licensure and the academic year of supervised clinical training for foreign medical graduates. Although the Department of Health may develop procedures for such applicants to meet postgraduate training requirements by completion of a 2-year externship, the Board of Medicine may adopt rules to implement the externship requirements, including the implementation of fees to cover costs.

The bill requires probable cause panels of the Board of Medicine and the Board of Osteopathic Medicine, when considering discipline against a physician assistant, to include a physician assistant designated by the Council of Physician Assistants, unless a physician assistant is not available.

Notwithstanding any law to the contrary, a medical physician or physician assistant has as a defense to any alleged violation, by a preponderance of the evidence, that the practitioner relied in good faith on the representations made to the practitioner by a drug manufacturer or its representatives and that the practitioner had no intent to violate the law.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 118-0

HB 1651 — Chiropractic Education

by Rep. Patterson and others (SB 2640 by Senator Geller)

The bill amends the "Health Care Clinic Act" to provide an exemption from the clinic licensure requirements for clinical facilities affiliated with a college of chiropractic accredited by the Council on Chiropractic Education at which training is provided for chiropractic students.

The bill provides that the chiropractic practice act does not apply to a chiropractic student enrolled in a chiropractic college accredited by the Council on Chiropractic Education and participating in a chiropractic college clinical internship under the direct supervision of a doctor of chiropractic medicine who is a full-time, part-time, or adjunct faculty member of a chiropractic college that is located in Florida and accredited by the Council on Chiropractic Education. The faculty member who supervises the chiropractic student must also hold a current active Florida chiropractor's license. The bill defines "chiropractic college clinical internship" to mean a program in which a student who is enrolled in a chiropractic college that is located in Florida and accredited by the Council on Chiropractic Education obtains clinical experience, pursuant to the college's curriculum, in a classroom or chiropractic clinic operated by the college according to the teaching protocols for the clinical practice requirements of the college.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 113-0

SB 2268 — Athletic Trainers

by Senator Fasano

The bill revises the licensure and license renewal requirements for athletic trainers. The bill revises the violations and penalties relating to practicing athletic training so that it would be a misdemeanor of the first degree for a person to practice athletic training without holding an active license to practice athletic training or an exemption to the athletic training practice act, irregardless of whether or not there is compensation. An exemption to the athletic training practice act for a person employed as a teacher apprentice trainer I, a teacher apprentice trainer II, or a teacher athletic trainer under s. 1012.46, F.S., is deleted.

The bill revises provisions that authorize a school district to establish and implement athletic injuries prevention and treatment program, which includes specified employment classification and advancement schemes for a "first responder" and a "teacher athletic trainer," to delete references to first responders and teacher athletic trainers. The school district employment classification and advancement scheme is revised to specify that to qualify as an "athletic trainer," rather than a "teacher athletic trainer," a person must be licensed as an athletic trainer and may possess a professional, temporary, part time, adjunct, or substitute teaching certificate.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 117-0

SB 2452 — Pharmacy Technicians

by Senator Aronberg

The bill allows a pharmacy technician to initiate or receive requests for original prescriptions for nonhuman use if this is done under the direct supervision of a licensed pharmacist. The number of pharmacy technicians that a licensed pharmacist may supervise in dispensing prescriptions for nonhuman use is limited to five pharmacy technicians.

The bill authorizes a pharmacy to dispense a prescription for nonhuman use pursuant to a facsimile prescription without receipt of the original prescription.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 108-7

SB 2574 — Dentistry

by Senators Atwater and Crist

The bill exempts certain dental instructors from the requirements of the dental practice act. The dental practice act does not apply to practices, acts, and operations of instructors in dental programs that prepare persons holding D.M.D. or D.D.S. degrees for specialty board certification wherein such programs have U.S. accreditation by January 1, 2005, in the same manner as the Board of Dentistry recognizes accreditation for Florida schools of dentistry but that are not otherwise affiliated with a Florida school of dentistry. The exemption to such instructors in Florida schools of dentistry, accredited dental specialty programs, dental hygiene or dental educational programs are conditioned on the instructor performing regularly assigned instructional duties under the curriculum of such schools. A full-time dental instructor at a dental school or dental program approved by the Board of Dentistry may be allowed to practice dentistry at the teaching facilities of such school or program, upon receiving a teaching permit issued by the Board of Dentistry. The practice of dentistry by these instructors must be performed in strict compliance with such rules as are adopted by the board pertaining to the teaching permit and with the established rules and procedures of the dental school or program as recognized in s. 466.002(6), F.S.

The bill limits the number of years that a member of the Board of Dentistry may serve on the board to a total of 10 years. The bill provides an exception to the requirement for national examinations under ch. 456, F.S., for certain examinations for dentists.

The bill requires dentists and unlicensed persons used by dentists to construct, alter, repair, or duplicate dentures, bridge splints, or orthodontic or prosthetic appliances to keep work order

records for 4 rather than 2 years and eliminates the requirement for such records to be maintained in permanent files. The bill corrects a glitch in current law to allow the Department of Health to issue temporary certificates to graduates of accredited dental schools, rather than dentists, to practice under the general supervision of Florida-licensed dentists in a state or county facility.

The bill revises the manner of appointment of members to the Council on Dental Hygiene (council) to require that the three dental hygienist members who are actively engaged in the practice of dental hygiene in Florida be recommended by the Florida Dental Hygienists Association. The bill requires the council to meet at least three times each calendar year. The Board of Dentistry must consider rule and policy recommendations of the council at its next regularly scheduled meeting in the same manner as it considers rule and policy recommendations from designated subcommittees of the board. Any rule or policy proposed by the board pertaining to dental hygiene must be referred to the council for a recommendation before final action by the board. The Board of Dentistry may take final action on rules pertaining to dental hygiene without a council recommendation if the council fails to submit a recommendation in a timely fashion as prescribed by the board.

The bill revises the information that an applicant who is a graduate of a dental school or college must submit to the Board of Dentistry in order to take the dental hygiene examination.

The bill revises continuing education requirements for dentists, to authorize the Board of Dentistry to allow up to three hours of credit every two years for a practice management course.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 115-0

HEALTH CARE FACILITY AND SERVICES REGULATION

HB 189 — Hospice Facilities

by Rep. McInvale and others (SB 112 by Senator Constantine)

This bill requires the construction and renovation of hospice residential and inpatient facilities and units to be governed by the Florida Building Code. In keeping with this change, the bill deletes a requirement for the Department of Elderly Affairs to adopt rules for physical plant standards for hospice residential and inpatient facilities and units. The bill directs the Agency for Health Care Administration to provide technical assistance to the Florida Building Commission in updating the Florida Building Code to include hospice facilities.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 114-0

SB 266 — Nursing Home Facilities

by Senators Saunders and Bullard

This bill deletes the expiration date, and thereby makes permanent, the exception that has been granted to the state-designated teaching nursing home and its affiliated assisted living facilities to the requirement that nursing home facilities maintain general and professional liability insurance coverage. In lieu of maintaining general and professional liability insurance coverage, the teaching nursing home may demonstrate proof of financial responsibility in a minimum amount of $750,000 by either maintaining an escrow account consisting of certain cash or assets or obtaining an irrevocable, nontransferable and nonassignable letter of credit.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 112-0

CS/SB 474 — Nurse Home Visits

by Health Care Committee and Senator Saunders

This bill repeals the requirement that, when a nurse registry contracts to provide services to a patient, a registered nurse must make monthly visits to the patient's home to assess the patient's condition and the quality of care. The bill requires, instead, that when a certified nursing assistant or home health aide is referred to a patient's home by a nurse registry, the nurse registry must advise the patient, the patient's family, or a person acting on behalf of the patient of the availability of registered nurses to visit the patient's home to assess the patient's condition at an additional cost.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 102-9

CS/SB 484 — Health Care/Nursing

by Health Care Committee and Senators Peaden and Lynn

This bill revises laws governing home health agencies and nurse registries. Under a revised definition, a home health agency is an organization providing home health services and staffing services that involves more than one health care professional discipline, a health care professional and a home health aide or certified nursing assistant, more than one home health aide, more than one certified nursing assistant, or a home health aide and a certified nursing assistant. The bill revises nurse supervision requirements for nurse registries by eliminating required monthly nurse visits to patients receiving home health aide or certified nursing assistant services from nurse registries and instead requires a nurse registry to notify patients receiving those non-skilled services that optional nurse supervisory visits are available at an additional cost. The bill also permits advanced registered nurse practitioners and physician assistants to give orders for skilled care to be provided by home health agencies and nurse registries as is

permitted in other health care settings. Home health agency and nurse registry licenses will be issued for a two-year period, instead of one year, with commensurate fee increases in keeping with the longer time period.

The bill increases fines and penalties for operating an unlicensed home health agency or nurse registry and authorizes the Agency for Health Care Administration to institute injunction proceedings to restrain or prevent the operation and maintenance of an unlicensed home health agency or nurse registry. The bill requires the Agency for Health Care Administration to accept accrediting organization surveys, in lieu of conducting its own licensure surveys of home health agencies, under specified conditions.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 103-10

CS/CS/SB 662 — Studies of Hurricane Damage to Hospitals and Related Topics

by Governmental Oversight and Productivity Committee; Community Affairs Committee; and Senators Clary and Lynn

This bill creates a commission to study hospitals that serve indigent populations and that sustained significant damage to their facilities during the 2004 hurricane season. The bill establishes the composition of the commission and provides for reimbursement for per diem and travel expenses of its members. The commission must identify all hospitals that currently are not able to comply with the Florida Building Code, hospitals that are located within 10 miles of the coastline, and hospitals that are located within a designated flood zone. The commission must make recommendations that will allow these facilities to find alternative methods of complying with the Florida Building Code.

By December 1, 2005, the commission must report to the Legislative Budget Commission regarding the types of structural damage caused by hurricanes in 2004 to not-for-profit hospitals' facilities and the cost of each type of damage suffered by each facility. By January 1, 2006, the commission must make recommendations for statutory changes and for possible funding to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill also creates a 13-member study group to review the use and appropriateness of high-deductible health insurance plans, including health savings accounts and health care reimbursement arrangements. The group must study the effect of high deductibles on access to health care services, utilization and overutilization of health care services, and the ability of hospitals and physicians to collect deductibles and co-payments. The group must also study issues relating to the assignment of benefits by insureds, standardization of identification cards and claim edits, and the provision of comparative cost information to subscribers and insureds

before service delivery. The group must submit recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006.

The bill requires the Legislature's Office of Program Policy and Government Accountability to conduct two studies—one to evaluate whether Florida should join the Nurse Licensure Compact and a second to analyze the impact of hospices on the delivery of care to terminally ill patients. A report on the Nurse Licensure Compact must be presented to legislative leaders by February 1, 2006, and must address the potential impact on the state's nursing shortage, benefits to the state, implementation barriers and any fiscal impact. The study on hospice care must be presented to the Legislature no later than January 1, 2006, and must address various issues related to for-profit hospices, the reason for regional monopolies, penetration rates of hospice services by hospice service areas, and a comparison of hospice services to the minimum service requirements of Medicare and Medicaid.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 117-0

CS/SB 720 — Personal Care Attendants

by Health and Human Services Appropriations Committee and Senator Wise

This bill repeals the requirement that, when a nurse registry contracts to provide services to a patient, a registered nurse must make monthly visits to the patient's home. The bill also repeals the reporting requirement associated with the visits.

The bill makes permanent, and potentially expands statewide, the program to provide personal care attendants to persons participating in the brain and spinal cord injury program in the Department of Health. The bill changes the eligibility criteria for the program to include persons who are presently employed but, because of a loss of a caregiver, will lose employment and could potentially return to a nursing home. The Department of Health must establish an oversight workgroup with specified membership for the program. The bill increases from 25 to 50 percent, the percentage of collections from the tax collection enforcement diversion program that are deposited with the Florida Endowment Foundation for Vocational Rehabilitation to fund the personal care attendant program and to contract with the state attorneys participating in the tax collection enforcement diversion program in an amount of not more than $50,000 per state attorney. The bill deletes an obsolete statutory provision that increased the percentage of collections available to the personal care attendant pilot program for FY 2004-2005.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 110-5

HB 763 — Critical Access Hospitals

by Rep. Troutman and others (CS/CS/SB 1472 by Health and Human Services Appropriations Committee; Health Care Committee; and Senator Peaden)

The bill defines critical access hospital to be a hospital that meets specified federal requirements and is certified by the Secretary of the U.S. Department of Health and Human Services. Under the federal requirements, a critical access hospital is not required to provide surgery and obstetrical services; thus, the bill creates an exception in Florida's hospital licensure law for Florida's 11 critical access hospitals for these services. Critical access hospitals are in rural areas of the state.

The bill also extends the moratorium on the authorization of hospital off-site emergency departments to July 1, 2006. The bill deletes an obsolete requirement for the Agency for Health Care Administration to recommend to the Legislature whether it is in the public interest to allow a hospital to operate an emergency department off the premises of the hospital. The report was presented to the Legislature in 2004.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 117-0

HB 1041 — Women's Health and Safety Act

by Rep. Bean and others (CS/SB 1862 by Judiciary Committee and Senators Dockery, Fasano, Villalobos, Baker, Sebesta, Atwater, Alexander, Wise, Constantine, Webster, Haridopolos, Pruitt, Diaz de la Portilla, Posey, Peaden, Clary, Campbell, Bullard, and Siplin)

This bill creates the "Women's Health and Safety Act," to require the Agency for Health Care Administration to adopt separate rules for licensed abortion clinics that perform abortions only during the first trimester of pregnancy and for those licensed abortion clinics that perform abortions after the first trimester of pregnancy. The rules may not impose an unconstitutional burden on a woman's freedom to decide whether to terminate her pregnancy.

The rules for abortion clinics that perform abortions after the first trimester of pregnancy must address an abortion clinic's physical facilities, clinic supplies and equipment standards, clinic personnel, medical screening and evaluation of each abortion clinic patient, abortion procedure, recovery room standards, follow-up care, and incident reporting. These rules must require an abortion clinic to designate a medical director who is licensed in Florida and who has admitting privileges at a licensed hospital or has a transfer agreement with a licensed hospital within reasonable proximity of the clinic. The rules must require that a physician, registered nurse, licensed practical nurse, advanced registered nurse practitioner, or physician assistant be available to all patients throughout the abortion procedure. A registered nurse, licensed practical nurse advanced registered nurse practitioner, or physician assistant who is trained in the management of the recovery area must remain on the premises of the abortion clinic until all

patients are discharged. The rules must require an abortion clinic to report to the Agency for Health Care Administration, in writing within 10 days of the occurrence, each incident that results in serious injury to a patient or a viable fetus at an abortion clinic. If a patient death occurs, other than a fetal death properly reported pursuant to law, the abortion clinic must report it to the agency no later than the next workday.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 30-9; House 97-19

HB 1559 — Respite Care/Intergenerational Program

by Rep. Joyner and others (CS/SB 1516 by Health Care Committee and Senator Wilson)

This bill requires the Agency for Health Care Administration to create a pilot project for an assisted living facility that will provide respite care for a maximum period of 14 days for children and adults who have disabilities and for elderly persons having special needs. The project must be located in Miami-Dade County and operated by a not-for-profit entity. The pilot project will last for 5 years, and AHCA must report to the Legislature after 4 years regarding the effectiveness of the project.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 115-0

CS/SB 1868 — Poison Control Centers

by Health Care Committee and Senators Atwater and Wilson

The bill amends provisions relating to poison control centers to require the three regional poison control centers to be "certified" rather than "accredited." The bill requires a licensed hospital, ambulatory surgical center, mobile surgical facility, or health care practitioner to release to a regional poison control center, upon request, any patient information that is relevant to the episode under evaluation for purposes of treatment or that is necessary for case management of poison cases. They must also release other patient information that is necessary to comply with the data-collection and reporting requirements of s. 395.1027, F.S., and the professional organization that certifies poison control centers in accordance with federal law.

The bill amends provisions relating to the confidentiality of hospital patient records and records created by specified health care practitioners to authorize the release of otherwise confidential hospital patient records, without the patient's written authorization, to a regional poison control center for purposes of treating a poison episode under evaluation, case management of poison cases, or compliance with data-collection and reporting requirements of s. 395.1027, F.S., and the professional organization that certifies poison control centers in accordance with federal law.

The bill extends the moratorium on the authorization of hospital off-site emergency departments to July 1, 2006.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

ELDER SERVICES

HB 1525 — Elderly Affairs

by Rep. Lopez-Cantera and others (CS/SB 2364 by Health Care Committee and Senators Fasano, Lynn, and Posey)

This bill deletes the requirement for the Agency for Health Care Administration in consultation with the Department of Elder Affairs to integrate the Frail Elder Option program into the Nursing Home Diversion program. The bill also deletes the requirement for the agency and the department to integrate the Aged and Disabled Adult Medicaid waiver and the Assisted Living for the Elderly Medicaid waiver into one waiver program.

The bill revises the eligibility requirements relating to financial solvency for entities providing services in the Nursing Home Diversion program. It requires the agency to use a federally approved, actuarially certified rate methodology to develop reimbursement rates for the long-term care community diversion pilot project.

The bill allows the department to move forward on implementation of the pilot program allowing Community Care for the Elderly lead agencies to transition over a period of time into full providers of service under the nursing home diversion program.

The bill deletes the requirement for the department's Comprehensive Assessment Review and Evaluation Services (CARES) program staff to annually review at least 20 percent of case files of Medicaid nursing home residents.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

PUBLIC HEALTH

HB 151 — Health Care Act/Access/Poverty Level

by Rep. Sorenson and others (SB 1032 by Senators Bennett, Dawson, Rich, and Wilson)

The bill revises the definition of "low income" under the Access to Health Care Act, to extend eligibility for volunteer, uncompensated health care services to persons who are without health insurance and whose family income does not exceed 200 percent, rather than 150 percent, of the federal poverty level.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 113-0

CS/CS/SB 186 — Sexually Transmissible Disease

by Judiciary Committee; Health Care Committee; and Senator Lynn

The bill revises the circumstances under which a positive preliminary HIV test result may be released, to include the results of rapid testing technologies. The results of rapid testing technologies must be considered preliminary and may be released in accordance with the manufacturer's instructions as approved by the federal Food and Drug Administration. The bill eliminates the prohibition against the release of preliminary test results for the purpose of routine identification of HIV-infected individuals or when HIV testing is incidental to the preliminary diagnosis or care of a patient.

The bill authorizes the HIV testing of pregnant women pursuant to s. 384.31, F.S., without meeting the specific informed consent requirements for HIV testing outlined in s. 381.004(3)(a), F.S.

The bill clarifies that each laboratory that performs a test that concludes with a positive report for a sexually transmissible disease or a result indicative of HIV or AIDS must report such facts as may be required by the Department of Health by rule, within a time period as specified by rule of the department, but in no case to exceed 2 weeks. The department must adopt rules specifying the maximum, rather than a minimum, time period for reporting a sexually transmissible disease, including but not limited to, HIV/AIDS. References to the HIV/AIDS Reporting System developed by the Centers for Disease Control and Prevention of the U.S. Public Health Service are deleted to allow the use of a system for reporting of HIV/AIDS which is developed by the Centers for Disease Control and Prevention or an equivalent system.

The Department of Health must adopt rules requiring each physician and laboratory to report any newborn or infant up to 18 months of age who has been exposed to HIV.

The bill eliminates the required reporting of physician-diagnosed cases of AIDS based upon diagnostic criteria from the Centers for Disease Control and Prevention. Reports of HIV infection identified on or after the effective date of the department's administrative rule which required reporting are eliminated, which in effect would no longer exempt reports of HIV infection identified before the effective date of such administrative rules. Certain university-based medical research protocols would no longer be exempt from HIV reporting.

The bill eliminates requirements for the Department of Health to submit an annual report to the Legislature by February 1 of each year relating to all information obtained pursuant to its duties for HIV reporting.

The bill revises statutory requirements relating to testing of pregnant women, to require every medical physician, osteopathic physician, or midwife attending a pregnant woman to cause the woman to be tested for sexually transmissible diseases, including HIV, as required by rule of the department. Requirements for the tests to be done with a blood sample are eliminated. The pregnant woman must be notified that the tests for sexually transmissible diseases, including HIV, will be conducted, and of her right to refuse testing. If a pregnant woman objects to testing, a written statement of objection, signed by the woman, must be placed in the woman's medical record and testing may not occur. Provisions that require the health care provider to obtain a blood sample from the pregnant woman and to offer HIV testing and counseling are deleted. The bill eliminates requirements that make a medical physician, osteopathic physician, or midwife who attends a pregnant woman who objects to HIV testing immune from liability arising out of or related to the contracting of HIV infection or AIDS by the child from the mother, to conform to the changes in the section that require all pregnant women to be tested for HIV.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 108-2

CS/CS/SB 626 — Portable Restroom Contracting

by Health and Human Services Appropriations Committee; Health Care Committee; and Senators Constantine and Campbell

This bill provides for the regulation of portable restroom contractors. The bill requires portable restroom contractors to be registered by the Department of Health; authorizes the department to develop rules for these contractors; provides for suspension or revocation of registration; requires the department to establish fees for registration as a portable restroom contractor; provides that the department may impose a fine for violations under the portable restroom contracting regulations; gives the department the authority to regulate, permit, and inspect the use of portable restrooms, mobile restrooms, mobile shower trailers and associated wastewater holding tanks; gives the department the authority to issue citations for violations of these regulations and gives the department the authority to reduce or waive the fine imposed by the citation; and requires the

department to deposit any fines it collects in the county health department trust fund for use in providing portable restroom contracting services.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 111-0

HB 869 — Crohn's and Colitis Disease Research

by Rep. Sobel and others (CS/SB 1926 by Health Care Committee and Senators Margolis and Wilson)

This bill requires the Department of Health, in conjunction with the University of Florida College of Public Health and Health Professions, to conduct an epidemiological study of inflammatory bowel disease to gain a better understanding of the prevalence of the disease in the state, the demographic characteristics of the patient population, and the role that family history and environment play in the disease. The department is authorized to convene a study group to conduct the epidemiological study, and the membership is specified in the bill. The department must report its findings to the Governor and Legislature by February 1, 2006.

The bill requires the Agency for Health Care Administration to conduct a chronic disease study on coverage standards provided by Medicaid for inflammatory bowel disease therapies and report its findings to the Governor and Legislature by February 1, 2006.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 113-0

CS/CS/SB 874 — Sale and Distribution of Prescription Drugs

by Health and Human Services Appropriations Committee; Health Care Committee; and Senator Peaden

The bill revises provisions relating to the wholesale distribution of prescription drugs in Florida. The bill revises the definition of "pedigree paper" to provide that a pedigree paper is a document in either paper or electronic form. The definition is also revised to include additional information that must be included on a legend drug's pedigree paper and to clarify that the pedigree papers must include a certification that the recipient wholesaler has authenticated the pedigree papers. If the manufacturer or repackager has uniquely serialized the individual legend drug unit, that identifier must also be included on the pedigree.

The bill revises the definition of "wholesale distribution" to exempt the sale, purchase, or trade of a prescription drug between pharmacies because of a sale, transfer, merger, or consolidation of all or part of the business of the pharmacies from or with another pharmacy, whether accomplished as a purchase and sale of stock or of business assets.

The bill deletes the expiration date of July 1, 2006, for provisions relating to requirements for wholesale drug distributors to provide pedigree papers so that chain drug store warehouses and repackaging operations, including retail pharmacies within an affiliated group that distributes drugs only to members of their affiliated group, would continue to be exempt from passing the pedigree papers.

The bill prohibits the Agency for Health Care Administration from reviewing or using certain violations relating to recordkeeping for prescription drugs to deny or withhold Medicaid payments to pharmacies or to audit pharmacies' records.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-1

CS/SB 1094 — Blood Donor Protection Act

by Governmental Oversight and Productivity Committee and Senator Smith

The bill creates the "Blood Donor Protection Act" to provide that a blood bank, subsidiary or affiliate of a blood bank, an employee or agent of a blood bank, or a subsidiary or affiliate of an agent or employee of a blood bank, may not be compelled to disclose the identity or any identifying characteristics of a person who donates blood or any blood component. The prohibition against compelling a blood bank or its agent to disclose the identity or any identifying characteristics of a person who donates the blood or blood component does not apply if written consent is obtained from the donor to disclose the donor's identity or any identifying characteristics of the donor. The prohibition does not preclude disclosure to a local, state, or federal governmental public health authority as required by law.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

HB 1347 — Controlled Substances

by Rep. Evers and others (CS/SB 2352 by Criminal Justice Committee and Senators Peaden, Posey, and Lynn)

The bill amends the Florida Comprehensive Drug Abuse Prevention and Control Act to revise the listed precursor chemicals and the listed essential chemicals that may be used to manufacture controlled substances in violation of ch. 893, F.S., to conform to federal requirements for precursor or essential chemicals used to manufacture controlled substances.

