2006 Regular Session

Summary of Legislation Passed

Compiled and Edited by
Office of the Senate Secretary

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HB 641 — Animal Service Providers

by Rep. Russell and others (CS/CS/ SB 1654 by Regulated Industries Committee; Agriculture Committee; and Senator Baker)

This bill adds an exemption to the Florida Veterinary Practice Act (Chapter 424, F.S.). The act would not apply to a part-time worker or an independent contractor who is hired by the owner to assist with herd management and animal husbandry tasks. These tasks could include castration, dehorning, parasite control, and debeaking. It also exempts a person hired by the owner on a part-time or temporary basis, or as an independent contractor, to provide farriery and manual hand floating of teeth on equines.

If approved by the Governor, these provisions take effect upon becoming law and shall apply retroactively to January 1, 2006.
Vote: Senate 40-0; House 120-0

SB 676 — Official State Pie

by Senator Bullard

This bill designates Key Lime pie as the official state pie.

The key limes (Citrus aurantifolia Swingle) used to make this dessert are named after the Florida Keys where they first originated in the United States. The first Key Lime pie was created in the 1850's in south Florida.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-1; House 106-14

CS/CS/SB 994 — Citrus

by General Government Appropriations Committee; Agriculture Committee; and Senators Alexander, Bullard, Posey, and Crist

This bill amends ss. 193.461, 581.184, 581.1843, 933.02, and 933.40, F.S., to replace provisions relating to the citrus canker eradication program with provisions relating to a new comprehensive citrus health response program. The Department of Agriculture and Consumer Services (DACS) is given authority to develop and implement a new program to manage exotic citrus pests and diseases. The DACS is also given authority to regulate the propagation, production and sale of citrus nursery stock and citrus plants in the area surrounding a nursery.

The bill amends s. 581.1845, F.S., to require that all claims for compensation for trees cut under the citrus canker eradication program or the Shade Florida program must be filed no later than December 31, 2007, and will be paid subject to the availability of funds specifically appropriated for that purpose through FY 2006-2007.

The bill appropriates $26,728,296 to implement the new citrus health response program.

The bill amends s. 601.15, F.S., to allow the commissioners of the Florida Department of Citrus, by a majority vote, to reduce the box tax collected on citrus below the rate set forth in the statute. It also removes the requirement that a certain percentage of money collected under the box tax program be spent specifically on marketing versus non-marketing activities.

If approved by the Governor, these provisions take effect on July 1, 2006.
Vote: Senate 39-0; House 120-0

HB 1015 — Agricultural Economic Development

by Rep. Pickens and others (CS/CS/CS SB 1880 Environmental Preservation Committee; Community Affairs Committee; Agriculture Committee; and Senator Argenziano)

This bill amends s. 70.001, F.S., to reduce the time period from 180 days to 90 days for certain procedural actions in a claim by an owner of property classified as agriculture seeking compensation due to the property being subjected to an inordinate burden by government action or inaction.

This bill amends ss. 163.3162 and 163.3164, F.S., to create an agricultural enclave classification and to provide a rebuttable presumption that an application by an owner of an agricultural enclave to amend a local government comprehensive plan is consistent with rule 9J-5.006(5), Florida Administrative Code. An agricultural enclave is generally a land parcel up to 1,280 acres in size, with public services available, that has been in bona fide agriculture for 5 years, and which is owned by a person or entity and is surrounded on its perimeter by a least 75 percent property that has existing industrial, commercial, or residential development. The parcel size can be as much as 4,480 acres if the build out of the surrounding property results in a density of at least 1,000 residents per square mile.

The bill amends s. 295.047, F.S., to facilitate the continuation of agricultural usage on property acquired for conservation or recreation purposes with an existing agricultural lease.

The bill amends ss. 373.0361, 373.236, and 373.407, F.S., to assist agricultural landowners in obtaining use permits. It also requires the Department of Agriculture and Consumer Services (DACS) and water management districts to enter into a Memorandum of Agreement regarding the processing of exemptions for agricultural water usage.

The bill amends s. 601.992, F.S., to provide that association dues collected by the Florida Department of Citrus may also be collected by the DACS and it provides rulemaking authority to accomplish this objective.

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

CS/CS/SB 1212 — Agricultural Records/Open Government Sunset Review

by Governmental Oversight and Productivity Committee and Agriculture Committee

This bill amends s. 403.067, F.S., to reenact the public records exemption for certain agricultural records which are reported to the Department of Agriculture and Consumer Services by agricultural producers. This is needed to implement and improve agricultural Best Management Practices and to more efficiently comply with Total Maximum Daily Load Requirements.

The exemption to public disclosure of records relating to methods of production, or relating to costs of production, profits, or other financial information is necessary to ensure the effective and efficient administration of this voluntary program to maintain the quality of the state's waters.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 37-0; House 118-0

HB 7075 — Agriculture

by Agriculture Committee and Rep. Poppell and others (CS/CS/CS/SB 1388 by Government Efficiency Appropriations Committee; Commerce and Consumer Services Committee; Agriculture Committee; and Senators Smith and Argenziano)

This bill addresses the following issues related to agriculture and the powers and duties of the Department of Agriculture and Consumer Services (department):

- Redefines the terms "employee" and "independent contractor" for pest control licensees;
- Provides more flexibility for adopting rules to accommodate new types of pesticides used for preventive treatments of subterranean termites in new construction;
- Expands the products a Limited Commercial Landscape Maintenance certificate holder may apply to include fungicides and allows the certificate holder to provide proof of insurance after passing the certificate examination;
- Renames the Florida Food Safety and Food Security Advisory Council as the "Florida Food Safety and Food Defense Advisory Council";

- Authorizes the department to develop a Farm-to-Fuel initiative to market and promote the production and distribution of renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass;
- Provides for all members of the Soil and Water Conservation Council to be voting members;
- Designates the Austin Dewey Gay Agricultural Inspection Station in Escambia County;
- Provides an exemption from inspection for sugar cane or sorghum syrup with conditions on labeling;
- Expands the types of losses that allow agricultural producers to qualify for loans under the Agricultural Economic Development Program;
- Defines the term "agricultural chemical manufacturing facility" and makes trespassing on such a facility a third degree felony;
- Provides for obsolete agriculture equipment to be taxed at its salvage value;
- Provides that association dues collected by the Department of Citrus may also be collected by the Department of Agriculture and Consumer Services and it provides rulemaking authority to accomplish this objective; and
- Provides an exemption from sales tax for diesel fuel and electricity when used on farms for production or processing of agricultural products.

If approved by the Governor, these provisions take effect July 1, 2006, except as otherwise expressly provided in this act.
Vote: Senate 40-0; House 115-0

PROPERTY INSURANCE

CS/CS/SB 1980 — Property and Casualty Insurance

by Ways and Means Committee; Banking and Insurance Committee; and Senator Garcia

Funding the 2005 Deficit of Citizens Property Insurance Corporation

- The bill appropriates $715 million from General Revenue to Citizens Property Insurance Corporation ("Citizens") to offset the 2005 deficit, estimated to be about $1.73 billion. This appropriation is expected to reduce an estimated $920 million regular assessment against property insurers to about $205 million, and thereby reduce an estimated average 11 percent premium surcharge to about 2.5 percent for property insurance policyholders in the state (including Citizens policyholders). The bill also requires that the remaining estimated $800 million of the deficit, which would require about an 8 percent emergency assessment on policyholders if billed in one year, must be amortized and collected from policyholders over a 10-year period.

- Citizens and OIR are expected to levy the regular assessment (about $205 million due to the appropriation) for the 2005 deficit sometime this summer (2006), after which insurers may make rate filings to recoup this assessment, most of which are likely to become effective around January, 2007, and later. The bill requires that the premium notice sent to policyholders identify the dollar amount of the surcharge for the assessment by Citizens, and the dollar reduction in the surcharge due to the appropriation by the Florida Legislature.

- There will be about $800 million remaining of the $1.73 billion deficit for 2005, which will be paid by pre-event notes (debt) secured by Citizens, and funded by multi-year emergency assessments on all property insurance policyholders in Florida. The bill provides that this amount (which would be about an 8 percent assessment if collected in one year) must be amortized and collected over a ten-year period.

Florida Hurricane Catastrophe Fund (FHCF)

- The bill requires a 25 percent rapid cash build-up factor in the premiums paid by insurers for coverage from the FHCF, which is the state fund that reimburses most insurers for 90 percent of their residential hurricane losses above each insurer's retention, up to each insurer's share of a $15 billion cap on total annual payments. The State Board of Administration (SBA), the agency responsible for the operation of the FHCF, recently approved a 25 percent rapid cash build-up factor for the 2006-07 contract year premiums (that the bill requires each year), which is expected to increase total FHCF premiums from about $800 million to $1.0 billion. On average, this is estimated to increase residential property insurance premiums about 2.7 percent. But, this extra $200 million

may be used by the SBA to offset the current FHCF deficit, estimated to be about $1.3 billion, which will reduce assessments levied against most types of property and casualty insurance policyholders (including auto) to fund a bond issue to cover this deficit.

- The bill allows limited apportionment companies (i.e., companies with $25 million in surplus or less), for this year only, to buy coverage from the FHCF that would reimburse the insurer for up to $10 million of its losses from each of two hurricanes above the insurer's retention, or the amount of hurricane losses the insurer must pay before triggering coverage from the FHCF, which is set at 30 percent of the company's surplus. The insurer must pay a rate of 50 percent of the coverage selected, i.e., $5 million for the maximum $10 million in coverage, which is reinstated at no additional charge for a second hurricane. This one-year option is intended to address the current problem of private reinsurance either being unavailable or at an extremely high price, especially for small (low surplus) insurers that depend heavily on reinsurance. In total, limited apportionment companies write about 30 percent of the homeowners policies in Florida. This layer of coverage is in addition to the coverage that insurers currently purchase from the FHCF and is well below the current retention. But, the insurer must pay a premium (50 percent of the coverage amount) that is much greater than the premium for the current layer of FHCF coverage (about 7 percent of the coverage amount). Given the low retention, this does expose the FHCF to a significant chance of loss if there is a hurricane that impacts limited apportionment companies that buy this coverage, but this may prevent limited apportionment companies from non-renewing policyholders who would otherwise end up in Citizens and increase Citizens' exposure and potential deficit assessment liability. It is important to note that the bill also substantially eliminates the primary benefit that limited apportionment companies receive under current law, which is being exempt from paying their market share of the amount of a regular assessment by Citizens for the high-risk account in excess of $50 million, explained in the Citizens section, below.
- The bill's other changes to the FHCF:
    - Deletes the requirement that bonds of the FHCF be validated pursuant to ch. 75, F.S., and that the validation be appealed to the Supreme Court. The SBA met this requirement in 1996 and deleting the language removes any ambiguity that it must be done again.
    - Clarifies the premiums that are subject to assessment for funding bond obligations and the procedures for insurers to collect and transmit these assessments.
    - Allows Citizens and the SBA to determine the method of providing coverage for policies assumed by Citizens of insolvent insurers (for one year only).
    - Clarifies that the "cash balance" of the FHCF for determining the annual growth factor for the annual $15 billion limit of coverage refers to the FHCF balance as of December 31, as defined by rule.

- Specifies that the FHCF does not reimburse insurers for claims for "loss of rent or rental income," rather than "loss of use," to clarify that the FHCF reimburses insurers for additional living expenses paid under their policies.
- Clarifies that any annual assessments that are necessary to fund bonding obligations continue "for as long as" (rather than "until") the revenue bonds are outstanding.

Insurance Capital Build-Up Incentive Program

- The bill establishes the Insurance Capital Build-Up Incentive Program, which provides for the lending of state funds in the form of "surplus notes" to new or existing authorized residential property insurers, under specified conditions.
- The amount of the surplus note may not exceed $25 million or 20 percent of total funds available for the program. A total of $250 million is appropriated in non-recurring funds from General Revenue to the State Board of Administration (SBA) for this program.
- The insurer must contribute new capital to its surplus at least equal to the surplus note and must apply to the SBA (headed by the Governor, Attorney General, and Chief Financial Officer) by July 1, 2006.
- If the insurer applies after July 1, 2006, but before June 1, 2007, the surplus note is limited to one-half of the new capital contributed by the insurer. No applications are permitted beyond June 1, 2007.
- The combination of surplus, new capital, and the surplus note must be at least $50 million. That is, after obtaining the surplus note, the insurer must have a surplus of at least $50 million.
- The surplus note must be repayable to the state, with a 20-year term, at the 10-year Treasury Bond interest rate (with interest-only payments for the first 3 years). The Insurance Commissioner must approve payments on the surplus note, unless he determines the payment would substantially impair the financial condition of the insurer.
- The insurer must commit to meeting a minimum writing ratio of net written premium to surplus of at least 2:1 for the term of the surplus note. The written premium must be for residential property insurance in Florida, covering the peril of wind.
- The SBA may approve issuance of a surplus note to an applicant, unless the SBA determines that the financial condition of the insurer and its business plan place an unreasonably high level of financial risk to the state of nonpayment in full of the interest and principal. The SBA must consult with the Office of Insurance Regulation and may contract with independent financial and insurance consultants in making this determination.
- If the total amount of surplus notes requested exceeds the funds available, the SBA may prioritize insurers based on financial strength, the viability of the proposed business plan

for writing additional residential property insurance in the state, and the effect on competition in the market.

- The state of Florida would be a preferred, "class 3" creditor if the insurer becomes insolvent, being placed first in line after costs of the receiver and claims to policyholders.

Hurricane Loss Mitigation

- The bill establishes the Florida Comprehensive Hurricane Damage Mitigation Program within the Department of Financial Services (DFS).
- Provides for free inspections of site-built, residential property, to determine what mitigation measures are needed to reduce vulnerability to hurricane damage, performed by qualified inspectors under contract with DFS, pursuant to a request for proposals.
- Home inspections must include a rating scale specifying the current and projected wind resistance rating, and insurer-specific information on insurance credits and discounts.
- Provides for 50 percent matching grants to encourage single-family (and up to four-family), site-built homes to retrofit to reduce vulnerability to hurricane damage. Eligible property must have a homestead exemption, an insured value of $500,000 or less, and have undergone an acceptable hurricane mitigation inspection. Grants are limited to $5,000 (for up to a $10,000 project), with up to 100 percent grants ($5,000) for low-income homeowners, as defined. The bill specifies the types of improvements (opening protection, roof covering, etc.) for which grants may be used.
- Matching fund grants are also made available to local governments and nonprofit entities for projects that will reduce hurricane damage to single-family, site-built residential property.
- An Advisory Council to DFS must be appointed for the program, including representatives of lending institutions, residential property insurers, and home builders, a faculty member of a state university, two members of the House of Representatives, two members of the Senate, the chief executive officer of the Federal Alliance for Safe Homes, the senior officer of the Florida Hurricane Catastrophe Fund, the executive director of Citizens, and the director of the Division of Emergency Management of the Department of Community Affairs.
- DFS must adopt rules for the program and establish priorities for grants based on objective criteria that gives priority to reducing the state's probable maximum loss from hurricanes, while also establishing priorities based on the insured value of the dwelling, whether or not the dwelling is insured by Citizens, and whether the area under consideration has sufficient resources and the ability to perform the retrofitting required.
- Appropriates $250 million of non-recurring funds from General Revenue to DFS for this program. The unexpended balance reverts after three years (June 30, 2009).

- The program does not create an entitlement or obligate the state to pay for inspection or retrofitting of residential property and implementation is subject to annual legislative appropriations.
- The bill also creates the Manufactured Housing and Mobile Home Mitigation and Enhancement Program, which will provide grants for manufactured home communities and mobile home parks, administered by Tallahassee Community College. The bill appropriates $7.5 million of the $250 million appropriated for the comprehensive mitigation program, described above.

Insurance Rates: Requirements and Exceptions for Approval by the Office of Insurance Regulation (OIR)

- Requires OIR to approve a rating factor that provides an insurer a reasonable rate of return that is commensurate with the risk of covering hurricane losses, for that portion of the rate for which the insurer has exposed its capital and surplus and has not purchased reinsurance.
- Places the burden on OIR to establish that a proposed rate by an insurer is excessive for personal lines residential coverage with insured value of $1 million or more. The insurer must provide OIR, upon request, with loss and expense information, as reasonably needed for OIR to meet this burden.
- Requires OIR to reevaluate the insurance discounts and credits for homes built to meet the Florida Building Code and to determine the full actuarial value of such discounts, by July 1, 2007, for use by insurers in rate filings.
- Effective July 1, 2007, for residential property insurance in those areas for which OIR determines that a reasonable degree of competition exists, an insurer may increase or decrease rates by up to 5 percent on a statewide average, or 10 percent for any territory, without being subject to a determination by OIR that the rate is excessive or unfairly discriminatory (except for unfairly discriminatory rating factors prohibited by law). This provision may be used by an insurer once in a 12-month period.
- Authorizes the Insurance Consumer Advocate appointed by the Chief Financial Officer to represent the public in insurance rate proceedings before an arbitration panel (in addition to the current authority to represent the public at a rate proceeding before the Division of Administrative Hearings). The bill also appropriates $250,000 from the Insurance Regulatory Trust Fund to the Office of the Insurance Consumer Advocate.

Insurance Rates: Use of Hurricane Loss Projection Models

- Requires the public hurricane loss model (developed by Florida International University under contract with DFS) to be submitted for review by the Florida Commission on Hurricane Loss Projection Methodology ("Commission"), by March 1, 2007. OIR is

allowed to continue to use the public model in reviewing rate filings until the Commission determines it is not accurate or reliable.

- In a rate hearing, the hearing officer, judge, or arbitration panel may determine whether OIR and the Insurance Consumer Advocate were provided with access to all of the assumptions and factors used in developing a hurricane loss projection model approved by the Commission and used by the insurer in its rate filing, and rule on the admissibility of such findings and factors. (Legislation in 2005 provided that OIR and the Insurance Consumer Advocate must be provided such access in order for the findings and factors (the model), to be admissible in a rate proceeding, and created a public records exemption for information that is a trade secret.

Citizens Property Insurance Corporation ("Citizens"); Oversight, Internal Controls, and Standards of Conduct

- Requires the Financial Services Commission (Governor and Cabinet), rather than the Office of Insurance Regulation (OIR), to approve Citizens' plan of operation.
- Requires the Executive Director of Citizens to be confirmed by the Senate.
- Requires Citizens to have an internal auditor.
- Requires OIR to do a market conduct examination of Citizens every two years.
- Requires the Auditor General to conduct an operational audit of Citizens every three years.
- Requires competitive bidding on contracts of $25,000 or more, with exceptions, and board approval of contracts of $100,000 or more.
- Requires OIR background checks of applicants for senior management positions.
- Subjects board members and senior managers to the code of ethics and financial disclosure requirements applicable to public officials, and requires all employees to annually submit a statement attesting that no conflict of interest exists.
- Prohibits board members and employees from accepting any gift from any person or entity under contract with Citizens or under consideration for a contract.
- Prohibits Citizens from retaining lobbyists, but allows employees to register as lobbyists.
- Prohibits senior managers, for two years following termination of employment, from representing any person or entity before Citizens, or from being employed or under contract with an insurer that received a take-out bonus from Citizens.
- Requires Citizens to conduct a cost-benefit analysis of using legal services provided by in-house (employee) attorneys, or to contract with outside attorneys.

- Requires Citizens to establish a fraud unit or division to investigate possible fraudulent claims or repairs and to meet the same anti-fraud requirements imposed on authorized insurers. Requires employees to notify the Division of Insurance Fraud within 48 hours of having information that would lead a reasonable person to suspect that fraud may have been committed by an employee of Citizens.

Eligibility for Coverage in Citizens (Nonhomestead Property and $1 Million Homes)

- Effective March 1, 2007, nonhomestead property is not eligible for coverage in Citizens and is not eligible for renewal unless the property owner provides a sworn affidavit from one or more insurance agents that they have made their best efforts to obtain coverage and that the property has been rejected by at least one authorized insurer and three surplus lines insurers (for all agents combined).

- Defines "homestead property" as: a) property granted a homestead tax exemption under ch. 196, F.S.; b) property for which the owner has a written lease with a renter for a term of at least 7 months and which is insured by Citizens for $200,000 or less; c) an owner occupied mobile home permanently affixed to real property, owned by a Florida resident, and either granted a homestead tax exemption or, if the owner does not own the land, for which the owner certifies that the mobile home is his principal place of residence; d) tenants coverage; e) commercial lines residential property; or f) any county, district, or municipal hospital; not-for-profit hospital; or continuing care retirement community that is certified under ch. 651, F.S., and receives an ad valorem tax exemption under ch. 196, F.S. All other property is "nonhomestead property."

- Effective July 1, 2008, a personal lines residential structure that has a dwelling replacement cost of $1 million or more, or a single condominium unit that has a combined dwelling and contents replacement cost of $1 million or more, is not eligible for coverage by Citizens. Such dwellings insured by Citizens on June 30, 2008, may continue to be covered until the end of the policy term and may reapply for coverage for up to an additional three years if the property owner provides a sworn affidavit from one or more insurance agents that they have made their best efforts to obtain coverage and that the property has been rejected by at least one authorized insurer and three surplus lines insurers (for all agents combined).

Rates Charged by Citizens

- Requires that for policies in the personal lines account and the commercial lines account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the purchase of reinsurance coverage from the Florida Hurricane Catastrophe Fund and private reinsurance (whether or not purchased) and to pay all claims and expenses reasonably expected to result from a 100-year probable maximum loss event (i.e., a 1-in-100 year hurricane), without resort to assessments or other outside funding sources.

- Requires that for policies in the high-risk account of Citizens (wind-only coverage in coastal areas) issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the purchase of reinsurance coverage from the Florida Hurricane Catastrophe Fund and private reinsurance (whether or not purchased) and to pay all claims and expenses reasonably expected to result from a 70-year probable maximum loss event (i.e., a 1-in-70 year hurricane), without resort to assessments or other outside funding sources. For policies in the high-risk account issued or renewed in 2008 and 2009, the rate must be based upon an 85-year and 100-year probable maximum loss event, respectively.
- Provides that Citizens' rate filings for personal lines, wind-only policies (i.e., in the high-risk account) must be approved or disapproved by OIR within 90 days after receipt of the filing, or shall be considered deemed approved.
- Requires use of the public hurricane loss model as the minimum benchmark for determining windstorm rates for Citizens, after the public model has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology.
- Makes the current "top 20" requirement that Citizens' rates not be competitive with authorized insurers, inapplicable in a county or area for which OIR determines that no authorized insurer is offering coverage.

Assessments and Surcharges for Funding Deficits in Citizens

- Provides that if a deficit is incurred in any account, the board must levy an immediate assessment on each nonhomestead property (see definition above) of up to 10 percent of the premium. If this is insufficient to eliminate the deficit, the board must levy an additional assessment against all Citizens' policyholders (including nonhomestead policyholders), collected upon renewal, of up to 10 percent of premium. Any remaining deficit is funded by regular and emergency assessments as under current law, either recouped from, or directly paid by, non-Citizens' policyholders of property insurance. The regular assessment against insurers could still be imposed as soon as a deficit is determined, but must be reduced by the amounts estimated to be collected from the two new 10 percent surcharges.
- Requires that deficit assessments against insurers (and recouped from their policyholders) also be reduced by amounts estimated to be collected from "Citizens policyholder" surcharges, previously called the "market equalization" surcharge. The current surcharge is imposed on Citizens' policyholders at the same statewide average percentage that is recouped by insurers from non-Citizens policyholders, but collected by Citizens in addition to the assessment on the insurers that fully funds the deficit. Under the bill, Citizens would be required to estimate the amount to be collected from this surcharge and reduce the regular assessment by that amount. To enable Citizens to cover the entire deficit, the Citizens policyholder surcharge is calculated based on the full amount of the

regular assessment, before deducting the estimated Citizens policyholder surcharge. This has the effect of shifting a disproportionate share of the deficit assessment to Citizens' policyholders, resulting in the percentage assessment being about 1 percentage point greater than the voluntary market assessment, based on Citizens' current market share. This also appears to result in the voluntary market assessment capping out (for each of three accounts) at about 9 percent of premium, rather than 10 percent of premium, based on Citizens' current market share.

- Requires limited apportionment companies (i.e., insurers with $25 million in surplus or less) to pay the full amount of a regular assessment by Citizens. Currently, limited apportionment companies are not required to pay a regular assessment for any amount of a deficit in the high-risk account over $50 million. But, the bill allows limited apportionment companies up to 12 months to pay the assessment, as compared to 30 days as required for other insurers pursuant to Citizens' plan of operation. The limited apportionment companies would also be allowed to make a rate filing to begin recouping the assessment after it has been levied and before it is paid.

Other Changes to Citizens

- Requires Citizens to maintain separate accounting records that consolidate data for non-homestead properties, including number of policies, insured values, premiums written, and losses, and to annually report a summary of such data to OIR and the Legislature.
- Requires a 10-day waiting period for new applications, but allows for Citizens to bind coverage during this period under certain circumstances. If an authorized insurer offers coverage during this 10-day period, the applicant is not eligible for coverage in Citizens regardless of whether the insurer appoints the agent who submitted the application. (That is, the "Consumer Choice" law, does not apply during the first 10 days after a new application for coverage has been submitted to Citizens.)
- Requires Citizens to offer policyholders quarterly and semiannual premium payment plans.
- Allows Citizens to adopt policy forms that contain more restrictive coverage than provided in the voluntary market.
- Requires that coverage on mobile homes built prior to 1994 be limited to actual cash value, rather than replacement cost.
- Allows Citizens to assume policies of an insolvent insurer pursuant to court order, and to use policy forms and rates deemed appropriate and approved by OIR. This is intended to allow Citizens to charge the same rates and use the same policy forms of the insolvent insurer, until the end of that insurer's policy term.

- Requires insurers writing the non-wind coverage to contract with Citizens to provide claims adjusting services for the wind coverage provided by Citizens in the high risk account.
- Extends for three years (until February 1, 2010), the requirement that the board reduce the boundaries of the high risk (wind-only) territory, in order to reduce the 100-year probable maximum loss (PML) of the high risk account by at least 25 percent below the 100-year PML as of February 1, 2002.
- Requires that any take-out bonus paid to an insurer be conditioned on the insurer keeping the policy for five years. The bill also limits take-out bonuses to $100 per policy and requires other conditions as specified in s. 627.3511(2), F.S. Citizens must evaluate the cost-benefit of approved take-out plans for which a take-out bonus is paid, by tracking whether properties removed from Citizens are later insured by Citizens.
- Requires Citizens to report to the Legislature its recommendations regarding consolidating its three accounts and actions taken to minimize the cost of carrying debt.
- Requires Citizens to report to the Legislature on the feasibility of requiring insurers providing the non-wind coverage to issue and service Citizens' wind policies.
- Provides immunity from liability for insurance agents for the insolvency of any take-out insurer.
- Requires Citizens to make available to registered general lines agents, through a secured website, underwriting and claims files of policyholders with insured values of $1 million or more, subject to a required notice from Citizens to such policyholders and the option to elect not to make such information available.

Annual Report by Financial Services Commission of Assessment Burden

- Requires the Financial Services Commission to provide an annual report to the Legislature of the probable maximum losses, financing options, potential assessments of Citizens and the FHCF, and the assessment burden on Florida policyholders.

Sinkhole Claims

- Requires the Department of Financial Services to certify engineers and geologists to serve as "neutral evaluators" of sinkhole claims disputes. This process would be mandatory if requested by either party, but nonbinding, and the costs would be paid by the insurer. If the insurer timely complies with the recommendation of the neutral evaluator, but the policyholder declines to resolve the matter in accordance with the evaluator's recommendation, the insurer is not liable for extra-contractual (bad faith) damages related to issues determined at the neutral evaluation. Also, the insurer is not liable for attorney's fees, unless the policyholder obtains a more favorable judgment at trial. OIR is appropriated funds and 2 FTEs for this purpose.

- Allows residential policies to provide a deductible for sinkhole losses equal to 1, 2, 5, or 10 percent of the dwelling limits.
- Allows the insurer to make payment directly to the persons selected by the policyholder to make the repairs, if approved by the policyholder and lien holder.
- Deletes the current requirement that testing by a geologist to determine the presence or absence of a sinkhole loss be conducted in compliance with a specified publication of the Florida Geological Survey.
- Requires OIR to calculate a presumed factor to reflect the impact on rates of the changes made by the act related to sinkhole claims and the changes made by provisions of the 2005 property insurance act related to sinkhole claims. OIR is appropriated $250,000 for the purposes of this study. Each residential property insurer must, in it next rate filing after October 1, 2006, reflect a rate change that takes into account the presumed factor.
- Requires that insurers file information regarding paid sinkhole claims with the county clerk of court, rather than the county property appraiser, and specifies that the recording of the report does not constitute a lien or restriction on the title, and does not create any cause of action or liability.
- Makes it unlawful for a contractor or business providing sinkhole remediation services to communicate with any attorney for the purpose of assisting the attorney in the solicitation of legal business.

Florida Insurance Guaranty Association (FIGA)

- Authorizes FIGA to impose annual emergency assessments on insurers of up to 2 percent of written premium for specified lines of property and casualty insurance (in addition to the current authority to impose up to a 2 percent assessment), if necessary to fund revenue bonds issued by a municipality or county to pay claims of an insurer rendered insolvent due to a hurricane.
- Increases the maximum amount of FIGA's liability for a covered homeowners insurance claim against an insolvent insurer from $300,000 to $500,000.
- Provides that FIGA covers claims of a business (as a policyholder or claimant of an insolvent insurer) that has its principal place of business in Florida, rather than incorporated in Florida.
- Allows FIGA to pay claims of unearned premium refunds, under certain conditions, without requiring the policyholder to file a proof of claim form.

Emergency Orders; Standardized Rules for Hurricanes

- Authorizes the Commissioner of Insurance Regulation to issue general orders applicable to all insurance companies, after the Governor declares a state of emergency, which orders may be effective for up to 120 days.
- Requires the Financial Services Commission to adopt rules standardizing requirements that may be applied to insurers after a hurricane, addressing claims reporting requirements, grace periods for payment of premiums, and temporary postponement of cancellations and nonrenewal. Provides that any emergency rule that conflicts with the standardized rules must be by unanimous vote of the Financial Services Commission.

Other Provisions

- Requires that an insurer make a claims payment directly to the primary policyholder without requiring an endorsement from a lien holder or mortgage holder, for: a) personal property and contents; b) additional living expenses; and c) other covered items not subject to a security interest recorded in the dual interest provision of the insurance policy.
- Allows insurers to make electronic payment of insurance claims, under certain conditions, without written authorization.
- Permits alien surplus lines insurers to use letters of credit meeting certain criteria to fund the required minimum $5.4 million trust fund.
- Clarifies that if a property insurer does not obtain a written rejection from the policyholder for coverage for the additional construction costs of meeting new building codes, commonly called "law and ordinance coverage," the policy is deemed to include such coverage limited to 25 percent of the dwelling limit, not the 50 percent limit that must also be offered. Current law is ambiguous on this point, but the bill conforms to the current interpretation used by OIR.
- Clarifies that the law requiring insurers to offer replacement cost coverage and, if elected, to pay the replacement cost whether or not the policyholder replaces or repairs the damaged property, does not prohibit an insurer from limiting its liability to the lesser of: the cost of repair, the cost to replace, or the limit of liability shown on the policy declarations page.
- Requires OIR to conduct a study and report on the insurability of attached or free standing structures.
- Requires OIR to conduct a study and develop a program that will provide an objective rating system that will allow homeowners to evaluate the relative ability of Florida properties to withstand the wind load from a hurricane.
- Prohibits public adjusters from engaging in conflicts of interest by participating in the repair of damaged property that he adjusted.

- Provides procedures for the cancellation of a property and casualty insurance policy if the policyholder submits a check which is subsequently dishonored by a financial institution. The bill provides that an insurance policy can be cancelled "ab initio" (from the beginning, or back to the first day of coverage) if the insured does not timely cure a dishonored check within 5 days of notice.

If approved by the Governor, these provisions take effect upon becoming law. except as otherwise provided.
Vote: Senate 22-16; House 77-39

HB 217 — Sinkhole Insurance

by Rep. Legg and others (CS/SB 286 by Banking and Insurance Committee and Senators Fasano, Baker, Lynn, Dockery, Crist, and Jones)

This bill revises the laws relating to sinkhole insurance claims.

Sinkhole Deductibles
Effective October 1, 2006, the bill permits deductibles of 1, 2, 5, and 10 percent to be applied to residential property insurance policies.

Direct Payment to Contractor
The bill permits an insurer, if approved in writing by the policyholder and any lien holders, to make direct payment to the persons selected by the policyholder to perform land and building stabilization and foundation repairs caused by a sinkhole.

Sinkhole Testing
Sinkhole testing by a geologist would no longer be required to be conducted in compliance with the Florida Geological Survey Special Publication No. 57 (2005). The standard for sinkhole testing that an insurer must perform after a claim is filed and the insurer is unable to determine the cause of loss, is that the professional geologist or professional engineer must perform such tests that are necessary to determine the presence or absence of sinkhole loss. The sinkhole report is to be filed with the clerk of court, instead of the county property appraiser, and does not create a cloud on the title of real property or create any cause of action.

Neutral Evaluation of Sinkhole Claims
The bill provides an alternative dispute resolution process for sinkhole claims. The neutral evaluation process is nonbinding, but mandatory if either the policyholder or insurer files a request with the Department of Financial Services (DFS) for neutral evaluation. Upon receipt of a request for neutral evaluation, the DFS will provide the parties a list of certified neutral evaluators, who must be engineers or geologists who have completed an alternative dispute resolution course designed or approved by the DFS. The parties have 10 days to select a neutral evaluator from this list. If the parties cannot agree, then the neutral evaluator will be assigned by

the DFS. The neutral evaluation must be held within 45 days of the department's receipt of a request for evaluation, using procedures adopted by the department.

For matters not resolved by the parties during the neutral evaluation, the neutral evaluator must prepare a report stating whether the sinkhole loss has been verified or eliminated. If the existence of sinkhole loss is verified, the report must include the evaluator's opinion regarding the need for estimated costs of stabilizing the land and any covered structures as well as appropriate remediation or structural repairs. The evaluator's report must be sent to all parties in attendance at the neutral evaluation and to the DFS. The neutral evaluator's written recommendation is admissible in any subsequent action or proceeding relating to the claim or the cause of action giving rise to the claim. However, evidence of an offer to settle a claim during neutral evaluation is inadmissible regarding liability or claim value. If the neutral evaluator recommends repairs that exceed the insurer's offer to pay, the insurer is liable to the policyholder for up to $2,500 in attorney's fees. If the insurer timely complies with the recommendation of the neutral evaluator, but the policyholder declines to do so, the insurer is not liable for extra-contractual bad faith damages related to issues determined by the neutral evaluation process. Nor is the insurer liable for attorney's fees under s. 627.428, F.S., or other provisions of the Florida Insurance Code, unless the policyholder obtains a judgment that is more favorable than the neutral evaluator's recommendation.

Illegal Solicitation of Sinkhole Claims

The bill prohibits a general contractor, subcontractor, or other business providing sinkhole remediation services from soliciting legal business for an attorney. Doing so is a first degree misdemeanor.

Required Rate Filing

The bill mandates that the Office of Insurance Regulation (OIR) must calculate a presumed factor to reflect the impact of the changes made by this act and sections 17 through 21 of ch. 2005-111, L.O.F. Each residential property insurer is required to file a rate that takes into account the presumed factor at its first rate filing after October 1, 2006.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 119-0

MOTOR VEHICLE INSURANCE

CS/CS/CS/SB 2114 — Motor Vehicle Insurance Fraud; Reenactment of No-Fault Law

by Judiciary Committee; Health Care Committee; and Banking and Insurance Committee

Reenactment and Future Repeal of Florida's No-Fault Law

This bill reenacts the Florida Motor Vehicle No-Fault Law, by repealing s. 19 of ch. 2003-411, L.O.F., which would have repealed the No-Fault Law, effective October 1, 2007. However, the bill provides for future repeal of the No-Fault Law, effective January 1, 2009, unless reviewed and reenacted by the Legislature prior to that date.

Motor Vehicle Insurance Fraud

This bill amends s. 817.234, F.S., to provide that it is a second degree felony (with a two year minimum mandatory term of imprisonment) to plan or organize a scheme to create documentation of a motor vehicle crash that did not occur for purposes of a claim for personal injury protection (PIP) benefits or a motor vehicle tort claim. This penalty currently applies to staged or intentional motor vehicle accidents. The bill expands the applicability of the motor vehicle insurance fraud statute under s. 817.2361, F.S., to provide that any person who creates or presents false or fraudulent "proof" of motor vehicle insurance commits a third degree felony.

The bill specifies information that must be contained in a motor vehicle crash report form under s. 316.068, F.S., to include the time, date and location of the crash; description of the vehicles involved; names and addresses of all drivers, passengers, witnesses and parties involved; name, badge number, and law enforcement agency of the officer investigating the crash; and the names of the insurance companies for the respective parties involved in the crash. The bill states that the absence of information in a crash report regarding the existence of passengers in the vehicles involved in a crash constitutes a "rebuttable presumption" that no such passengers were involved in the reported crash. The bill amends s. 322.26, F.S., to require the Department of Highway Safety and Motor Vehicles to revoke the driver's license of any person convicted of these specified offenses: soliciting any business from a person involved in a motor vehicle accident for the purpose of making, adjusting or settling a vehicle tort claim under s. 817.234(8), F.S.; participating in a staged motor vehicle accident under s. 817.234(9), F.S., or for brokering health care patients under s. 817.505, F.S.

Funding for the Division of Insurance Fraud

The bill appropriates for FY 2006-07, the sums of $510,276 in recurring funds and $111,455 in nonrecurring funds from the Insurance Regulatory Trust Fund to the Division of Insurance Fraud within the Department of Financial Services for the purpose of providing a new fraud unit within the division consisting of six sworn law enforcement officers, one non-sworn investigator, one crime analyst, and one clerical position. A total of nine FTEs and associated salary rate of $381,500 are authorized. The legislation also appropriates for FY 2006-07, the sums of $415,291 in recurring funds and $52,430 in nonrecurring funds from the Insurance Regulatory Trust Fund

to the Division of Insurance Fraud for ten FTE positions and associated salary rate of $342,500. Both appropriations are for the purposes of deterring insurance fraud under s. 626.989, F.S.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 38-0; House 118-1

HB 7035 — Motor Vehicle Crash Reports (Public Records)

by Governmental Operations Committee and Rep. Rivera (CS/SB 2116 by Governmental Oversight and Productivity Committee and Banking and Insurance Committee)

The bill reenacts and reorganizes the public records exemption contained in s. 316.066(3), F.S., related to motor vehicle crash reports. This law requires law enforcement officers to file written reports of motor vehicle crashes, which are public records. However, s. 316.066(3)(c), F.S., provides that crash reports that identify the parties to a car crash by revealing the identity, the home or employment telephone number, the home or employment address, or other personal information, concerning the parties to motor vehicle crashes that are received or prepared by any agency which regularly receives or prepares information concerning the parties to motor vehicle crashes are confidential and exempt from public disclosure. This information is to remain confidential and exempt for 60 days after the date the report is filed. The primary policy reason for closing access to these crash reports for 60 days to persons or entities not specifically listed is to protect crash victims and their families from illegal solicitation by "runners" for attorneys or medical providers, who may entice the victims to file fraudulent or inflated insurance claims.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 91-26

INSURANCE

HB 947 — Long-Term Care Coverage

by Rep. Legg and others (CS/SB 2290 by General Government Appropriations Committee, Senators Fasano, Atwater, Pruitt, and Crist)

The bill amends laws governing long-term care insurance to:

- Provide that a long-term care policy is incontestable after being in force for two years, except in instances of non-payment of premium. Currently, the insurer may not contest claims based on the application for coverage for a period of two years, unless there is a fraudulent misrepresentation in the application.
- Prohibit an insurer from imposing a new waiting period when a policy is replaced through an affiliated insurer.

- Eliminate the current minimum nursing home benefit of 24 months of coverage.
- Require all existing policyholders to be given an option to receive contingent benefit options upon lapse in the event of a significant rate increase. These options include a reduced benefit plan for the existing premium amount, a paid-up policy equal to the sum of premiums paid to date, or continuation of the current policy if the increased premiums are paid.
- Prohibit existing policyholders from being charged premiums that exceed the premiums the insurer is charging to new policyholders.
- Require insurers to pool the claims experience of all affiliated carriers when calculating rates, rather than only the policy forms providing similar benefits of the insured.
- Require the Agency for Health Care Administration (AHCA) to establish a qualified state Long-term Care Partnership Program in Florida, in compliance with the requirements of the Social Security Act as amended by the federal Deficit Reduction Act of 2005, and in consultation with the Office of Insurance Regulation (OIR) and the Department of Children and Family Services.
- Provide certain regulatory and administrative requirements for AHCA and OIR for the Long-term Care Partnership Program.
- Require that, for purposes of determining Medicaid eligibility, assets in an amount equal to the insurance benefit payments made to, or on behalf of, an individual who is a beneficiary under an approved qualified state Long-term Care Partnership Program policy shall be disregarded.

If approved by the Governor, these provisions take effect upon becoming a law, except as otherwise expressly provided.
Vote: Senate 38-0; House 114-0

HB 561 — Insurance Fraud and Other Offenses Involving Insurance

by Rep. Rivera and others (CS/SB 1596 by Criminal Justice Committee and Senators Alexander and Posey)

This bill amends provisions of the Insurance Code pertaining to insurance fraud. The legislation includes the following:

- Provides that it is a second degree felony (with a two year minimum mandatory term of imprisonment) to plan or organize a scheme to create documentation of a motor vehicle crash that did not occur (i.e., a “paper” accident) for purposes of a claim for personal injury protection (PIP) benefits or a motor vehicle tort claim. This penalty currently applies only to “staged” accidents.

- Expands the applicability of the motor vehicle insurance fraud statute to provide that any person who creates or presents false or fraudulent "proof" of motor vehicle insurance commits a third-degree felony.
- Provides that it is a third-degree felony for insurance agents, adjusters, customer representatives, and others to transact insurance without a license.
- Provides that it is a third-degree felony to solicit or receive a commission, bonus, rebate, kickback, or bribe, in cash or in kind, or engage in any split-fee arrangement, in return for accepting treatment from a health care provider or health care facility. Clarifies that a health care provider or facility means any person or entity required to be licensed or lawfully exempt from licensure.
- Specifies information that must be contained in a motor vehicle crash report to include the time, date and location of the crash; description of the vehicles involved; names and addresses of all drivers, passengers, witnesses and parties involved; name, badge number, and law enforcement agency of the officer investigating the crash; and the names of the insurance companies for the respective parties involved in the crash. The absence of information in a crash report regarding the existence of passengers in the vehicles involved in a crash constitutes a "rebuttable presumption" that no such passengers were involved in the reported crash.
- Requires the Department of Highway Safety and Motor Vehicles to revoke the driver's license of any person convicted of these specified offenses: soliciting any business from a person involved in a motor vehicle accident for the purpose of making, adjusting or settling a vehicle tort claim under s. 817.234(8), F.S.; participating in a staged motor vehicle accident under s. 817.234(9), F.S., or for brokering health care patients under s. 817.505, F.S. Mandates a fee of $180 to be imposed against drivers who have their revoked or suspended licenses reinstated due to convictions of the above offenses.
- Provides that it is a third-degree felony for any person to willfully violate an "emergency" rule or order of the Department of Financial Services, the Office of Insurance Regulation, or the Financial Services Commission (Governor and Cabinet). However, such penalties would not apply to licensees or affiliated parties of licensees.
- Provides that it is a second-degree misdemeanor for any person to willfully violate a rule of the Department of Financial Services, the Office of Insurance Regulation, or the Financial Services Commission.
- Provides that falsely personating an officer of the Department of Financial Services is a third-degree felony.
- Authorizes the Division of Insurance Fraud to deposit revenues received from criminal proceedings or forfeiture proceedings into the Insurance Regulatory Trust Fund to be used to carry out the division's responsibilities.

- Requires health care clinics to post anti-fraud reward signs in conspicuous locations and allows full and complete access to such clinics by authorized employees of the Division of Insurance Fraud to make unannounced inspections to ensure compliance. Prohibits a medical or clinic director from referring patients to the clinic if the clinic performs magnetic resonance imaging or similar tests. Violating this prohibition constitutes a third-degree felony.
- Clarifies what is meant by independent procurement of insurance coverage to state that independent procurement of coverage is coverage by an unauthorized insurer legitimately licensed in another state or country.
- Requires insurers, upon receiving notice of a personal injury protection claim, to notify those insureds or persons for whom a claim for reimbursement for diagnosis or treatment of injuries has been filed, that the Department of Financial Services may pay rewards of up to $25,000 for information leading to the arrest and conviction of persons committing specified crimes investigated by the Division of Insurance Fraud. Requires the Financial Services Commission to include specific anti-fraud information in a notification form to insurerds regarding personal injury protection benefits.
- Requires insurers to timely submit acceptable anti-fraud plans or anti-fraud investigative descriptions to the Division of Insurance Fraud and imposes an administrative fine for failure to comply.
- Provides that the law relating to fraudulently obtaining goods or services does not apply to investigative actions by law enforcement officers.
- Clarifies that kickbacks for patient referrals are illegal whether the patient is being referred to or from a health care provider or facility. Clarifies the definition of "kickback" to mean payments by or on behalf of a health care provider to any person as an incentive to refer patients for past or future services.
- Provides that the Office of Insurance Regulation may adjust fines imposed against specified insurers by considering the financial condition of the licensee, premium volume written, ratio of violations to compliancy, and other mitigating factors.
- Eliminates a misdemeanor penalty for the violation of a stop work order under the workers' compensation law to clarify that the offense is a third-degree felony. Provides that the retroactive assumption of coverage and liabilities under a policy providing workers' compensation and employer's liability insurance may not exceed 21 days.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 112-1

HB 1361 — Debt Cancellation Products and Other Insurance Matters

by Rep. Brown (CS/SB 2522 by Banking and Insurance Committee and Senator Posey)

Debt Cancellation Products

The bill authorizes insurers to sell debt cancellation and debt suspension agreement contractual liability insurance to creditors such as a bank or credit union, or an entity entering into retail installment contracts. The product would serve to insure a creditor from losses experienced pursuant to debt cancellation contracts, debt suspension agreements, or retail installment contracts that the creditor has executed with its customers. The debt cancellation product is not insurance, but instead is classified as a loan or lease contract term, or a contractual agreement. The financial services commission is given rulemaking authority to administer the sale of debt cancellation products by motor vehicle retail installment sellers.

The bill also eliminates the $50,000 limit on insurance that may be procured on the life of a debtor under a debtor group contract or via credit life insurance. The change would allow the amount of insurance procured under a debtor group contract or credit life insurance on the life of a debtor to be up to the amount of his or her indebtedness to the creditor. The bill allows for the term of credit disability insurance to extend for the term of the indebtedness, rather than the current 10 year limitation.

Free Insurance Exception

The bill creates an exception to the general prohibition against offering or providing free insurance. Such insurance covering property other than real property or motor vehicles may be offered or sold if the person paying for the insurance has an ongoing contractual or economic interest in the property or requires the property to deliver its services.

Health Identification Cards

Health insurance companies and health maintenance organizations are required to provide identification cards to policyholders and subscribers, which contain specified information that can be used to estimate the financial responsibility of the covered person and contact information for the insurer or HMO. This information will assist hospitals and other providers in determining coverage and the financial responsibility of the covered person.

Discount Medical Plan Organizations

A discount medical plan organization (DMPO) applicant is permitted to submit, rather than petition OIR to accept, audited financials of the parent company, in lieu of the DMPO's financials. Additionally, the DMPO is allowed to certify that minimum capitalization requirements are satisfied rather than submit annual, audited financials. The bill states that a market investigation by the Office of Insurance Regulation (OIR) of a DMPO may only be conducted "for cause." A DMPO is authorized to require a waiting period for accessing hospital services and charge up to $60 dollars per month for a plan that covers physician or hospital services without prior approval from the OIR. A DMPO plan that does not include access to

physician or hospital services may continue to charge up to $30 per month the plan without prior approval from the OIR.

Non-Profit Worker's Compensation Self-Insurance Funds
The bill authorizes any two or more not for profit corporations located in Florida and organized under Florida law to form a self-insurance fund for pooling liabilities of its members for any property, casualty, or surety risk, provided that the fund has annual normal premiums in excess of $5 million and has only members who each receive at least 75 percent of its revenue from local, state, or federal government sources. The self-insurance fund must use a qualified actuary to determine rates and establish reserves and annually submit to the Office of Insurance Regulation (OIR) a certification that the rates are actuarially sound and are not inadequate. The fund must maintain excess insurance, with a retention that does not exceed $350,000 per occurrence. Annual audited financial statements must be submitted to the OIR. The governing body of the self-insurance fund must be comprised entirely of corporation not for profit officials and the fund must use knowledgeable personnel to administer the fund with a minimum of 5 years' experience with commercial self-insurance funds, group self-insurance funds, or domestic insurers, with such persons meeting all licensure requirements. The self-insurance fund must submit to the OIR contracts used for its members which clearly establish the liability of each member for obligations of the fund. The fund must annually submit to the OIR a certification by the governing body that, to the best of its knowledge, the requirements under this law are met. The bill also states that a worker's compensation policy issued by a worker's compensation self-insurance fund covered by the Workers' Compensation Insurance Guaranty Association cannot be rejected pursuant to a construction contract if the rejection is because the self-insurance fund is not rated by a nationally recognized rating service.

The bill revises provisions relating to security deposits by domestic insurers to allow such deposits to be held by broker/dealers, to conform to Florida law to the model law and rules enacted by the National Association of Insurance Commissioners.

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

CS/SB 1506 — Insurance; Electronic Statements
by Banking and Insurance Committee and Senator Alexander

This legislation provides the Office of Insurance Regulation (OIR) with the authority to collect electronic financial statements or other information from viatical settlement providers, life expectancy providers, premium finance companies, and continuing care retirement communities. Currently, such entities submit these statements or filings only by hard copy. The bill also authorizes OIR to require that records of a particular transaction of stock and mutual insurers be submitted by remote electronic access.

The bill authorizes the Financial Services Commission (Governor and Cabinet) to require by rule that financial statements or other filings be submitted to the OIR by electronic means in a computer-readable form, compatible with the electronic data format specified by the Commission.

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

CS/SB 2432 — Medical Travel Insurance

by Health Care Committee and Senator Constantine

The bill is cited as the "John F. Cosgrove Act" and applies to prepaid limited health service contracts regulated by the Office of Insurance Regulation under ch. 636, F.S.

The legislation provides that a person registered as a seller of travel with the Department of Agriculture and Consumer Services under s. 559.928, F.S., is not required to be licensed as a health insurance agent in order to sell prepaid limited health service contracts that cover the cost of air ambulance transportation. Air ambulance transportation services are licensed by the Department of Health under s. 401.251, F.S. However, the prepaid limited health service contract for such coverage is subject to all applicable provisions of ch. 636, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

HB 299 — Travel-Limited Life Insurance

by Reps. Sobel, Hasner, and others (CS/SB 764 by Banking and Insurance Committee and Senators Aronberg, Alexander, Margolis, Atwater, and Rich)

The bill is cited as the "Freedom to Travel Act." The legislation creates a new unfair or deceptive trade practice provision under the Insurance Code (s. 626.9541, F.S.) which would prohibit life insurers from refusing coverage or otherwise discriminating against an individual solely on the basis of that individual's past lawful foreign travel experiences. The bill further prohibits life insurers from refusing coverage or otherwise discriminating against an individual solely on the basis of that individual's future lawful foreign travel plans, unless life insurers demonstrate, and the Office of Insurance Regulation determines, that: 1) individuals who intend to travel are a separate actuarially supportable class whose risk of loss is different from those individuals who do not intend to travel; and 2) such risk classification is based on sound actuarial principles and actual or reasonably anticipated experience that correlates to the risk of travel to a specific destination.

The bill authorizes the Financial Services Commission to adopt rules to implement these provisions and to allow for limited exceptions based on national or international emergency conditions affecting public health, safety and welfare and that are consistent with public policy.

The bill provides enforcement authority to the Office of Insurance Regulation to require that each market conduct examination of a life insurer include a review of every application under which an insurer refused to issue life insurance, refused to continue life insurance, or limited the amount, extent, or kind of life insurance issued, based upon future lawful travel plans. The administrative fines provided under s. 624.4211, F.S., are trebled for violations of these provisions. Finally, the Office of Insurance Regulation must annually report to the President of the Senate and Speaker of the House of Representatives as to the nature and extent of denials or limitations by life insurers based upon an insured's future travel plans.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 116-0

HB 1113 — Insurance Agents

by Rep. Lopez-Cantera and others (CS/SB 2526 by Banking and Insurance Committee and Senator Posey)

This bill makes various changes to insurance agent licensing provisions under the Insurance Code. Specifically, the bill does the following:

- Provides that insurance agents, customer representatives, adjusters, service representatives, managing general agents, or reinsurance intermediaries may voluntarily disclose their race or ethnicity, gender or native language on license applications to the Department of Financial Services which will use the information exclusively for research and statistical purposes and to improve the quality and fairness of the license examination. This provision is to take effect on January 1, 2007.
- Mandates that the Department of Financial Services must provide fingerprint processing services at all its designated license examination centers in order to take an applicant's fingerprints. The department is prohibited from approving a license application if fingerprints have not been submitted**.** This provision is to take effect on January 1, 2007.
- Removes the prohibition against the Department of Financial Services denying, delaying or withholding approval of applications due to the fact that it has not received a criminal history report based on the applicant's fingerprints. Revises circumstances under which the department must notify an applicant about license examinations. This provision is to take effect on January 1, 2007.
- Exempts from the examination requirement an adjuster applicant who has the designation of a Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training

Academy or a Certified Claims Adjuster (CCA) from the Association of Property and Casualty Claims Professionals.

- Clarifies that no person is permitted to take a license examination until his or her application for examination has been approved. Allows a license applicant to take the license examination prior to submitting a license application by submitting an examination application through the Internet website of the Department of Financial Services. Specifies information the applicant must provide the department including voluntarily reporting race or ethnicity, gender or native language information. The application must state that an applicant is not required to disclose information as to race or ethnicity, gender or native language and will not be penalized for not doing so, and that the department will use the data exclusively for research and statistical purposes and to improve the quality and fairness of the examination. Each application must be accompanied by an examination fee. This provision is to take effect on January 1, 2007.
- Provides that the license examination provisions for an agent, customer representative or adjuster apply to any person who submits a license application and to any person who submits an examination application prior to filing an application for a license.
- Requires the Department of Financial Services to annually prepare and publish an annual report (by May 1st) that summarizes statistical information relating to life insurance agent examinations administered during the preceding calendar year. The report must include information for all examinees, combined and separately, by race or ethnicity, gender, race or ethnicity within gender, education level and native language according to specified criteria which includes the total number of examinees; the percentage and number of examinees who passed the examination; the mean scaled scores and the standard deviation of scaled scores on the examination. The department must make available upon request a statistical summary relating to each life insurance test form administered during the proceeding year which indicates for each test form specified ethnic and racial information. The department is authorized to provide application information under contact with a testing service.
- Requires the department to provide the time and place of the examination to each applicant for an examination.
- Provides that an applicant for license examination must appear in person and personally take the examination. This provision is to take effect on January 1, 2007.
- Provides that an applicant for examination may take additional examinations.
- Requires the Department of Financial Services to promptly issue a license as soon at it approves such license for those applicants who have completed the examination and received a passing grade. The bill provides that a passing grade is valid for 1 year and that the department may not issue a license based on an examination taken more than 1 year prior to the date the application for license is filed. This provision is to take effect on January 1, 2007.

- Appropriates for FY 2006-07, $158,995 in recurring funds and $120,069 in nonrecurring funds from the Insurance Regulatory Trust Fund in the Department of Financial Services for the purposes of funding the act and provides for three full-time equivalent positions with $103,285 in associated salary rate.

If approved by the Governor, these provisions take effect July 1, 2006, except as otherwise expressly provided in this act.
Vote: Senate 39-0; House 120-0

SB 1256 — Continuing Care Providers

by Banking and Insurance Committee and Senators Saunders, King, Baker, and Crist

Present law provides for the licensure and regulation of Continuing Care Retirement Communities (CCRCs) by the Office of Insurance Regulation (OIR) under ch. 651, F.S. Currently, a CCRC must maintain in escrow a statutorily established minimum liquid reserve for the benefit of facility residents. A component of the minimum liquid reserve is property insurance premiums that are used in calculating a CCRCs "debt service" reserve. For purposes of calculating this reserve, the property insurance premiums are capped at the amount paid in calendar year 1999. However, the 1999 premium cap expires on January 1, 2006. On that date, a CCRC must increase its property insurance premiums by 10 percent of the premium paid that year until attributable premium equals 100 percent of the actual premiums.

This bill provides the following changes to the calculation of minimum liquid reserve provisions by:

- Restructuring the treatment of property insurance premiums in the calculation of minimum liquid reserve requirements by removing property insurance premiums from the "debt service" reserve and placing such premiums into the calculation of the "operating" reserve of a CCRC;
- Deletes the provision capping property insurance premiums at the 1999 level; and
- Deletes the January 1, 2006, provision mandating increases in reserves for property insurance premiums by 10 percent per year.

The effect of these changes will generally require that 30 percent of the property insurance premiums be reserved. This percentage is lower than the increase that would occur under current law (due to the 1999 cap expiring). But, the bill will result in gradual premium increases compared to the 1999 cap.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 120-0

CS/SB 1620 — Warranty Associations

by Banking and Insurance Committee and Senator Haridopolos

Chapter 634, F.S., regulates warranty associations, including motor vehicle service agreement companies, home warranty associations, and service warranty associations. The bill provides the following changes to laws governing warranty associations:

- Prohibits an association from investing or lending association funds to any officer, director, or controlling shareholder;
- Allows home warranty contract holders to cancel the contract within 10 days, with a refund of at least 95 percent of the premium and to cancel at any time, after the 10 days, with a refund of at least 90 percent of the unearned pro rata premium. Current law allows for cancellation within 10 days without penalty, but only for contracts offered in connection with a home equity loan; not contracts offered in connection with the sale of a home;
- Provides that if a home warranty association elects to use a contractual liability insurance policy in lieu of establishing an unearned premium reserve, the policy must cover all home warranty contracts issued during the policy period whether or not the premium has been remitted to the insurer;
- Allows a service warranty association to sell a warranty in connection with the sale of a home, without also being licensed as a home warranty association, if the warranty only covers systems and appliances and no structural component of a home;
- Allows a home warranty association to renew a home warranty more than nine times, the current statutory limit, and charge a higher rate to renew a warranty than the current cost to purchase a new warranty for the same home, which is currently prohibited; and
- Exempts from licensure, as a motor vehicle service agreement company, an affiliate of a licensed motor vehicle service agreement company which is domiciled in Florida and uses contractual liability insurance to meet reserve requirements, if the affiliate does not issue or market motor vehicle service agreements to Florida residents and does not administer such agreements originally issued to Florida residents.

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

FINANCIAL ENTITIES, CREDIT COUNSELING, AND SECONDHAND DEALERS

HB 7153 — Financial Entities and Transactions

by Economic Development, Trade and Banking Committee and Rep. Detert (CS/SB 2744 by Banking and Insurance Committee and Senators Atwater and Crist)

The Office of Financial Regulation is responsible for the regulation of financial entities, including financial institutions, consumer finance companies, mortgage brokers and lenders, money transmitters, securities dealers and agents, deferred presentment providers, and title loan companies. The bill amends statutory provisions relating to mortgage brokerage and mortgage lending ch. 494, F.S.), mortgage lenders duties related to escrow funds (ch. 501, part I, F.S.), the Florida Consumer Finance Act (ch. 516, F.S.), the Florida Securities and Investor Protection Act (ch. 517, F.S.), the Retail Installment Sales (ch. 520, F.S.), the Florida Title Loan Act (ch. 537, F.S), the Money Transmitters' Code (ch. 560 F.S), and provisions related to safe deposit boxes (chs. 655 and 733, F.S.). The bill provides for:

- Mandated electronic filing of required forms, documents, or files with a provision for hardship situations;
- Clarification that receipt of the appropriate fee is a condition of new and renewal license application completion and that grounds for disciplinary action exists if the payment of the fee fails to clear;
- Revision of fingerprint card processing;
- Clarification of when a change in licensee control will trigger the need for a new license;
- Revision of mortgage broker and lender examination procedures and authority to charge an examination fee of up to $100 for the administration of the test by a third party vendor;
- Increase in the fee cap for a credit check of a loan applicant from $10 to $25 for consumer finance loans;
- Elimination of the registration fee ($30) for Canadian agents if the Canadian Dealer is registered and the requirement of a notice filing;
- Registration and imposition of additional fees for investment advisers through the national Investment Adviser Registration Depository;
- Elimination of reporting requirements in the renewal process for registration to sell or issue payment instruments or act as a funds transmitter under part II of ch. 560, F.S.;

- Extension of time that a financing statement filed is effective for purposes of satisfying the requirements for perfecting a security interest under the provisions of the Uniform Commercial Code; and
- An award of attorney's fees and costs if, as the result of neglect, a mortgage lender fails to pay any tax or insurance premium and subsequently refuses to pay the difference in premiums between a lapsed insurance policy and a new policy required by law.

If approved by the Governor, these provisions take effect October 1, 2006, except as otherwise expressly provided.
Vote: Senate 40-0; House 119-0

HB 825 — Financial Literacy Council

by Rep. Altman and others (CS/CS/SB 1368 by Governmental Oversight and Productivity Committee; Banking and Insurance Committee; and Senator Atwater)

The bill creates the Financial Literacy Council (council) within the Department of Financial Services. The council is designed to provide basic financial information to consumers and small businesses from a single state source and to provide recommendations to the department. The council is comprised of nine members appointed by the Chief Financial Officer. The bill provides for membership requirements, council meetings, and reports and authorizes the council to seek funding from the state and federal government and other sources.

The bill requires any funds received by the council to be deposited into the Administrative Trust Fund of the Department of Financial Services. The bill appropriates $50,000 in non-recurring funds from the Administrative Trust Fund to the council to fund its activities, contingent upon prior receipt of grant funds or contributions by the council. The bill abolishes the council on December 31, 2011, and provides for the appropriation of any council funds to the department for funding activities that the department has implemented pursuant to the council's recommendations.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 117-1

SB 704 — ATM Transaction Charges

by Senator Alexander

The bill allows an operator of an automated teller machine (ATM) in Florida to charge a fee or surcharge, not otherwise prohibited under state or federal law, to a customer accessing funds from an account held by a financial institution located outside of the United States. Currently, such fees or surcharges are not prohibited under current state law. However, such surcharges are

prohibited by internal policies of the electronic funds networks, Visa, and MasterCard for the United States region, unless expressly authorized by state law.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 118-2

HB 667 — Credit Counseling Services

by Rep. Hasner and others (CS/SB 1954 by Banking and Insurance Committee and Senator Aronberg)

Credit counseling agencies were initially established to assist persons in financial difficulty gain control of their finances, repay their credit card debts, and avoid bankruptcy. In 2004, Florida enacted legislation that established the framework for the regulation of the relationship between a consumer and a credit counseling agency that provides credit counseling or debt management services. This bill provides the following changes to the laws governing consumer counseling services and debt management services:

- Provides that the fee caps that currently apply to credit counseling services apply only to debtors residing in Florida. Therefore, the fee cap would not apply to a credit counseling agency located in Florida and providing services to a resident of another state.
- Creates a definition of the term, "creditor contribution," meaning a sum that a creditor, such as a financial institution, agrees to contribute to the credit counseling agency or otherwise setoff against the debt payable by the agency on behalf of debtors.
- Requires a debt management or credit counseling service to deduct and retain the voluntary, creditor's contribution from the debtor's payment. As a result, the debtor's account would be credited for the amount remitted by the debtor, less any fees authorized by law. However, the bill prohibits these creditor contributions from reducing any amounts to be credited to the account of the debtor for further payment to the creditor. Currently, the law requires that all funds received from the debtor, less any fees allowed by s. 817.802 F.S., must be remitted to the creditors.
- Allows credit counseling agencies to establish a single trust account for funds received from each debtor rather than establishing a separate trust account for each debtor's payments.
- Allows certified public accountants licensed in other states to conduct annual audits of the accounts of a credit counseling or debt management service.

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

SB 694 — Secondhand Dealers

by Senators Crist, Fasano, Baker, Bennett, Sebesta, and Lynn

A secondhand dealer engages in the business of buying, reselling, or consigning certain types of used personal property. Secondhand dealers are required to register with the Department of Revenue (department). Pawnbrokers were formerly regulated as secondhand dealers, but are now separately regulated under the provisions of ch. 539, F.S. The bill provides the following changes relating to the regulation of secondhand dealers, which are intended to assist law enforcement efforts related to stolen property:

- The categories of goods regulated and the types of secondhand dealers regulated are expanded to include mail order and computer-assisted (Internet) shopping. However, Internet shopping and businesses primarily engaged in the rental, sale, or trade of motion picture videos and video games are exempted from regulation if certain conditions are met.
- Criminal penalty provisions are increased for persons knowingly giving false verification that the seller is the rightful owner of goods or is authorized to sell, trade, or consign the goods.
- The bill revises the registration requirements for a principal of a secondhand dealer by allowing the denial, suspension, or revocation of a registration if the department determines that an applicant or registrant has been convicted of certain crimes within the last 10 years rather than the last 5 years.
- Recordkeeping requirements are revised by decreasing the retention time for transaction records from 5 to 3 years.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 38-0; House 119-0

INSURANCE PUBLIC RECORDS ISSUES

HB 7061 — Deferred Presentment Providers

by Governmental Operations Committee and Rep. Rivera (CS/SB 1584 by Governmental Oversight and Productivity Committee and Banking and Insurance Committee)

The bill reenacts the public records exemption for the deferred presentment provider database that is maintained by the Office of Financial Regulation of all deferred presentment transactions.

Deferred presentment providers, more commonly known as “pay-day lenders,” are businesses that charge a fee for cashing a check from a customer (“drawer”) and agreeing to hold that check for a certain number of days prior to depositing or redeeming the check. A deferred presentment

provider is prohibited from entering into a transaction with a person who has an outstanding transaction with any other provider, or with a person whose previous transaction with any provider has been terminated for less than 24 hours. To verify such information, the provider must access a database established by OFR. The OFR is required to establish this database of all deferred presentment transactions in the state and give providers real-time access through an Internet connection.

The bill clarifies the exemption by providing that information that identifies a drawer or a deferred presentment provider is confidential and exempt. Further, the bill expressly permits a deferred presentment provider to access the information that it has entered into the database. The bill also clarifies that the deferred presentment provider may obtain an eligibility determination for a particular individual (drawer) based on information in the database

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-1; House 120-0

HB 7049 — Surplus Lines Insurance

by Governmental Operations Committee and Rep. Rivera (CS/SB 1586 by Banking and Insurance Committee)

This bill reenacts s. 626.921(8) F.S., which contains a public records exemption for certain information concerning surplus lines insurance, which is specific to a particular policy or policyholder and is submitted to the Florida Surplus Lines Service Office (FSLSO) or the Department of Financial Services (DFS) or which is available for inspection by the department. The bill also makes technical and clarifying changes to the exemption.

Surplus lines insurance is insurance coverage provided by a company that is not licensed in Florida, but is allowed to transact insurance in the state as an "eligible" surplus lines insurer. The purpose of the surplus lines law is to provide the insurance purchasing public with access to insurers that are not authorized to transact business in Florida when certain insurance coverages cannot be obtained from Florida-authorized insurers. Surplus lines agents are authorized to handle the placement of insurance coverages with surplus lines insurers, and are required to report and file with the FSLSO, a copy of, or information on, each surplus lines insurance policy.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 117-3

CS/CS/SB 1080 — Child Protective Services

by Judiciary Committee and Children and Families Committee

This bill amends ch. 39, F.S., Florida's child protection statute, to conform to the federal Adoptions and Safe Families Act (ASFA) in three major areas. These areas are reasonable efforts, case planning, and permanency.

As to reasonable efforts, the bill amends current law to:

- Describe when reasonable efforts are required; and
- Clarify the nature of reasonable efforts required regarding both parental and relative placements at the stages of dependency proceedings.

As to case planning, the bill amends current law to:

- Provide that agreeing to a case plan does not constitute an admission of wrongdoing or consent to a finding of dependency;
- Define "concurrent planning" and give direction for its use;
- Replace confusing pre-ASFA language relating to "extending the case plan" with clear direction as to the time frames and requirements for permanency hearings;
- Clarify the options available to the court when it becomes clear that a case plan cannot be completed within the first 12 months a child is in care;
- Provide new emphasis on current language that "time is of the essence" in case planning by placing that language more prominently in the statute; and
- Clarify the considerations and process to be used in amending a case plan.

As to permanency, the bill amends current law to:

- Define "permanency hearings," "permanency plan," and "permanency goal," and
- Conform the permanency options under Florida law to those described in federal law.

The bill also includes language clarifying the restrictions placed on the use of child abuse reports and the ability of the Department of Children and Family Services to investigate reports that a child is without a responsible adult to provide care for the child.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 33-0; House 120-0

CS/SB 1278 — Youth/Young Adults with Disabilities

by Governmental Oversight and Productivity Committee and Senator Wise

The bill creates the Interagency Services Committee for Youth and Young Adults with Disabilities in the Agency for Persons with Disabilities to recommend a coordinated, multidisciplinary, and interagency intervention service system for youth and young adults with disabilities. The stated legislative intent is to eliminate barriers to educational opportunities and enhance educational opportunities that will lead to future employment of these youth.

The bill requires that the committee consist of state agency heads, or designees, of agencies and bureaus or divisions of state agencies that have any statutory responsibilities for youth with disabilities. The committee is required to invite representation from a number of public and private organizations, an individual with a disability, and a parent or guardian of an individual with a disability. The members of the committee must designate one of its members as chairperson.

The bill requires that the committee identify the roles and responsibilities of each agency with regard to the committee goals; develop collaborative relationships to identify and assist in removing federal and state barriers to achieving the goals; design a mechanism to annually assess the progress toward the goals by each agency; collect and disseminate information on research-based practices of state and local agencies on successful strategies; develop and recommend strategies to encourage each public employer to hire persons with disabilities; and recommend a statewide system of accountability which would include incentives for service providers, including school districts, technical centers, community colleges; and businesses and industries to provide integrated competitive employment to individuals with disabilities.

The committee must present a report of its progress on these issues to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007, and a final report on its findings and recommendations by January 1, 2008. The committee is abolished on June 1, 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 120-0

CS/CS/SB 1286 — Substance Abuse and Mental Health

by Health Care Committee; Children and Families Committee; and Senator Lynn

This bill revises the duties of the Florida Substance Abuse and Mental Health Corporation, modifies membership requirements to include primary consumers, and delays the repeal of the corporation's authorizing statute until the year 2011.

The bill modifies legislative intent regarding community substance abuse and mental health services to include intent that the publicly funded system of services focus on recovery and resiliency and provide continuity of care for persons released from state correctional facilities into the community.

The bill reauthorizes the position of Assistant Secretary for Substance Abuse and Mental Health, and the Program Offices of Mental Health and Substance Abuse in the Department of Children and Family Services (DCF), as repealed by ch. 2003-279, L.O.F.

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

CS/CS/SB 1510 — Child Care Facilities

by Community Affairs Committee; Children and Families Committee; and Senator Lynn

This bill requires child care providers to maintain compliance with child care standards in order to maintain their status as Gold Seal Quality Care providers. It authorizes the revocation of a facility's designation as a Gold Seal Quality Care provider for failing to meet specified standards. It requires the Department of Children and Family Services (DCF) to promulgate rules which provide criteria and procedures for reviewing and approving accrediting associations for participation in the Gold Seal Quality Care program, conferring and revoking designations of Gold Seal Quality Care providers, and classifying violations.

The bill revises provisions relating to the background screening of volunteers in child care settings regulated by DCF to make those provisions consistent with the screening requirements for other child care personnel.

The bill amends provisions relating to DCF's enforcement authority in registered family day care homes to provide the same escalating enforcement options available in other child care settings. Also, it provides DCF with the option of converting the license or registration of certain child care facilities to probation status. The department is required to adopt rules to establish the grounds for denial, suspension, revocation, or probation status for a license or registration for certain violations. The department must also establish a uniform system of procedures to impose disciplinary sanctions on licensed child care facilities, licensed large family child care homes, and licensed or registered family day care homes.

The bill extends the ability of DCF to issue provisional licenses to registered (as well as licensed) child care providers. The bill provides DCF with specific rule-making authority relating to safety standards in licensed family day care homes.

The bill moves responsibility for the Teacher Education and Compensation Helps (TEACH) program from DCF to the Agency for Workforce Innovation.

Finally, the bill creates s. 402.317, F.S., to allow child care to be provided for 24 hours or longer when the parent or legal guardian works a shift of 24 hours or longer. This new section requires that the employer document the shift assignment and limits the total child care to 72 consecutive hours in any seven-day period. It authorizes waiving all time limitations for child care when a state of emergency has been declared.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

SB 1850 — CFS Department Programs

by Senators Rich and Lynn (CS/SB 1034 by Health Care Committee and Senators Rich and Campbell)

Senate Bill 1850 deletes a provision in s. 397.451(1)(f), F.S., requiring immediate dismissal of an employee of a licensed substance abuse treatment provider upon disapproval of a request for an exemption from disqualification based on the results of employment screening. However, it also removes language in ch. 397, F.S., that is in conflict with the employment screening requirements in ch. 435, F.S., and references the appropriate section of ch. 435, F.S. It prohibits the Department of Children and Family Services (DCF) from issuing a regular license to a substance abuse treatment provider if that provider fails to show proof that background screening information on employees has been submitted.

Sections 1 through 4 of SB 1850 contain the provisions of CS/SB 1034 which adds marriage and family therapists (MFTs) licensed under ch. 491, F.S, to the list of mental health professionals who can execute a certificate authorizing the involuntary examination of persons pursuant to ch. 394, part I, F.S., (the Baker Act); defines “marriage and family therapist” and “mental health counselor” for purposes of ch. 394, part I, F.S.; revises the definition of “service provider” to include MFTs and mental health counselors (MHCs); authorizes MFTs and MHCs to determine if the services recommended in a treatment plan for an individual being considered for involuntary outpatient treatment are clinically appropriate; requires any evaluations performed by an MFT or an MHC to be included in any documentation provided to a treatment facility director when an individual is ordered to involuntary inpatient placement.

The bill amends s. 383.0115, F.S., deleting the repeal of the Commission on Marriage and Family Support Initiatives and requiring that the Department of Children and Family Services advise the Legislature when the commission fails to serve an essential public purpose.

The bill also saves from repeal s. 20.19(2)(c), F.S., which creates the Assistant Secretary for Substance Abuse and Mental Health in DCF and s. 20.19(4)(b)6. and 8., F.S., which creates the Mental Health Program Office and the Substance Abuse Program Office.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 120-0

HB 21 — Social Status/Black Men and Boys

by Rep. Peterman and others (CS/CS/SB 436 by Justice Appropriations Committee; Governmental Oversight and Productivity Committee; and Senators Wilson, Hill, Miller, Crist, and Bullard)

This bill creates the Council on the Social Status of Black Men and Boys within the Department of Legal Affairs and provides for the appointment and qualification of members. This bill requires the Attorney General to organize the initial meeting of the council and serve as presiding officer until a chairperson is elected. The council is directed to make a systematic study of the conditions affecting black men and boys, including homicide rates, arrest and incarceration rates, poverty, violence, drug abuse, death rates, disparate annual income levels, school performance in all grade levels, and health issues.

The council is directed to propose measures to alleviate and correct the underlying causes of the conditions described above. The council is to issue its initial annual report by December 15, 2007, with its findings, conclusions, and recommendations and issue a report by December 15 of each year thereafter. The legislation authorizing the council expires July 1, 2012.

If approved by the Governor, these provisions take effect: January 1, 2007.
Vote: Senate 40-0; House 116-0

HB 175 — Drug Court Programs

by Rep. Adams and others (CS/CS/CS/CS SB's 114 and 444 by Justice Appropriations Committee; Criminal Justice Committee; Judiciary Committee; Children and Families Committee; and Senators Lynn, Campbell, Miller, Smith, and Crist)

This bill creates the "Robert J. Koch Drug Court Intervention Act" and amends several sections of statute that relate to the dependency system, referral to treatment-based drug courts, and referral for pretrial intervention.

This bill modifies laws regarding treatment-based drug court programs in dependency, criminal, and delinquency proceedings. The bill authorizes a court, in a dependency case, to order a person who has custody or is requesting custody of a child to be evaluated for drug or alcohol problems at any time after a shelter petition or petition for dependency is filed. Additionally, it allows the court, after an adjudication of dependency or a finding of dependency where adjudication is

withheld, to require participation in and compliance with treatment-based drug court programs. Individuals involved in a dependency case may voluntarily enter drug court prior to an adjudication of dependency or a finding of dependency where adjudication is withheld.

In adult criminal and juvenile delinquency courts, treatment-based drug court programs have traditionally been structured as pretrial intervention programs. This bill requires that entry into any pretrial treatment-based drug court program must be voluntary. Additionally, voluntary participants must acknowledge in writing that they understand the requirements of the program and the potential sanctions for noncompliance. This bill also provides that counties with treatment-based drug court programs may adopt a protocol of sanctions for noncompliance with program rules. If a protocol of sanctions is adopted, it may include, but is not limited to: (a) placement in a substance abuse treatment program offered by a licensed service provider; (b) placement in a jail-based treatment program; or (c) serving a period of secure detention if a child or a period of incarceration within the time limits established for contempt of court if an adult. These provisions of the bill address recent case law holding that incarceration or a licensed substance abuse treatment program may not be imposed for noncompliance with pretrial drug court programs as such sanctions are not authorized by current law.

The court, in conjunction with other public agencies, may oversee progress and compliance with treatment and may impose appropriate available sanctions for noncompliance. The court may also make a finding of noncompliance for consideration in determining whether an alternate placement of the child is in the child's best interests.

A person enrolled in a treatment-based drug court program established under s. 397.334. F.S., is subject to a coordinated strategy developed by the drug court team that may include a protocol of sanctions for noncompliance with dependency drug court program rules. If a protocol of sanctions is adopted, it may include, but is not limited to: (a) placement in a substance abuse treatment program offered by a licensed service provider; (b) placement in a jail-based treatment program; or (c) serving a period of secure detention if a child or a period of incarceration within the time limits established for contempt of court if an adult.

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

HB 329 — Adult Protective Services

by Rep. Culp and others (CS/SB 1182 by Children and Families Committee and Senators Rich and Crist)

House Bill 329 amends s. 415.102(1), F.S., the definition of "abuse," to incorporate abuse by household members and relatives not in a caregiver role. Also, the bill amends s. 415.102(15), F.S., in order to redefine the term "neglect" to incorporate neglect by a vulnerable adult of himself or herself. This bill also amends s. 415.1051, F.S., to enable the Department of Children

and Families (DCF) to petition the court for an order authorizing the provision of protective services if a "vulnerable adult in need of services" is being abused, neglected, or exploited and needs protective services but lacks the capacity to consent to the protection. The bill amends s. 415.107, F.S., to allow the Agency for Persons with Disabilities (APD) to gain access to information in the central abuse hotline.

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

HB 351 — Community Residential Homes

by Rep. Lopez-Cantera and others (CS/SB 1006 by Community Affairs Committee and Senator Fasano)

The bill amends s. 419.001, F.S., to revise the definition of "community residential home" to include homes whose residents are clients of agencies other than the Department of Children and Families, specifically the Agency for Persons with Disabilities, the Department of Elderly Affairs, the Department of Juvenile Justice, and programs licensed by the Agency for Health Care Administration to conform with the divestiture of programs to those agencies. The bill does not expand the pool of potential residents of community residential homes as defined in ch. 419, F.S. It deletes the definition of "department" as the Department of Children and Family Services.

The bill requires that, prior to occupancy, the home's sponsoring agency must provide the local government with the most recently published compiled data that identifies all community residential homes in the district in which the proposed site is located, to confirm that no other community residential home is within a radius of 1,000 feet of the proposed home with six or fewer residents.

If approved by the Governor, these provisions take effect: July 1, 2006.
Vote: Senate 38-0; House 118-2

HB 595 — Community Behavioral Health Agencies

by Rep. Cannon (CS/SB 280 by Health and Human Services Appropriations Committee and Senators Fasano and Lynn)

The bill creates s. 394.9085, F.S., to specify that certain facilities or programs [a detoxification program defined in s. 397.311(18)(b), F.S, an addictions receiving facility defined in s. 397.311(18)(a), F.S., or a designated public receiving facility defined in s. 394.455(26), F.S.] have limited liability in negligence actions based on services for stabilization of a mental health or substance abuse crisis. The bill requires that net economic damages be limited to $1 million per liability claim, including but not limited to past and future medical expenses, wage loss, and loss of earning capacity. Conditional limitations on damages specified by this act shall be increased at the rate of five percent each year, to be prorated from its effective date to the date at

which damages subject to such limitations are awarded by final judgment or settlement. The provider is required to obtain and maintain general liability minimum coverage in the amount of $1 million per claim and $3 million per incident. Any noneconomic damages against the entities specified by this bill are limited to $200,000 per claim.

The bill indicates that liability limitations enjoyed by a provider extend to an employee of the provider when the employee is acting in furtherance of the provider's responsibilities under its contract with the Department of Children and Families. The bill further provides that a provider or employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death is not granted liability limitations by this legislation. Current DCF contract language specifies that a provider is an independent contractor, not an agent of the state. The provisions of this bill specify that a person who provides contractual services for the department is not an employee or agent of the state for the purposes of ch. 440, F.S., Workers' Compensation.

The bill specifies that the newly-created section shall not be construed to waive sovereign immunity for any governmental unit or other entity protected by sovereign immunity. Further, s. 768, F.S., regarding waiver of sovereign immunity in tort actions shall continue to apply to all governmental units and such entities.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 115-2

HB 1247 — Developmental Disabilities/Waiver

by Rep. Kravitz and others (CS/SB 2226 by Health Care Committee and Senator Rich)

The bill directs the Agency for Health Care Administration and the Agency for Persons with Disabilities to expand the Medicaid home and community-based waiver program that serves children diagnosed with familial dysautonomia, also known as Riley-Day Syndrome, to serve adults.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 119-0

HB 1503 — Persons with Disabilities

by Rep. Galvano and others (CS/CS/SB 2012 by Judiciary Committee; Children and Families Committee; and Senator Baker; SB 386 by Senator Campbell; SB 2662 by Senators Campbell and Lynn)

The bill makes substantive, conforming, and technical changes to sections of the Florida Statutes which relate to persons with developmental disabilities and the Agency for Persons with Disabilities (APD or agency). Some of the changes are designed to conform statutory provisions

to the transfer in 2004 of the developmental disability program in the Department of Children and Family Services (DCF or department) to the newly created agency. Other changes reflect recommendations from the agency as a result in changes in the financing and delivery of developmental disability services. These changes:

- Require confirmation by the Senate of the APD director (this provision was also contained in SB 386), and authorize a budget division and an operations division within the agency;
- Provide APD with access to the child abuse and vulnerable adult abuse records of the DCF for the purpose of facility licensure and employment screening;
- Delete language that authorizes certain court-ordered developmental disability services for children in dependency proceedings;
- Include adult day training services and personal care services within the community-based services that are medically necessary to prevent institutionalization;
- Make technical changes allowing the agency to purchase vehicles and exempt agency-licensed facilities from requiring food service licenses;
- Amend, update, and delete definitions and insert "people first" language;
- Add rule-making authority for client application procedures and eligibility criteria, facility licensing procedures and standards, criteria for imposing fines, in-home subsidies, use of restraint and seclusion, and certification of behavior analysts;
- Delete language that prohibits charging fees for placement in a residential program;
- Permit employees who are not involved in placement decisions to maintain ownership or employment with a private provider;
- Clarify provisions relating to background screening, closing a loophole that allows persons whose employment screening has not been completed to be unsupervised while providing services to agency clients. The bill exempts employees awaiting screening results but requires direct and constant visual supervision of any employee until the screening is complete and the exemption expires after 90 days;
- Reinstate a requirement for quarterly reassessment for in-home subsidies;
- Clarify that persons must be determined eligible for services by the agency to be involuntarily admitted to residential services;
- Delete language that prohibits denial of services due to inability to pay;
- Authorize the agency, DCF, and the Agency for Health Care Administration (AHCA) to promulgate rules for the use of physical restraints and seclusion (similar language was contained in SB 2662);

- Delete language referring to program review by statewide or local advocacy councils;
- Authorize facility residents to select members of advocacy groups from the community as members of resident government;
- Modify the definition of and criteria for sexual misconduct between an employee and a client, replacing the term "employee" with the term "covered person," to clarify that volunteers, interns, contractors or any other person providing services are included, in addition to employees and paid staff members; clarify the covered person's relationship to the client; expand the offense to include persons eligible to receive services from the agency; and require direct reporting rather than through the agency's inspector general. This clarification also deletes the defense that the perpetrator had no reason to believe that the client was a member of the protected class and expands the protected class to all persons eligible for services under ch. 393, F.S. not just persons receiving residential services;
- Delete a requirement for the agency Inspector General to investigate an incident of sexual misconduct before reporting it to the state attorney;
- Eliminate training programs (i.e., sheltered workshops) as eligible for a loan under the Community Resource Development program;
- Clarify APD's authority to establish certification programs for behavior analysts;
- Transfer provisions relating to comprehensive transitional education programs to a new section of statute;
- Conform provisions in ch. 400, F.S., relating to intermediate care facilities to changes in ch. 393, F.S.;
- Authorize APD to develop a consumer directed care program;
- Remove obsolete provisions, correct references, and reorganize sections of ch. 393, F.S., and statutes referencing that chapter; and
- Create part III of ch. 282, F.S., relating to accessibility of electronic information and information technology for state employees and certain members of the public with disabilities.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 117-0

HB 7007 — Child Support Services

by Governmental Operations and Rep. Rivera (CS/SB 1078 by Governmental Oversight and Productivity Committee and Children and Families Committee)

This bill re-enacts s. 61.1827, F.S., following review pursuant to the Open Government Sunset Review Act of 1995, and removes the requirement for further routine Open Government Sunset Review of the statute.

Section 61.1827, F.S., makes confidential and exempt from public disclosure any information that reveals the identity of applicants for or recipients of child support services, including the name, address, and telephone number of such persons, held by a non-Title IV-D county child support agency.

The section defines "non-Title IV-D county child support agency," as a department, division, or other agency of a county government which is operated by the county, excluding local depositories pursuant to s. 61.181, F.S., operated by the clerk of the court, to provide child support enforcement and depository services to county residents.

The section authorizes disclosure of the information in specified circumstances, primarily relating to law enforcement activities.

If approved by the Governor, these provisions take effect October 10, 2006.
Vote: Senate 39-0; House 116-0

HB 7151 — Adoption

by Civil Justice and Rep. Mahon (CS/SB 408 by Judiciary Committee and Senator Campbell; CS/CS/SB 438 by Children and Families Committee; Judiciary Committee; and Senator Lawson)

The bill provides a mechanism for the Department of Health to receive notification of the filing of a petition for termination of parental rights. Additionally, the bill clarifies provisions relating to who may execute an irrevocable affidavit of paternity.

The bill also modifies the statute of repose related to adoption by providing that the interest which entitles a person to notice of an adoption must be direct, financial, and immediate and the person must show that he or she will gain or lose by the direct legal operation and effect of the judgment. Absent such a showing a person with indirect interest lacks standing to set aside a judgment of adoption.

The bill also contains the substance of CS/CS/SB 438, which permits a petition to set aside a determination of paternity or terminate a child support obligation, specifies the contents of such a petition, provides standards upon which relief can be granted, and provides remedies. The bill

provides for the amendment of a child's birth certificate and provides for assessment of costs and attorney's fees.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-5; House 106-3

HB 7173 — Welfare of Children

by Future of Florida's Families Committee and Rep. Galvano and others (CS/CS/CS/SB 1798 by Health and Human Services Appropriations Committee; Education Committee; Children and Families Committee; and Senators Rich, Lynn, Atwater, and Bullard; CS/CS/SB 2470 by Education Committee; Children and Families Committee; and Senators Peaden, Rich, and Lynn)

This bill:

- Creates the Office of Child Abuse Prevention within the Executive Office of the Governor;
- Establishes a Child Abuse Prevention Advisory Council;
- Grants rulemaking authority for the Office of Child Abuse Prevention to the Executive Office of the Governor;
- Provides access to child abuse records for agencies that provide early intervention and prevention services;
- Adds employees of public schools to the list of "other persons responsible for a child's welfare" about whom the Department of Children and Family Services is required to receive and investigate reports of child abuse;
- Requires the court to issue an order separate from other judicial review orders so that a caregiver can access educational, medical, or other services without revealing confidential details about the child to the service provider;
- Establishes legislative intent for the statewide and local advocacy councils, provides guidelines for the selection of the executive director of the Florida Statewide Advocacy Council, and establishes a process for investigating reports of abuse;
- Revises eligibility requirements for young adults to participate in the Road to Independence Program (contingent on funding), adds requirements for case planning for older foster children, removes the word "scholarship" from the Road to Independence Program, requires payment of Road to Independence funds to recipients by direct deposit (with some exceptions), and authorizes Community-Based Care lead agencies to purchase employment, housing, and transportation services directly for the benefit of young adults in the Road to Independence Program;

- Revises the definition of the term "boarding school" to require such schools to meet accreditation requirements and to allow existing boarding schools three years to comply;
- Revises s. 409.903, F.S., to expand eligibility for medical assistance payments to Road to Independence participants to age 20;
- Creates s. 743.045, F.S., to remove the disability of nonage for specified foster children for the purpose of entering into leases for residential property.

If approved by the Governor, these provisions take effect July 1, 2006, except as otherwise provided.
Vote: Senate 39-0; House 118-0

HB 7199 — Forensic Treatment and Training

by Future of Florida's Families Committee and Rep. Galvano (CS/CS/SB 2010 by Criminal Justice Committee; Children and Families Committee; and Senator Baker; SB 2662 by Senators Campbell and Lynn)

The bill amends ch. 916, F.S., relating to forensic services for persons with mental illnesses and persons with mental retardation or autism. The bill revises definitions and procedures for persons committed to the Department of Children and Family Services (DCF or department) as defendants who are incompetent to stand trial due to a mental illness, mental retardation, or autism. It makes technical changes to conform procedures and criteria to the transfer of programs from DCF to the Agency for Persons with Disabilities (APD or agency). It makes substantive changes which include:

- Updating definitions including "forensic client," deleting commitment criteria from the definition and moving it to the appropriate section, creating a definition for "defendant" to distinguish persons who are not yet clients because they have not been committed.
- Requiring separate housing requirements for forensic clients (conforms to current practice).
- Clarifying provisions relating to defendants who are currently in the custody of the Department of Corrections.
- Adding references to APD and requiring the department to adopt rules governing the use of seclusion and restraint that reflect best practices and assure resident and staff safety, as well as providing for documentation in the client's facility record.
- Allowing the transfer of court jurisdiction for forensic clients.
- Clarifying the distinction between ch. 916, F.S., forensic procedures for involuntary commitment, and ch. 393, F.S., procedures for non-forensic involuntary commitment.

- Deleting the provision in current law (s. 916.1075, F.S.), which requires the inspector general to immediately investigate allegations of sexual misconduct between an employee and a client in a forensic facility, and upon a finding of probable cause, to report it to the local state attorney.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

CONSUMER ISSUES

HB 37 — Consumer Report Information

by Rep. Adams and others (CS/CS/SB 656 by Banking and Insurance Committee; Commerce and Consumer Services Committee; and Senators Peaden, Haridopolos, Jones, Fasano, Baker, Crist, Lynn, and Aronberg)

This bill creates s. 501.005, F.S., to allow a consumer to place a "security freeze" on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. The security freeze prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information contained within the report without the authorized consent of the consumer.

This bill allows a consumer credit reporting agency to charge a fee, not to exceed $10, when a consumer elects to temporarily lift or remove a security freeze on his or her credit report. However, a consumer reporting agency is prohibited from charging a fee to a consumer age 65 or older or to a victim of identity theft for the placement or removal of a security freeze.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 117-0

HB 167 — Household Moving Services

by Rep. Hays and others (CS/SB 244 by Banking and Insurance Committee and Senators Lynn and Aronberg)

This bill (Chapter 2006-4, L.O.F.) defines the terms "self-contained storage unit" and "moving container" to include units down to 200 cubic feet in size. This extends the application of current Florida law that grants the owner of a self-contained storage unit lien rights against the property contained within the unit. Expansion of the definition of "self-contained storage unit" ensures that such smaller moving containers are contained within the definition of a move for purposes of ch. 507, F.S.

This bill changes the title of ch. 507, F.S., to "Household Moving Services" and expands its regulation of household moving services to include moving brokers. Moving brokers are to be regulated by the Department of Agriculture and Consumer Services (DACS) in the same way moving services are currently regulated. Moving brokers must register with DACS, post specific financial security, and pay a fee. Moving brokers must maintain a $25,000 performance bond or certificate of deposit. The bill permits movers with two or fewer vehicles to use a performance bond or certificate of deposit in the amount of $25,000 instead of liability insurance.

This bill also requires each mover's vehicle to display signage with a minimum letter height of 1.5 inches, and provides a county or municipality may not issue an occupational license unless the mover or broker has a current registration with DACS.

These provisions were approved by the Governor and take effect July 1, 2006.
Vote: Senate 40-0; House 119-0

CS/SB 202 — Consumer Protection

by Judiciary Committee and Senators Aronberg and Crist

This bill amends s. 501.207, F.S., to provide legal standing for a receiver appointed in an unfair trade practices proceeding to bring actions in the name of, and on behalf of, the defendant enterprise, regardless of whether wrongful acts were committed by that enterprise. Under current statutory and common law, a receiver does not have the explicit ability to assert claims against other wrongdoers that may have contributed to an unfair trade practice. In addition, the bill revises effective dates provided in statute to capture changes made in federal law since 2001, the current year provided in statute.

The bill also creates s. 501.972, F.S., to provide that the use of a creation that is not protected under federal copyright law shall not give rise to a claim or cause of action unless the parties to the claim or cause of action have executed a writing sufficient to indicate that a contract has been made between them governing such use.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

HB 687 — Public Records

by Rep. Adams and others (CS/SB 1162 by Commerce and Consumer Services Committee and Senators Haridopolos, Crist, Lynn, and Saunders)

This bill creates s. 790.0601, F.S., a public records exemption for personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm. It authorizes the release of the information under certain circumstances. The bill provides for future review and repeal of the exemption and provides a statement of public necessity.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-2; House 83-27

HB 6003 — Resale of Tickets

by Criminal Justice Committee, and Rep. Stargel and others (CS/CS/SB 1168 by General Government Appropriations Committee; Commerce and Consumer Services Committee; and Senators Bennett and Fasano)

The bill creates s. 817.357, F.S., to establish a Florida Deceptive and Unfair Trade Practices Act (FDUTPA) violation for anyone who knowingly buys tickets, with the intent to resell those tickets, in excess of retail caps placed on the quantity of tickets that may be purchased.

The bill, like current law, prohibits the resale of tickets for more than $1.00 above the admissions price, but limits the application of that restriction to the following transactions:

- Tickets sold for passage or accommodation on any common carrier;
- Multi-day or multi-event tickets to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex; and
- Tickets sold through an internet website unless authorized by the original ticket seller or one that makes and posts certain guarantees and disclosures.

The bill also prohibits the resale of tickets on property where an event is taking place without the express written consent of the property owner.

The bill requires that any sales tax due for resales be remitted to the Department of Revenue.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-1; House 115-1

HB 7239 — Agriculture and Consumer Services

by Agriculture Committee and Rep. Poppell and others (CS/CS/SB 660 by Judiciary Committee; Commerce and Consumer Services Committee; and Senator Lynn)

This bill addresses a variety of issues relating to the Department of Agriculture and Consumer Services (department). Specifically, the bill:

- Revises education requirements for a private security license requiring Class "D" licensees to complete training within 180 days of applying for the license;
- Defines "caller identification service" and requires telephone solicitors to transmit certain identifying information to be displayed by a caller identification service;
- Preempts the regulation of refunds by retail sales establishments to the department;

- Clarifies provisions prohibiting local governments from imposing monetary penalties on owners of shopping carts under certain conditions;
- Defines the term "alternative fuel" and includes alternative fuel in the definition of petroleum fuel for purposes of inspection of petroleum fuel quality;
- Exempts persons delivering specified amounts of liquefied petroleum gas to consumers from having to meet minimum storage requirements;
- Eliminates a requirement for an agency receiving a consumer complaint from the department to file progress reports with the department; and
- Creates an exemption from insurance requirements for a governmental entity that is operating an amusement ride.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 116-0

WORKFORCE DEVELOPMENT

HB 219 — Labor Pools

by Rep. Troutman and others (CS/SB 1166 by Commerce and Consumer Services Committee and Senator Bennett)

This bill amends the Labor Pool Act, ch. 448, F.S., to permit a labor pool to set the amount it may charge its workers for transportation at $1.50 each way, and to authorize labor pools to pay their workers in cash from a cash-dispensing machine, under certain conditions, for a transaction fee of up to $1.99.

In addition, the bill specifies that an employee assigned to a client company by a labor pool or temporary employment agency (temporary help arrangement organization) that is licensed, registered or certified pursuant to law is an employee of the client company for licensure, registration or certification. The bill also specifies that an employee assigned to a client company by a labor pool or temporary employment agency shall be deemed an employee of the labor pool or temporary employment agency for purposes of workers' compensation and unemployment compensation.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

CS/CS/SB 786 — State Minimum Wage/Notification

by Judiciary Committee; Commerce and Consumer Services Committee; and Senators Hill, Miller, and Crist

This bill creates s. 448.109, F.S., related to notification of the state minimum wage. The bill requires each employer who must pay an employee the Florida minimum wage to display a poster in a conspicuous and accessible place in every establishment where employees are employed.

The bill also requires AWI to create the required posters in English and in Spanish and make them available to employers on or before December 1st of each year. Each poster must contain specific language outlining the restrictions on employers, the rights of employees, and the penalties for non-compliance with Florida's minimum wage law. The bill also provides formatting, font, and size requirements for the posters.

If approved by the Governor, these provisions take effect January 1, 2007.
Vote: Senate 40-0; House 120-0

HB 7059 — Public Records/Temporary Cash Assistance OGSR

by the Governmental Operations Committee and Rep. Rivera (CS/SB 736 by Governmental Oversight and Productivity Committee and Commerce and Consumer Services Committee)

The Commerce and Consumer Services Committee performed an Open Government Sunset Review of the public records exemption in s. 414.295, F.S., and the meetings exemptions in ss. 414.106 and 445.007(9), F.S. Each exemption prevents public disclosure of personal identifying information related to recipients of temporary cash assistance, a governmental benefit provided through the Temporary Assistance to Needy Families (TANF) program. The committee recommended that the exemptions be saved from repeal.

This bill clarifies and saves from repeal the current meeting exemption described in s. 414.106, F.S., and repeals a redundant meeting exemption for the same information and entities in s. 445.007(9), F.S. Further, the bill clarifies and saves from repeal an exemption for personal identifying information in records of temporary cash assistance recipients as provided in s. 414.295, F.S.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 116-0

ECONOMIC DEVELOPMENT

HB 1489 — State's Aerospace Industry

by Rep. Waters and others (CS/CS/SB 2580 by Transportation and Economic Development Appropriations Committee; Commerce and Consumer Services Committee; and Senators Fasano, King, Sebesta, Haridopolos, Crist, and Posey)

This bill amends ch. 331, F.S., to implement the recommendations of the Governor's Commission on the Future of Space and Aeronautics in Florida.

This bill consolidates the powers, duties, and assets of the Florida Space Authority (FSA), the Florida Space Research Institute (FSRI), and the Florida Aerospace Finance Corporation (FAFC) into one entity, "Space Florida." The bill provides for the powers and duties of Space Florida, and outlines the membership of its Board of Directors.

This bill requires Space Florida to enter into agreements with Enterprise Florida, Inc., the Department of Education, the Department of Transportation, and Workforce Florida, Inc., to implement the requirements of the bill.

This bill expands sales tax exemptions for machinery and equipment used by defense or space technology facilities to produce defense or space technology products, and machinery and equipment used predominately for space or defense research and development.

This bill creates the Florida Center for Mathematics and Science Research, to increase student achievement in math and science.

This bill appropriates, for FY 2006-07, $35 million from the General Revenue Fund to the Office of Tourism, Trade and Economic Development to be used for infrastructure needs related to NASA's Crew Exploration Vehicle (CEV). This bill appropriates $3 million from the General Revenue Fund for Space Florida's operations, which includes operational funding for FSA, FSRI, and FAFC through September 1, 2006. This bill also appropriates $4 million from the General Revenue Fund for implementation of innovative education programs and financing assistance for aerospace business development projects.

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

HB 1285 — Innovation Incentive Program/Public Records

by Rep. Attkisson (CS/SB 1136 by Commerce and Consumer Services Committee and Senators King and Fasano)

This bill amends the public records exemption in s. 288.1067, F.S., which protects trade secrets and other specified information from public disclosure when held by the Office of Tourism, Trade, and Economic Development (OTTED), Enterprise Florida, Inc., (EFI) or county or municipal governmental entities and their employees or agents. The bill expands the exemption to add the Florida Innovation Incentive Fund, as created by CS/CS/SB 2728 (2006), to the list of business incentive programs to which the exemption applies.

The expansion of the existing exemption to include the Florida Innovation Incentive Fund, in effect, creates a new exemption, requiring a review under the Open Government Sunset Review Act in 5 years.

If approved by the Governor, these provisions take effect July 1, 2006, if CS/CS/SB 2728 (2006) or other similar legislation is passed.
Vote: Senate 39-0; House 81-33

CS/CS/SB 2728 — Economic Development/Innovation Incentives

by Transportation and Economic Development Appropriations Committee; Commerce and Consumer Services Committee; and Senators Fasano and Lynn

Innovation Incentive Program

This bill creates the Innovation Incentive Program in s. 288.1089, F.S. The purpose of the program is to provide resources for significant economic development projects, including the location or expansion of research and development entities and innovation businesses in Florida.

This bill appropriates $200 million from the General Revenue Fund to the Economic Development Trust Fund within the Office of Tourism, Trade, and Economic Development (OTTED) for the Innovation Incentive Program for FY 2006-2007. These funds will be placed in reserve by the Executive Office of the Governor to be released as needed to implement the program. Funds not expended in FY 2006-2007, will be subject to annual appropriation.

This bill requires Enterprise Florida, Inc. (EFI), to evaluate applications for innovation incentive funds and to recommend eligible businesses to OTTED. OTTED must certify the applicants as qualified businesses, and then recommend qualified businesses to the Governor for approval. The Governor is required to consult with the Legislature and receive approval prior to releasing innovation incentive funds to qualified businesses.

The Innovation Incentive Program expires July 1, 2011.

Quick Action Closing Fund

This bill also makes changes to the Quick Action Closing Fund (QACF) in s. 288.1088, F.S., as follows:

- Adds criteria for project eligibility for QACF awards;
- Requires that the evaluation of the QACF proposals submitted by EFI to OTTED include an evaluation of the quality and value of the company;
- Requires that the Governor provide the evaluation of projects recommended for QACF awards to the President of the Senate and the Speaker of the House of Representatives;
- Requires that contracts awarding QACF funds must provide that payments are contingent upon legislative appropriation of sufficient funds and sufficient release of funds by the Legislative Budget Commission; and
- Deletes authority of the Governor to reallocate unencumbered QACF appropriations to supplement other statutorily created economic development programs.

This bill appropriates $45 million of non-recurring funds from the General Revenue Fund for the Quick Action Closing Fund for FY 2006-2007.

Capital Investment Tax Credit Program

This bill expands the Capital Investment Tax Credit Program in s. 220.191, F.S., by including a third type of project that may be eligible to receive corporate income tax credits. The project must be a new or expanded headquarters facility in Florida that locates in an enterprise zone and brownfield area. The project must create at least 1,500 jobs that pay, on average, at least 200 percent of the statewide annual private sector wage. The project must make a cumulative capital investment of at least $250 million in Florida. This type of project may be eligible for an annual corporate income tax credit in an amount equal to the lesser of $15 million or 5 percent of the eligible capital costs relating to the qualifying project. Tax credits may not exceed tax liability in any one year. If there is insufficient tax liability in any one year, tax credits may be carried forward for up to 20 years. The tax credit may be used by the qualifying business, or by any of its affiliated companies or related entities referenced by the bill.

Insurance Premium Tax

Currently, the insurance premium tax is applied to insurance premiums written in Florida at a rate of 1.75 percent for most types of insurance. A credit is allowed for corporate income taxes and 15 percent of the amount paid by the insurer in salaries to employees located or based in Florida. Combined corporate income tax credits and salary credits may not exceed 65 percent of insurance premium taxes due for any calendar year. (s. 624.509, F.S.)

This bill allows 25 percent of the excess salary tax credits not taken due to the 65 percent limitation to be redistributed to members of an affiliated group of corporations who can use the credits if the salaries apply to insurance company employees whose place of employment is located within an enterprise zone.

Qualified Job Training Organizations

Finally, this bill creates s. 288.1171, F.S., to require OTTED to certify "qualified job training organizations" to receive state funding. To be certified, the organization must, among other things, be accredited by the Commission for Accreditation of Rehabilitation Facilities, operate statewide and have more than 100 locations, specialize in the retail sale of donated items, and provide job training and employment services to individuals who have workplace disadvantages and disabilities.

However, the bill does not contain an appropriation to fund the program.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 99-14

HB 7017 — Economic Development Agency/OGSR

by Governmental Operations Committee, Rep. Rivera and others (CS/SB 734 by Governmental Oversight and Productivity Committee and Commerce and Consumer Services Committee)

This bill is a result of the Open Government Sunset Review of the public records exemption for certain business records held by economic development agencies, codified in s. 288.075, F.S.

Currently, business plans, intentions, and interests to locate or expand in Florida are confidential and exempt for 24 months. The period of confidentiality may be extended for an additional 12 months if the business demonstrates that it is continuing to consider locating or expanding in Florida. Trade secrets within such business plans are confidential and exempt for ten years.

The exemption is set to expire on October 2, 2006. This bill re-enacts the exemption. In addition, the exemption is amended to:

- Narrow the initial exemption period from 24-months to 12-months, while retaining the 12-month extension option;
- Reorganize the provision for ease of understanding; and
- Remove the review and repeal provisions required by the Open Government Sunset Review Act.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 36-0; House 110-8

HB 7055 — Enterprise Zone Incentives

by Economic Development, Trade and Banking Committee and Rep. Bilirakis and others (CS/CS/SB 1132 by Transportation and Economic Development Appropriations Committee; Commerce and Consumer Services Committee; and Senators King and Crist)

In 2005, the Florida Enterprise Zone Act (ch. 290, F.S.) was amended, re-enacted, and scheduled for repeal in 2015. This bill amends two obsolete expiration dates for related provisions, to make them consistent with the expiration of the Enterprise Zone Act. This bill clarifies that the enterprise zone building materials sales tax refund may only be used once per parcel of real property unless there is a change in ownership, a new lessor, or a new lessee of the real property. This bill also amends the definition of "new job has been created" for purposes of the enterprise zone jobs tax credit against the sales and corporate income taxes. This bill provides that, at least 90 days before changing the boundary of an enterprise zone, the governing body of the enterprise zone must provide in a public meeting notice an explanation that a boundary change will be considered and that the change may result in loss of enterprise zone eligibility for certain areas.

This bill also authorizes the City of Winter Haven to apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone, the area of which is not to exceed 5 square miles.

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

HB 7089 — Retained Spring Training Franchises

by Rep. Detert and others (CS/SB 1886 by Commerce and Consumer Services Committee and Senator Fasano)

This bill amends s. 288.1162, F.S., to authorize the Office of Tourism, Trade, and Economic Development (OTTED) to certify up to five additional spring training facilities, provides evaluation criteria for certification, and increases the aggregate monthly expenditure cap for statewide spring training facilities. Each certified spring training franchise is eligible for $500,000 a year for up to 30 years, or a total of $15 million.

This bill creates s. 218.64(3), F.S., to allow counties to use up to $2 million of their local option half-cent sales tax revenues annually to fund facilities for new or retained professional sports franchises, facilities for retained spring training franchises, or motorsports entertainment complexes. (The facilities must be certified by OTTED pursuant to ss. 288.1162 or 288.1171,

F.S.) The funds may only be used for this purpose if approved by ordinance enacted by a majority of the members of the county and city governing authority.

This bill creates s. 288.1171, F.S., relating to motorsports entertainment complexes. It defines "motorsports entertainment complex" as a closed-course racing facility. In order to be certified as a motorsports entertainment complex, the complex, or the land on which the complex is located, must be owned by a unit of local government; and the municipality or county in which the complex is located has certified by resolution after a public hearing that the applicant serves a public purpose.

OTTED must evaluate applications and certify an applicant as a motorsports entertainment complex. Funds distributed to a certified motorsports entertainment complex may only be used to fund capital improvements and advertising and promotion of, or related to, the motorsports entertainment complex, or the municipality or county in which the complex is located.

Currently, OTTED is authorized to certify up to eight facilities for new or retained professional sports franchises to be eligible for sales tax distributions. A certified facility is eligible to receive $2 million annually for 30 years. To date, OTTED has certified seven of the eight facilities. This bill amends s. 288.1162, F.S., to reserve the eighth certification for an NBA franchise that has been in Florida since 1987 and has not been previously certified. The only professional sports franchise that meets these criteria is the Orlando Magic.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-2; House 114-2

SALES TAX ISSUES

HB 69 — Commerce/Sales Tax Exemptions

by Rep. Meadows and others (CS/SB 1206 by General Government Appropriations Committee and Senators Atwater, Wise, King, Baker, Klein, Crist, Aronberg, Wilson, Posey, Bennett, Jones, Alexander, Diaz de la Portilla, Lynn, and Sebesta)

This bill expands, from partial to full, the sales tax exemptions for:

- Machinery and equipment used to increase productive output in spaceport and manufacturing facilities; and
- Machinery and equipment used by businesses producing tangible personal property pursuant to federal procurement regulation.

This bill also provides that machinery and equipment used for phosphate mining is exempt from sales tax rather than the tax on production of oil, gas, and other minerals; and removes provisions

that businesses meet certain job creation requirements in order to be eligible for this tax exemption.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 118-0

HB 415 — Sales Tax/Research and Development

by Rep. Quinones and others (CS/SB 962 by Government Efficiency Appropriations Committee and Senators Fasano and King)

This bill amends ch. 212, F.S., to exempt machinery and equipment used predominately for research and development activities from the state sales tax.

This bill also increases the sales and use tax exemption for industrial machinery and equipment used for the production of space or defense technology products from 25 percent to 100 percent. It expands this machinery and equipment exemption to include the *design or assembly* of space or defense technology products and it amends the definition of space technology products by adding space flight vehicles and components of any of the items covered by the definition. This bill also provides that a business eligible for the sales tax exemptions for certain machinery and equipment may be certified as eligible for such exemptions for a period of two years, rather than one year, and that a business' certification may be renewed at the end of the two-year period.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 36-1; House 115-0

HB 421 — Sales and Use Tax

by Rep. Reagan and others (SB 952 by Senator Margolis)

This bill amends ch. 212, F.S., to save from repeal several sales tax exemptions for certain leases, services, admissions and fees associated with events at certain facilities, including convention halls, exhibition halls, auditoriums, stadiums, theaters, arenas, civic centers, performing arts centers, or publicly owned recreational facilities.

The sales tax exemptions are scheduled to repeal on July 1, 2006. This bill extends the exemptions through July 1, 2009.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 118-1

HB 1079 — Sales Tax Exemptions: Advertising, Small Aircraft

by Rep. Altman and others (CS/SB 832 by Government Efficiency Appropriations Committee and Senators Haridopolos and Crist)

This bill amends ch. 212, F.S., to provide a sales tax exemption for advertising materials that are distributed for free by mail in an envelope to at least ten people on a regular basis.

This bill also provides a sales tax exemption for:

- The sale or lease of a qualified aircraft;
- Labor charges for the repair and maintenance of qualified aircraft; and
- Equipment used in repair or maintenance of qualified aircraft.

This bill defines "qualified aircraft" as, in part, "any aircraft having a maximum certified takeoff weight of less than 10,000 pounds ….. that is used by a business operating as an on-demand air carrier……" The bill also provides that, in order to be eligible for the sales tax exemption, the purchaser or lessee of a qualified aircraft must offer to participate in a flight training and research program at two or more universities in Florida with graduate programs in aerospace engineering.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 114-6

OTHER TAX ISSUES

HB 209 — Intangible Personal Property Tax

by Rep. Brummer and others (SB 714 by Senators Atwater, Clary, Fasano, Crist, Lynn, Posey, King, Pruitt, Jones, Peaden, Garcia, Sebesta, Wise, Baker, Constantine, Bennett, Haridopolos, Alexander, Dockery, and Webster)

Chapter 199, F.S., imposes two different taxes on intangible personal property: an annual (or recurring) tax is imposed at the rate of 0.5 mill on the value of stocks, bonds, notes, and other intangible personal property; and a non-recurring tax is imposed on obligations secured by liens on Florida realty at the rate of 2 mills. Individuals and businesses are currently obligated to pay an annual (recurring) tax on stocks, bonds, notes, governmental leaseholds, and interests in limited partnerships registered with the Securities and Exchange Commission (SEC). Current law exempts from the annual (recurring) tax $250,000 for each natural person and $500,000 for each natural person and spouse filing a joint return. The law also provides a $250,000 exemption for corporations and other legal entities.

This bill repeals the 0.5 mill annual (recurring) tax imposed on stocks, bonds, notes, and other intangible property. No change is made to the 2 mills non-recurring tax imposed upon obligations secured by liens on Florida property.

If approved by the Governor, these provisions take effect January 1, 2007.
Vote: Senate 31-9; House 100-20

OTHER ISSUES

HB 1031 — Pawnbroking

by Rep. Kyle (CS/SB 1870 by Community Affairs Committee and Senator Baker)

This bill amends the Florida Pawnbroking Act (ch. 539, F.S.) to prohibit counties or municipalities from enacting ordinances requiring the payment of any fee or tax related to a pawn transaction or purchase unless otherwise authorized by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 116-0

HB 7107 — Trademarks

by Economic Development, Trade and Banking Committee and Rep. Bilirakis and others (CS/CS/CS/SB 2186 by Transportation and Economic Development Appropriations Committee; Judiciary Committee; Commerce and Consumer Services Committee; and Senator Campbell)

This bill makes several changes to Florida's trademark law, ch. 495, F.S., which was originally drafted in accordance with the International Trademark Association's 1964 Model State Trademark Bill (MSTB), as amended over time. The changes in this bill conforms Florida's law to current federal law regarding trademarks, known as the Lanham Act, and the revised MSTB, where appropriate. The bill does the following:

- Provides a popular name for the trademark chapter;
- Revises the definitions to make them consistent with federal law;
- Revises which marks may be registered to be generally consistent with federal law;
- Repeals the provision related to the reservation of marks;
- Codifies the application review process used by the Department of State (department);
- Provides a right to an administrative hearing for affected parties;
- Reduces the renewal period of a registered mark from 10 to 5 years;

- Permits a person to file a change of name with the department and specifies recording requirements for such a change;
- Clarifies that security interests in a mark may be created and perfected under the Uniform Commercial Code;
- Conforms the Florida classification system for goods and services to the International Trademark Classification System;
- Authorizes an award of attorney's fees to a prevailing party according to the circumstances of a case where ownership of a mark is disputed;
- Revises provisions allowing the owner of a famous mark to prevent the dilution of the mark by enjoining the use of the mark by another person or seeking additional remedies in the case of willful use of the mark by another person;
- Combines all fees applicable to trademark registrations and related activities into one section of law; and
- Repeals obsolete sections of ch. 495, F.S.

If approved by the Governor, these provisions take effect January 1, 2007.
Vote: Senate 40-0; House 120-0

COMMUNICATIONS

CS/CS/SB 80 — Electronic Mail

by Commerce and Consumer Services Committee; Communications and Public Utilities Committee; and Senators Aronberg and Lynn

The bill amends the Electronic Mail Communications Act, creates criminal penalties for sending unsolicited false or misleading commercial electronic mail messages, and creates the "Anti-Phishing Act," prohibiting the acquisition and fraudulent use of a Florida resident's personal identifying information through the use of a website or e-mail.

The bill requires that any state or local agency, as defined in s. 119.011, F.S., or any legislative entity that operates a website and uses electronic mail to post the following statement in a conspicuous location on its website:

> Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

The bill also provides that a violation of the statutes on unsolicited false or misleading electronic mail is a misdemeanor of the first degree or, under specified circumstances, a felony in the third degree, and provides that the existing civil penalties and the new criminal penalties are cumulative remedies.

Finally, the bill creates the "Anti-Phishing Act" to: prohibit the acquisition and fraudulent use of a Florida resident's personal identifying information through the use of a website or e-mail; create a civil cause of action for internet access providers, financial institutions, web page, or trademark owners harmed by a violation, or the Attorney General; provide remedies of injunctive relief and damages, including potential treble damages under specified circumstances, attorney's fees and costs; and create a three-year statute of limitations; and provide for exemptions from the Act.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 36-0; House 120-0

CS/CS/SB 142 — Telecommunications/Price Regulation

by Government Efficiency Appropriations Committee; Communications and Public Utilities Committee; and Senators Fasano, Argenziano, Klein, Atwater, Aronberg, Saunders, and Peaden

In 2003, the Legislature enacted the Tele-Competitive Innovative and Infrastructure Enhancement Act that created a process to phase-out regulation. After the rebalancing phase, where intrastate interexchange network access charges were reduced to a specified level and basic local rates were increased in a revenue neutral manner, an incumbent local exchange telecommunications company could elect to have its basic local telecommunications services treated as its nonbasic services (i.e., minimal regulatory oversight). One feature of nonbasic treatment is the ability to raise rates up to 20 percent in any given 12-month period for services. Another provision was reduced quality of service standards. The Act required incumbent local exchange telecommunications companies to continue their obligation as carrier-of-last-resort.

The bill deletes the provision that allows an incumbent telecommunications company to elect to have its basic services treated as nonbasic and requires a company to request from the Public Service Commission (commission) that its service quality requirements be treated the same as competitive local exchange companies. The bill allows the company to petition the commission, after parity is reached, for minimal regulatory treatment of its retail services, at a level no greater than that currently imposed on competitive local exchange telecommunications providers. In its petition, it must show and the commission must find that:

- The change would be in the public interest;
- The level of competition has been demonstrated to be sufficient and sustainable to allow the commission's regulation to be supplanted by competitive forces; and
- The company has reduced its intrastate switched network access rates to its local reciprocal interconnection rate upon grant of the petition.

The bill allows the incumbent telecommunications company to change the prices for its nonbasic services on only one day's notice and to publicly publish price lists rather than file tariffs. The commission may establish guidelines for publicly publishing the price lists.

The bill provides definitions and creates an automatic waiver of the carrier-of-last-resort obligation for a local exchange telecommunications company under certain circumstances. Notice to the commission in a timely manner is required for automatic waivers. The bill also allows a local exchange company to petition for waiver for good cause shown based upon the facts and circumstances. Notice to the building owner or developer is required. The commission is required to initiate rulemaking to implement this provision and the commission's limitations of jurisdiction are maintained under ss. 364.011 and 364.013, F.S.

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

HB 871 — Telephone Calling Records

by Rep. Ryan and others (CS/CS/SB 1488 by Criminal Justice Committee; Communications and Public Utilities Committee; and Senators Aronberg, Miller, Campbell, and Crist)

The bill makes it a violation for a person to obtain or attempt to obtain the calling record of another person without that person's permission by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a telecommunications company or to a customer of a telecommunications company or by providing a document to an officer, employee, or agent of a telecommunications company, knowing that the document was forged, counterfeit, lost or stolen, fraudulently obtained, or contained false, fictitious, or fraudulent statements or representations. Included in the term "telecommunications company" are land-line, cellular, and voice-over-Internet-protocol (VoIP) calling records. It is also a violation to ask another person to obtain a calling record, knowing that the other person will obtain, or attempt to obtain, the calling record from the telecommunications company in any manner just described. The bill provides that a person who violates these provisions for the first time commits a first degree misdemeanor; a second or subsequent violation is a third degree felony.

Finally, the bill provides that it is not a violation for a law enforcement agency to obtain a calling record in connection with the performance of the official duties of that agency in accordance with other applicable laws, or for a telecommunications company, or its officer, employee, or agent, to obtain a calling record of that company in the following circumstances: in the course of testing security procedures or systems; investigating an allegation of misconduct or negligence on the part of an officer, employee, or agent; or recovering a calling record that was obtained or received by another person in any manner described in the new section as an unlawful means of obtaining a calling record.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 116-0

ENERGY

CS/CS/CS/SB 888 — Energy

by Ways and Means Committee; Environmental Preservation Committee; Communications and Public Utilities Committee; and Senators Constantine, Aronberg, Dockery, Atwater, Baker, Diaz de la Portilla, Bennett, Klein, Campbell, Bullard, Wilson, Crist, and Alexander

The bill can be divided into six general subjects: the Florida Energy Commission; nuclear power plant siting; alternative energy incentives; energy-related reporting requirements; streamlining of the siting acts for power plants and transmission lines; and water projects.

Florida Energy Commission

The bill creates the Florida Energy Commission to develop recommendations for legislation to establish a state energy policy based on specified principles. The commission is to be located within the Office of Legislative Services. It is to have nine members, with the President of the Senate and the Speaker of the House of Representatives each to appoint four members, and to jointly appoint a chair. Each member must be an expert in one or more specified fields and must disclose specified financial or employment interests.

The commission is to file an annual report by December 31 of each year, beginning in 2007. The first report must:

- Identify incentives for alternative energy research, development, or deployment projects;
- Set forth policy recommendations for conservation of all forms of energy;
- Recommend consensus-based public-involvement processes that evaluate greenhouse gas emissions in this state and make recommendations regarding related economic, energy, and environmental benefits;
- Include recommended steps and a schedule for the development of a comprehensive state climate action plan with greenhouse gas reduction through a public-involvement process, including transportation and land use; power generation; residential, commercial, and industrial activities; waste management; agriculture and forestry; emissions-reporting systems; and public education; and
- Set forth a plan of action, together with a timetable, for addressing additional issues.

Nuclear Power Plant Siting

The nuclear power plant siting provisions can be divided into three areas: determination of need, exemption from the bid rule, and early cost recovery.

The bill provides that in making a determination of the need for a nuclear power plant, the Public Service Commission (PSC) is to consider whether the proposed nuclear power plant will 1) provide needed base-load capacity, 2) enhance the reliability of electric power production within the state by improving the balance of power plant fuel diversity and reducing Florida's dependence on fuel oil and natural gas, and 3) provide the most cost-effective source of power, taking into account the need to improve the balance of fuel diversity, reduce Florida's dependence on fuel oil and natural gas, reduce air emission compliance costs, and contribute to the long-term stability and reliability of the electric grid.

The bill exempts an applicant for a determination of need for a proposed nuclear power plant from the PSC’s bid rule requirement of securing competitive proposals for power supply prior to

making application under this act or receiving a determination of need from the commission. This simply means that the applicant does not have to seek proposals from other utilities to build and operate a nuclear plant, selling the electricity to the applicant. The applicant's expenses in siting and constructing the power plant will still be subject to PSC review and must be prudent and reasonable.

Finally, the bill provides for recovery of costs of siting, design, licensing, and construction of a nuclear plant before it is placed into production. All of these costs are recoverable under current law. The bill does allow the applicant to recover them earlier than under current law, but this also has the effect of avoiding inclusion of these costs in rate base, phasing in the cost recovery on ratepayers, and avoiding some of the interest accruals, which would also be recoverable.

Alternative Energy Incentives

The bill creates the Renewable Energy Technologies Grants Program within the Department of Environmental Protection to provide matching grants for demonstration, commercialization, research, and development projects relating to renewable technologies. The bill defines renewable energy technology as any technology that generates or utilizes a renewable energy resource, defined to include electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power. As a part of this program, DEP is to work with the Department of Agriculture and Consumer Services to coordinate grants for bioenergy projects.

The bill designates the period from 12:01 a.m., October 5 through midnight October 11, 2006, as a tax holiday for sales tax on a new energy-efficient product sold during that period and having a selling price of $1,000 or less. The exemption is only for items purchased for personal use, and includes items like a dishwasher, clothes washer, air conditioner, ceiling fan, incandescent or florescent light bulb, dehumidifier, programmable thermostat, or refrigerator that meet certain criteria.

The bill also creates a rebate program for purchasers of solar photovoltaic systems or solar thermal systems, including pool heaters. To be eligible, the systems must meet certain requirements. The maximum rebates are provided and vary depending on the type of system and its intended use.

The bill also creates an exemption from sales tax for stated types of products relating to hydrogen-powered vehicles, commercial stationary hydrogen fuel cells, and materials used in distributing biodiesel and ethanol.

It creates an investment tax credit for costs related to investments in hydrogen-powered vehicles and hydrogen fueling stations; fuel cells; and biodiesel and ethanol.

Finally, it creates a renewable energy production tax credit for expanded or new facilities producing renewable energy

Energy-related Reporting Requirements

The bill requires the PSC to direct a study of the electric transmission grid to review electric system reliability and emergency contingency conditions, including an examination of the hardening of infrastructure to address issues arising from the 2004 and 2005 hurricane seasons. The PSC must report the results of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007.

The bill also requires the PSC to conduct a review to determine what should be done to enhance the reliability of Florida's transmission and distribution grids during extreme weather events, including the strengthening of distribution and transmission facilities. Considerations may include:

- Recommendations for promoting and encouraging underground electric distribution for new service or construction provided by public utilities;
- Recommendations for promoting and encouraging the conversion of existing overhead distribution facilities to underground facilities, including any recommended incentives to local governments for local-government-sponsored conversions;
- Recommendations as to whether incentives for local-government-sponsored conversions should include participation by a public utility in the conversion costs as an investment in the reliability of the grid in total, with such investment recognized as a new plant in service for regulatory purposes; and
- Recommendations for promoting and encouraging the use of road rights-of-way for the location of underground facilities in any local-government-sponsored conversion project, provided the customers of the public utility do not incur increased liability and future relocation costs.

The PSC must submit its report on this study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2007.

Finally, the bill requires the Department of Environmental Protection to provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by November 1, 2006, a report detailing the state's leadership by example in energy conservation and energy efficiency. The report must include a description of state programs designed to achieve energy conservation and energy efficiency at state-owned facilities, such as the guaranteed energy performance savings contracting and the inclusion of alternative fuel vehicles in state fleets. The report must describe the costs of implementation, details of the programs, and current and

projected energy and cost savings. The report must also set forth recommendations on a rebate program for purchases of energy-efficient appliances.

Streamlining of the Power Plant and Transmission Line Siting Acts

The bill streamlines both the Power Plant Siting Act and the Transmission Line Siting Act, primarily by: combining the determinations of completeness and sufficiency; eliminating mandatory land use and certification hearings under certain conditions, and changing deadlines.

Water Projects

The bill deletes existing requirements to be met in order to obtain state grants for stormwater and waste water management projects.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided.
Vote: Senate 39-0; House 119-1

PUBLIC UTILITIES

HB 789 — Underground Facilities/Safety

by Rep. Murzin and others (CS/CS/CS/SB 1394 by Community Affairs Committee; Regulated Industries Committee; Communications and Public Utilities Committee; and Senator Miller)

The Underground Facility Damage Prevention and Safety Act creates the Sunshine State One-Call of Florida, Inc., to establish and operate a system whereby excavating contractors and the public can provide notification of their intent to engage in excavation or demolition. The bill modifies this system by:

- Creating a "positive-response" process to facilitate communications between member operators and excavators;
- Reducing the number of days that an excavator must provide information before beginning any excavation or demolition from "not less than 2 or more than 5" business days to "not less than 2" business days;
- Extends the period for validity of the information in the notice from the current 20 calendar days to 30 calendar days;
- Revising the enforcement provisions to: clarify local government enforcement by a government code inspector or code enforcement officer; require that court costs be added to the civil penalty; and provide for allocation of a civil penalty, with 80 percent of a civil penalty for a citation issued by a local government entity to be distributed to that local

government entity and with the penalty for a citation issued by a state law enforcement officer to be retained by the clerk for deposit into the fine and forfeiture trust fund;

- Providing that Sunshine State One-Call is neither required nor permitted to locate or mark underground facilities, that a right of recovery does not exist against the system for failing to mark or locate underground facilities, and that the system is not liable for the failure of a member operator to comply with the requirements of the Act;
- Providing additional exemptions from the Act for certain pest control services and for certain situations where mechanized equipment is not used; and
- Directing the One-Call system to study the feasibility of designated zones where no notification is required and report the findings of the study to the Legislature.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 117-0

PUBLIC SERVICE COMMISSION

HB 7237 — Public Service Commission

by Utilities and Telecommunications Committee and Rep. Littlefield (CS/SB 1872 by Communications and Public Utilities Committee and Senator Constantine)

The Auditor General issued an operational audit report in September 2005, (Report Number 2006-021, Public Service Commission Regulatory Audits And Personnel Administration) that found that specified statutes related to the Florida Public Service Commission are obsolete. This bill makes the changes recommended in the Auditor General report. It also clarifies when a commissioner's term begins and ends and requires that a sitting commissioner give notice of intent to seek reappointment 30 days earlier than is currently required.

The bill provides that each commissioner's term begins on January 2 of the year the term commences and ends four years later on January 1. A person serving on the commission who intends to seek reappointment must file notice of that intent 210 days prior to the expiration of the term, as opposed to the current 180 days.

The bill also deletes obsolete references to:

- Maximum regulatory assessment fees which conflict with the maximums set forth in the industry-specific statutes;
- Regulation of coal slurries, which have never been used in Florida;
- Regulation of railroads, which the commission no longer regulates; and

- Measures relating to commission operations, such as a position of Chief Auditor, an office of hearing examiners, official reporters, and transcript and copying fees, none of which reflect current practice.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 116-0

LOCAL GOVERNMENT FINANCE

SB 152 — Property Appraiser Assessments
by Senator Saunders

This bill amends s. 193.023, F.S., to provide that county property appraisers must physically inspect property at least once every five years, rather than every three years as required under current law. Additionally, the bill authorizes county property appraisers to review, as deemed necessary, image technology in assessing the value of real property.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 119-1

CS/SB 264 — Homestead Assessments
by Government Efficiency Appropriations Committee and Senators Fasano, Crist, and Atwater

This bill amends s. 193.155, F.S., to provide that there is no change in ownership of a homestead property if a change or transfer is by means of an instrument in which the owner is listed as both grantor and grantee of the real property and one or more individuals are additionally named as grantee. As a result, a change or transfer that merely adds an additional person or persons to the title does not trigger a change in ownership. However, if an individual who is added to a title applies for a homestead exemption on the property, the application is considered a change of ownership and reassessment is required.

The effect of this bill is that an individual may add one or more co-owners to the deed for homestead property without losing the Save Our Homes benefit, assuming the individual continues to qualify for the homestead exemption on the property.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 114-1

SB 490 — Property Tax Administration
by Senator Diaz de la Portilla

The Department of Revenue (DOR) is currently required to conduct an in-depth review of every property appraiser's assessment rolls at least every two years. DOR then creates a report on each assessment roll. Included in the report is DOR's confidence level in the property appraiser's rolls based on DOR's use of various statistical and analytical measures, which are also included in the

report. DOR is required to forward this report to the "Senate Finance, Taxation, and Claims Committee, the House Finance and Taxation Committee," and the property appraiser. Once DOR presents the property appraiser with its report, the report becomes a public record.

This bill changes the reference to the Legislative committees to, "the committees of the Senate and the House of Representatives with oversight responsibilities for taxation." The bill also requires DOR to notify the chairperson of the appropriate county commission, or the corresponding official under a consolidated charter, that its report is available at their request. When a written request from the chairperson, or corresponding official, is received by DOR, DOR must provide them a copy within 90 days.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 117-0

HB 293 — Fiscally Constrained Counties

by Rep. Pickens, Brown, and others (CS/CS/SB 1612 by Ways and Means Committee; Commerce and Consumer Services Committee; and Senators Baker, Aronberg, Argenziano, Alexander, Bennett, Lawson, Peaden, Smith, Lynn, Bullard, King, and Campbell)

This bill provides for the distribution of a portion of the tax on certain communication services (direct-to-home satellite services) to fiscally constrained counties. A "fiscally constrained county" is defined as a county that is entirely within a rural area of critical economic concern as designated by the Governor pursuant to s. 288.0656, F.S., or a county in which a one mill property tax rate will raise no more than $5 million in revenue annually. Based on 2006 taxable value estimates, 30 counties qualify as a fiscally constrained county under this provision. Funds will be distributed by the Department of Revenue using a formula that factors in both the revenue raising potential of one mill, measured on a per capita basis, and a local-effort factor based on the county-wide operating millage levied by each county. Counties may use the distributions for any public purpose other than to pay debt service on any form of indebtedness. Distributions to counties that cease to qualify as a "fiscally constrained county" will be phased-out over a two-year period.