The bill makes it unlawful for any person to manufacture methamphetamine or phencyclidine, or to possess any listed chemical with intent to manufacture methamphetamine or phencyclidine, and to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of an assisted living facility. The bill increases

penalties for the manufacture of methamphetamine or phencyclidine or the possession of any listed chemical with intent to manufacture methamphetamine or phencyclidine if the offense occurs in a structure or conveyance where any child under 16 years of age is present. The bill makes it unlawful to possess 14 grams or more of pseudoephedrine, such as Sudafed®, in conjunction with other chemicals and equipment used in the manufacture of amphetamine or methamphetamine and the offense is subject to the felony penalties of the drug trafficking provisions under ch. 893, F.S.

The bill makes it unlawful for any person to store anhydrous ammonia in a container that is not approved by the U.S. Department of Transportation to hold anhydrous ammonia or is not constructed in accordance with sound engineering, agricultural, or commercial practices.

The bill makes it unlawful for a person to knowingly deliver in any single retail over-the-counter sale any number of packages of any drug containing a sole active ingredient that contains a combined total of more than 9 base grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, or more than three packages in any single retail over-the-counter sale, regardless of weight, containing any such sole active ingredient. Additionally, no person shall knowingly display and offer for retail sale packages of such drug other than behind a checkout counter where the public is not permitted or other such location that is not otherwise accessible to the general public. Also, no person who is the owner or primary operator of a retail outlet where such drug is available for sale shall knowingly allow an employee to engage in the retail sale of such products unless the employee has completed an employee training program that shall include, at a minimum, basic instruction on state and federal regulations relating to the sale and distribution of such products. The initial violation of these restrictions is a second degree misdemeanor, punishable by a fine. A second violation is a first degree misdemeanor, a third or subsequent violation is a third degree felony.

The requirements relating to the marketing, sale, or distribution of ephedrine, pseudoephedrine, or phenylpropanolamine products supersede any local ordinance or regulation passed by a county, municipality, or other local governmental authority.

If approved by the Governor, these provisions take effect July 1, 2005 and apply to offenses committed on or after that date.
Vote: Senate 39-0; House 114-0

SB 1450 — Arthritis Prevention and Education

by Senator Klein

The bill creates the "Arthritis Prevention and Education Act," to require the Department of Health to establish an arthritis prevention and education program and to conduct a needs assessment to identify research on arthritis, the needs of persons with arthritis, and services

available to persons with arthritis. The department must establish and coordinate a statewide partnership on arthritis to collaborate on and address arthritis issues in Florida, and use strategies consistent with existing national and state efforts to raise public knowledge on the causes and nature of arthritis, personal risk factors, the value of prevention and early detection, ways to minimize preventable pain through evidence-based self-management interventions, and options for diagnosing and treating the disease. The department must establish, promote, and maintain an arthritis prevention and education program and carry out other related duties, to the extent that funds are specifically made available to implement the bill. The bill authorizes the Secretary of Health to accept grants, services, and property from various sources to fulfill the obligations of the program and to seek any federal waiver that may be necessary to maximize funds from the federal government.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

PUBLICLY FUNDED HEALTH CARE COVERAGE

HB 569 — Florida KidCare Program

by Rep. Garcia and others (CS/SB 1324 by Health Care Committee and Senators Rich, Lynn, Wilson, Hill, Atwater, Klein, Dawson, Bennett, Miller, Dockery, Peaden, Villalobos, and Bullard)

This bill allows continuous, year-round enrollment in the Florida KidCare program by removing statutory language restricting open enrollment to January and September of each year. The bill also provides that a KidCare application is valid for a period of 120 days from the date it was received. At the end of the 120-day period, if the applicant has not been enrolled in the program, the application is rendered invalid and the applicant must be notified of the action. The applicant may then resubmit the application after notification.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-0

CS/CS/SB 838 — Medicaid

by Ways and Means Committee; Health Care Committee; and Senators Peaden, Atwater, Campbell, Carlton, Rich, Saunders, and Lynn

The bill contains both short and long-term Medicaid reform activities, demonstration projects, and studies designed to improve efficiency and achieve sustainable growth in Florida's Medicaid program. Specifically, the bill:

- Requires the Agency for Health Care Administration (AHCA) to contract with a vendor to identify and counsel providers whose clinical practice patterns are outside normal practice patterns to improve patient care and reduce inappropriate utilization.

- Authorizes AHCA to use more single-source contracting to reduce costs, without limiting access to care.

- Requires AHCA to determine if purchasing medical equipment is less expensive than rental and authorizes AHCA to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse.

- Requires that provider service network contracts currently in effect shall be extended for a period of 3 years and provides a definition for a provider service network.

- Directs AHCA to pilot test an integrated, fixed payment long-term care delivery system in two, nondesignated areas of the state, with one site having voluntary participation and one site having mandatory participation. The bill specifies the types of long-term care funds to be combined under the system and the types of health plans that can participate in the system. Implementation of the long-term care delivery system is contingent upon the approval of the federal waiver by the Legislature. The Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to evaluate the long-term care pilot program.

- Requires AHCA to consider business cases for changing reimbursement rates for certain services if the change reduces costs in other parts of the Medicaid program.

- Requires the Comprehensive Assessment and Review for Long-term Care Services (CARES) staff to identify Medicare patients in nursing homes who are being inappropriately disqualified from coverage under Medicare and assist with appeal of the disqualification, contingent on whether this authority is determined to be a reimbursable service under Medicaid rules.

- Requires AHCA to contract with an entity to develop a real-time utilization tracking system or electronic medical record for Medicaid recipients.

- Requires AHCA to develop emergency department diversion programs in conjunction with those being developed in the private sector as a result of HB 1629 from the 2004 Legislative Session.

- Modifies the Medicaid prescription drug utilization program to permit dispensing practitioners to participate in the Medicaid pharmacy network regardless of their proximity to other dispensing entities. The bill requires AHCA to implement a prescription-drug-management system to coordinate proper clinical practices among

physicians and pharmacists. The bill requires AHCA to study whether its reuse program can be expanded to reduce the unnecessary destruction of drugs.

- Allows mental health crisis care to be provided in licensed crisis-stabilization facilities if it is less costly.

- Specifies waiver authority for AHCA to establish a statewide Medicaid reform initiative contingent upon federal approval to preserve the upper-payment-limit funding mechanism for hospitals and contingent upon protection of the disproportionate share program authorized pursuant to ch. 409, F.S. It further provides that phase one of this demonstration project shall be implemented in two geographical areas. One site shall include only Broward County, a second site shall initially include Duval County and shall be expanded to include Baker, Clay, and Nassau Counties within 1 year after the Duval County program becomes operational. Upon completion of the evaluation, after 24 months of operation of the pilot projects, AHCA may request statewide expansion. Statewide phase-in to additional counties is contingent upon review and approval of the Legislature.

The bill enumerates the powers, duties, and responsibilities AHCA shall have with respect to the development of the demonstration program. AHCA is required to:

1. Include the delivery of all mandatory services specified in s. 409.905, F.S., and optional services specified in s. 409.906, F.S., as approved by the Centers for Medicare and Medicaid Services and the Legislature. Services to recipients under plan benefits are required to include emergency services;
2. Recommend Medicaid-eligibility categories to be included in the program;
3. Determine and recommend actuarially sound, risk-adjusted capitation rates;
4. Determine and recommend program standards and credentialing requirements for health plans to participate in the program including allowing federally-qualified health centers, federally qualified rural health clinics, county health departments, and other public providers to participate in the reform program if willing;
5. Develop a system for assisting recipients in choosing among health plans in the program (choice counseling), including types of materials that must be provided, multi-lingual requirements, anti-fraud and recipient recruiting requirements, verification requirements that a recipient received choice counseling; and authority to allow the agency to contract for the service;
6. Develop a grievance procedure for recipients and providers;
7. Develop and recommend a monitoring system to prevent fraud and abuse by plans, their providers, and recipients;
8. Develop a system where plans compensate school districts for services they must provide to their students on Medicaid; and
9. Develop a system that addresses special needs of children with chronic medical conditions, persons with developmental disabilities, and children in foster care.

10. Provide an opt-out option to allow recipients to purchase employer-sponsored coverage, but allows a recipient to reenroll in Medicaid within a certain timeframe if the opt-out option was not the best choice for the individual.

The bill requires AHCA to post all waiver applications to implement this program on its Internet website 30 days prior to submission to the federal government. All waiver applications must be provided to the House and Senate 10 days before submission to the federal government and all waivers approved by the federal government may not be implemented without review and approval of the Legislature as a whole.

The bill requires OPPAGA and the Auditor General to conduct an evaluation of the pilot to be provided to the Governor and the Legislature no later than June 30, 2008, to consider statewide expansion.

- Requires that Medicaid lung transplants be reimbursed using a global payment methodology and appropriates funds for these services.

- Requires that at least 5 percent of Medicaid audits to detect Medicaid funds lost to fraud and abuse be conducted on a random basis.

- Requires Medicaid recipients to be provided explanations of benefits.

- Requires AHCA to study the legal and program barriers to enforcing copayments in the Medicaid program.

- Requires AHCA to develop recommendations to improve third-party liability recoveries and ensure that Medicaid is the payor of last resort.

- Requires OPPAGA to study and confirm the value of nursing home diversion programs.

- Requires AHCA to study mechanisms for collecting patient-responsibility payments from persons in the diversion programs.

- Requires OPPAGA to conduct a study of Medicaid buy-in programs, and whether the Medically Needy program can be redesigned to be a Medicaid buy-in program.

- Requires OPPAGA, in consultation with the Attorney General's Medicaid Fraud Control Unit and the Auditor General, to study potential fraud and abuse by pharmaceutical manufacturers in their pricing and rebate practices in Medicaid. Requires the report to be submitted to the Legislature and Governor by January 1, 2006.

The bill repeals provisions of SB 404, the Health Appropriations Conforming bill, that changes the agency's rule-making authority related to rate setting in ch. 120, F.S., removes rates from

provider contracts, allows the agency to adjust Medicaid rates in provider contracts with only a 48-hour notice, and removes a provider's right to an administrative hearing under ch. 120, F.S. Instead, the bill requires the Senate Select Committee on Medicaid Reform to study how provider rates are established and modified.

The bill also provides Medicaid HMOs a 2.8 percent rate increase.

The sums of $7,129,241 in recurring General Revenue Funds, $9,076,875 in nonrecurring General Revenue Funds, $8,608,242 in recurring funds from the Administrative Trust Fund, and $9,076,874 in nonrecurring funds from the Administrative Trust Fund are appropriated and 11 full time equivalent positions are authorized for the purpose of implementing this act.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-1; House 88-24

SB 1122 — Third Party Liability

by Senator Saunders

This bill authorizes the Department of Revenue to provide the Agency for Health Care Administration with estate tax information for purposes of determining recoveries through the state's Medicaid Estate Recovery Act. The bill also reenacts the existing confidentiality provisions relating to this information. The bill requires third-party administrators and pharmacy benefits managers to provide data to the agency for purposes of determining Medicaid third party liability and requires a copy of a death certificate to be included with any notice to creditors served on the agency.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 118-0

CS/SB 1208 — Long-Term Care Partnership Program

by Health Care Committee and Senators Peaden, Fasano, Klein and Lynn

The bill directs the Agency for Health Care Administration to establish the Florida Long-term Care Partnership Program to provide incentives for individuals to purchase long-term care insurance. A person who participates in the partnership is able to qualify for coverage for the costs of long-term care under Medicaid without first being required to substantially exhaust or "spend down" his or her assets. The amount of countable assets for purposes of determining eligibility for Medicaid would be reduced by $1 for each $1 of benefits paid by an individual's long-term care partnership program policy.

Prior to the next legislative session, the agency is required to develop a plan for implementation of the Florida Long-Term Care Partnership Program in the form of recommended legislation.

The bill would take effect upon becoming law, except that the amendments relating to Medicaid eligibility are effective contingent upon action by Congress to amend section 1917(b)(1)(c) of the federal Social Security Act.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

PUBLIC RECORDS AND MEETINGS EXEMPTIONS

HB 185 — Child Abuse Death Review/Public Records and Meetings Exemptions

by Rep. Harrell and others (CS/SB 676 by Governmental Oversight and Productivity Committee and Senator Saunders)

The bill creates public records and public meetings exemptions for the State Child Abuse Death Review Committee and local committees. The bill makes any information that reveals the identity of the surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by the State Child Abuse Death Review Committee or a local committee, or a panel or committee assembled by the state committee or a local committee, confidential and exempt from the Public Records Law. The bill also exempts those portions of meetings of the State Child Abuse Death Review Committee or a local committee, or a panel or committee assembled by the state committee or a local committee, at which such confidential and exempt information is discussed.

The bill makes the exemptions subject to Open Government Sunset Review and provides a statement of public necessity justifying the creation of the public records and public meetings exemptions.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 112-0

CONSTITUTIONAL AMENDMENTS

CS/SB 938 — Adverse Medical Incidents

by Health Care Committee and Senators Peaden and Crist

This bill implements s. 25, Art. X, of the State Constitution, which provides patients access to records of adverse medical incidents. The bill provides a popular title, the "Patients' Right-to-Know About Adverse Medical Incidents Act." The act requires hospitals, ambulatory surgical centers, mobile surgical facilities, medical physicians, osteopathic physicians, and

podiatric physicians to provide access to records of adverse medical incidents that occurred on or after November 2, 2004. An adverse medical incident means medical negligence, intentional misconduct, or any other act, neglect, or default of a health care facility or health care provider, which caused, or could have caused, injury or death to a patient. A patient may have access to a final adverse medical incident report of the facility or provider of which he or she is a patient, which involves the same, or substantially similar, condition, treatment, or diagnosis as that of the patient requesting access. A patient must request adverse medical incident records in writing and must provide his or her name; address; the last four digits of his or her social security number; a description of his or her condition, treatment, or diagnosis; and the name of the health care providers whose records are being sought.

The act prohibits the disclosure of the identity of patients involved in an adverse medical incident report. The records of adverse medical incidents obtained by a patient under this act are not discoverable or admissible into evidence in any civil or administrative action against a health care facility or provider, unless otherwise provided by the an act of the Legislature. The act establishes fees that may be charged for copies of records.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-2; House 110-3

CS/SB 940 — Repeated Medical Malpractice

by Health Care Committee and Senators Peaden and Crist

The bill implements s. 26, Art. X of the State Constitution, which provides that "[n]o person who has been found to have committed three or more incidents of medical malpractice shall be licensed or continue to be licensed by the State of Florida to provide health care services as a medical doctor." The bill applies the constitutional provision to allopathic and osteopathic physicians. Only incidents that occurred on or after November 2, 2004, may be considered for purposes of the prohibition on licensure for repeated medical malpractice. The Board of Medicine and the Board of Osteopathic Medicine, when revoking a license, or granting or denying a license must review the facts supporting an incident of medical malpractice using a clear and convincing standard of evidence. The time for the boards to review physician licensure applications is extended from 90 to 180 days. Acts of medical malpractice, gross medical malpractice, or repeated malpractice, as grounds for which an allopathic or osteopathic physician may be disciplined, are redefined to implement s. 26, Art. X of the State Constitution. Incident is defined to include a single act of medical malpractice, regardless of the number of claimants. Multiple findings of medical malpractice arising from the same act or acts associated with the treatment of the same patient must count as only one incident.

Beginning July 1, 2005, the Department of Health must verify each physician's disciplinary history and medical malpractice claims at initial licensure and licensure renewal using the

National Practitioner Data Bank. The physician profiles must reflect the disciplinary action and medical malpractice claims as reported by the National Practitioner Data Bank.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-3; House 113-0

HB 1659 — Parental Notice of Abortion Act

by Rep. Kottkamp and others (CS/SB 1908 by Judiciary Committee and Senators Dockery, Fasano, Webster, Bullard, Peaden, Lawson, King, Garcia, Haridopolos, Diaz de la Portilla, Saunders, Pruitt, Wise, Alexander, Atwater, Lynn, Argenziano, Jones, Bennett, Sebesta, Baker, Villalobos, and Posey)

This bill will implement s. 22, Art. X, State Constitution, which authorizes the Legislature to require by general law for notification to a parent or guardian of a minor before the termination of the minor's pregnancy. The bill requires a physician to give actual notice in person or by telephone 48 hours before the termination of a minor's pregnancy. If actual notice is not possible after a reasonable effort has been made, the physician performing the termination of pregnancy or the referring physician must give constructive notice in writing, signed by the physician, and mailed at least 72 hours before the termination of the minor's pregnancy to the last known address of the parent or legal guardian. Constructive notice must be sent by certified mail, return receipt requested, with delivery restricted to the parent or legal guardian. After the 72 hours have passed, delivery of the constructive notice is deemed to have occurred. Violation of the notification requirement constitutes grounds for disciplinary action against the physician under the physician's practice act.

Notice is not required if: a medical emergency exists and there is insufficient time for the physician to comply with the notice requirements; the person entitled to notice waives in writing his or her right to notice; the minor is or has been married or is emancipated; the minor waives notice because she has a minor child dependent on her; or notice is waived by the judicial waiver procedure that is established in the bill.

A minor may petition any circuit court in a judicial circuit within the jurisdiction of the District Court of Appeal in which she resides for a waiver of the notice requirement, and she may file the petition under a pseudonym or through the use of initials, as provided by court rule. The court must advise the minor that she has a right to court-appointed counsel and must provide her with counsel upon her request at no cost to the minor. The court must rule within 48 hours unless the 48-hour limitation has been extended at the request of the minor. If the court does not rule within 48 hours and the limit has not been extended, the petition is granted and the notice requirement is waived.

If the court finds by clear and convincing evidence that the minor is sufficiently mature to decide whether to terminate her pregnancy, the court must issue an order authorizing the minor to

consent to the termination of pregnancy without notification of a parent. If the court finds by a preponderance of the evidence that there is evidence of child abuse or sexual abuse of the petitioner by a parent or guardian, or that the notification of a parent or guardian is not in the best interest of the minor, the court must issue an order authorizing the minor to consent to the termination of pregnancy without notification of a parent or guardian. If the court does not find one of the following — that the minor is sufficiently mature to decide, that there is evidence of child abuse or sexual abuse of the minor by a parent or guardian, or that notification of a parent or guardian is not in the best interest of the petitioner — the court must dismiss the petition.

The bill requires a written transcript of all testimony and proceedings and requires confidentiality of the proceedings under s. 390.01116, F.S. A separate public records bill, CS/SB 798 amended s. 390.01116, F.S., to apply the public records exemption to the provisions of this bill. (See Session Summary by the Judiciary Committee.)

The bill requires an expedited and confidential appeal, provides for waiver of filing fees and court costs, and provides that counties are not required to pay for court-appointed counsel. The bill requests the Supreme Court to adopt rules and forms for petitions, including provisions addressing confidentiality; and requires the Supreme Court to report annually to the Governor and the Legislature on the number of petitions filed, and the timing and manner of disposal of the petitions.

If approved by the Governor, these provisions take effect upon adoption of rules and forms by the Supreme Court, but no later than July 1, 2005.
Vote: Senate 36-3; House 96-14

CIVIL LIABILITY

HB 1019 — Asbestos and Silica Compensation Fairness Act

by Rep. Pickens and others (CS/SB 2562 by Judiciary Committee and Senators Webster and Clary)

The bill creates the "Asbestos and Silica Compensation Fairness Act" (act). The act specifies a legislative purpose, provides definitions, and imposes requirements on litigants who wish to file an asbestos or silica claim. The act requires plaintiffs to make a prima facie showing that actual physical impairment has occurred based on criteria specified in the bill for: a nonmalignant asbestos claim; if a smoker, an asbestos claim based upon cancer of the lung, larynx, pharynx, or esophagus; an asbestos claim based upon cancer of the colon, rectum, or stomach; silicosis claim; or other silica claim. The act provides that no prima facie showing of an impairment due to asbestos exposure is required for: an asbestos claim by a nonsmoker based on cancer of the lung, larynx, pharynx, or esophagus; or an asbestos claim based upon mesothelioma.

In any civil action alleging an asbestos or silica claim, the plaintiff must file a written report and supporting tests to support his or her prima facie evidence of physical impairment with a court. A plaintiff may bring a claim in Florida only if the plaintiff is domiciled in this state or if exposure to asbestos or silica occurred in Florida. Any plaintiff with a claim pending on or after the effective date of the act must file the written report with the court no later than 30 days prior to setting a date for trial. The claim must be dismissed without prejudice if a finding is made of failure to make the required prima facie showing.

In addition to the written report, such plaintiffs must file a: verified written report disclosing the total amount of any collateral source payments received within 60 days after the effective date of the bill for pending asbestos or silica claims, or at least 30 days before trial; and a sworn information form that contains specified information. The court must permit setoff, based on the collateral source payment information that the plaintiff provides, in accordance with the laws of this state as of the effective date of the bill.

Notwithstanding any other law, with respect to any asbestos or silica claim not barred as of the effective date of this act, the statute of limitations does not begin to run until the exposed person discovers, or through the exercise of reasonable diligence should have discovered, that he or she is physically impaired by an asbestos related condition. Damages may not be awarded for fear or risk of cancer in a civil action asserting an asbestos or silica claim. A settlement of a nonmalignant asbestos or silica claim concluded after the effective date may not require, as a condition of settlement, release of any future claim for asbestos-related or silica-related cancer.

The act establishes the rules for liability for product sellers, renters, and lessors of asbestos or silica products in a civil action. A court may not award any punitive damages in any civil action alleging an asbestos or silica claim. The act does not affect the rights of any party in bankruptcy proceedings. The act may not be interpreted to prevent any person from bringing or maintaining an asbestos claim based on nonoccupational exposure where such person would be otherwise able to bring or maintain a claim under this bill.

The act specifies that because the act expressly preserves the right of all injured persons to recover full compensatory damages for their loss, it does not impair vested rights. The act applies to any civil action asserting an asbestos or silica claim in which trial has not commenced as of the effective date of this act.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 32-8; House 103-13

FAMILY LAW

CS/SB 152 — Alimony

by Judiciary Committee and Senator Siplin

This committee substitute amends s. 61.14, F.S., to authorize a court to reduce or terminate an alimony award upon specific written findings that a supportive relationship exists between the recipient and a third party. These provisions apply to relationships between a recipient of alimony and a third party who are not related but live together.

Judicial Criteria

The court is required to consider certain factors, including the extent to which:

- The obligee and the other person hold themselves out as a married couple;
- Assets or income are pooled or financial interdependence exists;
- The obligee and the other person have supported each other;
- Valuable services are performed for each other, or the other's company or employer;
- The obligee and the other person have created or enhanced something of value; and
- An express or implied agreement exists regarding property sharing or support.

Additional factors for the court to consider are the length of time that the obligee and the other person have lived together in a permanent place of abode; whether property has been jointly purchased; and whether the obligee and the other person have provided support to the children of one another, regardless of whether legally obligated to do so.

Policy

The committee substitute specifies that the provisions do not eliminate the requirement that every marriage in this state must be licensed to be valid, and do not recognize common law marriage. Instead, this legislation recognizes that relationships exist that provide economic support equal to that of a marriage, and that alimony may be modified upon a showing of equivalent equitable circumstances. Proof that a relationship is conjugal is not a prerequisite to a modification of alimony.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 34-6; House 68-44

CS/SB 348 — Family Court Efficiency

by Health and Human Services Appropriations Committee and Senators Lynn, Rich, and Bullard

This committee substitute creates s. 25.375, F.S., to facilitate a uniform system of judicial case management. This committee substitute also makes various changes to Florida's laws on dependency (ch. 39, F.S.), child custody (ch. 61, F.S.), domestic violence (ch. 741, F.S.), and child support (ch. 409, F.S.) to improve the efficiency and operation of the court's response to issues affecting children.

Personal Identifier

The Supreme Court is authorized to create a unique identifier for each person to identify all court cases related to that person or his or her family, by collecting part of the person's social security number. The Supreme Court, the Criminal and Juvenile Justice Information System Council, the Article V Technology Board, and the Florida Association of State Court Clerks are required to make recommendations to the Governor and the Legislature by January 2, 2006 regarding the creation and implementation of a unique personal identifier.

Issues Relating to Children

The committee substitute amends various provisions relating to legal actions and agency participation involving children:

- A final order entered in an adjudicatory hearing is admissible in evidence in certain subsequent court hearings relating to children.
- Parenting courses must be approved by the Department of Children and Family Services, and the department is required to maintain and provide a list of current parenting course providers to each judicial circuit.
- Parents in a dissolution action are required to complete parenting courses within 45 days after a dissolution petition is filed, unless excused by the court.
- Temporary custody orders remain valid until the order expires or until replaced by a subsequent order.
- The Department of Corrections is replaced by the Department of Children and Family Services as the agency designated to certify batterers' intervention programs.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 111-0

CRIMINAL LAW

HB 285 — Right to Speedy Trial

by Rep. Hukill and others (CS/SB 214 by Judiciary Committee and Senator Lynn)

This bill creates an unnumbered section of statute to provide a victim and the state with a right to a speedy trial. The state attorney is authorized to file a demand for speedy trial in misdemeanor and felony cases, provided that the state has met its discovery obligations, the court has granted at least three continuances upon the defendant's request, and, either:

- For a felony case, it is not resolved in 125 days after formal charges are filed and the defendant is arrested or served with a notice to appear; or

- For a misdemeanor case, it is not resolved in 45 days after formal charges are filed and the defendant is arrested or served with a notice to appear.

Court Procedure

The trial court is required to schedule a calendar call within five days of the filing of speedy trial demand, at which time the trial must be scheduled to begin no earlier than five days or later than 45 days after the calendar call. Additionally, the trial court is authorized to delay the trial date for up to 30 additional days where the defendant shows that a necessary witness failed to appear at both a properly served deposition and a subsequently scheduled, court-ordered deposition. Where the court grants counsel a motion to withdraw and appoints other counsel, the trial date may also be postponed for 30 to 70 days. Each of these time periods is extendable to prevent deprivation of the defendant's due process rights.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 113-1

CS/SB 512 — Protective Injunctions

by Children and Families Committee and Senators Aronberg and Lynn

This bill amends s. 784.046, F.S., to heighten evidentiary requirements for a parent or legal guardian of a minor living at home filing a petition for a protective injunction on the minor's behalf, when the party named in the petition is also a parent, stepparent, or legal guardian.

In instances where a sworn protective injunction petition is filed by a parent or guardian on behalf of a minor living at home, based on allegations of repeat, sexual, or dating violence, different standards of evidence are required depending on the relationship between the minor and the party named in the petition. These are:

- If the party against whom the protective injunction is sought is also a parent, stepparent, or legal guardian of the minor child, the parent or legal guardian petitioner must have eye-witnessed the violence, or have direct physical evidence or affidavits from eyewitnesses of the specific incidents that form the basis of the petition;

- In all other cases, the petitioner is only required to have reasonable cause to believe that the minor has been victimized by repeat, sexual, or dating violence.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 117-0

DEBTORS AND CREDITORS

CS/CS/SB 370 — Procedures for the Satisfaction of Debts

by Justice Appropriations Committee; Judiciary Committee; and Senator Campbell

The committee substitute makes clarifying and technical changes to provisions in Florida law relating to judgment liens, garnishment, and security interests in mortgages. The committee substitute amends various sections of statute to:

- Clarify provisions relating to the responsibilities of a clerk of court regarding the satisfaction of a judgment lien.

- Clarify provisions relating to the timing for filing a judgment lien certificate.

- Clarify provisions regarding instructions to the sheriff and record-keeping by the Department of State.

- Remove an unnecessary sentence that has been read to require the filing of a judgment lien certificate as a condition precedent to seeking garnishment.

- Make clarifying changes to the "Uniform Out-of-Country Foreign Money-Judgment Recognition Act."

- Make clarifying changes to provisions relating to the execution of liens and execution sales to recognize the possibility of multiple judgment lien creditors and give control over the mailing of notices to the sheriff.

- Recognize that the provisions of s. 56.27, F.S., apply to liens on real property, as well as liens on personal property.

- Remove the requirement of having an execution levied on the assets of a judgment debtor prior to initiating proceedings supplementary to identify assets of the judgment debtor.

- Permit judgment holders to choose either a writ of execution or writ of garnishment to collect a judgment.

- Extend the time by one business day for the garnishee to act expeditiously on the writ.

- Extend by one business day the amount of time in which a judgment holder must object to a judgment debtor's claims of exemption from garnishment, and allow the plaintiff to extend the writ for an additional 6 months.

- Provide that a homestead property owner may use the notice of homestead provisions for liens based on foreign judgments.

- Provide a clarifying reference within the definition of "lien creditor" in the Uniform Commercial Code provisions of Florida law relating to secured transactions.

- Clarify that a security interest in a mortgage is perfected by possession or filing of the promissory note made in connection with the mortgage.

- Clarify that, for transactions involving real property, creditors and subsequent purchasers may rely on the records filed with the clerk of court as opposed to Uniform Commercial Code filings.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.
Vote: Senate 39-0; House 115-0

CS/SB 660 — Assets Held in Benefit Plans

by Banking and Insurance Committee and Senators Carlton and Posey

This committee substitute revises several provisions of law related to estate and tax planning.

Assets Exempt from Creditor Claims

Funds held in the Florida Prepaid College Program and the Florida College Savings Program are exempt from creditor claims under existing Florida law. The committee substitute provides that Coverdell Education Savings Accounts, which are tax-advantaged accounts used to save for education expenses, are accorded the same treatment.

The committee substitute increases the creditor protection afforded individual retirement accounts and tax-qualified employee benefit plans. The committee substitute also includes governmental and church plans that are tax-exempt in the exemption from creditor claims.

Benefit Plans

The committee substitute broadens the definition of the term "benefit plan" to mean a retirement plan that may include, but is not limited to, any pension, profit-sharing, stock bonus, or stock-ownership plan or individual retirement account. The committee substitute then provides that these benefit plans may be delivered to a custodian for the benefit of a minor, to a child's parents as natural guardians, or to a trustee designated by the owner of the benefit plan upon the death of the owner. The committee substitute also raises from $10,000 to $15,000 the amount that may be given to a custodian by certain persons without court involvement.

Additionally, the committee substitute defines the term "qualified minor's trust" as a trust that complies with s. 2503(c) of the Internal Revenue Code. That code provision requires that trusts for the benefit of persons under the age of 21 distribute their assets to the beneficiary when the beneficiary reaches the age of 21. The committee substitute further provides that an adult custodian of property for a minor may transfer the custodial property into a qualified minor's trust.

Hurricane Savings Accounts

The committee substitute provides that the assets in a hurricane savings account are exempt from creditor claims if they are accorded a tax-advantaged status by the federal government. The purpose of the account is to cover losses from hurricanes, rising flood waters, and other catastrophic windstorm events.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 118-0

JUDICIARY/LITIGATION

HB 1935 — State Judicial System

by Judiciary Committee and Rep. Simmons and others (CS/CS/SB 2542 by Justice Appropriations Committee; Judiciary Committee; and Senators Smith and Fasano)

This bill addresses the state's continued implementation of Revision 7 to Article V of the State Constitution. In addition to making technical or administrative refinements to the state judicial system, the bill includes the following significant provisions.

Determination of Indigent Status

The bill substantially revises the existing statutory determination of indigency provisions under s. 27.52, F.S., to focus the provisions principally on criminal cases, and creates a new, separate section (s. 57.082, F.S.) relating to determinations of indigent status in eligible civil cases. Both sections prescribe:

- Procedures for applying to the clerk of court for a determination of indigent status;
- Criteria to be used by the clerk in reviewing applications;
- Procedures for an applicant to seek judicial review of a clerk's determination;
- Conditions under which the court may appoint counsel on an interim basis;
- First-degree criminal penalties for knowingly providing false information to the clerk or court in seeking a determination of indigent status.

The criminal indigency provisions also prescribe that a person who is eligible for representation by a public defender but who is represented by private counsel not appointed by the court, or who is representing himself or herself, may be deemed "indigent for costs," enabling the person to access public funding for services, such as expert witnesses, which are often associated with a legal defense.

Clerk of Court Budget Authority

The bill authorizes the Legislative Budget Commission to approve an increase to a clerk of court's maximum annual budget if: 1) the additional funding is necessary to pay the cost of performing new or additional functions stemming from changes in law or court rules; or 2) the additional funding is necessary to pay the cost of supporting increases in the number of judges or magistrates authorized by the Legislature. Before the commission may approve an increase, the Clerks of Court Operations Corporation must report on whether the clerk is meeting or exceeding established performance standards for measures on fiscal management, operational efficiency, and effective revenue collection.

Teen Courts

Currently, s. 939.185, F.S., authorizes teen court programs to receive funding from a portion of a $65 surcharge on criminal convictions. This bill amends s. 938.19, F.S., to authorize counties to assess a mandatory court cost of up to $3 on persons convicted of, or pleading guilty to, a violation of a criminal law or a municipal or county ordinance, or who pay a fine or civil penalty for a state uniform traffic control violation. The moneys are to be used for the purpose of funding teen court programs. The bill prohibits a teen court from receiving funding under the existing

authority in s. 939.185, F.S., and from receiving funding under the new authority established in s. 938.19, F.S.

Appropriations

The bill provides the following appropriations:

- $1.5 million in recurring funds from the General Revenue Fund to the Justice Administrative Commission (commission) for public defender due process services for FY 2005-2006;

- $800,000 in recurring funds from the General Revenue Fund to the commission for state attorney due process services for FY 2005-2006;

- $182,885 in recurring funds from the General Revenue Fund to the State Attorney for the Eleventh Judicial Circuit for state attorney operations for FY 2005-2006.

The bill also increases the maximum annual budget for the clerk of the circuit of Miami-Dade County by $3.8 million for county FY 2004-2005.

Other Significant Provisions

In addition, the bill:

- Delineates the appointment and funding responsibilities for competency experts;

- Specifies that 56.4 percent of the remainder of any civil penalties received by a county court for violations that occurred within the unincorporated area of certain consolidated governments are to be deposited into the fine and forfeiture fund;

- Authorizes certain consolidated governments to impose, until September 30, 2007, surcharges on noncriminal traffic infractions and criminal traffic violations, as well as in cases in which a person pleads guilty to, or is convicted of, a felony, misdemeanor, or criminal traffic offense, in order to replace fine revenue that the government deposits into the clerk's fine and forfeiture fund;

- Extends from 2006 to 2007 the deadline for clerks to assume responsibility for redaction of social security numbers in court records;

- Requires the Justice Administrative Commission (commission) to develop a schedule for partial payment of private court-appointed attorneys in criminal cases that are not resolved within six months;

- Establishes a process for the commission to transfer funds among state attorney or public defender offices to deal with office deficits in a contracted due process services appropriations category;

- Allows the state to fund mental health professionals required in civil cases as an element of court-appointed counsel;

- Directs trial court administrators to recover expenditures for state-funded services that have been furnished to users who have the ability to pay;

- Provides authority for a county and the chief judge of a circuit to enter into an agreement for the county to fund personnel positions for the circuit;

- Directs the circuit Article V indigent services committee in the Eleventh Circuit to track, during the period of October 2005 through September 2007, data on the race, sex, and national origin of attorneys appointed by the court from the circuit's registry of attorneys available to represent indigent defendants;

- Increases the service fee for the return of a suspended license to $47.50 from $35;

- Authorizes the clerk of court to withhold from the return of a cash bond posted by a person other than a bail bond agent amounts necessary to pay any unpaid court fees, court costs, and criminal penalties;

- Prohibits a clerk of the court from discontinuing functions being performed, as of July 1, 2004, in support of the trial courts, except under specific conditions;

- Revises the formula in s. 218.245, F.S., under which certain revenues are allotted and shared with a unit of local government which is consolidated as provided under the State Constitution;

- Prohibits a traffic hearing officer from suspending a defendant's driver's license;

- Establishes procedures for a court to retain jurisdiction over a child who has been directed to pay restitution in a juvenile delinquency case;

- Limits an arbitrator's charge to $1,500 per diem, unless the parties agree otherwise; and

- Eliminates the Article V Indigent Services Advisory Board, effective July 1, 2006.

If approved by the Governor, these provisions take effect July 1, 2005, except as otherwise provided in the legislation.
Vote: Senate 39-0; House 115-1

CS/CS/CS/SB 2048 — Judges

by Ways and Means Committee; Justice Appropriations Committee; Judiciary Committee; and Senator Crist

The committee substitute provides for the creation of 55 judicial offices to be filled by gubernatorial appointment. Approximately one-half of the offices take effect in November 2005. The remaining offices take effect on January 2, 2006. Thirty-five of the offices are for circuit court judge. Twenty of the offices are for county court judge.

Additionally, the committee substitute makes an appropriation to fund 120 full-time positions with the circuit and county courts.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided in the committee substitute.
Vote: Senate 40-0; House 113-3

HB 135 — Liability/Street Light Providers

by Rep. Stansel and others (SB 1790 by Judiciary Committee)

This bill provides immunity from lawsuits alleging negligent streetlight maintenance. The immunity applies to streetlight providers that repair inoperative streetlights within certain time periods and inform customers how to report outages. Generally, a streetlight provider must repair inoperative street lights within 60 days of actual notice of an outage. More complex repairs, however, must be made within 180 days, with some exceptions. The time period in which repairs must be made is extended to 365 days after the cessation of a state of emergency for streetlight providers affected by the state of emergency.

If approved by the Governor, these provisions take effect upon becoming law and apply to causes of action that accrue on or after the effective date.
Vote: Senate 37-1; House 112-1

HB 523 — Evidence

by Rep. Flores and others (CS/SB 988 by Judiciary Committee and Senator Campbell)

The bill repeals s. 90.602, F.S., the "Dead Man's Statute," which prohibits an interested person from testifying as to an oral communication with a now deceased or incompetent person. Testimony from interested persons regarding oral communications can be considered by the trier of fact, if otherwise relevant and admissible under the rules of evidence, instead of being automatically rejected because of the status of the person seeking to introduce the testimony.

In addition to repealing the Dead Man's Statute, this bill creates a new hearsay exception that allows the introduction of a written or oral statement previously made by an unavailable

declarant, when other testimony from the declarant on the same topic has already been introduced by an adverse party.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 110-1

PUBLIC RECORDS

HB 1699 — Domestic Violence Cases/OGSR

by Governmental Operations Committee and Rep. Kottkamp (SB 726 by Judiciary Committee)

This bill amends s. 787.03, F.S., which is the public records exemption authorized in interference with custody cases. The bill narrows the public records exemption for certain information given to a sheriff or state attorney by someone who takes a child or incompetent person and seeks to avoid prosecution for the crime of interference with custody.

Interference with Custody

The crime of interference with custody occurs when a child or incompetent person is taken from another's custody. The law recognizes certain defenses for a person who commits an interference with custody. To have the defense available, the person who took the child or incompetent person must file a report with the sheriff's or state attorney's office within ten days. This report must include:

- Identification information about the person and child;
- Contact information about the person and child; and
- The underlying reasons why the person was taken.

Public Records Exemption

When the public records exemption relating to an interference-with-custody situation was originally created, the Legislature made confidential and exempt from disclosure information provided to a sheriff or state attorney. This bill removes from the exemption the piece of information relating to the underlying reasons for taking the child from another person's custody, consistent with the narrow scope required under Florida's public record law.

Open Government Sunset Review

The existing exemption is scheduled to repeal on October 2, 2005. This bill extends the narrowed public records exemption until October 2, 2006, subject to review and reenactment by the Legislature beyond that date.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 111-0

CS/SB 798 — Minor/Termination/Pregnancy/Public Records

by Governmental Oversight and Productivity Committee and Senators Webster, Fasano, and Dockery

This committee substitute provides the public records exemption relating to court records containing information about a minor seeking judicial approval for a termination of pregnancy subject to the parental notification provisions, which also passed this session. This bill amends s. 390.01116, F.S., to keep confidential and exempt from disclosure certain information contained in court records in parental notification waiver hearings. This exemption provides for effective implementation of Florida's parental notification law as it ensures confidentiality for minors who are seeking to terminate a pregnancy.

Parental Notification

Committee Substitute for Senate Bill 1908 requires a minor to notify her parent or legal guardian prior to terminating her pregnancy. (See the Health Care Committee's session summary of CS/SB 1908.) A judicial waiver process is provided in CS/SB 1908, which permits a minor to petition the court for a waiver to the notification requirement. The court is authorized to waive notice, upon reaching certain findings, such as a medical emergency exists, the minor is sufficiently mature to make the decision independently, abuse is present, or that notice is not in the best interest of the minor. The substantive bill provides for confidentiality of all hearings, but does not address the court record. This public records exemption makes confidential and exempt any information from the court record that can be used to identify the minor, and applies to records held by the court at both the circuit and appellate levels.

Public Necessity Statement

As provided in the public necessity statement, this committee substitute is necessary to:

- Protect the minor's right of privacy, as guaranteed in both the federal constitution and Article I, Section 23 of the Florida Constitution;
- Protect a minor's safety in instances where child abuse or sexual abuse is present, which is admissible as evidence in these hearings;
- Comply with U.S. Supreme Court rulings; and
- Ensure that the state's parental notification program is properly administered.

Open Government Sunset Review

This public records exemption is subject to repeal on October 2, 2010, unless the Legislature reviews and saves the exemption from repeal through reenactment by that date.

If approved by the Governor, these provisions take effect the day that Florida's parental notification bill takes effect, which is upon adoption of rules by the Supreme Court or no later than July 1, 2005.
Vote: Senate 40-0; House 117-0

MISCELLANEOUS

CS/SB 1184 — Transportation Access

by Community Affairs Committee and Senator Fasano

The committee substitute permits the creation of a statutory way of necessity to landlocked property regardless of whether the property is inside or outside of a municipality. Additionally, a statutory way of necessity may be used to provide access from a landlocked property to a private road in which the owner of the landlocked property has vested easement rights. The purpose of a statutory way of necessity is to provide a means for persons and vehicles to enter and exit landlocked property and to permit access to utility services. The owner of land through which a statutory way of necessity is created is entitled to compensation. In the event that the provisions of CS/SB 1184 are found unconstitutional, the law with respect to statutory ways of necessity will revert to the law in existence prior to the passage of CS/SB 1184.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

CS/SB 1368 — Disclaimer of Property Interests Act

by Judiciary Committee and Senator Aronberg

This committee substitute repeals Florida's existing statutory disclaimer statutes, s. 689.21 and s. 732.801, F.S., governing disclaimer of non-testamentary property interests and testamentary property interests, respectively. In place of the repealed statutes, the committee substitute creates a new chapter in the Florida Statutes, ch. 739, which will apply regardless of the nature of the property interest to be disclaimed. The committee substitute is based upon the Uniform Disclaimer of Property Interests Act (the "UDPIA") developed by the National Conference of Commissioners on Uniform State Laws (the "NCCUSL") in 1999. Although the language of the committee substitute is based upon UDPIA, there are slight revisions to allow for nuances of Florida law.

The new chapter retains a great deal of the current principles codified in the existing sections of the Florida Statutes that would be repealed by the committee substitute, and modifies disclaimer of property interests as follows:

- Expands the power to disclaim to allow disclaimer of fiduciary powers and fiduciary assets.
- Removes the statute of limitations for a disclaimer of property interest.
- Removes the filing requirement for disclaimer of property interests that are not real estate.
- Allows courts to give greater weight to the totality of the circumstances when considering disclaimers made for minors or incapacitated persons.
- Addresses the effect of a failed disclaimer.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 115-0

TRUST FUND BILLS

SB 2196 — Shared County/State Juvenile Detention Trust Fund

by Justice Appropriations Committee and Senator Crist

This bill creates the Shared County/State Juvenile Detention Trust Fund in the Department of Juvenile Justice effective July 1, 2005. Funds to be credited to the trust fund will consist of funds from the counties' share of cost for preadjudicatory juvenile detention. These funds will be used by the department to pay for the cost of preadjudicatory juvenile detention. All moneys remaining in the trust fund at the end of any fiscal year will be carried forward to the next fiscal year, and the trust fund will be terminated, unless re-created, on July 1, 2009, pursuant to s. 19(f)(2), Art. III, Florida Constitution.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 116-0

HB 1765 — Federal Grants Trust Fund

by House Fiscal Council and Rep. Barreiro (SB 2194 by Senator Crist)

The bill creates the Federal Grants Trust Fund within the Parole Commission. This trust fund is established for allowable grant activities funded by restricted program revenues. Funds received will be credited to the Federal Grants Trust Fund and shall be used for the various purposes for which intended.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 114-0

PROFESSIONS

CS/SB 1012 — Professions Regulated by DBPR

by Regulated Industries Committee and Senator Argenziano

This bill amends s. 455.271, F.S., to establish a procedure for reinstatement of professional licenses issued by the Department of Business and Professional Regulation, or any of the professional boards within the department that have become void. The department or board, at its discretion, may reinstate the license if an individual who, because of illness or unusual hardship, has failed to comply with the renewal requirements, but has made a good-faith effort to comply with requirements for reinstatement of a delinquent license. The bill exempts certified public accountants.

This bill provides the boards and the department with rulemaking authority to prescribe the procedure for applying for reinstatement, including the setting of the applicable reinstatement fee. In addition, an applicant for reinstatement must meet all continuing education requirements prescribed by law, and must be otherwise eligible for renewal of licensure.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 113-0

CS/CS/CS/SB 1784 — Professional Services Acquisition

by General Government Appropriations Committee; Governmental Oversight and Productivity Committee; Regulated Industries Committee; and Senators Clary and Crist

The bill amends the Consultants' Competitive Negotiations Act (CCNA) in s. 287.055, F.S., to revise certain definitions for acquisition of the professional services of an architect, professional engineer, landscape architect, or registered surveyor and mapper.

The bill amends the definition of "compensation" to provide that the term means the amount, instead of the total amount, paid by the agency for the professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated. It amends the definition of "continuing contract" to provide that firms providing professional services under continuing contracts shall not be required to bid against one another.

The bill defines the term "negotiate" to mean to conduct legitimate, arms length discussions and conferences to reach an agreement on a term or price. It excludes from this definition the presentation of flat-fee schedules with no alternative or discussion.The bill amends the bid

selection process to require that each agency provide a good faith estimate in determining whether the proposed activity meets the threshold amounts in the CCNA.

The bill requires that, if an agency is using a non-negotiation procurement process and the average compensation proposed by the firms is in excess of the appropriate threshold amount proposed by the act, then the agency must reject all proposals and reinitiate the procurement pursuant to the CCNA.

The bill also amends s. 287.17(6), F.S., relating to the use of state vehicles and aircraft, to permit the spouse and immediate family members of designated state officials to accompany a state official, with the payment of transportation costs, when traveling by aircraft for official state business and the aircraft has available seats.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 116-2

HB 213 — Construction Professions

by Rep. Evers and others (SB 792 by Senators Haridopolos and Crist and CS/SB 1608 by Regulated Industries Committee and Senators Clary, Diaz de la Portilla, Crist, and Bennett)

The bill (Chapter 2005-30, L.O.F.) provides the Department of Business and Professional Regulation's Board of Architecture and Interior Design and Board of Landscape Architecture with the authority to prescribe by rule the authority to electronically sign, seal, or send the final plans, specifications, or reports prepared or issued by a registered architect, interior designer, and landscape architect. The bill makes it unlawful to sign and seal any final plan, specification, or report if the certificate of registration is expired, suspended, or revoked.

The bill provides that persons who perform the work of servicing, repairing, recharging, hydrotesting, installing, or inspecting all types of pre-engineered fire extinguishing systems are exempt from regulation under Part I of ch. 489, F.S.

The bill also amends the definitions of the terms "class A air conditioning contractor" and "class B air conditioning contractor" to allow them to disconnect or reconnect liquefied petroleum or natural gas appliances. The definition of "mechanical contractors" is also amended to allow them to perform work relating to liquefied petroleum gas lines within buildings and the definition of "plumbing contractors" is amended to allow for the installation of liquefied petroleum gas and related venting lines.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 40-0; House 113-0

HB 315 — Building Remediation and Assessment

by Rep. Allen and others (CS/SB 1830 by Regulated Industries Committee and Senators Argenziano and Crist)

This bill creates ss. 501.933 and 501.934, F.S. to provide requirements for mold assessors and mold remediators and s. 501.935, F.S., to provide requirements for home inspectors.

Home Inspectors

It provides that home inspectors are not regulated by any state agency, but violations of the section may be actionable as an unfair and deceptive trade practice under ch. 501, part II, F.S.

It provides for:

- Exemptions to the section for certain licensed and regulated professionals.
- Criminal penalties for certain violations of the section.
- A requirement to maintain commercial general liability insurance in the amount not less than $300,000.

The statute of limitations as provided in ch. 95, F.S., governs actions to enforce an obligation, duty, or right arising under the section.

It provides that home inspectors are not required to provide estimates related to the cost of repair of an inspected property.

Mold Assessment and Mold Remediation

The bill creates ss. 501.933 and 501.934, F.S., to require certification in mold assessment or mold remediation, depending on the field in which a person or business practices. This certification requirement may come from a nonprofit organization that focuses on indoor air quality or industrial hygiene or from a community college or university that provides training or education in mold assessment or mold remediation. Provisions for noncontracting mold remediation allow for the removal, cleaning, sanitizing, demolition, or other treatment of mold as long as the work does not require a license under ch. 489, F.S., relating to construction and other contracting.