This bill also changes the criteria by which a county currently qualifies for an additional distribution of sales tax revenues under s. 218.65, F.S., by eliminating criteria under which a county with a population over 65,000 could continue to qualify for a distribution. The bill provides for a two-year phase out of the distribution to a county which grows beyond the population cap.

The bill provides for state funds to be used to cover the costs of juvenile detention in fiscally constrained counties.

Finally, this bill reduces general revenue funds by a designated percentage and increases the revenues of fiscally constrained counties by the same amount.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 85-27

HB 1269 — Local Occupational License Taxes

by Rep. Cusack and others (CS/SB 2218 by Regulated Industries Committee and Senators Lawson, Bennett, Jones, Aronberg, and King)

This bill changes the name of the Act from the "Local Occupational License Tax Act" to the "Local Business Tax Act," and conforms the name change throughout the Act.

The bill also defines "receipt" to mean the document that is issued by the local governing authority which bears the words "Local Business Tax Receipt" and evidences that the person in whose name the document is issued has complied with the provisions of the Local Business Tax Act. The bill amends ch. 205, F.S., to provide that persons who pay occupational business taxes receive a "receipt" for payment rather than a "certificate." The bill specifies that "changing the name of the item issued by local governments from occupational license tax to local business tax may eliminate some fraudulent misrepresentations."

If approved by the Governor, these provisions take effect January 1, 2007.
Vote: Senate 40-0; House 119-0

HB 1583 — Community Redevelopment

by Rep. M. Davis (CS/CS/SB 2364 by Government Efficiency Appropriations Committee; Community Affairs Committee; and Senator Baker)

The bill provides for additional procedures prior to the adoption of a community redevelopment plan for a community redevelopment agency (CRA) in a non-charter county that has not authorized a study to consider whether a finding of necessity resolution should be adopted by June 5, 2006, has not adopted a finding-of-necessity resolution by March 31, 2007, or has not adopted a community redevelopment plan by June 7, 2007. These additional procedures also apply to a CRA in a non-charter county that modifies its redevelopment plan after October 1, 2006, to expand the boundaries of the redevelopment area.

This bill also provides limitations under certain circumstances on the required contributions of the increase in increment revenues by the taxing authority in the CRAs specified above. Notwithstanding these limitations, an area reinvestment agreement would require the increase in the contribution to continue for a specified area and be used to fund specified public and private projects and services. The agreement must specify the estimated amount to complete the project or provide the services. The increase in the contribution that is required under an area

reinvestment agreement shall cease when the amount specified in the agreement has been invested.

In addition, the bill provides that alternative provisions contained in an interlocal agreement between a taxing authority and the governing body that created the CRA may supersede the provisions of this section with respect to the taxing authority. Finally, the bill requires a charter county to use registered mail to request additional documentation or information from a municipality when considering a request to delegate the powers of the CRA to a municipality and provides the timeframe within which the county must take action on the request.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 120-0

HB 7183 — Tax Exemption/Biblical Display

by Finance and Tax Committee and Rep. Brummer and others (SB 2676 by Senators Webster and Posey)

Article VII, section (3)(a), of the Florida Constitution authorizes the Legislature to provide an exemption from ad valorem taxes for property used predominately for religious purposes. This bill specifies that properties are exempt from ad valorem taxation if the property is owned by an entity exempt under section 501(c)(3) of the Internal Revenue Code and is used to:

- Exhibit, illustrate, and interpret biblical manuscripts, codices, stone tablets, and other biblical archives;
- Provide live or recorded demonstrations, explanations, reenactments, and illustrations of biblical history and biblical worship; and
- Exhibit times, places, and events of biblical history and significance.

Properties meeting this criteria must also be open to the public free of charge at least one day each year (subject to capacity limits), and have documentation from the Internal Revenue Service that the property is used for activities which do not endanger its status as an exempt entity.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 28-10; House 93-25

GROWTH MANAGEMENT

CS/CS/SB 980 — Electric Transmission and Distribution

by Communications and Public Utilities Committee; Community Affairs Committee; and Senator Alexander

The bill provides that electrical substations are a permittable land use in all land use categories and zoning districts, with specified exceptions. A local government may adopt reasonable standards for setback and landscape buffers, but if a local government does not do so, the standards set forth in the bill apply. The bill creates a process for siting a new distribution electric substation if the local government has adopted standards for setback and landscape buffers and provides timeframes for the process. If an application for a permit is not timely disposed of, it is deemed automatically approved.

Prior to submitting an application for a new distribution electric substation in a residential area, the utility is to consult the local government regarding site selection. The utility is to provide information on the proposed site and as many as three alternative sites. If the local government and the utility are unable to agree upon a site, selection is to be submitted to mediation.

Also, local governments may not require a permit or other approval for vegetation management and tree trimming within an established right-of-way for an electric transmission or distribution line. At the request of a local government, utility companies are required to meet with the local government to discuss and submit the utility's vegetation maintenance plan. The bill requires a utility to give the local government advance notice before conducting vegetation-maintenance and tree trimming or pruning activities in an established right-of-way, specifies standards for such activities, and limits the types of trees or vegetation that may be planted in an established right-of-way for an electric utility.

Finally, the bill requires an electric utility to provide the applicable regional planning council with an annual report on the utility's 5-year plans for siting electric substations and this information is to be included in the regional planning council's annual report.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 114-5

HB 683 — Growth Management

by Rep. Traviesa and others (CS/CS/SB 1020 by Environmental Preservation Committee; Community Affairs Committee; and Senator Bennett)

This bill allows a separate legal or administrative entity that administers an interlocal agreement under s. 163.01(7), F.S., for which the parties are located in multiple counties, to file the

agreement and any amendments thereto with the clerk of the circuit court in the county where the legal or administrative entity maintains its principal place of business.

The bill encourages a local government that has a coastal management element in its comprehensive plan to adopt recreational surface water use policies. These policies should include criteria for and consider factors such as natural resources, manatee protection needs, protection of working waterfronts and public access, and recreation and economic demands. The criteria for manatee protection should reflect the applicable guidance in the Boat Facility Siting Guide prepared by the Fish and Wildlife Conservation Commission. If a local government elects to adopt recreational surface water policies into its comprehensive plan, the plan amendment is exempt from the limitation on the frequency of amendments. The bill also provides that local governments adopting recreational surface water policies may be eligible for assistance with the development of such policies through the Florida Coastal Management Program. The Office of Program Policy Analysis and Government Accountability is required to submit a report on the adoption of recreational surface water policies to the Legislature by December 1, 2010.

Under this bill, a local ordinance designating the type and location of working waterfront properties eligible for tax deferrals must also designate the percentage or amount of the deferral. Also, public lodging establishments are to be included as eligible for tax deferrals and the ordinance must specify which type of public lodging.

This bill allows a property owner having real property located within the boundaries of a community development district (CDD) and a special road and bridge district to select the CDD to provide road and drainage improvements to the property. It provides criteria and a process for removing the real property from the special road and bridge district. The governing body of the special road and bridge district is authorized to file a written objection regarding the proposed withdrawal of the property from the district within a specified time period.

The bill creates a dry storage facility permitting program. This program, to be implemented by the Department of Environmental Protection and the water management districts, applies to the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area. The applicant for a permit must provide reasonable assurance that the secondary impacts from the facility will not cause adverse impacts to wetlands, surface waters, or manatees. The Department of Environmental Protection and the water management districts retain their authority to regulate these secondary impacts as part of other regulated activities under ch. 373, part IV, F.S.

In addition, the bill allows a local government or the developer to request the state land planning agency to make an informal determination as to whether a development of regional impact (DRI) meets the criteria to be “essentially built out.” It replaces the term “termination date” with “buildout date.” It provides additional criteria for a local government to issue a development permit subsequent to the buildout date in the development order. The bill specifies when the single-family portions of a development may be considered essentially built out.

This bill provides additional exemptions from DRI review and increases the percentages and thresholds that trigger DRI review by approximately 10 percent for proposed changes to a previously approved development. It allows for an increase in residential units without going through DRI review if the proposed increase is below the statutory threshold and a specified percentage of those units are dedicated to affordable housing. The bill revises the substantial deviation numerical standards to include certain types of development as eligible for a 100-percent or 50-percent increase in the standards for projects located in specific areas. It makes technical changes to the provision governing an extension of the buildout date.

Also, this bill provides a process for certain changes that otherwise would go through a notice of proposed change. An increase in residential units for a project does not constitute a substantial deviation that requires additional DRI review if all of the units are dedicated to affordable housing and the increase does not exceed 200 percent of the substantial deviation threshold. This bill revises existing statutory exemptions and provides new exemptions from the DRI review process.

The bill provides for a 12-month period during which a local government may negotiate a binding agreement with impacted jurisdictions to address transportation impacts in order to enjoy an exemption from DRI review for projects located within an urban service boundary, a designated urban infill and redevelopment area, or a rural land stewardship area. In the absence of an agreement or at the option of the local government, the DRI review may proceed but will address transportation impacts only. It provides for an increase in the applicable residential development guidelines and standards and the thresholds for substantial deviations for residential development if a specified percentage of those units are dedicated to workforce housing.

Under this bill, the state land planning agency may raise consistency with the local comprehensive plan as part of its appeal to the Florida Land and Water Adjudicatory Commission (FLWAC). However, if a challenge is filed under s. 163.3215, F.S., then the state land planning agency must intervene in that pending proceeding and raise its consistency issues within 30 days after being served with notice of the challenge. Also, the state land planning agency must dismiss the consistency issues from its development-order appeal to FLWAC.

The process for abandoning a DRI development order is amended to require a local government to rescind a DRI at the request of the developer or landowner if all the required mitigation has been completed proportionate to the amount of development existing on the proposed date of rescission. Finally, the bill also provides for a limitation to an existing exemption for the construction of private docks and seawalls in artificially created waterways.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 111-6

CS/CS/SB 1112 — Development Permits/Denial

by Governmental Oversight and Productivity Committee; Community Affairs Committee; and Senator Bennett

This bill requires a local government to provide an applicant with written notice of the denial of an application for a development permit. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. The bill defines the term "development permit."

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 118-0

CS/SB 1194 — Growth Management

by Governmental Oversight and Productivity Committee and Senator Constantine

The bill creates the "Interlocal Service Boundary Agreement Act" as part II of ch. 171, F.S., to provide an alternative process for annexation that allows counties and municipalities to negotiate in good faith to identify municipal service areas and unincorporated service areas, resolve which local government is responsible for providing services and facilities within the municipal service areas, and reduce the number of enclaves. The negotiating parties, however, are not required to reach an agreement.

This bill defines "invited local government" to mean an invited county or municipality, or special district and any other local government designated as such in an initiating resolution or a responding resolution that invites the local government to participate in the negotiation of an interlocal service boundary agreement." The bill also defines a "municipal service area" as an unincorporated area that has been identified by a municipality that is party to the agreement as an area to be annexed or to receive municipal services from a municipality or its designee. Land within a municipal service area may be annexed by a municipality if consent is obtained using a process for annexation consistent with part I of ch. 171, F.S., or a flexible process, as determined by the agreement, that includes one or more of the following:

- Petition for annexation signed by more than 50 percent of the registered voters in the area proposed for annexation;
- Petition for annexation signed by more than 50 percent of the property owners in the area proposed for annexation; or
- Approval by a majority of the registered voters in the area proposed for annexation.

Under this bill, an enclave consisting of 20 acres or more within a designated municipal service area may be annexed if the consent requirements of part I of ch. 171, F.S., are met, one or more of the provisions for annexing land within a municipal service area are met, or the municipality

receives a petition from one or more property owners who own real property in excess of 50 percent of the total real property in the area proposed for annexation. Enclaves consisting of less than 20 acres and with fewer than 100 registered voters, within a designated municipal service area, may be annexed using a flexible process for securing the consent of the voters, as provided in the interlocal service boundary agreement. No voter approval is required.

In addition, this bill codifies certain provisions relating to the imposition of impact fees by local governments. It provides legislative findings and intent relating to the adoption of a local ordinance levying an impact fee. The bill stipulates that such an ordinance must, at a minimum:

- Require that the calculation of the impact fee be based on the most recent and localized data;
- Provide for accounting and reporting of impact fee collections and expenditures;
- Limit administrative charges for the collection of impact fees to actual costs; and
- Require that notice be provided at least 90 days before the effective date of a new or amended impact fee.

This bill also requires that audits of financial statements of local governments and school districts include an affidavit signed by the chief financial officer of the local government or school board stating that the entity has complied with s. 163.31801, F.S., relating to impact fee ordinances.

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

HB 1299 — Areas of Critical State Concern

by Rep. Sorensen and others (CS/SB 2098 by Environmental Preservation Committee and Senator Bennett)

This bill provides that an area designated as an area of critical state concern (ACSC) for at least 20 consecutive years before the removal of the designation has:

- The authority to continue to levy the tourist impact tax after removal of the designation;
- The authority to continue to use up to 10 percent of the tourist impact tax proceeds for a public purpose other than for infrastructure purposes after the removal of the designation;
- The authority to continue the exercise of all powers granted to its land authority under ch. 380, F.S., until terminated by the governing board;
- The authority to enact an ordinance that requires connection to a central sewerage system within 30 days of notice of the availability of services; and

- The exercise of its land authority powers to acquire real property in the area that was an ACSC for at least 20 consecutive years before the removal of the designation.

This bill also provides a new process for the removal of the designation as an ACSC for the Florida Keys. Between July 12, 2008 and August 30, 2008, the state land planning agency is required to submit a written report to the Administration Commission (Governor and Cabinet) detailing the progress of the Florida Keys towards accomplishing the tasks in the 10-year work program. The report shall also contain a recommendation as to whether substantial progress is being made towards completing those tasks. After receiving the report, the Administration Commission shall determine, before October 1, 2008, whether the Florida Keys have made substantial progress towards completing the required tasks.

The designation of the Florida Keys as an ACSC is removed on October 1, 2009, unless the Administration Commission finds that substantial progress on the work plan has not been achieved. If the designation is removed, the Administration Commission must begin rulemaking within 60 days, pursuant to chapter 120, F.S., to repeal any rules relating to the designation. If the designation of ACSC is not removed from the Florida Keys, the Administration Commission must submit a written report to the Monroe County Commission detailing the tasks under the work program that must be accomplished to achieve substantial progress within the next 12 months. Also, if the designation is not removed on October 1, 2009, the state land planning agency must submit an annual report describing the progress of the Florida Keys Area toward accomplishing remaining tasks under the work program and whether substantial progress has been achieved.

The bill revises the scope of a land authority's powers with respect to the income level for affordable housing. It provides the state is liable in certain inverse condemnation proceedings in Monroe County that are based on land use regulations adopted in response to instructions or rule of the Administration Commission.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 92-26

PUBLIC RECORD EXEMPTIONS

HB 7009 — Local Government Managers/OGSR

by Governmental Operations and Rep. Rivera (CS/SB 662 by Governmental Oversight and Productivity Committee and Community Affairs Committee)

This bill reenacts and amends s. 119.071(4)(d)2., F.S., to continue the public records exemption for personal identifying information concerning human resource directors and managers. The bill narrows the exemption by eliminating social security numbers from the exemption as those

numbers are protected by the general exemption for social security numbers. Additionally, certain family information that is not collected by agencies, specifically photographs of children and spouses, is deleted from the exemption.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 85-32

HB 7011 — Code Enforcement Officers/OGSR

by Governmental Operations and Rep. Rivera (CS/SB 664 by Governmental Oversight and Productivity Committee and Community Affairs Committee)

This bill reenacts and amends s. 119.071(4)(d)5., F.S., to continue the public records exemption for personal identifying information concerning code enforcement officers. The bill narrows the exemption by eliminating social security numbers from the exemption as those numbers are protected by the general exemption for social security numbers. Additionally, certain family information not collected by agencies, specifically photographs of children and spouses, are deleted from the exemption.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 98-19

MISCELLANEOUS

HJR 1569 — Eminent Domain

by Rep. Rubio and others (SJR 626 by Senators Saunders, Haridopolos, Bennett, Baker, Alexander, Atwater, Wise, King, Diaz de la Portilla, Posey, Fasano, Bullard, and Campbell)

This joint resolution proposes to amend the State Constitution to limit the conveyance of private property taken by eminent domain to a natural person or private entity. The limitation on conveyance applies prospectively to property taken by eminent domain if the property was taken pursuant to a petition of taking filed on or after January 2, 2007. The Legislature may provide exceptions to this limitation if passed by a three-fifths vote of the membership of each house. This proposed amendment shall be submitted to the electors of the state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

Vote: Senate 38-2; House 115-0

HB 661 — Coordinated 311 Nonemergency System

by Rep. Arza and others (CS/SB 1062 by Transportation and Economic Development Appropriations Committee and Senator Diaz de la Portilla)

This bill establishes a matching grant program within the Department of Community Affairs to assist local governments in the implementation and operation of "311 nonemergency and other government services telephone systems." The bill specifies certain application criteria, establishes an administrative process, requires a $1 for $1 local match, and authorizes the department to adopt rules to administer the program. Funding to support the matching grant program is contingent upon an appropriation in law or upon receipt of funds from private sources.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 112-0

HB 749 — Sewage Treatment and Disposal Systems

by Rep. Bowen and others (CS/CS/SB 1874 Health Care Committee; Community Affairs Committee; and Senator Argenziano)

The bill requires each county water and sewer district and local government proposing to extend or build new central sewerage facilities to prepare a study that includes certain information. The study must include:

- Information from the Department of Health (DOH) on the history of onsite systems currently in use in the area;
- A comparison of the cost to the average property owner of connecting to the centralized system versus installing, operating, and properly maintaining an onsite system that is approved by DOH and offers comparable health and environmental protection;
- Consideration of the local authority's obligations or reasonably anticipated obligations for waterbody cleanup and protection under state or federal programs; and
- Other factors determined appropriate for the study.

This bill allows local governments to satisfy growth management concurrency requirements for sanitary sewer facilities for new development with onsite sewage treatment and disposal systems approved by the DOH. It also allows a local government or water and sewer district responsible for the operation of a centralized sewage system to grant a variance to the owner of a performance-based onsite sewage treatment and disposal system permitted by DOH from mandatory connection to a central sewerage system, as long as the system is functioning properly. A local government or water and sewage district is not required to grant the variance. Local governments are not required to issue a variance under any circumstances in certain areas.

The bill allows DOH or its agent to issue an order requiring the owner of an onsite sewage treatment and disposal system that is in improper condition to repair or replace the system and increases the number of continuing education credits necessary for septic tank contractors and master septic tank contractors.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 117-0

HB 7031 — Department of State

by Tourism Committee and Rep. Detert (CS/CS/SB 2384 by Transportation and Economic Development Appropriations Committee; Government Efficiency Appropriations Committee; and Senator Dockery)

This bill addresses the standards for accessible voting systems. Specifically, it allows an audio ballot system to meet certification requirements under s. 101.56062, F.S., either through the voting device or the entire voting system.

The bill provides that persons appointed to the Florida Arts Council shall begin their terms on January 1 of the year of appointment. It removes an audit requirement to conform to Single Audit Act requirements. The bill amends language governing cultural endowments to revise conditions for the return of the state portion of the endowment. The bill revises report and meeting dates for the Discovery of Florida Quincentennial Commemoration Commission.

The bill also transfers to the Legislature the responsibilities relating to restoration of the Florida Historic Capitol that are currently under the Department of State. The bill ensures that the Florida Historic Capitol shall be maintained in accordance with good historic preservation practices that are specified in the National Park Service Preservation Briefs and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The responsibilities of the Florida Historic Capitol Curator are transferred to the Legislature from the Department of State.

Additionally, the bill corrects a cross reference in s. 607.193, F.S., related to supplemental corporate fees. State agencies are required to submit an annual list of all published documents that meet the definition of "public document" under s. 257.05, F.S., to the State Library. The bill clarifies the types of documents that are subject to the written justification requirement for publications with costs exceeding $50,000. Finally, this bill requires agencies, in conducting biennial mailing list purges, to provide recipients with the option of receiving publications electronically in lieu of hard copies.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 116-0

BUILDING SAFETY

CS/CS/SB 1774 — Building Codes

by Regulated Industries Committee; Community Affairs Committee; and Senator Constantine

Florida Building Code – Wind-Design Standards

The bill authorizes the Florida Building Commission to amend the wind design standards contained in the Florida Building Code subject to the amendatory requirements contained in s. 553.73, F.S. In addition, the bill specifically authorizes the commission to identify within the code those areas of the state from the eastern border of Franklin County to the Florida-Alabama line (the Panhandle region) that are subject to the windborne debris requirements of the code. The commission's initial designation of windlines for this region must address the results of the Florida Panhandle Windborne Debris Region study and is only subject to the rule adoption procedures contained in ch. 120, F.S. The bill stipulates that new windborne debris requirements for the Panhandle region may not take effect for six months following completion of rule-making or May 31, 2007, whichever is sooner. This authorization expressly supersedes the limitations contained in section 109 of ch. 2000-141, L.O.F.

The bill would allow the commission to eliminate or revise the existing "Panhandle exception" (limiting wind-borne debris requirements to within 1 mile of the coast) and amend the wind design standards applicable to the Panhandle region to incorporate the current edition of the national model building code engineering standard (American Society of Civil Engineers Standard 7, 2002 Edition). This would subject new construction in the Panhandle region to the same windborne debris requirements (enhanced door and window protection) applicable to other areas of the state. The bill also authorizes the commission to utilize expedited rule-making procedures (ch. 120, F.S., rather than s. 553.73, F.S.) in implementing this provision.

The bill amends s. 553.71, F.S., to delete the current statutory definition of "Exposure category C." This provision would allow the commission to define this category through its code development processes.

Elevator Safety

The bill amends s. 399.15, F.S., to extend from June 30, 2006 to September 30, 2006, the date by which all elevators that allow public access in buildings that are least six stories high, must be keyed to allow operation with a master key in fire emergency situations. This provision applies to buildings on which a building permit has been issued. The bill removes the provision that provides that the requirement applies to buildings upon which construction has begun. The bill

also extends the compliance deadline for existing buildings from July 1, 2007 to October 1, 2009.

Building Code Development and Interpretation

The bill revises the existing code development process to enable the commission to address certain issues through streamlined amendatory procedures. Under this proposal, the commission would be authorized to amend the code subject only to the administrative rule adoption procedures of ch. 120, F.S. (rather than the more time-consuming code development requirements of ch. 553, F.S.). Following Commission approval and publication on the Commission's website, authorities having jurisdiction to enforce the code would be authorized to enforce the amendments. The bill specifies that the Commission may use this expedited process for amendments that are needed to address:

- Conflicts within the updated code;
- Conflicts between the updated code and the Florida Fire Prevention Code;
- The omission of Florida-specific amendments that were previously adopted in the code if the omission is not supported by a specific recommendation of a technical advisory or a particular action by the commission; or
- Unintended results from the integration of Florida-specific amendments that were previously adopted by the model code.

The bill amends s. 553.775, F.S., to restrict interpretations of the Florida Accessibility Code for Building Construction. Based on the historical practice and present concerns of advocates for the disabled, the commission has recommended restricting interpretation of the accessibility provisions.

The bill amends s. 553.791, F.S., to provide that after construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the building owner or his or her contractor may elect to use a private provider for building inspection services. The owner or contractor must notify the local building official of their intention to use a private provider at least seven business days prior to the next scheduled inspection and must comply with existing notice requirements.

Fire Prevention Code and Firesafety Equipment

The bill amends s. 633.0215, F.S., to revise the existing Florida Fire Prevention Code development process to enable the State Fire Marshal to amend the Florida Fire Prevention Code through a streamlined amendatory procedure. The bill authorizes the State Fire Marshal to amend the Fire Prevention Code subject only to the rule adoption procedures of ch. 120, F.S. (rather than the requirements of ch. 633, F.S.). Following State Fire Marshal approval and publication

on the State Fire Marshal's website, authorities having jurisdiction to enforce the Florida Fire Prevention Code would be authorized to enforce the amendments. The bill specifies that the State Fire Marshal may use this expedited process for amendments that are needed to address:

- Conflicts within the updated Florida Fire Prevention Code;
- Conflicts between the updated Florida Fire Prevention Code and the Florida Building Code;
- The omission of Florida-specific amendments that were previously adopted in the Florida Fire Prevention Code if the omission is not supported by a specific recommendation of a technical advisory or a particular action by the commission; or
- Unintended results from the integration of Florida-specific amendments that were previously adopted by the model code.

The bill amends s. 633.021, F.S., to define the term "fire hydrant" to mean: a connection to a water main, elevated water tank, or other source of water for the purpose of supplying water to a fire hose or other fire protection apparatus for fire-suppression operations.

The bill amends s. 633.082, F.S., to require the inspection of fire hydrants installed in public and private properties, except one-family or two-family dwellings. The inspection must follow the nationally recognized inspection, testing, and maintenance standards. The inspector must provide a copy of the inspection report to the hydrant owner and the local authority having jurisdiction. The bill clarifies that the maintenance of fire hydrant and fire protection systems and any corrective actions required are the responsibility of the owner of the system or hydrant. Current law does not reference the fire hydrant.

The bill requires that each fire hydrant must be opened fully each year for at least one minute for the purpose of clearing all foreign materials from the hydrant. It also requires that fire hydrants that have been made nonfunctional by the closing of the water supply valve must be immediately tagged with a red tag that is boldly marked "nonfunctional." The local fire authority must be notified that the hydrant is nonfunctional.

Finally, the bill repeals s. 633.5391, F.S., which requires that fire hydrant backflow prevention assemblies must be inspected once every three years.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-1

AFFORDABLE HOUSING

HB 1363 — Affordable Housing

by Rep. M. Davis and others (CS/CS/SB 132 by Transportation and Economic Development Appropriations Committee; Community Affairs Committee; and Senators Bennett, Clary, Fasano, Smith, Atwater, and Klein)

This bill implements numerous revisions to Florida's affordable housing programs, and addresses a number of related land use and regulatory issues. The major provisions of the bill are summarized below.

Use of Surplus Lands for Affordable Housing

The bill requires each county and municipality to prepare an inventory list of all real property held in fee simple by the county within its jurisdiction. The list is to be prepared by July 1, 2007, and each three years thereafter. The bill requires the county governing body to review the list at a public hearing and provides that it may be revised at the conclusion of the meeting. The governing body must adopt a resolution that includes the inventory following the meeting. Properties identified as appropriate for affordable housing may be offered for sale and the proceeds may be used to:

- Purchase land for the development of affordable housing;
- Increase the local government fund earmarked for affordable housing;
- May be sold with a restriction that requires the development of the property as permanent affordable housing; or
- May be donated to a nonprofit housing organization for the construction of permanent affordable housing.

The bill also amends existing law related to the surplus state lands by providing that a local government may request that state lands be specifically declared surplus lands for the purpose of providing affordable housing. Additionally, the bill authorizes affordable housing as a permitted use for surplus state lands; and provides that when such lands are conveyed to local governments, they must be disposed of consistent with the provisions outlined above.

Housing Assistance for Special District and School District Personnel

The bill authorizes certain independent special districts to provide specific types of housing assistance. The bill authorizes Community Development Districts created pursuant to ch. 190, F.S., to provide housing and housing assistance for employed personnel whose total annual household income does not exceed 140 percent of the area median income (AMI), adjusted for family size. Similarly, the bill authorizes any independent special district created pursuant to

ch. 189, F.S., and drainage and water control districts created pursuant to ch. 298, F.S., to provide housing and housing assistance for its employed personnel whose total annual household income does not exceed 140 percent of the AMI, adjusted for family size.

The bill amends s. 1001.42, F.S., to provide that certain school board lands (surplus lands and lands deemed not usable for purposes of location or other factors) may be used for housing for teachers and other other school district personnel independently or in conjunction with other agencies.

Deferral of Ad Valorem Taxes

The bill amends s. 197.252, F.S., to revise eligibility requirements governing the homestead tax deferral program. The tax deferral program allows qualifying homestead property owners to defer ad valorem and non-ad valorem assessments until there is change in the ownership or use of the property, at which time the deferred taxes, assessments, and interests are due and payable. The bill revises program eligibility requirements to decrease the age limit (from 70 to 65) and increase the income threshold (from $12,000 to $23,460). The bill also reduces the maximum interest rate that may be charged on deferred property taxes from 9.5 to 7 percent.

Disabled Veterans License and Permit Fee Exemption

Section 295.16, F.S., allows veterans to be exempt from paying building license or permit fees to any county or municipality for wheelchair accessibility improvements made upon a mobile home, when certain criteria are met. The bill increases the type of residences eligible for the permit fee exemption in s. 295.16, F.S to include any dwelling they own. This change will enable a larger population of eligible, disabled veterans to take advantage of the existing fee exemption, reducing the costs that they are obligated to pay in order to make their homes wheelchair accessible.

Developments of Regional Impact (DRI)

Existing law provides that any proposed change to an approved DRI that exceeds statutory thresholds, known as a substantial deviation, must undergo additional DRI review. The bill provides a residential density bonus to increase the density threshold by the greater of 50 percent or 200 units when 15 percent of the increase in the number of dwelling units is dedicated to the construction of workforce housing subject to a recorded land use restriction that shall be for a period of at least 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced prior to the completion of 50 percent of the market rate dwelling. The bill defines "affordable workforce housing" for purposes of this provision as housing that is affordable to a person who earns less than 120 percent of the AMI or less than 140 percent of the AMI if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home.

Additionally, an increase in the number of residential dwelling units does not constitute a substantial deviation and is not subject to DRI review for additional impacts if all the residential dwelling units are dedicated to affordable workforce housing for a period of at least 20 years which includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters. For these purposes, affordable workforce housing is defined as housing that is affordable to a person who earns less than 120 percent of the AMI, or less than 140 percent of the AMI is located in a county in which the median purchase price for a single—family existing home exceeds the statewide median purchase price of a single-family existing home.

Existing law provides statewide guidelines and standards for development required to undergo DRI review. The bill provides a residential density bonus of 50 percent where a developer demonstrates that at least 15 percent of the total residential dwelling units will be dedicated to affordable workforce housing subject to a recorded land use restriction for no less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced prior to the completion of 50 percent of the market rate dwelling.

Density Incentives for Land Donation

The bill creates density bonus incentives for land donations for affordable housing purposes for extremely-low-income, very-low-income, low-income or moderate-income persons. A local government may provide density bonus incentives to any landowner who voluntarily donates fee simple interest in real property to the local government for affordable housing purposes. The authorized bonus may provide one to four dwelling units per gross acre of donated land. The density bonus would be applied to any land within the local government's jurisdiction as long as residential is an allowable use on the receiving land and that the overall density of the receiving land does not exceed six units per gross acre. The award of density bonus, identification of the receiving land and any other conditions are subject to local government approval.

State Housing Initiatives Partnership (SHIP)

The bill amends the SHIP program to provide that each local housing assistance plan must include a definition of essential service personnel for county or eligible municipality. The bill encourages eligible local governments to develop a strategy within its local housing assistance plan that emphasizes recruitment and retention of essential service personnel, and requires local government to verify compliance with the eligibility criteria. Additionally, the bill includes the following provisions:

- Encourages eligible local governments to develop a strategy within in its local housing assistance plan that addresses the needs of persons who are deprived of affordable

housing due to closure of a mobile home park or conversion of affordable rental units to condominiums.

- Provides that 65 percent of the funds of each eligible local government's local housing distribution be reserved for rehabilitation and construction of home ownership units for eligible extremely-low-income, low-income or very-low-income persons.
- Authorizes the alternative use of U.S. Department of the Treasury established data and standards for determining the time period for calculating the average area purchase price relative to fund awards under the program.

Definition for Extremely-Low-Income

The bill defines "extremely-low-income" to mean one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households with the state. The bill authorizes the Florida Housing Finance Corporation to adjust this amount annually by rule to provide that in lower income counties the definition may exceed 30 percent of the AMI and that in higher income counties; extremely-low-income may be less than 30 percent of AMI. As noted below in the discussion of changes to the State Apartment Incentive Loan program, several programmatic changes are made to allow this program to serve extremely-low-income persons.

State Apartment Incentive Loan Program (SAIL)

The bill amends the SAIL program to authorize the Corporation to set a SAIL loan interest rate at between 0 to 3 percent based on the pro rata share of units set aside for homeless residents if the total of such units is less than 80 percent of the total units. The bill authorizes the Corporation to make loans exceeding 25 percent of project costs when the project serves extremely-low-income persons and forgive indebtedness for a share of the loan attributable to the units in a project reserved for extremely-low-income persons. Similarly, the Corporation is authorized to waive a requirement related to the maximum amount of a loan under certain conditions for projects which reserve units for extremely-low-income person and allows rent controls when the sponsor has committed to set aside units for extremely-low-income persons.

The bill lowers the matching commitment of a sponsor of an elderly housing community to at least 5 percent (from at least 15 percent) and authorizes the Corporation to make the term of its encumbrance coterminous with the longest term of superior loans. The bill amends the SAIL competitive ranking criteria as follows:

- Provides ranking credit to projects that reserve units for extremely-low-income persons, and

- Provides an exclusion from the program ranking criteria that favors the lowest project loan/cost ratio for that share of the loan attributable to units serving extremely-low-income persons.

Florida Homeownership Assistance Program (HAP)

The bill expands the scope of the HAP program to moderate-income persons in purchasing a primary residence. It increases the income level for eligible person to 120 percent from 80 percent of the greater of the state or local median income, and provides that loans may not exceed the lesser of 35 percent (previously 25 percent) of the purchase price or the amount necessary to enable the purchaser to meet credit underwriting criteria. The bill also deletes a loan preference for community development corporations as defined in s. 290.033, F.S., and removes the temporal reservation of certain funds.

Additionally, the bill amends the HAP program to authorize the Corporation to waive the repayment of loans on the sale, transfer, refinancing, or rental of secured property. The Corporation is empowered to establish subsidiary business entities, and to provide such subsidiary entities with rulemaking authority necessary to carry out the purposes of taking title to and managing and disposing of property acquired by the Corporation.

Community Workforce Housing Innovation Pilot Program (CWHIPP)

The bill creates a new pilot program for the purpose of providing affordable rental and home ownership opportunities for essential services personnel with medium incomes in high-cost and high-growth counties. The program is designed to use regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private sources.

Program Administration - The bill provides the Corporation with authority to provide CWHIPP loans to an applicant for construction or rehabilitation of workforce housing in eligible areas. The Corporation is directed to establish a funding process and selection criteria by rule or by request for proposals. The funding appropriated for this pilot program is intended to be used with other public and private sector resources. The Corporation is directed to provide incentives for local governments in eligible areas to use local affordable housing funds to assist in meeting the affordable housing needs of persons eligible under the program.

Key Definitions - The term “workforce housing” is defined as housing affordable to natural persons or families whose total annual household income does not exceed 140 percent of the AMI, adjusted for household size or a higher area median income in areas of critical state concern or 150 percent of AMI, adjusted for family size, in areas of critical state concern designated under s. 380.05, F.S., for which the Legislature has declared its intent to provide affordable housing and areas that were designated as areas of critical state concern for at least 20 consecutive years prior to removal of the designation. “Essential services personnel” is defined

as persons in need of affordable housing who are employed in occupations or professions in which they are considered essential service personnel as defined in that area's local housing assistance plan as provided for in the SHIP program.

Priority Funding Consideration - The bill provides the program shall provide priority funding consideration to projects in counties where the disparity between the area median income and the median sales price for a single family home is greatest. The Corporation is authorized to fund projects in counties where innovative regulatory and financial incentives are made available. Priority funding consideration shall be given where:

- The local jurisdiction establishes appropriate regulatory incentives;
- Projects are innovative, and include new construction or rehabilitation, mixed-income housing, or commercial and housing mixed-use elements, and those that promote homeownership; and
- Projects that set aside at least 80 percent of units for workforce housing and at least 50 percent for essential services personnel and for projects that require the least amount of program funding compared to the overall housing costs for the project.

Grant Eligibility - For home ownership units, applications must limit the sales price of a detached unit, town home, or condominium unit to not more than 80 percent of the higher of the median sales price for that type of unit in that county, or the statewide median sales price for that type of unit. Applicants must require that all eligible purchasers of home ownership units occupy the homes as their primary residence. For rental units, applicants must restrict rents for all workforce housing serving those with incomes at or below 120 percent of the AMI at the appropriate income level using the restricted rents for the federal low-income housing tax credit program. For workforce housing units serving those with incomes above 120 percent of AMI, applicants must restrict rents to those established by the Corporation, not to exceed 30 percent of the maximum household income adjusted to unit size. In addition, program applicants must:

- Demonstrate that the applicant is a public-private partnership.
- Have grants, donations of land or contributions from the public-private partnership or other sources collectively totaling at least 15 percent of the total development cost.
- Demonstrate how the applicant will use the regulatory incentives and financial strategies outlined above.
- Demonstrate that the applicant possesses title to or site control of land and evidences availability of required infrastructure.
- Demonstrate the applicant's affordable housing development and management experience.

- Provide any available research or facts supporting the demand and need for rental or home ownership workforce housing for eligible persons in the market in which the project is proposed.

The bill provides that projects eligible for loans may include certain manufactured housing that includes local contributions or financial strategies.

The bill provides that the Corporation shall award loans with a 1 to 3 percent interest rate which may be forgiven where long-term affordability is provided and where at least 80 percent of the units are set aside for workforce housing and at least 50 percent of the units are set aside for essential services personnel.

Hurricane Housing Recovery

The bill authorizes the Corporation to provide funds to eligible entities for affordable housing recovery in those areas of the state which sustained housing damage due to hurricanes during 2004 and 2005. The Corporation is directed to utilize data provided by the Federal Emergency Management Agency to assist in its allocation of funds to local jurisdictions. Subject to an appropriation, funds are to be provided for the Hurricane Housing Recovery Program, the Farmworker Housing Recovery and the Special Housing Assistance and Development Programs, and the Rental Recovery Loan Program. The Corporation is directed to provide technical and training assistance, and adopt emergency rules pursuant to s. 120.54, F.S.

Funding for Affordable Housing

The bill appropriates more than $271 million for various affordable housing initiatives during FY 2006-2007. Specifically, the bill provides for the following:

- $75.9 million is appropriated from the Local Government Housing Trust Fund for the Rental Recovery Loan Program;
- $15 million is appropriated from the State Housing Trust Fund for the Farmworker Housing Recovery Program and the Special Housing Assistance and Development Program;
- $17 million is appropriated from the State Housing Trust Fund for the Rental Recovery Program;
- $100,000 is appropriated from the State Housing Trust Fund to the Florida Housing Finance Corporation for technical and training assistance;
- $30 million of non-recurring funds is appropriated from the Local Government Housing Trust Fund for the purpose of implementing certain provisions relating to housing for extremely-low-income persons;

- $50 million is appropriated from the State Housing Trust Fund for the purpose of implementing the Community Workforce Housing Innovation Pilot Program; and
- $250,000 of recurring funds and $300,000 of nonrecurring funds is appropriated from the Grants and Donations Trust Fund to the Department of Community Affairs for the purpose of implementing certain provisions relating to the Century Commission for a Sustainable Florida.

If approved by the Governor, these provisions take effect July 1, 2006, except as otherwise provided.
Vote: Senate 39-0; House 111-0

CS/SB 1268 — Deferral of Ad Valorem Taxes

by Community Affairs Committee and Senator Margolis

This bill revises the age and income thresholds governing eligibility for the homestead tax deferral program established in s. 197.252, F.S. Specifically, the bill decreases the minimum age limit from 70 to 65, and increases the household income limitation from $12,000 to $23,463. This income limit matches the threshold amount designated for the additional homestead exemption authorized in s. 196.075, F.S. Additionally, the bill reduces the maximum interest rate that may be charged on deferred property taxes from 9.5 to 7 percent.

The bill will enable a larger population of homestead property owners to elect to defer all or a portion of the combined total of the ad valorem taxes and any non-ad valorem assessments. The maximum interest rate applicable to deferred taxes and assessments would be capped at 7 percent. The deferred taxes and interest would continue to constitute a prior lien on the homestead, and all deferred taxes, assessments, and interests would be due upon a change in the ownership or use of the property.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 113-0

HJR 353 — Homestead Exemption Increase

by Rep. Lopez-Cantera and others (SJR 1840 by Senators Haridopolos, Pruitt, Baker, Bennett, Atwater, Fasano, King, and Alexander)

This joint resolution would amend Article VII, Section 6 of the State Constitution, to increase the maximum additional homestead exemption that a county or municipality may grant to low-income seniors from $25,000 to $50,000. It also creates Section 26 of Article XII to provide that this increase in the cap on the additional homestead exemption for low-income seniors takes effect on January 1, 2007. The joint resolution shall be submitted to the electors for approval or rejection at the next general election or at an earlier special election if provided by law.

This provision would take effect January 1, 2007, if approved by the electors of this state at the next general election.
Vote: Senate 38-0; House 119-0

VETERANS AND MILITARY AFFAIRS

HB 7127 — Disturbance of Assemblies

by Military and Veteran Affairs Committee and Rep. Jordan and others (CS/SB 218 by Community Affairs Committee and Senators Bennett, Posey, Crist, Campbell, and Saunders)

This bill establishes a first degree misdemeanor penalty for anyone who willfully interrupts or disturbs an assembly of people who have gathered to acknowledge the death of an individual with a military funeral honors detail. A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year and by a fine not exceeding $1,000.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 119-0

HJR 631 — Homestead Tax/Disabled Veteran

by Rep. Sansom and others (CS/SJR 194 by Ways and Means Committee and Senators Fasano, Jones, Haridopolos, Wise, Hill, Garcia, Smith, Posey, Baker, Clary, Margolis, Alexander, Peaden, Campbell, Sebesta, Bennett, Atwater, King, Lawson, Argenziano, Miller, Crist, and Klein)

This joint resolution, if approved by the electorate, would allow certain disabled veterans of World War II to receive a discount from the amount of the ad valorem tax otherwise owed on homestead property. In order to qualify for this discount the World War II veteran must demonstrate: (1) he was a Florida resident at the time of entering the military service; (2) the disability was combat-related; and (3) the veteran was honorably discharged upon separation from military service. The discount is in a percentage equal to the percentage of the veteran's permanent, combat-related disability, as determined by the U.S. Department of Veterans Affairs or its predecessor.

Applicants for this discount are required to submit documentation supporting their eligibility to the county tax appraiser by March 1 of each year. The amendment grants authority to the Legislature to waive the requirement for an annual application. Required documentation includes the following: proof of residency at the time of entering military service; proof that the injury was combat-related; an official letter from the United States Department of Veteran's Affairs stating the percentage of the veteran's permanent disability; and a copy of the veteran's honorable discharge. The joint resolution provides that if the property appraiser denies the

request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply. If approved, the amendment will take effect December 7, 2006.

These provisions take effect on December 7, 2006 upon approval of the electors of this state at the next general election.
Vote: Senate 37-1; House 116-0

CS/SB 1370 — Veterans' Nursing Home/Admittance

by Domestic Security Committee and Senators Saunders and Lynn

This bill authorizes the Executive Director of the Florida Department of Veterans' Affairs to waive the residency requirement for veterans who are otherwise eligible for admission under Florida law but are not Florida residents. Consideration for such waivers would be limited to evacuees from other states where a state of emergency had been declared by that state's governor. The bill specifies that eligible veterans who are Florida residents will receive first priority for admission.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 118-0

CS/SB 2034 — Education/Spouses/Disabled Veterans

by Education Appropriations Committee and Senator Baker

This bill extends certain state-sponsored educational benefits currently available to the children of deceased and disabled veterans to the spouses of such veterans. It establishes eligibility criteria and use restrictions governing this program. The bill also limits the benefits to 110 percent of the required hours for the initial baccalaureate or certificate program in which a spouse is enrolled, and clarifies that the age restrictions in s. 295.02, F.S., do not apply to qualifying spouses.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 117-0

HB 573 — Disabled Veterans/Residence

by Rep. Bilirakis and others (CS/SB 1342 by Ways and Means Committee and Senators Bennett, Crist, and Posey)

Currently, certain disabled veterans are exempt from local government building permit fees for wheelchair accessibility improvements upon a mobile home. This bill amends s. 295.16, F.S. to

expand this license and permit fee exemption to include any dwelling owned by the veteran and used as a residence.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 118-0

CONCEALED WEAPONS/FIREARMS

CS/CS/SB 214 — Dart-Firing Stun Guns/Training and Use

by Justice Appropriations Committee; Criminal Justice Committee; and Senators Wise, King, and Siplin

The bill sets forth the circumstances under which a law enforcement, correctional, or correctional probation officer may use a dart-firing stun gun. Under the provisions of the bill, the decision to use a dart-firing stun gun "must involve an arrest or custodial situation during which the person who is the subject of the arrest or custody escalates resistance to the officer from passive physical resistance to active physical resistance" and the person either "has the apparent ability to physically threaten the officer or others, or is preparing or attempting to flee or escape."

The bill requires the Criminal Justice Standards and Training Commission to establish training standards for instruction on the use of the dart-firing stun gun, and sets forth certain Basic Skills Training and annual training requirements.

The bill also defines the term "dart-firing stun gun" and conforms other current statutory provisions to that definition.

This bill creates s. 943.1717, F.S. The bill amends ss. 790.001, 790.01, 790.053, and 790.054, F.S.

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

HB 285 — Emergency Management Powers/Governor

by Rep. Needelman and others (CS/SB 568 by Criminal Justice Committee and Senators Baker, Posey, Haridopolos, Wise, Alexander, and Saunders)

The bill refines the authority of the Governor and local governments during a state of emergency to prohibit the seizure, taking, or confiscation of lawfully possessed firearms unless a person is engaged in the commission of a criminal act.

This bill substantially amends ss. 252.36 and 870.044, F.S., and reenacts s. 377.703(3)(a), F.S., for the purpose of incorporating a reference.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

HB 1029 — National Forests/Firearms

by Rep. Baxley and others (CS/SB 1546 by Criminal Justice Committee and Senators Posey, Baker, and Saunders)

The bill repeals the sections of Florida law that regulate the possession and use of firearms in national forests.

The bill also requires the Department of Environmental Protection to amend rule 62D-2.014(10), Florida Administrative Code. This is the section of the Administrative Code that prohibits possession of firearms and other weapons in state parks, except for limited purposes.

The department is directed by the bill to amend the rule to allow the possession of weapons in state parks, in compliance with all applicable Florida Statutes. The Rule amendment shall further specify the manner in which weapons shall be possessed within the state parks. Weapons should be in the possession of "a responsible party," or properly secured within or to a vehicle or temporary housing, including motor homes, travel trailers, recreational vehicles, campers, tents, or other enclosed structures.

This bill repeals the following sections of the Florida Statutes: 790.11, 790.12, and 790.14.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 31-6; House 90-27

CS/SB 1290 — Concealed Weapons/License Renewal

by Community Affairs Committee and Senators Fasano and Crist

This bill would require the Department of Agriculture and Consumer Services to extend the renewal period for a concealed weapon or firearm license if the licensee is serving in the armed forces and participating in the Global War on Terrorism on the date the license expired. The bill would give the licensee 180 days from the date upon which he or she returned to Florida to renew the license without penalty.

The bill substantially amends s. 790.06, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

CORRECTIONS

HB 55 — Restoration of Civil Rights

by Rep. Smith and others (CS/SB 432 by Judiciary Committee and Senators Wilson, Miller, Lawson, Hill, and Bullard)

The bill provides that administrators of county detention facilities will bear the responsibility for providing applications to prisoners who seek the restoration of their civil rights. When possible, the administrator must provide an application that is produced by the Parole Commission to the prisoner at least two weeks before discharge so that he or she may begin the application process for having civil rights restored. This legislation does not apply to prisoners who are discharged from a county facility to the custody of the Department of Corrections.

The bill creates an unnumbered section of the Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 117-0

HB 271 — Arrests and Arrestees

by Rep. Kreegel and others (CS/CS/CS/SB 688 by Justice Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senator Bennett)

This legislation clarifies that when an inmate is serving a sentence in a state facility and is arrested for a criminal act, unless a court orders otherwise, the Department of Corrections will retain custody over that person until the immediate charge is disposed of or until the defendant's underlying sentence is completed, whichever occurs first. If the prisoner is required to appear in court, then existing s. 955.17(8), F.S., will apply for the prisoner's custody and transportation.

This bill amends s. 907.04, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 120-0

HB 585 — Inmate Litigation Costs

by Rep. Hukill and others (CS/CS/SB 1622 by Justice Appropriations Committee; Criminal Justice Committee; and Senator Haridopolos)

This legislation requires the Department of Corrections to promulgate a rule that imposes charges on inmates for postage and special delivery costs as well as duplicating costs in legal proceedings. The costs for duplicating materials applies to civil proceedings. The department may charge 15 cents per page for letter or legal size copies and the actual cost of duplication for

other copies. If the inmate does not have sufficient funds to pay these costs, a lien will be placed on the inmate's trust account.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 116-0

HB 7137 — Drug Testing/DOC Employees

by Criminal Justice Committee and Rep. Kravitz (CS/CS/SB 1736 by Governmental Oversight and Productivity Committee; Criminal Justice Committee; and Senators Wise and Wilson)

The bill permits the Department of Corrections to expand its current drug testing abilities to include the testing for anabolic steroids based upon a reasonable suspicion of drug use. The only employees the department could test under this provision would be those in "safety sensitive and special risk positions." The testing would be allowed for acts which occur while the employee is on or off duty and raise a reasonable suspicion of drug use.

This bill amends s. 944.474, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 118-0

CRIMINAL OFFENSES AND PENALTIES

CS/CS/SB 250 — Prosecution of Human Trafficking

by Justice Appropriations Committee; Judiciary Committee; and Senators Margolis, King, Smith, Rich, Campbell, Saunders, Haridopolos, Aronberg, Wilson, and Crist

The bill amends s. 787.06, F.S., which punishes human trafficking to provide legislative findings regarding human trafficking. It expands the definition of "forced labor or services" to include: isolating a person without lawful authority and against his or her will; using lending practices under which the labor or services are pledged as security for the debt but are not applied toward liquidation of the debt; destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of that person or another; causing or threatening to cause financial harm to any person; or fraud or coercion. It also defines the terms "financial harm" and "maintain."

The bill further amends s. 787.06, F.S., to add criminal penalties for knowingly benefiting financially or receiving anything of value from human trafficking; require the Florida Court Educational Council to establish standards of instruction for circuit and county court judges who hear cases involving victims of human trafficking and provide for periodic and timely

instruction; require the Criminal Justice Standards and Training Commission to establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing human trafficking crimes; require that after January 1, 2007, every basic skills course required for law enforcement officers to obtain initial certification include training on human trafficking crime prevention and investigation; and require that each state attorney develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and provide for periodic and timely instruction.

The bill amends s. 772.102, F.S., by expanding the definition of the term "criminal activity" to include the offenses of human trafficking and sex trafficking for purposes of seeking civil remedies for criminal offenses under the Civil Remedies for Criminal Practices Act (ch. 772, F.S.). Section 772.104, F.S., which is part of this act, is amended to provide that as an alternative to recovery under a current provision of this section, that any person who proves by clear and convincing evidence that he or she has been injured by reason of sex trafficking or human trafficking has a cause of action for threefold the amount gained from such trafficking and is entitled to minimum damages of $200 and reasonable attorney's fees and court costs.

The bill amends s. 895.02, F.S., by redefining the term "racketeering activity" to include the offense of human trafficking for purposes of the Florida RICO Act (ss. 895.01-895.06, F.S.). By amending the definition of "racketeering activity" and reenacting various statutes, the bill also effectively provides for the prosecution and punishment of financial transactions and other activities related to proceeds from racketeering activity that involves human trafficking and provides that the subject matter jurisdiction of a statewide grand jury includes racketeering activity that involves human trafficking.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 38-0; House 120-0

CS/SB 640 — Luring or Enticing Child

by Judiciary Committee and Senators Miller, Lynn, and Klein

The bill provides that it is a first degree misdemeanor for a person 18 years of age or older to intentionally lure or entice, or attempt to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose. It is a third degree felony for a person 18 years of age or older who, having been previously convicted of the misdemeanor "luring or enticing a child" (luring) offense, to intentionally lure or entice, or attempt to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose. The bill clarifies the intent of the Legislature that persons "18 years of age or older" are subject to the statute.

The bill deletes a presumption of what constitutes the "other than a lawful purpose" element of felony luring because this presumption has been declared unconstitutional by the Florida Supreme Court. The bill corrects references to the felony luring statute in several statutes to reflect that the references are solely to violations of the existing felony luring offense, not to the misdemeanor offense or the felony offense based on a prior misdemeanor luring conviction. Finally, the bill authorizes a law enforcement officer to make a warrantless arrest for a violation of the luring statute where there is probable cause to believe the person committed such violation.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

CS/SB 730 — Jason A. Gucwa Act

by Criminal Justice Committee and Senators Lynn, Aronberg, and Crist

Current law provides for immunity from prosecution for accessory after the fact for certain family members of a felony offender. The bill removes this immunity except as to third degree felonies committed by the offender/family member.

Regardless of the familial relation, if the offender committed a capital, life, first, or second degree felony, and the statutory requirements are met (maintaining or assisting or aiding, and knowledge of the commission of the crime), any person, including a family member, can be charged as an accessory after the fact. This amendment to current law is effected in the newly-created paragraph (c) of subsection 777.03(1), F.S.

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

HB 761 — Domestic Violence Center/Trespass

by Rep. Carroll and others (SB 488 by Senators Fasano, Crist, Lynn, and Atwater)

This bill amends s. 810.09, F.S., by increasing the criminal penalty from a first degree misdemeanor to a third degree felony for trespassing upon a certified domestic violence center that is legally posted and properly identified (maximum possible penalty will be five years in prison rather than one year in jail). The increased penalty for this offense is comparable to the penalty already existing for trespassing upon other properly posted and identified properties such as a construction site, a commercial horticulture property, or a designated agricultural site.

For the felony penalty to apply, a domestic violence center must be certified under s. 39.905, F.S., and be legally posted and identified in substantially the following manner: THIS AREA IS A DESIGNATED RESTRICTED SITE AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 117-0

CS/CS/SB 1328 — Unlawful Taking/Personal Property

by Commerce and Consumer Services Committee; Criminal Justice Committee; and Senator Crist

The bill amends s. 812.014, F.S., the theft statute, to make the theft of a semitrailer deployed by a law enforcement officer a first-degree felony. The provisions of the bill treats the theft of a semitrailer of any value, if it is deployed by a law enforcement officer, in the same manner as the theft of property valued at $100,000 or more. The bill also creates the crime of altering the "fifth wheel" on a "commercial motor vehicle" with the intent to use the fifth wheel to commit or attempt to commit a theft. That new crime is a second degree felony offense.

The bill amends s. 817.155, F.S., by changing the elements of the crime of "Failure to Redeliver Hired or Leased Personal Property" by eliminating the necessity to prove fraudulent intent in cases where a person fails to redeliver the rented property or equipment. It eliminates the prima facie evidence of fraudulent intent inference that may be drawn from the failure to redeliver property. Finally, the bill deletes s. 812.155(7), F.S., which excluded certain rental-purchase agreements from s. 812.155, F.S. This deletion allows for prosecutions in rental-purchase arrangements where there is fraud, trickery, or false representation by the lessee regardless of whether the title is retained by the lessor.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 119-0

HB 7021 — Stolen Motor Vehicle

by Criminal Justice Committee and Rep. Kravitz and others (CS/SB 2014 by Judiciary Committee and Senator Wise)

The bill creates a permissive inference that a person possessing a stolen motor vehicle knew or should have known the vehicle was stolen. Specifically, for purposes of proving theft or dealing in stolen property, proof that a person possesses a stolen motor vehicle and that the ignition mechanism of the vehicle has been bypassed or the locking mechanism of the steering wheel of the vehicle has been broken or bypassed, unless satisfactorily explained, gives rise to an inference that the person possessing the vehicle knew or should have known that it was stolen.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 118-0

HB 7201 — Sexual Offenses/Voyeurism

by Criminal Justice Committee and Rep. Kravitz and others (SB 198 by Senator Aronberg)

The bill amends the voyeurism criminal statute, s. 810.14, F.S, for purposes of clarification. By removing references to photographing, filming, videotaping, or recording from the definition of the offense of voyeurism, the statute makes clear that the proper charge for voyeuristic activities using an imaging device is video voyeurism as set forth in s. 810.145, F.S.

This bill amends s. 810.14, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 113-0

CRIMINAL PROCEDURE

HB 61 — Postsentencing Testing/DNA Evidence

by Reps. Quinones, Bogdanoff, and others (SB 186 by Senators Villalobos, Lynn, Crist, and Argenziano)

Current law provided a four-year window for a convicted person claiming innocence to file a postconviction motion seeking the testing of DNA evidence. The four-year window expired October 1, 2005.

The bill removes the four-year time limitation and expands those eligible to request DNA testing. Any person convicted of a felony and sentenced before July 1, 2006, may petition the court for postconviction DNA testing.

In addition, the bill:

- Creates a front-loaded system for testing DNA evidence that requires the court to inquire of the defendant, defense counsel, and the state as to the existence of DNA evidence, which could exonerate the defendant, before accepting a plea of guilty or no contest.
- Authorizes DNA testing for persons entering a plea of guilty or no contest after July 1, 2006, with no deadline, if newly discovered facts or evidence are offered in support of the motion, or if the evidence sought to be tested was not disclosed by the state prior to the entry of the plea.
- Repeals the corresponding court rule of procedure to the extent it is inconsistent with the bill.
- Requires the maintenance of physical evidence until the defendant's sentence is completed.

If approved by the Governor, these provisions take effect upon becoming law, retroactive to October 1, 2005.
Vote: Senate 40-0; House 113-1

HB 85 — Assault or Battery

by Rep. Taylor and others (CS/CS/SB 212 by Justice Appropriations Committee; Criminal Justice Committee; and Senators Baker, Bennett, and Crist)

The bill adds licensed security officers who are wearing an identifiable uniform to the list that provides enhanced criminal penalties for assaulting or battering certain enumerated persons under s. 784.087, F.S. (The uniform is required to have at least one visible patch or emblem that identifies the employing agency and the employee as a licensed security officer.) It also adds non-sworn law enforcement employees who are in uniform and certified as agency inspectors, blood alcohol analysts, or breath test operators while engaged in processing, testing, evaluating, analyzing, or transporting persons who are detained or under arrest for DUI.

Accordingly, an assault or battery offense committed against a security officer or non-sworn law enforcement agency employee as described above will be reclassified one degree higher than it is currently classified as follows: in the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree; in the case of battery, from a misdemeanor of the first degree to a felony of the third degree; in the case of aggravated assault, from a felony of the third degree to a felony of the second degree; and in the case of aggravated battery, from a felony of the second degree to a felony of the first degree. This results in increasing the maximum sentence that can be imposed for an assault or battery offense committed against such persons in the same manner as if the offense is committed against a law enforcement officer or firefighter.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 30-9; House 120-0

HB 147 — Criminal Prosecutions

by Rep. Kravitz and others (SB 658 by Senator Wise)

The bill creates a new section of statute which provides that in criminal prosecutions, after the closing of evidence, the prosecuting attorney shall open the closing arguments, the accused or the attorney for the accused may reply, and the prosecuting attorney may reply in rebuttal.

The bill also repeals Florida Rule of Criminal Procedure 3.250 to the extent that it is inconsistent with the provisions in the bill.

This bill creates s. 918.19, F.S. This bill repeals part of Rule 3.250, Florida Rules of Criminal Procedure.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 34-0; House 115-0

HB 827 — Pretrial Release

by Rep. Planas (CS/CS/SB 2018 by Judiciary Committee; Criminal Justice Committee; and Senator Wise)

The bill requires judges who grant monetary bail to set a separate and specific bail amount for each charge or offense.

The bill also provides that a defendant must comply with all conditions of pretrial release.

Further, the bill amends statutes relating to bail bonds concerning forfeiture to judgment and cancellation.

The bill expands the actions that satisfy the conditions of the bond to include: an acquittal or the withholding of an adjudication of guilt.

This bill substantially amends ss. 903.02, 903.047, 903.27, and 903.31, F.S.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 119-0

SB 1386 — Youthful Offenders

by Criminal Justice Committee and Senators Crist and Lynn

This bill remedies a problem in the youthful offender statutes which the district courts of appeal have pointed out as needing attention. Two provisions in the youthful offender statutes in ch. 958, F.S., when read together, lead to the unlikely conclusion that a youthful offender who violates the terms of probation may only be sentenced to 364 days in jail. Under current law, because of this incongruity, the courts are not allowed to sentence the violator to any of the four sentences which the courts might have originally sentenced the offender to. This legislation remedies that problem by amending s. 958.045(5)(c), F.S., and permits the courts to sentence the probation violator to any sentence which he or she might have been originally sentenced to when the terms of probation are violated.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 118-0

DUI

HB 187 — Lawful Testing/Alcohol or Substances

by Rep. Porth and others (CS/CS/SB 232 by Transportation Committee; Criminal Justice Committee; and Senators Fasano, Baker, and Lynn)

In order for a breath or blood test to be considered valid under the DUI statute, the test must be performed substantially in accordance with methods approved by the Department of Law Enforcement and by an individual possessing a valid permit issued by the Department of Highway Safety and Motor Vehicles. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer must be made available to the person or his or her attorney.

This legislation mandates full information be provided to the driver and his or her attorney, upon request, concerning the results of the DUI test taken. Full information is limited to the following:

- The type of test administered and the procedures followed;
- The time of the collection of the blood or breath test sampled;
- The numerical results of the test indicating the alcohol content of the blood and breath;
- The type and status of any permit issued by the Department of Law Enforcement which was held by the person who performed the test; and
- If the test was administered by means of a breath testing instrument, the date of performance of the most recent required inspection of such instrument.

Full information does not include manual, schematics, or software of the instrument used to test the person or any other material not in the actual possession of the state. Additionally, full information will not include information in the possession of the manufacturer of the test instrument.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 36-3; House 113-0

JUVENILE JUSTICE

CS/SB 1748 — Juvenile Justice

by Judiciary Committee and Senator Wise

Chapter 985, F.S., addresses Florida's juvenile justice system. Some judges, prosecutors, defense attorneys, and agency personnel have indicated that the chapter's current organization is difficult to utilize in practice.

This bill reorganizes ch. 985, F.S., to provide a chronological presentation of the delinquency proceeding from the introduction of the child into the system to the case outcome. It divides the chapter into 13 parts. It also divides larger sections within the chapter into smaller parts that are given more meaningful section and subheading names to better describe and organize the chapter's contents.

The bill is designed to be strictly a technical rewrite of ch. 985, F.S., with no substantive changes to current law.

If approved by the Governor, these provisions take effect January 1, 2007.
Vote: Senate 39-0; House 120-0

LAW ENFORCEMENT

HB 41 — Nonjudicial Arrest Record/Expunction

by Rep. Dean and others (CS/SB 1844 by Judiciary Committee and Senators Haridopolos, Crist, and Wilson)

This bill requires the local law enforcement agency that wrongly arrests a juvenile or adult to apply to the Florida Department of Law Enforcement (FDLE) for an administrative expunction of that non-judicial arrest record, if the agency or court determines the arrest is a mistake or that it is unlawful.

It also allows an adult or the parent or legal guardian of a minor child to apply to the FDLE for an administrative expunction under these same circumstances, if the application is accompanied by an endorsement from the head of the arresting agency or the state attorney in the judicial circuit in which the arrest occurred.

Finally, the bill provides that an application or endorsement is not admissible as evidence in any judicial or administrative proceeding, nor is either one to be construed as an admission of liability in connection with the arrest.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 120-0

SB 124 — Sovereign Immunity/Law Enforcement

by Senators Posey and Smith

The bill establishes some limits on civil liability for law enforcement agencies when their officers pursue fleeing suspects. The bill provides that an employing law enforcement agency is

not liable for injury, death, or property damage caused by a person fleeing from a law enforcement officer in a motor vehicle if:

- The pursuit is not conducted in a reckless manner;
- The officer reasonably believes that the person fleeing has committed a forcible felony; and
- The pursuit is conducted in accordance with a written policy governing high speed pursuit and the officer received instruction from the employing agency on the high speed pursuit policy.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 119-0

HB 151 — Law Enforcement

by Rep. Adams and others (CS/CS/CS/CS/SB 544 by Justice Appropriations Committee; Governmental Oversight and Productivity Committee; Judiciary Committee; Criminal Justice Committee; and Senators Fasano and Crist)

The bill requires the Florida Department of Law Enforcement (FDLE) to compile and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions. The clerks of court must submit these records to the FDLE within one month of the rendition of the adjudication or commitment.

The bill increases the amount of time that protective services can be provided to a witness or victim who is at risk of harm upon certification by a state attorney or the statewide prosecutor.

The bill deletes a requirement for law enforcement agencies and the FDLE to create reports documenting the sale of forfeited property.

The bill provides immunity from civil liability for damages when an agency, employee, individual, or entity responds in good faith to a request from a law enforcement agency to publicly release information relating to a missing child, commonly known as an Amber Alert.

The bill provides that the $50 that the FDLE receives from the $135 in court costs for driving under the influence or boating under the influence be deposited in the FDLE's Operating Trust Fund. Investigative costs recovered on the FDLE's behalf must be deposited in the FDLE's Forfeiture and Investigative Support Trust Fund.

The bill requires the Criminal Justice Information Program to, as authorized by law, retain fingerprints submitted by criminal justice and noncriminal justice agencies to the FDLE for a criminal history background screening in a manner provided by rule and enter the fingerprints in

the statewide automated fingerprint identification system. Agencies may participate in the search process by paying an annual fee to the FDLE, which can be waived or reduced by the executive director of the FDLE for good cause shown. There is no fee charged to criminal justice agencies for criminal justice purposes.

The bill provides that the clerks of the court must submit disposition reports relating to offenders who are minors to the Criminal Justice Information Program. The FDLE must make online access to Florida criminal justice information available to each judge in the state courts.

The bill provides that a criminal justice agency that is authorized to conduct a criminal background check on an agency employee (other than an officer) may submit the employee's fingerprint identification information to the FDLE to obtain state and national criminal history information. The FDLE shall retain this information and search all arrest fingerprint cards against the fingerprints of the agency employee. A criminal history check, whether an initial check or a renewal check, must include a Florida criminal history provided by the FDLE. Florida criminal history information may be provided by a private vendor only if that information is directly obtained from the FDLE for each request. When a national criminal history check is required or authorized by state law, the national criminal history check must be submitted by and through the FDLE unless otherwise required by federal law.

The bill expands the list of offenses that cannot be sealed or expunged to include voyeurism and also to include offenses specified as predicate offenses for registration as a sexual predator or a sexual offender, which will result in the offenses of false imprisonment and luring or enticing a child and certain offenses related to pornography being ineligible for sealing or expunction.