Exemptions to the certification requirement are provided to specified groups. These groups include residential property owners, an owner or tenant, or a managing agent or employee of an owner or tenant, who performs mold assessment on the owned or leased property, an employee of a licensee who is under the direct supervision of the mold assessor performs mold assessment or remediation. The bill also exempts engineers, architects, interior designers, landscape

architects Division I and Division II contractors licensed under ch. 489, F.S., insurance adjusters, and individuals in the manufactured housing industry who are licensed under ch. 320, F.S. The bill also exempts authorized employees of the United States, state, city and county governments performing mold assessment or mold remediation within the scope of their employment.

Mold assessors are required to maintain a mold-specific insurance policy not less than $1 million, and noncontracting mold remediators are required to maintain a liability insurance policy with a mold pollution rider not less than $1 million.

The bill also provides civil and criminal penalties for violations of the provisions relating to mold assessment and mold remediation.

If approved by the Governor, these provisions take effect January 1, 2006.
Vote: Senate 39-0; House 115-2

HB 699 — Architecture, Landscape Architecture, and Interior Design

by Rep. Altman and others (CS/SB 1608 by Regulated Industries Committee and Senators Clary, Diaz de la Portilla, Crist, and Bennett)

The bill expands the authority to practice architecture or interior design by licensees through a corporation or partnership to include limited liability companies. The bill corrects cross-references to include limited liability companies throughout the bill.

The bill requires the qualifier of a corporation, partnership, or limited liability company to assure responsible supervising control of projects by specifying that any registered architect or interior designer who qualifies the corporation, limited liability company, or partnership is responsible for ensuring responsible supervising control of the entity's projects.

The bill authorizes the Board of Architecture and Interior Design and the Board of Landscape Architecture to adopt rules to allow respective practitioners to electronically sign and seal plans and documents. The changes track current authorization language for engineers, surveyors, and mappers. It authorizes architects and interior designers to transmit final plans, specifications and reports electronically.

The bill authorizes the Board of Architecture and Interior Design to adopt rules to specify that an architect commits an act subject to disciplinary proceedings if the architect allows the preparation of any architectural studies, plans, or other instruments of service in an office where a full-time Florida registered architect is not assigned or fails to ensure the responsible supervising control of services or projects.

The bill requires architects, interior designers, and landscape architects to surrender their seal within 30 days after the effective date of any suspension or revocation to their certification or registration.

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

HB 1417 — Land Surveying and Mapping

by Rep. Murzin and others (CS/SB 2050 by Judiciary Committee and Senators Aronberg and Wilson)

The bill provides that an applicant shall be entitled to take the licensure examination if the applicant received a degree in surveying and mapping of four years or more in a surveying and mapping degree program from a college or university recognized by the board. The applicant must also have a specific experience record of four or more years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping.

It requires surveyors and mappers taking the licensure exam in Florida to complete a minimum of 25 semester hours from a college or university approved by the Board of Professional Surveyors and Mappers (board).

It allows photogrammetrists (surveyors who make maps from aerial photographs) to qualify for licensure as a surveyor and mapper in Florida if they meet certain educational criteria approved by the board. It requires that the applicant must have applied to the Department of Business and Professional Regulation (department) for licensure on or before July 1, 2007.

It revises liability of surveyor and mapper partnership and partners providing that they shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity.

It provides that business entities other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by an employee under their direct supervision and control while rendering professional services on behalf of the business organization.

It provides that the personal liability of a shareholder or owner of a business organization, in their capacity as a shareholder or owner, shall be no greater than that of a shareholder-employee of a corporation.

It provides that a business organization shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.

It deletes the provision that a corporation and stockholders, who are surveyors and mappers, or partnerships, and all partners, shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, officers, or partners while acting in a professional capacity.

It conforms the chapter terminology to "photogrammetrist," which is the latest terminology for a photogrammetric mapper.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 115-0

ALCOHOLIC BEVERAGES AND TOBACCO

CS/CS/SB 1114 — Restaurants/Resealed Wine Containers

by Transportation Committee; Regulated Industries Committee; and Senator King

The bill provides that restaurants licensed to sell wine on the premises may permit a restaurant's patrons to remove one unsealed bottle of wine for consumption off the licensed premises, provided the patron purchased a full-course meal and consumed a portion of the bottle of wine with the meal.

The bill defines a full course meal as consisting of a salad or vegetable, entrée, a beverage, and bread. The bill would require that the partially consumed bottle of wine must be securely resealed by the licensee, or the licensee's employee, and placed in a bag or other container secured in such a manner that it is visibly apparent if the container has been opened or tampered with after having been sealed. A dated receipt for the wine and meal must be attached to the container. If transported in a motor vehicle, the container must be placed in a locked glove compartment, locked trunk, or in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

The bill also amends s. 316.1936, F.S., to clarify that a resealed wine container in a motor vehicle is not an open container if the partially consumed bottle of wine is resealed and transported in the manner required by the bill.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-1; House 112-4

CS/CS/SB 1348 — Indoor Smoking Places

by Commerce and Consumer Services Committee; Regulated Industries Committee; and Senator Geller

The bill amends provisions of the Florida Clean Indoor Air Act (Act), which implements the tobacco smoking ban in s. 20, Art. X, Florida Constitution. It permits a stand-alone bar that is located in a building that is individually listed on the National Register of Historic Places (NRHP) to qualify for the stand-alone bar exception to the smoking ban in the Act if the business derives no more than 20 percent of its gross revenue from the sale of food for consumption on the premises. However, to qualify for the exception, the stand-alone bar must have submitted a completed application to the Department of State on or before 90 days after the effective date of this act to be listed in the NRHP.

The bill also requires that all stand-alone bars, to maintain a designation as a stand-alone bar, cannot offer a children's menu or include in the menu items or food portion sizes that are identified as being specifically for children.

The bill provides that a proprietor or other person in charge of an enclosed indoor workplace may not permit another person to smoke in the workplace. It defines the term "person" to have the same meaning as in the rule of statutory construction in s. 1.01, F.S. The bill applies the penalty provisions for stand-alone bars to alcoholic beverage vendors who permit smoking in alcoholic beverage licensed establishments. Under current law these penalties only apply to alcoholic beverage vendors who have received a stand-alone bar designation from the Division of Alcoholic Beverages and Tobacco (DABT or division) within the Department of Business and Professional Regulation.

The bill also provides that a law enforcement officer may issue a citation to any person who violates the provisions of the Act. The bill specifies the minimum information that a citation must contain. The bill provides that if any person refuses to comply with a proprietor's request to stop smoking, a law enforcement officer may remove the violator from the premises.

The bill provides that an alcoholic beverage licensee is subject to revocation or suspension of its alcoholic beverage license under s. 561.29, F.S., if the licensee knowingly makes a false statement on the annual affidavit required by s. 561.695, F.S. It also repeals the requirement that designated stand-alone bars must file with DABT an agreed upon procedures report signed by a certified public accountant every three years after their initial designation.

The bill also deletes subsection (1) of s. 386.206, F.S., which expires on July 1, 2005, that requires that any person in charge of an enclosed indoor workplace who was required before the adoption of the smoking ban in the State Constitution to conspicuously post a sign wherever smoking is permitted.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 27-10; House 60-50

HB 205 — Contraband and Counterfeit Cigarettes

by Rep. Altman and others (CS/CS/SB 816 by General Government Appropriations Committee; Regulated Industries Committee; and Senators Haridopolos, Dockery, Lynn, and Posey)

The bill requires that manufacturers and importers of cigarettes must obtain a permit from the Division of Alcoholic Beverages and Tobacco (division), within the Department of Business and Professional Regulation (DBPR or department). A separate permit would be required for each place of business in Florida of a manufacturer, importer, exporter, distributing agent, and wholesaler.

The bill requires that all persons shipping unstamped cigarettes into the state must file a notice of shipment with the division, unless the cigarettes are shipped to a wholesale dealer or importer holding a current, valid permit, or the shipper uses electronic shipping documents in its ordinary course of business. The bill requires wholesale dealers in Florida to affix tax stamps to cigarette packages within ten days after receipt of the cigarettes and requires out-of-state dealers to affix the stamps before making a shipment of the cigarettes into Florida.

The bill requires that a manufacturer, importer, or distributing agent representing a manufacturer or importer may only sell or distribute cigarettes to licensed wholesale dealers and importers. It provides that a distributing agent may only accept cigarettes from a manufacturer or importer with a valid, current permit for transfer to a dealer with a valid, current permit, and prohibits a distributing agent from owning or selling cigarettes.

The bill limits a wholesale dealer to obtaining cigarettes from a manufacturer, importer, distributing agent, or dealer with a valid, current permit, and limits a wholesale dealer to selling or distributing cigarettes only to other wholesalers or to retail dealers with a valid, current permit. It also limits retailers to receiving cigarettes only from a wholesale dealer with a valid, current permit.

The bill prohibits any person from possessing unstamped cigarettes, except under certain circumstances, and requires that wholesale dealers store unstamped cigarettes separately from stamped cigarettes. The bill extends the division's authority to seize and forfeit cigarettes without tax stamps, and permits the division, under certain circumstances, to seize and forfeit the fixtures, equipment, and other personal property of a wholesale dealer or retail dealer violating the cigarette tax laws. It requires that the division destroy the confiscated cigarettes.

The bill allows the division or any law enforcement officer to stop and search a vehicle for contraband cigarettes if there is probable cause to believe that the vehicle is illegally transporting cigarettes. The bill also enhances and broadens the application of criminal penalties for

violations of the cigarette tax law and authorizes additional civil penalties. The bill requires that state law enforcement officers report the seizure of unstamped cigarettes to the division. It requires that the division maintain records of the number of seizures and number of seized cigarettes.

The bill requires that a dealer or agent must remit the cigarette taxes imposed by ch. 210, F.S, by certified check or electronic funds transfer during the dealer or agent's initial period of licensure or appointment, but not to exceed 12 months. The bill authorizes the division to adopt rules to administer this provision. The bill sets the amount for the surety bond, certificate of deposit, or revocable letter of credit that must be filed with the division for payment of taxes at 110 percent of the estimated tax liability for 30 days, but not less than $2000.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 38-0; House 113-2

LIENS

HB 113 — Construction Contracting

by Rep. Dean and others (CS/CS/SB 1016 by Government Oversight and Productivity Committee; Regulated Industries Committee; and Senator Argenziano)

The bill provides substantive and technical revisions to the state's construction lien law. Specifically, the bill provides the following revisions:

- Makes a payment bond for a public works project unenforceable if it restricts the classes or persons as defined in s. 713.01, F.S, protected by a construction bond or restricts the venue of any proceeding related to the bond.

- Increases the maximum administrative fine for violations that the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board may assess a licensee from $5,000 to $10,000.

- Reduces the type size for new residential construction contract lien warnings from 18 to 14 point and clarifies the rights associated with the notice.

- Copies unlicensed contracting provisions under ch. 489, F.S., to ch. 713, F.S., to preserve the lien rights of suppliers and other properly licensed subcontractors on the same project.

- Extends a proper payment defense to owners who contract for subdivision improvements and addresses service of notice required for subcontractors and suppliers to preserve their lien rights.

- Requires lien service on the property owner.
- Allows building departments to utilize email, facsimile, or personal delivery for required service of lien information.
- Provides clarification of time period in which to commence an action to enforce a claim against a payment bond.
- Clarifies provisions relating to lien transfer bonds.
- Provides that circuit court jurisdiction to hear lien law cases is not exclusive where the dollar amount would allow a county court to hear the case.
- Restructures the penalty provisions for misapplication of construction funds.
- Clarifies notice procedure for lenders who are required to serve a notice to an owner when the lender disburses funds to the owner.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 115-0

HB 1459 — Commercial Real Estate Liens

by Rep. Brown and others (CS/SB 2036 by Regulated Industries Committee and Senators Posey and Klein)

The bill creates parts III and IV of ch. 475, F.S., to create the "Commercial Real Estate Sales Lien Act" and the "Commercial Real Estate Leasing Commission Lien Act," respectively.

The Commercial Real Estate Sales Lien Act creates a lien for a broker's commission upon the real estate owner's net proceeds from the disposition of commercial real estate. This lien does not attach to the any interest in the real property.

The "Commercial Real Estate Leasing Commission Lien Act," creates a lien for a broker's commission upon the real estate owner's interest in commercial real estate for any commission earned by the broker pursuant to a brokerage agreement with respect to a lease on commercial real estate.

The bill requires that the broker disclose the lien at or before the owner executes the brokerage agreement for sale or lease of commercial real estate. The broker may not enforce a lien for a commission unless the disclosure is made. The bill provides the form for the sales and leasing commission disclosures.

The broker is also required to provide the owner of the commercial real estate with a notice that states the amount of the claimed sales or leasing commission. This notice must be signed and sworn to or affirmed by the broker under penalty of perjury before a notary public. The bill also specifies the information that must be contained in the notice and the statements that must be provided in the notice. The bill also provides a form for the required commission notice.

The Commercial Real Estate Sales Commission Lien Act also provides:

- That the broker may record the commission notice in the county or counties where the commercial real estate is located.
- A notice of a real estate sales commission expires one year after the date of recording, unless a one-year extension is filed within the last sixty days before expiration.
- The closing agent must reserve from the owner's net proceeds an amount equal to the commission claimed by the broker in the commission notice.
- The closing agent is required to seek adjudication of the rights of the parties with respect to disputed proceeds held in escrow, and may reserve any costs incurred, including attorney's fees.
- The broker or owner may file a civil action in the county or circuit court if there is a dispute over the commission.
- A prevailing party of such a court action is entitled to costs and reasonable attorneys' fees of the owner and the closing agent.
- A buyer's broker is not entitled to a lien against the owner's net proceeds, unless a contract provides for a buyer's broker to receive a fee.

The Commercial Real Estate Leasing Commission Lien Act also provides:

- If the commission is to be paid in installments, the lien notice is valid only to the extent that any commission remains unpaid to the broker.
- A lien expires two years after recording unless the broker commences a foreclosure action.
- If the broker claims an automatic renewal commission, then the lien notice expires ten years after recording unless the broker commences a foreclosure action. The lien notice may be extended for successive 10-year periods. However, an owner may attempt to shorten the time by filing a notice of contest of the broker's lien.

- A broker may enforce a lien for a leasing commission through a foreclosure suit in the same manner as if the lien notice were a mortgage recorded against the commercial real estate.

- If an owner disputes the commission, then the owner may file a civil action to discharge the lien.

- The prevailing party in a foreclosure or civil action is entitled to costs and reasonable attorney's fees.

- A lien that has been recorded may be transferred to a security by filing a sum with the clerk of the court or filing a bond with the clerk in an amount equal to the amount claimed and a certain sum to cover attorneys' fees.

- An owner may also subordinate, with or without the broker's consent, a lien claimed by the broker for an automatic renewal commission in favor of the holder of a subsequent mortgage.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 38-0; House 115-0

GAMING

HB 181 — Pari-mutuel Permitholders

by Rep. Cretul (SB 342 by Senator Argenziano)

The bill revises the definition of "full schedule of live racing or games" by reducing the number of required live performances from 100 to 40 for any jai alai permitholder whose total wagers received was less than $4 million per year for at least two consecutive years. A jai alai permitholder who conducts slot machine gambling at its facility must conduct a combination of at least 150 live performances during the preceding year.

The bill requires those jai alai permitholders conducting fewer than 100 live performances in any calendar year to pay the state the same aggregate amount of daily license fees on live jai alai games, admissions tax, and tax on live handle as that permitholder paid to the state during the most recent prior calendar year in which the jai alai permitholder conducted at least 100 live performances.

This bill deletes the provision that permitted an extraordinary vote of the board of county commissioners in a county to allow quarter horse racing.

It prohibits thoroughbred racing from being substituted at a quarter horse permitholder track. But it allows for the substitution of races of thoroughbreds registered with the Jockey Club for no more than 50 percent of the quarter horse races daily as long as written consent is given by the greyhound, harness, and thoroughbred permitholder whose facilities are located within 50 air miles of the quarter horse facility.

It deletes the prohibition for thoroughbred racing at quarter horse tracks from September 1 through January 5 of each year in any county where there are one or more licensed dog tracks conducting race meets.

It provides that in order for a quarter horse permitholder to conduct intertrack wagering, written consent must be given by all greyhound, harness, and thoroughbred permitholders within 50 air miles of the quarter horse facility. The bill deletes the current provision that provides intertrack wagering can take place within 50 miles of an existing greyhound track as long as the quarter horse permitholder has incurred a minimum capital expenditure of at least $7.5 million.

It deletes the provision that cardroom licenses are not transferable. It provides that no referendum is needed for relocation of a cardroom license for a permitholder that has relocated its license under ch. 550, F.S.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 34-6; House 99-12

HB 841 — State Lottery

by Rep. Attkisson and others (CS/SB 482 by Government Efficiency Appropriations Committee and Senators Clary, Lynn, and Crist)

The bill directs 80 percent of all unclaimed lottery prize money from lottery games to be deposited in the Educational Enhancement Trust Fund (EETF), and provides that the remaining 20 percent will be added to the prize pool to provide for future prizes or special prize promotions. Currently, all unclaimed prize money from on-line games is added to the prize pool to provide for future prizes or special prize promotions.

The bill authorizes the Department of Lottery (department) to establish variable percentages for on-line games prize payouts and transfers to the EETF. Currently, as nearly as practical, at least 50 percent is returned to the public in the form of prizes and at least 39 percent of the gross revenue from on-line ticket sales is deposited in the EETF. The department was given authority in 2002 to establish variable percentages for instant ticket prize payouts and EETF transfers and that change has been credited with doubling instant ticket sales.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 116-0

CONDOMINIUMS AND MOBILE HOMES

HB 291 — Condominiums/Administration Board

by Rep. Evers and others (CS/SB 1492 by Regulated Industries Committee and Senator Clary)

The bill provides that prior to the developer relinquishing control of the association, actions taken by condominium association board members appointed by the developer are considered actions of the developer, and the developer is responsible to the association and its members for all such actions. Further, the bill requires that any claim by an association against a developer that alleges certain defects, such as design or construction defects, must be examined and certified by an appropriately licensed professional, such as an engineer or architect.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 116-0

HB 565 — Mobile Homes

by Rep. Farkas and others (CS/SB 1124 by Regulated Industries Committee and Senators Haridopolos, Fasano, Lynn, and Posey)

The bill states that the requirement for the committee, which is already established under law, to disclose rents charged by comparable parks is to encourage a dialogue concerning the reasons for the rent increase and to encourage the home owners to evaluate and discuss the reasons with the park owner. The bill specifies as an additional statutory purpose and intent that the current provisions are not intended to be enforced by civil or administrative action and that the meetings are intended to be conducted as settlement discussions prior to mediation or litigation. The bill specifically allows the park owner and the home owners to exchange new or additional information during the discussion process or to change positions relating to the rent increase. However, it prohibits the park owner and home owners from changing any information that was initially provided at the meetings.

The bill prohibits compensation to be paid out of the Mobile Home Relocation Trust Fund to a home owner who is under an eviction action for nonpayment of rent. The action for nonpayment of rent must have been initiated by the park owner prior to issuing the notice of intent to change the use of the mobile home park. The bill allows for the payment of reasonable attorney's fees and costs to the prevailing party in an action to enforce payment from the Mobile Home Relocation Trust Fund.

The bill designates the Florida Mobile Home Relocation Corporation as an agency of the state and employees and directors as officers, employees, or agents of the state for purposes of the application of sovereign immunity provisions.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 114-0

FUNERAL AND CEMETERY

HB 529 — Funeral and Cemetery Industry

by Rep. Kreegel and others (CS/CS/CS/SB 2346 by Criminal Justice Committee; Banking and Insurance Committee; Regulated Industries Committee; and Senator Haridopolos)

The bill amends ch. 497, F.S., as amended by ch. 2004-301, L.O.F., relating to the funeral and cemetery industry. Chapter 2004-301, L.O.F., created the Board of Funeral, Cemetery and Consumer Services (board) within the Department of Financial Services to enforce the provisions of ch. 497, F.S., which relates to the regulation of funeral directors, embalming, cremation, cemeteries, cremation services, cemetery companies, and preneed contracts for funeral merchandise or services. Chapter 2004-301, L.O.F., and this bill have an effective date of October 1, 2005.

The bill provides the following changes to ch. 497, F.S.:

- It creates the monument builder and monument dealer licensure categories.
- It provides that the monument establishment representative on the board shall be a licensed monument builder.
- It conforms the fingerprint, criminal records and application signature requirements across licensees.
- It differentiates the application and renewal fees for monument establishments based on whether they have preneed licenses.
- It requires certain disclosure of consumer information by preneed licensees.
- It revises the requirements for the identification of human remains.
- It clarifies requirements for notices of change in ownership or location of licensees.
- It authorizes rulemaking by the department or licensing authority with respect to many areas of regulation, including applications, criminal background checks and fingerprint

cards, inspections, license fees, the identification of human remains, the investment of trust funds, preneed licensee net worth requirements, and chemical cremation.

- It increases the maximum amount of the renewal fee for a funeral director, embalmer, and direct disposer license from $250 to $500, and increases the maximum amount of the renewal fee for a funeral establishment, and each branch licensee of a preneed licensee from $300 to $500.

- It provides for licensure and appointment of preneed licensees and sales agents.

- It authorizes a $10,000 penalty for violations of ch. 497, F.S., by unlicensed persons and creates authority for a fee of up to $250 for the renewal of monument establishment sales agents.

The bill requires that all non-law enforcement funeral escort vehicles and funeral lead vehicles to be equipped with at least one circulating lamp of amber or purple light, which may only be used in a funeral procession.

The bill also increases the policy coverage limit from $7,500 to $12,500 for insurance policies that funeral directors, direct disposers, or employees of a funeral establishment may sell.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 38-0; House 118-0

HB 1469 — Funeral, Cemetery, and Consumer Services

by Rep. Kreegel and others (CS/SB 2344 by Government Oversight and Productivity Committee and Senator Haridopolos)

In 2004, the Legislature enacted the Florida Funeral, Cemetery, and Consumer Services Act (act), effective October 1, 2005. (Ch. 2004-301, L.O.F.) This act merged funeral and cemetery regulation by the Board of Funeral and Cemetery Services within the Department of Financial Services (DFS) and the Board of Funeral Directors and Embalmers within the Department of Business and Professional Regulation into one board, the Board of Funeral, Cemetery, and Consumer Services (board). The act also establishes the Division of Funeral, Cemetery, and Consumer Services. The act consolidated the regulation of the Funeral and Cemetery industries into ch. 497, F.S.

This bill provides the new board and the department with public records or meeting exemptions. The bill makes exempt from s. 286.011, F.S., and s. 24(b), Art. I, State Constitution, those portions of meetings of the board at which licensure examination questions or answers under the chapter are discussed. Further, it exempts meetings of the probable cause panel of the board

pursuant to s. 497.153, F.S., and records of those panel meetings until 10 days after a determination regarding probable cause is made.

Further, the bill makes information held by the department pursuant to a financial examination or an inspection confidential and exempt from s. 119.07(1), F.S., and s. 24(b), Art. I, State Constitution, until the examination or inspection is completed or ceases to be active. The bill also makes information held pursuant to an investigation confidential and exempt until the investigation is completed or ceases to be active or until 10 days after a determination regarding probable cause is made.

The bill provides exceptions that permit the DFS to share confidential information with a law enforcement agency or other government agency to further an investigation of matters within its jurisdiction. The bill also exempts information from disclosure if the disclosure would jeopardize the integrity of another active investigation or examination, if disclosure would reveal the identity of a confidential source, or if disclosure would reveal investigative or examination techniques or procedures that the department has a reasonable good-faith belief will be used in future investigations or examinations.

The bill provides for review and repeal of the exemption on October 2, 2010, and provides a statement of public necessity.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 79-39

TRANSPORTATION ADMINISTRATION

HB 1681 — Transportation

By Transportation Committee, Rep. Sansom and others (CS/CS/CS/SB 460 by Transportation and Economic Development Appropriations Committee; Governmental Oversight and Productivity Committee; Transportation Committee; and Senator Sebesta)

This bill is a compilation of various issues relating to transportation.

Seaports and Dredging Programs

The bill creates s. 311.22, F.S., to establish a matching grant program for dredging projects in counties with a population of less than 300,000. This grant program is to be administered by rules established by the Florida Seaport Transportation and Economic Development Council and includes a review process by the Florida Department of Community Affairs, the Florida Department of Transportation (FDOT), and the Office of Tourism, Trade, and Economic Development.

Aviation Program Administration

Subsection (10) is added to s. 332.007, F.S., providing FDOT the authority to fund a number of aviation activities conducted by the Secure Airports for Florida's Economy (SAFE) Council or other not-for-profit organizations. Eligible activities include master planning, professional education, safety and security planning, and economic development and efficiency enhancements.

Additionally, subsection (19) of s. 380.06, F.S., is amended to remove a provision requiring further development-of-regional-impact review for a proposed change to an airport located in two counties.

Surety

The bill amends subsection (8) of s. 337.11, F.S., to allow supplemental agreements and written work orders for up to 25 percent above the original contract amount to proceed without approval of the surety. The surety's approval is required for cumulative modifications in excess of 25 percent of the original contract amount.

Liability of FDOT, Contractors, and Engineers

Section 337.195, F.S., is created to limit the liability of FDOT's construction and maintenance contractors performing services for FDOT when they are in compliance with contract documents. The bill limits the liability of FDOT's contracted design engineers when they use that degree of care and skill ordinarily exercised by other engineers in the field. Further, in lawsuits against FDOT or its agents in cases involving DUI or reckless driving, the bill provides a presumption the impaired or reckless driver's actions are the proximate cause of the incident unless the gross negligence or intentional misconduct of FDOT or its contractors was a proximate cause of the death or injury.

Toll Facilities

Subsection (1) of s. 338.155, F.S., is amended to exempt persons participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty from the payment of tolls.

Metropolitan Planning Organizations

Subsection (12) is added to s. 339.175, F.S., to require each long-range transportation plan, each annually updated Transportation Improvement Program, and each amendment affecting projects in the first three years of such plans must be approved by each metropolitan planning organization on a recorded roll call vote of the membership present.

Strategic Intermodal System

Section 339.64, F.S., is amended to update obsolete language relating to the development of the initial Strategic Intermodal System (SIS) Plan and require coordination with and inclusion of military interests in development of the SIS Plan.

Northwest Florida Transportation Corridor Authority

Ch. 343, part IV, F.S., is created to establish the Northwest Florida Transportation Corridor Authority. The Authority is created to improve mobility, traffic safety, and economic development along the U.S. 98 corridor, and identify and develop hurricane evaluation routes.

Public-Private Partnerships

Subsection (10) is added to s. 337.251, F.S., to grant rule-making authority to FDOT to conform current implementation practices relating to public-private transportation partnerships.

State Right-of-Way

Subsection (1) of s. 337.406, F.S., is amended to clarify the authority of local government to permit temporary state road closures (for parades, etc.) is extended to counties, as well as cities. The bill extends the prohibition of temporary closures from interstate highways to all limited access roads.

State-funded Infrastructure Bank

Subsection (2) of s. 339.55, F. S., is amended limiting the amount of State-funded Infrastructure Bank funds the FDOT may loan itself by capping the repayment of such loans to no more than 0.75 percent of the State Transportation Trust Fund.

Mitigation for Transportation Projects

Section 373.4137, F.S., is amended to clarify existing language to better reflect the actual practice of FDOT and the water management districts when addressing environmental mitigation for state transportation projects.

Bicycle Facilities Study

The bill requires FDOT to contract with a consultant for a study of the bicycle facilities that are on or connected to the State Highway System. The results of the bicycle system study are to be presented to the Governor, the President of the Senate, and Speaker of the House by October 1, 2005.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 116-0

CS/CS/SB 1168 — Transportation Disadvantaged

by Criminal Justice Committee; Transportation Committee; and Senators Constantine and Alexander

The committee substitute makes a number of administrative changes to the Transportation Disadvantaged Commission (Commission). First, it significantly restructures by reducing the Commission's membership from 27 to 7 persons. The new members would be:

- Seven voting members appointed by the Governor. Two of the members must be persons with a disability who use the transportation disadvantaged system. Five of the members must have significant experience in the operation of a business. In addition, when making an appointment, it is the intent of the Legislature that the Governor select persons who reflect the broad diversity of the business community in the state, as well as the racial, ethnic, geographical, and gender diversity of the population of this state.

The following serve as ex officio, nonvoting advisors of the Commission:

- The Department of Transportation (DOT) secretary or a designee;
- The Department of Children and Family Services secretary or designee;
- The Agency for Workforce Innovation director or designee;
- The Department of Veteran's Affairs executive director or designee;
- The Department of Elderly Affairs secretary or designee;
- The Agency for Health Care Administration director or designee;
- The Agency for Persons with Disabilities director or designee; and
- An elected official of local government who is appointed by the Governor.

As a result of reducing the membership of the Commission, the committee substitute also revises the number of Commission members to five which are needed to constitute a quorum. In addition, the committee substitute provides the chair of the Commission shall be appointed by the Governor.

The committee substitute also specifies a number of requirements on TD commissioners. These are:

- Commissioners are reminded they represent the needs of transportation disadvantaged persons statewide, and they shall not subordinate the transportation needs of persons statewide to favor a specific region of the state.

- Appointed commissioners shall serve for a term of 4 years and may be reappointed for one additional 4-year term.

- Commissioners must be citizens of Florida and registered voters.

- Commissioners, other than elected officials, may not within the five years immediately before the appointment, or during his or her term on the board, have or have had a financial relationship with, or represent or have represented as a lobbyist as defined in s. 11.045, F.S., the following:

    - A transportation operator;
    - A community transportation coordinator;
    - A metropolitan planning organization;
    - A designated official planning agency;
    - A purchaser agency;
    - A local coordination board;
    - A broker of transportation; or

- A provider of transportation services.

- The Commission may create four technical advisory committees, and set their membership, size, and focus. The technical advisory committee members will serve without compensation and without per diem. Of the four, one technical advisory committee shall provide the Commission with information, advice and direction on community coordinated transportation and paratransit services; one technical advisory committee shall provide the Commission with information, advice and direction on transportation planning issues; one technical advisory committee shall provide the Commission with information, advice and direction on business-related issues, including insurance, marketing, economic development, and financial planning; and one technical advisory committee shall be a forum for users of the transportation disadvantaged system.

In addition, the committee substitute requires each appointed candidate, prior to accepting the appointment, to undergo a security background investigation pursuant to s. 435.04, F.S. A complete set of fingerprints taken by an authorized law enforcement agency must be filed with DOT. The fingerprints must be submitted to the Department of Law Enforcement for state processing, and to the Federal Bureau of Investigation for federal processing. The DOT must screen the background results and report to the Commission any candidate who fails to meet the level 2 screening standards of s. 435.04, F.S., which list 47 criminal offenses. Any candidate found through fingerprint processing to have failed to meet such standards may not be appointed as a member of the Commission. Finally, the committee substitute requires the costs of the background screening to be paid by DOT or the appointed candidate. Currently, the FDLE fingerprint check costs $24 and the FBI fingerprint check costs $25.

The committee substitute also includes the following finance related provisions:

- Directs no later than 30 days after the release of the Governor's Executive Budget Recommendations, the Transportation Disadvantaged Commission (Commission) must present to the Legislative Budget Commission a proposed allocation formula the Commission anticipates receiving from the General Appropriations Act for the upcoming fiscal year. The document must specifically detail the expected funds to be allocated to the counties. The Legislative Budget Commission must approve, reject, or request modifications to the formula no later than 60 days after receiving the proposed formula. The Commission is prohibited from altering the distribution schedule without the approval of the Legislative Budget Commission except in the case of a disaster.

- Directs the Commission to develop a funding methodology or formula that equitably distributes funds, to include Medicaid nonemergency funds, under its control using certain criteria, and which ensures not only the actual costs of each trip but also efficiencies a provider might adopt to reduce costs are taken into account, including cost efficiencies of trips when compared to the local cost of transporting the general public.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 112-0

HB 401 — Southwest Florida Expressway Authority

by Rep. M. Davis and others (SB 102 by Senators Saunders, Aronberg, and Bennett)

Ch. 348, part X, F.S. is created to establish the Southwest Florida Expressway Authority. The Authority will have the general powers and duties of all expressway authorities, such as the ability to enter into contracts, acquire land, set tolls, and hire staff. Bonds for the Authority's projects could either be issued on its behalf by the state Division of Bond Finance or by the Authority itself. Provisions unique to this Authority include:

- An eight-member governing board comprised of: one permanent resident each from Collier and Lee counties, appointed by the Governor; one permanent resident of Collier County appointed by the Collier County Commission; one permanent resident of Lee County appointed by the Lee County Commission; one member each from the Collier and Lee county commissions; the executive director of the Southwest Florida Regional Planning Council; and the secretary of the Florida Department of Transportation (FDOT) district that includes Collier and Lee counties. The FDOT district secretary is a non-voting member.

- The ability to develop and operate the Southwest Florida Transportation System. Projects of the system are limited to tolled expressway lanes on Interstate 75 and support facilities in Collier and Lee counties, unless the two county commissions support projects elsewhere. Although not stated in the bill, the Authority also must obtain federal and state approval before building tolled lanes on I-75.

- The Authority is permitted to enter into a lease-purchase agreement with FDOT, whereby FDOT would operate and maintain the tolled facilities and at some point would own the system and make it part of the state highway system.

- The act creating the Authority shall "sunset" in 12 years after its effective date if the Authority has no outstanding indebtedness, no studies or project designs underway, or no projects under construction, and if it is not operating or maintaining the system.

If approved by the Governor, these provisions take effect upon resolutions in support of this act being passed by both the Lee County Board of County Commissioners and the Collier County Board of County Commissioners, but no sooner than July 1, 2005, in the event the boards pass such resolutions prior to that date, except that this section shall take effect upon this act becoming a law.
Vote: Senate 40-0; House 108-3

HB 1029 — Dredging Projects

by Rep. Russell and others (CS/SB 1576 by Transportation and Economic Development Appropriations Committee and Senator Fasano)

The bill creates s. 311.22, F.S., to establish a matching grant program for dredging projects in counties with a population of less than 300,000. This grant program is to be administered by rules established by the Florida Seaport Transportation and Economic Development Council and includes a review process by the Florida Department of Community Affairs, the Florida Department of Transportation, and the Office of Tourism, Trade, and Economic Development.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 114-0

HB 385 — State Facility Designations

by Rep. Rubio (CS/SB 770 by Transportation Committee and Senators Lynn and Baker)

This bill creates the following road and state facility designations:

- That portion of S.W. 8th Street, between S.W. 62nd Avenue and S.W. 67th Avenue, in Little Havana is designated as "Ramon Puig Way."
- That portion of N.W. 167th Street, between N.W. 57th Avenue and N.W. 67th Avenue, in Miami Lakes is designated as "Shawn O'Dare Way."
- That portion of S.W. 129th Terrace, between East 67th Avenue and 64th Avenue in Miami-Dade County is designated as "Marge Pearlson Way."
- That portion of Coral Way (S.W. 24th Street), between 107th Avenue and 109th Avenue, in Miami-Dade County is designated as "Jorge L. Cabrera Way."
- The New River Bridge on State Road 16 in Bradford and Union counties is designated as the "Correction Officers Memorial Bridge."
- That portion of State Road 528, between its western terminus in Orange County and its eastern terminus in Brevard County, excluding that portion between U.S. Route 1 and State Road 3, is designated as the "Martin Andersen Beachline Expressway."
- That portion of State Road 429 between Interstate 4 and U.S. Highway 441 in Orange County is designated as the "Daniel Webster Western Beltway."
- That portion of Nova Road between Granada Boulevard and U.S. Highway 1 in Volusia County is designated as the "Robert F. Grim, Sr., Memorial Parkway."

- That portion of U.S. Highway 331 from its intersection with U.S. Highway 90 South to the southern border of the city of DeFuniak Springs in Walton County is designated as "Veteran's Memorial Boulevard."

- The overpass on 77th Avenue East (Bridge # 130090) over Interstate 275 in Manatee County is designated as the "Southeastern Guide Dog Overpass."

- The Florida Welcome Center on Interstate 75 in Hamilton County at the Florida-Georgia state line is designated as the "Joseph O. Striska Florida Welcome Center."

- That portion of U.S. Highway 27 in Highlands County is designated as the "Purple Heart Memorial Highway."

- That portion of Interstate 275 in Pinellas County that extends from the Howard Frankland Bridge to the Sunshine Skyway Bridge is designated the "St. Petersburg Parkway/William C. Cramer Memorial Highway." The bill also repeals section 25 of Chapter 2004-392, Laws of Florida, which designated the same stretch of road as the "St. Petersburg/William C. Cramer Parkway."

- The bridge over the Loxahatchee River on State Road Alternate A1A in the Town of Jupiter in Palm Beach County is designated as "Richard E. 'Pete' Damon Bridge."

- The cable barrier system along the Florida Turnpike in Palm Beach, St. Lucie, and Miami-Dade Counties is designated as "Alexander Alden Ware Memorial Cable Barrier System."

- That portion of State Road 916 on N.W. 135th Street between N.W. 7th Avenue and N.E. 6th Avenue in Miami-Dade County is designated as "Roi Henri Christophe Boulevard."

- That portion of State Road 916 on N.W. 135th Street between N.W. 17th Avenue and N.W. 7th Avenue in Miami-Dade County is designated as "Charles Summer Boulevard."

- That portion of State Road 916 on N.E. 135th Street between N.E. 6th Avenue and Biscayne Boulevard in Miami-Dade County is designated as "Capois-La-Mort Boulevard."

- That portion of State Road 934 on N.W. 79th Street between Interstate 95 and N.E. 10th Avenue in Miami-Dade County is designated as "Jean Baptiste Point du Sable Boulevard."

- The portion of State Road 50 in Lake County between the community of Stuckey and the Mascotte city limits is designated as the "Eric Ulysses Ramirez Highway."

- That portion of Interstate Highway 4 in the vicinity of mile marker 123 in Volusia County is designated as "Trooper Darryl Haywood Highway."

- That portion of Nova Road in Volusia County between International Speedway Boulevard to George W. Ingram Boulevard is designated as the "David Hinson Parkway."

- That portion of International Speedway Boulevard between Nova Road and Beach Street in Volusia County is designated as "Charles W. Cherry, Sr., Parkway."

- That portion of New Kings Road (U.S. 1) in Duval County between the 2400 block and the 3700 block is designated as "Taye Brown Parkway."

- That portion of the Haines Street Expressway between Jessie Street and Eighth Street in Duval County is designated as "Charles B. Dailey Parkway."

- That portion of U.S. Highway 1 between Finch Avenue and Redpoll Avenue in Duval County is designated as "Johnnie Mae Chappell Parkway."

- That portion of East Silver Springs Boulevard, State Road 40, in the City of Ocala from East 11th Avenue to East 16th Avenue is designated as the "Dr. John M. Haile Memorial Boulevard."

- The Sunshine Skyway Bridge over Tampa Bay is designated as the "Bob Graham/Sunshine Skyway Bridge."

- The portion of 104th Street between US 1 and 97 Ave. is designated as the "Ricardo Karakadze Street."

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate39 -0; House 118-0

HB 625 — Abandonment of Roads

by Rep. Littlefield and others (CS/SB 1130 by Transportation Committee and Senator Crist)

During the 2002 legislative session, s. 316.00825, F.S., was created to establish a process by which counties could abandon roads under their jurisdiction and simultaneously convey ownership and maintenance responsibility for the roads to a homeowners' association for the purpose of creating a gated community. The homeowners' association seeking conveyance of the public road must meet certain requirements, such as proof that it has the financial ability to properly maintain the road, its drainage systems, and other appurtenances, and that at least 80 percent of its property owners have consented to the conveyance.

Passage of this provision created an unintended consequence: municipalities were now prohibited from abandoning city-owned roads for the purpose of conveying them to homeowners' associations. That is because provisions in ch. 166, F.S., and ch. 316, F.S., basically prohibit municipalities from imposing traffic-control ordinances on matters already preempted in general law by counties. This bill (Chapter 2005-34, L.O.F.) seeks to correct the problem. It renumbers the existing s. 316.00825, F.S., related to counties' authority to abandon county roads and convey them to homeowners' associations as the new s. 336.125, F.S., in the chapter of law governing the county road system. By removing this section from ch. 316, F.S., the bill, in effect, gives municipalities the authority to abandon city-owned roads under their home rule powers pursuant to ch. 166, F.S.

These provisions became law upon approval by the Governor on May 10, 2005.
Vote: Senate 40-0; House 115-0

SB 868 — E. R. Pipping, Jr., Memorial Act

by Senator Dockery

This bill creates the "Ellwood Robinson 'Bob' Pipping, Jr., Memorial Act." The bill authorizes the Department of Transportation to contract with not-for-profit groups or organizations for the installation and maintenance of plaques, markers, monuments, memorials, or various retired military equipment honoring the military and veterans at interstate rest stops in Florida. This bill creates an oversight committee and provides for membership and term limits. This bill requires approval by the committee for contracts, conditions for approval, and states the group or organization making the proposal will be responsible for costs and installation of the monuments.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 117-0

HB 977 — Airport Regulation/Security Plans

by Rep. Adams and others (CS/SB 1808 by Transportation Committee and Senators Campbell and Wilson)

The bill amends s. 330.30, F.S., to require those public general aviation airports having at least one runway greater than 4,999 feet in length and not hosting scheduled commercial passenger service or charter services to develop and periodically update a security plan. The plan must be consistent with certain Florida Airport Council guidelines. Approved airport security plans must be filed with the Department of Transportation in order for an airport's license to be renewed or reissued. The Department of Law Enforcement will receive certain administrative information from airport security plans for use in protecting critical state infrastructure.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 117-0

HIGHWAY SAFETY AND MOTOR VEHICLES

HB 1697 — Motor Vehicles

by Transportation Committee and Rep. Evers and others (CS/CS/CS/SB 454 by Transportation and Economic Development Appropriations Committee; Governmental Oversight and Productivity Committee; Transportation Committee; and Senators Sebesta, Lynn, and Posey)

The bill addresses a number of issues primarily affecting the duties of the Department of Highway Safety and Motor Vehicles (DHSMV). The bill amends numerous sections of law relating to off-highway vehicles, traffic control, license plates, motor vehicle titles and registration, driver's licenses and identification cards, and wrecker operator liens. Many of the bill's provisions are technical or administrative in nature.

Section 1

Allows a person whose driver's license is being suspended for failure to pay child support to petition the court to be issued a driver's license for driving privileges restricted to "business purposes only" subject to the court's approval and subject to the person making a payment schedule for current and past due child support obligations. However, if the person obtaining the "business purposes only" driver's license does not comply with the payment schedule then the person's license will be suspended.

Section 2

Allows municipalities, by interlocal agreement with a county, to transfer traffic regulatory authority over areas within the municipality to the county.

Section 3

Requires a driver of a vehicle to give an appropriate signal when overtaking another vehicle proceeding in the same direction.

Section 4

Provides no person may turn a vehicle from a direct course or move left or right upon a highway unless the movement can be done safely, and only after giving an appropriate signal, and to require signal lamps to be used to indicate an intention to overtake or to pass a vehicle.

Section 5

Requires any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, to be equipped with handholds for such passenger. The section is further amended to specify a person may not operate a motorcycle with handlebars or handgrips higher than the top of the shoulders of the person operating the motorcycle while properly seated on the motorcycle.

Section 6

Changes some references from "city" to "municipal," and allows local governmental entities the authority to enact ordinances regarding golf cart operation and equipment which is more restrictive than state law. In addition, the section provides for the enforcement jurisdiction and penalties; however, these ordinances apply only to unlicensed drivers.

Section 7

Requires golf carts and utility vehicles must not only comply with the operational and safety requirements in ss. 316.212 and 316.2125, F.S., but also with more restrictive ordinances enacted by local governmental entities.

Section 8

Provides a person operating a commercial motor vehicle bearing an identification number which is false, fraudulent, or displayed without the consent of the person to whom it was assigned, commits a first degree misdemeanor, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. (up to 1 year imprisonment/$1,000 fine).

Section 9

Revises the distance to no more than 25 feet that a radio may be plainly audible from a motor vehicle.

Section 10

Clarifies funds from the Dori Slosberg Driver Education Safety Act be used for driver education programs in schools. In addition, the section specifies the funds must be used for the enhancement, and not replacement, of driver education program funds. Finally, the section is amended to provide certain driver education programs require a minimum of 30 percent of a student's time be behind-the-wheel training.

Section 11

Requires a mandatory hearing when a person commits an infraction resulting in a crash causing serious bodily injury or death. Specifically, if the infraction results in a crash causing death and

at the hearing the person is found to have committed the infraction, the designated official must impose a civil penalty of $1,000 in addition to any other penalties, and suspend the person's driver's license for 6 months. If the infraction results in a crash causing serious bodily injury, and at the hearing the person is found to have committed the infraction, the designated official must impose a civil penalty of $500 in addition to any other penalties, and suspend the person's driver's license for 3 months. All fees collected are to be remitted to the Department of Revenue (DOR) for deposit into the Department of Health Administrative Trust Fund. The fees are to be allocated as follows:

- Fifty percent equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services; and

- Fifty percent among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health (DOH) Trauma Registry.

Section 12

Provides for the distribution of specified civil penalties by county courts.

Section 13

Revises procedures applicable to determining whether vehicles with custom lowered floors for wheelchair access or a wheelchair lift are damaged to the point of total loss. If such a vehicle is repairable to a safe operating condition, the insurance company may submit the title for reissuance as a salvageable rebuildable title and the addition of a title brand of "insurance declared total loss."

Section 14

Authorizes DHSMV to withhold registration or re-registration of a motor vehicle if the owner, or one of the co-owners' name appears on a list that was given to DHSMV by a licensed motor vehicle dealer for a previous registration of that vehicle. The section requires the motor vehicle dealer to maintain signed evidence the owner or co-owner acknowledged the dealer's authority to give the list to DHSMV if they failed to pay, and allows the owner or co-owner to dispute a claim that money is owed to a dealer for registration fees by giving a form to DHSMV if such owner has documentary proof the fees have been paid to the dealer for the disputed amount.

Section 15

Allows DHSMV to deny, suspend, or revoke any license upon proof a licensee has failed to maintain evidence of notification to the owner or co-owner of a vehicle regarding registration or titling fees owed under the bill.

Section 16

Amends ss. 320.08058 (7), (30), (33), and (56), F.S., relating to the Florida Special Olympics, Choose Life, United We Stand, and Animal Friend specialty license plates. Specifically, s. 320.08058(7), F.S., renames the specialty license plate to the Special Olympics Florida license plate due to a change in the corporate name and allows for redesign of the plate, so that "Everyone Wins" will be centered at the top of the plate. Section 320.08058(30), F.S., is amended to revise requirements of each agency receiving funds to submit an annual attestation to the county. Section 320.08058(33), F.S., is amended to require that all of the fees generated by the United We Stand plate be distributed to the SAFE Council of the Department of Transportation (DOT). Section 320.08058(56), F.S., is amended to revise distribution and use of the annual use fee revenues from the Animal Friend specialty license plate.

Section 17

Allows retired members from any branch of the United States Armed Forces Reserve to be issued a U.S. Reserve special license plate.

Section 18

Allows mobile home dealers to post a cash bond or irrevocable letter of credit, in lieu of a required surety bond, in order to be licensed mobile home dealers in the state.

Section 19

Deletes a provision requiring funds collected from a voluntary contribution associated with driver's licenses and renewals distributed to the Hearing Research Institute, Inc., to be used for infant hearing screening in Florida.

Section 20

Directs the DHSMV to invalidate a driver's license suspension for driving with an unlawful blood-alcohol or breath-alcohol level imposed under s. 322.2615, F.S., if the suspended person is found not guilty of driving under the influence (DUI) at trial. In addition, the section clarifies the disposition of a criminal proceeding does not affect a suspension for refusal to submit to a blood, breath, or urine test.

Section 21

Provides for the creation and duties of the Manufactured Housing Regulatory Study Commission. The section provides for the commission's membership, the goals of its study, its report, and termination.

Section 22

Corrects an obsolete cross reference relating to points assigned for littering violations.

Section 23

Amends the standards for disqualification from operating a commercial motor vehicle, by clarifying that when the offense occurred is the determinant for timeframes for which penalties may attach. The section provides additional violations that can disqualify a person from driving a commercial vehicle, and provides that penalties incurred while driving a noncommercial vehicle can impact the commercial driver's license.

Section 24

Provides any volunteer highway patrol troop surgeon or any volunteer licensed health professional appointed by the director of the Florida Highway Patrol are considered employees for the purposes of the state's sovereign immunity provision.

Section 25

Creates s. 549.102, F.S., to exempt motorsports complexes from the provisions of ch. 513, F.S., relating to mobile home and recreational vehicle parks. Specifically, the owner of a motorsports entertainment complex may allow temporary overnight parking during a motorsports event and the two days before and after the event without any other license or permit as long as the area where the parking is allowed meets applicable DOH requirements other than site requirements.