The bill requires the FDLE to retain and enter into the statewide automated fingerprint identification system all fingerprints of officers. The FDLE must search all arrest fingerprint cards against the fingerprints of the officers submitted and report to the employing agency if a fingerprint from an arrest card is identified as matching an officer's fingerprints. An officer whose fingerprints are not retained by the FDLE must be refingerprinted and the fingerprints must be forwarded to the FDLE.

The bill authorizes the FDLE to spend not more than $5,000 annually to purchase and distribute promotional materials or items that serve to advance with dignity and integrity the goodwill of this state and the FDLE and to provide basic refreshments at meetings of the FDLE with representatives from other governmental entities.

Finally, the bill punishes as a first-degree misdemeanor the unauthorized and knowing use of the words "Florida Department of Law Enforcement," "F.D.L.E.," "FDLE," or "Florida Capitol Police," or the use of a department logo or emblem in connection with any publication or production in a manner reasonably calculated to convey the impression.

If approved by the Governor, these provisions take effect July 1, 2006, except as otherwise expressly provided in this act.
Vote: Senate 39-0; House 115-0

HB 919 — Law Enforcement Investigations

by Rep. Grant and others (CS/SB 1418 by Criminal Justice Committee and Senator Atwater)

The bill provides that it is a first degree misdemeanor for a person to knowingly and willfully give false information to a law enforcement officer who is conducting a missing person investigation or felony criminal investigation with the intent to mislead the officer or impede the investigation.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 33-0; House 116-0

HB 1593 — Cybercrime Office/Legal Affairs Department

by Rep. Barreiro and others (CS/SB 2322 by Judiciary Committee and Senators Crist and Campbell)

The bill creates s. 16.61, F.S., to provide a Cybercrime Office (office) in the Department of Legal Affairs within the Office of the Attorney General. Essentially, this bill codifies the Cybercrime unit established by the Attorney General in 2005. The bill authorizes the office to investigate violations of state law pertaining to the sexual exploitation of children which are facilitated by or connected to the use of any device capable of storing electronic data.

The bill provides that investigators employed by the Cybercrime Office who are certified in accordance with s. 943.1395, F.S., are law enforcement officers of the state who shall have the authority to conduct criminal investigations, bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, capias, and all necessary service of process throughout the state. Further, in carrying out the duties and responsibilities of s. 16.61, F.S., the Attorney General, or any duly designated employee, is authorized to subpoena witnesses or materials within or outside the state, administer oaths and affirmations, and collect evidence for possible use in civil or criminal judicial proceedings; and seek any civil remedy provided by law, including, but not limited to, a remedy provided under the Florida Contraband Forfeiture Act.

Finally, the bill provides that the Attorney General, or any duly designated employee, shall provide notice to the local sheriff, or his or her designee, of any arrest effected by the Cybercrime Office.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 118-0

PUBLIC RECORDS

HB 605 — DJJ/Personal ID Information/Personnel

by Rep. Planas (CS/CS/SB 1320 by Governmental Oversight and Productivity; Criminal Justice Committee; and Senator Crist)

The bill creates a public records exemption for home addresses, telephone numbers, and photographs of current or former specified personnel of the Department of Juvenile Justice. It also exempts home addresses, telephone numbers, and the place of employment of the spouse and children, and the name of the school or daycare facility of the children.

The specific persons to whom the newly-created exemption applies are current or former:

- juvenile probation officers
- juvenile probation supervisors
- detention superintendents
- assistant detention superintendents
- senior juvenile detention officers
- juvenile detention officer supervisors
- juvenile detention officers
- house parents I and II
- house parent supervisors
- group treatment leaders
- group treatment leader supervisors
- social service counselors
- rehabilitation therapists

The bill provides for repeal of this new exemption on October 2, 2011, unless it is reviewed and reenacted by the Legislature.

The bill sets forth the "justification" or public necessity for the exemption as being a potential for harm or threat of harm by a juvenile defendant, or friend or family member of a juvenile defendant.

Section 409.2577, F.S., is reenacted by the bill for the purpose of incorporating the changes made by the bill to s. 119.071 (4)(d), F.S., which is referenced therein.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 89-27

HB 1001 — Biometric ID Information/Public Record

by Rep. Adams (CS/SB 2292 by Criminal Justice Committee and Senator Fasano)

The bill creates a public records exemption for biometric identification information held by an agency before, on, or after July 1, 2006. The exemption applies, therefore, to biometric identification information currently in the possession of agencies.

The definition of "agency" in ch. 119, F.S., is: "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." s. 119.011(2), F.S.

The bill states that "biometric identification information" means any record of friction ridge detail, fingerprints, palm prints, and footprints. The definition would include hard copies (paper and ink) as well as electronic records.

There is a statement of public necessity included in the bill.

The exemption expires on October 2, 2011, unless reviewed and reenacted by the Legislature prior to that time.

This bill amends s. 119.071, F.S.

The bill becomes effective on July 1, 2006, if Senate Bill 544, or similar legislation relating to biometric identification information held by an agency, is adopted in the same legislative session or an extension thereof and becomes law.
Vote: Senate 40-0; House 116-0

HB 7115 — Autopsy Photos, Videos, and Audio/OGSR

by Governmental Operations Committee and Rep. Rivera (CS/SB 1052 by Governmental Oversight and Productivity Committee; Criminal Justice Committee; and Senators Wise, King, Smith, Lynn, Wilson, Haridopolos, and Crist)

The bill reenacts the public records exemption in s. 406.135, F.S., which provides that photographs and video or audio recordings of an autopsy in the custody of a medical examiner are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution, except they are accessible to certain specified family members of the decedent and public governmental agencies without a court order. It amends s. 406.135, F.S., to remove the sentence that requires its repeal. The bill also makes some clarifying and stylistic changes, but there are no substantive changes made to the statute.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 38-0; House 93-25

SEXUAL PREDATORS AND OFFENDERS

CS/SB 508 — Sexual Predators/Residency

by Justice Appropriations Committee and Senators Aronberg, Crist, Wilson, and Klein

This legislation redefines what constitutes permanent and temporary residences under The Sexual Predators Act. The bill reduces from 14 to 5 days the amount of time sexual predators may reside somewhere for that place to become their permanent or temporary residence. The net result of these changes is to reduce the amount of time that sexual predators are allowed to reside somewhere before they must report that new residence to FDLE or the sheriff's office.

The bill also mandates that a court must require electronic monitoring if it does not revoke probation or community control for certain registered sexual offenders and predators who violate the conditions of their probation or community control.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 116-0

CS/SB 646 — Sexual and Career Offenders

by Judiciary Committee and Senator Campbell

The bill amends the definition of "institution of higher education" in ss. 775.21, 943.0435, and 944.607, F.S., to include a "career center." As a result, a sexual predator or sexual offender who is enrolled, employed, or carrying on a vocation at a career center is required to provide to the Florida Department of Law Enforcement (FDLE) the name, address, and county of the institution, as well as additional information, and is required to report any change in enrollment or employment status to the sheriff or the Department of Corrections (DOC), as applicable. The sheriff or the DOC, as applicable, is required to notify the career center when a sexual offender or sexual predator is employed or enrolled there.

The bill also amends s. 775.21, F.S., to clarify language relating to qualifying prior felonies for the sexual predator designation and to provide that the local sheriff is the sole location for sexual predators to report a change in residence. The bill adds two offenses to the list of offenses for which a person can be designated as a sexual predator under the section, and amends ss. 943.0435, 944.606, and 944.607, F.S., to add those offenses to the list of offenses for which a person may qualify as a sexual offender under those sections. The offenses pertain to selling or buying a minor into sex trafficking or prostitution and sexual misconduct by a Department of

Juvenile Justice (DJJ) program employee (or an employee of a program operated by a provider under a contract with the DJJ) with a juvenile offender detained or supervised by, or committed to the custody of, the DJJ.

The bill also amends s. 943.0435, F.S., to clarify which particular provisions alone or in combination with other provisions qualify a person as a sexual offender under that section, and amends ss. 775.21, 943.0435, and 944.607, F.S., to clarify that a person who lives in Florida and has been designated as a sexual predator or sexual offender and who is subject to registration or public notification in another state must register as a sexual offender in Florida, even if the person does not otherwise qualify as a sexual predator or sexual offender under Florida law.

The bill also amends s. 775.261, F.S., to provide that that section applies to career offenders released on or after July 1, 2002, from a sanction imposed in this state for a designation as a habitual violent felony offender, a violent career criminal, a three-time violent felony offender, or a prison releasee reoffender. This change reconciles the "start date" in s. 775.261, F.S., with the "start date" in s. 944.608, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

HB 1167 — Sexual Predators

by Rep. Bean and others (CS/SB 1834 by Criminal Justice Committee and Senator Baker)

The bill prohibits a person who is designated a sexual predator under s. 775.21, F.S., from possessing a prescription drug, as defined in s. 499.003(2), F.S., for the purpose of treating erectile dysfunction. The first time the sexual predator possesses the drug for this purpose it is a second degree misdemeanor; a second or subsequent violation is a first degree misdemeanor.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 35-0; House 114-0

VICTIMS AND PUBLIC PROTECTION

HB 7177 — Prosecutions/Time Limitations/DNA

by Criminal Justice Committee and Rep. Kravitz (CS/SB 1522 by Criminal Justice Committee and Senator Diaz de la Portilla)

The bill eliminates, under circumstances where the perpetrator's identity is established by DNA evidence, the current Statutes of Limitation for certain personal crimes of violence by further amending subsection (15), and creating a new subsection (16) of s. 775.15, F.S.

The bill provides that the following offenses can be prosecuted at any time after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of DNA evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:

- aggravated battery or felony battery
- kidnapping or false imprisonment
- sexual battery
- lewd or lascivious offenses
- burglary
- robbery
- carjacking
- aggravated child abuse

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 120-0

DOMESTIC SECURITY

HB 7145 — Seaport Security

by Domestic Security Committee and Rep. Adams and others (CS/CS/CS/SB 190 by Justice Appropriations Committee; Commerce and Consumer Services Committee; Criminal Justice Committee; and Senators Wise and Lynn)

This bill creates several new sections of Florida Statutes relating to seaport security and amends s. 311.12, F.S.

Section 311.111, F.S., is created to require seaport authorities and governing boards to designate security areas and access requirements on seaports. Designation categories include: Unrestricted Public Access Area, Restricted Public Access Area, Restricted Access Area, Secured Restricted Access Area, and an additional category of Temporary Designation which is established to allow flexibility in restricting port access during times of high terrorist threat. The bill provides criteria for each designation and requires that they be incorporated into each seaport's security plan.

Subsection (2) and paragraph (b) of subsection (4) of s. 311.12, F.S., are amended and paragraph (e) to subsection (3) and subsections (7) and (8) are added to s. 311.12, F.S., to provide:

- Each seaport identified in s. 311.09, F.S., beginning January 1, 2007 and continuing every 5 years thereafter, shall revise its seaport security plan based on the results of continual, quarterly risk assessments;
- Each seaport security plan shall be inspected for compliance and must be reviewed and approved by the Office of Drug Control and the Department of Law Enforcement based solely upon the standards set forth under the most current Maritime Transportation Security Act, 33 C.F.R. s. 105.305, and s. 311.12(1), F.S;
- Any restricted access area with a potential occupancy of 50 or more persons, any cruise terminal, or any business operation located adjacent to an unrestricted public access area shall be protected according to specified terrorist threat mitigation standards;
- The Department of Law Enforcement shall inspect every seaport within the state to determine if all security measures adopted by the seaport are in compliance with specified standards. The department shall report its findings to the Domestic Security Oversight Council and the U.S. Coast Guard for review along with requests for necessary corrective action;
- A waiver process shall be established for an individual who is found to be unqualified for unescorted access under Florida Statute and is denied employment by a seaport;

- The Office of Drug Control and the executive director of the Department of Law Enforcement may modify or waive any seaport physical facility requirement upon a finding or other determination that the purposes of the standard have been reasonably met. The Domestic Security Oversight Council shall review waivers not granted within 90 days or jointly rejected by the office and the department;
- The unauthorized possession of a concealed weapon or operation , control, or possession of a vehicle in which a weapon is concealed or stored, while in a designated restricted area of a seaport, constitutes commission of a misdemeanor of the first degree; and
- A Seaport Security Advisory Council is created under the Office of Drug Control to review statewide seaport security standards for applicability and effectiveness. The council shall be appointed by the Governor and consist of representatives from the seaport industry and specified state agencies.

Section 311.121, F.S., is created to establish a training and certification program for seaport security officers. A candidate for certification as a seaport security officer must have received a Class D license as a security officer, have successfully completed certified training curriculum for a Class D license or been determined to have equivalent experience, and completed training or training equivalency to become a certified seaport security officer.

The Seaport Security Officer Qualification, Training, and Standards Coordinating Council is created under the Department of Law Enforcement in order to establish a seaport security officer training program. The council shall, by December 1, 2006, identify the qualifications, training, and standards for seaport security officer certification and recommend a training curriculum. The Department of Education shall develop the council's curriculum recommendations. The Department of Agriculture and Consumer Services shall provide seaport security officer certificates for issuance by licensed schools.

Section 311.122, F.S., is created to provide for the establishment of seaport law enforcement agencies. Each seaport is authorized to create a seaport law enforcement agency for its facility. Such agencies must meet all state standards under certified law enforcement guidelines. A minimum of 30 percent of the aggregate personnel must be state-certified law enforcement officers with additional seaport security training.

Section 311.123, F.S., is created to provide for the establishment of a maritime domain security awareness training program for all personnel employed within a seaport's boundaries.

Section 311.124, F.S., is created to grant any Class D or Class G seaport security officer, during the performance of his/her normal duties, the authority to detain a person who is believed to be trespassing in a seaport restricted area. Such detention must be based on probable cause and must be performed in a reasonable manner for a reasonable amount time pending the arrival of a law

enforcement officer. A seaport security officer performing such action shall not be criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

Section 817.021, F.S., is created to provide that a person, who willfully and knowingly provides false information in obtaining or attempting to obtain a seaport security identity card, commits a felony of the third degree.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 119-0

HB 7033 — Public Records/Security Systems Plans

by Governmental Operations Committee and Rep. Rivera (CS/SB 696 by Governmental Oversight and Productivity Committee and Domestic Security Committee)

This bill revises and reenacts s. 119.071, F.S., and s. 286.0113, F.S., which provide public records and public meetings disclosure exemptions for security systems plans. The exemptions protect certain records and information that could be used by individuals who are intent on performing terrorist acts. The bill removes a scheduled repeal of these sections under the Open Government Sunset Review Act.

Security systems plan information exempted from public disclosure under this bill includes records, photographs, audio and visual presentations, schematic diagrams, surveys, threat assessments, threat response plans, sheltering arrangements, and manuals for security personnel, emergency equipment, and security training.

That portion of a meeting that would reveal a security system plan or portion thereof is made confidential and exempt.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 119-0

HB 7023 — Public Records/Medical Facilities Information

by Governmental Operations Committee and Rep. Rivera (CS/SB 698 by Governmental Oversight and Productivity Committee and Domestic Security Committee)

This bill revises and reenacts s. 381.95, F.S., which provides a public records disclosure exemption for information concerning medical facilities and laboratories. The exemption protects information that is maintained by the Department of Health as a part of the state's plan to defend against terrorism. The bill removes a scheduled repeal of this section under the Open Government Sunset Review Act.

Medical facilities information exempted from public records disclosure under this bill includes information identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 117-1

HB 7025 — Public Records/Hospital Emergency Management Plans

by Governmental Operations Committee and Rep. Rivera (CS/SB 700 by Governmental Oversight and Productivity Committee and Domestic Security Committee)

This bill revises and reenacts s. 395.1056, F.S., which provides a public records and a public meetings disclosure exemption for certain hospital comprehensive emergency management plan components. The exemption protects information that addresses a public or private hospital's response to terrorism. The bill removes a scheduled repeal of this section under the Open Government Sunset Review Act.

Hospital information exempted from public records disclosure under this bill includes security systems or plans; vulnerability analyses; emergency evacuation transportation; sheltering arrangements; post-disaster activities including provisions for emergency power, food and water; post-disaster transportation; supplies including drug caches; staffing; emergency equipment; and individual identification of residents, transfer of records, and methods of responding to family inquiries.

That portion of a meeting that would reveal information contained in a hospital's comprehensive emergency management plan in response to an act of terrorism is also exempt.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 119-0

EMERGENCY PREPAREDNESS

HB 47 — Hurricane Preparedness/Sales Tax Exemption

by Rep. Greenstein and others (CS/CS/CS/CS SB 24 by Ways and Means Committee; Government Efficiency Appropriations Committee; Commerce and Consumer Services Committee; Domestic Security Committee; and Senators Baker, Campbell, Atwater, Sebesta, Alexander, Diaz de la Portilla, Wise, Haridopolos, Wilson, Saunders, Lynn, Crist, and Aronberg)

This bill (Chapter 2006-7, L.O.F.) provides for a sales and use tax exemption for certain items used to prepare for and withstand a hurricane. The following items are exempt from sales and use tax collections during the period from May 21, 2006 through June 1, 2006:

- Any portable self-powered light source selling for $20 or less;
- Any portable self-powered radio, two-way radio, or weather band radio selling for $50 or less;
- Any tarpaulin or other flexible waterproof sheeting selling for $50 or less;
- Any ground anchor system or tie-down kit selling for $50 or less;
- Any gas or diesel fuel tank selling for $25 or less;
- Any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for $30 or less;
- Any cell phone battery selling for $60 or less and any cell phone charger selling for $40 or less;
- Any non electric food storage cooler selling for $30 or less;
- Any portable generator used to provide light or communications or preserve food in the event of a power outage selling for $1,000 or less;
- Any storm shutter device selling for $200 or less (A storm shutter device is defined as materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms);
- Any carbon monoxide detector selling for $75 or less;
- Any blue ice selling for $10 or less; and
- Any single product consisting of two or more of the above items, or other tax exempt items, selling for $75 or less.

These provisions became law upon approval by the Governor on April 27, 2006.
Vote: Senate 35-0; House 117-1

HB 7121 — Disaster Preparedness Response

by Domestic Security Committee and Rep. Adams and others (CS/CS/SB 862 by Transportation and Economic Development Appropriations Committee; Domestic Security Committee; and Senators Diaz de la Portilla, Fasano, Wilson, Bullard, Atwater, and Klein)

Legislative Findings

The Legislature finds that there is a need to improve the state's preparedness and response capabilities for disasters. In making this finding, the Legislature identified areas of critical concern including: construction or hardening of emergency operations centers to meet survivability standards; providing permanent generator capacity at special needs shelters; construction or hardening of additional shelters for the general public including retrofitting existing structures to meet minimum public shelter standards; improving logistical staging and warehouse capacity for commodities, and planning for hurricane evacuations. To meet these needs, the Legislature appropriated $151.7 million including:

- $45 million for construction and hardening of emergency operations centers
- $52.8 million for generators in special needs shelters
- $15 million for expanding public shelter capacity
- $29 million for evacuation mapping and planning projects
- $6.5 million for logistics staging and warehousing improvements
- $3.4 million for public education and hurricane preparedness information

Motor Fuel Dispensing Facilities

Section 526.143, F.S., is created, effective July 1, 2006, to require alternate generated power capacity at certain motor fuel dispensing facilities. Motor fuel terminal facilities and wholesalers must become capable of operating their fuel tanker loading racks on alternate generated power by June 1, 2007. After July 1, 2006 all newly constructed and substantially renovated motor fuel retail outlets must be pre-wired in order to operate on alternate generated power. In addition, motor fuel retail outlets that meet certain county size and fueling positions criteria, and located within one-half mile of an interstate highway or designated evacuation route, must be pre-wired to operate on alternate generated power by June 1, 2007.

Corporations and other entities owning 10 or more motor fuel retail outlets in a single county are required to keep and maintain at least 1generator for every 10 outlets. In addition, corporations and other entities owning 10 or more outlets solely within a single domestic security region shall maintain written agreements, including reciprocal agreements, with similar entities outside the region for shared use of portable generators.

These generators and pre-wired requirements provide the ability to shuttle generators between motor fuel retail outlets in order to pump stored fuel while the electrical power grid and bulk fuel distribution systems recover back to normal capacity.

Florida Disaster Motor Fuel Supplier Program

Section 526.144, F.S., is created, effective July 1, 2006, to establish a voluntary network of emergency responders to provide fuel supplies and services to government agencies; medical institutions; critical infrastructure; and emergency, health care, repair, and law enforcement personnel as well as the general public. Only motor fuel retail outlets participating in the program may operate during declared curfew hours. In addition, outlets participating in the program may request priority on receiving fuel resupply. While such priority is not binding, emergency management officials shall consider such requests in determining appropriate response actions.

The regulation, siting, and placement of alternate power source capabilities at motor fuel dispensing facilities following a major disaster is preempted to the state. In conjunction with this provision, the Division of Emergency Management shall provide a set of standards for the regulation of retail establishments that are recognized as part of the state emergency management plan. The division must establish these standards in a report to the Governor, the President of the Senate, and the Speaker of the House no later than February 1, 2007. Pending establishment of these standards, regulation of retail establishments participating in state emergency operations response activities is preempted to the state until July 1, 2007. After July 1, 2007 retailers may choose to opt into the state emergency management plan standards and program or alternately comply with existing local regulations.

Price Gouging

Section 501.160, F.S., is amended, effective July 1, 2006, to provide that the prohibition on unconscionable pricing during a declared emergency is effective for an initial period not to exceed 60 days. Renewal shall be required to be specifically stated in any subsequent renewals of the Governor’s declaration of a state of emergency.

Vertical Accessibility

Section 553.509, F.S., is amended to require a provision for alternate generated power capability for elevators in high-rise multi-family residential dwellings. Any owner of a residential multi-family dwelling or condominium, at least 75 feet high, with a public elevator, must have at least one elevator capable of operating on alternate generated power for a number of hours each day for 5 days after a disaster caused power outage. Owners of such buildings must also develop and maintain an emergency operations plan for the building.

Owners of affordable residential dwellings for persons age 62 and older, which are financed or insured by the U.S. Department of Housing and Urban Development, must develop an emergency evacuation plan if unable to comply with the alternate generated power requirement.

Division of Emergency Management Responsibilities

Section 252.35, F.S., is amended, effective July 1, 2006, to assign duties to the Division of Emergency Management.

The division shall conduct a public education campaign on emergency preparedness issues including the personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster. In order to conduct this campaign, the division and the Department of Education shall coordinate with the Agency For Persons with Disabilities.

By January 1, 2007, the division shall complete an inventory of portable generators owned by the state and local governments which are capable of operating during a major disaster. The division shall subsequently maintain this inventory list. In addition, the division shall make available to the public, a list of private entities which offer generators available for sale or lease.

Sheltering Persons with Pets

Section 252.3568, F.S., is created, effective July 1, 2006, to require that the Division of Emergency Management address strategies for the evacuation of persons with pets in the state comprehensive emergency management plan. The Department of Agriculture and Consumer Services is directed to assist the division in determining these strategies.

Special Needs Shelters

Section 252.355, F.S., is amended to include the term cognitive impairment in the list of persons qualifying for special needs shelter assistance. Home health agencies, hospices, nurse registries, and home health providers are added to the list of agencies assisting in the identification of persons in need of special needs shelter assistance. The Department of Community Affairs is designated as the lead agency responsible for community education and public outreach regarding special needs shelter registration.

Persons with special needs will now be allowed to bring their service animals into special needs shelters. Electric utility companies must increase notification of their residential customers about the special needs shelter program from 1 to 2 times per year.

Section 381.0303, F.S., is amended, effective July 1, 2006, to provide for the operation and closure of special needs shelters. The Department of Health is designated as the lead agency for the recruitment of special needs shelter health care practitioners. Local emergency management agencies are given responsibility for designating and operating the special needs shelters in

coordination with the local health department. Finally, the Secretary of Elderly Affairs is provided the authority to convene a multi-agency special needs discharge planning team to assist local agencies operating special needs shelters that are severely impacted by a disaster.

The Department of Health is provided direction for reimbursing hospitals, nursing homes, assisted living facilities, and community residential group homes that shelter special needs clients based on available funding. In addition, the responsibilities of the Special Needs Interagency Committee are amplified to include resolving problems relating to special needs shelters that are not addressed in the state comprehensive emergency medical plan.

Sections 400.492 and 400.497, F.S., are amended, effective July 1, 2006, to provide for home health agency services during an emergency. The bill requires home health agencies to provide staff for their clients who have been evacuated to special needs shelters. It also allows home health agencies to establish links to local emergency operations centers to facilitate continued service to their clients in a disaster area. Home health agencies are required to demonstrate a good faith effort in continuing to provide such service and develop a comprehensive emergency management plan, outlining how they plan serve their clients during an emergency. County health departments are given the responsibility to review these plans using Agency for Health Care Administration criteria.

Sections 400.506 and 400.610, F.S., are similarly amended for nurse registries and hospices, as well as sections 400.925, 400.934, and 400.935, F.S., for home medical equipment providers.

Nursing Homes and Assisted Living Facilities

Section 252.357, F.S., is created, effective July 1, 2006, to provide for the monitoring of nursing homes and assisted living facilities during a disaster.

Public Shelter Space

Section 252.385, F.S., is amended, effective July 1, 2006, to require the Division of Emergency Management to biennially prepare and submit a statewide emergency shelter plan to the Governor and Cabinet for approval. In addition, local emergency management agencies are required to ensure that designated facilities serving as public emergency evacuation shelters are ready to activate prior to a specific hurricane or disaster.

Licensed Health Care Facilities

Section 408.831, F.S., is amended, effective July 1, 2006, to allow licensed health care facilities to operate over their licensed capacity during an emergency. While in an overcapacity status, each provider must furnish or arrange for appropriate and safe care for all clients. Licensing provisions are also made for facilities that are damaged and become inactive while undergoing repair.

Prescription Medications

An unnumbered section of statute is created to provide for early refills of prescription medications in preparation for an impending hurricane.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise expressly provided in this act.
Vote: Senate 35-0; House 115-0

HB 737 — Tax Benefit/Catastrophic Emergencies

by Rep. Grant and others (CS/CS/SB 1018 by Community Affairs Committee; Domestic Security Committee; and Senator Bennett)

This bill amends s. 212.055, F.S., to provide for an additional authorized use of Local Government Infrastructure Surtax funds. Under this provision, surtax funds may be used for the purpose of improving privately owned facilities so that they qualify for use as public emergency shelters. Such improvements are limited to those necessary to bring a facility into compliance with current public emergency evacuation shelter standards. In return for the funding, the owner must agree to make the facility available for use as a shelter, at no cost to the local government, for a minimum period of 10 years.

This bill does not expand the Local Government Infrastructure Surtax. It simply authorizes an additional use of surtax funds by local government.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 35-0; House 116-0

HB 1435 — Emergency Management Division

by Rep. Harrell and others (CS/SB 1888 by Governmental Oversight and Productivity Committee and Senator Fasano)

Section 20.18, F.S., is created to establish the Division of Emergency Management as a separate budget entity. The division shall enter into a service agreement with the Department of Community Affairs for professional, technological, and administrative support but will not be subject to control, supervision, or direction by the department. The division director shall be appointed by and serve at the pleasure of the Governor.

This revision provides a direct link between the Governor and supervision of the state's emergency management system and disaster response effort.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 111-0

HB 1359 — Hazard Mitigation/Coasts/Hurricanes

by Rep. Benson and others (CS/CS/SB 2216 by General Government Appropriations Committee; Environmental Preservation Committee; and Senator Clary)

Section 161.085, F.S., is amended to clarify the authority of political subdivisions and municipalities have to install or authorize the installation of rigid coastal armoring structures during an emergency. The Department of Environmental Protection (DEP) may review such an action and if it determines that harm or interference is occurring to the protection of the beach-dune system, adjacent properties, public beach access, native coastal vegetation, or nesting marine turtles, the department may revoke the authority to install such system.

Section 163.3178, F.S., is amended to require the Division of Emergency Management to manage the update of regional hurricane evacuation studies. Such studies must be done in a consistent manner using the National Hurricane Center's methodology and storm surge model known as Sea, Lake and Overland Surges from Hurricanes (SLOSH).

The definition of a coastal high-hazard area is revised to incorporate the storm surge predictive accuracy of the SLOSH model. This new definition must be included in local governments' future land use maps and coastal management elements no later than July 1, 2008.

The bill provides a process whereby local governments shall adopt levels of service relating to the capacity of the road and highway infrastructure to ensure timely hurricane evacuation. Those local governments that have not established a level of service for out-of-county hurricane evacuation by July 1, 2008, shall have an evacuation level of service no greater than 16 hours for a category 5 storm event.

Section 163.336, F.S., is amended to allow DEP to favorably consider placing beach quality sand material on adjacent properties under the Coast Resort Area Redevelopment Pilot Project. To do so, a permittee must demonstrate every reasonable effort to use all material on site to enhance the beach and dune system and prepare a comprehensive plan for beach and dune nourishment for the adjoining area.

DEP and affected local governments shall provide an independent economic and environmental impact analysis of the pilot project and report to the Legislature's presiding officers by February 1, 2008.

Section 381.0065, F.S., is amended to require that issuance of an onsite sewage treatment and disposal system work permit by the Department of Health, seaward of the coastal construction control line, shall be contingent upon receipt of any required DEP permits.

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

PUBLIC SCHOOLS

HB 429 — Florida School for the Deaf and the Blind

by Rep. Proctor and others (CS/SB 1014 by Education Appropriations Committee and Senator Wise)

This bill makes changes to laws governing the Florida School for the Deaf and the Blind in the areas of the school's responsibilities, mission, lobbying, law enforcement, purchasing, facilities, and use of private funds. The bill:

- Authorizes the Florida School for the Deaf and the Blind to provide education services to district school boards upon request;
- Deletes the prohibition against the school's use of privately-donated funds to compensate lobbyists;
- Changes the requirements for the school's legislative budget request to—
    - Permit projections of facility space needs to exceed the norm space and occupant design criteria established in the State Requirements for Educational Facilities;
    - Exempt from the requirements of ch. 287, F.S., purchases made with certain funds that were contributed as gifts, donations or bequests; that belong to student clubs or organizations; or that are being held for specific students; and
    - Exempt from the provisions of s. 112.061, F.S., per diem and travel expenses paid with funds that were contributed as gifts, donations or bequests; that belong to student clubs or organizations; or that are being held for specific students.
- Gives campus police officers the authority to enforce traffic laws within the boundaries of the campus;
- Repeals the requirement for the board of trustees to obtain and approve a bond on each police officer; and
- Requires the Florida School for the Deaf and the Blind to submit educational plant surveys in the same manner as school districts, community colleges, and state universities, under the provisions of s. 1013.31, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 113-0

HB 765 — Student Computers and Internet Access

by Rep. Jennings and others (CS/SB 502 by Education Appropriations Committee and Senators Wilson, Crist, and Bullard)

This bill establishes a program to provide discounted computers and internet access to public school, charter school, and home-schooled students in grades 5-12.

The Department of Education (DOE) shall negotiate with computer companies and non-profit organizations for discounted computers and software that support word processing and broadband internet access. The DOE must negotiate with broadband providers for discounted internet access and must adopt rules, in conjunction with the Digital Divide Council, to provide training to students; notification to parents; and information regarding eligibility, locations where the computers are available, and how students may obtain and pay for computers and internet access.

In addition, the bill establishes a pilot project to assist low-income students in purchasing discounted computers and internet access services. The pilot project is to be funded as provided in the General Appropriations Act and from any grants received from public and private sources.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 120-0

CS/CS/SB 772 — Schools

by Education Appropriations Committee; Children and Families Committee; and Senators Constantine and Wilson

This bill revises a number of statutes that govern the organization and operation of public schools.

District School Superintendent Bonuses

The bill clarifies that the method for determining compensation for district school superintendents who complete the requirements for a special qualification salary and leadership development and performance compensation applies to the compensation of elected superintendents only. The extra $2,000 per year special qualification salary would be paid by district school boards. The Department of Education would pay the annual performance salary incentives in an amount between $3,000 and $7,500, which is paid to elected district school superintendents who complete the leadership development and performance compensation program.

The bill clarifies that superintendents who are appointed by school boards may participate in the courses of continuing professional education provided in the special qualification certification

program under s. 1001.47(4), F.S., and the leadership development and performance compensation program under s. 1001.47(5), F.S. Upon successful completion of the certification requirements for one or both of these programs, the district school board may use the certification or certifications as a factor in determining the amount of compensation to be paid.

Attendance Policies

The bill allows district school boards to establish policies that allow accumulated unexcused incidents of tardiness and early departure from school to be recorded as unexcused absences. School boards are authorized to establish policies to require referral of a child to a school's child study team for fewer than five such unexcused absences.

The bill requires a 16-year-old student who has not graduated to stay in school until a declaration of intent is filed with the district school board. A student's guidance counselor must conduct an exit interview and inform the student of other educational opportunities, including adult education and general educational development (GED) test preparation. The bill also requires the student to complete an exit interview and a survey if the student intends to terminate school enrollment.

The bill revises the interventions that the child study team must use if an initial meeting with the student's parent does not resolve attendance problems. The child study team may implement other interventions, including referral to other agencies for family services or recommendations for filing a truancy petition as provided for in s. 984.151, F.S. The bill allows rather than requires a designated school representative to visit a student's residence or other place the student may be found when the student is not enrolled in school or has an unexcused absence.

A Business-Community (ABC) School Program

This bill transfers and renumbers s. 1013.501, F.S., as s. 1013.721, F.S., and amends this section to change the name of the Florida Business and Education in School Together (Florida BEST) Program to A Business-Community (ABC) School Program. An ABC school is a public school that offers instruction from kindergarten through grade 3 in any single grade level or for multiple grade levels, in compliance with constitutional class-size requirements. School districts must submit evidence of compliance with public notice requirements about the program to the Florida Department of Education (DOE). Districts must also provide the DOE with contact information about the ABC evaluation committee members and designate a district employee as a liaison for the program. The duties of the evaluation committee are expanded to include quarterly meetings, annual reports to the school board and superintendent, strategic marketing plans, technical assistance to businesses, and proposal evaluation criteria.

Automated External Defibrillators (AEDs)

The bill requires each high school that is a member of the Florida High School Athletic Association to have an operational automated external defibrillator (AED) on the high school grounds. The bill encourages public and private partnerships to cover the cost associated with the purchase and placement of the AED and training in the use of the AED. School employees and volunteers who are expected to use the device must be trained. The local emergency services director must be informed of the location of each AED. Employees and volunteers who use an AED will be covered by the Good Samaritan Act and will not be held liable for any civil damages as a result of the use of the AED.

Career and Professional Academies

The bill defines a "career and professional academy" as a research-based program that integrates a rigorous academic curriculum with an industry-driven career curriculum. A school district, public school, or the Florida Virtual School may offer a career and professional academy where students may gain industry-recognized certification in high demand occupations and simultaneously earn college credit and credit toward a high school diploma. Two different types of academies are authorized: a school-within-a-school career academy; and a total school configuration providing multiple academies.

The bill outlines academy goals to include increased student achievement and graduation rates, a focus on career preparation through rigorous academics and industry certification, promoting acceleration mechanisms such as dual enrollment, and supporting the state's economy by meeting industry needs for skilled employees in high-demand occupations.

Each career and professional academy must include one or more partnerships with postsecondary institutions, businesses, industry, employers, economic development organizations, or other appropriate partners to provide opportunities for instruction from highly-skilled professionals; internships; postsecondary degrees, diplomas, or certificates; maximum articulation of credits; and activities to enhance the student's readiness for work.

The bill requires the DOE to establish a special kind of career and professional academy, a Career High-Skill Occupational Initiative for Career Education (CHOICE) project, using a competitive process to select and designate certain school districts to participate based on specific eligibility requirements. DOE must work in consultation with Workforce Florida, Inc., to establish standards. Additionally, DOE must work with Workforce Florida, Inc., and Enterprise Florida, Inc., for the designation of CHOICE academies.

Any school district, including specifically, the Okaloosa County School District, that has received funding from Workforce Florida, Inc., for establishment of a CHOICE academy must receive an expedited review for CHOICE academy designation by the DOE. If funding is provided in the General Appropriations Act, the DOE must award one-time start-up funds to

school districts designated as participants in the CHOICE program. The DOE must report on participating academies to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the State Board of Education annually by July 1.

Regional Education Consortia

The bill permits a regional consortium of school districts to establish purchasing and bidding procedures, including construction arrangements, in lieu of individual school district bid arrangements. A regional consortium service organization may establish a direct support organization independent of its fiscal agent.

Supplemental Education Services

The bill establishes requirements for a service provider or school district to follow when providing supplemental education services to students in schools that receive federal Title I funding. The bill prohibits a provider or district from offering incentives to entice a student or a student's parent to choose a certain provider. The bill establishes procedures school districts must follow to notify parents regarding services for which their child is eligible; procedures for contracts with providers; and school district responsibilities for enrolling students. A provider that failed to comply with the requirements of the bill would be removed from the state-approved list for providers. The bill authorizes school districts to apply to the DOE for reallocation of unspent supplemental educational services funds. The State Board of Education may adopt rules to implement the provisions of the bill relating to supplemental educational services.

The DOE must establish a committee of practitioners as required by the federal No Child Left Behind Act, to review proposed rules and policies that will be considered by the State Board of Education, and the committee must report to the Governor and Legislative leaders by January 1.

School Wellness and Physical Education Policies

The bill requires school districts to submit to the DOE copies of the school wellness policies they are required to develop under the Child Nutrition and WIC Reauthorization Act of 2004. School districts must submit copies of their physical education policies to the DOE as well.

The DOE is required to post links on its website to resources for school districts and the public concerning classroom instruction on health-related topics and examples of school wellness policies for school districts, and other information related to school health policy and measures of school health.

The bill requires all physical education programs and curricula to be reviewed by a certified physical education instructor. The bill encourages each district school board to provide 150 minutes of physical education each week in kindergarten through 5th grade and 225 minutes each week in grades 6th through 8th.

The bill establishes minimum requirements for local school health advisory committee membership. The bill encourages school health advisory committees to address specific topics included in the coordinated school health program model.

Miscellaneous Provisions

The bill authorizes students to wear sunglasses, hats, or other sun-protective wear while outdoors during school hours. School districts are authorized to use federal funds to purchase food when federal guidelines permit such use of the funds. School districts are authorized to transport students in vehicles other than school buses when the trip is to another site in the district or for trips to and from agricultural education related events or competitions. The bill establishes requirements for the vehicle and driver when a passenger car, multipurpose passenger vehicle, or truck is used to transport students.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 119-0

HB 1221 — District School Boards/Chair

by Rep. Cannon and others (CS/CS SB 2252 by Ethics and Elections Committee; Education Committee; and Senator Webster)

The bill provides an alternative procedure for selecting a school board chair. The alternative procedure allows for the election of an additional member to the school board to serve as chair if the electors approve a proposition calling for the election of a district school board chair. In addition, the bill resolves tie votes in a district school board meeting in favor of the side on which the chair casts his or her vote. The bill applies to charter counties with a population of between 800,000 and 900,000, based on the last federal decennial census.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 25-12; House 85-26

HB 1243 — Education Personnel

by Rep. Mahon and others (SB 1148 by Senators King and Wise)

This bill provides that a regional professional development academy (academy) may receive funds from the Department of Education or under the General Appropriations Act if the academy is financed during the first year of operation by an equal or greater match from private funding sources and demonstrates the ability to be self-supporting within one year after opening. An academy may use funds to develop programs, expand services, or assess in-service training and professional development. Funds may also be used for other programs relating to the academy's

mission and the needs of the state and region. The bill provides that an academy is not a component of any school district or governmental unit to which it provides services.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

HB 7087 — Secondary School Reform

by PreK-12 Committee and Rep. Arza and others (CS/CS/SB 2048 by Education Appropriations Committee and Education Committee)

Secondary School Reform

The bill implements secondary school reform and requires middle and high schools to offer a rigorous, relevant curriculum in order to successfully prepare middle school students for high school coursework and to prepare high school students to effectively transition to postsecondary academics and the world of work. Reform efforts must be based on specific guiding principles and included in school improvement plans developed during the 2006-2007 school year. The bill requires mechanisms for credit recovery, alternative methods of instructional delivery, summer academies for struggling students, and appropriate academic and career planning. The bill also revises course weighting requirements, beginning with students entering grade 9 in the 2006-2007 school year, by eliminating honors courses from equal weighting with Advanced Placement (AP) and dual enrollment courses and adding International Baccalaureate and Advanced International Certificate of Education to an equal weighting level with AP and dual enrollment.

Middle school reform includes increased academic requirements, support mechanisms for struggling students, alternative curriculum delivery for non-traditional learners, acceleration opportunities for advanced students, and comprehensive career exploration to culminate in the development of individual academic and career plans prior to entry into the 9th grade. Each middle school is required under the bill to offer at least one high school level course for acceleration purposes. Requirements for promotion from middle to high school for students entering 6th grade in the 2006-2007 school year include:

- Three middle school or higher courses in English;
- Three middle school or higher courses in Math;
- Three middle school or higher courses in Social Studies to include the study of state and federal government and civics education;
- Three middle school or higher courses in Science; and
- One course in comprehensive career exploration to culminate in the development of a 4-to-5-year academic plan.

High school reform includes increased academic requirements and an emphasis on student pursuit of major and minor areas of interest based on individual student academic plans

developed in the middle grades. Reform must include small learning communities and industry-focused career academies to address the academic needs of struggling students, non-traditional learners, and those capable of advanced and postsecondary coursework. Requirements for graduation from high school for students entering high school in the 2007-2008 school year include:

- Four credits in English;
- Four credits in Math, one of which must be at the Algebra I level or higher;
- Three credits in Science, two of which must include a laboratory component;
- Three credits in Social Studies to include American history, world history, economics, and American government;
- One credit in fine arts;
- One credit in physical education to include the integration of health; and
- Eight credits in major and minor areas of interest or electives.

The bill requires that students scoring Level 1 on the Florida Comprehensive Assessment Test (FCAT) reading be provided with intensive reading courses and that students scoring Level 1 or 2 on FCAT Math and those scoring Level 2 in Reading be provided with remediation specific to identified skills gaps.

Professional Development for Teachers and Principals

The bill requires that comprehensive district professional development plans must focus on enhancing instructional strategies to promote rigor and relevance integrated throughout the curriculum and requires the school district to develop the system in consultation with postsecondary institutions, business representatives, local education foundations, education consortia and professional education organizations. School and district-based professional development programs must be based on an analysis of student achievement data, instructional strategies to support rigor and relevance, ongoing assessment of student achievement, enhancement of content area expertise, strategies to support reading in the content area, and integration of technology that enhances teaching and learning.

The bill creates the William Cecil Golden Principal Leadership Program to emphasize and support the principal's role as an instructional leader. The professional development program ties principal leadership training directly to effective school-based professional development and classroom instruction. The bill requires the Department of Education (DOE) to disseminate research-based professional development practices based on model frameworks developed by the Southern Regional Education Board, the National Staff Development Council, and the State Board of Education, and to provide support for a collaborative network of educational leadership organizations.

Review and Refinement of Florida's Sunshine State Standards

The bill requires a review of the state adopted standards to emphasize rigor and relevance and to include participation from instructional leaders, postsecondary instructors, and Florida's business community in the review and revision process.

Reading and Literacy

The bill provides for reading instruction to be funded through the Florida Education Finance Program (FEFP) and codifies the establishment of the Just Read, Florida! Office to support district implementation of comprehensive reading plans, train teachers and principals in reading research and instructional strategies, create multiple designations and credentials for reading teachers, review teacher certification exams, and to work with teacher preparation programs to ensure integration of reading research.

Exceptional Students (ESE)

The bill provides that the home state or parent of an out-of-state exceptional student who attends an in-state educational facility is responsible for the cost of such instruction or services. Under the bill, ESE students are required to take the FCAT unless exempted under the student's Individual Education Plan (IEP). A special exemption from testing requirements for graduation may also be granted in extraordinary circumstances by the Commissioner of Education. The bill requires the DOE to implement an alternative assessment for measuring the competency of students seeking a special diploma and requires the learning gains of exceptional students seeking a special diploma to be included in each school's school grade calculation by the 2009-2010 school year. The bill also specifies that accommodations that are not allowed during administration of the FCAT may be used during classroom instruction if the use of the accommodation is included in the student's IEP. The bill requires the DOE to develop in collaboration with school districts an electronic individual education plan (IEP) system for possible statewide use.

Paperwork Reduction

The bill supports the findings of the Paperwork Reduction Task Force, eliminating duplicative paperwork and data collection requirements and requiring school districts to appoint a teacher representative to gather suggestions from teachers on potential paperwork reduction solutions.

Other Education Issues

The bill implements educational reform by:

- Establishing the Ready to Work Initiative to evaluate skills and credentials to students in specific occupations through assessments;

- Providing that school districts may not be penalized for using co-teaching strategies under the class size requirements with certain limitations to ensure effective instruction;
- Establishing secondary school comprehensive career and professional academies to support learning and to prepare students for postsecondary education and careers;
- Raising the standard for eligibility for accelerated high school graduation options;
- Providing for alternative school rating and grading based on student learning gains;
- Revising the social studies requirements to emphasize civics education and American government and history;
- Requiring differentiated pay policies for instructional and administrative personnel beginning with the 2007-2008 school year;
- Providing that school districts may not begin the school year earlier than 14 days prior to Labor Day;
- Prohibiting a private entity from administering a failing alternative school if the entity changes the character of the student population;
- Providing flexibility to the Board of Governors or its designee in establishing tuition for graduate, professional, and out-of-state students;
- Requiring district school board approval of a staff development plan relating to effective implementation of newly adopted instructional materials programs; and
- Revising the deadline by which district school boards must act on superintendent's personnel nominations.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-1; House 90-24

SCHOOL CHOICE

HB 75 — McKay Scholarships/Disabilities

by Rep. Bilirakis and others (SB 1152 by Senators Haridopolos and Crist)

The bill revises the eligibility criteria for students to participate in the John M. McKay Scholarships for Students with Disabilities Program (the McKay program). In particular, the bill:

- Provides for the eligibility of students with dyslexia, dyscalculia, or developmental aphasia;

- Provides that hospitalized or homebound students are not eligible to participate in the program;
- Provides for the eligibility of students from the Florida School for the Deaf and the Blind, the method for calculating the scholarship amount, and the reporting requirements for school districts;
- Provides for the eligibility of students exiting a Department of Juvenile Justice (DJJ) commitment program, the method for calculating the scholarship amount, and the reporting requirements for school districts;
- Provides that a DJJ student may not receive a scholarship while he or she is enrolled in school in a commitment program; and
- Eliminates the provision authorizing partial payment of tuition.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 119-0

HB 135 — Charter Schools

by Rep. Greenstein and others (CS/CS/CS/SB 1030 by Education Committee; Education Appropriations Committee; Judiciary Committee; and Senator Wise)

This bill creates the Florida Schools of Excellence (FSE) as an independent, state-level entity to approve charter school applications, under the supervision of the State Board of Education.

FSE Membership

The State Board of Education staffs the FSE based on appointee recommendations by the Governor, Senate President, and House Speaker. Experience is required in finance, administration, law, education, or school governance, and members must hold, at minimum, a bachelor's degree.

Powers and Duties of the FSE

This bill grants the FSE the following powers and duties:

- Authorize and sponsor charter schools, and authorize municipalities, state universities, community colleges, and regional educational consortia to cosponsor charter schools;
- Conduct facility, curriculum, performance, and financial reviews of charter schools;
- Develop and promote best practices and charter school accountability;
- Actively seek supplemental funding;

- Focus on service to low-income, low-performing, gifted, and disabled populations;
- Train charter school governing bodies regarding best practices, public record requirements, and requirements of statute and State Board of Education Rules; and
- Provide optimal access to parents, including maintaining a user-friendly website.

Chartering Authority

Charter school applicants are authorized to apply to the FSE only if the local school district has not retained exclusive authority. Otherwise, the FSE and the school district share concurrent authority, with each entity responsible individually for the charter schools it approves.

Exclusive Authority

This bill authorizes a district school board to retain exclusive authority to authorize charter schools in its jurisdiction, upon a showing of fair and equitable charter school treatment within the past four years, and approval by the State Board of Education, subject to challenge.

Sponsor Immunity From Liability

Regarding acts or omissions not under the direct authority of sponsors, state civil immunity is granted to sponsors for personal injury, property damage, or death due to an act or omission of an officer, employee, agent, or governing body of the charter school act or omission, including employment actions.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 34-6; House 89-25

CS/CS/SB 256 — Scholarship Program Accountability

by Government Efficiency Appropriations Committee; Judiciary Committee; and Senators King, Wise, Atwater, and Crist

This bill provides for fiscal and academic accountability in the John M. McKay Scholarships for Students with Disabilities (McKay) Program and the Corporate Tax Credit Scholarship (CTC) Program. The bill revises the eligibility requirements for participating private schools to include criminal background checks of private school personnel, annual registration of schools, a notarized sworn compliance statement, and evidence of criminal background checks. In addition, private schools are subject to random site visits to verify compliance with criminal background screening requirements, fingerprint results, teacher credentials, and student attendance. The bill prohibits a home school from participating in the programs.

The bill provides the Department of Education (DOE) with additional authority and responsibilities for administering the programs, establishes a process for persons to notify the DOE of violations by private schools, and requires the DOE to investigate substantiated complaints. The bill requires the Commissioner of Education to deny, suspend, or revoke the participation of any private school that fails to meet the statutory requirements. A private school that is adversely affected by the denial, suspension, or revocation of participation in the McKay or CTC program may file for a hearing.

Under the bill, parents must endorse payment warrants and may not allow a private school to act as an attorney-in-fact for purposes of endorsement. A student may not simultaneously receive a scholarship under the McKay Program, the Opportunity Scholarship Program, or the CTC program.

Changes to the McKay Scholarship Program include the following:

- Providing for the eligibility of students with dyslexia, dyscalculia, or developmental aphasia, students from the Florida School for the Deaf and the Blind, students who participated in Department of Juvenile Justice (DJJ) commitment programs the previous year, and students who are developmentally delayed;
- Providing funding calculations for students who qualified for a McKay scholarship based upon their attendance at the Florida School for the Deaf and the Blind or a DJJ commitment program;
- Providing that hospitalized or homebound students are not eligible to participate in the program;
- Prohibiting scholarships for virtual schools, correspondence schools, or distance learning programs that receive state funding, or for students who do not have regular contact with their teachers at a school's physical location;
- Clarifying the obligations of school districts, private schools, parents, and students;
- Providing that a scholarship ends at age 22 or upon graduation from high school, whichever occurs first; and
- Prohibiting a public school district from modifying a student's matrix, except for technical and calculation edits.

Changes to the Corporate Tax Credit Scholarship Program include the following:

- Reducing the amount of credit set aside for small businesses from five percent to one percent;
- Requiring a nonprofit scholarship-funding organization (SFO) to obligate, rather than spend in the same fiscal year in which the contribution was received, 100 percent of the

contributions to provide scholarships, provided that up to 25 percent of the total contributions may be carried forward for scholarships to be granted in the following fiscal year;

- Authorizing a taxpayer to rescind its application for a CTC credit;
- Requiring an SFO to file its audit with the Auditor General and the DOE within 180 days after completion of the SFO's fiscal year;
- Providing for the transfer of funds, with prior approval by the Department of Education, to another eligible SFO if additional funds are needed to meet scholarship demand;
- Requiring an SFO to maintain separate accounts for scholarship funds and operating funds;
- Requiring criminal background checks of owners and operators of SFOs;
- Eliminating certain private schools such as correspondence schools and distance learning from the list of eligible private schools under the CTC program;
- Allowing current scholarship students to continue participating in the CTC program if parental income exceeds the current eligibility requirements, as long as the income does not exceed 200 percent of the federal poverty level;
- Allowing students who received a scholarship from the State of Florida the previous year to receive the same priority in awarding of scholarships as students who received a CTC scholarship the previous year, subject to the low-income eligibility requirements under the CTC program;
- Requiring a private school to annually administer or make provisions for scholarship students to take a nationally norm-referenced test that compares to the Florida Comprehensive Assessment Test;
- Increasing the CTC tuition scholarship amount from $3,500 to $3,750; and
- Requiring a public university or other independent research entity to report year-to-year improvements in student performance without disclosing a student's identity.

If approved by the Governor, these provisions take effect July 1, 2006, except as otherwise provided.
Vote: Senate 37-0; House 95-21

SB 1282 — K-8 Virtual School Program

by Senators Carlton, Bullard, Bennett, Baker, Diaz de la Portilla, Constantine, Fasano, Webster, King, Posey, and Haridopolos

This bill establishes the K-8 Virtual School Program to deliver academic instruction using online and distance learning technology to full-time students in kindergarten through eighth grade. The bill provides program requirements for student and school eligibility, conditions for participating in the program, funding, and student assessment. The bill also provides for school accountability and grounds for nonrenewal and termination of contracts with participating schools. Finally, the bill provides for the continued participation of current K-8 virtual schools.

Student Eligibility

The bill provides that any K-8 student in Florida is eligible to enroll in a participating K-8 Virtual School, if the student meets one of the following conditions:

- The student has spent the prior school year in attendance at a Florida public school and was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys;
- The student was enrolled during the prior school year in a K-8 virtual school funded by law or the 2005 General Appropriations Act;
- The student is eligible to enroll in kindergarten or the first grade; or
- The student has a sibling who is currently enrolled in a K-8 virtual school and was enrolled at the end of the prior school year.

Students enrolled in a K-8 virtual school are subject to the compulsory school attendance requirements of s. 1003.21, F.S., and must take the statewide assessments required under s. 1008.22, F.S. The bill requires the student's school district of residence to provide the student with access to the district's testing facilities.

School Eligibility

To participate in the K-8 Virtual School program, a school may be a for-profit or nonprofit entity and must meet all of the following conditions:

- Be nonsectarian in its programs, admission policies, employment practices, and operations;
- Comply with the antidiscrimination provisions of s. 1000.05, F.S.;
- Participate in the state's performance accountability system pursuant to s. 1008.31, F.S.;
- Locate its administrative office in the state;

- Require all administrative and instructional personnel to be Florida residents; and
- Require no tuition or student registration fee.

Under the bill, virtual schools are independent schools that provide instruction on behalf of the state for 180 days of full-time instruction. All participating schools must provide each student with all necessary instructional materials and equipment.

Assessment Accountability

Schools must participate in the statewide assessments and are subject to the school grading system provisions in s. 1008.34, F.S. A participating school that is designated with a performance grade of "D" or "F" must develop and file a school improvement plan with the Department of Education (DOE). If a school is designated with a performance grade of "D" or "F" for 2 school years in a consecutive 4-year period, the DOE must terminate the contract with the school.

Funding

Funding must be based on a total program enrollment and the amount per full time equivalent that is established in the General Appropriations Act. Funds must be disbursed according to the schedule specified in the bill. Payment is contingent upon verification of student enrollment and attendance.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 108-9

HB 7103 — Charter Schools

by Choice and Innovation Committee and Rep. Stargel and others (CS/SB 2424 by Education Committee and Senator Webster**)**

This bill amends the Financial Emergencies Act to include procedures and requirements to assist charter schools whose financial conditions are deteriorating. In general, the bill would ensure charter school financial information is provided by an auditor in a timely fashion and is available to the members of a charter school's governing board. Duties and certain procedural requirements for the governing board of a charter school are detailed.

The bill also makes changes for charter schools in the areas of charter applications, reviews, and appeals, sponsor duties, causes for termination and nonrenewal of a charter, and facilities. Specifically, the bill provides for the following:

- Granting a 15-year charter renewal for high performing and fiscally solvent charter schools;

- Imposing a series of escalating requirements to assist low performing schools;
- Requiring conversion charter schools to use facilities that comply with the State Requirements for Educational Facilities, if agreed to by the school district and the school; and
- Authorizing school boards, at their discretion, to levy the two mills for district schools, including charter schools.

The Legislature must review the operation of charter schools during the 2010 legislative session.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-1; House 112-3

POSTSECONDARY EDUCATION AND FINANCIAL AID

CS/SB 122 — Tuition Waivers/Purple Heart

by Education Appropriations Committee and Senators Fasano, Lynn, Atwater, and Crist

This bill provides an undergraduate tuition fee waiver to recipients of Purple Hearts or other superior combat decorations. The student is authorized to use the fee waiver at state universities or community colleges. To qualify, the recipient must comply with the following conditions:

- Be enrolled full-time, part-time, or as a summer school student in an undergraduate program that culminates in a degree or certificate;
- Qualify as an in-state resident, both currently and at the time of military action resulting in the decoration or award; and
- Provide the state university or community college with the DD-214 form issued at the time of separation from service, to demonstrate receipt of the award.

The fee waiver is applicable for 110 percent of the number of required credit hours of the degree or certificate program in which the student is enrolled.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 118-0

HB 263 — Florida Prepaid College Program

by Rep. Mealor and others (CS/CS/SB 550 by Education Appropriations Committee; Education Committee; and Senators Baker, Diaz de la Portilla, and Campbell)

This bill renames the Florida College Prepaid Program as the Stanley G. Tate Florida Prepaid College Program (Florida Prepaid). Options are expanded for students to use their Florida Prepaid funds at for-profit independent colleges and universities, provided that the schools meet the same requirements as qualifying not-for-profit institutions. For-profit institutions that advertise are required to include a disclaimer of endorsement where the advertisement references Florida Prepaid.

The Florida Prepaid Scholarship Program is also extended to allow funds to be used for other scholarship programs, provided they are approved by the Florida Prepaid College Board, and that matching funds are obtained only from the private sector. Regarding the scholarship program, this bill:

- Clarifies that the direct-support organization created by the Florida Prepaid College Board (Board) administers the Florida Prepaid Tuition Scholarship Program;

- Requires the Board to establish criteria for the approval of additional scholarship programs funded through escheated funds; and

- Requires the direct-support organization's annual report to include a list of additional approved scholarship programs, description of the programs, and the amount of escheated funds used to fund the programs.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 113-1

HB 795 — Student Financial Assistance

by Rep. Flores and others (CS/CS/SB 1750 by Education Appropriations Committee; Education Committee; and Senators Lawson, Bullard, Lynn, Miller, Wilson, Dawson, and Hill)

This bill creates the First Generation Matching Grant Program to provide state university matching grants to undergraduate students who demonstrate financial need, meet eligibility requirements, and whose parents have not earned a baccalaureate degree or higher.

The bill provides that the amount of the grant award shall be based on the student's need assessment after other awarded scholarship or grant aid has been applied. An award may not exceed the institution's estimated annual cost of attendance for the student to attend the institution.

The bill allows for certain costs associated with adult norm-referenced testing accommodations for students with documented learning disabilities under the Individuals with Disabilities Education Improvement Act of 2004 or the Americans with Disabilities Act of 1990.

The bill provides for a recurring appropriation of $6.5 million from the General Revenue Fund for the First Generation Matching Grant Program.

The bill also provides that first-generation community college students may be eligible for a scholarship under the Dr. Philip Benjamin Matching Grant Program.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 112-3

CS/SB's 1086 and 1604 — Building Designations

by Governmental Oversight and Productivity Committee and Senators Jones, Lawson, Campbell, and Aronberg

This bill authorizes the naming of buildings and facilities for individuals associated with universities and state facilities. Specifically, this bill names buildings at Florida State University (FSU) for five individuals: the "Reubin O'D. Askew Student Life Center;" the "Sherrill Williams Ragans Hall;" the "John Thrasher Building;" the "Mike Martin Field at Dick Howser Stadium;" and the "JoAnne Graf Field." An entrance pavilion at the John and Mable Ringling Museum of Art at the FSU Center for Cultural Arts in Sarasota is named the "John M. McKay Visitors' Pavilion."

The bill names buildings at the University of Florida for two individuals: the "Steinbrenner Band Hall" and the "L.E. 'Red' Larson Dairy Science Building." The bill designates a laboratory for the College of Engineering as the "Powell Family Structures and Materials Laboratory" and a proposed building to house the Bob Graham Center and other programs as the "Jim and Alexis Pugh Hall."

Four buildings associated with Florida Agricultural and Mechanical University (FAMU) are named for individuals: the "Sybil C. Mobley Business Building;" the "Margaret W. Lewis/Jacqueline B. Beck Allied Health Building;" the "Walter L. Smith Architecture Building;" and the "Carrie Meek/James N. Eaton, Sr., Southeastern Regional Black Archives Research Center and Museum." The FAMU-FSU College of Engineering Building is named as the "Herbert F. Morgan Building."

Under the bill, four buildings associated with Florida Gulf Coast University are named for individuals: the "Kleist Health Education Center;" "Herbert J. Sugden Hall;" "Holmes Hall;" and "Lutgert Hall." The bill names the new alumni center at Florida Atlantic University's Boca

Raton campus as the "Marleen and Harold Forkas Alumni Center" and the art museum on the campus of Florida International University as the "Patricia and Phillip Frost Art Museum."

The building which will house the Children's Medical Services of the Department of Health on the University of South Florida (USF) campus is named the "John S. Curran, M.D., Children's Health Center." The bill designates Coquina Hall on the campus of USF St. Petersburg as "H. William Heller Hall."

The bill also makes the following designations:

- "William W. 'Bill' Hinkley Center for Solid and Hazardous Waste Management" in Gainesville;
- "Hodges Stadium" at the University of North Florida; and
- "Joseph P. D'Alessandro Office Complex" in Fort Myers.

If approved by the Governor, these provisions take effect July 1, 2006, with the exception of the provisions for Dr. Curran and Dr. Heller, which take effect upon the effective date of the their retirement, resignation, or termination of employment with USF and USF St. Petersburg, respectively.
Vote: Senate 35-0; House 119-0

HB 1237 — Postsecondary Education Programs

by Rep. Mealor and others (CS/CS/SB 2084 by Education Appropriations Committee; Commerce and Consumer Services Committee; and Senators Alexander, King, Klein, Crist, and Lynn)

The bill creates the 21st Century Technology, Research, and Scholarship Enhancement Act.

The bill creates three programs:

- The 21st Century World Class Scholars Program to provide state matching funds to attract to a Florida research university or center a principal researcher/investigator who has high academic credentials and demonstrated competence;
- The Centers of Excellence Program to foster and promote the research required to develop commercially-promising, advanced, and innovative science and technology and to transfer those discoveries to commercial sectors; and
- The State University System Research and Economic Development Investment Program, to provide matching funds to eligible institutions to construct and acquire research facilities and specialized equipment to support research and foster economic development.

The bill establishes the Florida Technology, Research, and Scholarship Board within the Board of Governors of the State University System (BOG) to recommend to the BOG methods for implementing and administering two of the programs created in the bill, the 21st Century World Class Scholars Program and the Centers of Excellence Program. The BOG must provide staff support and other support for the 11-member board. The Governor must appoint five members to the board, one of whom the Governor must appoint as the chair. The President of the Senate and the Speaker of the House of Representatives must each appoint three members to the board. The board must submit to the Governor and Legislative leaders an annual report, in cooperation with the BOG and the state universities or research centers receiving funding under this bill. The report must include a copy of an independent audit of the board.

To be eligible for matching funds from the 21st Century World Class Scholars program, a state university must raise a minimum of $1 million. The following entities may submit proposals for a center of excellence:

- Any state university;
- Any private university;
- The H. Lee Moffitt Cancer Center and Research Institute;
- The Florida Institute for Human and Machine Cognition, Inc.; and
- Any community college, training center, or other public or private research center in Florida that coordinates with a state university for that purpose.

The eligibility criteria for the State University System Research and Economic Development Investment Program are established at Level 1 and Level 2. To be eligible for Level 1 funding, a university must:

- Award more than 250 nonprofessional doctoral degrees;
- Have more than 200 postdoctoral appointees in science and engineering;
- Have an undergraduate graduation rate of 40 percent or higher;
- Expend at least $100 million from externally awarded contracts and grants;
- Have a record of securing patents and licenses leading to products in the marketplace over the past five years;
- Have at least 75 percent of the freshman class eligible to receive Bright Futures Scholarships; and
- Be classified as a research university with very high research activity according to the 2005 Carnegie Classifications.

To be eligible for Level 2 funding, a university must:

- Expend at least $100 million from externally awarded contracts and grants;

- Have a record of securing patents and licenses leading to products in the marketplace over the past five years;
- Have at least 75 percent of the freshman class eligible to receive Bright Futures Scholarships; and
- Be classified as a research university with very high research activity according to the 2005 Carnegie Classifications.

A university may not participate in Level 1 and Level 2 funding simultaneously.

The bill appropriates $95 million to the Board of Governors of the State University System for FY 2006-2007 for the following purposes:

- $20 million for the 21st Century World Class Scholars Program;
- $30 million to the Centers of Excellence Program;
- $36.5 million for funding Level 1 of the State University System Research and Economic Development Investment Program; and
- $8.5 million for funding Level 2 of the State University System Research and Economic Development Investment Program.

The bill appropriates $8 million to the University of South Florida for FY 2006-2007 for enhancing graduate programs.

The bill also appropriates $5 million to the State Board of Education for FY 2006-2007 for the Dr. Philip Benjamin Matching Grant Program for Community Colleges to match donations for scholarships for first-generation-in-college students.

The bill creates two medical schools, one at the University of Central Florida and one at Florida International University.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 113-0

SB 2434 — Travel to Terrorist States

by Senator Haridopolos

The bill prohibits a community college or state university from using certain funds to implement, organize, direct, coordinate, or administer, or to support the implementation, organization, direction, coordination, or administration of, activities related to, or involving, travel to a terrorist state. The bill also prohibits a private college or university in Florida that receives state funds from using those funds for travel to a terrorist state. The bill defines a "terrorist state" as any state, country, or nation designated by the United States Department of State as a state sponsor of

terrorism. Currently, the State Department assigns that designation to six countries: Cuba, Iran, Libya, North Korea, Sudan and Syria.

The bill also prohibits the authorization of state-funded travel expenses for public officers or employees for implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 120-0

HB 7063 — Open Government Sunset Review/Alzheimer's Center and Research Institute

by Governmental Operations Committee and Rep. Rivera (CS/SB 2066 by Governmental Oversight and Productivity Committee and Education Committee)

This bill reenacts the public records exemption for the Alzheimer's Center and Research Institute. The public records exemption is revised to remove information that is already confidential and exempt by other statutory provisions.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 120-0

SCHOOL HEALTH AND SAFETY

HB 127 — Immunizations

by Rep. Hays and others (CS/SB 2688 by Education Appropriations Committee and Senator Haridopolos)

The bill requires the Department of Education (DOE) to include information about the immunizations that are required for school entry and the recommended immunization schedule in the guidelines it develops for a parent guide to successful student achievement. The guidelines must also include resources for information on student health and other available resources for parents. The guidelines must provide detailed information on meningococcal disease including, causes, symptoms, transmission, and vaccinations in accordance with recommendations of the Advisory Committee on Immunization Practices of the U.S. Centers for Disease Control and Prevention. The school districts must disseminate a parent guide consistent with the DOE guidelines. The governing authority of each private school must provide the same immunization information.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 119-0

HB 1291 — Weapons

by Rep. Poppell and others (SB 2438 by Senator Haridopolos)

This bill revises the definition of a weapon pursuant to s. 790.001(13), F.S., to include the term knife and to exclude plastic knives or blunt-bladed table knives so that a student would not commit a third-degree felony for possessing a plastic or blunt-bladed table knife on school grounds.