Section 26

Revises the definition of "off-highway vehicle" by deleting the requirement vehicles be used "for recreational purposes," and by including "two-rider" vehicles in the definition. It also provides a definition of "two-rider ATV" to mean any ATV specifically designed by the manufacturer for a single operator and one passenger.

Section 27

Defines a "traffic signal preemption system," as "any system or device with the capability of activating a control mechanism mounted on or near traffic signals which alters a traffic signal's timing cycle."

Section 28

Provides the unauthorized use of a traffic signal preemption device is a moving violation punishable as provided in ch. 318, F.S. ($60 fine/ 4 points).

Section 29

Provides a driver of a vehicle turning left must also yield the right-of-way to vehicles lawfully passing on the left side of the turning vehicle. A violation of this offense is punishable as a moving violation. This provision is intended to provide law enforcement officers with clarification as to the correct citation of this violation.

Section 30

Creates s. 316.1576, F.S., to provide clearance specifications for railroad-highway grade crossings. Specifically, a person may not drive any vehicle through a railroad-highway grade crossing not having sufficient space or sufficient undercarriage clearance to drive completely through the crossing without stopping. A violation of this provision is a noncriminal traffic infraction, punishable as a moving violation in ch. 318, F.S. Enactment of these provisions provides a basis for the DHSMV to disqualify commercial driver's licenses, as required by federal law, and brings Florida into compliance with federal law.

Section 31

Creates s. 316.1577, F.S., to make employers responsible for violations pertaining to railroad-highway grade crossings. An employer may not knowingly allow, require, permit, or authorize a driver to operate a commercial motor vehicle in violation of a federal, state, or local law or rule pertaining to railroad-highway grade crossings. A violator of this provision is subject to a civil penalty of not more than $10,000.

Section 32

Increases the minimum speed limit on interstate highways with no fewer than 4 lanes from 40 to 50 miles per hour when the posted speed limit is 70 miles per hour. According to the DHSMV, this could potentially enhance traffic safety and the traffic flow on the National System of Interstate and Defense Highways.

Section 33

Amends s. 316.1932(1), F.S., relating to the statutorily implied consent given by licensed drivers to submit to breath, blood and urine tests for alcohol or other substances. It removes the form restriction that requires the notice of implied consent to be printed solely above the licensee's signature line. The bill provides the DHSMV with the flexibility to place such notice of implied consent anywhere on the front or back of the driver's license. Currently, DHSMV prints the consent warning below the signature line; therefore, this bill conforms the statute to current practice.

Section 34

Removes the references to Class D licenses in an exemption from this section for a passenger of a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a Class D driver's license, and for a passenger of a bus in which the driver holds a Class D driver's license. Therefore, such passengers could receive a nonmoving traffic violation for open container possession in the vehicle or bus.

Section 35

Authorizes a traffic accident investigation officer to provide for the removal of an attended, unattended, or abandoned vehicle. This provision is intended to give Community Service Officers, Public Service Aides, and other non-sworn traffic accident investigation officers the authority to remove vehicles creating a roadway hazard.

Section 36

Provides the owner of a leased vehicle is not responsible for a parking ticket violation and is not required to submit an affidavit or other specified evidence if the vehicle is registered in the name of the person who leased the vehicle. The section is further amended to direct the county court or its traffic violations bureau to notify the registered vehicle lessee by mail upon failure of the registered lessee to comply with the direction on the ticket. Under current law, the owner of the vehicle is liable for payment of parking ticket violations unless the owner can furnish evidence the vehicle was, at the time the violation occurred, in the care, custody, or control of another person.

Section 37

Provides, for the purposes of this section, ATV includes two-rider ATVs.

Section 38

References the most recent version of the Code of Federal Regulations relating to commercial vehicles, which was updated in 2004.

Section 39

Clarifies what portion of the license plate must be clear and plainly visible. Specifically, the word "Florida," the registration decal, and the alphanumeric designation must be clear and distinct and free from obscuring matter.

Section 40

Strikes language that deletes the DHSMV's authorization to expend funds for the purchase of promotional items as part of the public information and education campaigns provided for in ss. 316.613(4), 316.614, 322.025, and 403.7145, F.S.

Section 41

Creates s. 316.6131, F.S., as a result of the relocation of s. 316.613(4)(b), F.S. This relocated provision shifts and broadens the authority of the DHSMV to expend current funds for public awareness campaigns. The revised provision broadens the authority to expend such funds to purchase educational items for promoting highway safety and awareness campaigns as provided in chs. 316 (state uniform traffic control), 320 (registration requirements), 322 (driver's licenses), and s. 403.7145 (recycling), F.S., and for community-based initiatives.

Section 42

Provides an exception to the existing law by allowing uniform traffic citations to be admissible evidence in a trial of falsification, forgery, uttering, fraud or perjury or when used as physical evidence resulting from a forensic examination of the citation.

Section 43

Revises the definition of "off-highway vehicle" by deleting the requirement vehicles be used "for recreational purposes," and by including "two-rider" vehicles in the definition. It also provides a definition of "two-rider ATV" to mean any ATV specifically designed by the manufacturer for a single operator and one passenger.

Section 44

Corrects a reference to clarify the DHSMV shall administer all off-highway vehicle titling laws in the chapter. In addition, this section provides the provisions of ch. 319, F.S., (title certificates), are applicable to this ch. 317, F.S., unless otherwise explicitly stated.

Section 45

Clarifies the section's provisions apply to all of ch. 317, F.S.

Section 46

Clarifies the section's provisions apply to all of ch. 317, F.S.

Section 47

Authorizes the DHSMV to issue validation stickers to OHVs as proof of issuance of title. The DHSMV and county tax collectors are also authorized, upon application, to replace lost or destroyed validation stickers and charge the fees established in ss. 320.03(5), 320.031, and 320.04, F.S., for original and replacement stickers.

According to the DHSMV, it would purchase validation decals and oversee their issuance as proof of title, in addition to administering the corresponding revenue collection and distribution process. There have been 83,518 ATVs and OHVs titled since legislative inception in July of 2002, with 40,895 estimated to be titled annually. The DHSMV would incur estimated annual expenditures of $7,708 for issuance of two decals per vehicle, in addition to mailing expenses to implement. An estimated $61,342 in annual recurring revenue is based on collection of the $1 Decal on Demand fee and $.50 FRVIS fee per 40,895 estimated annual transactions. Tax collectors statewide would realize additional estimated annual revenue of $122,685, based on collection of $3 service and branch fee service charges for each vehicle transaction.

Section 48

Repeals s. 317.0008(2), F.S., relating to the expedited issuance of duplicate certificates of title for off-highway vehicles. These provisions are moved to s. 317.0016, F.S.

Section 49

Clarifies the section's provisions apply to all of ch. 317, F.S. Specifically, except as otherwise provided, funds collected pursuant to ch. 317, F.S., shall be deposited into the Incidental Trust Fund of the Division of Forestry of the Department of Agriculture and Consumer Services.

Section 50

Clarifies the section's provisions apply to all of ch. 317, F.S.

Section 51

Clarifies the section's provisions apply to all of ch. 317, F.S.

Section 52

Creates s. 317.0014, F.S., to provide procedures for the issuance of titles for off-highway vehicles and for the handling of liens and encumbrances. In addition, it allows the DHSMV to assign a number to each certificate of title and allows the data base record to serve as the duplicate record. These procedures are consistent with those found in s. 319.24, F.S., which applies to titles for motor vehicles and vessels.

This section also creates a second degree misdemeanor for failing, within 10 days after receipt of a demand by the DHSMV by certified mail, to return a certificate of title to DHSMV as required, or, upon satisfaction of a lien, failing within 10 days after receipt of such demand to forward the appropriate document as required.

Section 53

Creates s. 317.0015, F.S., to provide for the application of certain provisions of law currently applicable to the titling of motor vehicles and vessels to off-highway vehicles. They include: (1) Encumbrance of a co-owned off-highway vehicle; (2) Removal of liens from record; (3) Cancellation of certificates; (4) Notice of lien notation on certificate recording of lien; (5) Transfer of ownership by operation of law; and (6) Applications provided by electronic or telephonic means.

Section 54

Creates s. 317.0016, F.S., to provide procedures for expedited service on title transfers, title issuances, duplicate titles, recordation of liens, and certificates of repossession for off-highway vehicles. The procedures are consistent with expedited services for motor vehicles and vessels as provided in s. 319.323, F.S., except that the section provides $3.50 of the fee is to be retained by the processing agency and the remaining $3.50 is to be deposited in the Incidental Trust Fund of the Division of Forestry.

According to the DHSMV, this section will minimally increase revenues deposited into the Incidental Trust Fund, based upon application of the current percentage of non-OHVs having fast titles issued. Ten percent or 4,090 of 40,895 OHVs or ATVs would generate increased annual estimated revenues of $14,315 each to the Incidental Trust Fund and statewide tax collectors, based on a 50 percent split of the $7 transaction fee; however, this service is optional for customers.

Section 55

Creates s. 317.0017, F.S., which creates the following third degree felony offenses:

- Altering or forging any certificate of title to an off-highway vehicle or any assignment thereof or any cancellation of any lien on an off-highway vehicle.

- Retaining or using such certificate, assignment, or cancellation knowing that it has been altered or forged.

- Procuring or attempting to procure a certificate of title to an off-highway vehicle, or pass or attempt to pass a certificate of title or any assignment thereof to an off-highway

vehicle, knowing or having reason to believe that the off-highway vehicle has been stolen.

- Possessing, selling or offering for sale, concealing, or disposing of in this state an off-highway vehicle, or major component part thereof, on which any motor number or vehicle identification number affixed by the manufacturer or by a state agency has been destroyed, removed, covered, altered, or defaced, with knowledge of such destruction, removal, covering, alteration, or defacement, except as provided in s. 319.30(4), F.S.

- Using a false or fictitious name, giving a false or fictitious address, or making any false statement in any application or affidavit required under ch. 317, F.S., or in a bill of sale or sworn statement of ownership or otherwise committing a fraud in any application.

- Knowingly obtaining goods, services, credit, or money by means of an invalid, duplicate, fictitious, forged, counterfeit, stolen, or unlawfully obtained certificate of title, registration, bill of sale, or other indicia of ownership of an off-highway vehicle.

- Knowingly obtaining goods, services, credit, or money by means of a certificate of title to an off-highway vehicle, which certificate is required by law to be surrendered to the department.

- Knowingly and with intent to defraud have in his or her possession, sell, offer to sell, counterfeit, or supply a blank, forged, fictitious, counterfeit, stolen, or fraudulently or unlawfully obtained certificate of title, bill of sale, or other indicia of ownership of an off-highway vehicle or conspire to do any of the foregoing.

- Knowingly possess, manufacture, sell or exchange, offer to sell or exchange, supply in blank, or give away any counterfeit manufacturer's or state-assigned identification number plates or serial plates or any decal used for the purpose of identifying an off-highway vehicle. It is specified that this offense applies to a person, firm, or corporation. An officer, agent, or employee of any person, firm, or corporation, or any person may not authorize, direct, aid in exchange, or give away, or conspire to authorize, direct, aid in exchange, or give away, such counterfeit manufacturer's or state-assigned identification number plates or serial plates or any decal. However, this offense does not apply to any approved replacement manufacturer's or state-assigned identification number plates or serial plates or any decal issued by the DHSMV or any state.

Any off-highway vehicle used in violation of this section constitutes contraband that may be seized by a law enforcement agency and that is subject to forfeiture proceedings pursuant to ss. 932.701-932.704, F.S.. This section is not exclusive of any other penalties prescribed by any existing or future laws for the larceny or unauthorized taking of off-highway vehicles, but is supplementary thereto.

These provisions conform this section to prohibited actions concerning motor vehicles and vessels found in s. 319.33, F.S.

Section 56

Creates s. 317.0018, F.S., to provide the following actions are prohibited, unless otherwise authorized in ch. 317, F.S.:

- Purporting to sell or transferring an off-highway vehicle without delivering to the purchaser or transferee of the vehicle a certificate of title to the vehicle duly assigned to the purchaser as provided in ch. 317, F.S.

- Operating or using in this state an off-highway vehicle for which a certificate of title is required without the certificate having been obtained in accordance with ch. 317, F.S., or upon which the certificate of title has been canceled.

- Failing to surrender a certificate of title upon cancellation of the certificate by the department and notice thereof as prescribed in ch. 317, F.S.

- Failing to surrender the certificate of title to the department as provided in ch. 317, F.S., in the case of the destruction, dismantling, or change of an off-highway vehicle in such respect that it is not the off-highway vehicle described in the certificate of title.

- Violating any other provision of ch. 317, F.S., or a lawful rule adopted pursuant to ch. 317, F.S.

A violator shall be fined not more than $500 or imprisoned for not more than 6 months, or both, for each offense, unless otherwise specified.

Section 57

Requires all dispositions requiring a correction and returned to a county be resubmitted to the DHSMV within 10 days after notification of the error. This section further authorizes the DHSMV to modify the effective date of any resulting suspension or revocation action resulting from citation dispositions reported to the DHSMV more than 180 days after the disposition of the citation as if the citation had been reported in a timely manner.

Also, ss. (9) and (10) of s. 318.14, F.S., regarding certain citation procedures and proceedings, are amended to provide applicability only to persons who do not hold a commercial driver's license (CDL). Specifically, the amended section prohibits CDL holders who are cited for traffic infractions and certain traffic offenses from making an election to attend a basic driver improvement course or entering into a plea of nolo contendere. This change is necessary to conform to the federal regulation.

Section 58

Requires a licensed dealer to file with the DHSMV a notice of sale signed by the seller on motor vehicles or mobile homes taken in trade. The DHSMV will update its database for the respective title record to indicate a status of "sold."

Section 59

Corrects an obsolete cross-reference.

Section 60

Allows a credit to those license registrants who are required by the DHSMV to replace a specialty license plate due to the plate being discontinued for lack of sales.

Section 61

Requires long-term leased motor vehicles to be registered in the name and address of the lessee. According to the DHSMV, this provision will assist law enforcement with the registration that corresponds with the driver's license and insurance identification, just as required for non-leased vehicles.

Section 62

Clarifies that fleet vehicles are exempt from the requirement to carry the certificate of registration in each registered motor vehicle.

Section 63

Provides a method for distinguishing who is eligible to use a disabled person's license plate when the vehicle is registered to more than one person. Specifically, the provision requires when more than one registrant is listed on the registration for a wheelchair license plate, the eligible license plate applicant must be noted on the registration certificate.

Section 64

Authorizes the DHSMV to administer an electronic system for licensed motor vehicle dealers to use in issuing temporary plates. Dealers must enter into the system the appropriate vehicle and owner information upon the issuance of a temporary tag or temporary license plate within the DHSMV's specified timeframe. In addition, DHSMV is authorized to adopt the necessary rules to administer these specified provisions. Failure to comply is punishable by denial, suspension, or revocation of the motor vehicle dealer's license. This system will assist law enforcement through immediate retrieval of temporary license plate information.

Section 65

Authorizes the DHSMV to cancel any vehicle or vessel registration, driver's license, identification card, or fuel-use tax decal if the owner pays by a dishonored check. This change would allow the DHSMV to cancel all documents issued by the DHSMV if any document is paid for with a bounced check.

Section 66

Amends s. 320.27(4), F.S., to require motor vehicle dealer principals to provide certification of completing 8 hours of continuing education prior to filing license renewal forms with the DHSMV; such certification must be filed once every 2 years beginning in 2006. The continuing education must include 2 hours of legal or legislative issues, 1 hour of department issues and 5 hours of relevant motor vehicle industry topics. The continuing education must be provided by a licensed dealer school either in a classroom or by correspondence. Dealer schools must provide completion certificates to both the DHSMV and the customer and the schools are authorized to charge a fee for providing continuing education.

Amends s. 320.27(6), F.S., to require motor vehicle dealers to maintain a record of all purchases, sales, exchange or receipt for sales, and temporary license plates for a period of 5 years. In addition, s. 320.27(9), F.S., is amended to provide grounds for the denial, suspension, or revocation of a dealer's license for willful failure to comply with the DHSMV's requirements for issuing temporary tags using the electronic system. To take action against a licensee, the DHSMV must prove sufficient frequency of violations to establish a pattern of wrongdoing by the licensee.

Section 67

Deletes references to "declared" or "actual" weight ratings from the definition of commercial motor vehicle, basing the weight classification of commercial motor vehicles specifically on the gross vehicle weight rating of 26,001 pounds or more. This section also provides the definition of "conviction" provided in 49 CFR part 383.5 applies to offenses committed in a commercial motor vehicle, which corresponds with the state definition. In addition, the section amends the definition of "out-of-service order" to mean a prohibition issued by an authorized local, state, or federal government official.

Section 68

Eliminates the Class D driver's license and deletes references thereto.

Section 69

Revises identification card application requirements to include a naturalization certificate issued by the United States Department of Homeland Security as sufficient proof to entitle an applicant

to an identification card. The section also clarifies that a U.S. passport, valid or invalid, is an acceptable proof of identity document. The DHSMV advised staff that, for purposes of proving identity to obtain a driver's license, the DHSMV will accept a passport that has expired. The section further provides the requirement of a full-face photograph or digital image of the identification cardholder may not be waived, regardless of the provisions of ch. 761, F.S.

Section 70

Removes the requirements for a Class D driver's license.

Section 71

Revises proof of identity for the purpose of obtaining a driver's license to include a naturalization certificate issued by the United States Department of Homeland Security as sufficient proof to entitle an applicant to a driver's license or temporary permit. The section also clarifies that a U.S. passport, valid or invalid, is an acceptable proof of identity document. DHSMV advised staff that, for purposes of proving identity to obtain a driver's license, the DHSMV will accept a passport that has expired. The section conforms documentation requirements for driver's licenses and identification cards. This section also specifies what constitutes proof of nonimmigrant classification to entitle an applicant to an original driver's license or temporary permit for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first. Such proof includes:

- A notice of hearing from an immigration court scheduling a hearing on any proceeding.
- A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
- A notice of the approval of an application for adjustment of status issued by the United States Immigration and Naturalization Service.
- Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the United States Immigration and Naturalization Service.
- A notice of action transferring any pending matter from another jurisdiction to this state issued by the United States Immigration and Naturalization Service.
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States, including, but not limited to, asylum.

Section 72

Authorizes a secondary guardian to sign a driver's license application for a minor if the primary guardian dies before the minor reaches 18 years of age.

Section 73

Requires the DHSMV to provide 90 days notice to a minor before canceling the minor's license due to the death of the person who co-signed the initial driver's license application.

Section 74

Removes the requirements for a Class D driver's license.

Section 75

Under the provisions of the bill, local tax collectors acting as agents of DHSMV for the purposes of providing driver's licensing services will retain the entire $5.25 convenience fee paid by customers instead of remitting $1 of that amount to DHSMV. According to DHSMV, this change will result in an approximately $1,150,000 annual negative fiscal impact to the Highway Safety Operating Trust Fund. However, the $1 portion of the fee currently remitted to DHSMV is used for driver's license technology maintenance and upgrades, and according to DHSMV, the new driver's license technology contract funded last year covers these technology costs.

Requires the electronic transfer of driver's license fees and charges to the DHSMV from the county tax collector within 5 business days from the close of the business day in which the county officer received the funds. This provision is similar to provisions already found in ss. 319.32, 320.03, and 328.73, F.S., which mandate a 5-day transfer period for fees collected for motor vehicle titles, motor vehicle registration, and vessel registration certificates.

Section 76

Authorizes the DHSMV to issue a color photographic or digitally imaged driver's license to qualified applicants. The section provides the requirement of a full-face photograph or digital image of the licensee may not be waived, regardless of the provisions of ch. 761, F.S.

Section 77

Removes the requirements for a Class D driver's license.

Section 78

Corrects a cross-reference in s. 322.08, F.S., which changes as a result of the bill.

Section 79

Corrects a cross-reference in s. 322.08, F.S., which changes as a result of the bill. In addition, Florida's participation in the federal program to conduct security checks on all hazmat applicants

is mandatory, which requires security checks be repeated at no more than five-year intervals. The section provides a CDL with a hazardous-materials endorsement shall expire at midnight on the licensee's birthday that next occurs four years after the month of expiration of the license being issued or renewed, which will be consistent with the requirements of federal law.

Section 80

A conforming provision that corrects a cross-reference in s. 322.08, F.S., which changes as a result of the bill.

Section 81

Removes the requirements for a Class D driver's license. This section of the bill also creates s. 322.21(1)(f), F.S., to provide a hazardous-materials endorsement fee must be set by the DHSMV by rule, as required by s. 322.57(1)(d), F.S., and must reflect the cost of the state and federal fingerprint check, and the cost to the DHSMV for issuing the license; the fee must not exceed $100. This fee must be deposited into the Highway Safety Operating Trust Fund. According to the DHSMV, the portion of the fee required to cover the criminal history and fingerprint checks would be forwarded to the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigation (FBI).

According to the DHSMV, this change is required to authorize the deposit of the hazardous-material endorsement fee into the Highway Safety Operating Trust Fund and to allow the DHSMV to set the fee by rule, policy, or procedure. The DHSMV estimates a $91 fee will be established, which consists of an $81 cost for conducting criminal history checks with the FDLE, the FBI, and the Transportation Safety Administration (TSA) and a $10 administrative cost. Based on a 40,000 annual population, it is estimated this bill will generate $3,640,000, of which $400,000 will be retained in the Highway Safety Operating Trust Fund to recover administrative costs and $3,240,000 will be distributed to the FDLE, the FBI, and the TSA for conducting criminal history checks. The DHSMV is authorized to adopt the necessary rules to administer the provisions of this section.

Section 82

Provides any person giving false information when applying for a commercial driver's license will be disqualified from operating a commercial motor vehicle for 60 days. This change is a federal regulation, which the states are required to implement or be penalized.

Section 83

Authorizes the DHSMV to cancel an identification card, driver's license, vehicle or vessel registration, or fuel-use decal if the licensee fails to pay the correct fee or pays by a dishonored check, regardless of which one he or she is paying for. This change would allow the DHSMV to

cancel all documents issued by the DHSMV if any document is paid for with a dishonored check.

Section 84

Removes the requirements for a Class D driver's license.

Section 85

Revises suspension of license provisions to include references to unlawful breath alcohol level and allow a formal review hearing to be conducted upon a review of documents relating to the refusal to take a urine test.

Section 86

Corrects an erroneous reference relating to points assigned for littering violations. In addition, the section creates a new point value for violations of s. 316.0775, F.S.; therefore, s. 322.27, F.S., is amended to assign a four point value for a conviction under s. 316.0775(2), F.S., regarding a violation of the unauthorized use of a traffic signal preemption device.

Section 87

Removes the requirements for a Class D driver's license.

Section 88

Clarifies military personnel do not need a CDL to drive vehicles for military purposes. Currently, Florida law exempts military personnel driving military vehicles from CDL requirements; however, federal regulations require exemption of military personnel from CDL requirements when driving vehicles operated for military purposes. The section also removes the specialty licensing and endorsement requirements for emergency and farm CDL exemptions. Also, this section is amended to remove the requirements for a Class D driver's license.

Section 89

Removes the requirement that a Class C driver's license is required to operate a motor vehicle combination having a gross vehicle weight rating, a declared weight, or an actual weight of 26,001 pounds or more. The bill amends Florida law to mirror federal law so that a Class C license is required only for those drivers who must have a commercial driver's license with a special endorsement. Also, this section is amended to remove the requirements for a Class D driver's license.

Section 90

Provides a new endorsement category implementing changes to the Federal Motor Carrier Safety Administration (FMCSA) regulations, which require school bus drivers to test their knowledge and driving skills in a school bus and hold a corresponding CDL endorsement for that type of vehicle. In addition, the bill removes obsolete language in this section regarding the weight restriction of vehicles operated by Class C licensees.

Section 91

Removes the requirements for a Class D driver's license and changes those requirements to a Class E driver's license.

Section 92

Clarifies provisions concerning alcohol or drug testing for commercial motor vehicle operators. Under the bill, blood and breath tests are to be used to measure the concentration of alcohol in a person's blood, while urine tests are to be used to determine the presence of certain chemical substances or of controlled substances. Further, DHSMV is given the flexibility to place the notice of implied consent anywhere on the front or back of the commercial driver's license.

Section 93

Implements changes to the FMCSA regulations which require states to apply similar noncommercial motor vehicle traffic violations as disqualifying offenses, and adds new disqualifying offenses. Basically, if a commercial driver is arrested with an unlawful blood-alcohol level or refuses to submit to a breath, urine, or blood test while operating a commercial motor vehicle, the driver is disqualified from operating such vehicle and will only be issued a 10-day temporary permit for noncommercial vehicles. Also, s. 322.634(14), F.S., is reenacted.

Section 94

Provides a registered owner may dispute a wrecker operator's lien, if the DHSMV's records were marked sold prior to the date of the tow. The section is further amended to provide the lien dispute resolution process in subsection (13) does not apply to a leased vehicle registered in the name of the lessor. Specifically, the section provides a wrecker lien on a leased vehicle does not prevent the lessor (the leasing company) from registering other vehicles.

Section 95

Prohibits the transport of radio receiving equipment assigned to fire and rescue personnel, except in emergency or crime watch vehicles of law enforcement officers or fire rescue personnel. This section also amends the definition of "emergency vehicle" to provide that a fire chief can designate any motor vehicle as an emergency vehicle if assigned the use of frequencies assigned

to the local government's fire department. The bill changes the penalty for violating any provision of the section from a second degree misdemeanor to a first degree misdemeanor.

Section 96

Provides a short title so the section may be cited as the "Dori Slosberg Act of 2005."

Section 97

Amends the "Florida Safety Belt Law" to provide for primary enforcement of the safety belt law for operators and passengers under 18 years of age. Law enforcement officers would be authorized to stop motorists and issue citations for a safety belt violation. A person violating this provision would be cited for a nonmoving violation, punishable by a $30 fine.

Additionally, this section requires each law enforcement agency in Florida to adopt a departmental policy to prohibit racial profiling. The section also requires law enforcement officers to record the race and ethnicity of the violator when a citation is issued for not wearing a safety belt. This data must be forwarded to DHSMV, and the DHSMV must report this information annually to the Governor and the Legislature.

If approved by the Governor, and except as otherwise provided in the bill, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 117-0

HB 19 — Motor Vehicle Driving Privilege/DUI

by Rep. Kravitz and others (SB 468 by Senators Wise and Haridopolos)

The bill creates stronger enforcement mechanisms to help ensure compliance with the current requirement that a person whose driver's license has been suspended or revoked for driving under the influence (DUI) must maintain proof of complying with additional financial responsibility insurance requirements for 3 years. The bill requires DUI violators to renew their vehicle registration every 6 months, rather than annually. The 6-month registration would be conditioned upon maintaining a 6-month non-cancelable motor vehicle liability policy for each 6-month registration during the 3-year period of maintaining financial responsibility.

To satisfy the financial responsibility requirements, violators must maintain a non-cancelable 6-month liability policy of at least $10,000 for injury to one person, $20,000 for injury to two or more persons, and $10,000 property damage; or $30,000 combined single limits that are required under current Florida Law. The bill requires the Department of Highway Safety and Motor Vehicles to issue a vehicle registration certificate that is valid for 6 months and to issue a validation sticker that displays an expiration date of 6 months after the date of issuance.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 118-0

SB 52 — Commercial Motor Vehicles

by Senator Geller

The bill provides any person engaged in retrofitting, rebuilding, or modifying commercial trucks, truck tractors, or heavy trucks, as defined in s. 320.01, F.S., into dump trucks must have evidence of insurance coverage under a commercial liability insurance policy with limits of at least $1 million per accident and $1 million annual aggregate. Evidence of this insurance policy must be available at all reasonable hours for inspection by any law enforcement officer.

Additionally, the bill defines the term "dump truck," and provides any person engaged in retrofitting, rebuilding, or modifying commercial trucks, truck tractors, or heavy trucks, into dump trucks must ensure that the retrofitted, rebuilt, or modified dump truck complies with all federal safety standards provided in 49 C.F.R. 393.

The bill also provides any person who violates the provisions in the paragraphs above commits a second degree misdemeanor on the first violation, a first-degree misdemeanor on the second violation and a third-degree felony for a third or subsequent violation.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 37-2; House 116-0

HB 63 — Disabled Parking Permits

by Rep. Simmons and others (SB 870 by Senator Crist)

The bill expands the class of medical personnel who are authorized to certify a person as disabled for the purposes of proving eligibility for a disabled parking permit. The bill provides all advanced registered nurse practitioners licensed under ch. 464, F.S., under the protocol of a licensed physician, and all physician assistants licensed under ch. 458, F.S. or ch. 459, F.S., are eligible to make the disability determination. The bill also provides for disciplinary actions against those who violate the provisions governing disabled parking permits.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 112-0

HB 157 — Road Rage Reduction Act

by Rep. Sorenson and others (CS/SB 732 by Criminal Justice Committee; and Senators Bennett and Bullard)

Effective January 1, 2006, s. 316.081, F.S., is amended to prohibit a person from operating a motor vehicle in the left-hand lane except when overtaking or passing another vehicle on a four-lane highway, an interstate highway, a highway with fully controlled access, or the Florida Intrastate Highway System. The bill also requires a person operating a motor vehicle on a two-lane roadway designed for two-way movement of traffic to occupy the right-hand lane at all times, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. The bill requires slower vehicles on a three-lane roadway to yield to vehicles being driven at a faster rate of speed by moving over to the closest right-hand lane. The bill provides a number of exceptions to this general rule. A conviction for a violation of this new provision will result in the assessment of 3 points and a $60 fine. Beginning July 1, 2005, the Department of Highway Safety and Motor Vehicles is directed to include information regarding the provisions of the act with all driver's license educational material and law enforcement officers may issue warnings for conduct that would violate the provisions taking effect January 1, 2006.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 28-10; House 113-4

CS/SB 276 — Wrecker Services

by General Government Appropriations Committee and Senators Crist and Wilson

This bill creates ch. 508, F.S., to establish within the Department of Agriculture and Consumer Services (DACS) a state-wide wrecker company registration and wrecker operator certification system. With some exceptions, a person may not operate a wrecker company unless that person is registered with DACS and the bill restricts counties and municipalities from issuing or renewing an occupational license unless the wrecker company is registered with DACS. Participation in the Florida Highway Patrol or local government wrecker allocation system is restricted to those wrecker companies registered with DACS. The bill creates the Wrecker Operator Advisory Council to advise DACS on implementation of this chapter. The bill also:

- Clarifies the rates that may be charged by a wrecker operator on vehicles held at the request of law enforcement.
- Allows vessels and mobile homes to be towed, stored, and secured by liens in substantially the same manner as automobiles.
- Preserves a mobile home park owner's claim for unpaid lot rental.

- Limits a wrecker operator's liability for damages for removing vehicles, vessels, and cargo obstructing a roadway.

- Clarifies a wrecker operator's responsibility to release a vehicle or vessel for half-price before it is removed from the premises in which it is unlawfully parked.

- Prohibits the payment or acceptance of consideration for the privilege of towing vehicles from a particular location.

- Creates criminal penalties for wrecker operator conduct that is already prohibited under existing law.

If approved by the Governor, these provisions take effect July 1, 2005 unless otherwise specified in the bill.
Vote: Senate 34-2; House 108-2

CS/CS/SB 492 — Vehicles/Recovery/Towing/Storage

by Criminal Justice Committee; Judiciary Committee; and Senators Bennett and Crist

This bill makes a number of changes to the law regulating the towing or removal of vehicles, vessels, and mobile homes. Specifically, the bill does the following:

- Clarifies the rates that may be charged by a wrecker operator on vehicles held at the request of law enforcement.

- Allows vessels and mobile homes to be towed, stored, and secured by liens in substantially the same manner as automobiles.

- Preserves a mobile home park owner's claim for unpaid lot rental.

- Limits a wrecker operator's liability for damages for removing vehicles, vessels, and cargo obstructing a roadway.

- Clarifies a wrecker operator's responsibility to release a vehicle or vessel for half-price before it is removed from the premises in which it is unlawfully parked.

- Prohibits the payment or acceptance of consideration for the privilege of towing vehicles from a particular location.

- Creates criminal penalties for wrecker operator conduct that is already prohibited under existing law.

If approved by the Governor, these provisions take effect July 1, 2005 except as otherwise provided in the bill.
Vote: Senate 40-0; House 114-0

HB 497 — Velez Memorial Traffic Safety Act

by Rep. Cannon and others (CS/CS/SB 1264 by Health and Human Services Appropriations Committee; Transportation Committee; and Senators Saunders, Fasano, Constantine, and Klein)

The bill creates the "Anjelica and Victoria Velez Memorial Traffic Safety Act." This bill increases the fine and points assessed against a person's driving record for a red light violation. Specifically, the bill imposes a fine of $125 for a violation of a traffic control steady red indication, of which $60 would be distributed as provided in s. 318.21, F.S., and the remaining $65 would be remitted to the Department of Revenue (DOR) for deposit into the Administrative Trust Fund of the Department of Health (DOH). In addition, a red light violation results in four points being assessed against the violator's driving record.

The bill would require the Department of Highway Safety and Motor Vehicles (DHSMV) to identify any operator convicted of or who pleaded nolo contendere to a second violation of s. 316.074(1) or s. 316.075(1)(c)1., F.S., which violation occurred within 12 months after the first violation, and shall require that operator, in addition to other applicable penalties, to attend a DHSMV-approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days after receiving notice from the DHSMV, the operator's driver license is canceled by the DHSMV until the course is successfully completed.

The bill also provides financial support to the current verified trauma centers and to provide incentives for the establishment of additional trauma centers. The DOH shall use funds from the additional penalty for traffic control steady red signal violations which are deposited into the Administrative Trust Fund to fund the availability and accessibility of trauma services throughout the state, as follows:

- Twenty percent of the total funds collected would be distributed to verified trauma centers located in a region that has a local funding contribution as of December 31. Distribution of funds would be based on trauma caseload volume.

- Forty percent of the total funds collected would be distributed to verified trauma centers based on trauma caseload volume of the previous calendar year. The determination of caseload volume would be based on DOH Trauma Registry data.

- Forty percent of the total funds would be distributed to verified trauma centers based on severity of trauma patients. The determination of severity would be based on DOH Injury Severity Scores.

The bill also allows trauma centers to request their distributions from the Administrative Trust Fund be used as intergovernmental transfer funds in the Medicaid program.

Any trauma center not subject to audit must annually attest, under penalties of perjury, the proceeds were used in compliance with law. The annual attestation must be made in a form and format determined by DOH. Trauma centers subject to audit under s. 219.97, F.S., must submit an audit report in accordance with rules adopted by the Auditor General. The annual attestation would be submitted to DOH for review within nine months after the end of the organization's fiscal year. DOH, working with the Agency for Health Care Administration, must maximize resources for trauma services wherever possible.

Lastly, the bill provides for a $7.5 million appropriation to the Administrative Trust Fund in the DOH to provide funding for trauma centers consistent with this bill.

If approved by the Governor, these provisions take effect October 1, 2005.
Vote: Senate 39-0; House 116-0

CS/SB 530 — DUI/Ignition Interlock Device

by Transportation and Economic Development Appropriations Committee; and Senators Wise, Haridopolos, and Sebesta)

Generally, the bill provides the Florida Department of Highway Safety and Motor Vehicles (department) administrative responsibility and authority to administer the ignition interlock program, which is currently administered by the courts under ch. 316, F.S.

The bill modifies a cross reference regarding the department's authority to unilaterally require imposition of the interlock device, which will now be exercised pursuant to proposed s. 322.2715, F.S. This change is intended to clear up confusion and make the statutory scheme for interlocks concise and understandable.

The bill creates s. 322.2715, F.S., which permits the department to require the placement of an approved ignition interlock device on specified convicted DUI offenders' vehicles prior to issuing such person a permanent or restricted driver's license. Although, an exception is provided for consideration to be given to individuals with a documented medical condition prohibiting the ignition interlock device from functioning normally when such persons are convicted of an offense of DUI requiring the placement of the device. In addition, the bill is limited to the circumstances delineated in s. 316.193, F.S., where interlocks are mandatory.

The bill also specifies the duration of each installation period based upon the number of DUI convictions as required under s. 316.193, F.S. Specifically, the bill requires placement of an interlock device for up to 6 months for a first DUI offense and for up to 2 years for a second DUI offense where the violator had a blood alcohol level of 0.20 or higher, or if a passenger under 18

years of age is present in the vehicle. Upon a second DUI conviction, the placement of an interlock device is required on all vehicles owned or leased by the offender for at least one year. Upon a third DUI conviction, the ignition interlock device must be installed for at least 2 years.

In addition, the bill permits the department to immediately require the device be installed if the court fails to so order such installation on a convicted offender's vehicle. However, an exception is provided for consideration to be given to individuals with a documented medical condition prohibiting the ignition interlock device from functioning normally when such persons are convicted of an offense of DUI requiring the placement of the device. Finally, the bill clarifies the mandate of the department to require the placement of an approved ignition interlock device on specified convicted DUI offenders' vehicles applies to the reinstatement of the driving privilege following a revocation, suspension, or cancellation of a conviction for a DUI offense occurring on or after July 1, 2005.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 114-0

HB 551 — Vehicles/Financial Responsibility

by Rep. Hays and others (CS/SB 1030 by Judiciary Committee and Senator Campbell)

Under current law, a rental company is vicariously liable for damages and injuries involving the operation of the rental vehicle by the operator or lessee. However, there are statutory limits or caps on damages that rental companies are subject to which are up to $100,000 per person and up to $300,000 per incident for bodily injury, and up to $50,000 for property damage.

The bill expands the scope of the definition of the term "rental company" to include:

- A related rental or leasing company that is a subsidiary of the same parent company as that of the renting or leasing company that rented or leased the vehicle.

- The holder of a motor vehicle title or an equity interest in a motor vehicle title if the title or equity interest is held under or to facilitate an asset-backed securitization of a fleet of motor vehicles used solely in the business of renting or leasing motor vehicles to the general public and under the dominion and control of a rental company in the operation of such rental company's business.

Several of the larger rental car companies have established business arrangements with companies which are the holders of the motor vehicle titles of the rental cars. These changes to the definition of "rental company" will allow certain companies to qualify for the same vicarious liability protections which are currently afforded rental companies.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 116-0

HB 623 — Former Military Vehicles

by Rep. Littlefield and others (SB 1240 by Senators Baker and Posey)

This bill exempts former military vehicles from being equipped with windshields if the Department of Highway Safety and Motor Vehicles finds it necessary in order for the vehicle to maintain its accurate military design and markings. This bill also requires the operator and passengers of these former military vehicles to wear approved eye-protective devices when the vehicle is operating on public roads and highways. Additionally, the bill defines former military vehicles and exempts those former military vehicles, which are 30 years old or older and only used in exhibitions, parades, or public display, from the requirements of displaying a license plate or registration insignia if the exemption is necessary to maintain the vehicle's accurate military markings.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 117-0

HB 853 — Motor Vehicle Lease Agreements

by Rep. Reagan and others (SB 1356 by Senators Alexander, Campbell, and Lynn)

Current Florida law requires retail lessors to provide a lessee with a copy of each document signed by the lessee during the course of an automobile lease transaction. The bill requires the retail lessor to provide only a copy of the signed lease agreement to the lessee.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

HB 925 — Mobility-impaired Pedestrians/Dogs

By Rep. Bendross-Mindingall and others (SB 642 by Senators Rich, Wise, Miller, and Wilson)

This bill expands the definition of mobility impaired pedestrians to include people using guide dogs or service animals designated as such with a visible means of identification. When a mobility impaired pedestrian is crossing a public street or highway, drivers arriving at an intersection must come to a stop and take precautions to avoid injuring the mobility impaired person. Violations are non-criminal traffic infractions punishable as a moving violation.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 38-0; House 117-0

HB 1025 — Misuse of Laser Lightening Devices

by Rep. Waters and others (CS/SB 830 by Justice Appropriations Committee and Senators Sebesta and Lynn)

The bill redefines the term "laser lighting device" for s. 784.062(3), F.S., to mean any device designated or used to amplify electromagnetic radiation by stimulated emission related to use on persons operating a motor vehicle, vessel, or aircraft. This makes the new crime inclusive of any laser, not merely those typically used as a pointing device.

The bill provides any person who knowingly and willfully shines, points, or focuses the beam of a laser lighting device on an individual operating a motor vehicle, vessel, or aircraft commits a felony of the third degree, which is punishable by imprisonment up to 5 years and a $5,000 fine.

The bill also provides any person who knowingly and willfully shines, points, or focuses the beam of a laser lighting device on an individual operating a motor vehicle, vessel, or aircraft and such act results in bodily injury commits a felony of the second degree, which is punishable by imprisonment up to 15 years and a $10,000 fine.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 113-0

CS/SB 1118 — Motor Vehicle Crash Reports

by Transportation Committee and Senators Saunders and Lynn

This committee substitute allows victim services programs to obtain motor vehicle crash reports immediately rather than having to wait 60 days. The committee substitute defines victim services programs as "any community-based organization whose primary purpose is to act as an advocate for the victims and survivors of traffic crashes and for their families. The victims services offered by these programs may include grief and crisis counseling, assistance with preparing victims compensation claims excluding third-party legal action, or connecting persons with other service providers, and providing emergency financial assistance."

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 39-0; House 114-3

SB 1460 — Motor Vehicle Registration

by Senators Bennett, Miller and Posey

The bill requires the Department of Highway Safety and Motor Vehicles, to include a check-off for a voluntary $1.00 contribution to Southeastern Guide Dogs, Inc., on each motor vehicle

registration and renewal form. Southeastern Guide Dogs, Inc., is a non-profit educational organization providing guide dogs to blind individuals.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 118-0

SB 1502 — Driver's License Check Off for Children's Hearing Help Fund

by Senators Fasano and Wilson

This bill requires the Department of Highway Safety and Motor Vehicles to include a checkoff on each driver's license application form for a voluntary $1 contribution to the Children's Hearing Help Fund. The Children's Hearing Help Fund is a special trust fund established by Sertoma Speech and Hearing Foundation of Florida, Inc.

If approved by the Governor, these provisions take effect July 1, 2005.
Vote: Senate 40-0; House 118-0

SB 2042 — Welfare Transition Trust Fund/Military

by Senator Fasano

The bill (Chapter 2005-25, L.O.F.)creates the Welfare Transition Trust Fund in the Department of Military Affairs. This trust fund will be used to receive federal funds from the Temporary Assistance for Needy Families (TANF) block grant for two programs funded with TANF funds, Forward March and About Face. These programs are operated by the Department of Military Affairs at selected armories around the state. The Forward March program provides job-readiness services for WAGES recipients referred to the program by local workforce development boards and the Department of Children and Families. The About Face program provides summer programs and year-round after-school life-preparation programs for approximately 2,100 economically disadvantaged and at-risk youths from 13 through 17 years of age.

These provisions were approved by the Governor and take effect July 1, 2005.
Vote: Senate 39-0; House 115-0

CS/SB 424 — Collective Bargaining/Employees

by Ways and Means Committee and Senator Carlton

The Conference Committee Report for CS/SB 424 is a compilation of law changes regarding employee benefits.

The bill resolves the mandatory collective bargaining issues at impasse between the State of Florida and the bargaining representatives for state employees for the 2005-2006 FY.

The bill directs the Department of Management Services to offer, as a benefit to employees, four health insurance plans for calendar year 2006.

The bill authorizes the Department of Management Services to establish health savings accounts on behalf of state employees for calendar year 2006. In order to implement the health savings plan the department may contract with a single custodian to provide trustee services.

Lastly, the bill establishes the pharmacy copayments and coinsurance for two of the health insurance plans. The pharmacy benefits of the health maintenance organization offerings are governed by contract.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-3; House 87-29

SB 2600 — Appropriations

by Ways and Means Committee

This bill is the General Appropriations Act, which provides moneys for the annual period beginning July 1, 2005 and ending June 30, 2006, to pay salaries, expenses, capital outlay – buildings, and other improvements, and for specified purposes of the various agencies of state government.

EDUCATION

- Total Education Budget - $25.4 billion, including:
  $17.8 billion in direct appropriations, and
  $7.6 billion in local effort & student tuition & fees
- This is an increase in the operating budget of $1.8 billion (7.8 percent) over the current year.

The Budget Includes:

- $387.1 million in new General Revenue to implement the new voluntary Pre-K program for 4 year olds.
- An increase of $1.33 billion (8.85 percent) for the FEFP. This increase:
  Includes $556.2 million in additional state funds to continue reducing class size by 2 students annually until the constitutionally required maximum class sizes are achieved; and
  Provides an increase of $355.41, or 6.15 percent in funds per student.
- Provides $56.8 million to reduce the large disparity in funds per student from the discretionary .51 mill operating levy within the FEFP. State funds are provided to ensure that all districts will receive at least $200 per student from the .51 mill levy and supplemental state funds.
- Provides a $70.6 million (5 percent) increase in community college operating funds.
- Provides $311.8 million for the Bright Futures program, an increase of $35.8 million (13 percent).
- Restores $18 million in current year nonrecurring funds for Florida Student Assistance Grants and increases funding for this needs-based student financial aid program by $8.3 m (9.1 percent).
- Provides enrollment growth funding for 66,275 new students in public schools.
- Provides $10 million for capitalization incentive grants to expand opportunities for access to vocational training in high demand jobs.
- Provides $21 million for competitive grants to expand job training in high demand areas, including teaching & nursing.
- Provides funding for the enrollment of 7,292 new full time equivalent students in our state universities.
- Provides a $14.1 m (17.7 percent) increase in the FRAG program to continue to support affordable access to private colleges and universities by Florida residents. The level of the FRAG per student will be $2,850.
- Provides a 22.6 percent increase to expand recruitment and retention efforts by our Historically Black Private Colleges and Universities.
- Limits tuition increases by state universities and community colleges to 5 percent.

GENERAL GOVERNMENT

Major Environmental Issues:

- **Beach Restoration** - $73.3 million to restore and protect the state's beaches on both the Gulf and Atlantic coasts. The state funding is matched with $117 million in federal and local funds.
- **Water Projects** - $130.6 million statewide for projects to restore and protect our lakes, rivers, bays, lagoons, and major watersheds. This includes $5 million for Lake Okeechobee and $7 million for the Keys.

- **Florida Forever** - $300 million using the next series of bonds for land acquisition and conservation.
- **Everglades Restoration** - $100 million using the first series of bonds for the Comprehensive Everglades Restoration Plan (CERP).
- **Land Management** - $22.7 million distributed to the state's land managing agencies. These resources fund the state parks, greenways and trails, state forests, historic sites, wildlife management areas, and coastal and aquatic managed areas.
- **Oceans Initiative** - $1 million to complete a Florida Oceans and Coastal Research Plan, prepare a coastal and ocean resource assessment, and fund demonstration projects to evaluate new marine stock enhancements.
- **Drinking & Wastewater Revolving Loan Programs** - $13.5 million which generates 5 to 1 in Federal Match. The programs provide over $100 million a year in low interest loans to local governments for building safe drinking water and wastewater facilities.
- **Florida Recreational Development Assistance Program (FRDAP)** - $43.7 million for grants to local governments to acquire or develop land and trails for public outdoor recreation.
- **Solid Waste Grants** - $6.5 million in grants to small local governments for managing solid waste and recycling operations, and $1.2 million for the Innovative Waste Reduction grants program.
- **Mulberry/Piney Point Phosphate Clean-up** - $19.5 million to continue cleanup efforts of the contaminated phosphate sites.
- **Land Reclamation** - $5 million for the Non-mandatory Land Reclamation Program for eligible phosphate lands mined before July 1975.

Major Agricultural Issues:

- **Firefighting Equipment** - $7.2 million for replacement of wildfire equipment to increase the safety of firefighters and the public and $730,000 for replacement of two wildfire patrol airplanes.
- **Citrus Canker Eradication** - $54.2 million provided for eradication efforts of the citrus canker disease in commercial groves and residential areas.
- **Agricultural Promotion Campaign "Fresh from Florida"** - $2 million provided for marketing agricultural commodities. This program campaigns in 22 northeastern states as well as Canada.
- **Law Enforcement Officers and Infrastructure for Agricultural Interdiction Station** - 3 positions and $1.7 million for staffing of law enforcement officers and necessary equipment for the interdiction station on I75.
- **Farm Share** - $300,000 is provided for the recovery and distribution of unmarketable foods to agencies and families in need. Farm Share serves as a link between farmers with surplus fresh produce and social service agencies that provide food to the needy.
- **Food Banks** - $300,000 for transportation costs for the Florida Association of Food Banks for the distribution of food and grocery products to the needy throughout the state.

- **Agriculture Best Management Practices (BMP) -** $6.3 million to develop and implement BMPs and other non-point solutions for reducing nutrients and other pollutants entering the state's water bodies.