The bill expands the prohibition on exhibiting a weapon or other certain items in a rude, careless, angry, or threatening manner to include a common pocketknife on school grounds or within 1000 feet of school real property.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 119-0

ATHLETICS

HB 7119 — Student Athlete Recruiting

by PreK-12 Education Committee and Rep. Arza and others (CS/SB 2558 by Education Committee and Senator Saunders)

The bill delays the effective date until July 1, 2007, for implementing the Florida High School Athletic Association's (FHSSA) revised bylaws for the residence and transfer of student athletes. The bill also creates a student athlete recruiting task force to review issues related to recruiting secondary school student athletes. The bill provides for the appointment of task force members and staff for the task force. The task force's recommendations must be submitted to the presiding officers of the Legislature and the Governor by January 1, 2007.

In addition, the Office of Program Policy Analysis and Government Accountability (OPPAGA) must independently review secondary school recruiting violations among FHSSA's member schools. To support the task force's work, the bill provides an appropriation of $60,000 from General Revenue to fund OPPAGA in 2006-2007.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 108-0

CS/SB 162 — Bob Martinez Center/DEP

by Governmental Oversight and Productivity Committee and Senator Fasano

This committee substitute designates the site at 2600 Blair Stone Road in Tallahassee, which houses offices and a laboratory facility for the Department of Environmental Protection as the "Bob Martinez Center."

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 118-0

SB 496 — Citrus/Hernando Waterways Restoration Council

by Senators Argenziano and Fasano

This bill adds two additional members to the Citrus/Hernando Waterways Restoration Council. Currently, there must be a waterfront property owner from each county. This bill would require two waterfront property owners from each county, one of whom must be a property owner from the east side of the county and one of whom must be a property owner from the west side of the county.

The bill also broadens the jurisdiction of the two separate county task forces from the council. Currently, the Hernando County Task Force must develop plans for the restoration of the Weeki Wachee River and Springs. This bill would require this task force to develop plans for the restoration of all waterways in Hernando County. Also, the Citrus County Task Force is currently required to develop plans for the restoration of the Tsala-Apopka Chain of Lakes. This bill provides that this task force is to develop plans for the restoration of all waterways in Citrus County.

The task forces consisting of governmental representatives are expanded to include a representative of the public works department of each county.

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

CS/SB 876 — William W. "Bill" Hinkley Center

by Environmental Preservation Committee and Senator Smith

This committee substitute designates the Florida Center for Solid and Hazardous Waste Management in Gainesville as the "William W. 'Bill' Hinkley Center for Solid and Hazardous

Waste Management." The Department of Environmental Protection and the University of Florida Foundation, will erect suitable markers to reflect the designation.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

CS/CS/SB 1090 — Water Well Contractors

by General Government Appropriations Committee; Environmental Preservation Committee; and Senator Baker

This committee substitute authorizes a licensed water well contractor to facilitate the performance of additional work that is incidental to the construction, repair, or abandonment of a water well. The incidental work is limited to the electrical connection of a pump, connecting a well to a residential dwelling, constructing a pump house or pump vault of 100 square feet or less, constructing a nonstructural well slab of 100 square feet or less, constructing fencing, and landscaping. This does not authorize a licensed water well contractor to perform any services or work for which a license under ch. 489, F.S., is required.

If a water well contractor has received his or her first license within 180 days before the end of the biennium renewal of licenses, the continuing education requirements are waived for the first renewal cycle. The Department of Environmental Protection shall establish, by rule, an administrative fee to cover the costs of administering the continuing education requirements.

Notwithstanding the renewal requirements, any active water well contractor license issued to a servicemember or his or her spouse, may not become inactive while the servicemember is serving on military order which takes him or her over 35 miles from his or her residence and shall be considered an active license for up to 180 days after the servicemember returns to his or her Florida residence. Any additional costs or late fees above the normal license fees may not be charged under certain circumstances.

The water management district may impose, through an order, an administrative fine not to exceed $5,000 against an unlicensed person when it determines that the unlicensed person has engaged in the practice of water well contracting, for which a license is required.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 120-0

CS/CS/SB 1958 — Airboats

by Community Affairs Committee; Environmental Preservation Committee; and Senators Aronberg, Baker, and Posey

This committee substitute provides that the exhaust of every internal combustion engine used on any airboat operated on the waters of this state shall be provided with an automotive-style factory muffler, underwater exhaust, or other manufactured device capable of adequately muffling the sound of the exhaust of the engine. The use of cutouts or flex pipe as the sole source of muffling is generally prohibited. Any person who violates this provision commits a noncriminal infraction. An airboat operator cited for an infraction of this provision may not operate the airboat until a muffler is installed.

An airboat may not operate on the waters of the state unless it is equipped with a mast or flagpole bearing a flag at a height of at least 10 feet above the lowest portion of the vessel. The flag must be square or rectangular, at least 10 inches in size, international orange in color, and displayed so that the visibility of the flag is not obscured in any direction. Any person who violates this provisions commits a noncriminal infraction.

The provisions of this committee substitute do not apply to any person participating in an event for which a permit is required, or of which notice must be given.

The committee substitute further provides that effective July 1, 2006, any ordinance or local law adopted pursuant to s. 327.60, F.S., or any other state law, may not discriminate against airboats except by a two-thirds vote of the governing body enacting such ordinance.

If approved by the Governor, these provisions take effect October 1, 2006, except as otherwise expressly provided in this act.
Vote: Senate 33-0; House 119-0

HB 125 — Voter Registration/FWC

by Rep. Evers and others (CS/CS/SB 208 by Transportation and Economic Development Appropriations Committee; Environmental Preservation Committee; and Senators Baker, Saunders, and Posey)

This bill requires each county Supervisor of Elections to supply voter registration applications to the Fish and Wildlife Commission (FWC) and their subagents who sell hunting, fishing, or trapping licenses and permits. The bill also requires each subagent to ask each individual if they would like a voter registration application and to make voter registration applications available.

The bill also provides that the subagents are prohibited from assisting people with the voter registration application or collecting completed applications.

The bill also provides that neither the FWCC nor their subagents shall be deemed a third-party organization or voter registration agency under state election laws.

The bill provides for a series of procedures to govern the transmission of voter registration applications between the FWCC, its subagents and supervisors of elections.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 31-8; House 110-6

HB 265 — Hunting Lands

by Rep. Brown and others (CS/SB 430 by Environmental Preservation Committee and Senators Argenziano, Baker, Haridopolos, Saunders, and Peaden)

This bill creates s. 372.0025, F.S., to require the Fish and Wildlife Conservation Commission (commission) to open all commission managed lands to hunting except for reasons of public safety, fish or wildlife management, homeland security, or as otherwise limited by law. The commission is required to exercise its constitutional and statutory authority in a manner that supports, promotes, and enhances hunting opportunities.

The commission is required to expeditiously find replacement hunting acreage to compensate for any existing hunting land closures. This land, to the greatest extent practicable, must be located in the same administrative region of the commission and shall be consistent with the hunting discipline that the commission allowed on the closed land. Any state agency or water management district that owns or manages lands is required to assist, coordinate, and cooperate with the commission to allow hunting on those lands if the commission determines that such lands are suitable for hunting purposes, and to cooperate with the commission to open new, additional hunting lands to replace lost hunting acreage. An exemption is provided for lands designated as units within the state park system. Annual reporting requirements on lands opened and closed for hunting are provided for the commission and for any state agency or water management district that owns or manages lands.

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

HB 471 — Fish and Wildlife

by Rep. Troutman and others (CS/CS/SB 2202 by Criminal Justice Committee; Environmental Preservation Committee; and Senator Baker)

This bill establishes a framework for proposed penalties applied to recreational violations of state statutes and Fish and Wildlife Conservation Commission (commission) rules relative to saltwater fisheries, and all violations of statutes and commission rules relative to hunting and freshwater

fishing violations, by creating four levels for classifying violations. The bill attempts to provide consistency among similar freshwater fish, saltwater fish, and hunting/wildlife violations and creates a sliding scale of minimum mandatory fines and sentences, with increased penalties for repeat offenders. The minimum number of hours required for successful completion of a hunter safety course is deleted but requirements for passing the course are not revised. The bill creates a hunter mentoring program to provide a one-year deferral for the hunter safety course for persons hunting with a licensed adult hunter, and creates a $5 annual crossbow season permit for residents and non-residents. Finally, the bill creates the Wildlife Violators Compact (Compact) to allow Florida to participate in a national effort to encourage compliance with fish and wildlife laws throughout the Compact's member states. The Compact provides for reciprocal recognition of license suspensions and provides that for certain violations, sportsmen who receive a citation in a member state receive the same treatment as residents of that state.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 116-2

HB 1039 — Miami-Dade County Lake Belt

by Rep. Garcia and others (CS/CS/SB 1306 by General Government Appropriations Committee; Environmental Preservation Committee; and Senator Garcia)

This bill adds back into the Miami-Dade County Lake Belt Area (Lake Belt Area) certain areas that were previously excluded from the statutorily designated Lake Belt Area boundaries. It revises the geographic boundaries for mining areas within the Lake Belt Area that are subject to the mitigation fees. The bill increases the mitigation fee that is imposed for each ton of limerock and sand that is extracted from the Lake Belt Area, and revises the procedure for increasing the fee in the future. Currently the fee is 5 cents per ton. The fee increases to 12 cents per ton on January 1, 2007, 18 cents per ton on January 1, 2008, and 24 cents per ton on January 1, 2009.

To upgrade a water treatment plant that treats water coming from Northwest Wellfield in Miami-Dade County, a water treatment plan upgrade fee is imposed within the same Lake Belt Area subject to the mitigation fee and upon the same kind of mined limerock and sand subject to the mitigation fee. The water treatment plant upgrade fee for each ton of limerock and sand sold shall be 15 cents per ton beginning on January 1, 2007, and the collection of this fee shall cease once the total amount of proceeds collected from this fee reaches the amount of the actual moneys necessary to design and construct the water treatment plant upgrade, as determined in an open, public solicitation process.

The bill expands the uses for the mitigation funds to include reimbursement to the South Florida Water Management District and Miami-Dade County for the purchase of certain lands. Also, the bill increases the frequency of reporting by an interagency committee to the Legislature from every 10 years to every 5 years. The bill names the Site 1 Impoundment Project of the Comprehensive Everglades Restoration Plan the "Fran Reich Preserve."

If approved by the Governor, these provisions take effect January 1, 2007.
Vote: Senate 40-0; House 117-0

HB 1155 — Contaminated Drycleaning Facilities

by Rep. Evers (SB 2174 by Senator Peaden)

The bill provides that a drycleaning facility at which contamination by drycleaning solvents exists and which was damaged by an accident before January 1, 1975, is eligible for the drycleaning solvent cleanup program, regardless of whether an application for eligibility was filed on or before December 31, 1998. The term "accident" is defined as an unplanned and unanticipated occurrence beyond the control of the owner or operator of a drycleaning facility which resulted in physical damage to the facility when the actions of responders to the occurrence could reasonably be determined to have caused or exacerbated contamination by drycleaning solvents at the facility.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 115-0

HB 1249 — Funding for oyster management and restoration programs

by Rep. Kendrick and others (CS/CS/SB 1208 by Government Efficiency Appropriations Committee; Environmental Preservation Committee; and Senator Lawson)

This bill repeals the 50-cents per bag surcharge on oysters harvested from the waters of the Apalachicola Bay which is paid by the wholesale dealer first receiving, using or selling the harvested oysters, and which is distributed for oyster management and restoration programs in the bay. The surcharge is replaced with a $300,000 annual transfer of the excise tax on documents to be paid into the State Treasury to the credit of the General Inspection Trust Fund in the Department of Agriculture and Consumer Services. The funds are to be used by the department for oyster management restoration programs in Apalachicola Bay and in other areas of the state where oysters are harvested.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

HB 1347 — Land Acquisition

by Rep. Williams and others (CS/CS/SB 1226 by General Government Appropriations Committee; Environmental Preservation Committee; and Senators Dockery, Clary, Smith, and Lawson)

This bill creates s. 259.1052, F.S., entitled the "Babcock Ranch Florida Forever Acquisition" to provide for the acquisition of the Babcock Crescent B Ranch (Ranch), in order to protect and

preserve for future generations the scientific, scenic, historic, and natural values of the Ranch, protect and preserve the archaeological, geological and cultural resources of the Ranch, provide for species recovery; and to provide for public recreation. The Fish and Wildlife Conservation Commission (FWC) and the Department of Agriculture and Consumer Services (DACS) are designated as the lead managing agencies. The Department of Environmental Protection (DEP) is authorized to distribute $310 million from the Florida Forever Trust Fund as payment in full for the state's portion of the Ranch, and Lee County is recognized as the state's partner in the acquisition of the Ranch.

The bill authorizes the creation of one citizen support organization (CSO) to be organized and operated for the direct and indirect benefit of the Ranch. The CSO, which must be incorporated as a non-profit corporation under the provisions of ch. 617, F.S., also must be determined by the FWC and DACS to be consistent with the goals of the state in acquiring the Ranch, and approved in writing by both agencies to be operating for the benefit of the ranch and in the best interests of the state. The FWC and DACS are authorized to adopt rules establishing conditions under which the CSO shall comply in order to use fixed property or facilities of the ranch. The bill establishes legislative findings that it is in the public interest to provide incentives for partnerships with private organizations to produce additional revenue to enhance the use and potential of the ranch. The Legislature is authorized to annually appropriate funds from the Land Acquisition Trust Fund to be used as state matching funds for capital improvement facilities development at the ranch or at designated locations. The total minimum project amount is $100,000 with a match of $60,000 in private funds and $40,000 in state funds.

The bill creates s. 259.1053, F.S., to establish the "Babcock Ranch Preserve" (Preserve) on the date the state takes title to its portion of the Babcock Crescent B Ranch. The Preserve is created, in part, to provide for the multiple use and sustained yield of the renewable surface resources within the Preserve.

The bill authorizes the creation of the Babcock Ranch, Inc. (BRI or corporation), a non-profit corporation, to operate and manage the Preserve as a working ranch when the state is ready to take over management. Nothing in the act can be construed as preventing the ability of BRI to implement agricultural practices authorized by the agricultural land use designations established in the comprehensive plans of either Lee or Charlotte counties. The corporation must be registered, incorporated, organized and operated in compliance with ch. 617, F.S., and shall act as an instrumentality of the state for purposes of sovereign immunity but shall otherwise not be an agency of the state, or a unit or entity of state government. The corporation is organized on a non-stock basis, and meetings and records of the corporation are public.

The BRI and its officers and employees will participate in the management of the Preserve only in an advisory capacity until the management agreement to be executed by the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and Babcock Ranch Management, LLC, a limited liability corporation registered to do business in this state, either expires or terminates. This management agreement, attached as Exhibit E to the Agreement for Sale and

Purchase executed by the Board of Trustees, DACS, the FWC, and Lee County as purchaser, and MSKP, III, Inc., a Florida corporation, as seller, provides for the management and conservation of the Ranch as a working ranch and silviculture operation, with cattle ranching, timber harvesting and management, a native plant nursery, apiary operations, sod farming, and related operations, eco-tourism activities, horticultural debris disposal, no harvesting of cypress trees, and tenant farming (to be phased out over time). The management agreement provides for Babcock Ranch Management, LLC, to manage the Ranch for a 5-year period, with a 5-year option.

To clarify the responsibilities of the lead managing agencies and the BRI, the agencies are directed to establish a range of resource protection values for the Preserve. The corporation shall establish operational parameters for the Ranch within the range of protection values, and shall also develop operational values for conducting the business of the Ranch. The agencies will develop land management parameters within those operational values. Also, the Division of State Lands at the DEP is directed to perform staff duties and functions for the BRI until such time as the corporation organizes to elect officers, file articles of incorporation, and exercise its powers and duties.

The BRI will be governed by a 9-member board of directors appointed by the Board of Trustees, the executive director of the FWC, the Commissioner of Agriculture, the Babcock Florida Company, and Lee and Charlotte counties, in the following manner:

- The Board of Trustees shall appoint four members of which one shall have expertise in domesticated livestock management, production, and marketing; one shall have expertise in the management of game and non-game wildlife fish populations; one shall have expertise in the sustainable management of forest lands for commodity purposes, and one shall have expertise in financial management, budget and program analysis, and small business operations.
- The executive director of the FWC shall appoint one person with expertise in hunting, fishing, non-game species management, or wildlife habitat management, restoration, and conservation.
- The Commissioner of Agriculture shall appoint one member with expertise in agricultural operations or forestry management.
- The Babcock Florida Company, or its successors or assigns, shall appoint one member with expertise in the activities and management of the Babcock Crescent B Ranch on the date of acquisition by the state.
- The Charlotte County Board of County Commissioners shall appoint one county resident who is active in an organization concerned with the activities of the Babcock Crescent B Ranch.

- The Lee County Board of County Commissioners shall appoint one county resident who has experience in land conservation and management.

All members of the board must be appointed within 90 days following the acquisition of the Ranch, and no member may be an employee of any governmental entity. With the exception of the Babcock Florida Company appointee, no appointee may be an officer, director, or shareholder in any entity that contracts with or receives funds from the BRI or its subsidiaries.

The BRI must review and approve any conservation land management plan developed for the management of the lands in the Preserve prior to the plan being submitted to the Board of Trustees for approval and implementation. Conservation land management plan requirements are revised to allow the land management plan for the Ranch to be in place no later than 2 years after the date the state takes title to its portion of the Babcock Crescent B Ranch.

The board of directors of the corporation is authorized to establish and manage an operating fund to address the corporation's unique cash-flow needs, and to facilitate the management and operation of the Ranch. Annual audits are required and reports must be submitted to the Legislature and the Auditor General within specified timeframes. Comprehensive and detailed reports of corporate operations must also be submitted to the Legislature, the Board of Trustees, and the lead managing agencies not later than January 15 of each year.

Not less than two years before the corporation assumes management of the Preserve, the BRI is directed to develop a comprehensive business plan for the management of the ranch with input from the FWC and DACS, which can only be implemented by the corporation upon expiration of the management agreement referenced above. Any final decision of the corporation to adopt or amend the comprehensive business plan must be made in open meeting. The business plan must provide for the following:

- The management and operation of the Preserve as a working ranch.
- The protection and preservation of environmental, agricultural, and other values of the Preserve.
- The promotion of high-quality hunting experiences for the public with emphasis on deer, turkey, and other game species.
- Multiple use and sustained yield of the renewable surface resources within the Preserve.
- Public use of and access to the Preserve for recreational purposes.
- The use of renewable resources and management alternatives that benefit the local communities and small businesses around the Preserve.

Also, on or before the date the state takes title to its portion of the Babcock Crescent B Ranch, the current ranch manager must provide the FWC and DACS with the management plan and the

business plan in place for the operation of the Ranch as of the date the Agreement for Sale and Purchase was approved by the Board of Trustees.

The bill provides that except for the powers of the Commissioner of Agriculture as provided in the Act, and the powers of the FWC as provided in Art. IV, s. 9 of the State Constitution, the Preserve shall be managed by the corporation and its private employees. At the request of the board of directors, the FWC and DACS may provide state employees for purposes of implementing the provisions of the Act. Any services for state employees are limited to 30 days unless the BRI provides reimbursement from corporation funds only for services rendered by the state.

The corporation may only be dissolved by an act of the Legislature, and management responsibilities will revert to the FWC and DACS upon dissolution of the corporation. Also, any cash balances in the operating fund will revert to the state's General Revenue Fund or such other state fund as may be provided under the act dissolving the BRI.

The bill provides that $310 million in nonrecurring funds is appropriated from the Florida Forever Trust Fund for the purchase of the Babcock Crescent B Ranch, and $50,000 in nonrecurring funds is appropriated from the Conservation and Recreation Lands Trust Fund in the DEP to be administered by BRI, for the operation and management of the Preserve.

Other provisions in the bill provide that Save Our Everglades bonds are on a parity with Florida Forever bonds, provide for pro rata distribution of funds for payment of debt service under certain conditions, and revise provisions of the Florida Forever Trust Fund to allow the deposit of funds for the purchase of the Babcock Crescent B Ranch, and to allow the DEP to expend those funds.

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

HB 1533 — Petroleum Contamination

by Rep. Sands and others (SB 2126 by Senator Baker)

This bill provides that until the secondary containment upgrade of underground storage tanks, as required by Rule 62-761, Florida Administrative Code, is complete at a site that currently qualifies for state cleanup funding, a subsequently discovered discharge at that site is presumed to be part of the original discharge that qualifies for state funding. However, this presumption does not apply under certain specified conditions.

Regardless of the discharge presumption provided for in this bill, a facility owner or operator is required to report all incidents or discharges in accordance with DEP rules and shall provide the DEP with a copy of all test results of storage tank and piping tightness.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 120-0

HB 7131 — Brownfields Redevelopment

by Environmental Regulation Committee and Rep. Needleman and others (CS/SB 1092 by Government Efficiency Appropriations Committee and Senators Constantine, Crist, and Lynn)

This bill amends various provisions of the Brownfield Redevelopment Act. The bill increases the percentage and amount of the tax credit that is available to entities that voluntarily cleanup contamination at drycleaning and brownfield sites, but it does not increase the overall annual cap of $2 million that is in current law. The percentage is increased from 35 percent to 50 percent and the dollar amount that may be granted per year for an applicant is increased from $250,000 to $500,000.

The tax credit may be applied only to the corporate income tax since the Legislature has repealed the intangible tax in HB 209.

The tax credit incentive that is available for the final year of cleanup to encourage the taxpayer to finish the cleanup is increased from 10 percent to 25 percent of the total cleanup costs, not to exceed $500,000.

An additional 25 percent tax credit is available for affordable housing built in a brownfield area, bringing the total tax credit percentage for affordable housing in a brownfield area to 75 percent.

Enterprise Florida, Inc. is required to aggressively market brownfields.

A local government may call a referendum to grant ad valorem tax exemptions for new or expanding businesses in a brownfield area.

The amount of the Brownfields Loan Guarantee is increased from 10 percent to 50 percent. However, if the loan guarantee is for affordable housing in a brownfield area, the guarantee amount is 75 percent.

The Brownfield Property Ownership Clearance Assistance Program and the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund are repealed. This program has not been used and the trust fund was never capitalized for that purpose.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 115-0

CS/CS/SB's 716 and 2660 — Campaign Finance/Disclosure

by Judiciary Committee; Ethics and Elections Committee; and Senators Posey, Rich, Wilson, Margolis, and Aronberg

The committee substitute significantly enhances campaign finance disclosure requirements. Specifically, the bill:

- Requires statewide officers, state legislators, and candidates for those offices that solicit funds for a 527 or 501(c)(4) that they *establish, maintain, or control* to register with the Division of Elections within 5 days, create a website with the names of persons associated with the organization, and report contributions and expenditures within 5 days on the web site.
- Defines an "electioneering communication" without regard to when it occurs.
- Requires *all* "electioneering communications organizations," or "ECOs," to register with the Division of Elections using a real street address, not a post office box, and file campaign finance reports electronically.
- Mandates ECO *registration* within 24 hours of when an ECO organizes or anticipates receiving contributions or making expenditures for electioneering communications. Electioneering *expenditures*, in turn, can occur as early as the time an organization contracts for any electioneering communications.
- Requires an ECO, within 2 days after it registers and receives its initial secure sign-on from the Department of State, to electronically file all campaign finance reports that would have been required for reportable activities dating back to the date of the last general election.
- Prohibits ECOs from using contributions received *within 5 days* of an election for that election.
- Prohibits an ECO from accepting a contribution from a 527 or 501(c)(4), other than a political party, political committee, or committee of continuous existence (CCE), unless the contributing organization has registered as if it were an ECO and filed all required campaign finance reports.
- Requires CCEs to report expenditures for personal services, salary, reimbursement for authorized expenses, and credit card transaction information on periodic campaign finance reports.
- Clarifies that "direct mail" of any kind is a "communications media" for purposes of Florida's campaign finance laws, thereby ensuring that *all* direct mail pieces that either

expressly advocate or meet the new definition of an "electioneering communication," not just the ones sent out by direct mail *companies*, will carry a sponsorship identification disclaimer.

If approved by the Governor, these provisions take effect on July 1, 2006.
Vote: Senate 39-0; House 109-5

SJR 2788 — Constitutional Officers/Term Limits

by Senators Posey and Haridopolos

Senate Joint Resolution 2788 rescinds House Joint Resolution 1177 (2005), which proposed a constitutional amendment to be voted at the 2006 general election extending term limits from 8 to 12 years for state legislators and Cabinet members whose continuous term in office began in November 2006 or thereafter. The effect of the joint resolution is to remove the proposed term limits amendment from the 2006 ballot.

This resolution takes effect immediately without the Governor's signature.
Vote: Senate 26-14; House 103-14

CS/SB 2000 — Ethics/Public Officers and Employees

by Ethics and Elections Committee and Senator Posey

The committee substitute 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 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. The bill also 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. The "revolving door" prohibition against representing a client before one's former agency is extended to include other-personal-services (OPS) employees and 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.

Finally, the bill excludes from the definition of "expenditure" in the lobbying context certain campaign related contributions and expenditures.

If approved by the Governor, these provisions, except as otherwise provided in the bill, take effect October 1, 2006.
Vote: Senate 39-0; House 119-0

BILLS IMPLEMENTING GENERAL APPROPRIATIONS

CS/SB 818 — Fuel Tax Collection Trust Fund/Distributions

by General Government Appropriations Committee and Senator Clary

The bill modifies the transfer of funds from the Fuel Tax Collection Trust Fund within the Department of Highway Safety and Motor Vehicles by decreasing the transfer of funds to the Inland Protection Trust Fund and increasing the distribution to the Florida Coastal Protection Trust Fund. The Inland Protection Trust Fund and the Coastal Protection Trust Fund are within the Department of Environmental Protection.

This bill amends s. 206.9945, F.S., and transfers the current commercial motor vehicle tax revenues distributed to the Inland Protection Trust Fund to the Florida Coastal Protection Trust Fund. This change will increase the amount of the commercial motor vehicle tax revenue to the Florida Coastal Protection Trust Fund by an estimated $2.7 million on a recurring basis. The same amount will be decreased from the Inland Protection Trust Fund.

This transfer of revenue allows the Florida Coastal Protection Trust Fund to continue supporting law enforcement activities and to renew support for the derelict vessel removal program at the Fish and Wildlife Conservation Commission. The transfer also allows the continued support of emergency response activities at the Department of Environmental Protection.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 116-0

HB 7163 — Environmental Regulation/NWFWMD

by Environmental Regulation Committee and Rep. Needelman and others (CS/CS/SB 2062 by Environmental Preservation Committee; General Government Appropriations Committee; and Senators Clary, Lawson, and Argenziano)

This bill authorizes the implementation of a phased Environmental Resource Permitting Program within the Northwest Florida Water Management District (district). The Department of Environmental Protection (department) and the district are required to jointly develop rules to regulate the construction, operation, alteration, maintenance, abandonment, and removal of stormwater management systems. The department must begin the rulemaking process no later than 60 days from July 1, 2006, and must implement the rules no sooner than January 1, 2007. The department and the district also are required to jointly develop rules for the management and storage of surface waters. The department must begin the rulemaking process no later than 60

days from July 1, 2006, and must implement the rules no sooner than January 1, 2008. The district is authorized to implement both rules without adoption.

The new rules to regulate stormwater management systems are intended to update existing rules and to apply the least restrictive measures and criteria adopted in other water management district rules. The new rules to manage and store surface waters are intended to improve the management and storage of surface waters with minimal impact on property interests while considering the rural nature, current development trends, and abundant natural resources of the district as they relate to permitting thresholds and requirements.

The bill directs the department and the district to pursue streamlining of the federal and state wetland permitting programs for purposes of providing efficient government services through consolidation of the permitting process. The department and the district must implement, to the maximum extent practicable, other permit streamlining measures such as electronic permitting, certification programs for activities with minimal individual or cumulative impacts, and informal wetland determinations.

Rules adopted and implemented by the department and the district must incorporate the following:

- Permit exemptions for agriculture, silviculture, floriculture, or horticulture; the right of persons to capture, discharge, and use water for permitted purposes; and the permit exemptions contained in s. 403.813(2), F.S.
- Exemptions from the notice and permitting requirements of ch. 373, part IV, F.S., for the construction or private use of a single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger common plan of development or sale proposed by a permit applicant, and does not involve wetlands or other surface waters.
- Exemptions and general permits established in ch. 373, part IV, F.S., which have been enacted by department or water management district rules, including the general permits authorized in s. 403.814, F.S., for projects with minimal environmental adverse effects.
- The general permit for minor activities for single family residences as provided in ch. 63-341.475(1)(f), Florida Administrative Code.
- Exemptions for the repair, stabilization, or paving of county-maintained roads existing on or before January 1, 2002, and the repair or replacement of bridges that are part of the roadway, using the exemption criteria established in s. 403.813(2)(t), F.S., notwithstanding statutory requirements that the exemption be repealed upon adoption of a statewide general permit.
- Exemptions for the alteration of a wholly-owned, artificial surface water created entirely from uplands that does not connect to surface waters of the state, except for those created for mitigation purposes.

The bill directs the department and the district to enter into an interagency operating agreement to implement an environmental resource permitting program and to provide the district with the responsibility to regulate silviculture and agriculture. The operating agreement must encourage local delegation of permitting responsibilities after considering certain provisions, including provisions under which a locally delegated program may have stricter environmental standards than the state standards. Existing statutory requirements for rules governing the management and storage of surface waters will not apply to the rule being adopted by the department and implemented by the district.

The operation and maintenance of stormwater management systems in existence prior to January 1, 2007, shall continue to be governed by the provisions of s. 373.4145, F.S., (1994), so long as permit conditions and terms continue to be met. Activities approved in a permit issued under s. 373.4145, F.S., (1994), and the review of activities proposed in permit applications received and completed prior to January 1, 2007, shall continue to be governed as provided in s. 373.4145, F.S. (1994). Any modification of the plans, terms, and conditions of a permit issued under s. 373.4145, F.S. (1994), which lessens the environmental impact, is also governed by the requirements of s. 373.4145, F.S. (1994), so long as such modification does not extend the time limit for construction beyond two additional years.

The bill directs the department to enter into negotiations on or before October 1, 2006, with any local government within the district that requests to be delegated permitting responsibilities. The department is directed to report to the Legislature on the progress of those negotiations by March 1, 2007. Protections from duplicative regulatory requirements, as established in the Agriculture Lands and Practices Act and the Florida Right to Farm Act, are affirmed. Finally, the bill appropriates $2.74 million from the General Revenue Fund for implementation of the environmental resource permitting program within the district, and provides that, in any year in which the Legislature fails to fund or fully staff the program, rules and statutes governing development activity in the district shall revert to those in effect on April 1, 2006, until such time as funding and staff levels are restored.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 118-0

TRUST FUND BILL

HB 5043 — Trust Funds

by Fiscal Council and Rep. Negron and others (CS/SB 826 by General Government Appropriations Committee and Senator Clary)

The bill terminates the Florida Preservation 2000 Trust Fund and the Quarter Horse Racing Promotion Trust Fund in the Department of Agriculture and Consumer Services.

The bill renames the Administrative Trust Fund. It becomes the Operating Trust Fund in the Department of Lottery and the Division of Administrative Hearings.

The bill renames the Contracts and Grants Trust Fund. It becomes the Federal Grants Trust Fund in the Department of Agriculture and Consumer Services.

The bill transfers accounts within the Department of Management Services Grants and Donations Trust Fund to the Operating Trust Fund.

The bill modifies the allocation of funds for the Rape Crisis Program Trust Fund in the Department of Health.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 115-0

TAXATION

SB 692 — Florida Sales Tax Relief Act

by Senators Webster, Fasano, Wilson, and Posey

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 22, 2006, through midnight on Sunday, July 30, 2006. The bill also provides that no sales and use tax will 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 22, 2006, through midnight on Sunday, July 30, 2006.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 118-1

CS/SB 792 — Communications Services Tax Returns and Accounts Information/Open Government Sunset Review

by Governmental Oversight and Productivity Committee and Government Efficiency Appropriations Committee

This bill saves from repeal an exemption from the Open Government Review Act for all information contained in returns, reports, accounts, or declarations received by the Department of Revenue pursuant to ch. 202, F.S. It makes no substantive changes to law, but reorganizes the exemption.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 38-0; House 117-0

CS/SB 1590 — Sales Tax Dealer Collection Allowance

by Government Efficiency Appropriations Committee and Senators Rich and Lynn

The bill authorizes sales tax dealers that are entitled to a collection allowance pursuant to s. 212.12, F.S., to elect to forego the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund. The election must be made with the timely filing of a return and cannot be rescinded once made. If a dealer making the election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund will be the collection allowance remaining after resolution of liability for all tax, interest, and penalty due.

If approved by the Governor, these provisions take effect January 1, 2007.
Vote: Senate 40-0; House 119-1

HB 7109 — Taxation

by Finance and Tax Committee and Rep. Brummer and others (CS/SB 854 by Ways and Means Committee and Senator Carlton)

House Bill 7109 includes the substance of CS/SB 1430, which amends ss. 193.155 and 196.031, F.S., to shield property owners whose homestead property is damaged or destroyed by a hurricane or other misfortune from increases in assessed value for property tax purposes, as long as the size of the home is not increased by more than 10 percent, or does not exceed 1500 square feet.

It also calls for a study of the impact on local property taxes of current homestead tax exemptions and assessment limitations. It requires the Department of Revenue to provide and analyze data about homestead property taxation, and analyze how portability of the Save Our Homes differential would affect relative taxes levied on all other classes of property and the distribution of the required local property tax effort for school funding. The final DOR report is due January 2, 2007.

The Office of Economic and Demographic Research is directed to prepare a report summarizing the DOR study, including findings of the study and property tax policy options that may be available to the state. An interim progress report is due February 15, 2007 to include preliminary findings and policy options to be considered during the 2007 session. The final report must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chair of the Taxation and Budget Reform Commission no later than September 1, 2007.

The bill appropriates $300,000 to the Department of Revenue for the purpose of conducting its study, and $500,000 to the Office of Economic and Demographic Research for the purpose of preparing its report.

The bill also repeals section 12 of Chapter 2005-187, L.O.F., which created the Communications Services Tax Task Force. The $600,000 appropriated to fund that task force is reverted to General Revenue.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 113-0

SB 1198 — Corporate Income Tax/2006 IRS Code

by Senator Atwater

Senate Bill 1198 updates references in Chapter 220, Florida Statutes (the Florida Income Tax Code) to reflect provisions of the U.S. Internal Revenue Code effective January 1, 2006.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 120-0

GOVERNMENT EFFICIENCY

CS/CS/SB 1678 —Governmental Operations/Agency Fees

by Governmental Oversight and Productivity Committee and Government Efficiency Appropriations Committee

The committee substitute for committee substitute for SB 1678 creates s. 216.0236, F.S., to establish a uniform policy governing regulatory program funding.

The bill requires that all costs of providing a regulatory service or regulating a profession or business be borne solely by those who receive the service or who are subject to regulation, but requires that the fees imposed be reasonable and take into account the differences in the types of professions or businesses being regulated.

The bill also requires that each state agency annually examine the fees it charges for regulatory services and oversight, as provided in the legislative budget request instructions, to determine whether:

- Operational efficiencies can be achieved in the underlying program,
- The regulatory activity is an appropriate state function, and
- The fees charged are adequate to cover both direct and indirect costs.

If any of the fees charged are not adequate to cover program costs, the bill requires the agency to include in its legislative budget request:

- Alternatives for realigning revenues and/or costs to make the regulatory program totally self-sufficient, such as changes in fee caps or outdated operational requirements, or
- Demonstrate that the program provides substantial benefits to the general public to justify a partial subsidy from other state funds.

The bill also provides for the review of the regulatory fee structure by the Legislature at least every five years.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 118-1

CS/SB 1716 — State Planning and Budgeting

By Ways and Means Committee and Senator Atwater

The committee substitute for SB 1716 conforms current statutes to the provisions of Senate Joint Resolution 2005-2144, 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 (just over 900 million for FY 2006-07). 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. 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, to make recommendations to improve government and reduce costs. The 15 member task force will be composed of members of the legislature and representatives of the public and private sectors. Five members each will be appointed by the President of the Senate, Speaker of the House of Representatives, and Governor. The task force will complete its work within one year.
- Clarifies that the Financial Impact Estimating Conference is subject to the legislative rules of notice and openness to the public.

These provisions take effect upon the effective date of the amendment to the State Constitution contained in Senate Joint Resolution 2005-2144.
Vote: Senate 39-0; House 118-0

RETIREMENT AND BENEFITS

HB 5025 — FRS Payroll Contribution Rates

by Fiscal Council and Rep. Berfield (CS/SB 1040 by Governmental Oversight and Productivity Committee)

This bill sets the employer payroll contribution rates to be imposed by the more than 850 participating employers for funding of the Florida Retirement System for FY 2006-2007. For the past several years it has become the custom for the Legislature to receive an annual plan valuation of assets and liabilities and to fix the rates to be imposed for the succeeding fiscal and plan year in separate legislation. The bill also sets default rates for effect July 1, 2007, in the event no separate rate-setting bill is passed by the 2007 Legislature. For comparison purposes the current and proposed rates are as follows:

Current and Proposed FRS Payroll Contribution Rates (%)

Retirement Class	FY 2006 Rates (Current Law)	FY 2007 (Proposed)
Regular	6.67	8.69
Special Risk	17.37	19.76
Special Risk Admin. Spt.	8.76	11.39
Elected Officers, State	11.33	13.32
Elected Officers, County	14.07	15.37
Elected Officers, Judges	17.49	18.40
Senior Management	9.29	11.96
DROP	8.22	9.80

The bill provides a statement of important state interest to effect compliance with s. 18, Art. VII, State Constitution.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 115-0

CS/CS/SB 428 — Per Diem

by Ways and Means Committee; Governmental Oversight and Productivity Committee; and Senators Lawson, Smith, Fasano, Argenziano, and Crist

The Legislature last increased the rates for per diem and meals in 1981, and the rate for mileage in 1994. The bill amends s. 112.061, F.S., effective July 1, 2006, so that:

- The $50 per diem rate for travelers would be increased to $80.

- The $3 breakfast rate for travelers would be increased to $6.
- The $6 lunch rate for travelers would be increased to $11.
- The $12 dinner rate for travelers would be increase to $19.
- The 29 cents per mile rate for travelers using a privately owned vehicle would be increased to 44.5 cents per mile.

The bill also permits specified county-level entities to enact policies that vary from the standard rates so long as those rates are not less than the authorized rates for FY 2005-2006.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 115-0

HB 1129 — Florida State Charitable Campaign

by Rep. Henriquez and others (CS/SB 2026 by Governmental Oversight and Productivity Committee and Senator Wise)

The Florida State Employees Charitable Campaign is the sole statutory mechanism for employee payroll deduction to recognized charitable service organizations. The bill amends s. 110.181, F.S., to provide that participating charitable organizations that provide direct services in a local fiscal agent's area will receive the same percentage of undesignated funds as the percentage of designated funds they receive. The undesignated funds remaining will be distributed by the local steering committee, which will be composed of state employees selected by the fiscal agent from among recommendations provided by interested participating organizations, and approved by the Statewide Steering Committee.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 119-0

GOVERNMENTAL ORGANIZATION

HB 1123 — Procurement and Purchasing Reform

by Reps. Sansom, Rubio, Cannon, and others (CS/SB 2460 by Governmental Oversight and Productivity Committee and Senator Posey)

This act provides a periodic review process for the continuation, modification, or abolition of many agencies of the executive branch of state government, including entities separately attached to the judicial and legislative branches.

The Florida Legislature has enacted many structural devices to ensure the periodic review of governmental functions and agencies. The pioneering enactments date from the 1970s and while

modified since then they have become sequentially known as the Sundown Act, Sunset Act, and Sunrise Act. Additional budget-based enactments have occurred since that time to provide succeeding Legislatures with a number of policy and financial tools to gauge the operations and sufficiency of the entities they have created and funded. The Open Government Sunset Review Act is by far the most commonly invoked of these enactments. Each year the Legislature undertakes a review process on new or existing public records exemption statutes to comply with the Florida constitutional right of access to public meetings and records.

This act creates a "Florida Government Accountability Act" and proposes an eight-year review process affecting named state agencies and their advisory bodies. It establishes a multi-member Legislative Sunset Advisory Committee to act in a review and recommending capacity for agency reviews conducted by the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA). Both OPPAGA and the advisory committee are directed to utilize specific review criteria designed to examine each reviewed agency's operations which will ultimately lead to a recommendation to the Legislature on whether it should be retained, modified, or repealed.

The act provides that a failure of the Legislature to act invokes an automatic one-year period at which time the reviewed state agency shall be subject to abolition unless specifically saved from expiration. If a decision to terminate an agency is reached, the bill provides specific safeguards for securing its property and funds and the satisfaction of any debt it has issued.

Additional changes are made to the planning and budgeting statutes, and a working group of key budget professionals from the executive and legislative branches is created to make recommendations regarding methodology used in computing activity and unit cost information for agency legislative budget requests.

The act appropriates $400,000 and five full-time equivalent positions to OPPAGA to fund the FY 2007 workload created by the act.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 89-28

HB 1145 — Official State Designations

by Rep. Evers and others (CS/SB 1494 by Judiciary Committee and Senators Bennett and Fasano)

The bill makes the phrase "In God We Trust" the official motto of the State of Florida. The bill also designates the Admiral John H. Fetterman State of Florida Maritime Museum and Research Center as the official state maritime museum.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 117-0

HB 911 — State Facilities/Emergency Shelters

by Rep. Bullard and others (CS/SB 678 by Domestic Security Committee and Senators Bullard, Siplin, Hill, Campbell, Dawson, Geller, Lawson, Miller, Klein, and Wilson)

The bill requires the Department of Management Services to compile and maintain a list of unoccupied space in state-owned facilities that is suitable for use as emergency shelter during a storm or other catastrophic event. The standard for suitability is that used by the American Red Cross for hurricane evacuation shelters.

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

SB 1756 — Succession to the Office of the Governor

by Senator Sebesta

The configuration of the Florida Cabinet was modified by the adoption of Constitutional Amendment No. 8. in November 1998. The amendment merged two Cabinet offices and eliminated two others. Specifically, the offices of the Treasurer and the Comptroller were merged into the office of the Chief Financial Officer. The amendment also removed the Secretary of State and the Commissioner of Education from the Cabinet. As a result of the adoption of the amendment, the Cabinet consists of an Attorney General, a Commissioner of Agriculture and a Chief Financial Officer.

This bill modifies the current statutory succession to the office of Governor in order to reflect changes in the size and composition of the Cabinet. The bill eliminates the Secretary of State from the succession as that office is no longer elected, but is appointed by the Governor. The bill also eliminates the Commissioner of Education from succession. Further, the Comptroller and the Treasurer are eliminated from succession to the office of Governor as those offices have been merged into the office of the Chief Financial Officer. The bill places the Chief Financial Officer in the line of succession.

Under the bill, the line of succession to the office of Governor is as follows: the Lieutenant Governor, the Attorney General, the Chief Financial Officer, and then the Commissioner of Agriculture.

This bill amends s. 14.055, F.S.

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

HB 599 — Florida Faith-Based and Community-Based Advisory Council

by Rep. Cannon and others (CS/SB 1232 by Governmental Oversight and Productivity Committee and Senators Wise and Crist)

The bill (Chapter 2006-9, L.O.F.) codifies in statute the Florida Faith-based and Community-based Advisory Council. This entity was originally created in Executive Order 04-245, issued November 18, 2004, as amended by Executive Order 05-24, issued February 1, 2005. The 25-member council is assigned to the Executive Office of the Governor for administrative purposes.

The purpose of the council is to provide advice on the development of broadly based secular and faith-based engagement in the delivery of important state services. The council may not make any recommendation that conflicts with the Establishment Clause of the First Amendment to the United States Constitution or the public funding provision of s. 3, Art. I of the State Constitution. The council is to report to the Governor and Legislature on these recommendations by February 1 of each year. The council is abolished June 30, 2011, unless reviewed and saved from repeal by the Legislature.

These provisions became law upon approval by the Governor on May 4, 2006.
Vote: Senate 39-0; House 116-3

PUBLIC MEETINGS AND RECORDS

HB 7015 — Open Government Sunset Review of Archaeological Sites Exemption

by Governmental Operations Committee and Rep. Rivera (CS/SB 1036 by Governmental Oversight and Productivity Committee)

This bill is the result of an Open Government Sunset Review of s. 267.135, F.S., which makes exempt any information identifying the location of an archaeological site contained in a site file or other record maintained by the Division of Historical Resources of the Department if the division finds that disclosure of such information will create a substantial risk of harm, theft, or destruction at such site.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 119-0

HB 7013 — Open Government Sunset Review of Copyright of Agency-created Data Processing Software Authority

by Governmental Operations Committee and Rep. Rivera (CS/SB 1038 by Governmental Oversight and Productivity Committee)

Under Florida law, agency-created data processing software is a public record. Section 119.084(2), F.S., provides general authority to agencies to copyright data processing software that they develop and to enforce their copyrights. The provision also authorizes agencies to sell or license the use of the software based upon market considerations. If, however, agency-copyrighted software is required by a user *solely* for application to public records held by that agency, the standard public record copying fees of s. 119.07(4), F.S., apply instead of the market-based fee.

The general authority permitting agencies to copyright and sell their software based upon market considerations is, in effect, an exemption from public records requirements. The public necessity statement enacted in support of the provision provides that copyright authority enables agencies to recoup production expenses, which accrues to the benefit of the public.

As the provision is still being used by a small number of agencies, and as the provision was found to meet the requirements of the Open Government Sunset Review Act, s. 119.084, F.S., the exemption was saved from repeal.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 86-32

HB 1369 — Public Records Exemption for Rejected Bids

by Rep. Evers and others (CS/SB 2316 by Governmental Oversight and Productivity Committee and Senator Sebesta)

Current law provides a public records exemption for sealed bids or proposals received by an agency pursuant to an invitation to bid or request for proposal. The sealed bid or proposal is exempt until the agency provides notice of a decision or intended decision or within 10 days after bid or proposal opening, whichever is earlier. Current law does not provide a public records exemption for an invitation to negotiate.

The bill expands the current public records exemption for sealed bids or proposals. It provides that a sealed bid or proposal remains exempt if an agency rejects all bids or proposals submitted in response to an invitation to bid (ITB) or a request for proposal (RFP) and concurrently provides notice of its intent to reopen the ITB or RFP. The bill provides for expiration of the exemption.

The bill also expands the public records exemption to include a competitive sealed reply in response to an invitation to negotiate. Further, the bill creates a public meetings exemption for a meeting at which a negotiation with a vendor is conducted. A complete recording must be made of the exempt meeting. The recording is exempt from public records requirements for a limited period.

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

CS/SB 1438 — Custodial Requirements for Public Records

by Governmental Oversight and Productivity Committee and Senator Argenziano

The bill clarifies custodial requirements for public records. It places subheadings in the section of the Public Records Law which establishes custodial requirements for public records. It also clarifies that the custodian of public records that are confidential and exempt, as opposed to records that are only exempt, may not release those records except as provided in statute or by court order. Although this clarification is the standard contained in case law, some confusion exists because some statutes making records confidential and exempt expressly state that the custodian may not release the confidential and exempt record except as provided in law, while other statutes do not. The bill makes it clear that same standard applies to each exemption that is confidential and exempt by expressly stating this standard in the Public Records Law.

The bill further specifies that an agency or other governmental entity that is authorized to receive a confidential and exempt record is required to maintain the record's confidential and exempt status. Maintaining the confidential and exempt status is consistent with limiting the release of the record.

The bill further clarifies that the provision does not limit access to any record by an agency or entity acting on behalf of a custodian, by the Legislature, or pursuant to court order.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

HB 1097 — Custodians of Public Records

by Rep. Vana and others (CS/SB 2714 by Governmental Oversight and Productivity Committee and Senators Klein and Bullard)

The bill amends the Public Records Act to require each agency head who appoints a designee to act as a custodian of public records to provide notice to the public of such designation. The notice must include the name, title, e-mail address, office telephone number, and office mailing address of the designee. It must be prominently posted in those portions of the agency offices that are accessible to the public. If the agency maintains a website, the notice must be

prominently displayed on the home page of that website and must be made available by any employee who responds to telephone calls from the public.

The bill also prohibits denying that a record exists and prohibits misleading anyone as to the existence of a public record. The bill requires a custodian or designee to respond to requests to inspect or copy records promptly and in good faith. It also requires the availability of a custodian or designee to respond to requests during regular business hours for the office having public records.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 117-1

GOVERNMENTAL OVERSIGHT

CS/CS/SB 2518 — Contractual Services/State Agency

by Ways and Means Committee; Governmental Oversight and Productivity Committee; and Senator Argenziano

The bill creates the Council on Efficient Government, and provides for the membership, powers, and duties of the council. The bill requires that an agency develop a detailed business case to outsource before a service or activity may be outsourced, and requires that an agency submit the business case to outsource to the council, the Governor, and the Legislature, before releasing the solicitation or executing the contract, when the contract will cost more than $1 million in any fiscal year. For proposals to outsource costing more than $10 million in any fiscal year, the council must conduct an analysis and provide it, before the agency releases the solicitation, to the agency proposing the outsourcing, the Governor, and the Legislature.

The bill provides specific information that must be included in all business cases to outsource, and prescribes specific additional contract requirements applicable to outsourcing contracts.

The bill provides that on contracts valued at greater than $10 million, certain contract amendments may not be executed before the agency first submits a written report on contract performance to the Governor and the Legislature. The bill specifies that when a contract is valued in excess of $1 million, one of the negotiators must be certified as a contract negotiator by the DMS, and when a contract is valued in excess of $10 million, one of the negotiators must be certified as a Project Management Professional. The bill requires that solicitations include a provision that respondents to a solicitation may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, any employee of the executive or legislative branch concerning the solicitation, except in writing to the procurement officer or as provided in the solicitation.

The bill provides that a contract may not prohibit lobbying by a contractor of the executive or legislative branch concerning the contract, during the contract term.

The bill specifies restrictions on contractor supervision of state employees, and prohibits contractor involvement in procurements in which the contractor has an interest.

The bill repeals s. 14.203, F.S., which provides the duties and functions of the State Council on Competitive Government.

The bill appropriates funds and authorizes positions for the Council on Efficient Government, and for the training of Project Management Professionals.

The bill provides that any agency under the control of the Attorney General, the Chief Financial Officer, or the Commissioner of Agriculture is subject to this act.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 116-0

CS/CS/SB 262 — Administrative Procedures

by Judiciary Committee; Governmental Oversight and Productivity Committee; and Senator Bennett

This bill amends statutory provisions relating to 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; and

- 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, 2006.
Vote: Senate 39-0; House 119-0

HB 755 — DOL/Competitive Procurement Protest

by Rep. Clarke (SB 1942 by Senator Clary)

The bill provides that in a competitive procurement protest involving the Department of the Lottery, including the rejection of all bids, an administrative law judge may not substitute his or her procurement decision for the agency's procurement decision, but must review the intended agency action only to determine if the agency action is illegal, arbitrary, dishonest, or fraudulent.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 117-0

CS/CS/SB 1632 — Agency Inspectors General

by Judiciary Committee; Governmental Oversight and Productivity Committee; and Senator Bennett

The bill creates a Council on State Agency Inspectors General in the Office of Chief Inspector General within the Executive Office of the Governor. The Council consists of the Chief Inspector General and four other Inspectors General appointed by the Governor.

The Council is tasked with developing recommendations relating to the creation of an independent review process for state agency inspector general investigations and audits. At a minimum, these recommendations must:

- Offer entities contracting with state agencies a meaningful opportunity to challenge in writing the findings, conclusions, and recommendations contained in a state agency inspector general's final report.
- Specifically identify the entities entitled to submit a response, and identify the circumstances under which the entity's response must be attached to the state agency inspector general's final report.
- Include a hearing process entitling entities contracting with state agencies with an opportunity to present to the Chief Inspector General any additional material relevant to the state agency inspector general's final report.

- Identify ancillary issues to be addressed, including but not limited to public records concerns, special conditions for whistle-blower's investigations, and exemptions for specific categories of audits or investigations.

The Council must finalize its recommendations related to these issues and report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, before January 1, 2007.

The legislation repeals on July 1, 2007.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 117-1

INVESTMENT MANAGEMENT

HB 7161 — Public Records Exemption for Alternative Investments

by Governmental Operations Committee and Rep. Rivera (CS/SB 1308 by Governmental Oversight and Productivity Committee and Senator Garcia)

This bill makes confidential and exempt proprietary confidential business information held by the State Board of Administration (SBA) regarding alternative investments for 10 years after the termination of the alternative investment, with exceptions. The SBA is the collective investment manager for more than two dozen fiduciary accounts maintained by State of Florida and local government agencies. The exemption is retroactive.

The bill defines "proprietary confidential business information," as well as specifically provides exceptions to the definition. The bill also requires verification by the proprietor that information is still proprietary confidential business information upon the receipt by the SBA of a public records request. Failure of the proprietor within a reasonable time to submit a verified written declaration that the information is proprietary confidential business information results in the loss of confidential and exempt status and permits the release of that information.

The bill also establishes a process by which any person may petition a court for an order for the release of the information. In order for such information to be made public, the court must find that the information is not a trade secret as defined in s. 688.002, F.S., that a compelling public interest is served by the release of the record which interest exceeds the public necessity for maintaining the confidentiality of the information, and that the release will not have specified adverse effects.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 36-0; House 120-0

CS/SB 1670 — State Financial Matters

by Governmental Oversight and Productivity Committee and Senator Garcia

This bill expands the authority provided the Board of Administration in statute for the conduct of its fiduciary duties as the manager of more than two dozen investment funds, including the multi-employer Florida Retirement System (FRS) and its dual track defined benefit (Pension Plan) and defined contribution plan (Investment Plan).

Investment restrictions contained in ss. 215.44-215.47, F.S., preclude a concentration of fund assets in any one asset class or the holding of large positions of a single equity or debt beyond a nominal amount. As part of its long-term investment management plan the board has advised the FRS plan trustees (Governor, Chief Financial Officer, and Attorney General) of the opportunity to adjust the statutory limits on its investment classes in order to make its investments sensitive to what it believes are changed circumstances in world-wide financial markets. CS/SB 1670 eliminates archaic language on the holding of Florida-specific mortgages and expands from twenty to twenty-five percent the permitted allocation of fiduciary funds in foreign asset classes. The legislation revises the current interest rate assumption for inter-plan transfers, that is, from Pension Plan to Investment Plan, from a fixed eight percent to a rate set annually and incorporated into the overall actuarial assumptions for the FRS. The current interest rate assumption is 7.75 percent.

The bill provides sanctions against current or former Investment Plan participants who receive a distribution from their account but do not engage in a bona fide termination of employment. When such an event occurs the board is given the authority to conduct an administrative hearing if there are disputed issues of fact.

The act changes the investment threshold for certain cash- and debt-based instruments from an institution's net worth to a rating system set by one of the several national rating systems.

The board is also given expanded authorization to sell any of its securities short, a financial strategy that permits it to borrow securities at one price in anticipation of market opportunities for overvalued or underperforming securities which will yield it a gain on the basis of a price decline over time.

Investment Plan participants may purchase prior earned armed services credit under like circumstances permitted for those individuals enrolled in the Pension Plan.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 116-2

CS/SB 394 — Social Services

by 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 2006-07. Specifically, the bill:

- Amends s. 216.181, F.S., to authorize the Agency for Persons with Disabilities (APD) to submit an amendment to adjust its full-time equivalent positions, salary rate, and related budget authority to provide sufficient infrastructure and administrative support. This provision expires July 1, 2007.
- Amends s. 393.0661, F.S., to delete provisions requiring the Agency for Health Care Administration to make certain adjustments to home and community-based services.
- Creates s. 393.0661(5), F.S., to require APD to report to the Governor and Legislature the financial status of the home and community-based service waivers and requires APD to submit a plan to make any adjustments necessary to remain within the appropriation.
- Amends s. 440.02, F.S., to delete provisions providing for the expiration of an exemption from the workers' compensation law for certain clients enrolled in the Medicaid program who are served by adult day training services.

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

HEALTH CARE PRACTITIONER REGULATION

SB 266 — Athletic Trainers

by Senator Fasano

The bill revises the licensure and license renewal requirements for athletic trainers. The bill requires athletic trainer licensure applicants to complete an approved athletic training curriculum from an accredited college or university rather than specified coursework in certain areas as approved by the Board of Athletic Training. An applicant for athletic training licensure or licensure renewal will need to show that he or she has a current CPR certification, but will no longer need to obtain certification in standard first aid. The licensure requirement for an applicant to show that he or she has obtained at least 800 hours of athletic training experience under the direct supervision of a licensed athletic trainer certified by the National Athletic Trainers' Association or comparable organization is deleted. The bill deletes an alternative licensure route for persons who could demonstrate that they had practiced athletic training for at least 3 of the 5 years preceding application on or before October 1, 1996. The alternative licensure route is defunct.

The existing exemption from 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 an athletic injuries prevention and treatment program, to delete employment classification and advancement schemes for a "first responder" and a "teacher athletic trainer." 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.

The bill adds the American Heart Association to the list of organizations from which athletic trainers can obtain cardiovascular pulmonary resuscitation certification.

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

SB 370 — Speech-language Pathology/Audiology

by Senator Peaden

The bill revises requirements for the Department of Health to issue a provisional license or license in speech-language pathology or audiology. Applicants must complete academic requirements from an institution that is, or at the time that the applicant was enrolled and graduated was, accredited by an accrediting agency recognized by the Council for Higher Education Accreditation (CHEA), the successor to CHEA, or the United States Department of Education. The bill updates the academic and clinical requirements for applicants seeking provisional licensure or licensure that were linked to the 1993 certificate of clinical competence issued by the American Speech-Language and Hearing Association to reflect changes in the academic and clinical requirements for accreditation. The Board of Speech-Language Pathology and Audiology (board) is authorized to waive the requirements for education, practicum, and professional employment experience for an applicant who has received a professional education in another country if the board is satisfied that the applicant meets the equivalent education and practicum requirements, passes the examination in speech-language pathology or audiology, as applicable, and meets other requirements.

Effective January 1, 2008, applicants for licensure in audiology must have earned a doctoral degree in audiology and applicants for provisional licensure in audiology must have earned a doctoral degree in audiology but not have passed the license examination required for a license in audiology, or have completed the academic requirement of a doctoral degree program with a major emphasis in audiology. An applicant for provisional licensure or licensure in audiology has the option to have earned a master's degree with a major emphasis in audiology, which was conferred before January 1, 2008, and such applicants may continue to be eligible for provisional licensure until 2013.

Professional employment experience requirements for speech-language pathology and audiology license applicants are revised to require such applicants to demonstrate, prior to full licensure, full-time or equivalent part-time professional employment experience. Speech-language pathology applicants must obtain 9 months of full-time or equivalent part-time professional employment. Audiology applicants must obtain 11 months of such full-time employment or its equivalent.

The bill revises the licensure by endorsement provisions to allow the board to certify as qualified for a license a speech-language pathologist or audiologist who holds a valid certificate of clinical competence of the American Speech-Language and Hearing Association or board certification in audiology from the American Board of Audiology. Speech-language pathology or audiology licensure applicants must satisfy supervised clinical requirements rather than supervised clinical "clock hour" requirements.

The bill revises certification requirements for an audiology assistant to require applicants to earn a high school diploma instead of the current statutory requirements that require applicants to

complete at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by CHEA.

An audiologist or speech-language pathologist who employs a speech-language assistant or audiology assistant must provide the assistant with a plan approved by the board for on-the-job training and must maintain responsibility for all services performed by the assistant.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 119-0

SB 372 — Hearing Aid Specialists

by Senators Peaden and Fasano

The bill deletes a requirement that hearing aid specialists make a disclosure to consumers when advertising a free, reduced fee, or discounted fee service, examination, or treatment. The disclosure provides that a patient or other person responsible for payment has a right to refuse to pay, cancel payment, or be reimbursed for payment for any service, examination, or treatment, *other than the one advertised*, that is performed as a result of and within 72 hours of the patient responding to the advertisement.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

HB 587 — Health Care Practitioners

by Rep. Galvano and others (CS/SB 416 by Health Care Committee and Senator Bennett)

The bill provides legislative findings regarding a compelling state interest in patients being informed of the credentials of the health care practitioners who treat them and in the public being protected from misleading health care advertising.

The bill creates a ground for discipline for health care practitioners regulated under the Division of Medical Quality Assurance within the Department of Health *for failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient, the type of license* under which the practitioner is practicing. Health care practitioners must also identify the type of license that the practitioner holds in any advertisement for health care services naming the practitioner. These requirements do not apply to a health care practitioner while the health care practitioner is providing services in a licensed mental health facility, hospital, ambulatory surgical center, mobile surgical facility, nursing home, or assisted living facility. Each board, or the Department of Health where there is no board, may by rule determine how its practitioners may comply with the disclosure requirements under the bill.

The bill provides that, for purposes of the doctrine of incorporation by reference, a cross-reference to s. 456.072, F.S., constitutes a general reference so that future changes to s. 456.072, F.S., will automatically apply to any laws which are amended with a specific reference to s. 456.072, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 120-0

HB 699 — Health Care Practitioners

by Rep. Negron and others (CS/SB 1216 by Health Care Committee and Senator Peaden)

The bill revises continuing education requirements on domestic violence for licensed medical physicians, osteopathic physicians, physician assistants, anesthesiologist assistants, nurses, dentists, dental hygienists, midwives, and psychotherapists. The requirement for each board for these health care practitioners to submit a report to the Legislature regarding implementation and compliance with the domestic violence continuing education requirements is eliminated. The bill requires these health care practitioners to complete a 2-hour continuing education course on domestic violence approved by the health care practitioner's board as part of every third biennial relicensure or recertification instead of every 2 years.

The bill revises the continuing education requirements on HIV/AIDS for each person licensed or certified to practice acupuncture, medicine, osteopathic medicine, chiropractic medicine, podiatric medicine, optometry, nursing, pharmacy, dentistry, nursing home administration, occupational therapy, respiratory therapy, dietetics and nutrition, or physical therapy. The bill requires these health care practitioners to take a board-approved HIV/AIDS continuing education course as a part of the initial biennial relicensure or recertification rather than every relicensure or recertification. The requirement for each board for these health care practitioners to submit a report on compliance with the HIV/AIDS continuing education requirement is eliminated.

The bill creates requirements for Florida-licensed medical physicians and osteopathic physicians who supervise an advanced registered nurse practitioner or physician assistant when the advanced registered nurse practitioner or physician assistant is not under the onsite supervision of the supervising physician. The bill specifies practice settings that are exempt from the supervision requirements and establishes notice to patients and review requirements relating to referrals of patients by a practitioner to a physician. The bill states that these provisions relating to physician supervision are self-executing and do not require or provide authority for additional rulemaking.

The bill imposes requirements on osteopathic physicians similar to those that are currently required for medical physicians to provide notice to their board when entering a formal supervisory relationship with specified health care practitioners.

The bill requires advanced registered nurse practitioners operating under a protocol with a supervising medical physician or osteopathic physician to provide notice of the protocol within 30 days of the initiation of the relationship or changes to the protocol.

The Office of Program Policy Analysis and Government Accountability must review the nursing practice act and accompanying rules to identify barriers to reducing Florida's nursing shortage. The office must consult with appropriate legislative committee staff to identify specific issues to address. The office must report its findings to the Legislature by March 1, 2007.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 119-0

HB 775 — Psychology Specialties

by Rep. Roberson and others (CS/SB 1560 by Health Care Committee and Senator Margolis)

The bill prohibits a Florida-licensed psychologist from holding himself or herself out as a certified psychology specialist, board-certified psychologist specialist, or psychology diplomate unless the psychologist has received formal recognition from a recognized certifying body. The Florida Board of Psychology must adopt rules to establish criteria for approval of certifying bodies that provide certification for specialties in the practice of psychology. The criteria must include that a certifying body: be national in scope, incorporate standards of the profession, and collaborate closely with organizations related to specialization in psychology; have clearly described purposes, by-laws, policies, and procedures; have established standards for specialized practice of psychology; provide assessments that include the development and implementation of an examination designed to measure the competencies required to provide services that are characteristic of the specialty area.

Under the bill, a Florida-licensed psychologist may indicate the services offered and may state that his or her practice is limited to one or more types of services when this accurately reflects the scope of practice of the psychologist.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

HB 819 — Radiologist Assistants

by Rep. Grant and others (CS/SB 1366 by Health Care Committee and Senator Atwater)

The bill specifies certification requirements for radiologist assistants, duties that may or may not be performed by a radiologist assistant, and regulation by the Department of Health. The regulatory provisions governing radiologic personnel under part IV, chapter 468, F.S., are revised to include radiologist assistants. "Radiologist assistant" is defined to mean a person, other than a licensed practitioner, who is qualified by education and certification, as defined in

s. 468.304, F.S., as an advanced-level radiologic technologist who works under the supervision of a radiologist to enhance patient care by assisting the radiologist in the medical-imaging environment. The Advisory Council on Radiation Protection is expanded to include a certified radiologist assistant.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 117-0

HB 1157 — Dental Hygienists/Dental Charting

by Rep. Mayfield and others (CS/SB 2178 by Banking and Insurance Committee and Senators Atwater, Rich, and Lawson)

The bill authorizes a dental hygienist, without supervision, to complete dental charting of hard and soft tissues in certain practice settings and under specified circumstances. "Dental charting" is defined to mean the recording of visual observations of clinical conditions of the oral cavity without the use of X-rays, laboratory tests, or other diagnostic methods or equipment, except the instruments necessary to record visual restorations, missing teeth, suspicious areas, and periodontal pockets.

The bill requires each person who receives a dental charting, or the parent or legal guardian of that person, to receive and acknowledge a written disclosure before receiving the dental charting, which states that the purpose of the dental charting is to collect data for use by a dentist at a prompt subsequent examination. The Board of Dentistry must approve the content of the charting and disclosure forms to be used by a dental hygienist. Both forms must emphasize the inherent limitations of a dental charting exercise, encourage complete examination by a dentist in rendering a professional diagnosis of the patient's overall oral health needs. The dental charting performed by a dental hygienist should not be substituted for a comprehensive dental examination.