Major Consumer Protection & Accountability Issues Funded:

- **Department of Agriculture & Consumer Services -** $115,724 and 2 FTE for the non-regulated consumer complaint clearinghouse in the Division of Consumer Protection.
- **Law Enforcement Officers to combat Personal Injury Protection (PIP) Fraud -** 9 FTE and $915,138 for investigation of PIP fraud.
- **Workers' Compensation Fraud -** 10 FTE and $724,433 for law enforcement officers to investigate workers' compensation fraud and staff to ensure medical bills are paid timely.
- **Workers' Compensation Office of Judges of Compensation Claims** - $1.6 million and 20 FTE for 4 new judges and associated staff to address case workloads and hearing delays.
- **Bank Examinations** - $1.5 million for additional resources to examine Florida financial institutions.
- **Condominium Complaints** - $258,260 and 4 FTE for the Condominium Ombudsman's Office.
- **Funeral and Cemetery Regulation** - $1,521,075 and 17 FTE for the establishment of the Division of Funeral, Cemetery, and Consumer Services within the Department of Financial Services.
- **Child Support Initiative** - $2.2 million to improve Florida's Child Support Enforcement Program to ensure non-custodial parents take responsibility for their children and meet their financial obligations.
- **Statewide Electronic Procurement System** - $15.5 million in budget authority for payment of the MyFloridaMarketPlace contract contingent on deposit of transaction fee revenue into the State treasury.
- **Tenant Improvement Funds** - $1.6 million in budget authority for improvements to office space rented by state agencies. $9.4 million in improvement funds held outside the state treasury have been deposited into the Department of Management Services' Grants and Donations Trust Fund.
- **New State Office Building** - $1 million provided for planning and architectural design of a new state office building at the Capital Circle Office Complex in order to meet the deadline for the St. Joe property reverter clause.

Reductions:

- Reduced 131 Positions - $3.6 million GR and $24.1 million TF in governmental efficiencies.

HEALTH AND HUMAN SERVICES

AGENCY FOR HEALTH CARE ADMINISTRATION

Additions:

- **Medicaid Price Level and Workload - $1,862.1 million -** Provides $725.9 for Medicaid workload because of changes in caseloads and utilization of services and $1,146.5 million related to price level increases in reimbursement rates for institutional facilities, rural health clinics, federally qualified health centers, county health departments, prescription drugs, and other services. The Medicaid caseload for FY 2005-2006 is projected to be 2.3 million people.
- **Restore Medically Needy Program – $393.3 million -** Restores all Medicaid services to an estimated 36,000 Medically Needy program eligibles, effective July 1, 2005. The Medically Needy program would have been limited to prescribed drugs only beginning July 1, 2005.
- **Restore Medicaid Coverage for Adult Dentures - $20.7 million -** Restores funding to continue coverage for Medicaid adult denture services to an estimated 25,000 indigent adults. This program would have been eliminated July 1, 2005.
- **Restore Medicaid Pregnant Women with Incomes between 150 - 185 percent of the Federal Poverty Level - $60.8 million -** Restores funding to provide Medicaid services to an estimated 3,400 Medicaid eligible pregnant women with incomes between 150 percent-185 percent of the federal poverty level. This program would have been eliminated July 1, 2005.
- **Increase Reimbursement for Kidney Dialysis - $2.7 million -** Increases reimbursement for kidney dialysis treatment in freestanding dialysis centers from $85 to $125 per treatment.
- **Continue Goldstandard Multimedia Hand-Held PDA Device - $3.4 million -** Provides funding for the operation and maintenance for 3,000 hand-held devices that provide physicians with information related to a Medicaid recipient's drug history and utilization. The device provides physicians with various clinical references to complement their practices and includes the most recent Medicaid preferred drug list.

Reductions:

- **Maintain Institutional Provider Reimbursement Rates - ($390.0 million) -** Reduces the price level increase for Hospital Inpatient, Hospital Outpatient, Nursing Home, ICF/DD's and Health Maintenance Organization reimbursement rates for FY 2005-2006.

Reduction Amount by Provider Type

	GR	TF	Total
Nursing Home Rates	**($54.3)**	**($77.8)**	**($132.1)**
Inpatient Hospital Rates	**($41.3)**	**($59.3)**	**($100.5)**
Outpatient Hospital Rates	**($6.9)**	**($9.9)**	**($16.8)**
Prepaid Health Plans	**($51.9)**	**($75.2)**	**($127.1)**
ICF/DD's	**($2.0)**	**($2.9)**	**($5.0)**
	($159.9)	**($230.1)**	**($390.0)**

- **Impact to Hospice Rates - ($8.5 million) -** Reduces hospice rates as a direct result of modifying nursing home reimbursement rates. Medicaid hospice room and board rates are paid at a discounted percentage of nursing home rates; therefore, if nursing home rates are modified, a corresponding savings in hospice will occur.
- **Delay Nursing Home Staffing Increase - ($67.8 million) –** Delays the increase in nursing home staffing from 2.6 hours of direct care per resident per day to 2.9 hours until July 1, 2006.
- **Revised Medicaid Preferred Drug List - ($292.0 million) -** Reduces prescribed drug services as a result of modifications to the Medicaid preferred drug list which includes cost-effective therapeutic options, step therapies, and prior authorization of drugs not on the preferred drug list.
- **Set HMO Rates Using Two Infant Groups - ($75.0 million) -** Age grouping is currently used as part of the methodology in calculating HMO capitation rates. This proposal will divide the current age group for infants (0-12 months) into two separate groups; ages 0-3 months and 4-12 months.
- **Expand Nursing Home Diversion Program - ($23.1 million) -** This issue will expand the current nursing home diversion program by 3,000 slots. This program currently serves approximately 6,000 individuals through a fully capitated program.
- **MEDS AD - ($84.7 million) -** Eliminates full Medicaid coverage for an estimated 77,000 non-institutionalized Medicare eligible recipients in the Medicaid Aged and Disabled (MEDS AD) eligibility category, effective January 1, 2006.

DEPARTMENT OF CHILDREN AND FAMILIES

Additions:

- **Adoption Subsidies - $2 million -** Increases funding for maintenance adoption subsidies for an additional 1,700 hard-to-place children who would linger in costly foster care arrangements for long periods of time if not adopted.
- **Equity Funding for Community-Based Care Providers - $10.5 million -** Provides additional funding to achieve a more equitable distribution of child protection resources among community based care lead agencies.
- **Expand Crisis Stabilization Units - $6.4 million -** Funds additional mental health crisis beds in districts with the greatest need.
- **Substance Abuse Services - $5 million -** Provides $5 million to achieve a more equitable distribution of substance abuse funds among districts. The General Appropriations Act provides $3.6 million for adults and $1.4 million for children.

Reductions:

- **Economic Self-Sufficiency - ($12.5 million) -** Reduces staff in Economic Self-Sufficiency by 245 full-time equivalent positions to implement efficiencies in the eligibility determination activities related to cash assistance, Medicaid and food stamps.

- **Cash Assistance Caseload - ($11.5 million) -** Reduces the temporary cash assistance appropriation due to the decline in the cash assistance caseload estimated by the January 2005 Social Services Estimating Conference.

DEPARTMENT OF ELDER AFFAIRS

- **CARES Workload - $1.7 million -** Provides funds for 31 positions to support increased workload for the Comprehensive Assessment and Review of Long Term Care Services (CARES) nursing home preadmission screening program.
- **Home and Community-Based Services - $11.4 million -** Provides $10.1 million to serve 1,380 clients in the Aged and Disabled Adult (ADA) waiver and $1.3 million to serve 164 clients in the Assisted Living for the Elderly (ALE) waiver.

AGENCY FOR PERSONS WITH DISABILITIES

- **Home and Community Based Services Waiver - $6.25 million -** Provides funds to serve 250 new clients from the waitlist through the Home and Community Based Waiver.
- **Family and Supported Living Waiver - $21.4 million -** Provides funds to serve 1,500 new clients from the waitlist through the Family and Supported Living Waiver.
- **Home and Community Based Services Waiver Utilization Increase - $22.9 million -** Provides funds for a 3.5 percent utilization increase for clients currently on the waiver.
- **Clients in Crisis - $6.8 million -** Provides funds to serve an additional 30 clients in crisis per month.
- **Transition Clients in Institutions Back to the Community - $7.4 million -** Provides funds to transition clients from the Landmark and Gulf Coast institutions back into the community.

DEPARTMENT OF HEALTH

- **Capital Improvements for County Health Departments - $25.7 million -** Provides funds for county health department buildings in Manatee, Walton, Brevard, Jefferson, Jackson, Gulf, and Charlotte counties.
- **Capital Improvement Plan - $2.0 million -** Provides funds for maintenance and repair of state owned buildings.
- **Children's Medical Services - $7.7 million -** Provides funding to restore $4.7 million of non-recurring general revenue funds and provides $3 million to provide services to an additional 2,000 children.
- **Area Health Education Centers - $7.4 million -** Provides funds to fully restore the area health education centers.
- **Rural Hospitals - $3.5 million** - Provides funds for a rural hospital capital improvement grant program.

DEPARTMENT OF VETERANS' AFFAIRS

- **Annualization of Veterans' Nursing Homes - $1.2 million -** Provides funds to annualize the nursing home staffing requirements to 2.6 hours of direct patient care per patient per day for the Springfield Nursing Home in Bay County and Port Charlotte Nursing Home.

JUSTICE APPROPRIATIONS

- Provides $23.2 million for the increase in the prison population as forecast by the Criminal Justice Estimating Conference.
- Provides $17.4 million in general revenue and $2.6 million in trust fund for the construction of approximately 3,940 new prison beds.
- Provides $1 million to increase the number of electronic monitoring units in the Department of Corrections.
- Provides $4.5 million and 50 FTE to expand the Medicaid fraud control unit and patient abuse, neglect and exploitation teams in the Department of Legal Affairs.
- Funds 20 additional forensic scientists to address growing caseloads and reduce DNA backlogs in the Department of Law Enforcement.
- Provides $2.5 million to continue funding the Integrated Criminal History System in the Department of Law Enforcement.
- Provides $5.5 million for grant funding to small counties for detention services in the Department of Juvenile Justice.
- Provides $1 million to increase mental health overlay services in the Department of Juvenile Justice.
- Provides $2.3 million to fund additional day treatment slots in the Department of Juvenile Justice.
- Provides $5.5 million to fund a price level increase for private providers in the Department of Juvenile Justice.
- Addresses deferred maintenance in the Supreme Court with $4 million.
- Provides $5.5 million for repairs and renovations for 16 small county court houses.
- Provides $10 million for state attorney and public defender workload.
- Provides a $3.3 million increase for the Guardian Ad-Litem program.
- Covers the Capital Collateral Registry Commission deficit with $800,000.

TRANSPORTATION AND ECONOMIC DEVELOPMENT

DEPARTMENT OF MILITARY AFFAIRS

- **National Guard Readiness Centers Revitalization Plan** (armory repairs and renovations) - $7.3 million.

- **National Guard Tuition Benefit Program fully funded** - $832,000.
- **Payment of Life Insurance Premiums for National Guard Members** - $3.0 million.
- **Expands the Forward March Program** from $1.8 million to $2.1 million.
- **Expands the About Face Program** from $2.5 million to $3 million.

DEPARTMENT OF STATE

- **Historic Preservation Fixed Capital Outlay Grants** - $12.5 million to fund the entire list of 47 recommended projects.
- **Historic Museum and Historic Preservation Operating Grants** - $3.75 million.
- **Cultural Facilities Fixed Capital Outlay Grants** - $11.7 million to fund the entire list of 40 projects.
- **Arts and Cultural Program Operating Grants** (nine separate grant programs) - $11.6 million.
- **Library Construction Grant**s - $7.5 million to fund 15 of the 21 requested grants (funded one per county or municipality that requested projects).
- **Cultural Endowment Grant**s - $960,000 in matching endowment grants.
- **Challenge Grants** - $280,776 to fund operating grants for 7 institutions.
- **Elections programs** - $34 million in election program enhancements.

DEPARTMENT OF COMMUNITY AFFAIRS

- **Hurricane Shelters and Emergency Operations Centers** funded with $13 million.
- $7 million for the **Residential Construction Mitigation** program and $8 million for the **Pre-disaster Mitigation Program**.
- $1.263 billion in **Hurricane Disaster Assistance funding**.
- $193 million for **Housing Programs**, including:
  State affordable housing program - $55.9 million;
  Local affordable housing program (SHIP) - $130.9 million.
- **Small Cities Community Development Block Grants** - $40 million.
- **Florida Communities Trust Program** - $66 million.
- **Front Porch Florida** - $3 million.
- **Civil Legal Assistance** - $5 million.

DEPARTMENT OF TRANSPORTATION

- **Small County Resurfacing Assistance Program (SCRAP)** - $25 million.
- **Small County Outreach Program** - $5.4 million.
- **County Transportation Programs** - $21.8 million.
- **Transportation Economic Development Projects** - $10 million.
- **Department of Transportation Work Program Total** - $6.2 billion.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

- **Florida Highway Patrol** –
  Trooper Overtime Pay - $4.5 million;
  Additional Equipment - $1.0 million; and
  Replacement of Vehicles - $4.6 million.
- **Customer Service Enhancements for Driver License Offices** - $5.7 million.
- **Repairs and Maintenance** - $4.8 million.

OFFICE OF TOURISM, TRADE AND ECONOMIC DEVELOPMENT

- **Economic Incentives Programs** - $23.4 million for the QTI and QDC Programs.
- $3 million provided for **Aerospace Industries Economic Development**.
- $10 million provided for the **Quick Action Closing Fund**.
- $12 million for **Enterprise Florida**.
- $24.7 million for **Visit Florida**, including $2 million to replenish the economic risk recovery fund that was used to boost Florida marketing after the 2004 hurricanes.
- **Film and Entertainment Industry Incentives** funded with $10.6 million.
- **Rural Infrastructure Grants** increased this year to $2.7 million from $2.15 million last year.
- $400,000 provided for the **Hispanic Business Initiative Fund Outreach Program**.
- $7.4 million provided for **Military Base Protection and Defense Related Grants**.

AGENCY FOR WORKFORCE INNOVATION

- Expands the **Non-Custodial Parent Program** from $750,000 to $1.4 million.
- Provides $8.2 million to continue other programs that were funded with non-recurring TANF funds last year.
- Expands the **Military Families Employment Program** from $60,000 to $200,000.
- Authorizes $387 million for the implementation of the **Universal Pre-K Program** by AWI.

EMPLOYEE COMPENSATION

Salary Increases and Bonuses:

- 3.6 percent across the board pay increases for state employees, including university personnel, effective August 1, 2005.

Health Insurance:

- The overall health insurance premiums will be increased 6.75 percent. However, the employee share of that premium increases by about 2.75 percent ($1.32 per month for single coverage and $4.86 per month for family coverage).
- The Department of Management Services is directed to offer four health plans:

a PPO standard plan
an HMO standard plan
a PPO high deductible plan
an HMO high deductible plan

- The high deductible plans offer low premiums but higher out of pocket costs.
- For those employees choosing to participate in either high deductible plan, the employee can receive up to $500 for individual coverage or up to $1000 for family coverage for deposit into a health savings account. If these amounts are unused for a given year, the funds roll over into the next year to help offset medical costs.
- Co-payments and other out-of-pocket expenses for the standard plans are maintained at the current levels.

Other Pay Issues:

- Security service personnel with at least 5 years of service will receive a 2 percent adjustment to their base rate of pay.
- Law enforcement personnel assigned to the Florida Highway Patrol with more than 5 years of service will receive an annual pay adjustment based on years of service of:
  5 to 8 years of service - $600
  8 to 12 years of service - $900
  12 or more years of service - $1200
- Critical class adjustments requested by the professional health care unit were funded. These adjustments will assist the state in recruiting and retaining qualified health care professionals in the public health departments and in the correctional and institutional settings.
- Supreme Court support personnel receive an additional pay increase to enable the court to recruit and retain qualified staff.
- County judges receive an additional $5,000 pay increase.
- The salaries of all state attorneys and public defenders are adjusted to be equal regardless of the size of the population served.

If approved by the Governor, these provisions take effect July 1, 2005, except as otherwise provided.
Vote: Senate 40-0; House 115-1

SB 2602 — Appropriations Implementing

by Ways and Means Committee

Section 1. Provides legislative intent.

Education Provisions

Section 2. Florida Education Finance Program (FEFP) calculations are incorporated by reference and are the basis for calculations pursuant to s. 1011.65, F.S.

Section 3. Provides limitations on university and direct support organization financings.

Section 4. Abolishes the Miami-Dade Land Acquisition and Facilities Advisory Board.

Health and Human Services Provisions

Section 5. Allows the Department of Children and Families to transfer funds within the family safety program between specified appropriations without limitation.

Section 6. Allows the Department of Children and Families to enter into agreements with a private provider to finance, design and construct a 200-bed forensic facility.

Section 7. Requires the Department of Children and Families to offer the Child Care Competency Exam in Spanish at least once a year.

Section 8. Changes are made to allow the use of cash in the Operations and Maintenance Trust Fund.

Section 9. Clarifies that counties are not exempt from paying 25 percent match for Baker Act services.

Section 10. Repayment of temporary transfers due to hurricanes in 2004-2005 may be extended into FY 2005-2006.

Section 11. Reduces developmental services waiver rates if they are projected to be above the November 1, 2003 level.

Section 12. Limits application of workers' compensation to developmentally disabled clients under the new Family Supported Living Waiver (already exempt under first waiver).

Justice Provisions

Section 13. The Department of Corrections and the Department of Juvenile Justice may expend appropriated funds to assist a county or municipality in paying to open or operate a facility, not to exceed 1 percent of construction costs.

Section 14. Allows the Executive Office of the Governor to request additional positions during FY 2005-2006 for the Department of Corrections if the Criminal Justice Estimating Conference projects a certain increase in the inmate population.

Section 15. Authorizes the Department of Management Services to issue an "Intent to Negotiate" for new prison beds, limited to current private prison providers.

Section 16. Funds may be transferred from the Judicial Branch to the Justice Administrative Commission in order to address unanticipated shortfalls in due process appropriations.

Section 17. Provides that the Justice Administrative Commission and State Court deficits in due process services require Legislative Budget Commission budget amendments.

Section 18. Authorizes the Department of Legal Affairs to spend funds from two appropriations on the same programs funded in the prior years.

Section 19. The funds in a special law enforcement trust fund established by the governing body of a municipality may be expended to reimburse the general fund of the municipality for moneys advanced.

General Government Provisions

Section 20. Allows the Department of Agriculture and Consumer Services to work with the Department of Transportation and use the Department of Transportation purchasing authority to build the Escambia interdiction station.

Section 21. Provides the Executive Office of the Governor the authority to transfer funds for Risk Management Insurance in order to align the budget authority granted with the premiums paid by each department.

Section 22. Provides the Executive Office of the Governor the authority to transfer funds for the HR outsourcing contract in order to align budget authority granted with assessments that must be paid by each department.

Section 23. Removes the Class C travel reimbursement for state travelers.

Sections 24 and 25. Allows commuting on the state plane.

Section 26. Allows the Department of Environmental Protection to award solid waste management grants in equal amounts to small counties and competitive innovative grants to certain cities and counties.

Section 27. Allows Land Acquisition Trust Fund moneys to be appropriated for water quality issues.

Section 28. Requires contaminated petroleum tank sites to have been acquired before 7/1/1990 and ceased to operate before 1/1/1985 to be eligible for financial assistance.

Section 29. Allows for the use of Inland Protection Trust Fund moneys to clean up petroleum contaminated sites at affordable housing sites and for the purchase of generators.

Section 30. Allows SWIM and invasive plant projects to remain available for mitigation for another year. Effectively extends the date for the Department of Environmental Protection to repay a loan from the Department of Transportation.

Section 31. Allows the Department of Environmental Protection to continue to publish Florida Administrative Weekly notices on the internet.

Section 32. Limits the permitting authority of the Department of Environmental Protection in the Northwest Florida Water Management District.

Section 33. Allows the Department of Agriculture and Consumer Services to use CARL funds for vehicle replacement.

Section 34. Creates the Florida Pork Producers Transition Grant Program within the Department of Agriculture and Consumer Services to provide assistance to any person or persons or entities that were using farming methods described in s. 21, Art. X, State Constitution on November 5, 2002.

Section 35. Increases presiding officers discretionary funds by $10,000.

Transportation and Economic Development Provisions

Section 36. Allows for proceeds from the Professional Sports Development Trust Fund to be used for operational expenses of the Florida Sports Foundation and financial support of the Sunshine State Games.

Sections 37 and 38. Continue and expand the Passport to Economic Progress demonstration project.

Section 39. Authorizes exchange of real property between Highway Safety and Motor Vehicles and the Department of Environmental Protection in Palm Beach Gardens.

Section 40. Allows the Agency for Workforce Innovation to administer and implement the Teacher Education and Compensation Helps (TEACH) scholarship program. The program

provides educational scholarships to caregivers and administrators of early childhood programs, and family day care homes.

Section 41. Funds received by Department of State from the 1.5 percent of Preservation 2000 and Florida Forever funds for capital improvements and associated costs may be used for construction of replacement museum facilities.

Section 42. Creates a program for matching funds for dredging projects in counties under 300,000 in population.

Section 43. Allows the Legislature to appropriate increased transportation revenues identified by the March 2005 Revenue Estimating Conference for transportation projects. Projects are not deducted from funds transportation districts otherwise receive.

Section 44. Provides one free auto tag to each member of the Florida National Guard who requests one.

Section 45. Governor may recommend Fixed Capital Outlay funded by Federal Emergency Management Act (FEMA).

Sections 46 through 49. Allow transfers from Energy Consumption Trust Fund, State Housing Trust Fund, Department of Community Affairs Grants and Donations Trust Fund, and Florida Communities Trust Fund to the Emergency Management Preparedness and Assistance Trust Fund.

Other Provisions

Section 50. Allows agencies to give $100 cash awards to satisfactory employees from current funds.

Section 51. Reenacts s. 215.32, F.S., to allow trust fund balances to be swept to the Working Capital Fund or Budget Stabilization Fund.

Section 52. Makes finding of "best interest of the state" for the issuance of debt (bonds) on FY 2005-2006.

Section 53. Allows the Legislative Budget Commission to approve budget amendments from the Working Capital Fund as authorized in the General Appropriations Act.

Standard Provisions

Section 54. Specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 55. Provides for a permanent change made by another law to any of the same statutes amended by this bill to take precedence over the provision in this bill.

Section 56. Provides that the performance measures and standards, filed with the Secretary of the Senate and dated May 3, 2005, are incorporated by reference and will be applied to programs for FY 2005-2006.

Section 57. Provides a severability clause.

Section 58. Provides an effective date.

If approved by the Governor, these provisions take effect July 1, 2005, except as otherwise provided.
Vote: Senate 40-0; House 116-0

CS/SB 2610 — State Financial Matters/Management

by Ways and Means Committee and Senator Carlton

The committee substitute updates the planning and budget processes used by the state. The key issues include:

Agency Budget Requests

- Modifies the legislative budget request process to give agencies more time to analyze needs and make recommendations to the Legislature and Governor.

- Additional information must be addressed in the LBR, including the justification for any new outsourcing or privatization issues and information regarding the impact of past outsourcing and privatization issues.

Governor's Recommended Budget

- The required submission date for the Governor's budget recommendations is delayed by 15 days (30 days before Session).

- The Governor will be required to modify the budget recommendations if the official estimate of revenues is not sufficient to fund the recommendations.

- If the Legislature does not certify its needs to the Governor in a timely fashion, the Governor must use the current year's appropriation levels for the Governor's budget recommendations.

- The Governor is permitted to submit independent recommendations on the judicial branch budget.

Judicial Branch

- The judicial branch is required to submit certain budget amendments to the LBC for approval — this is similar to the treatment afforded the executive branch.

General Planning Process

- The Child Welfare System and Juvenile Justice Estimating Conferences are deleted.

- The requirement to complete fiscal impact statements before taking final action that will affect revenues or appropriations is expanded to actions by the Governor, all agencies and statutorily-created entities.

General Budgeting Process

- The salary rate control process is modified to establish rate control at the department level as specified in the general appropriations act. Agencies may request additional rate with the approval of the Legislative Budget Commission.

- Additional budget flexibility is granted to agencies by increasing the agency's 5% transfer threshold from $150,000 to $250,000. Other transfer authority is clarified and consolidated into a single statute.

- The certifications forward process is modified, effective July 1, 2006, to allow only type A's (expended but not disbursed) to be certified forward. If the funds are not paid by September 30, the appropriations revert.

Other Issues

- The functions related to the Florida Single Audit Act are transferred from the Executive Office of the Governor to the Chief Financial Officer.

- The bill eliminates references to the Working Capital Fund.

- Relating to budget deficits, the bill modifies the criteria to be considered when the state is faced with a deficit in the General Revenue Fund. The bill clarifies that the Legislative Budget Commission is involved in the process rather than the Administration Commission; and allows the presiding officers of the Legislature to certify a deficit if the Governor doesn't.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.
Vote: Senate 39-0; House 118-0

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