The bill does not authorize direct reimbursement for dental charting by Medicaid, health insurers, health maintenance organizations, prepaid dental plans, or other third-party payors beyond what is otherwise allowed by law. A dental hygienist performing dental charting without supervision does not create a "patient of record" or a medical record.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

SB 1400 — Psychotherapist-patient Privilege

by Senator Smith

The bill revises the definition of "psychotherapist" that is used for purposes of the psychotherapist-patient privilege under the Florida Evidence Code to include an advanced

registered nurse practitioner, whose primary scope of practice is the diagnosis or treatment of mental or emotional conditions, including chemical abuse. The privilege would extend only to actions by the advanced registered nurse practitioner that are performed in accordance with the Nurse Practice Act.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 109-0

SB 1408 — Health Records

by Health Care Committee

The bill amends provisions governing the confidentiality of certain health records to define the term "records custodian" and to recognize a third party custodian of medical and pharmaceutical records. The bill requires the records custodian and any health care practitioner's employer who is a records owner to be subject to the same statutory confidentiality and disclosure requirements for the records as the licensed or regulated health care practitioner who created the records.

The bill specifies that, in lieu of certain existing requirements for "written prescriptions of medicinal drugs," an "electronically generated and transmitted prescription" must contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed in numerical format, and the direction for use of the drug. Such a prescription must be dated and signed by the prescribing practitioner only on the day issued, which signature may be in an electronic format.

The bill also provides a mechanism for prescribers using electronic prescribing to prevent the generic substitution of a prescribed brand name drug product when the brand name drug is deemed medically necessary.

The bill stipulates that electronic prescribing shall not interfere with a patient's freedom to choose a pharmacy and electronic prescribing software may not use any means or permit any other person to use any means, to influence or attempt to influence, through economic incentives or otherwise, the prescribing decision of a prescribing practitioner at the point of care. "Prescribing decision" is defined as a prescribing practitioner's decision to prescribe a certain pharmaceutical. "Point of care" is defined as the time that a prescribing practitioner or his or her agent is in the act of prescribing a certain pharmaceutical. Electronic prescribing software may show information regarding a payor's formulary as long as nothing is designed to preclude or make more difficult the act of a prescribing practitioner or patient selecting any particular pharmacy or pharmaceutical.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 118-0

CS/SB 1690 — Physician Assistants/Discipline

by Health Care Committee and Senator Saunders

The bill requires a probable cause panel of the Board of Medicine or the Board of Osteopathic Medicine convened to consider disciplinary action against a physician assistant alleged to have violated applicable grounds for discipline to include one physician assistant. The physician assistant, appointed by the Council of Physician Assistants to the probable cause panel, must be a Florida-licensed physician assistant and may hear only cases involving disciplinary actions against a physician assistant. If the appointed physician assistant is not present at the disciplinary hearing, the panel may consider the matter and vote on the case in the absence of the physician assistant. Certain training requirements relating to disciplinary action for Board of Medicine members do not apply to the appointed physician assistant. The bill specifies that rules do not need to be adopted to implement the requirements of the bill.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

CS/SB 1838 — Pharmacy Common Databases

by Health Care Committee and Senator Haridopolos

The bill repeals subsection 465.026(7), F.S., which authorizes a Florida-licensed pharmacy that only receives and transfers prescriptions for dispensing by another pharmacy to *transfer* a Schedule II controlled substance prescription. The subsection also authorizes the pharmacy receiving the prescription to ship, mail, or deliver into Florida, in any manner, the dispensed Schedule II medicinal drug under specified conditions.

The bill creates a new section of law that specifies that nothing in the pharmacy practice act shall be construed to prohibit the dispensing by a pharmacist licensed in Florida or another state of a prescription in a common database. The dispensing of a prescription from a common database does not constitute a transfer of the prescription if the following conditions are met:

- All pharmacies involved in the transaction have the same owner and use a common database;
- All pharmacies involved in the transaction under which the prescription is dispensed and all pharmacists engaging in dispensing functions are properly licensed, permitted, or registered in Florida or another state;
- The common database maintains a record of all pharmacists involved in the process of dispensing a prescription; and
- The owner of the common database maintains a policy and procedures manual containing certain required information that governs its participating pharmacies, pharmacists, and

pharmacy employees which shall be made available to the Florida Board of Pharmacy or its agent upon request.

The bill provides that any pharmacist dispensing a prescription has at all times the right and obligation to exercise his or her professional judgment. Notwithstanding other provisions in this newly created section of law, a Florida-licensed pharmacist participating in the dispensing of a prescription from a common database may not be responsible for the acts or omissions of another person participating in the dispensing process if such person is not under the direct supervision and control of the Florida-licensed pharmacist.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

HEALTH CARE FACILITY AND SERVICES REGULATION

CS/SB 388 — Assisted Care Communities

by Health Care Committee and Senator Argenziano

The bill transfers all sections of parts III (assisted living facilities), VII (adult family care homes), and V (adult day care centers) of ch. 400, F.S., to newly created pts. I, II, and III of ch. 429, F.S., entitled "Assisted Care Communities." Additionally, the bill makes multiple statutory revisions that are needed to accurately reflect the move of pt. III of ch. 400, F.S. The Division of Statutory Revision is directed to prepare a reviser's bill to make conforming changes to the Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 120-0

HB 483 — Nurses/Operating Rooms

by Rep. Garcia and others (CS/SB 1362 by Health Care Committee and Senator Atwater)

This bill requires hospitals to meet the conditions of Medicare and Medicaid participation regarding registered nurses performing circulating duties in the operating room. A circulating nurse must be present in the operating room for the duration of a surgical procedure.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 117-0

CS/SB 1190 — Hospitals/Sale or Lease

by Community Affairs Committee and Senator Atwater

The bill relates to the sale of a public hospital to a private entity and the effects of the sale. If the sale meets specified criteria, the sale may be considered a "complete" sale of the public agency's interest so that it does not involve or require the private entity to be "acting on behalf of a public agency."

If a private entity is found by a court to be "acting on behalf of a public agency" then a court may find that the Public Records and Meetings Laws apply to the private entity's operation of the hospital. The bill is an attempt to distinguish the sale of a public hospital to a private entity under certain circumstances so that a court can find under law that the private entity is not subject to the Public Records and Meetings Laws.

The bill specifies legislative findings that it is necessary to clarify that a public agency may sell its interest in a public hospital to a private corporation or other private entity and to establish that such a sale results in the privatization of the hospital enterprise. The legislative findings stipulate that the sale of a hospital by a public agency to a private corporation or other private entity purchaser under the bill is a complete sale under specified circumstances.

If approved by the Governor, these provisions take effect upon becoming law and apply to each private corporation or other private entity that has purchased a public hospital regardless of whether such purchase occurred prior to the effective date of this act.
Vote: Senate 34-1; House 119-0

HB 1417— Hospices

by Rep. Sansom and others (CS/SB 1548 by Health Care Committee and Senators Atwater and Wilson)

This bill revises the definition of the term hospice in the hospice licensure law to delete the requirement that a hospice be a not-for-profit corporation. It requires any person or entity offering, describing, or advertising hospice services or hospice-like services or holding itself out as a hospice to state the year of initial licensure in this state. This requirement does not include any materials relating to the care and treatment of an existing hospice patient. The bill authorizes the Agency for Health Care Administration to deny a license to a hospice licensure applicant that fails to meet a condition on a certificate of need unless the applicant can show good cause exists for the failure to meet the condition. This bill requires hospices to use trained volunteers for at least 5 percent of the total patient care or administrative hours and to document and report the use of such volunteers.

The Office of Program Policy Analysis and Government Accountability is required to submit a report to the President of the Senate and the Speaker of the House of Representatives by

January 1, 2010, analyzing the impact of for-profit hospices on the delivery of care to terminally ill patients. The bill states that it is the intent of the Legislature that no change in law be made to the hospice licensure and certificate-of-need provisions until the year 2012 to correctly analyze and evaluate the impact of this bill on the quality of hospice care in Florida. The Department of Elderly Affairs and the Agency for Health Care Administration are required to develop outcome measures by December 31, 2007, to determine the quality and effectiveness of hospice care.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 27-12; House 94-16

HB 7051 — Certificates of Need/Nursing Homes

by Elder and Long-Term Care Committee and Rep. Gibson (CS/SB 790 by Health Care Committee)

This bill transfers and renumbers s. 651.1185, F.S., to s. 408.0435, F.S. It amends this section to extend the moratorium on certificates of need for additional community nursing home beds until July 1, 2011. The bill provides an exception to the certificate-of-need moratorium for nursing homes with a 96 percent occupancy rate and a record of providing good quality care in a sub-district where the occupancy rate is 94 percent or higher. A nursing home that meets those conditions could apply for 10 additional beds or 10 percent of the number of beds in the facility being expanded. The bill also provides an exemption from certificate-of-need review for the creation of a single nursing home by combining licensed beds from two or more licensed nursing homes if certain conditions are met. Nursing homes located in a county where there is a diversion program or a Medicaid integrated, fixed-payment delivery system are allowed a reduction in their certificate-of-need condition of annual Medicaid patient days up to 15 percent if they meet certain conditions.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 34-0; House 120-0

HB 7141 — Health Care Providers/Licensure

by Health Care Regulation Committee and Rep. Garcia and others (CS/SB 2214 by Children and Families Committee and Senator Saunders)

The bill divides ch. 408, F.S., "Health Care Administration," into parts I-IV and consolidates core licensure requirements for health care providers licensed by the Agency for Health Care Administration (AHCA or agency) in ch. 408, part II, F.S., consisting of newly created ss. 408.801-408.820 and existing s. 408.831, F.S. The bill specifies the legislative intent to eliminate unnecessary duplication and variation in licensure requirements for health care providers regulated by the agency. The bill defines and standardizes common terminology. The bill specifies the facilities and services that require licensure. The bill establishes license fees and provides a method for calculating the annual adjustment of fees. The bill provides a license

application process, which requires specified information to be included on the application. It requires the payment of late fees under certain circumstances, authorizes inspections, and authorizes AHCA to establish procedures and rules for the electronic transmission of required information.

The bill provides procedures for a change in ownership by a licensee requiring the transferor to notify the agency in writing within a specified period. The bill requires providers to have and display a license from AHCA. The bill identifies licensure categories and conditions for issuance. Background screening must be conducted for certain employees. The bill prohibits unlicensed activity and authorizes administrative fines to be imposed. The bill outlines the agency authorization for a moratorium or emergency suspension if conditions present a threat to clients' health, safety, or welfare. The bill outlines circumstances in which a license may be denied or revoked. The agency is authorized to seek injunctive proceedings under certain circumstances. The bill requires that all fees and fines collected under ch. 408, part II, F.S., be deposited in the Health Care Trust Fund. The bill authorizes AHCA to adopt rules to implement ch. 408, part II, F.S. The bill provides for certain exemptions from provisions contained in ch. 408, part II, F.S.

The bill amends the definition of "Home for Special Services." The bill adds exemptions from licensure as a health care clinic. The bill provides a certificate-of-need exemption for the creation of a single nursing home by combining licensed beds from two or more licensed nursing homes within a district under specific circumstances. This exemption ends upon the expiration of the nursing home certificate-of-need moratorium.

The bill specifies that the provisions of this bill prevail over health care provider authorizing statutes when there is a conflict. For biennial licenses the fee for an annual license may be doubled. The bill requires the Division of Statutory Revision to assist relevant substantive legislative committees to prepare draft conforming legislation. This bill allows for staggering of expiration dates for licenses as providers change from annual to biennial licenses.

The bill amends statutory provisions relating to trauma care. It provides definitions for International Classification Injury Severity Score, local funding contribution, trauma caseload volume, and trauma patient. The bill repeals the statutory authorization for the Trauma Services Trust Fund. The bill provides that the 40 percent of funds collected that are distributed to trauma centers based on severity of trauma patients will be distributed to trauma centers based on severity as determined by the Trauma Registry International Classification Injury Severity Scores reported to the Trauma Registry in the Department of Health (DOH or department) or other statistically valid and scientifically accepted methods of stratifying a patient's severity of injury, risk of mortality, and resource consumption as adopted by the department by rule. The scores are to be weighted based on the costs associated with and incurred by the trauma center in treating trauma patients. The weighting of scores will be established by the department by rule. All data used in distributing the funds to trauma centers will be for the most recent calendar year available.

This bill creates the trauma center startup grant program. The bill outlines the requirements for eligibility for acute care general hospitals to apply and receive a grant from the department. A hospital is required to forfeit its grant if it does not become a provisional trauma center within 24 months after submitting an application. A hospital that receives startup grant funding may not receive more than $500,000. Start-up grant funding must be matched dollar for dollar with a local funding contribution. A hospital can only receive this grant one time.

If approved by the Governor, these provisions take effect October 1, 2006, except s. 395.41, F.S., as created by this act, shall take effect subject to an appropriation for the trauma center startup grant program in the 2006-2007 General Appropriations Act.
Vote: Senate 40-0; House 119-0

BIOMEDICAL RESEARCH

HB 1027 — Biomedical Research

by Reps. Hasner, Coley, and others (CS/CS/CS/SB 1826 by Government Efficiency Appropriations Committee; Education Committee; Health Care Committee; and Senators Saunders, Fasano, Klein, and Rich)

The bill increases accountability requirements in the awarding of state-funded grants for cancer research and Alzheimer's disease research by requiring the grants to be awarded on a competitive basis after peer review of the proposals using procedures like those the state currently uses to award grants for biomedical research on tobacco-related diseases. The peer-review panels must follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflicts of interest.

The bill creates the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program in the Department of Health (DOH) to advance progress towards cures for cancer through grants awarded by the Secretary of Health after consultation with the Biomedical Research Advisory Council. Three types of proposals may be considered for funding: investigator-initiated, institutional, and collaborative research proposals. Any university or established research institute in the state and all qualified investigators may submit research proposals. The bill establishes requirements for a peer-review process that ensures objectivity, consistency, and high quality in grant proposals.

The bill maintains the power of the Governor and the Legislature to appoint members to the Biomedical Research Advisory Council and the board of directors of the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute. Any appointments to those bodies that were not made in accordance with the provisions of the bill will expire June 30, 2006, and new appointments must be made.

The Biomedical Research Advisory Council membership is revised as follows:

- The Governor will appoint four members, two who have expertise in biomedical research, one who is from a research university in Florida, and one who represents the general population of the state.
- The President of the Senate will appoint two members, one who has expertise in the field of behavioral or social research and one who is from a cancer program approved by the American College of Surgeons.
- The Speaker of the House of Representatives will appoint two members, one who is from a professional medical organization and one who is from a cancer program approved by the American College of Surgeons.

The board of directors of the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute will consist of the President of the University of South Florida and the chair of the State Board of Education, five representatives of the state universities and nine representatives of the public appointed as follows:

- The Governor will appoint one university representative and three public representatives;
- The President of the Senate will appoint two university representatives and three public representatives; and
- The Speaker of the House of Representatives will appoint two university representatives and three public representatives.

The bill revises the composition of the advisory council for the Florida Center for Universal Research to Eradicate Disease (CURED) to provide for a 16-member board instead of the current 60-member board. The bill requires one member from the University Research Consortium rather than all 43 members of the consortium board of directors and deletes two members representing entities that no longer exist. The bill requires the expiration on June 30, 2006, of all appointments to the advisory council for CURED that were not made in accordance with the provisions of the bill. Four-year terms of office are established for advisory board members.

The bill ends annual distributions from the State Treasury of $15 million for the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute, $6 million for the James and Esther King Biomedical Research Program, and $9 million for a chiropractic school at Florida State University. Beginning in FY 2006-07, the bill establishes annual amounts of funding for three programs:

- Six million dollars from recurring general revenue to DOH for the James and Esther King Biomedical Research Program, with a requirement that up to $250,000 of that amount be made available for the operating costs of CURED.
- Fifteen million dollars from recurring general revenue to the Department of Elderly Affairs for the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute, with a requirement that not less than 20 percent of that amount must be expended for peer-reviewed investigator-initiated research grants.
- Nine million dollars from recurring general revenue to DOH for the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program, with authorization for the program to use up to 10 percent of that amount for administrative expenses.

The bill revises requirements for the annual report of the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute to require more detailed information about the center's expenditure of funds and research. The bill requires the following new reports:

- An annual report from DOH on the Bankhead-Coley program to the Governor and legislative leaders; and
- An annual operating budget for the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute to be submitted to the Governor and Cabinet, President of the Senate, Speaker of the House of Representatives, and the Chair of the State Board of Education.

The bill repeals the James and Esther King Biomedical Research Program, the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute, and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program on January 1, 2011, and requires the Legislature to review the programs in the 2010 Regular Session. Based upon its review of the performance, the outcomes, and the financial management of the programs/center, the Legislature will determine the most appropriate funding source and means of funding the programs/center.

The bill revises the duties of the Florida Public Health Foundation to allow the foundation to provide services and personnel to DOH. The provision of the personnel and services would be exempt from chs. 110, 112, 253, 255, and 287, F.S., laws governing public employees, state lands, public property and publicly owned buildings, and procurement of personal property and services. The bill adds a representative of the Florida Association of Health Plans to the board of directors of the foundation.

If approved by the Governor, these provisions take effect July 1, 2006, except Section 4 (appointments to the Biomedical Research Advisory Council for the James and Esther King Biomedical Research Program), Section 6 (appointments to the advisory council for CURED), Section 13 (appointments to the board of directors of the Johnnie B. Byrd, Sr. Alzheimer's

Center and Research Institute), and Section 14 (effective dates) shall take effect upon becoming law.
Vote: Senate 38-0; House 114-0

HB 1449 — Brain Tumor Research

by Rep. Gannon and others (SB 2566 by Senators Atwater and Klein)

The bill provides legislative findings and intent regarding the need for coordination among researchers and health care providers in the effort to find cures for cancerous and non-cancerous brain tumors. The bill also establishes the Florida Center for Brain Tumor Research (the center) within the Evelyn F. and William L. McKnight Brain Institute of the University of Florida.

The bill specifies activities and the purpose of the center; requires the center to develop and maintain a brain tumor registry; allows individuals to refuse to participate in the registry; specifies that grants must be awarded on a competitive basis; requires that the center hold an annual biomedical summit to exchange information on brain tumor research; requires the center to encourage clinical trials and facilitate the practical application of research; requires the center to submit an annual report to the Governor and the Legislature recommending legislative changes to foster brain tumor research and training; establishes a scientific advisory council within the center; and specifies representation and duties of the advisory council.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 116-0

AGENCY FOR HEALTH CARE ADMINISTRATION

HB 241 — Florida KidCare Program

by Rep. Vana and others (SB 972 by Senators Rich, Crist, and Bullard)

This bill modifies the eligibility criteria for the Florida KidCare Program. The bill allows a child whose family income exceeds 200 percent of the federal poverty level to participate in the Medikids program, or if the child is ineligible for the Medikids program due to age, to participate in the Florida Healthy Kids program, if the family pays the entire cost of the premium, including administrative costs, and such enrollees do not exceed 10 percent of total enrollees in either the Medikids program or the Florida Healthy Kids program.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 118-0

SB 1284 — Nursing Home Consumer Information

by Senators Fasano, Argenziano, and Crist

This bill authorizes the Agency for Health Care Administration (AHCA or agency) to provide electronic access to inspection reports of all licensed nursing home facilities, instead of sending copies of the inspection reports to local long-term care ombudsman councils, AHCA local offices, and public libraries or county seats. The bill requires the agency to publish the Nursing Home Guide annually in consumer-friendly printed form and quarterly in electronic form. A section entitled "Have you considered programs that provide alternatives to nursing home care?" must be the first section of the Nursing Home Guide. Included in this section must be an explanation of the alternatives and available programs to help people determine whether nursing home services are truly needed.

The bill requires the agency to publish the "Nursing Home Guide Watch List" as a part of the Nursing Home Guide. The bill requires AHCA to publish the guide on the agency's website and requires each nursing home to retrieve the most recent guide from the agency's website for posting in the facility. The watch list must include the number and percentage of days that a facility had a conditional license in the past 30 months, rather than the number of times the nursing home had been on a watch list. The agency's Internet site will provide a list of all nursing home facilities in the state by name and address, including any name used within the last 12 months. The bill requires the most recent number of occupants in the facility to be listed. The bill requires nursing homes to submit required information to AHCA by electronic transmission when available. This bill deletes references to the federal Online Survey Certification and Reporting System and requires AHCA to publish nursing home survey and deficiency information from the past 30 months, rather than 45 months.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 35-0; House 118-0

HB 7073 — Health Care Information

by Health Care Regulation Committee, Rep. Garcia and others (CS/CS/SB 1332 by Health and Human Services Appropriations Committee; Health Care Committee; and Senator Fasano)

The bill is entitled the "Coordinated Health Care Information and Transparency Act of 2006" and contains the following provisions:

- Renames The State Center for Health Statistics housed in the Agency for Health Care Administration (agency) to The Florida Center for Health Information and Policy Analysis (center).
- Revises the agency's duties related to health-related data to include the collection of health care quality measures that include patient-safety indicators, inpatient quality indicators and performance measures.

- Defines patient safety indicators and inpatient quality indicators.
- Authorizes the center to provide technical assistance services for the following:
    - Monitoring innovations in health information technology and maintaining a repository of technical resources to support the development of a health information network;
    - Administering, managing, monitoring and evaluating grants to specific entities that submit proposals for the development of a Florida health information network;
    - Initiating, overseeing, managing and evaluating, the integration of health care data from state agencies and making that data available to any health care practitioner through the Florida health information network.
- Removes the Comprehensive Health Information System Trust Fund from statute. The fund is not used.
- Renames the State Comprehensive Health Information System Advisory Council to the State Consumer Health Information and Policy Advisory Council (council), modifies its duties, and revises its membership.
- Authorizes the agency to collect information from health care providers relating to professional organization and specialty board affiliations.
- Requires the agency to collect data on retail prices charged by pharmacies for the 100, rather than 50, most frequently prescribed medications.
- Deletes obsolete provisions relating to the caesarean section rate in hospitals and requires the agency to publish caesarean section rates on its website.
- Requires the agency to ensure that its data and data backup systems are housed at a secure facility that meets or exceeds certain requirements.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 114-0

DEPARTMENT OF HEALTH

HB 371 — Prescription Drugs

by Rep. Harrell and others (CS/SB 1310 by Health Care Committee and Senators Clary and Atwater)

Cancer Drug Donation Program

The bill creates the "Cancer Drug Donation Program Act" and establishes the Cancer Drug Donation Program within the Department of Health for the purpose of authorizing and facilitating the donation of cancer drugs and supplies to eligible patients. The bill specifies the persons or entities that may donate cancer drugs and supplies, the cancer drugs that may be donated, the entities that can accept donated drugs and supplies (participant facilities), and the patients who may be eligible to receive donated drugs and supplies. The bill authorizes the Department of Health to adopt rules to implement the program.

Under the bill, participant facilities are limited to class II hospital pharmacies that have elected to participate in the program and that accept donated cancer drugs and supplies under the rules adopted by the Department of Health. A donation of cancer drugs or supplies may only be made to and at a participant facility. The facility may charge a handling fee sufficient to cover the cost of preparation and dispensing of donated cancer drugs or supplies. Cancer drugs or supplies donated to the program may be prescribed only by a prescribing practitioner for use by an eligible patient and may be dispensed only by a pharmacist.

A person who is eligible to receive cancer drugs or supplies under the state Medicaid program or under any other prescription drug program funded in whole or in part by Florida, by the Federal government, or by a third-party insurer is ineligible to participate in the program unless benefits have been exhausted or a certain cancer drug or supply is not covered. The Department of Health must establish and maintain a participant facility registry.

Any donor of cancer drugs or supplies, or any participant in the program, who exercises reasonable care in donating, accepting, distributing, or dispensing cancer drugs or supplies under the cancer drug donation program and the rules adopted under the Cancer Drug Donation Program Act is immune from civil or criminal liability and from professional disciplinary action of any kind for any injury, death, or loss to person or property relating to such activities. A pharmaceutical manufacturer is not liable for any claim or injury arising from the transfer of any cancer drug under this act, including, but not limited to, liability for failure to transfer or communicate product or consumer information regarding the transferred drug, as well as the expiration date of the transferred drug.

If any conflict exists between the provisions of the Cancer Drug Donation Program Act and the pharmacy practice act (chapter 465, F.S.), then the provisions of the Cancer Drug Donation Program Act must control the operation of the cancer drug donation program. The bill

appropriates recurring funding in the sum of $65,308 for FY 2006-2007, for the purpose of implementing the Cancer Drug Donation Program.

Pedigree Papers

The bill revises requirements for tracing the distribution of wholesale drugs (pedigree history) on or after July 1, 2006, to give a wholesale distributor an additional option to show the pedigree history for drugs. The bill revises the definition of "pedigree paper" to allow a wholesale distributor to pass a statement under oath, in written or electronic form, that affirms that a specific unit of a prescription drug has been received directly by the wholesale distributor from the manufacturer and is distributed directly, or through an intracompany transfer, to a chain pharmacy warehouse or person authorized by law to purchase drugs for administration or dispensing. "Chain pharmacy warehouse" is defined in the bill as a drug wholesale distributor that holds a Florida permit and that maintains a physical location for prescription drugs that functions solely as a central warehouse to perform intracompany transfers of such drugs to a member of its affiliated group.

The statement must contain specified information which includes: a statement that the wholesale distributor purchased the specific unit of the prescription drug directly from the manufacturer; the manufacturers' national drug code identifier and the name and address of the wholesaler and the purchaser of the prescription drug; the name of the prescription drug as it appears on the label; the quantity, dosage form, and strength of the prescription drug.

Under this option, the wholesale distributor must also maintain and make available to the Department of Health, upon request, the point of origin of the prescription drugs, including intracompany transfers; the date of the shipment from the manufacturer to the wholesale distributor; the lot numbers of such drugs; and the invoice numbers from the manufacturer. The Department of Health's rulemaking authority for "pedigree papers" is revised to authorize, rather than require, the department to adopt rules and forms relating to the bill's revision of the tracking requirements for wholesale drugs.

Drop Shipment Alternatives to Pedigree Papers

The bill also creates an alternative to the requirement to pass pedigree paper for the drop shipment of prescription drugs. A drop shipment occurs when a wholesaler takes title but not possession of a prescription drug and the drug's manufacturer ships the drug directly to a person authorized by law to purchase the drug for administration or dispensing. In lieu of attestation of receipt of a complete pedigree paper for a drop shipment of prescription drugs, a wholesale distributor may comply with new requirements created in the bill.

The bill provides that the requirement to pass pedigree for prescription drugs is satisfied when a wholesale distributor takes title to, but not possession of, a prescription drug and the prescription drug's manufacturer ships the prescription drug directly to a person authorized by law to

purchase drugs for the purpose of administering or dispensing the drug or to a member of an affiliated group, with the exception of a repackager. The wholesale distributor must, within 14 days after the shipment notification from the manufacturer, deliver an invoice and sworn statement to the recipient of the prescription drug. The sworn statement must attest that the wholesale distributor purchased the specific unit of the prescription drug listed on the invoice directly from the manufacturer, and the specific unit of prescription drug was shipped by the manufacturer directly to a person authorized by law to administer or dispense the legend drug or to a member of an affiliated group. The invoice must contain a unique cross-reference to the shipping document sent by the manufacturer to the recipient of the drug.

The manufacturer of the prescription drug shipped directly to the recipient must provide, and the recipient of that drug must acquire, a shipping document containing specified information within 14 days after receipt of the prescription drug. If the manufacturer fails to provide, the recipient of a specific unit of a prescription drug fails to acquire, or the wholesale distributor fails to deliver, the documentation, then it constitutes the failure to acquire or deliver a pedigree paper. Forgery by the manufacturer, the recipient, or the wholesale distributor of the documentation constitutes forgery of a pedigree paper.

The Department of Health is granted rulemaking authority to specify alternatives for a prescription drug in the inventory of a prescription drug wholesaler as of June 30, 2006, and the return of a prescription drug purchased before July 1, 2006. The Department of Health may specify time limits for such alternatives.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 93-20

CS/SB 746 — Certificates of Birth and Death

by Judiciary Committee and Senators Wise, Haridopolos, Dockery, Alexander, Bennett, Fasano, Atwater, Baker, Posey, and Lynn

The bill creates "Katherine's Law" to specify requirements for the issuance of a "certificate of birth resulting in stillbirth." A "certificate of birth resulting in stillbirth" is defined as a certificate issued to record and memorialize the birth of a stillborn child. "Stillbirth" is defined as an unintended, intrauterine fetal death after a gestation age of not less than 20 completed weeks. Only a parent listed on the fetal death certificate may make the initial request for a certificate of birth resulting in stillbirth. The person who is required to file a fetal death certificate must advise the parent of a stillborn child of the availability of a certificate of birth resulting in stillbirth, how to request and obtain such a certificate, and that a copy of the original certificate is available as a public record when held by an agency. The bill requires specified information on the certificate of birth resulting in stillbirth to correspond to the information on the corresponding fetal death certificate. A certificate of birth resulting in stillbirth must contain the statement "This certificate is not proof of live birth."

The Office of Vital Statistics may not use a certificate of birth resulting in stillbirth to calculate live birth statistics. A refusal by the Office of Vital Statistics to issue a certificate of birth resulting in stillbirth to a person who is not listed as a parent on the fetal death certificate constitutes final agency action and is not subject to review under the Administrative Procedure Act. The certificate of birth resulting in stillbirth and the statutory definition of stillbirth may not be used to establish, bring, or support a civil cause of action seeking damages against any person or entity for bodily injury, personal injury, or wrongful death for a stillbirth. The department must prescribe by rule the form, content, and process for the certificate of birth resulting in stillbirth. The Department of Health is authorized to collect a fee for a certificate of birth resulting in stillbirth.

The bill authorizes the State Registrar of the Office of Vital Statistics of the Department of Health to receive electronically the certificate of death or fetal death which is required to be filed with the local registrar. The bill also authorizes the State Registrar of the Office of Vital Statistics of the Department of Health to receive electronically the birth certificate for each live birth that is required to be filed with the local registrar.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 118-0

HB 1319 — Swimming Instructors/Dan Marino

by Rep. Goldstein and others (CS/SB 2426 by Health Care Committee and Senators Argenziano and Rich)

This bill authorizes any person working at a swimming pool who holds himself or herself out as a swimming instructor specializing in training people with developmental disabilities to be certified by the Dan Marino Foundation, Inc., in addition to being certified as a public pool swimming instructor under s. 514.071, F.S. The Dan Marino Foundation must develop certification requirements and a training curriculum for this category of instructors and must submit the certification requirements to the Department of Health for review by January 1, 2007. A person who is certified under s. 514.071, F.S., before July 1, 2007, must meet the new requirements by January 1, 2008. If a person is certified after July 1, 2007, then the requirements must be met within 6 months after receiving certification.

If approved by the Governor, these provisions take effect July 1, 2006, only if a specific appropriation to the Department of Health to fund the Dan Marino Foundation, Inc., is made in the General Appropriations Act for FY 2006-2007.
Vote: Senate 40-0; House 115-0

CS/CS/SB 1324 — Healthy Lifestyles

by Health and Human Services Appropriations Committee; Health Care Committee; and Senators Peaden and Hill

The bill creates a lead poisoning prevention screening and education program addressing childhood lead poisoning. The bill expands the Department of Health's health education responsibilities for prevention and identification of lead poisoning by establishing a multifaceted, statewide educational program designed to increase public awareness of the hazards of childhood lead poisoning, primarily because of exposure to lead-based paints in older buildings. The bill creates a collaborative public information initiative sponsored by the Governor, the Secretary of Health, and private industry representatives to produce and distribute public service announcements and other materials that contain culturally and linguistically appropriate information.

The bill establishes a statewide screening program for early identification of persons at risk of lead poisoning, including requirements for screening in Florida's Medicaid Program. The bill requires the development of guidelines for medical follow-up on children identified with elevated blood-lead levels, and a surveillance system for geographic areas with the highest prevalence of children with elevated blood-lead levels.

The bill includes an appropriation of $308,000 in recurring general revenue funds to implement the lead screening program. Implementing the education component of the bill is contingent on the Department of Health receiving a federal lead poisoning prevention grant.

The bill requires the Department of Health, in addition to its current health promotion and prevention activities aimed at reducing the prevalence of excess weight gain and obesity, to:

- Collaborate with other state agencies to develop policies and strategies for preventing and treating obesity, which must be incorporated into programs administered by each agency and which must include promoting healthy lifestyles of employees of each agency; and
- Advise Florida-licensed health care practitioners regarding the morbidity, mortality, and costs associated with the conditions of being overweight or obese, inform such practitioners of clinical best practices for preventing and treating obesity, and encourage practitioners to counsel their patients regarding the adoption of healthy lifestyles.

The bill defines specific elements to be included in age-based and gender-based wellness services provided by health maintenance organizations under contract to the state employee health insurance program. It creates a nine-member advisory council within the Department of Management Services. The council is created to provide health education information to state employees and help develop minimum benefits for health care providers when providing age-based and gender-based wellness benefits.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 116-0

AGENCY FOR PERSONS WITH DISABILITIES

CS/CS/SB 170 — Administration of Medication
by Children and Families Committee; Health Care Committee; and Senator Baker

The bill expands the existing statutory authorization for unlicensed direct care services staff providing services to persons with developmental disabilities in day programs and intermediate care facilities for the developmentally disabled to administer certain prescription medications. The bill allows all direct service providers in a variety of community-based settings who meet specified requirements established by the Agency for Persons with Disabilities to supervise the self-administration of medication by a client or to administer medication to clients who are developmentally disabled under specified circumstances. Direct service providers must complete a 4-hour training course and be found to be competent to supervise the self-administration of medication by a client or to administer medication to a client. Competency must be assessed and validated by a registered nurse at least annually. The list of types of prescription medications that may be administered is expanded.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 120-0

LONG-TERM CARE OMBUDSMAN PROGRAM

CS/SB 1922 — State Long-Term Care Ombudsman Program
by Health Care Committee and Senator Peaden

This bill clarifies and revises the duties and responsibilities of the Office of the State Long-Term Care Ombudsman and the program's state and local ombudsman councils in an attempt to more directly move the program under the administration of the Department of Elderly Affairs (DOEA). The proposed changes in the bill are designed to:

- Centralize program operations within the Office of the State Long-Term Care Ombudsman;
- Clarify the role of volunteer ombudsmen to focus on the protection of long-term care facility residents rather than to serve as an additional regulator of long-term care facilities;

- Remove barriers to volunteerism so the program can promptly recruit, train, and deploy the number of volunteers needed to advocate for residents within their communities;
- Conform the function of the State Ombudsman and the state and local ombudsman councils more closely to the intent of the federal Older Americans Act by clarifying the roles of staff and volunteers; and
- Strike any obsolete statutory language and better organize existing language for clarification.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 119-0

AUTOMATED EXTERNAL DEFIBRILLATORS

HB 67 — Automated External Defibrillators

by Rep. Sobel and others (CS/SB 252 by Health and Human Services Appropriations Committee and Senators Rich, Lynn, and Alexander)

The bill creates the "Gordon and Miulli Act" to provide the Department of Health authority to award emergency medical services grants to youth athletic organizations to expand the use of automated external defibrillators and allows individual boards of county commissioners to distribute county emergency medical services grant funds to youth athletic organizations. The bill defines "youth athletic organization" as a private not-for-profit organization that promotes and provides organized athletic activities to youth.

"Automated external defibrillator device" is defined to have the same meaning as the term is defined in the Cardiac Arrest Survival Act. The Cardiac Arrest Survival Act is revised to provide that the immunity under that act does not apply to a person who acquires an automated external defibrillator device who fails to maintain and test the device or fails to provide appropriate training in the use of the device to his or her employee or agent when the employee or agent is the person who used the device on the victim. The bill requires the Department of Health to educate persons who acquire an automated external defibrillator device about the liability provisions of the Cardiac Arrest Survival Act.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

HB 93 — Automated External Defibrillators

by Rep. Henriquez and others (CS/SB 976 by Health Care Committee and Senator Geller)

This bill clarifies the legislative intent regarding the use of automated external defibrillators and provides definitions for the terms "automated external defibrillator" and "defibrillation." The bill creates a criminal offense for certain acts involving tampering with an automated external defibrillator. The bill amends the Cardiac Arrest Survival Act (s. 768.1325, F.S.) to revise the definition of the term "automated external defibrillator" to specify that an automated external defibrillator is a lifesaving device. The bill requires the Department of Health to implement an educational campaign to inform persons who acquire an automated external defibrillator of the scope and limitations of the immunity from liability under s. 768.1325, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

CS/SB 274 — Defibrillators in State Parks

by General Government Appropriations Committee and Senators Jones and Crist

The bill encourages each state park to have on the premises at all times a functioning automated external defibrillator. The bill requires state parks that have an automated external defibrillator to ensure that employees and volunteers are properly trained in the use of the automated external defibrillator. The location of the automated external defibrillator must be registered with the local emergency medical services medical director. Employees and volunteers who use an automated external defibrillator are covered by the immunity granted under the Good Samaritan Act and the Cardiac Arrest Survival Act. The Division of Recreation and Parks, under the Department of Environmental Protection, is authorized to adopt rules to implement the bill.

The bill provides for a one-time appropriation of $92,000 during FY 2006-2007 from the State Park Trust Fund to the Division of Recreation and Parks for the purpose of implementing this act and for purchasing automated external defibrillators.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 118-0

PUBLIC RECORDS AND MEETINGS EXEMPTIONS

SB 512 —Personal Identifying Information Held by the Department of Health/OGSR

by Health Care Committee

Pursuant to an Open Government Sunset Review, the bill reenacts the public records exemption under s. 119.0712(1), F. S., relating to personal identifying information; bank account numbers; and debit, charge, and credit card numbers of clients of the Department of Health. The bill deletes the exemption for bank account numbers and debit, charge, and credit card numbers, which are covered by another exemption in ch. 119, F.S.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 118-0

HB 1451 — Brain Tumor Research/Public Records Exemption

by Rep. Gannon and others (SB 2564 by Senator Atwater)

The bill creates a public records exemption for certain information contained in records of the Florida Center for Brain Tumor Research. The following information is confidential and exempt from public records requirements: an individual's medical record and any information received from an individual from another state or nation or the federal government that is otherwise confidential or exempt. The bill provides for future review and repeal of the exemption, provides a statement of public necessity, and provides a contingent effective date.

If approved by the Governor, these provisions take effect July 1, 2006, if House Bill 1449 or similar legislation is adopted in the same legislative session or an extension thereof.
Vote: Senate 39-0; House 117-0

HB 7027 — Long-term Care Facilities/OGSR

by Governmental Operations Committee and Rep. Rivera (CS/SB 510 by Governmental Oversight and Productivity Committee and Health Care Committee)

This bill is the result of an Open Government Sunset Review of public records and meetings exemptions relating to risk management and quality assurance activities of nursing homes and assisted living facilities. The bill reenacts open government exemptions for:

- Meetings of nursing home and assisted living facility internal risk management and quality assurance committees;
- Records pertaining to those meetings;

- Adverse incident reports filed with the risk manager and administrator of these facilities; and
- Adverse incident reports filed with the Agency for Health Care Administration.

Records disclosed to a law enforcement agency remain confidential and exempt until criminal charges are filed. The bill clarifies these exemptions and reorganizes the exemptions within the section of statute dealing with the exemptions.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 92-25

HB 7043 — Elderly Affairs/Health Information/OGSR

by Governmental Operations Committee and Rep. Rivera (CS/SB 514 by Governmental Oversight and Productivity Committee and Health Care Committee)

This bill reenacts and amends s. 430.105, F.S., to continue the public records exemption for personal identifying information in health-related records about clients of the Department of Elderly Affairs. The bill removes redundant language and authorizes the department to provide this information to other government agencies for the purpose of administering the department's programs for the elderly.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 118-0

HB 7045 – Public Records and Meetings/AHCA/OGSR

by Governmental Operations Committee and Rep. Rivera (CS/SB 516 by Governmental Oversight and Productivity Committee and Health Care Committee)

This bill reenacts and amends s. 409.91196, F.S., to continue the public records and meetings exemption for records and meetings related to the supplemental rebate negotiations in the Medicaid prescription drug program. The bill removes redundant language, corrects statutory cross references, and specifies that records of exempt portions of a Medicaid Pharmaceutical and Therapeutics Committee meeting must be created and maintained by the Agency for Health Care Administration. No exempt portion of a meeting may be held off the record.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 38-0; House 117-1

LITIGATION

HB 145 — Damage Apportionment/Civil Actions

by Rep. Brown and others (SB 2006 by Senators Webster, Dockery, Sebesta, Pruitt, and Posey)

This bill (Chapter 2006-6, L.O.F.) largely abolishes the application of joint and several liability for economic damages in negligence cases. As a result of the bill, a defendant's liability for damages will be based on the defendant's percentage of fault for an injury. Previously, under certain circumstances a defendant could be liable for up to $2 million in economic damages attributed to others.

These provisions became law upon approval by the Governor on April 26, 2006.
Vote: Senate 27-13; House 93-27

HB 7259 — Class Action Lawsuits

by Judiciary Committee and Rep. Simmons and others (CS/SB 2304 by Judiciary Committee and Senator Baker)

This bill generally prohibits nonresidents from participating as plaintiffs in class action lawsuits filed in Florida courts. However, a nonresident may be included in the plaintiff class if the nonresident's claim is recognized in the nonresident's home state and the nonresident's state lacks personal jurisdiction over the defendant or defendants. Additionally, a nonresident may be included in a plaintiff class if the conduct giving rise to the cause of action occurred in or emanated from this state.

Under the bill, class action plaintiffs must allege and prove actual damages if seeking statutory penalties under chs. 320, 501, 520, and 521, F.S. These chapters pertain to motor vehicles, consumer protection, retail installment sales, and motor vehicle lease disclosure. This requirement appears to prohibit class actions for monetary relief for technical violations of the law that do not cause an injury.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 115-0

HB 841 — Supersedeas Bonds

by Rep. Attkisson and others (CS/SB 2250 by Judiciary Committee and Senator Webster)

Where a money judgment is entered by a court, the prevailing party may enforce the judgment even though an appeal is pending. In order to prevent collection on that judgment during the appeal process, an appealing party may post a supersedeas bond. A supersedeas bond also protects a prevailing party by insuring that a judgment can be enforced against the nonprevailing party.

The bill places an upper limit on a supersedeas bond at $50 million dollars per appellant regardless of the type of appeal or case, except for certified class actions subject to s. 768.733, F.S. The $50-million figure shall be adjusted annually to reflect changes in the Consumer Price Index. A party seeking a stay of execution pending review of a judgment may move the court to reduce the amount, which the court may grant, unless the appellant has an insurance or indemnification policy applicable to the case.

If bond is posted for less than the amount for an automatic stay under the Florida Rules of Appellate Procedure, the appellee may engage in certain limited discovery. If the court determines that an appellant has dissipated or diverted assets or is in the process of doing so, the court may take certain actions to protect the judgment, including requiring the appellant to post a supersedeas bond in an amount up to the amount that would be required for an automatic stay pursuant to Rule 9.310(b)(1), Florida Rules of Appellate Procedure.

If approved by the Governor, these provisions take effect July 1, 2006, and apply to judgments rendered on or after that date.
Vote: Senate 40-0; House 119-0

SB 542 — Birth-Related Neurological Injury

by Senators Jones and Lynn

This bill (Chapter 2006-8, L.O.F.) provides that under the Florida Birth-Related Neurological Injury Compensation Plan (the plan) addressed in ss. 766.301-766.316, F.S., the administrative law judge (ALJ) presiding over a claim for compensation has the exclusive jurisdiction to make the factual determination of whether the statutory notice provision has been met. The plan's notice provision under s. 766.316, F.S., requires participating hospitals and physicians to provide notice to an obstetrical patient as to the plan's limited no-fault alternative for birth-related neurological injuries. Except under certain circumstances, a lack of notice to the patient allows the patient to file a lawsuit in circuit court where damages are not limited to the plan's coverage.

There is currently a conflict among the state District Courts of Appeal as to whether it is within an ALJ's or a circuit court judge's jurisdiction to decide whether the patient received the statutorily required notice that a physician or hospital participates in the plan. In order to address

this conflict and to provide for uniform application of the law as it relates to notice, the revision to statute explicitly states that the ALJ has sole jurisdiction to decide this matter.

Additionally, the revision to statute authorizes the Florida Birth-Related Neurological Injury Compensation Association (NICA), which administers the plan, to contract with the State Board of Administration to invest and reinvest plan funds. NICA already has the authority to invest plan funds, and the bill is clarifying that the State Board of Administration is one of the entities with whom NICA may contract for this service.

These provisions became law upon approval by the Governor on May 2, 2006.
Vote: Senate 40-0; House 116-0

REAL PROPERTY, PROBATE, AND TRUSTS

HB 1567 — Eminent Domain

by Rep. Rubio and others (CS/SB 2168 by Judiciary Committee and Senators King and Haridopolos)

This bill heightens the safeguards of private property rights by providing certain restrictions on the use of eminent domain and limiting the transfer of property that has been taken by eminent domain.

Restrictions on the Use of Eminent Domain

The bill eliminates the authority to take property for the purpose of abating or eliminating a public nuisance. The bill also prohibits the use of eminent domain for the purpose of preventing or eliminating slum or blight conditions. The bill repeals s. 163.375, F.S., which granted broad eminent domain power to counties, municipalities, or community redevelopment agencies, with the delegated authority of eminent domain, for community redevelopment and related activities. However, the use of eminent domain in a community redevelopment area (CRA) for a traditional public purpose is permitted in the same way as permitted outside the CRA. The bill prohibits a county or municipality from delegating the power of eminent domain to a community redevelopment agency.

Restrictions on the Transfer of Property Taken by Eminent Domain

The state, any political subdivision, or any other entity to which the power of eminent domain is delegated is prohibited from transferring property acquired by eminent domain to another private entity for 10 years with certain exceptions. The exceptions include transfers for: private entities engaged in common-carrier services; roads open to the public for transportation, whether at no charge or by toll; operating a public or private utility; or public infrastructure. The bill also has an exception for transferring surplus property. If property is acquired via eminent domain and is

not needed for the original purpose, and it has been less than 10 years, it can be transferred if the original owner is first given a chance to repurchase the property at the price that the government paid him or her for the property. The bill provides for public notice and competitive bidding for the disposition of property taken by eminent domain.

The Legislature also passed a joint resolution that proposes to amend the State Constitution to limit the conveyance of private property taken by eminent domain to a natural person or private entity with certain exceptions. For a full description of this joint resolution, see HJR 1569 under the Senate Committee on Community Affairs section of this *Summary of Legislation Passed*.

If approved by the Governor, these provisions take effect upon becoming law and apply to all property for which a petition of condemnation is filed on or after that date.
Vote: Senate 37-3; House 113-0

HB 521 — Probate

by Rep. Hukill and others (SB 1824 by Senator Aronberg)

This bill revises procedures relating to the administration of a decedent's estate. Statutes providing for access to a decedent's safe-deposit box are revised in both the Financial Institutions chapter and the Probate Code for consistency in application and to provide specific procedures relating to surviving co-lessees of a safe-deposit box. The bill modifies provisions relating to notice of administration of a decedent's estate, requiring additional information on filing deadlines to be included in the notice in order to clarify these deadlines for beneficiaries.

Additional clarification is provided in sections on elective shares and exempt property (property that is protected from creditors' claims against the estate and given to beneficiaries) to allow for claims "on or *before*" certain filing deadlines. The revisions to statute address an interpretation at common law that effectively barred claims filed *prior* to certain events and allows for filing on or before filing deadlines provided in statute. The revisions to statute would allow interested parties to file on or before a filing deadline in the following instances:

- **Estate Administration** – Filing any objection that challenges the validity of a will, the qualifications of a personal representative, the venue, or the jurisdiction of the court;
- **Exempt Property** – Filing a petition for determination of exempt property; and
- **Elective Share** – Filing and withdrawing an election to take an elective share.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 116-0

CS/SB 1170 — Florida Trust Code

by Judiciary Committee and Senator Aronberg

The bill creates a comprehensive, new Florida Trust Code (code). The new code is a product of the Ad Hoc Trust Code Revision Committee, which was comprised of members of various sections of the Florida Bar, including Real Property, Probate and Trust Law; Elder Law; and Tax Law. The committee also included liaisons to the Probate and Trust Litigation Committee and the Probate Law Committee and representatives of the Florida Bankers Association and the Florida Institute of Certified Public Accountants.

The new code is based in part upon the Uniform Trust Code (UTC) with revisions to account for distinctions found in current Florida statutory and case law. Several of these distinctions are retained in the new code; however, changes put forth in the new code will affect trust administration as follows:

- **Representation –** expands the provision dealing with representation by a holder of a power of appointment and adds a new provision permitting a trust settlor (person who creates a trust) to designate a representative for the trust (e.g., a trust protector).
- **Trust Creation** – affirms the requirement that trusts containing land be evidenced by a signed writing; limits the unique Florida requirement that the testamentary aspects of trusts be executed with the formalities required for a will to revocable trusts; and specifies that the capacity needed to create a revocable trust is the same as that required for the execution of a will.
- **Trust Modification –** revises provisions relating to trust creation and termination proposed in the UTC while retaining Florida's existing trust modification provisions.
- **Charitable Trusts** – codifies the authority that the Attorney General has at common law to enforce charitable trusts and extends standing to enforce charitable trusts to the settlors who create them and to charitable organizations designated in an instrument to receive distributions from them.
- **Creditors' Rights –** provides that, for trusts created after the effective date of the code, a spendthrift clause must restrain both voluntary and involuntary alienation and slightly modifies the "last resort" principle established in *Bacardi v. White*. (The "last resort" principle allows the garnishment of trust distributions from a spendthrift trust to enforce orders such as child support and alimony as a last resort for fulfilling these financial obligations.)
- **Revocable Trusts –** provides that trusts are revocable by default, that a method of revocation expressed in an instrument is exclusive, and that while a trust is revocable, the trustee owes duties only to the settlor. The trustee's duties to the settler also apply to beneficiaries who have a right of withdrawal over trust property (i.e., holders of a right of withdrawal are treated as a settlor while the power is exercisable).

- **Miscellaneous and Conforming** – replaces the existing antilapse statute for inter vivos trusts with a new provision more broadly applicable to the descendibility of future interests in both testamentary and inter vivos trusts; creates new provision in ch. 518, F.S., to allow for fiduciary investment of funds in investment instruments owned by the trustee or its affiliate; abolishes the Worthier Title Doctrine; makes s. 731.103, F.S. (evidence of death or status), and s. 731.201, F.S. (definitions), now apply to chapter 736, F.S.; adds definition of "power of appointment" to s. 731.201, F.S.; makes s. 731.303, F.S. (representation), no longer applicable to proceedings involving trusts; and makes s. 732.603, F.S. (antilapse), now apply only to outright devises and appointments.

Section 736.1303, F.S., provides that the new code applies retroactively to all trusts, whenever created, except where stated otherwise in the text of the bill. The advantage to including this provision in the code is that it avoids the maintenance of two systems of trust law for extended periods of time, but in some instances retroactive application can be constitutionally impermissible (e.g., where it impairs vested rights) or unfair. To address issues that might arise if all provisions of the new code were to apply retroactivity, there are some sections that provide for differing dates of application (e.g., new requirement that testamentary aspect of a revocable trust must be executed in the manner of a will does not apply to trusts created before the bill's effective date). In addition, the court is provided with discretion in its retroactive application of the new code in situations where retroactive application might interfere with judicial proceedings or prejudice the rights of the parties to proceedings.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 39-0; House 113-0

CS/SB 1956 — Florida Land Trust Act

by Banking and Insurance Committee and Senator Aronberg

This bill modernizes the land trust statute, s. 689.071, F.S., and codifies case law on land trusts. Specifically, the bill provides that:

- A trustee of a land trust is no longer required to be qualified to act as a fiduciary;
- Beneficiaries of a land trust generally are not liable for the liabilities of a land trust;
- The authority of a trustee of a land trust is not affected by encumbrances of a beneficiary's interest;
- The power of direction of a land trust may be vested in a person other than a beneficiary; and
- A person's principal residence held in a land trust is entitled to a homestead exemption.

Lastly, the bill creates procedures for the appointment of a successor trustee to a land trust.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 120-0

HB 65 — Foreclosure Proceedings

by Rep. Porth and others (CS/CS/CS/SB 166 by Justice Appropriations Committee; Banking and Insurance Committee; Judiciary Committee; and Senators Campbell and Crist)

Surplus funds may exist after a foreclosure sale, if property is sold for more than the amount of all disbursements required by a foreclosure order. Under existing law, the surplus belongs to the property owner at the time of the foreclosure sale. The bill creates a presumption that surplus funds belong to the owner of the real property on the date of the filing of the *lis pendens*. A *lis pendens* is a notice, filed in the official records, indicating that the title to property is in litigation. The presumption, however, can be rebutted with a properly executed assignment of the funds. The bill requires that information regarding surplus funds be included in the final judgment, certificate of sale, and certificate of disbursements. The surplus funds will be paid to the former owner of the property, unless another person files a claim for the funds within 60 days after a foreclosure sale. If a person other than the owner of record on the date of the filing of the *lis pendens* files a claim, a court must determine who is entitled to the surplus funds.

The bill creates the position of surplus trustee to find the owner of real property as of the *lis pendens* date, if no claims of surplus funds are made. The surplus trustee is entitled to 12 percent of the surplus upon obtaining a court order disbursing the surplus to the owner of record. The bill also authorizes penalties of up to $15,000 for conduct that "victimizes or attempts to victimize" a homeowner during the course of a residential foreclosure proceeding.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 36-0; House 117-0

HB 1141 — Conveyances of Land

by Rep. Stargel and others (CS/SB 1434 by Banking and Insurance Committee and Senator Atwater)

An individual retirement account (IRA) is an investment tool that permits qualified individuals to save and invest for retirement, with certain federal income tax advantages. Although IRAs have long been able to invest in real estate, it was not until recently that there has been significant interest in placing real estate investments into an IRA. Current Florida law is unclear as to how an IRA can take title to real property. The bill specifies how retirement investment plans, such as IRAs and other qualified plans, may accept, hold, and transfer title to real property.

The bill also provides for validation of conveyances to a custodian or trustee of an IRA or qualified plan which were recorded before July 1, 2006, the effective date of the bill. This

language is intended to provide a cure for previous conveyances into an IRA or other qualified plan which may not have otherwise been honored if the statute of frauds had been interpreted to preclude an IRA's or other qualified plan's investment in real property.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 117-0

FAMILY LAW

CS/CS/SB 118 — Temporary Child Custody

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

Under the bill and existing s. 751.01, F.S., an award of temporary custody is needed to consent to medical treatment, obtain records, make decisions for a child's education, and to do other things necessary for the child's care. Temporary custody may be awarded with the consent of a parent or if a parent has abused, neglected, or abandoned the child. Under existing law, family members that can petition for temporary custody are limited to a sibling, grandparent, aunt, uncle, or cousin of a minor. Additionally, in some circumstances, a putative father can petition for temporary custody. This bill expands the group of relatives who may petition for temporary custody of a child to include relatives within the third degree by blood or marriage to the parent. Additionally, a stepparent of a minor, under certain circumstances, may petition for temporary custody. However, the bill provides that putative fathers are no longer permitted to petition for temporary custody.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 120-0

CS/CS/SB 2184 — Parental Relocation with a Child

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

This bill establishes procedures for a primary custodial parent to relocate with a minor child. Under the bill, relocation can be permitted as the result of the following:

- An agreement between the primary residential parent and those with visitation rights;
- By the failure of a person with visitation rights to object to a proposed relocation after receiving notice of the proposed relocation; and
- By order of a court.

When a court evaluates a petition to relocate with a child, it must consider the following factors:

- The child's relationships with others;
- The age or developmental stage of the child, the child's needs, and the impact of the relocation on the child;
- The feasibility of preserving the relationship between the nonrelocating parent or other persons through substitute arrangements;
- The child's preference;
- Whether the relocation will enhance the quality of life of both the relocating parent and the child;
- The reasons for opposing or seeking relocation;
- Whether the relocation is necessary to improve economic circumstances of the relocating person;
- Whether the relocation is sought in good faith;
- The career opportunities available to the objecting parent;
- Whether a party has a history of substance abuse or domestic violence; and
- Any other factor affecting the best interest of the child.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 38-0; House 120-0

HB 7111 — Interference with Custody/OGSR

by Governmental Operations Committee and Rep. Rivera (CS/SB 708 by Criminal Justice Committee; Judiciary Committee; and Senator Lynn)

The criminal offense of interference with custody occurs when certain persons take or conceal a child or an incompetent person from someone with lawful custody. The bill revises the interference-with-custody statute, s. 787.03, F.S., to:

- Expand an existing exception for a spouse who takes a child in order to seek shelter from domestic violence or to protect the welfare of the child. The bill expands the exception beyond spouses to include a person having a legal right to custody of the child. The bill also includes the taking of an incompetent person within the coverage of the exception and within the procedural steps that a person must follow to avail himself or herself of the exception. (Under existing law, s. 787.03(6), F.S., a spouse who takes a child to flee domestic violence may be able to avoid prosecution if he or she, among other requirements, reports their whereabouts to the sheriff or state attorney.)

- Revise an existing defense for victims of domestic violence, to require the defendant to establish that he or she reasonably believed it was necessary to take the child or incompetent person in order to escape the violence or to protect the child or incompetent person from being exposed to the violence.
- Revise an existing defense for cases in which the child or incompetent person instigates his or her own taking, to require the defendant to establish that it was reasonable to rely on the instigating actions of the child or incompetent person.

The bill also clearly makes the offense of interference with custody applicable to the taking of a minor, replacing the term "child 17 years of age or under" with the term "minor."

The interference-with-custody statute was the subject of Senate Interim Project Report 2006-142 by the Committee on Judiciary. An accompanying public records exemption passed as HB 7113.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 38-0; House 119-0

HB 7113 — Interference with Custody/OGSR

by Governmental Operations Committee and Rep. Rivera (CS/SB 710 by Governmental Oversight and Productivity Committee and Judiciary Committee)

This bill saves from repeal an existing public records exemption for certain information provided to a sheriff or a state attorney by a person who seeks shelter with a child and wants to utilize an exception afforded under the state's interference with custody statute. The bill is the public records companion to HB 7111, relating to the criminal offense of interference with custody, which occurs when certain persons take or conceal a child or an incompetent person from someone with lawful custody. Under existing law, s. 787.03(6), F.S., a spouse who takes a child to flee domestic violence may be able to avoid prosecution if he or she, among other requirements, reports their whereabouts to the sheriff or state attorney. Currently, the name of the person taking the child and the current address and telephone number of that person and the child, contained in the report, are confidential and exempt from public disclosure.

This bill:

- Expands the public records exemption to include address and telephone information for an incompetent person who is taken, in addition to the same information for a child.
- Narrows the public records exemption by no longer providing confidential-and-exempt status for the name of the person who does the taking.
- Authorizes the confidential information to be shared with an agency in furtherance of the agency's duties.

- Provides a statement of public necessity offering a rationale for expansion of the public records exemption.

If approved by the Governor, these provisions take effect October 1, 2006, provided HB 7111 becomes law.
Vote: Senate 40-0; House 119-0

GUARDIANSHIP/COURT MONITORS

HB 457 — Guardianship

by Rep. Sands and others (CS/CS/SB 472 by Children and Families Committee; Judiciary Committee; and Senator Saunders)

This bill makes numerous changes to guardianship law. These changes:

- Reduce the amount of personal information that must be included in a professional guardian's registration;
- Empower the executive director of the Statewide Public Guardianship Office to suspend or revoke a professional guardian's registration;
- Revise the law permitting a court to appoint a guardian ad litem to represent a minor's interest in a legal claim;
- Require emergency temporary guardians to file reports and extend the length of an appointment of an emergency temporary guardian;
- Increase the number of credit and criminal history record checks to which a guardian must submit;
- Expand the rights of an incapacitated person to include services and rehabilitation necessary to maximize quality of life;
- Provide that an incapacitated person's right to marry is subject to court approval if an incapacitated person's right to contract has been removed;
- Require training for guardians, examining committee members, and court appointed guardianship attorneys;
- Require each member of an examining committee to report his or her findings;
- Require reports of voluntary guardians to include a certification from a physician that a ward is competent;
- Require professional and public guardians or their staff to visit their wards quarterly;

- Create separate requirements for guardianship plans for adults and minors;
- Authorize guardians to amend revocable trusts and create irrevocable trusts;
- Permit the appointment of a surrogate guardian to take the place of a guardian for up to 30 days;
- Repeal a provision that prohibits a person from filing a suggestion of capacity within 90 day of having been found incapacitated;
- Require the Statewide Public Guardianship Office to investigate each office of public guardian; and
- Make numerous technical changes.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 119-0

HB 459 — Guardianship Office/Direct-Support Organization

by Rep. Sands (CS/SB 474 by Governmental Oversight and Productivity Committee and Senator Saunders)

The bill creates a public records exemption to allow donors and prospective donors to the direct-support organization for the Statewide Public Guardianship Office to remain anonymous, if they wish. The bill provides that the public records exemption is necessary because the release of information identifying donors will adversely affect the fund-raising efforts of the direct-support organization.

If approved by the Governor, these provisions take effect July 1, 2006, if HB 457 becomes law.
Vote: Senate 40-0; House 113-0

HB 191 — Guardianship/Court Monitors

by Rep. Bogdanoff and others (SB 356 by Senator Campbell)

This bill prohibits a court from appointing a guardian for an incapacitated person if sufficient alternatives to guardianship exist, such as a trust or durable power of attorney. Under existing law, if a court finds that a person is incapacitated, a guardian must be appointed. However, the bill provides that a trust or durable power of attorney is not an alternative to guardianship if an interested person files a verified statement indicating that the trust or durable power of attorney is invalid.

Additionally, the bill permits a guardian to challenge the validity of a ward's revocable trust if a court finds that such an action appears to be in the ward's best interests during the ward's probable lifetime. As such, the bill creates an exception to the general rule that an action to

contest the validity of a trust may not be commenced until the trust become irrevocable. Typically, revocable trusts used to manage a person's assets during his or her life and to distribute property upon his or her death do not become irrevocable until the person's death.

Lastly, the bill strengthens a court's ability through court monitors to investigate guardianships and enter any necessary orders to protect a ward's health, safety, or property. The bill permits the appointment of an emergency court monitor without notice to interested parties when immediate action is necessary to protect the ward.

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

HB 193 — Court Monitors/Public Records

by Rep. Bogdanoff (SB 358 by Senator Campbell)

This bill makes the following records relating to court monitors confidential or exempt from public records laws that would otherwise require their disclosure:

- Orders appointing a court monitor or emergency court monitor;
- Reports of a court monitor or emergency court monitor relating to the medical condition, financial affairs, or mental health of the ward; and
- Court determinations relating to a finding that no further action is needed to protect a ward.

The orders appointing a court monitor and reports of a court monitor lose their confidential or exempt status if a court determines that probable cause exists to take further action to protect a ward. Those records, however, may remain confidential or exempt under other statutes. Additionally, a court may make the court monitor or emergency court monitor reports available for inspection upon good cause shown.

If approved by the Governor, these provisions take effect on the same date as HB 191, provided HB 191 becomes law.
Vote: Senate 36-0; House 116-0

JUDICIARY/CLERK OPERATIONS

HB 849 — Foreign Language Court Interpreters

by Rep. Flores and others (SB 1128 by Senator Villalobos)

This bill directs the Florida Supreme Court to establish standards and procedures to certify, discipline, and train foreign language interpreters who are appointed by a court. Additionally, the bill permits the Court to charge fees to persons who apply for certification or renewal of their certification as an interpreter. The bill provides that the fee revenues will be used to offset the costs of administering the certification process. Further, the bill authorizes the Court to employ personnel necessary to administer the procedures authorized by the bill.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

HB 1563 — Court Files/Public Records

by Rep. Kendrick and others (CS/CS/SB 2366 by Governmental Oversight and Productivity Committee; Judiciary Committee; and Senator Argenziano)

This bill revises the responsibilities of court clerks and county recorders to protect certain confidential and exempt information from disclosure. Specifically, the bill:

- Extends the current deadline of January 1, 2007, by one year to January 1, 2008, by which clerks of court must automatically redact social security, bank account, credit, and debit card numbers from court records;
- Provides court clerks with immunity from liability for inadvertent release of social security numbers and financial account numbers in court records filed before January 1, 2008;
- Permits the county recorder to continue to allow inspection and copying of official records without redaction of social security numbers and financial account numbers until January 1, 2008, unless the county recorder has received a request to redact specific information; and
- Requires a county recorder that stores official records electronically to use his or her best efforts, which may be satisfied through an automated program, to redact confidential or exempt information from electronic records.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 114-3

MISCELLANEOUS

HB 567 — Notaries Public

by Rep. Kyle and others (CS/SB 1312 by Governmental Oversight and Productivity Committee and Senator Fasano)

This bill requires notaries, except for notaries who are attorneys or who are employed by an attorney or title insurance agency, to make a record of their notarial acts in a journal that must be maintained by a notary for at least five years. The journal must be maintained in a sequential paper journal or on a computer or electronic storage device. The journal must include the:

- Date, time, and type of notarial act;
- Title or name of the document or transaction;
- Signer's printed name and signature;
- Signer's address and telephone number;
- Identification presented by the signer.

Further, the bill requires notaries to notify the Governor's Office in writing of the circumstances of a lost, destroyed, misplaced, stolen, or unusable journal of notarial acts. Moreover, the bill provides that a notary's failure to keep a journal and notify the Governor's Office as required above is grounds for suspension or non-renewal of a notary's commission.

Existing law provides that a notary may charge a fee of $10 per notarial act. This bill provides that a notarial act is evidenced by the affixing of a notary seal to a document accompanied by a written certificate or jurat. Additionally, the bill prohibits notaries employed by a state agency from charging a fee to notarize certain documents for military veterans, firefighters, or law enforcement officers.

If approved by the Governor, these provisions take effect January 1, 2007.
Vote: Senate 34-5; House 115-0

HB 1325 — Controlled Substances

by Rep. Culp and others (CS/CS/SB 2356 by Criminal Justice Committee; Judiciary Committee; and Senators Baker and Crist)

This bill revises existing Florida Statutes and creates new provisions of law relating to the manufacture of controlled substances. The creation of controlled substances like methamphetamines, for example, creates toxic waste, endangering first responders and others who are exposed to the sites of methamphetamine laboratories. In addition, the combustibility of the components of methamphetamines creates a fire hazard. The bill addresses concerns related to children and first responders being exposed to the hazards of manufacturing controlled substances like methamphetamine, including:

- Adding arrest for certain drug-related activities to the list of factors considered "high-risk" in a child protective investigation, requiring the Department of Children and Family Services to file a petition for dependency in child protective investigations;
- Expanding language providing criminal penalties for persons who injure a first responder as a result of a violation of law (under ch. 893, F.S.) involving controlled substances to include firefighters, emergency medical technicians, paramedics, and other specified persons;
- Prohibiting insurers from canceling or not renewing a health or life insurance policy for specified first responders solely on the basis of exposure to toxic chemicals, injury, or disease resulting from the exposure to chemicals as the result of performing duties related to another's violation of ch. 893, F.S.; and
- Adding the manufacture of controlled substances to the list of crimes for which pretrial detention may be ordered and requiring the court to order pretrial detention when it finds that there is a substantial probability that a defendant charged with a drug-related offense committed that crime and that there are no conditions of pretrial release that are reasonably sufficient to protect the community from harm.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 119-0

HB 113 — Judges
by Rep. Negron and others (SB 1698 By Senator Crist)

The bill creates 55 judicial offices to be filled by the 2006 election. Judicial candidates must qualify between noon, July 17, 2006 and noon, July 21, 2006. The judicial offices take effect on January 2, 2007. The bill creates thirty-five circuit court and twenty county court judicial offices.

The bill appropriates $7,298,357 from the General Revenue Fund and 122 full-time positions to the circuit and county courts to support the new judges. The bill appropriates $4,389,000 from the General Revenue Fund and 82.5 full-time positions to the state attorneys and public defenders for increased workload in circuits where new criminal courts are established.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 111-4

TRUST FUND BILLS

SB 2340 — Administrative Trust Fund / Department of Corrections
by Senator Crist

This bill creates the Administrative Trust Fund within the Department of Corrections effective July 1, 2006. This fund is established as a depository for funds to be used for department-wide management activities. Funds that will be credited to the Administrative Trust Fund will consist of indirect cost reimbursements from grantors, administrative assessments against trust funds, interest earnings, and other appropriate administrative fees. The bill creates s. 20.3151, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 119-0

SB 2342 — Federal Grants Trust Fund / Department of Corrections
by Senator Crist

This bill creates the Federal Grants Trust Fund within the Department of Corrections effective July 1, 2006. The fund is established as a depository for funds to be used for allowable grant activities. Funds that will be credited to the Federal Grants Trust Fund will consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds. The bill creates s. 945.21503, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 118-0

SB 2344 — Administrative Trust Fund / Department of Law Enforcement

by Senator Crist

This bill creates the Administrative Trust Fund within the Department of Law Enforcement effective July 1, 2006. The fund is established as a depository for funds to be used for department-wide management activities. Funds that will be credited to the Administrative Trust Fund will consist of indirect cost reimbursements from the federal government and possible future assessments against other funds. The bill creates s. 943.367, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 120-0

SB 2346 — Federal Grants Trust Fund / Department of Law Enforcement

by Senator Crist

This bill creates the Federal Grants Trust Fund within the Department of Law Enforcement effective July 1, 2006. The fund is established as a depository for funds to be used for allowable grant activities. Funds that will be credited to the Federal Grants Trust Fund will consist of grants and funding from the federal government. The bill creates s. 943.366, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

CS/SB 2348 — Operating Trust Fund / State Courts System

by Justice Appropriations Committee and Senator Crist

This bill creates the Operating Trust Fund within the state courts system effective July 1, 2006. The fund is established as a depository for funds to be used for supporting the programs and other appropriate purposes of the judicial branch. Funds that will be credited to the Operating Trust Fund include cost recovery for state-funded services in the circuit courts, Supreme Court filing fees, and district court filing fees. This bill creates s. 25.3844, F.S. This bill amends the following sections of the Florida Statutes: 25.241(5), 25.383, 29.0195, 35.22(6).

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 120-0

SB 2350 — Federal Grants Trust Fund / State Courts System

by Senator Crist

This bill creates the Federal Grants Trust Fund within the state courts system effective July 1, 2006. The fund is established as a depository for funds to be used for allowable grant activities. Funds that will be credited to the Federal Grants Trust Fund will consist of grants and funding from the federal government, interest earnings, and cash advances from other trust funds. The bill creates s. 25.3842, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 119-0

REAL ESTATE

CS/SB 466 — Regulation of Real Estate Appraisers

by Regulated Industries Committee and Senator Constantine

The bill requires that a primary or secondary supervisory appraiser must provide training in addition to the supervision required under current law. It defines the terms "direct supervision" and "training" in the context of the supervisory appraiser and register appraiser trainee relationship. It also amends the definition of the term "supervisory appraiser" to provide that the board shall establish, by rule, the minimum qualifications and standards of a licensed or certified appraiser before he or she may act in the capacity of a supervisory appraiser.

The bill provides that a supervisory appraiser may not be employed by a trainee or by a company, firm, or partnership in which the trainee has a controlling interest.

The bill prohibits a person from issuing an appraisal report, whether or not the transaction is federally related, unless certified, licensed, or registered.

The bill requires, in addition to the approval and signature of a certified or licensed appraiser required under current law, that an appraisal report based upon work performed by a person who is not a certified or licensed appraiser, or a registered trainee appraiser must be supervised by a certified or licensed appraiser who has full responsibility for all requirements of the report and valuation report. Additionally, the bill provides that only the certified or licensed appraiser may issue an appraiser report and receive direct compensation for providing valuation services for the appraiser report.

The bill provides that any appraisal report prepared by a full-time degree program graduate student must be issued in the name of the supervisory individual who is responsible for the report's content. The bill requires that any appraisal report or file memoranda used to support a claim for experience by an applicant must be maintained for not less than five years. It also authorizes the board to implement this reporting requirement by rule.

The bill also provides that a Florida licensed real estate broker, sales associate, or broker associate may provide valuation services for compensation. Current law does not require a Florida license.

The bill requires that the Florida Real Estate Appraisal Board (board) conform education and experience requirements to the standards adopted by the Appraisal Qualifications Board on February 20, 2004.

It requires that by July 1, 2006, an applicant for certification or registration must provide fingerprints in electronic format, and that an application expires one year from the date received.

The bill repeals the education and experience requirements for a licensed appraiser because, pursuant to s. 475.611(1)(l), F.S., the department has not issued licenses for the category since July 1, 2003.

The bill provides that, to be certified as a residential appraiser or a general appraiser, the applicant must present satisfactory evidence to the board that he or she has met the minimum education and experience requirements prescribed by rule of the board. It also requires that the board prescribe education and experience requirements that meet or exceed the qualification criteria adopted on February 20, 2004 by the Appraiser Qualifications Board.

The bill increases the number of classroom hours needed for registration as appraiser trainee (from 75 classroom hours to 100 classroom hours), certification as a residential appraiser (from 125 classroom hours to 200 classroom hours) and general appraiser from 180 classroom hours to 300 classroom hours). The bill requires that the classroom hours for general and residential appraisers must include a 15-hour National Uniform Standards of Professional Appraisal Practice course. It deletes the board's authority to increase the required number of hours for general and residential appraisers, and also increases the maximum number of hours that the board may require for registration from 100 to 125 classroom hours.

The bill provides for the issuance of a registration or certification upon receipt by the board of a completed application, successful course completion, proof of experience, and proof of passing a written examination, if required.

The bill requires that each appraiser registered, licensed or certified under ch. 475, part II, F.S., must furnish the department with the firm or business name for which he or she operates in the performance of appraisal services. It also specifies the documentation that must be presented for issuance of a registration or certification.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 120-0

HB 1009 — Real Estate Profession Regulation

by Rep. Cretul and others (CS/SB 1816 by Regulated Industries Committee and Senator Posey)

The bill permits the Florida Real Estate Commission (commission) to issue a license to a broker associate or sales associate as a limited liability company or professional limited liability company.

The bill increases from one year to two years the time for certification of an applicant after an application for licensure is received by the commission. It provides that the application expires if the applicant does not pass the examination during the new two year period. It also provides that the applicant's successful course completion is invalid for licensure if the applicant does not pass the licensing examination within two years after the successful course completion date. The bill provides additional education requirements for a licensee to reactivate his or her license when the license has become involuntarily inactive.

The bill increases the administrative fine that may be imposed by the commission from $1,000 to $5,000. It creates additional violations for brokers that fail to reasonably manage or supervise any broker or sales associate whose license is affiliated with that broker, and for the broker that fails to review the brokerage's trust accounting practices in order to ensure compliance with ch. 475, F.S.

The bill limits the time period for the filing of an administrative complaint against a sales associate to five years, and requires that the department or the commission promptly notify a licensee's broker or employer when a formal complaint is filed against a licensee by the department.

The bill deletes the "Important Notice" header and warning to the buyer or seller that they should not assume that a licensee represents them, and to not disclose confidential information unless the brokerage relationship has been agreed upon. It also deletes the disclosure notice for transaction brokers.

The bill repeals s. 475.452, F.S., which provides procedures for brokers that contract for, or collect, an advance fee for the listing of real property and which provides criminal penalties for failure to follow the advance fee procedures. The bill provides record keeping and reporting requirements for education providers.

The bill amends the Commercial Real Estate Sales Commission Lien Act in part III of ch. 475, F.S., to revise the provisions for calculating disputed commission amounts owed to brokers, and to provide the conditions that the closing agent must consider to resolve a dispute. It also provides for the payment of costs equally by the parties when neither the owner nor broker is the prevailing party in an action regarding a disputed commission.

The bill also amends the Commercial Real Estate Leasing Commission Lien Act in part IV of ch. 475, F.S., to provide conditions related to extending recorded liens, as long as the owner remains obligated to pay a commission to the broker.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 120-0

SB 1948 — Coastal Property/Sale/Disclosures

by Senators Smith and Dockery

This bill prescribes additional disclosure requirements for sellers of coastal real property that are seaward of the coastal construction control line. The seller is required to make the following disclosure at or prior to the time a seller and a purchaser both execute a contract for the sale and purchase of the real property:

- That the property may be subject to coastal erosion and certain federal, state, or local environmental laws that regulate coastal property, including the delineation of the coastal construction control line, rigid coastal protection structures, beach nourishment, and the protection of marine turtles; and
- That additional information can be obtained from the Department of Environmental Protection (DEP), including whether there are significant erosion conditions associated with the shore line of the property being purchased.

The disclosure may be set forth in the contract or in a separate writing.

The bill also provides that failure to deliver the disclosure, affidavit, or survey required by these provisions does not effect the enforcement of the sale and purchase contract, create a right of recession, or impair the property's title.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 112-0

COMMUNITY ASSOCIATIONS

HB 391 — Community Associations

by Rep. Domino and others (CS/SB 2358 by Regulated Industries Committee and Senator Bennett)

The bill provides that nonmandatory homeowner's associations may use the covenant revitalization procedures in ch. 720, F.S., relating to mandatory associations, to revitalize covenants that have lapsed.

The bill defines the term "equity facilities club" to mean a club comprised of recreational facilities in which proprietary membership interests are sold to individuals, and prohibits any law, ordinance, or regulation that establishes certain requirements on the equity facilities club form of ownership that are not applicable to other forms of ownership.

The bill provides the following rights, powers, and duties of condominium associations and their members:

- Prohibits local governments from limiting access to a public or private beach adjacent to the condominium for the condominium or its guests, licensees, or invitees;
- Extends the deadline of retrofitting with a fire sprinkler system in the common areas in high-rise buildings from 2014 to the end of 2025;
- Limits the enforcement of provisions in the governing documents recorded on or after October 1, 2006, or amendments thereto, that require the consent or joinder of some or all mortgagees of units or any other portion of the condominium property for those mortgages; and
- Prohibits the acquiring or entering into agreements acquiring leaseholds, memberships, or other possessory or use interests within 12 months after a declaration.

The bill provides the following requirements and limitations on the powers and duties of a homeowners' association:

- Allows homeowner's association to incorporate as profit entities under ch. 607, F.S.
- Provides that all meetings of a homeowner's association regarding a final decision for the spending of association funds, and to approve or disapprove architectural decisions with respect to a specific parcel of residential property must be open to all members;
- Provides that the homeowner's association has to provide or disclose only the information required by ch. 720, F.S.;
- Provides for the charging of a reasonable fee not to exceed $150 plus photocopying and attorney's fees to a prospective purchaser or lienholder or the current parcel owner for providing good faith responses to requests for information, unless required by law;
- Provides that any member who prevails in an action against an association and is awarded attorney's fees may be awarded an amount sufficient to cover the member's share of assessments levied to fund the association's litigation expenses;
- Permits the merger or consolidation of one or more associations;
- Establishes for the maintenance of reserve accounts in the annual budget, including how to calculate reserves and conditions for waiving the maintenance of reserve accounts;
- Provides that an association may review and approve building plans only to the extent that it is specifically stated or reasonably inferred in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants;

- Provides that an association can only enforce setbacks specifically provided for in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants, and cannot enforce setback requirements that are inconsistent with applicable county or municipal setback standards;
- Provides that each parcel owner's rights and privileges as provided in the declaration of covenants cannot be unreasonably impaired concerning the use of the parcel, and the construction of permitted structures and improvements;
- Provides for auditing of financial records when an association is transferred from the developer to the homeowners;
- Provides procedures for the guarantee of common expenses by the developer; and
- Provides that an association cannot enforce any policy that is inconsistent with the rights and privileges of a parcel owner set forth in the declaration of covenants, whether the policy is uniformly applied or not.

The bill also increases from 60 days to 90 days the period after each fiscal year that an association must prepare and complete the annual financial report.

The bill specifies additional records and documents that the developer must provide to the association's board of directors upon the creation of the association. It also provides procedures for determining the developer's financial obligation to the homeowner's association upon the creation of the association.

This bill repeals the mediation of disputes between homeowners' associations and members by the Department of Business and Professional Regulation. Such disputes would be mediated by private mediators. The procedures are renamed as presuit mediation and specific procedures are established. The mediator may require advance payment of fees and costs. The bill deletes the $200 filing fee for mediation.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 113-0

CS/CS/SB 1556 — Condominiums

by Judiciary Committee; Regulated Industries Committee; and Senator Geller

This bill substantially revises the provisions of the statute governing the termination of the condominium form of ownership of a property.

The bill provides legislative findings that it is the public policy of the state to provide a method to preserve the value of the property interests and the rights of alienation thereof that owners have in the condominium property before and after termination.

The bill requires a plan of termination to be prepared and presented to the unit owners in the condominium for approval before termination can occur. The plan must provide for the valuation of the individual units, the common elements, and the other assets of the condominium based upon their respective fair market values. The plan must further set out the share that each unit owner will receive if the plan of termination is adopted, and if the property is to be sold, it must state the minimum sale terms.

The bill provides three methods of approval of a plan of termination of the condominium form of ownership:

- Economic Waste or Impossibility: The plan of termination may be approved by the lesser of the majority of the total voting interests or as otherwise provided in the declaration for approval when the costs to repair and restore the property to its prior condition are more than the fair market value of the property after the repairs or when it is impossible to reconstruct the physical configuration of the condominium because of the current land use laws.
- Court Approval (subsection heading: "Jurisdiction For Plan of Termination Review"): The bill provides that termination approval may be pursued in circuit court by one or more unit owners if the plan of termination did not receive approval by at least 80 percent the community, and fewer than 20 percent of the total voting interests voted against the plan.
- Optional Termination: Except as provided in methods one and two or unless the declaration provides for a lower percentage, the plan of termination may be approved by 80 percent or more of the total voting interests.

The plan of termination becomes effective upon recording of the plan with the Clerk of the Circuit Court. Within 90 days of the recording, any owner who does not agree that the apportionment of the proceeds from the sale among the unit owners was fair and reasonable may bring an action in circuit court contesting the plan of termination.

The bill provides for quarterly reports prepared by the association, receiver, or termination trustee following the approval of the termination plan. The report shall provide the status and progress of the termination, costs and fees incurred, the expected completion date of termination, and the current financial condition of the association, receivership or trusteeship. Unit owners may recall or remove members of the board of administration with or without cause, and lienors of an association in termination representing at least 50 percent of the outstanding amounts of

liens may petition the court for the appointment of a termination trustee upon a showing of good cause.

A copy of the proposed plan of termination must be given to all of the unit owners (in the same manner as for notice of the annual meeting) at least 14 days prior to the meeting at which the plan will be voted upon. Once a plan of termination is approved, each unit owner and the holders of liens on property in condominiums must be mailed notice of the plan's adoption and the right to contest the plan within 30 days of the recording with the Clerk. Within 90 days after the effective date of the plan, a certified copy of the recorded plan must be provided to the Division of Land Sales, Condominiums, and Mobile Homes. The bill also requires a distribution notice. Not less than 30 days prior to the first distribution, notice of the estimated distribution shall be provided to all unit owners, lienors of the condominium property, and lienors of each unit.

The bill provides that unless another person is appointed as trustee in the plan of termination, the condominium association shall serve as the "termination trustee." Once the plan is effective, the termination trustee is vested with the title to the condominium property, and the unit owners become the beneficiaries of the proceeds realized from the plan of termination. The trustee is obligated to protect and maintain the property, to sell the assets of the condominium, and disburse the proceeds to the unit owners and the mortgagees as provided for in the plan.

The bill provides that value of each unit must be determined based upon the fair market value of the units immediately before the termination by one or more independent appraisers or based upon the values maintained by the county property appraiser. Unit owners are also entitled to the fair market value of their share of the common elements, association property, and the common surplus. Each unit's total share of the proceeds must be set out in the plan of termination.

It provides that consent of mortgagees is not required for the adoption of a plan of termination under the provisions of the bill unless the proceeds under the plan are less than the full satisfaction of the mortgage lien encumbering the unit.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

CONSTRUCTION CONTRACTING

HB 1089 — Construction Contracting

by Rep. Galvano and others (CS/SB 1940 by Regulated Industries Committee and Senators Clary and Bennett)

The bill decreases the period within which an action based on design, planning, or construction of an improvement to real property may be filed from 15 years to 10 years. It provides that

warranties of the developer under s. 718.618, F.S., apply to the conversion of an existing improvement if construction of the improvement was started before it was designated by the developer as a condominium. The bill further provides that the warranties of the developer to the purchaser of a unit under s. 718.203, F.S., does not apply to such a conversion.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 37-0; House 116-0

HB 1139 — Construction Defects/Property

by Rep. Murzin and others (CS/SB 2036 by Regulated Industries Committee and Senator Bennett

The bill expands the applicability of ch. 558, F.S., which provides an alternative method to resolve construction disputes, to include construction defects in any real property, including mobile homes and excluding public transportation projects. To conform to the chapter's broadened applicability, the bill deletes provisions that limit the application of ch. 558, F.S., to residential property. The bill provides that the provisions of the chapter apply to contracts that include the notice prescribed by the chapter.

The bill amends s. 558.005(4), F.S., to provide that this chapter applies to all actions accruing or commenced on or after July 1, 2004, for a construction contract. It further provides that, notwithstanding the notice requirements of this section, the chapter applies to all contracts entered into between July 1, 2004 and September 30, 2006, and all actions occurring before July 1, 2004, but not yet commenced by that date. The failure to include the notice in a contract entered into prior to July 1, 2004, does not operate to bar the procedures of ch. 558, F.S., from applying to all such actions.

The bill provides that, notwithstanding the notice requirements of this section, for contracts entered into on or after October 1, 2006, this chapter applies to all actions accruing before July 1, 2004, but not yet commenced as of July 1, 2004. Failure to include such notice in a contract entered into before July 1, 2004, does not operate to bar the procedures of ch. 558, F.S., from applying to all such actions.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 118-0

HB 1351 — Electrical/Alarm System Contractors

by Rep. Reagan and others (CS/SB 744 by Banking and Insurance Committee and Senator Wise)

The bill provides that a certified electrical contractor, or certified or registered alarm system contractor is exempt from local requirement to be listed or certified by a national testing lab or regional or national certification organization. The bill provides that counties, municipalities or

special districts can require an electrical or alarm system contractor to provide documentation that the alarm system has been inspected by a nationally recognized testing lab as required under the National Fire Alarm Code (NFPA No. 72). It provides that a county, municipality, or special district is not prohibited from requiring compliance with NFPA 72.

The bill provides that, if no state or local license is required for the scope of work to be performed under the contract, the individual performing the work shall not be considered unlicensed.

The bill provides that a business organization entering into a contract may not be considered unlicensed if, before entering into the original contract for work, the individual possessing a license concerning the scope of the work to be performed under the contract submitted an application for a certificate of authority designating the individual as a qualifying agent for the business organization, and the application was not acted upon by the department or applicable board within the time limitations imposed by s. 120.60, F.S.

The bill provides exemptions from licensure as electrical or alarm system contractors under ch. 489, part II, F.S., for alarm system inspections, audits, or quality assurance services performed by a nationally recognized testing laboratory that the Occupational Safety and Health Administration has recognized as meeting the requirements of 29 C.F.R. s. 1910.7 and persons who install or repair lightning rods or related systems.

The bill amends the definition of "alarm system contractor" to include any person who contracts, offers, purports to undertake, bids, or engages in the business of alarm contracting. It also increases the voltage limitation from 77 to 98 volts within that classification.

The bill further amends the definition of "monitoring" to provide that the electric or electronic signal from the alarm or protective system may originate from any structure, and that the signal may also originate from outside the state, regardless of whether those signals are relayed through a jurisdiction outside the state. The bill also provides that the signal may be produced by an access-control system. The bill amends the definition of "burglar alarm system agent" to delete the requirement that selling of alarm systems be limited to onsite for burglar alarm and fire alarm system agents.

The bill defines "nationally recognized testing lab" as an organization that the Occupational Safety and Health Administration has legally recognized to be in compliance with 29 C.F.R. s. 1910.7 and that provides quality assurance, product testing, or certification services.

The bill establishes the qualifications for registration as a contractor to provide that an applicant be at least 18 years of age and of good moral character. It provides criteria for determining good moral character.

The bill requires the central monitoring station to employ call-verification methods for the premises generating the alarm signal if the first call is not answered. The bill exempts an audible fire alarm signal from the requirement in current law that every alarm system installed by a licensed contractor has a device that automatically terminates the audible signal within 15 minutes of activation.

The bill provides that sections dealing with business organization licensure are intended to be remedial in nature and to clarify existing law. These sections apply retroactively to all actions, including any action on a lien or bond claim initiated on or after, or pending as of, July 1, 2006. It provides for a severability clause.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 120-0

HB 1367 — Contracting Exemptions

by Rep. Evers and others (SB 2472 by Senator Peaden)

The bill increases the limit from $25,000 to $75,000 for construction work performed by a property owner acting as his or her own contractor when building or improving buildings.

The bill recognizes the Governor's declaration of a state of emergency due to damage caused by natural causes that pose a serious threat to the public health, safety and welfare. It creates a licensure exemption for property owners who repair or replace wood shakes or asphalt or fiberglass shingles on one-family, two-family, or three-family residences for the occupancy or use of the owner or owner's tenant and are not offered for sale within one year.

The bill requires the owner to satisfy local permitting agency requirements and prove that the owner has a complete understanding of the owner's legal obligations as specified in the exemption disclosure statement required by law.

The bill also provides that if any person violates the provisions of the exemption, the local permitting agency shall have the authority to withhold final approval, revoke the permit, or pursue any action or remedy for unlicensed activity against the owner and any person performing work that requires licensure under the permit.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 119-0

LIENS

HB 1443 — Liens

by Rep. Russell and others (CS/SB 588 by Criminal Justice Committee and Senator Constantine)

The bill amends s. 679.705, F.S., to extend by six months the time period during which financing statements are effective.

The bill amends s. 713.135, F.S., to:

- Allow for the local building department to electronically deliver a summary of the Construction Lien Law to the property owner;
- Provide that, in addition to a building permit issuing authority, a private provider performing inspection services may not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means a certified copy of the recorded notice of commencement;
- Increase the threshold amount for a notice of commencement from $5,000 to $7,500 on those direct contracts to repair or replace an existing heating or air-conditioning system;
- Provide that an issuing authority or a building official may not require that a notice of commencement be recorded as a condition of the application, processing, or issuance of a building permit;
- Authorize authorities issuing building permits to accept permit applications electronically and requires an electronic application to include a sworn electronic submission statement; and
- Require that an authority responsible for issuing building permit applications which accept building permit applications in an electronic format provide public Internet access to the electronic building permit applications in a searchable format.

Section 713.18, F.S., is amended to provide electronic evidence of delivery of notices, claims of liens, affidavits and other instruments permitted or required under the construction lien law.

The bill amends s. 713.35, F.S., by revising the list of legal documents to include a waiver or release of lien, or other document in which it is a crime to knowingly and intentionally include certain false information about the payment status of subcontractors, sub-subcontractors, or suppliers in connection with the improvement of real property, knowing that the one to whom it was furnished will rely on it and will draw payments or final payment relying on the truth of such statements to do so.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 119-0

ARCHITECTURE AND INTERIOR DESIGN

CS/CS/SB 2060 — Architecture and Interior Design

by Community Affairs Committee; Regulated Industries Committee; and Senator Clary

The bill provides for the definition of "responsible supervising control" in ch. 481, part I, F.S. It authorizes the Board of Architecture and Interior Design to adopt rules governing the exercise of responsible supervising control by licensed architects and interior designers. It provides for the use of the terms "architect, retired" and "interior designer, retired" for licensees that fail to renew or relinquish licensure.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 35-0; House 120-0

VETERINARY MEDICINE

CS/SB 1540 — Veterinary Drug Distribution

by Regulated Industries Committee and Senator Baker

The bill establishes the limited prescription drug veterinary wholesaler permit (permittee) for any person that engages in the distribution, in or into this state, of veterinary prescription drugs and prescription drugs for human use to veterinarians. It provides that any prescription drug for human use that has been returned by a veterinarian to a permittee is an adulterated drug under s. 499.006, F.S.

The bill provides several requirements and conditions for the permit. The bill provides that a permittee must be engaged in the business of wholesaling veterinary prescription or legend drugs full-time, must limit prescription drugs prescribed for human use to no more than 30 percent of total annual drug sales, must not otherwise be authorized to wholesale prescription drugs for human use, must provide a $20,000 bond or equivalent surety requirement, and must maintain a valid limited prescription drug veterinary wholesaler permit.

The bill provides that any prescription drug for human use which has been returned by a veterinarian may not be returned to inventory for subsequent wholesale distribution. It provides that an out-of-state prescription drug wholesale permit or a limited prescription drug veterinary wholesaler permit is not required for an intercompany sale or drug transfer from a licensed out-of-state establishment.

The bill also requires a limited prescription drug veterinary wholesaler to comply with s. 499.0121, F.S., except that the permitholder is not required to comply with the pedigree paper requirements of s. 499.0121(6)(f), F.S., upon the wholesale distribution of a prescription drug to a veterinarian.

The bill provides a fee for a limited prescription drug veterinary wholesaler's permit of not less than $300 or no more than $500 annually.

The bill requires the Department of Health to inspect each limited prescription drug veterinary wholesaler, and it authorizes the department to order the immediate closure of a limited prescription drug veterinary wholesaler if the department determines that it presents an immediate danger to the public health, safety, or welfare.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 117-0

ALCOHOLIC BEVERAGES AND TOBACCO

HB 95 — Alcoholic Beverages

by Rep. Henriquez and others (CS/SB 1154 by Criminal Justice Committee and Senators Haridopolos and Lynn)

The bill prohibits the purchase, sale, offering for sale, or use of alcohol-vaporizing devices that mix alcoholic beverages with pure oxygen or other gas to produce a vaporized product for consumption by inhalation.

The bill provides that selling or offering for sale an alcohol-vaporizing device constitutes a first-degree misdemeanor. It provides that a violation within five years of a previous conviction would be a third-degree felony. Purchasing or using an alcohol-vaporizing device would result in a $250 fine. The bill provides an exception for the administration or prescription of alcohol-containing products by a health care practitioner licensed in Florida or another state.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 118-1

HB 317 — Stand-alone Bars/Licensed Vendors

by Rep. Domino and others (CS/SB 600 by Community Affairs Committee; and Senator Haridopolos)

The bill amends provisions that pertain to the exemption for stand-alone bars from the smoking prohibition in the Florida Clean Indoor Air Act, ch. 386, F.S., which implements the tobacco

smoking ban in s. 20, Art. X, Florida Constitution. It deletes the requirement that designated stand-alone bars must file, with the Division of Alcoholic Beverages and Tobacco, an agreed upon procedures report signed by a certified public accountant every three years after their initial designation as a stand-alone bar.

The bill provides for the suspension or revocation of a vendor's alcoholic beverage license, in addition to other penalties, if the vendor knowingly makes a false statement on the affidavit that stand-alone bars must file each year to certify that no more than 10 percent of the gross revenue of the business is from the sale of food consumed on the licensed premises.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 120-0

HB 1271 — Alcoholic Beverages and Tobacco Division

by Rep. Cannon (CS/CS/SB 2412 by Criminal Justice Committee; Regulated Industries Committee; and Senator Haridopolos)

The bill amends s. 20.165(9)(b), F.S., to provide that law enforcement employees of the Division of Alcoholic Beverage and Tobacco (division) must be certified as law enforcement officers by the Florida Department of Law Enforcement under ch. 943, F.S. The bill provides that the division's law enforcement officers (ABT officers) have the same authority as provided for law enforcement officers generally under ch. 901, F.S. (warrants, arrests, searches, detention, etc.), and statewide jurisdiction. The ABT officers are also authorized to make warrantless arrests as provided in s. 901.15, F.S.

The bill provides that each division officer possesses the full law enforcement powers granted to other Florida peace officers, including the authority to make arrests, carry firearms, serve court process, and seize contraband and the proceeds of illegal activities.

The bill provides that the primary responsibility of an ABT officer includes investigating, enforcing, and prosecuting, throughout Florida, violations and violators of state laws relating to alcoholic beverage and tobacco (and rules adopted pursuant to those laws).

The bill provides that the secondary responsibility of each ABT officer is to enforce "all other state laws," provided that the enforcement is "incidental" to exercising the officer's primary responsibility to investigate, enforce, and prosecute violations and violators of state laws relating to alcoholic beverage and tobacco (and rules adopted pursuant to those laws) and the officer exercises the powers of a deputy sheriff only after consultation or coordination with the appropriate local sheriff's office or municipal police department or when the division participates in the Florida Mutual Aid Plan during a declared state emergency.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 119-0

CS/CS/SB 1322 — Driver's License Penalties/Alcohol

by Criminal Justice Committee; Regulated Industries Committee; and Senators King, Klein, and Wise

The bill provides that a court may order the Department of Highway Safety and Motor Vehicles to withhold the issuance of, or suspend or revoke, the driver's license or driving privilege of any person who violates s. 562.11(1), F.S., which prohibits selling, giving, serving or permitting alcoholic beverages to be served to a person under 21 years of age, or permitting a person under 21 years of age to consume alcoholic beverages on the licensed premises. The violation in s. 562.11(1), F.S., relates to transactions on alcoholic beverage licensed locations. The provision does not apply to alcoholic beverage licensees and employees or agents of a licensee who violate s. 562.11(1), F.S., while engaged within the scope of his or her employment, or agency.

The bill provides that the court may order the department to issue a driver's license restricted to business or employment purposes. The bill provides a time frame for the delay of issuance of a license or the suspension or revocation of a license of not less than 3 months or more than 6 months for a violation and one year for any subsequent violation.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 40-0; House 118-0

HB 7105 — Taxation/Alcoholic Beverages

by Finance and Tax Committee and Rep. Brummer and others (CS/SB 1292 by Regulated Industries Committee and Senators Fasano, Peaden, Dockery, Jones, Baker, Posey, Sebesta, Geller, Bennett, Alexander, Saunders, King, Haridopolos, Wise, Smith, Aronberg, Lawson, Crist, and Hill)

The bill repeals the surcharge tax imposed pursuant to s. 561.501, F.S., on alcoholic beverages sold by the drink for consumption on a retailer's licensed premises, effective July 1, 2007. The Division of Alcoholic Beverages and Tobacco is permitted to continue to audit and collect any surcharges that should have been remitted before July 1, 2007. This audit and collection authority is repealed effective July 1, 2008.

The bill deletes s. 561.121(4)(a)1., 2., and (b), F.S., effective July 1, 2007, which provides for depositing 27 percent of surcharge taxes collected under s. 561.501, F.S., into the Children and Adolescents Substance Abuse Trust Fund in the Department of Children and Family Services. The bill also terminates the Children and Adolescents Substance Abuse Trust Fund, and provides

that the current balance remaining in the trust fund shall be transferred to the General Revenue Fund on that date.

The bill appropriates $11,298,205 from the General Revenue Fund to the Department of Children and Family Services for the purpose of reducing or eliminating substance abuse in children and adolescents.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 38-0; House 117-2

PUBLIC RECORDS

HB 7047 — Tobacco Settlement Agreement/OGSR

by Governmental Operations Committee and Rep. Rivera (CS/SB 1530 by Government Oversight and Productivity Committee and Regulated Industries Committee)

The bill reenacts the public records exemption in s. 569.215, F.S., for proprietary confidential business information received by the Governor, the Attorney General, or outside counsel representing the State of Florida in negotiations for settlement payments pursuant to the tobacco settlement agreement. It also exempts from public records requirements the proprietary confidential business information of the tobacco industry received by the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, or received by the Chief Financial Officer or the Auditor General for the purpose of verifying annual settlement payments.

The bill also amends s. 569.215, F.S., to provide that the term "trade secret" has the same meaning as the definition of that term in s. 688.002, F.S.

The bill saves the exemption from repeal as provided for under the Open Government Sunset Review Act. It deletes the provision that would repeal the exemption effective October 1, 2006, unless reenacted and saved from repeal by the Legislature.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 39-0; House 119-0

RESTAURANTS

CS/SB 1172 — Dixie Cup Clary Local Control Act

by Regulated Industries Committee; and Senators Aronberg and Argenziano

This bill creates a three-year pilot program that authorizes local governments to adopt an ordinance establishing procedures for public food service establishments to apply for a limited exemption from existing rules of the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation that prohibit patrons' dogs in public food service establishments. The exemption would allow patrons' dogs in designated outdoor sections of public food service establishments.

This bill provides minimum requirements for permit applications and safety and sanitation regulations to be implemented by the local governments that choose to participate in the pilot program. The bill requires that the division provide assistance to participating local governments in the development of enforcement procedures and regulations. It also provides that a permit issued under the provisions of this bill shall not be transferred to a subsequent owner upon the sale of the public food service establishment, that the permit shall expire at the sale of the establishment, and the subsequent owner must reapply for the permit if he or she wishes to continue to accommodate a patron's dog.

The bill requires that participating local governments must monitor permitholders for compliance, and have a procedure to accept, document, and respond to complaints and to timely report to the division all complaints and the participating local government's response to all complaints. A participating local government is required to provide the division with a copy of all applications and permits issued, and these and all related materials must contain the appropriate division issued license number.

This provision will expire on July 1, 2009, unless reviewed by the Legislature and saved from repeal through reenactment.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 35-4; House 100-19

MEMORIALS

A memorial is a document addressed to Congress, to the President of the United States, or to an executive or legislative body or official to express the consensus of the Legislature or to petition action on matters within the jurisdiction of the addressee. In the Florida Legislature, both houses must pass a memorial, and it is not subject to approval or veto by the Governor. The Legislature also uses a memorial to request Congress to propose an amendment to the United States Constitution or to enact legislation.

The following memorial was approved by the Senate and House during the 2006 Regular Session:

Bill	By	To Subject	Vote: Senate / House
S 1676	Senators Garcia, Posey, and Klein *(passed as H 541)*	TO: U.S. Congress SUBJECT: National Catastrophe Insurance	39-0 / Approved

TRANSPORTATION ADMINISTRATION

HB 121 — Road Designations

by Rep. Bendross-Mindingall and others (CS/SB 254 by Transportation Committee and Senators Dockery and Wilson)

House Bill 121 designates the following road, bridges, and buildings as follows:

- That portion of N.W. 7th Avenue between N.W. 54th Street and N.W. 60th Street in Miami-Dade County is designated as "Osun's Village."
- That portion of N.W. 7th Avenue between N.W. 36th Street and N.W. 79th Street in Miami-Dade County is designated as "African Caribbean Cultural Arts Corridor."
- The pedestrian overpass on John Sims Parkway in the City of Niceville in Okaloosa County is designated as "Burl Marler Walkway."
- The Cervantes Street Bridge on U.S. Highway 90 over Bayou Texar in the City of Pensacola in Escambia County is designated as "Dr. Phillip A. Payne Bridge."
- That portion of S.W. 1st Street between 8th Avenue and 12th Avenue in Miami-Dade County is designated as "Carlos C. Lopez-Aguiar Way."
- That portion of N.W.7th Avenue between N.W. 62nd Street and N.W. 95th Street in Miami-Dade County is designated as "Reverend Samuel Atchison Boulevard."
- The Department of Transportation District Six Headquarters commonly known as the Main Building, which is located at 1000 N.W. 111th Avenue in the City of Miami, Miami-Dade County is designated as "The Adam Leigh Cann Building."
- The Florida Turnpike interchange being constructed at Milepost 240 and Kissimmee Park Road in Osceola County is designated as "Senator N. Ray Carroll Memorial Interchange."
- That portion of State Road 944 on N.W. 54th Street between U.S. Highway 1 and N.E. 2nd Avenue in Miami-Dade County is designated as "Toussaint L'Ouverture Boulevard."
- That portion of N.W. 135th Street between N.W. 27th Avenue and N.W. 37th Avenue in Miami-Dade County is designated as "A.B. Martin Street."
- That portion of Old U.S. Highway 441 between David Walker Drive and Eudora Road in Lake County is designated as "Leighton Lee Baker Memorial Highway."

- That portion of S.W. 10th Street between F.A.U. Research Park Boulevard and the Sawgrass Expressway in the City of Deerfield Beach in Broward County is designated as "Trinchitella Boulevard."
- That portion of State Road 35 from Country Road 35A north to the Pasco County line in Pasco County designated as "John Van Waters Memorial Highway."
- That portion of Calle Ocho (S.W. 8th Street) between S.W. 87th Avenue and S.W. 97th Avenue in Miami-Dade County is designated as "Emilio Ochoa Boulevard."
- That portion of Main Street between West 6th Street and West 8th Street in Duval County is designated as "Eddie Mae Steward Avenue."
- That portion of Main Street between West 37th Street and West 46th Street in Duval County is designated as "Mary L. Austin Jones Avenue."
- That portion of Main Street between West 8th Street and West 18th Street in Duval County is designated as "Flossie Brunson Avenue."
- That portion of U.S. Highway 1 between Finch Avenue and Trout River Boulevard in Duval County is designated as "Robert L. Brown, Sr., Highway."
- That portion of Lem Turner Road between Interstate 95 and Edgewood Avenue in Duval County is designated as "Barbara Van Blake Parkway."
- That portion of Florida First Coast Highway beginning at Burney Road and continuing north through the 5500 block of Florida First Coast Highway in Nassau County is designated as "MaVynne 'The Beach Lady' Betsch Highway."
- That portion of State Road 188 between State Road 189 and State Road 85 in Okaloosa County is designated as "Brian D. Little Road."
- That portion of State Road 414 known as Maitland Boulevard that extends west from U.S. Highway 441 to the City of Apopka before heading north to U.S. Highway 441 near County Road 437, which is commonly known as Maitland Boulevard Extension is designated as "John Land Apopka Expressway."
- The replacement bridge over Lake Jesup on State Road 46 near Sanford in Seminole County is designated as "George C. Means Memorial Bridge."
- The portion of State Road 520 between mile post 13.2 and mile post 15.3 and lies approximately between the West Banana River and Cape Canaveral Hospital in Brevard County is designated as "Patrick D. Smith Causeway."
- The Canal Park Bridge on U.S. Highway 98 in the City of Mexico Beach in Bay County is designated as the "Charles M. Parker Bridge."
- That portion of U.S. Highway 301 from State Road 40 in Marion County through the City of Waldo in Alachua County is designated as "Rosa Parks Memorial Highway."

- At the one mile marker on Interstate Highway 10 in Escambia County is designated as "Austin Dewey Gay Memorial Agricultural Inspection Station."
- That portion of U.S. 41 from the intersection of U.S. 41 and U.S. 129 to the southern city limit in the City of Jasper in Hamilton County is designated as "Veterans Memorial Parkway."

The Department of Transportation and The Department of Agriculture and Consumer Services are directed to erect suitable markers.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 116-0

HB 273 — Outdoor Advertising Signs

by Rep. Mayfield and others (CS/CS/SB 566 by Judiciary Committee; Community Affairs Committee; and Senators Haridopolis, Crist, and King)

The bill establishes "view zones" for lawfully permitted outdoor advertising signs along the public rights-of-way for interstates, expressways, federal-aid primary highways, and the State Highway System, excluding privately or publicly owned property. The distance for view zones is based upon the speed limit. Under this bill, local governments or other parties may be held liable for blocking a sign's visibility by planting trees or other vegetation within a view zone if the sign was permitted before the planting. The bill provides a 90-day window after written notice from the sign owner for a governmental entity or other party to cure the alleged violation. If the governmental entity or other private party does not cure the alleged violation, the sign owner may file a claim for compensation in circuit court. The modification or removal of material from a beautification project or other planting to cure an alleged violation does not require a permit from the Florida Department of Transportation (FDOT) if the FDOT receives not less than 48 hours' notice. The bill provides an exemption from liability for entities that design projects which initially comply with s. 479.106(6), F.S., and provides an exemption to the applicability of the revisions to statute for existing written agreements.

Additionally, the bill allows the owner of a lawfully erected sign governed by and conforming to state and federal standards to increase the sign's height if a noise-attenuation barrier is erected or permitted by a governmental entity that blocks or screens the sign. The bill also specifies a sign reconstructed for this purpose must comply with the Florida Building Code's construction standards and wind load requirements. If the increase in the height of the sign violates a local ordinance or land development regulation, the bill requires the FDOT to conduct a written survey of potentially affected property owners and a public hearing for comments on the proposed barrier. In addition to notifying property owners of the hearing, the survey must include the list of options for local government in response to the proposed barrier as outlined in the revised statute. The options for local government include issuing a variance; allowing the relocation or reconstruction of the sign at an alternative location with the sign owner's consent; or denying the

permit and paying the owner fair market value for the sign and associated interest in real property. The barrier may not be erected until the survey and hearing are conducted; also, the FDOT must advise the respective governmental entity of the property owners' approval. Existing written agreements between a local government and a sign owner are exempt from the provisions of the bill that address visibility because of a noise-attenuation barrier.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 28-10; House 100-16

HB 487 — Transportation Disadvantaged

by Rep. Robaina and others (CS/CS/SB 634 by Transportation and Economic Development Appropriations Committee; Governmental Oversight and Productivity Committee; and Senator Constantine)

This bill makes a number of administrative changes to the Commission for the Transportation Disadvantaged (commission). First, it significantly restructures the commission by reducing the commission's membership from 27 to 7 persons. The new members would be:

- Seven voting members appointed by the Governor, in accordance with the requirements of s. 20.052, F.S. Two of the members must be persons with a disability and 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, the intent of the Legislature is for the Governor to 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 bill provides the top executive or their designee, from each of the following entities, will serve as ex officio, nonvoting advisors of the commission:

- The Department of Transportation (FDOT);
- The Department of Children and Family Services;
- The Agency for Workforce Innovation;
- The Department of Veterans' Affairs;
- The Department of Elderly Affairs;
- The Agency for Health Care Administration (AHCA);
- The Agency for Persons with Disabilities; and
- A county manager or administrator who is appointed by the Governor.

As a result of reducing the membership of the commission, the bill also revises the number of commission members from nine to five which are needed to constitute a quorum. In addition, the bill provides the chair of the commission shall be appointed by the Governor.

The bill also specifies a number of requirements for TD commissioners. These are:

- Commissioners must represent the needs of transportation disadvantaged persons statewide, and may not 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 residents of Florida and registered voters.
- At least one member must be 65 years of age or older.
- 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 coordinating board;
    - A broker of transportation; or
    - A provider of transportation services.
- The commission shall create a technical working group, and set the size and membership to include representatives of private paratransit providers. The technical working group shall advise the commission on issues of importance to the state, including information, advice and direction regarding the coordination of services for the transportation disadvantaged. In addition, the commission may appoint other technical working groups whose members may include representatives of community transportation coordinators; metropolitan planning organizations; regional planning councils; experts in insurance, marketing, economic development, or financial planning; and users of the transportation disadvantaged system, or their relatives, parents, guardians, or service professionals who tend to their needs.

In addition, the bill 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 the FDOT. The fingerprints must be submitted to the Department of Law Enforcement (FDLE) for state processing, and to the Federal Bureau of Investigation (FBI) for federal processing. The FDOT 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 bill requires the costs of the background screening to be paid by the FDOT or the appointed candidate. Currently, the FDLE fingerprint check costs $23 and the FBI fingerprint check costs $24.

Subsection (28) is added to s. 427.013, F.S., to provide the commission must develop, in consultation with AHCA and FDOT, a funding methodology or formula that equitably distributes funds under its control, using criteria to include not only the actual costs of each trip, but also efficiencies a provider might adopt to reduce costs; results of the rate and cost comparisons conducted under subsections (24) and (25); and cost efficiencies of trips when compared to the local cost of transporting the general public. The bill requires the funding methodology to separately account for Medicaid beneficiaries.

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

HB 1115 — South Florida Regional Transportation Authority

by Rep. Greenstein and others (SB 2078 by Senator Geller)

The South Florida Regional Transportation Authority (Authority) was created in 2003 to broaden the scope of the old Tri-County Commuter Rail Authority and to develop regional public-transit planning for Miami-Dade, Broward, and Palm Beach Counties. This bill makes a number of significant changes to the South Florida Regional Transportation Authority Act. Specifically, the bill:

- Provides the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged.
- Clarifies the requirement that each of the three counties dedicate and transfer $2.67 million annually to the Authority for capital funding, as well as $4.2 million annually from each county for operating costs, by specifying the funds must be dedicated prior to October 31 of each fiscal year.
- Deletes the provision allowing the three counties to collect a $2 fee on initial and renewal vehicle registrations within their boundaries upon approval by referendum.
- Specifies at least $45 million of a state-authorized, local-option, recurring funding source available to Broward, Miami-Dade and Palm Beach counties must be directed to the Authority to fund capital, operating, and maintenance expenses. This funding may only be dedicated to the Authority if all three counties impose the local-option funding source.

- Eliminates the operating and capital funding contributions from the three counties when the proposed $45 million becomes available; however, those local contributions resume if the new funding ceases.
- Extends from December 31, 2009, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received.
- Deletes references to "commuter rail" to reflect the authority's broader transit mission.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 116-0

HB 1117 — South Florida Regional Transportation Authority/Public Records Exemption

by Rep. Greenstein (SB 2076 by Senator Geller)

In 2003, the South Florida Regional Transportation Authority (Authority) was created to replace the Tri-County Commuter Rail Authority and to develop regional public-transit planning and infrastructure for Miami-Dade, Broward, and Palm Beach counties. It is a public agency supported by federal, state, and local tax dollars. Among its powers is the ability to acquire, purchase, and lease real property.

This bill creates a public records exemption for appraisal reports, offers, and counteroffers related to land acquisition by the Authority until execution of an option contract, or barring that, until 30 days before a purchase or agreement comes before the Authority for approval. The bill allows the Authority to disclose, at its discretion, appraisal reports to property owners or to third parties assisting in land acquisition.

If approved by the Governor, these provisions take effect on the same date HB 1115 takes effect and becomes law.
Vote: Senate 39-0; House 119-0

CS/SB 1350 — Department of Transportation

by Transportation and Economic Development Appropriations Committee and Senator Sebesta

This bill makes a number of changes to certain Florida Department of Transportation (FDOT) administrative functions and funding provisions. The bill:

- Revises the matching fund formula for fixed-guideway revenue bonds to allow for various matching scenarios up to a limit of 50 percent on the State's share of the eligible project cost;

- Allows FDOT to waive the requirement for contractors to be pre-qualified to bid on jobs when the project is under $500,000 and noncompliance will not endanger the public health, safety, or welfare;
- Requires FDOT to expand the general advertising of bids to include those projects for which contractors do not need to be pre-qualified;
- Allows maintenance contractors to incrementally bond the work on long-term maintenance contracts;
- Increases, from $150,000 to $250,000, the maximum contract price threshold at which FDOT may waive surety bond requirements;
- Allows FDOT to waive surety bond requirement for contracts greater than $250 million provided the contractor can provide alternate means of security for the balance of the contract amount;
- Increases the maximum outstanding bond debt allowed for turnpike projects from $4.5 billion to $6 billion.

The bill authorizes counties to impose an additional $2 per day surcharge on the lease or rental of motor vehicles designed to carry fewer than nine passengers, regardless of whether the vehicle is licensed in this state. The surcharge may only apply to the first 30 days of each lease or rental. The surcharge does not apply to a person renting a vehicle while their own vehicle is being repaired. Imposition of the surcharge is subject to approval via a countywide referendum. Proceeds of the local option rental car surcharge must be deposited in the Local Option Fuel Tax Trust Fund and be used for transportation facilities. The Department of Revenue is authorized to distribute proceeds from the surcharge directly to those counties imposing the surcharge that have entered into interlocal funding agreements with regional transportation authorities.

The South Florida Regional Transportation Authority (Authority) was created in 2003 to broaden the scope of the old Tri-County Commuter Rail Authority and to develop regional public-transit planning for Miami-Dade, Broward, and Palm Beach Counties. This bill makes a number of significant changes to the South Florida Regional Transportation Authority Act. Specifically, the bill:

- Provides the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged.
- Clarifies the requirement that each of the three counties dedicate and transfer $2.67 million annually to the Authority for capital funding, as well as $4.2 million annually from each county for operating costs, by specifying the funds must be dedicated prior to October 31 of each fiscal year.
- Deletes the provision allowing the three counties to collect a $2 fee on initial and renewal vehicle registrations within their boundaries upon approval by referendum.

- Specifies at least $45 million of a state-authorized, local-option, recurring funding source available to Broward, Miami-Dade and Palm Beach counties must be directed to the Authority to fund capital, operating, and maintenance expenses. This funding may only be dedicated to the Authority if all three counties impose the local-option funding source.
- Eliminates the operating and capital funding contributions from the three counties when the proposed $45 million becomes available; however, those local contributions resume if the new funding ceases.
- Extends from December 31, 2009, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received.
- Deletes references to "commuter rail" to reflect the authority's broader transit mission.
- Creates a public records exemption for appraisal reports, offers, and counteroffers related to land acquisition by the South Florida Regional Transportation Authority (the authority) until execution of an option contract, or barring that, until 30 days before a purchase or agreement comes before the authority for approval. The bill allows the authority to disclose, at its discretion, appraisal reports to property owners or to third parties that are assisting in land acquisition.

The bill allows FDOT or any toll agency created by statute to:

- To incur expenses to advertise and promote electronic toll collection systems;
- Contract with other public or private entities to expand the use of its electronic toll collection system to include payment of parking fees;
- To initiate feasibility studies for additional uses of electronic toll collection technologies.

The bill makes a number of honorary road designations:

- George W. Harris, Jr. Boulevard designated on U.S. 98 in Polk County. Mr. Harris was the father of Congresswoman Katherine Harris.
- Angel Manuel De La Portilla Way designated on S.W. 12th Ave. in Miami-Dade County. Mr. De La Portilla was the uncle of Sen. Alex De La Portilla.
- Dennis Pastrana Ave. designated on N.W. 21st Ave. in Miami-Dade County. Mr. Pastrana spent many years as chief executive of Goodwill Industries in South Florida.
- Luis Conte Aguero Way designated on 27th Ave. in Miami-Dade County. Mr. Aguero was a Cuban political leader.
- Estrella Rubio Way designated on LeJeune Rd/S.W. 42nd Ave. in Miami-Dade County. Ms. Rubio is a Cuban-American political activist.

- Rafael Diaz Balart Rd. designated on LeJeune Rd/S.W. 42nd Ave. in Miami-Dade County. Mr. Diaz Balart was a Cuban politician, and served as Majority Leader of the Cuban House of Representatives.
- Ambassador Armando Valladares Dr. designated on N. Kendall Dr. in Miami-Dade County. Mr. Valladares was a Cuban dissident and former prisoner in Cuba. Valladares was jailed in 1960, at age 23, by the government of Fidel Castro and spent 22 years in the prisons of Cuba.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 34-4; House 103-14

CS/CS/SB 2300 — Transportation, Seaports, and Enhanced Bridge Program

by Transportation and Economic Development Appropriations Committee; Community Affairs Committee; and Senators Webster, Fasano, and Posey

This bill appropriates funding and revises fund-matching requirements for Florida Seaport Transportation and Economic Development (FSTED) Council projects, creates the Enhanced Bridge Program for Sustainable Transportation within the Florida Department of Transportation (FDOT), and provides criteria that must be met by nonprofit organizations in order to be eligible to participate in the FDOT's youth work experience program.

Relating to FSTED, the bill:

- Reduces the local match requirement for dredging or deepening new channels, or turning basins for certain small ports from 50 percent to 25 percent. The local match remains at 50 percent for dredging or deepening existing channels, turning basins, and harbors.
- Appropriates $5 million annually from the State Transportation Trust Fund to finance a third FSTED revenue bond issue, which is expected to raise about $80 million. The new bonds would be issued by the Division of Bond Finance at FDOT's request. These bonds would not be considered a general obligation of the state. FSTED would submit to FDOT a list of the requested projects for its review and approval. FDOT-approved projects will be incorporated into the agency's five-year work program. The bond proceeds could be used to fund seaport intermodal access projects of statewide significance. Different matches are specified, depending on the activity, but the bill provides the local match may come from other port funds or from federal, local, or private contributions.
- Exempts these bond proceeds from the limit in s. 311.07(4), F.S. which specifies no port shall receive more than $8 million a year in certain FSTED funds and no more than $30 million over a five-year period.

- Deletes the prohibition against the existing FSTED bonds being refunded. The refinance of the existing bonds could potentially generate an additional $60 million in revenue to support new port projects.

The bill creates the Enhanced Bridge Program for Sustainable Transportation within FDOT to provide a funding mechanism to improve:

- Local bridges which are not on the State Highway System (SHS), and
- Highly congested roads on the SHS or local roads with high-cost bridges for the purpose of relieving congestion or providing an alternative corridor.

The program allows for state funds to be used to provide up to 50 percent of the project's cost and authorizes the expenditure of moneys from the State Transportation Trust Fund to fund the program. The CS also establishes a number of eligibility conditions for candidate projects. Bridge projects on regionally significant corridors connecting to the Strategic Intermodal System will receive preference.

Finally, the bill provides the following criteria required of nonprofit organizations in order to be eligible to participate in the FDOT's youth work experience program:

- Participating youth must be residents of the state and possess a valid Florida driver's license.
- Each nonprofit youth organization must submit an annual report, independent audit, and participate in a peer assessment.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 117-1

HIGHWAY SAFETY AND MOTOR VEHICLES

HB 155 — Justice for Justin

by Rep. Ross and others (CS/CS/SB 276 by Justice Appropriations Committee; Criminal Justice Committee; and Senators Baker, Smith, Posey, Crist, Bennett, and Atwater)

The bill creates the "Justin McWilliams 'Justice for Justin' Act," and expands the scope of s. 316.027, F.S., (a driver involved in a crash involving injury or death is required to remain at the scene of crash to provide information and aid) from crashes occurring on streets or highways to crashes occurring on public or private property. This bill excludes crashes occurring during a motor sports event or on a closed-course motor sports facility.

The current penalties for violation of s. 316.027, F.S., are a third degree felony (crash involving injury) and a second degree felony (crash involving death). The bill changes the felony degree for a violation related to a crash involving death to first (1^{st}) degree felony.

The Offense Severity Ranking Chart is amended to reflect the increase from a second degree felony to a first degree felony of s. 316.027(1)(b), F.S. The Offense remains a level 7 offense.

If approved by the Governor, these provisions take effect October 1, 2006.
Vote: Senate 37-0; House 115-0

HB 201 — Nonjudicial Sale of Vessels

by Rep. Poppell and others (CS/SB 648 by Judiciary Committee and Senator Campbell)

Current law provides a marina has a possessory lien against any vessel in the marina for storage fees, dockage fees, repairs, improvements, or other work related storage charges, and for expenses necessary for preservation of the vessel or expenses reasonably incurred in the sale or other disposition of the vessel. Current law also provides a mechanism for nonjudicial sale of a vessel when the owner does not pay the charges due.

This bill (Chapter 2006-5, L.O.F.):

- Adds a vessel abandoned at the marina may be subject to the possessory lien.
- Suspends application of the lien provisions for 60 days when a vessel is damaged in a named storm.
- Revises the notice requirements a marina with a lien must follow before the sale of a vessel.
- Reduces the number of days, from 120 days to 60 days, which a vessel's owner has to pay the fees and costs owed to a marina before the marina may sell the vessel.
- Gives the marina the option, in certain circumstances, of removing the vessel at the owner's expense instead of selling it.
- Revises provisions relating to priority over other liens.

These provisions were approved by the Governor and take effect July 1, 2006.
Vote: Senate 38-2; House 120-0

CS/CS/SB 258 — Farm Labor Vehicles

by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senators Alexander, Aronberg, Hill, and Atwater

Generally, the bill establishes requirements for farm labor vehicles to meet federal motor vehicle safety standards.

The bill revises the definition of "migrant farm worker" and "carpool" and adds a definition of "farm labor vehicle" to replace that of "migrant farm worker carrier." A section of statute relating to the requirements of migrant farm worker carriers is repealed. After January 1, 2008, every farm labor vehicle weighing 10,000 pounds or less will be required to be equipped with a seat belt for each passenger. Farm labor contractors are prohibited from operating a farm labor vehicle unless authorized to do so by the Department of Business and Professional Regulation as evidenced by a permit sticker issued by the department and displayed on the vehicle. The bill authorizes monetary fines for failure to meet certain safety standard criteria related to farm labor vehicles as outlined in the bill.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 117-0

HB 281 — State of Vision Specialty License Plate

by Rep. Baxley and others (SB 548 by Senator Baker)

House Bill 281 amends ss. 320.08058 and 320.08056, F.S., to create the "A State of Vision" specialty license plate and establishes an annual use fee of $25 to be paid by purchasers in addition to license taxes and fees. The annual use fee will be distributed to the Florida Association of Agencies Serving the Blind, Inc., to fund direct-support services to blind and visually impaired people. Up to 20 percent of the annual use fee revenue shall be for marketing and promotion of the plate and up to 5 percent of the revenues shall be used for administrative costs.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-2; House 114-1

CS/SB 460 — Specialty License Plates

by Transportation and Economic Development Appropriations Committee and Senators Wise and King

Section 320.08058(16), F.S., is amended to require all of the annual use fees generated by the Police Athletic League specialty license plate be distributed to the State of Florida Association of Police Athletic/Activities Leagues, Inc. This bill increases the annual use fee from $15 to $20. Also, the bill revises the distribution and use of the annual use fee revenues from the specialty

license plate to allow a maximum of 15 percent of such fees for administrative costs and a maximum of 10 percent to market and promote the plate.

Section 320.08068, F.S., is amended to revise provisions governing the distribution and use of the annual use fee revenues for the motorcycle specialty license plate. The bill adds the Blind Services Foundation of Florida to the distribution and modifies the permissible use of funds distributed to the Florida Association of Centers for Independent Living.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 118-0

CS/SB 738 — Registration Check Off

by Health Care Committee and Senators Diaz de la Portilla and Bullard

This committee substitute amends s. 320.02, F.S., to require the Department of Highway Safety and Motor Vehicles, to include language allowing a voluntary $1 contribution to the Miami Heart Research Institute, Inc., doing business as the Florida Heart Research Institute (FHRI), on each motor vehicle registration form. The FHRI is a non-profit organization established for the purpose of funding heart disease research, education, and prevention programs.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 117-0

HB 959 — Highways and Adjacent Canal/ Guardrails

by Rep. Roberson and others (SB 1022 by Senators Bullard, Siplin, Geller, Lawson, Campbell, Hill, Miller, Klein, and Wilson)

House Bill 959 requires guardrails, retention cables, or other types of roadway barriers be installed, as part of a pilot project, along “limited-access facilities” in Miami-Dade County adjacent to canals or other water bodies. The barrier system must be installed and maintained in compliance with the Florida Department of Transportation standards. Barriers for eligible limited-access facilities in existence on July 1, 2006, must be installed on or before December 31, 2009.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 117-0

SB 1076 — DUI Classes

by Senator Smith

The bill requires driving under the influence (DUI) education courses be conducted only by certified DUI instructors. The bill calls for face to face instruction and for interaction in the classroom among offenders and instructors. The bill prohibits DUI education courses from being conducted via the Internet, remote electronic technology, home study, distance learning, or any other method in which the instructor and all offenders are not physically present in the same classroom.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 120-0

HB 1077 — Motor Vehicle Dealers

by Rep. Russell (CS/SB 2682 by Transportation Committee and Senator Haridopolos)

This bill makes a number of changes to existing statutes regulating automobile franchisees in this state. The general impact of the bill is to raise the level of protection for franchised motor vehicle dealers. A section-by-section analysis is as follows:

Section 1. Amends s. 320.27(4), F.S., to provide a franchised motor vehicle dealer that has been licensed continuously for the past 2 years and is in good standing with Department of Highway Safety and Motor Vehicles (DHSMV) is exempt from the pre-licensing training requirement when seeking a new franchise motor vehicle dealer license.

Section 2. Amends s. 320.60(3), F.S., to clarify the existing definition of "demonstrator" by specifying the definition includes new vehicles "driven" by prospective customers.

Section 3. Amends s. 320.64, F.S., to specify the types of costs owed to a motor vehicle dealer whose contract has been terminated by a manufacturer and create a new cause for a manufacturer to have its license denied, suspended, or revoked by DHSMV. A manufacturer can have its license denied, suspended, or revoked by DHSMV for failing to repurchase within a specific time frame, certain vehicles and other property from a dealer upon the voluntary or involuntary termination of that dealer's franchise. Specifically, licensed manufacturers would be required to:

- Buy back, at net cost, each new car or truck in the dealer's inventory with mileage of 2,000 miles or less, or a motorcycle with mileage of 100 miles or less, not counting the mileage placed on the vehicle before it was delivered to the dealer;
- Repay the cost of new, unused, undamaged, and unsold parts and accessories in their original packaging and in unbroken lots, with exceptions for sheet metal;

- Pay fair market value for signs, special tools, and other equipment that meet certain conditions; and
- Pay the costs related to packing, storing, loading and shipping these items eligible for repurchase.

The dealer would have 90 days to return the property to the manufacturer, who would have 60 days upon receipt of the items to pay the dealer. These repurchase provisions do not apply in cases where the dealer's franchise is being terminated as a result of a dealer selling his or her assets or stock.

Section 4. Amends s. 320.642(1), F.S., to remove the requirement that notice of a dealer's intent to establish an additional dealership or relocation of a dealership must be sent to DHSMV by "certified mail."

This bill amends s. 320.642(5), F.S., to make it more difficult for a licensee to relocate an existing franchised dealership, and then open a new dealership at the old location without notice or the opportunity for other dealers to protest. The bill provides the opening or reopening of the same or successor motor vehicle dealer within 12 months will not be considered an additional motor vehicle dealer subject to protest if:

- There is no motor vehicle dealer within 25 miles of the proposed location; or
- The opening or reopening is within 6 miles of the prior location and, if an existing dealer of the same line-make is located within 15 miles of the former location, the proposed location is not closer to an existing dealer of the same line-make within 15 miles of the proposed location.

This bill also specifies if the opening or reopening is not considered an additional motor vehicle dealer, then the manufacturer cannot open a new dealership for 2 years if it is within 4 miles of the old site.

This bill also creates s. 320.642(7), F.S., to require all measurements required for the purposes of determining the locations of existing and proposed new dealerships be based on the "geometric centroid." "Geometric centroid" is a complex mathematical term that basically means the center point of, in this case, the dealership's property.

This bill creates s. 320.642(8), F.S., to provide that DHSMV is not obligated to determine the accuracy of any distance asserted by any party in a notice submitted to it. Any dispute concerning a distance measurement must be resolved by a hearing conducted in accordance with the Administrative Procedures Act.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 116-0

HB 1173 — Jeffrey Klapatch Act

by Rep. Ross and others (CS/SB 2242 by Governmental Oversight and Productivity Committee and Senator Dockery)

This bill creates the "Jeffrey Klapatch Act" and directs the Department of Highway Safety Motor Vehicles to implement a system allowing either parent of a minor, or a guardian, or other responsible adult who signed a minor's application for a driver's license, to have access to the minor's driver history record through a secure website. The internet access must be furnished at no cost, and will terminate on the minor's 18th birthday.

If approved by the Governor, these provisions take effect January 1, 2007.
Vote: Senate 39-0; House 117-0

CS/CS/SB 1450 — Donate Organs-Pass It on Plate

by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senator Margolis

The bill creates the "Donate Organs-Pass It On" specialty license plate, establishes the annual $25 usage fee and directs the proceeds from the annual usage fee to the Transplant Foundation, Inc. (TFI). Also, the bill provides up to 10 percent of the proceeds of the usage fee be used for marketing and certain administrative costs. The remaining proceeds shall be used to provide patient services and medical research.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-1; House 114-2

HB 1465 — Speed Limit/State Roads/Enhanced Penalty Zones

by Rep. Altman and others (CS/CS/CS/SB 2020 by Government Efficiency Appropriations Committee; Criminal Justice Committee; Transportation Committee; and Senators Wise and Crist)

This bill requires the Florida Department of Transportation (FDOT) to establish a pilot project of "enhanced penalty zones" in Brevard, Duval, and Palm Beach Counties where there is an increased risk of crashes or damage caused by highway crashes. FDOT would be authorized to establish speed limits within the zones. Current fines would be increased by $50 for any person convicted of exceeding the speed limit in an enhanced penalty zone. Fifty percent of the moneys raised from the enhanced penalties assessed will be used to provide enhanced Medicaid payments for recipients with brain and spinal cord injuries, and 50 percent will go to trauma centers in the counties where the program is established. The pilot program will be repealed on July 1, 2010 unless the Legislature re-enacts this law. FDOT, the Florida Department of

Education and the Department of Highway Safety and Motor Vehicles are directed to jointly study and identify by July 1, 2007, improvements to reduce Florida's traffic fatalities by one-third.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 113-3

HB 1589 — Specialty License Plates

by Rep. Smith and others (CS/CS/SB 2238 by Transportation and Economic Development Appropriations Committee; Transportation Committee; and Senator Aronberg)

House Bill 1589 creates the "Homeownership For All" and the "Future Farmers of America" specialty license plates, and establishes an annual use fee of $25 for each plate and provides for distribution of the revenues from such fees.

The bill changes the word "College" to "University" on the "Florida Memorial College" license plate.

The bill provides for the allocation of 10 percent of the annual use fee from the "Keep Kids Drug-Free" license plates to be used for marketing and administrative costs directly related to the "Keep Kids Drug-Free" license plate.

The bill allows the Sportsmen's National Land Trust to retain 50 percent of the proceeds from the "Florida Sportsmen's National Land Trust" license plate until all of the startup costs for developing and establishing the plate have been recovered.

The bill authorizes the issuance of legislative license plates to any current or former Senate President and any current or former House Speaker. The bill also provides an exemption for collegiate specialty license plates from the requirement that a plate be discontinued if the number of valid specialty license plate registrations falls below 1,000 plates for at least 12 consecutive months.

If approved by the Governor, these provisions take effect July 6, 2006.
Vote: Senate 40-0; House 114-3

SB 1614 —Florida National Guard License/Plates

by Senator Baker

This bill amends s. 320.0846, F.S., by removing the expiration provision in subsection (3). This will allow active members of the Florida National Guard who own or lease motor vehicles to continue to obtain standard Florida license plates free of charge.

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

HB 7079 — Highway Safety and Motor Vehicles

by Transportation Committee and Rep. Evers and others (CS/CS/SB 1742 by Government Efficiency Appropriations Committee; Transportation Committee; and Senators Sebesta and Fasano)

The following discussion represents a section-by-section analysis of the bill:

Section 1. Amends s. 207.008, F.S., to revise the requirements for retention of records by motor carriers as required by Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, motor carriers must retain the records upon which each quarterly tax return is based for a period of four years following the due date or filing date of the return, whichever is later.

Section 2. Amends s. 207.021, F.S., to grant DHSMV statutory rulemaking authority regarding settlement or compromise of chapter 207, F.S., taxes, penalties or interest. The bill also specifies that during any proceeding arising under this section, the motor carrier has the right to be represented at and record all procedures at the motor carrier's expense.

The bill authorizes the executive director of DHSMV or his or her designee to enter into closing agreements with a taxpayer to settle or compromise tax liabilities. These agreements are to be in writing and prohibit further assessments by DHSMV for taxes settled and prohibit the taxpayer from seeking recovery of amounts paid under terms of the agreement. A taxpayer's liability for chapter 207, F.S., tax or interest may be compromised by DHSMV on the grounds of doubt as to liability for or the ability to collect the tax or interest. The bill specifies that doubt as to the liability of a taxpayer for tax and interest exists if the taxpayer reasonably relied on a written determination of DHSMV. A taxpayer's liability can only be settled or compromised to the extent allowable under the International Fuel Tax Agreement (IFTA). (*See s. 27.028(1), F.S.)* A taxpayer’s liability for penalties may be settled or compromised if DHSMV determines the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The DHSMV is also authorized to enter into agreements for scheduling payments of taxes, penalties, and interest resulting from audit assessments.

Section 3. Amends s. 261.10, F.S., to limit, effective July 1, 2008, liability for state agencies, water management districts, counties, cities, municipal governments, and officers and employees thereof, which provide off-highway recreational areas and trails on publicly owned land. However, liability is not limited that would otherwise exist for an act of negligence by the state agency, water management district, county, or municipality, or officer or employee, that is the proximate cause of the damage, injury, or death.

Section 4. Creates s. 261.20, F.S., which effective July 1, 2008, provides restrictions, safety course requirements, required equipment and prohibited acts for the operation of off-highway vehicles on public lands.

Section 5. Amends s. 316.003, F.S., to conform the current definition of "saddle mount" to that contained in federal transportation law (SAFETEA-LU).

According to Florida Department of Transportation (FDOT), this technical revision eliminates a potential fiscal impact on the trucking industry. In addition, the FDOT is required to report areas of nonconformance of state law with federal law. Failure to conform the new SAFETEA-LU provisions could result in loss of federal safety grant and/or construction funds in the future.

Section 6. Amends s. 316.006, F.S., to provide the board of a homeowner's association may, by majority vote, enter into agreement to permit state traffic laws to be enforced by local law enforcement agencies on private property controlled by the association.

Section 7. Amends s. 316.0085, F.S., to apply the provisions relating to liability with respect to skateboarding, inline skating, and other recreational pursuits to mountain and off-road bicycling as well. In addition, this bill requires demonstration that parental consent was provided to a governmental entity before a minor may enter certain designated areas.

Section 8. Amends s. 316.1001, F.S., to exempt the owner of a leased vehicle from responsibility for failure to pay a toll violation if the motor vehicle is registered in the name of the lessee of such vehicle.

Section 9. Amends s. 316.192, F.S., to revise and specify a certain act that constitutes reckless driving. Specifically, fleeing a law enforcement officer in a motor vehicle is reckless driving per se.

Section 10. Amends s. 316.1955, F.S., to provide that the owner of a leased vehicle is not responsible for a violation of disabled parking requirements specified in this section if the vehicle is registered in the name of the lessee.

Section 11. Amends s. 316.2015, F.S., to specifically prohibit operators of pickup trucks and flatbed trucks from allowing minors, defined as individuals under 18 years of age, from riding on the bed of these trucks unless the trucks have been modified to include secure seating and safety restraints and the minors are properly restrained. This provision applies to operation upon limited access facilities of the state. However, this section exempts operators from this provision when a truck is being operated in medical emergencies if the child is accompanied by an adult. This section of the bill revises exceptions to the provision which prohibits individuals riding on any area of any vehicle not designed or intended for the use of passengers. Finally, this bill authorizes counties to exempt themselves from the provisions contained in s. 316.2015(2)(b), F.S.

Section 12. Amends s. 316.2095, F.S., to delete the requirement for motorcycles to be equipped with handholds for use by passengers.

Section 13. Amends s. 316.211, F.S., to require, effective January 1, 2007, motorcycles registered to persons under 21 years of age to display a license plate unique in design and color. Because the helmet exemption applies to riders over 21, this would provide law enforcement with a tool for identifying motorcycle operators under the age of 21 and allow for better enforcement of the state's helmet law requirements.

Section 14. Creates s. 316.2123, F.S., to allow "ATV's" to be operated during the daytime by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph. The drivers are required to provide proof of ownership if requested by law enforcement. However, this bill authorizes counties to exempt themselves from the provisions contained in s. 316.2123, F.S.

Section 15. Amends s. 316.2125, F.S., to authorize local governments to enact golf cart equipment and operation regulations within a retirement community that are more restrictive than state law. Public notification of such regulation is required and must apply only to unlicensed drivers.

Section 16. Creates s. 316.2128, F.S., to require a person selling "motorized scooters" and "miniature motorcycles" to display a notice that these vehicles are not legal to operate on roads or sidewalks. This notice and a copy of the statute must be provided to the consumer prior to purchase. Violations of the sales disclosure provision are punishable under the "Florida Deceptive and Unfair Trade Practices Act" *(see s. 501.201, F.S.)* and are liable for a civil penalty of not more than $10,000 for each violation plus applicable court costs and attorney fees.

Section 17. Amends s. 316.221, F.S., to exempt dump truck vehicles and vehicles having a dump body from the requirement that the rear registration plate be illuminated when driving at night.

Section 18. Amends s. 316.302, F.S., to bring intrastate hours-of-service requirements into compliance with federal tolerance guidelines, to provide for changes recently enacted into federal law for utilities and agricultural transportation, and to revise the requirements for a CDL vision exemption. The bill also contains the following changes:

- Deletes an exemption from federal requirements relating to driving and resting, changing the maximum time limit a commercial motor vehicle driver may drive in a 24 hour period from 15 hours to the federally required 12 hours;
    - This provision does not apply to utility service vehicles.

- Changes the weekly limit of on duty hours from 72 hours to 70 hours in any period of 7 consecutive days, and from 84 to 80 hours in any period of 8 consecutive days if the motor carrier operates every day of the week;
    - This provision does not apply to drivers operating solely within the state and transporting agricultural commodities or farm supplies or to utility service vehicles.
- Updates the reference to current (October 1, 2005) federal rules and regulations applicable to commercial motor vehicles.

According to FDOT, Florida currently receives only 50% ($3.3 million) of its allocated federal funding ($6.6 million) through MCSAP due to the intrastate hours of service allowances. Recent trends indicate failure to bring intrastate requirements within the federal tolerance guidelines could jeopardize additional federal highway funding.

Section 19. Amends s. 316.515(5), F.S., to authorize the FDOT to issue over-width permits for implements of husbandry greater than 130 inches, but not more than 170 inches. Also, this section of the bill allows equipment used exclusively for the purpose of harvesting forestry products, not exceeding 136 inches in width and which is not capable of speeds exceeding 20 miles per hour, to operate on public roads to get from one point of harvest to another point of harvest not to exceed 10 miles, by a person engaged in the harvesting of forest products. In addition, these vehicles must be operated during daylight hours only, in accordance with all safety requirements prescribed s. 316.2295(5) and (6), F.S., relating to slow moving vehicle emblems on farm tractors, farm equipment and implements of husbandry.

This section also amends s. 316.515(10), F.S., to conform the current definition of "automobile towaway and driveaway operations" to that contained in SAFETEA-LU.

According to FDOT, this technical revision eliminates a potential fiscal impact on the trucking industry. In addition, the FDOT is required to report areas of nonconformance of state law with federal law. Failure to conform the new SAFETEA-LU provisions could result in loss of federal safety grant and/or construction funds in the future.

Section 20. Amends s. 318.14, F.S., to provide any person who is issued a citation for exceeding the posted speed limit by 30 m.p.h. or more may not attend a driver improvement course in lieu of appearing before a hearing officer or judge.

Section 21. Amends s. 318.143, F.S., to allow the court to require a minor and his or her parents or guardians to participate in a registered youthful driver monitoring service.

Section 22. Creates s. 318.1435, F.S., to define the term "youthful driver monitoring service" to mean an entity that enables parents or guardians to monitor the driving performance of their

minor children. The section also establishes procedures by which such an entity may provide monitoring services and specifies registration requirements.

Section 23. Amends s. 318.15, F.S., to delete the references to "tax collector" and replace with "driver licensing agent" as authorized in s. 322.135, F.S.

Section 24. Amends s. 318.18(3), F.S., to provide a person who is cited for a second or subsequent violation of exceeding the posted speed limit by 30 m.p.h. or more within a 12-month period must pay double the current fine, which is an increase from $250 to $500. The increased fines would be used to support trauma centers. Also, the bill defines "conviction" for these violations as a finding of guilt as a result of a jury verdict, nonjury trial, or entry of a plea of guilty.

Amends s. 318.18(12), F.S., to provide for an increase in penalties for failing to secure loads on vehicles. The bill doubles the $100 fine making it $200 plus applicable fees and court costs and increases the driver's license suspension for a second offense from a minimum of 180 days and a maximum of one year to a minimum of one year and a maximum of two years.

Section 25. Amends s. 318.19, F.S., to require a mandatory hearing for an infraction of exceeding the posted speed limit by 30 m.p.h. or more.

Section 26. Amends s. 318.32, F.S., to prohibit hearing officers from revoking a defendant's driver's license pursuant to s. 316.655(2), F.S.

Section 27. Amends s. 320.015, F.S., to ensure display mobile homes and other inventory being held for sale are not taxable to the manufacturer or dealer as real property.

Section 28. Amends s. 320.02, F.S., effective July 1, 2008, to require the owner of a motorcycle, motor-driven cycle, or moped operated on the roads of this state, if a natural person, must present proof that he or she has a valid motorcycle endorsement as required in chapter 322, F.S., prior to original registration.

Section 29. Amends s. 320.03, F.S., to exempt the owner of a leased vehicle, if the vehicle is registered in the name of a lessee, from provisions that limit re-registration of a vehicle for non-payment of toll violations, parking tickets, or wrecker liens.

Section 30. Amends s. 320.07, F.S., to exempt the owner of a leased vehicle, if the vehicle is registered in the name of a lessee, from penalties for not displaying a valid mobile home sticker on a mobile home and from delinquency fees related to an invalid registration certificate.

Section 31. Amends s. 320.0706, F.S., to allow the owners of dump trucks to place the rear license plate on the gate no higher than 60 inches to allow for better visibility.

Section 32. Amends s. 320.08056, F.S., to exempt collegiate license plates, created prior to October 1, 2002, from the requirement that the DHSMV must discontinue a specialty license plate if the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. This section of the bill also establishes a $25 annual usage fee for the "Future Farmers of America" specialty license plate.

Section 33. Amends s. 320.08058, F.S., to create a "Future Farmers of America" license plate. Specifically, the Florida Future Farmers of America Foundation, Inc., will retain all revenue from the annual use fee to offset costs of developing and establishing the plates. Thereafter, up to 10 percent of the annual use fee may be used for administrative, handling and disbursement expenses, and up to 5 percent may be used for advertisement and marketing costs. All remaining annual use fee revenue shall be used by the Florida Future Farmers of America Foundation, Inc., to fund its activities, programs, and projects including, but not limited to, student and teacher leadership programs, the Foundation for Leadership Training Center, teacher recruitment and retention, and other special projects.

According to DHSMV, the Florida Future Farmers of America Foundation, Inc., has met all the requirements set fourth in s. 320.08053, F.S., with regard to the "Future Farmers of America" specialty license plate.

Section 34. Amends s. 320.089, F.S., to create two new special license plates, specifically Operation Iraqi Freedom and Operation Enduring Freedom. Such plates may be issued to a current or former member of the United States military, who was deployed and served in Iraq during Operation Iraqi Freedom or in Afghanistan during Operation Enduring Freedom, upon application, accompanied by proof of service, and payment of the vehicle license tax.

Section 35. Amends s. 320.27(4), F.S., to provide that each independent motor vehicle dealer shall certify the dealer (owner, partner, officer, or director of the licensee or a full-time employee of the licensee that holds a responsible management-level position) has completed 8 hours of continuous education prior to filing renewal forms with the DHSMV. This section also exempts applicants for a new franchise motor vehicle dealer license, who has held a valid franchise motor vehicle dealer license continuously for the past 2 years and who remains in good standing with DHSMV, from the pre-licensing training requirement.

This bill amends s. 320.27(9), F.S., to allow the DHSMV to deny, suspend, or revoke any license issued under the provisions of ss. 320.27, 320.77, or 320.771, F.S., for any violation of failure to register a mobile home salesperson with DHSMV.

Section 36. Amends s. 320.405, F.S., to provide the DHSMV is authorized to enter into agreements for scheduling the payment of taxes or penalties owed to the DHSMV as a result of audit assessments issued relating to the International Registration Plan.

Section 37. Amends s. 320.77, F.S., to define the term "mobile home salesperson" as a person who:

- Is employed as a salesperson by a mobile home dealer or who sells, exchanges, buys, or offers for sale, negotiates, or attempts to negotiate a sale or exchange of an interest in a mobile home required to be titled under this chapter;
- Induces or attempts to induce any person to buy or exchange an interest in a mobile home required to be registered and receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value from either the seller or purchaser of the mobile home; and
- Exercises managerial control over the business of a licensed mobile home dealer or supervises mobile home salespersons employed by a licensed mobile home dealer.

The bill amends s. 320.77, F.S., listing the following persons who are not classified as a "mobile home salesperson":

- A representative of an insurance company or a finance company or a public official who in the regular course of business is required to dispose of or sell mobile homes under a contractual right or obligation of the employer or in the performance of an official duty or under the authority of any court of law, if the sale is for the purpose of saving the seller from any loss or pursuant to the authority of a court of competent jurisdiction;
- A person who is licensed as a manufacturer, remanufacturer, transporter, distributor, or representative of mobile homes;
- A person who is licensed as a mobile home dealer; and
- A person not engaged in the purchase or sale of mobile homes as a business, but disposing of mobile homes acquired for his or her own use or for use in his or her business when the mobile homes have been so acquired and used in good faith.

The bill also amends s. 320.77, F.S., to provide within 30 days after the date of hire all mobile home salespersons are required to register with DHSMV the name, local residence address, and home telephone number of each person employed by the licensee as a mobile home salesperson. A licensee may not provide a post office box in lieu of a physical residential address. The bill requires mobile home salespersons registered by licensees to register a physical address with DHSMV within 30 days of the hire date, to notify DHSMV of a change in address within 20 days of the change, and quarterly to notify DHSMV of the termination or separation from employment.

Section 38. Amends s. 320.781, F.S., to allow the Recreational Vehicle Protection Trust Fund to satisfy any judgment or claim against a mobile home or recreational vehicle (RV) dealer or

broker for damages, restitution, or expenses. The section specifies conditions that must exist for a person to be eligible to file a claim against the trust fund. Specifically:

- A claimant is prohibited from filing a claim in a lawsuit because a bankruptcy proceeding is pending by the dealer or broker and the claimant has filed a claim in that bankruptcy proceeding or the dealer or broker has closed his business and cannot be found or located within the jurisdiction of the State of Florida; and
- Either a claim has been made in a lawsuit against the surety and a judgment obtained is unsatisfied or a claim has been made in a lawsuit against the surety which has been stayed or discharged in a bankruptcy proceeding or a claimant is prohibited from filing a claim in a lawsuit because a bankruptcy proceeding is pending by surety or the surety is not liable due to the prior payment of valid claims against the bond in an amount equal to, or greater than, the face amount of the applicable bond. However, no claimant is entitled to recover against the trust fund if the claimant has recovered from the surety an amount that is equal to or greater than the total loss.

Section 39. Amends s. 322.01, F.S., to revise the definition of "driver license"; and to define "identification card," "temporary driver's license," and "temporary identification card." Specifically, the bill addresses the following definitions to comply with federal codes:

- "Driver's license" denotes an operator's license as defined in 49 U.S.C. s. 30301;
- "Identification card" means a personal identification card issued by DHSMV and which conforms to the definition in 18 U.S.C. s. 1028 (d); and
- "Temporary driver license" or "temporary identification card" means a certificate issued by DHSMV, subject to all other requirements of law, which authorizes an individual to drive a motor vehicle, and which denotes an operator's license as defined in 49 U.S.C. s. 30301, or a personal identification card issued by DHSMV, which conforms to the definition in 18 U.S.C. s. 1028(d), and which denotes that the holder is permitted to stay for a short duration of time specified in the document issued and is not a permanent resident of the United States.

According to DHSMV, confirming the definitions of "driver's license" and "identification card" is a step toward the 2008 implementation of the REAL ID Act, which will result in a fiscal impact to DHSMV for programming modifications to change the expiration dates of these licenses and cards.

Section 40. Amends s. 322.05, F.S., requires a person who is between 16 and 18 years old to have no moving traffic convictions before applying for a driver's license unless he or she has elected to attend a driving school.

Section 41. Amends s. 322.051, F.S., to reduce the minimum age requirement for which ID cards may be issued from 12 years of age to 5 years of age; to allow any official documentation confirming the filing of a petition for refugee status to the list of acceptable identification documents as proof of nonimmigrant classification of an applicant for an identification card; to allow evidence of a pending application for adjustment of status to that of an alien lawfully admitted for permanent or conditional permanent resident status in the United States to be used for proof on nonimmigrant classification in the application of an identification card; and to reduce the maximum period of entitlement for an identification card from 2 years to 1 year.

Section 42. Amends s. 322.08, F.S., to allow any official documentation confirming the filing of a petition for refugee status to the list of acceptable identification documents as proof of nonimmigrant classification of an applicant for a driver's license; to allow evidence of a pending application for adjustment of status to that of an alien lawfully admitted for permanent or conditional permanent resident status in the United States to be used for proof on nonimmigrant classification in the application of a driver's license; and to reduce the maximum period of entitlement for a driver's license or temporary permit from 2 years to 1 year. Also, the bill corrects references relating to the former U.S. Immigration and Naturalization Service (INS). Certain INS actions and documents referenced in s. 322.08, F.S., are now the responsibility of the U.S. Citizenship and Immigration Services, a bureau of the U.S. Department of Homeland Security.

Section 43. Amends s. 322.12, F.S., effective July 1, 2008, to require all first-time applicants, regardless of age, for licensure to operate a motorcycle to provide proof of completion of a DHSMV approved motorcycle safety course prior to the applicant being issued a license to operate a motorcycle.

Section 44. Amends s. 322.121, F.S., to revise periodic license examination requirements. This change would correct the cross references to paragraphs (a) through (f) of s. 322.57(1).

Section 45. Amends s. 322.2615, F.S., to remove a requirement to show, during a DHSMV administrative review of a driver license suspension, that a lawful arrest for a violation of s. 316.193, F.S. occurred in order to suspend the driver's license. The bill:

- Clarifies the following grounds for a suspension of driving privileges by a law enforcement or correctional officer:
    - Driving or in actual physical control of a motor vehicle with an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher; or
    - Refusing to submit to a urine test, or a test of his or her breath-alcohol or blood-alcohol level;
- Provides that if a blood test has been administered and the results are not available at the time of arrest, the officer or the agency employing the officer is required to transmit the results to DHSMV within 5 days after receipt of the results.

- Requires the law enforcement officer to forward to DHSMV, within 5 days after issuing the notice of suspension of the driver's license, an affidavit stating the officer's grounds for belief the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages, or chemical or controlled substances;
- Clarifies the language relating to informal review by changing the word arrested to suspended. (This change would separate the suspension from the criminal charge of driving under the influence);
- Clarifies the authority of a hearing officer when the person whose license was suspended is under formal review, specifying the hearing officer may subpoena and question officers and witnesses;
- Clarifies the issues within the scope of review for formal review hearings, specifying the blood and breath alcohol level for suspension, and removing the reference to arrest under s. 316.193, F.S.;
- Provides materials submitted to DHSMV by law enforcement or correctional agencies are self-authenticating and are part of the record to be considered by the hearing officer;
- Requires the crash report to be considered by the hearing officer notwithstanding the prohibition of s. 316.066(4), F.S., against the use of crash reports in civil or criminal trials;
- Clarifies the language related to DHSMV procedures that follow the hearing officer's determination, specifying the suspension period commences on the date of issuance of notice of suspension rather than the date of arrest;
- Allows a law enforcement agency to appeal any decision of DHSMV that invalidates the suspension by a petition for writ of certiorari to the circuit court; and
- Provides the DHSMV's decision, and any circuit court review of that decision, may not be considered in any DUI trial for a violation of s. 316.193, F.S.

Section 46. Creates an undesignated section of law to direct DHSMV to study the outsourcing of driver license services to a provider, in whole or in part, while retaining responsibility and accountability for the services. In addition, the bill requires the DHSMV to submit a report of recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2007.

Section 47. Amends s. 627.733, F.S., to clarify a taxicab owner must maintain security as required under s. 324.032(1), F.S.

Section 48. Amends s. 324.032, F.S., to revise financial responsibility requirements for taxicab owners or lessees. Specifically, an owner or registrant of a motor vehicle used as a taxicab may

prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy with limits of $125,000/$250,000/$50,000.

Section 49. Amends s. 318.1215, F.S., to increase the amount of money a county may collect with each traffic infraction penalty from $3 to $5, which are used for enhancement of driver education programs.

Section 50. Amends s. 316.083, F.S., to require a driver of a vehicle overtaking a bicycle or other nonmotorized vehicle to pass at a safe distance of not less than three feet between the vehicle and the bicycle or other nonmotorized vehicle.

If approved by the Governor, these provisions take effect, October 1, 2006, except as otherwise expressly provided.
Vote: Senate 39-0; House 112-3

HB 7175 — Vessels

by Environmental Regulation Committee and Rep. Needleman and others (CS/CS/SB 2128 by Environmental Preservation Committee; Transportation Committee; and Senators Baker and Atwater)

The bill amends s. 206.606, F.S., to direct funding for local projects regarding uniform waterway markers, boat ramps, boat lifts and hoists, marine railways, public boat launching facilities and derelict vessel removal. The bill deletes reference to aquatic plant control projects from receiving funding under this section and deletes reference to repealed Florida Administrative Code (Rules 62D-5.031 - 62D-5.036). Aquatic plant control is performed by the Department of Environmental Protection.

The bill amends s. 327.59, F.S., and authorizes marina personnel to take reasonable actions to further secure any vessel within the marina to minimize damage to the vessel, the marina property, private property and the environment, if the vessel is not removed once a tropical storm or hurricane watch has been issued. The marinas may charge reasonable fees for securing the vessel and will be held harmless for any damage occurring as a result of securing the vessel or from any damage incurred to a vessel from such storms or hurricanes.

The bill provides no immunity is granted to the marina for any intentional acts or negligence causing damage to the vessel during the removal or storage under this act. The bill provides noticing criteria in the contractual agreement which may be utilized by the marina and the vessel owner relating to the removal of the vessel once a tropical storm or hurricane watch has been issued and provides for a time frame to be established for such vessel removal.

The bill amends s. 327.60(2), F.S., to allow local regulation of anchoring within mooring fields.

Section 328.64(1), F.S., is amended to direct the Department of Highway Safety and Motor Vehicles to provide forms for giving notification concerning change of interest and address of the vessel owner.

The bill amends s. 328.72(15), F. S., which provides for the distribution of vessel registration fees to counties. The bill provides for the distribution of such moneys to be returned to the counties for the express purposes of providing recreational channel marking and other uniform waterway markers, public boat ramps, lifts and hoists, marine railways, and other public boat launching facilities, derelict vessel removal and removal of vessels and floating structures deemed a hazard to public safety and health for failure to comply with marine sanitation. The bill amends the requirement for an annual report to the Fish and Wildlife Conservation Commission (FWCC) from the counties regarding their expenditures of boat registration fees. The bill further provides if the annual report is not submitted by January 1 of each calendar year, the tax collector of that county shall not distribute the moneys designated for use by the counties, but shall instead for the next calendar year remit such moneys to the state for deposit into the Marine Resources Conservation Trust Fund. The FWCC shall return those moneys to the county if the county fully complies with this section within that calendar year. If the county does not fully comply within that calendar year, the moneys shall remain within the Marine Resources Trust Fund and may be appropriated for the purposes specified in this subsection.

The bill amends s. 376.11, F.S., to allow derelict vessel removal grants to be awarded to all local governments as opposed to just coastal local governments.

The bill amends s. 376.15, F.S., pertaining to derelict and abandoned vessels to conform the definition of derelict vessel in s. 823.11, F.S. The bill allows all law enforcement officers charged with enforcement of Florida's boating laws under s. 327.70, F.S., to enforce the provisions pertaining to derelict and abandoned vessels and allows their agencies to recover the costs associated with removing these vessels.

The bill amends the definition of derelict vessel in s. 823.11, F.S., to mean any vessel, as defined in s. 327.02, F.S., left, stored, or abandoned: (a) In a wrecked, junked, or substantially dismantled condition upon any public waters of this state; or (b) At any port in this state without the consent of the agency having jurisdiction thereof; or (c) Docked or grounded at or beached upon the property of another without the consent of the owner of the property.

The bill provides it is unlawful for any person, firm, or corporation to store, leave, or abandon any derelict vessel within this state. The bill specifies which officers may remove such vessels and provides for funding of such removal by certain grants. The bill directs FWCC to implement a plan to seek federal disaster funds relating to the removal of derelict vessels. The bill deletes a provision authorizing the FWCC to delegate authority for derelict vessel removal to local governments.

The bill provides when a derelict vessel is docked or grounded at or beached upon the private property of another without the consent of the owner of the property, the owner of the property may remove the vessel at the vessel owner's expense 60 days after compliance with certain notice requirements. The bill specifies any person, firm, or corporation violating this act commits a misdemeanor of the first degree and shall be punished as provided by law. The court having jurisdiction over the criminal offense is authorized to impose civil penalties in addition to any sentence imposed for the criminal offense.

The bill amends s. 403.813(2)(s), F.S., to provide the exemption for floating vessel platforms includes those associated with a permitted dock with no defined boat slip or are attached to a bulkhead on a parcel of land where there is no other docking structure and which do not exceed a combined total of 500 square feet or 200 square feet in Outstanding Florida Water. The bill requires all floating vessel platforms to be located where sea grasses adjacent to the dock or bulkhead are least dense. The bill provides exempted floating vessel platforms are not subject to any permitting requirement, registration requirement, or other more stringent regulation by any local government. The bill allows local government's authority to require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the exemption criteria or general permit, to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria or general permit; and to ensure proper, installation, and maintenance of a floating vessel platform or floating boat lift proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

The bill amends s. 705.101(3), F.S., to provide for a conforming amendment relating to the definition of derelict vessel as defined in s. 823.11(1), F.S. The bill amends s. 705.103(4), F.S., to provide a conforming amendment relating to vessels.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 40-0; House 115-1

CS/SB 840 — School Readiness Equity Allocation

by Transportation and Economic Development Appropriations Committee and Senator Fasano

This bill revises the approval process for the allocation formula for School Readiness funds provided to the early learning coalitions. It provides that the Agency for Workforce Innovation must submit the recommended formula to the Governor and to the Legislature by January 1 of each year, instead of to the Governor and to the Legislative Budget Commission for approval. The Legislature must specify in the General Appropriations Act any changes from the prior year allocation methodology that must be used by the Agency for Workforce Innovation in allocating funds to the early learning coalitions.

This bill also authorizes the Agency for Workforce Innovation to contract for the Teacher Education And Compensation Helps, or "TEACH" program, instead of the Department of Children and Families, using funds appropriated for school readiness. This change conforms the statutes to current practice, as authorization has been granted for the Agency for Workforce Innovation to administer this program in each of the past four years in the appropriations implementing bill.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 116-0

HB 821 — Community Contribution Tax Credit

by Rep. Goodlette and others (CS/SB 784 by Ways and Means Committee; Transportation and Economic Development Appropriations Committee; and Senators Lynn and Crist)

This bill increases the amount of tax credits authorized for the Community Contribution Tax Credit Program from $12 million to $14 million. It provides separate annual limitations for tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income and very-low-income households, and for donations made to eligible sponsors for all other projects. The bill establishes the annual limitation for homeownership projects at $10.5 million and the annual limitation for all other projects located in enterprise zones or Front Porch Florida Communities at $3.5 million.

This bill eliminates the requirement that the Office of Tourism, Trade and Economic Development reserve specified percentages of annual tax credits for particular projects. Changes made by this bill reflect recommendations contained in Senate Interim Project Report 2006-148.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 118-0

FISCAL YEAR 2006-2007 GENERAL APPROPRIATIONS

HB 5001 — General Appropriations Act

by Fiscal Council and Rep. Negron (SB 2700 by Ways and Means Committee)

The general appropriations act provides moneys for the annual period beginning July 1, 2006 and ending June 30, 2007. The general appropriations act for FY 2006-2007 totals $71,326, 284,400.

Education

The operating portion of the education budget appropriates $19.1 billion. This is a 6.9 percent increase over current appropriations. General revenue spending of $14.1 billion in this portion of the budget is 5.5 percent higher than the current year. The budget includes:

- An increase of $1.8 billion (10.8 percent) for the FEFP (excludes $237 million provided for FRS increase). This increase:
    - Includes $644 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 $542.21, or 8.68 percent in funds per student.
    - Provides enrollment growth funding for 50,536 new students in public schools.
    - Provides $128.2 million to supplement local funds so that every district is guaranteed at least the statewide average level of funding per student realized from the discretionary .51 mill operating levy within the FEFP.
    - Provides $45 million for the Teachers Lead Program, allocating $250 to each teacher to purchase classroom supplies.
    - Provides a $22.8 million or 25.6 percent increase in the Reading Instruction Allocation.
    - Provides $147.5 million for performance pay for teachers.
- An increase of $89.6 million (8.3 percent) in state support for our community college system. (excludes $15.7 million provided for FRS increase). This increase:
    - Includes a $97.1 million (6.64 percent) increase in operational funds for the colleges and $39.1 million for challenge grant matching funds. There is no projected enrollment growth.
    - Includes $1.3 million for continued phase in of community college baccalaureate programs.

- A total of $346.3 million for the Bright Futures program, an increase of $34.6 million (11.1 percent). This provides for the tuition increases authorized in the conference report, enrollment growth, and a change in the Bright Futures Program which raises the value of a Florida Medallion Scholarship from 75 percent to 100 percent of tuition and fees for students attending a community college.
- The restoration of $12.5 million in current year non-recurring funds for Florida Student Assistance Grants and increases funding for this need-based student financial aid program by $21.7 million (21.9 percent).
- An $8.6 million increase for the Florida Resident Access Grant (FRAG) program to provide for anticipated enrollment growth and to increase the award level to $3,000 per student.
- An 8.51 percent increase for state universities, including enrollment growth funding for 7,654 new full-time equivalent students and $64.2 million for the Major Gifts Program.
- A 10 percent increase to expand need-based aid in our Historically Black Private Colleges and Universities.
- Modest tuition increases of 2.5 percent in community colleges and 3 percent in state universities

Health And Human Services

- Medicaid Price Level and Workload - $469.9 million - Provides increased funds for Medicaid workload because of changes in caseloads and utilization of services and 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 2006-07 is projected to be 2.3 million people.
- Restore Adult Vision Services – $9.6 million - Medicaid recipients above 21 years of age will now be able to access vision services and obtain eyeglasses.
- Restore Adult Hearing – $2.2 million - Medicaid recipients above 21 years of age will now be able to access hearing aids and hearing aid services.
- Adult Partial Dentures – $7.0 million - Provides funding for adult Medicaid recipients to obtain partial dentures and the services required to seat dentures.
- Nursing Home Staffing Ratio Increase – ($42.3) million - Revised the nursing home staffing ratio to an average of 2.9 hours of direct care per patient per day measured on a weekly basis. Includes a minimum daily staffing requirement of 2.7 hours of direct care per patient per day.

- Restore Prior Year Nursing Home Rate Reductions – $25.8 million - Restores the nursing home reimbursement rate reductions that were taken during FY 2005-06.
- Nursing Home Rate Increase - $65.5 million - Adjusts the nursing home reimbursement methodology to remove or adjust certain limitations currently affecting reimbursement to nursing home providers.
- Medicare Coinsurance Assistance - $3.7 million - Provides funds for assistance with Medicare Part – B prescription coinsurances and deductibles for former Medically Needy recipients who are diagnosed with cancer or have received organ transplants.
- Hospital Fixed Cost Reimbursement Increase - $10.9 million – Provides funds to adjust the fixed cost reimbursement component in hospital inpatient reimbursement rates from 80 to 85 percent of Medicaid fixed cost.
- Hospital Reimbursement Ceiling Exemption - $15.7 million - Provides non-recurring funds to eliminate 50 percent of the hospital inpatient and outpatient Medicaid reimbursement ceilings for the following hospitals: Coral Gables, Manatee Memorial, Palm Springs General, Kendall Regional Medical Center, Florida Hospital – Walker, South Florida Baptist Hospital and Naples Community Hospital.
- Jackson Memorial Hospital Reimbursement - $20.0 million - Provides non-recurring funds to restore the reimbursement rate reduction from FY 2005-2006 for Jackson Memorial Hospital.
- Health Maintenance Organizations - $34.7 million - Provides funds to increase the managed care capitated discount factor by 1.75 percent for Medicaid prepaid health plans.
- Infrastructure Deficiencies - $77.0 million - Provides general revenue funds to replace non-recurring funds used to fund recurring programs and to fund deficits in the following areas:
    - Alcohol Drug Abuse and Mental Health Block Grant - $1.4 million
    - Psychotropic Drugs in state mental health institutions - $5.5 million
    - Electronic Benefit Transfer (EBT) - $3.5 million
    - Trust fund shortfall in various programs - $34.6 million
    - TANF Block Grant - $20.6 million
    - Mental Health services - $5.0 million
    - Independent Living Program - $1.1 million
    - Child Welfare Services - $5.3 million
- Independent Living - $5.1 million - Increases services available to children aging out of foster care. Increased services include pre-independent living and life skills services to the 13 to17 year old population as well as scholarships, transition and aftercare and subsidies to the 18 to 23 year old population.

- Adoption Subsidies - $2.3 million - Increases funding for maintenance adoption subsidies for an additional 1,578 hard-to-place children who would linger in costly foster care arrangements for long periods of time if not adopted.
- Foster Care Board Rate Increase - $6.5 million - Provides funding for a board rate increase of $2 per child per day.
- Community-Based Care Equity - $20.0 million - Provides additional funding to achieve a more equitable distribution of child protection resources among community based care lead agencies. This increase raises the seven agencies below the statewide average up to a funding level of $9,822.
- Mental Health Equity - $10.0 million - Provides additional funding to achieve a more equitable distribution of mental health resources among service providers.
- Substance Abuse Equity - $11.8 million - Provides funding to serve 3,390 additional adults and 637 additional children. The allocation of this increase will achieve a more equitable funding distribution among substance abuse providers.
- Local Services Programs - $3.7 million - Restores funds to continue funding for recurring community care for the elderly programs to assist elders in maintaining their independence.
- Aging Resource Centers - $3.0 million - Provides non-recurring funds to complete statewide implementation of Aging Resource Centers that provide a single point of access for long-term care services.
- Assisted Living Facility Rate Increase - $4.0 million - Provides for an increase in provider rates for the Assisted Living for the Elderly home and community-based waiver.
- Serve Additional Clients - $24.3 million - Provides funding to serve additional clients from the developmental services waitlist or who are in crisis for home and community-based waiver services.
- Cost of Living Rate Increase - $21.7 million - Provides a 3 percent cost of living rate increase to all home and community-based waiver developmental services providers except support coordinators.
- Support Coordinator Rate Increase - $4.9 million - Provides a 7.5 percent rate increase for support coordinators that provide services under the home and community-based waivers.
- Maintenance and Repair - $8.1 million - Provides funds for maintenance and repair of state owned developmental service buildings.
- Capital Improvement Plan for County Health Departments - $21.1 million - Provides funds for county health department buildings in Charlotte, Palm Beach, Dade, Broward, Volusia, and Bay counties.

- Capital Improvement Plan for Children's Medical Services Buildings - $5.9 million - Provides funds for CMS buildings in Brevard, Alachua, West Palm Beach, and Ft. Pierce.
- Capital Improvement Plan - $4.7 million - Provides funds for maintenance and repair of state owned buildings.
- Healthy Start - $11.1 million - Provides funds for the statewide Healthy Start coalitions. This appropriation includes approximately $4.5 million of federal Medicaid Title XIX matching funds.
- Area Health Education Centers - $7.0 million - Provides funds to restore recurring area health education center programs funded with non-recurring funds.
- Restore TANF - $8.9 million - Provides funds to restore recurring programs funded with non-recurring funds.
- Tobacco Use - $5.0 million - Provides funds for tobacco education programs to help reduce youth tobacco use.
- Early Steps - $5.0 million - Provides funds for the Early Steps Program that provides services to infants and toddlers from birth to 3 years who have developmental delays or disabilities, and their families.
- Rural Hospitals - $3.0 million - Provides funds for the rural hospital capital improvement grant program.
- Sixth Nursing Home - $17.2 million - Provides funds for the construction of a sixth 120-bed veterans' nursing home in St. Johns County.
- Capital Improvement Plan - $3.1 million - Provides funds to complete the second phase of the Jenkins, Jr. Veteran's Domiciliary Home renovation project which is the oldest state veterans' facility, and is located in Lake City.

Justice

- Provides $18.4 million for the increase in the prison population as forecasted by the Criminal Justice Estimating Conference.
- Provides $71.5 million in general revenue and $3 million in trust fund to complete the construction of the Wakulla annex that has 2,022 beds and Lowell female work camp with 262 beds.
- Provides $47.4 million in general revenue for general fixed capital outlay repairs and maintenance of facilities in the Department of Corrections and Department of Juvenile Justice.
- Provides $4.7 million to continue funding the Integrated Criminal History System in the Department of Law Enforcement.

- Provides $5.3 million for grant funding to small counties for detention services in the Department of Juvenile Justice.
- Provides $2 million to increase mental health services in the Department of Corrections.
- Provides $21 million to fund a price level increase for private providers in the Department of Juvenile Justice.
- Addresses deferred maintenance in the Supreme Court building with $14.5 million.
- Provides $7.75 million for repairs and renovations for 26 small county court houses.
- Provides $8 million for the Guardian Ad-Litem program to serve an additional 8,000 children.
- Provides $14.25 million to State Attorneys and Public Defenders for increased workload.

General Government Appropriations

- Beach Restoration - $65 million to restore and protect the state's beaches on both the Gulf and Atlantic coasts. The state funding is matched with $137.5 million in federal and local funds.
- Water Projects - $360.7 million for statewide water restoration and wastewater projects. This includes $215 million for water projects that restore and protect our lakes, rivers, bays and lagoons; provides assistance to disadvantaged communities for wastewater needs; $20 million for wastewater projects in the Florida Keys; $25 million for the restoration of Lake Okeechobee; and $100 million for the Water Protection and Sustainability program.
- Florida Forever - $300 million cash for land acquisition and conservation of our unique natural resources.
- Everglades Restoration - $135 million cash for the Comprehensive Everglades Restoration Plan (CERP).
- Drinking and 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.
- Red Tide - $3 million additional funds for implementing strategies for control of the Florida red tide and the impacts on our natural resources and economy.
- Florida Recreational Development Assistance Program (FRDAP) - $30.3 million for grants to local governments for constructing baseball fields, bike paths, and playgrounds for public outdoor recreation.

- Mulberry/Piney Point Phosphate Clean-up - $19 million to continue cleanup efforts of the contaminated phosphate sites.
- Land Reclamation - $4 million for the Non-mandatory Land Reclamation Program for eligible phosphate lands mined before July 1975.
- Lake Restoration - $14.5 million for lake restoration and multi-year projects that include Lake Panasoffkee, Lake Trafford, Lake Jackson, and management of the over 3 million acres of lakes in Florida.
- Firefighting Equipment - $11.4 million for forest fire equipment and protection of state forests to increase the safety of firefighters and the public.
- Agricultural Promotion Campaign "Fresh from Florida" - $3.5 million provided for marketing agricultural commodities. This program campaigns in 22 northeastern states as well as Canada.
- Florida Agriculture Worker Safety Act - $685,864 and 10 additional inspectors to regulate the use of pesticides on agricultural sites.
- Hotels and Restaurant Inspections – $1.2 million and 12 additional inspectors and motor vehicle replacement for improving the safety of hotels and restaurants.
- Unlicensed Realtors - $348,950 and 5 positions for regulating unlicensed realtors to address additional workload.
- Elevator Safety - $107,760 and 2 positions for regulating and monitoring elevators to ensure elevator safety for the public.
- Examination of Mortgage Brokers and Financial Institutions - $1 million and 20 additional positions for addressing the industry growth, and $5 million for the Licensing Enforcement System.
- Insurance Regulation - $433,175 and 6 additional positions to address workload needs in casualty and property insurance and $1.9 million for the rate data collection and management system.
- Public Hurricane Model - $877,872 for the model to evaluate homeowners' insurance rates.
- Workers' Compensation Claims - $418,634 and 5 additional positions including one judge for the Office of the Judges of Compensation Claims to address an increase in workload.
- ASPIRE - $8.7 million to continue replacement of the state's financial accounting system and $.6 million to study the feasibility of integrating the state's accounting, purchasing, and HR systems.

- CAMS - $20 million for continuing the implementation of a new automated Child Support Management System (CAMS).

Transportation And Economic Development Appropriations

- Historic Preservation Fixed Capital Outlay Grants - $14.1 million to fund 49 of the recommended projects.
- Historic Museum and Historic Preservation Operating Grants - $3.75 million.
- Cultural Facilities Fixed Capital Outlay Grants - $14.5 million to fund all 36 eligible projects.
- Arts and Cultural Program Operating Grants (nine separate grant programs) - $11.8 million.
- Library Construction Grants - $7.2 million to fund 15 of the 19 requested grants (funded one per county or municipality that requested projects).
- Cultural Endowment Grants - $4.6 million to fund 20 of the 32 requested grants.
- Elections programs - $5.6 million provided.
- Hurricane Shelters and Emergency Operations Centers funded with $25.3 million.
- $7 million for the Residential Construction Mitigation program and $8.2 million for the Pre-disaster Mitigation Program.
- $1.05 billion in hurricane-related recovery funds.
- $514 million for Housing Programs, including:
    - State affordable housing program - $70.5 million;
    - Local affordable housing program (SHIP) - $172.5 million. *[$70.5 State + $172.5 Local = $243m]*
    - Rental Recovery Loan Program - $92.9
    - Affordable housing for communities impacted by hurricanes - $82.9 million
    - Community Workforce Housing Innovation Pilot Program - $50 million.
    - Housing for the extremely-low-income persons - $30 million.
    - Farmworker Housing Recovery Program - $15 million.
- Small Cities Community Developmental Block Grants - $35 million.
- Low Income Home Energy Assistance Program - $19.2 million.
- Weatherization Grants for Low Income Persons - $11.2 million.
- Florida Communities Trust Program - $66 million.

- Front Porch Florida - $3.3 million.
- Department of Transportation Work Program Total - $8.2 billion.
- Small County Resurfacing Assistance Program (SCRAP) - $25 million.
- Small County Outreach Program - $45.4 million.
- County Incentive Grant Program - $46.5 million.
- Economic Incentives Programs - $28.8 million for the QTI, QDC, Brownfields, and other economic development programs.
- $12.5 million for Enterprise Florida.
- $24.7 million for Visit Florida.
- Film and Entertainment Industry Incentives funded with $20.7 million.
- Rural Infrastructure Grants funded with $2.7 million.
- $7.4 million provided for Military Base Protection and Defense Related Grants.
- $15.3 million funded for Economic Development Transportation Projects.
- Ready-to-Work initiative funded with $4 million.
- Workforce Cluster Centers initiative funded with $4 million.
- Florida Rebuilds initiative funded with $12 million.
- Non-Custodial Parent Program continued with $1.5 million.
- Provides $10.5 million recurring general revenue funds to continue school readiness programs that were funded with non-recurring trust funds last year.
- Incumbent Worker Training Program expanded from $2 million to $3.7 million.
- HIPPY programs funded with $1.4 million.
- Workforce Services targeting persons with disabilities funded with $1 million.
- National Guard Readiness Centers Revitalization Plan (armory repairs and renovations) - $23.6 million.
- Payment of Life Insurance Premiums for National Guard Members - $2.3 million.
- Family Readiness emergency funds provided - $5 million reappropriated to assist military families with emergencies or hardship situations.
- Expands the About Face program from $3 million to $3.3 million.
- Florida Highway Patrol:

  - Trooper Overtime Pay - $1.5 million;
  - Additional Equipment - $1.6 million; and
  - Replacement of Vehicles - $4.4 million.

- Repairs and Maintenance - $4.9 million.
- New Florida Highway Patrol Station – Pinellas Park - $2.2 million.

Employee Compensation

- A 3 percent across-the-board pay increase for state employees, including university personnel, effective October 1, 2006.
- The overall health insurance premiums will be increased 8 percent. However, the employing agency will pay the full amount of the increase.
- The standard and high deductible health plans are continued with the current level of benefits remaining in place.
- Co-payments and other out-of-pocket expenses are maintained at the current levels.
- Performance Path to Excellence for child protective investigators – $669,082
- Performance Path to Excellence for abuse registry employees – $669,315
- Pay Adjustment for adult protective investigators – $1,397,000
- Retention and Recruitment pay for professional accountants employed by the Department of Financial Services and the Department of Agriculture and Consumer Services – $459,000
- Competitive pay adjustments of 5 percent for certain employees of the Department of Juvenile Justice – $4.65 million
- Special Agents Sworn Recruitment and Retention Plan – $384,810
- Competitive pay adjustments of 5 percent for the Florida State Fire Service Association and the Department of Agriculture and Consumer Services forestry management staff – $1.08 million
- Competitive pay adjustments of $5000 for insurance fraud investigators – $600,000
- *Compression issues* -- Security service personnel with between 5 and 6 years of service will receive a 2 percent adjustment to their base rate of pay. Security service personnel with 10 years or more of service will receive a 3 percent adjustment.
- The Capitol Police Compression Pay Plan was funded. This allowed officers to receive graduated increases based on years of service.

- Equity pay for employees of the Florida School for the Deaf and Blind – $1.06 million
- Equity pay for employees of the Department of Environmental Protection working in the Coastal and Aquatic Managed Areas – $196,187
- Performance pay for the employees of the Department of Law Enforcement who exceed performance standards – $158,000

If approved by the Governor, these provisions take effect July 1, 2006, or upon becoming law, whichever occurs later, except as otherwise provided.
Vote: Senate 39-0; House 119-0

FISCAL YEAR 2006-2007 GENERAL APPROPRIATIONS IMPLEMENTING AND CONFORMING LEGISLATION

HB 5003 — Appropriations Implementing Bill

by Fiscal Council and Rep. Negron (SB 2702 by Ways and Means Committee)

This is the implementing bill for the FY 2006-2007 General Appropriations Act. It makes one-year changes to substantive laws in order to prevent conflicts between the statutes and the budget so the Legislature's budget decisions can be fully implemented. The bill has 46 substantive sections, of which 19 repeat provisions from the implementing bill for the FY 2005-2006 General Appropriations Act. The bill adopts the Performance Based Budget (PB^2) measures for 30 executive branch agencies and the judicial branch. It also adopts the Florida Education Finance Program (FEFP) calculations used to produce the public school budget.

Section 1. Provides legislative intent.

Section 2. FEFP calculations are incorporated by reference and are the basis for calculations pursuant to s. 1011.65, F.S.

Section 3. Adopts a performance pay plan for school district instructional personnel as described in proviso language attached to Specific Appropriation 91, and suspends the effectiveness-compensation plan, known as E-COMP, which was established pursuant to a rule adopted by the State Board of Education.

Section 4. Provides that the Department of Children and Family Services may enter into a contract to finance, design, and construct a secure facility for sexually violent predators. The secure facility shall have at least 600 beds and the contractor shall operate all aspects of daily operations within the secure facility. The contractor may sponsor the issuance of tax-exempt certificates of participation or other securities to finance the project, and the state may enter into a lease-purchase agreement for the secure facility.

Section 5. Provides that the Department of Health may not use any portion of the annual appropriation for administering and evaluating the area health education center network. Current law allows the department to use no more that 5 percent of the annual appropriation for this purpose.

Section 6. The Department of Corrections and the Department of Juvenile Justice may expend appropriated funds to assist a county or municipality with the local costs necessary for the department to open or operate a facility, not to exceed 1 percent.

Section 7. Allows the Executive Office of the Governor to request additional positions during FY 2006-2007 for the Department of Corrections if the Criminal Justice Estimating Conference (CJEC) projects a certain increase in the inmate population.

Section 8. Authorizes the Governor or the Chief Justice of the Supreme Court to submit a budget amendment, in accordance with ss. 29.015 and 29.016, F.S., for consideration by the Legislative Budget Commission to authorize the expenditure of funds from unallocated general revenue to offset deficiencies projected by the Justice Administration Commission or the state courts in any specific appropriation provided for due process services.

Section 9. Authorizes the Department of Legal Affairs to spend funds from two appropriations on the same programs funded in the prior years.

Section 10. Increases the maximum annual budget for the Clerk of the Circuit Court, Hillsborough County.

Section 11. Allows, for FY 2006-2007 only, a municipality to expend funds in a special law enforcement trust fund to reimburse the general fund for moneys advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.

Section 12. Allows the Executive Office of the Governor to transfer funds appropriated for the payment of risk management insurance premiums between departments. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 13. Allows the Executive Office of the Governor to transfer funds appropriated for the payment of the statewide human resource management services contract between departments. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 14. Removes the Class C (day trips, not overnight) travel reimbursement for state travelers.

Sections 15-16. Authorizes the use of state aircraft for commuting.

Section 17. Provides additional funding mechanisms to Florida Workers' Compensation Joint Underwriting Association (JUA) to cover deficits attributable to subplan D and Tiers One and Two by requiring the use of its surplus funds in subplan C prior to requesting transfer of funds from the state or assessing policyholders in the voluntary market. Establishes a contingency reserve for the JUA to request transfer of state funds to cover projected cash needs for 6 months.

Requires the JUA, by January 1, 2007, to request tax-exempt status of the Internal Revenue Service in order to avoid significant future federal tax liabilities, and revises the board appointment process to put the membership under state control and support the tax-exempt status. Additionally, upon dissolution of the JUA, requires all assets to be first used to pay all debts and obligations of the plan, and any remaining assets to become property of the state and deposited in the Workers' Compensation Administration Trust Fund.

Section 18. Establishes the Office of Information Security (office) within the Department of Management Services (DMS), and provides that the Chief Information Security Officer is the head of the office. Requires a strategic plan for information technology security to be submitted by March 1, 2007, to the Executive Office of the Governor , President of the Senate, and the Speaker of the House of Representatives. Assigns and clarifies certain information technology security responsibilities for the DMS and state agencies.

Sections 19-21. Requires the Department of Management Services to: (1) provide an annual report of leases due to expire within 24 months and the financial impact of terms in new leases that have been amended, supplemented or waived; (2) promulgate rules for private leases that require inclusion of non-appropriation clause and six month notice clause for movement into state owned space; (3) evaluate whether amending, supplementing or waiving a lease clause is in the state's long term best interest prior to execution of the lease; (4) provide a five-year plan for state owned buildings; (5) notice and submit a cost-benefit analysis to the Governor, Legislature and State Board of Administration when recommending the disposition of buildings in the Florida Facilities Pool.

Section 22. Requires the Fish and Wildlife Conservation Commission to waive stone crab trap tag fees in FY 2006-2007.

Section 23. Requires the Fish and Wildlife Conservation Commission to waive spiny lobster trap tag fees in FY 2006-2007.

Section 24. Requires the Department of Environmental Protection to award $6.5 million in solid waste management grants in equal amounts to small counties, and $1.6 million in competitive innovative grants to certain cities and counties already identified by the department to the Legislature.

Section 25. Directs the Department of Environmental Protection to conduct a pilot program for expedited site evaluation and cleanup of a port facility and an airport facility that each have high redevelopment potential and that serve an immediate and demonstrated public purpose. Includes specific criteria for site selection and defines the focus of the pilot program.

Section 26. Creates the Caloosahatchee-St. Lucie Rivers Corridor Advisory Council. The council shall review the operation and management of Lake Okeechobee and the associated discharges from the lake for the purpose of formulating specific recommendations. The council shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007, a report with specific recommendations for implementation by the Legislature and the Governor that will mitigate ecological effects upon the Caloosahatchee-St. Lucie Rivers Corridor and stabilize the effect of high discharges from Lake Okeechobee upon the tourist economy of Southwest and Southeast Florida.

Section 27. Creates the Fuel Distributors Emergency Power Assistance Grant Program within the Department of Community Affairs to provide assistance to fuel distributors in retrofitting their facilities to accommodate portable generators in preparation for major power outages.

Section 28. Authorizes moneys in the General Inspection Trust Fund to be appropriated for specific programs operated by the Department of Agriculture and Consumer Services.

Section 29. Increases President of the Senate and Speaker of the House of Representatives discretionary funds by $10,000, to $20,000 each.

Section 30. Authorizes transfer of moneys from the Land Acquisition Trust Fund to Florida Forever Trust Fund and to the Save Our Everglades Trust Fund (related to Florida Forever, Babcock Ranch and Save Our Everglades).

Section 31. Authorizes transfer of Conservation and Recreation Lands Trust Fund moneys to the Florida Forever Trust (related to Babcock Ranch).

Section 32. Authorizes transfer of Water Management Lands Trust Fund moneys to the Florida Forever Trust Fund (related to Babcock Ranch).

Section 33. Authorizes a match exception for the Northwest Florida and the Suwannee River Water Management Districts for Surface Water Management and Improvement (SWIM) grants.

Section 34. Provides eligibility and match requirements for stormwater, wastewater and water restoration grants. Match requirements are waived for financially disadvantaged small local governments.

Section 35. Allows 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.

Section 36. Authorizes an exchange of real property between the Department of Highway Safety and Motor Vehicles and Palm Beach Gardens.

Section 37. Allows 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 38. Authorizes the Governor to recommend the initiation of fixed capital outlay projects funded by grants awarded by the Federal Emergency Management Agency for FEMA Disaster Declarations.

Section 39. Reduces the match requirements for dredging projects in small counties (population under 300,000) from 50 percent to at least 25 percent.

Sections 40-41. Requires the Agency for Workforce Innovation to recommend a formula to allocate school readiness funds and provide for changes in the allocation of funds to be specified in the General Appropriations Act.

Section 42. Allows the use of the 1.5 percent of total funds deposited into the Florida Preservation 2000 Trust Fund and Florida Forever Trust Fund that have been allocated to the Department of State for capital improvements and associated costs to also be used for construction of replacement museum facilities.

Section 43. Allows the funds in the Emergency Management, Preparedness, and Assistance Trust Fund, which are otherwise unobligated, to be authorized for expenditure for the purpose of providing assistance to local governments for implementing local comprehensive plans, innovating planning to help make communities more livable and addressing growth management issues.

Sections 44-47. Housing.

Section 44. Provides a definition of "extremely-low-income persons" to be used in allocating funding provided for the affordable housing initiative for extremely low income persons. Such a person is defined as a person or family whose annual household income does not exceed 30 percent of median annual adjusted gross income for households within the state. Florida Housing Finance Corporation is authorized to adjust this amount annually by rule to provide that in lower income counties the extremely low income may exceed 30 percent of AMI and that in higher income counties extremely low income may be less than 30 percent of AMI.

Section 45. Modifies the operation of certain programs administered by Florida Housing Finance Corporation. With regard to the State Apartment Incentive Loan (SAIL) program, it amends this section of statute to allow loans in excess of 25 percent of project cost and to allow forgiveness of loans, both contingent on provision of units for extremely low income (ELI) families. These changes will allow the Florida Housing Finance Corporation to better address the needs of persons who have the lowest incomes.

Section 46. Modifies the State Apartment Incentive Loan program. Provides an additional exemption to the amount of mortgages allowable for affordable housing projects for those projects that reserve units for extremely-low-income persons. Provides exemptions to criteria for the competitive ranking of applications for the State Apartment Incentive Loan Program for projects providing units for extremely-low-income persons. Provides additional exemptions to the prohibition of rent controls for projects providing units for extremely-low-income persons.

Section 47. Creates the Community Workforce Housing Innovation Pilot Program (CWHIPP) for the purpose of providing affordable rental and home ownership community workforce housing for essential services personnel with medium incomes in high-cost and high-growth counties. The program is designed to use regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private sources.

Section 48. Authorizes the Florida Housing Finance Corporation to provide funds to areas in the state that had hurricane damage in 2004 and 2005. Provides for administration of funds and emergency rules.

Section 49. Allows agencies to use funds for cash awards to state employees who demonstrate satisfactory service in the agency or to the state, in appreciation and recognition of such service. Awards may not exceed $100 each and will be allocated from an agency's existing budget. By March 1, 2007, agencies that elect to make cash awards will report to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives the dollar value and number of such awards given. If available, any additional information concerning employee satisfaction and feedback should be provided.

Section 50. Makes technical corrections to errors in the conference report on the 2006-2007 General Appropriations Act, including correcting references to Specific Appropriation numbers, correcting informational descriptions of the reductions taken for Specific Appropriations, correcting a reference to recurring and non-recurring portions of a Specific Appropriation, correcting the reference to a city (where another city had incorrectly been referenced twice), and correcting a reference to 2004 Laws of Florida.

Section 51. Makes finding of "best interest of the state" for the issuance of debt (bonds) in FY 2006-2007.

Section 52. Specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 53. 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 54. Provides that the performance measures and standards, filed with the Clerk of the House of Representatives are incorporated by reference and will be applied to programs for the FY 2006-2007.

Section 55. Provides a severability clause.

Section 56. Provides an effective date.

If approved by the Governor, these provisions take effect July 1, 2006, or upon becoming law, except as otherwise provided.
Vote: Senate 39-0; House 115-0

HB 5005 — Education Funding

by Fiscal Council and Rep. Pickens and others

The bill provides statutory changes to conform to the FY 2006-2007 General Appropriations Act. Specifically, the bill:

- Amends s. 551.106 (2), F.S., to provide that slot machine revenues deposited into the Education Enhancement Trust Fund may be used to cover debt service payments on lottery bonds issued to fund school construction.
- Amends s. 1001.451 (2)(a), F.S., to provide autonomy for the boards of directors of regional education consortia over incentive grants received pursuant to s. 1001.451(2)(a), F.S., and requires timely distribution of grant funds to the regional consortiums by the Department of Education.
- Amends s. 1002.71 (3), F.S., to provide that funding allocations to school districts for the voluntary prekindergarten (VPK) summer program shall be based on increments of 10 students.
- Amends s. 1009.535 (2), F.S., to provide that Florida Medallion Scholars Bright Futures Scholarship awards shall be equal to 100% of tuition and required fees for eligible students enrolled in community college associate degree programs.
- Creates s. 1010.62, F.S., enacting policies recommended by the Board of Governors for the issuance of debt by state universities and affiliated direct support organizations.

- Amends Florida Education Finance Program (FEFP) provisions in s. 1011.62, F.S., to provide:
    - that Group 2 FTE over the cap shall be funded at a weight of one;
    - that juveniles placed in secure detention facilities pursuant to s. 985.223, F.S., (juveniles incompetent to proceed) may be reported for funding in excess of 180 days;
    - that middle school students who complete high school algebra and earn a letter grade of "C" or higher shall be funded at the high school weight for the course;
    - that the value of a Florida Virtual School FTE student shall be increased by the weight of 0.114 for funding purposes;
    - to clarify the procedure for establishing the final tax roll for school funding purposes; and
    - to establish a statutory process for calculating a compression supplement for nonvoted current operating discretionary millage authorized in the General Appropriations Act.
- Amends s. 1011.71, F.S., to delete statutory limitations on the level of nonvoted current operating discretionary millage the Legislature may prescribe annually in the General Appropriations Act.
- Amends s. 1013.62, F.S., to revise the statutory formula for the allocation of capital outlay funds appropriated for charter schools.
- Amends s. 1013.64, F.S., to provide that High Growth District Capital Outlay Assistance Grant funds provided pursuant to s. 1013.736, F.S., are subject to statutory cost limitations per student station, and to revise the statutory cost limitations per student station.
- Corrects cross references.
- Repeals ss. 1010.60 through 1010.619, F.S., relating to the authority of the State Board of Education regarding the issuance of revenue bonds for state universities.
- Repeals s. 1012.74, F.S., relating to Florida educators professional liability insurance protection.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 118-0

HB 5007 — Health Care

by Fiscal Council and Rep. Bean (CS/SB 390 by Health and Human Services Appropriations Committee and Senators Saunders and Wilson)

The bill provides statutory changes necessary to conform to the General Appropriations Act (GAA) for FY 2006-2007. Specifically, the bill:

- Amends s. 391.026(16), F.S., to authorize the Department of Health to contract with a third party administrator to process claims for the Children's Medical Service (CMS) network. Authorizes a minimum reserve for the Children's Medical Services network in an amount that is the greater of 10 percent of total projected expenditures or 2 percent of total annualized payments from the Agency for Health Care Administration for Title XIX (Medicaid) and Title XXI (KidCare) funded children.
- Amends s. 400.141(15)(e), F.S., to make a technical change to correct a statutory reference requiring nursing facilities to comply with minimum nursing home staffing requirements.
- Amends s. 400.179(5)(d), F.S., to reduce the non-refundable fee for a bond that a nursing home facility pays upon a change of ownership during initial licensure or license renewal from 2 percent of 3 months Medicaid payments to 1 percent of 3 months Medicaid payments.
- Amends s. 400.23, F.S., to require a nursing home to maintain a weekly average of 2.9 hours of direct care per patient per day, beginning January 1, 2007. Defines a week as Sunday through Saturday. Increases the minimum daily staffing requirement from 2.6 to 2.7 hours of direct care per patient per day on January 1, 2007.
- Amends s. 409.811(11), s. 409.8134(1) and (2), s. 409.814(5)(d) and s. 409.818, F.S., to delete references to enrollment ceilings in the KidCare program and requires enrollment to cease when the expenditure ceiling is reached.
- Repeals s. 409.8201, F.S., to delete a requirement related to the enrollment ceiling for the non-Medicaid portion of the KidCare program.
- Amends s. 409.904(5), F.S., to clarify that certain women with family incomes at or below 185% of the federal poverty level are eligible for family planning services for up to two years following a loss of Medicaid benefits.
- Amends s. 409.905(5)(d), F.S., to require the Agency for Health Care Administration (Agency) to establish a Medicaid hospitalist program in non-teaching hospitals. Authorizes the agency to procure hospitalist services by individual or multiple counties in a single procurement. Requires the qualified organization to contract with or employ board-eligible physicians in Miami-Dade, Palm Beach, Hillsborough, Pasco and Pinellas Counties.

- Amends s. 409.906, F.S., to provide Medicaid coverage for full and partial dentures and restores Medicaid coverage for adult hearing and vision services.
- Amends s. 409.907(9)(a), F.S., to require that payments of Medicaid claims by providers between the date of receipt of application and the date of approval is contingent on applying the audits and edits within the claims adjudication and payment system.
- Amends s. 409.908, F.S., to provide flexibility to the Agency to adjust nursing home reimbursement cost based class ceilings, target rate class ceilings and provider targets.
- Amends s. 409.9081, F.S., to revise the limitations on co-payments for emergency room services to 5 percent of up to the first $300 of Medicaid payment, not to exceed $15. Current co-payment is $15 for each emergency department visit.
- Amends s. 409.911, F.S., to delete obsolete dates and provisions related to the data used in determining the charity care and Medicaid days for purposes of calculating disproportionate share payments and replaces them with current dates and data used in calculating disproportionate share payments.
- Amends s. 409.9113, F.S., to provide that the funds defined for statutory teaching hospitals be distributed in the same proportion as funds were distributed under the teaching hospital disproportionate share program during FY 2003-2004, and requires the funds for family practice teaching hospitals to be distributed equally.
- Amends s. 409.9117, F.S., to eliminate outdated dates relating to the primary care disproportionate share program and replace them with current dates.
- Amends s. 409.912, F.S., to authorize the Agency to post the preferred drug list and updates to the preferred drug list on an Internet website without following the rulemaking process of chapter 120. Authorizes the Agency to include an adjustment for health status when calculating managed care capitation rates.
- Amends s. 409.9122, F.S., to revise enrollment limits for Medicaid recipients subject to mandatory assignment to managed care who fail to make a choice to sixty-five percent managed care and thirty-five percent MediPass, and changes how the ratio is established to include all those eligible to choose managed care.
- Creates s. 409.9301, F.S., to establish a pharmaceutical assistance program to provide pharmaceutical expense assistance to individuals diagnosed with cancer or individuals who have received organ transplants who were medically needy recipients prior to January 1, 2006.
- Creates s. 430.04(17), F.S., to designate the Department of Elder Affairs as the state agency eligible to receive federal funds and administer a program for adults who are eligible for assistance through the Adult Care Food Program.
- Amends s. 430.705(5), F.S., to provide for certain prospective nursing home diversion participants to be designated “Medicaid Pending” while eligibility is being determined.

Requires the Agency to reimburse the nursing home diversion provider on the first day of the month following the medically eligible determination provided that the recipient has been determined financially eligible. Deletes provisions requiring the Agency to reimburse nursing home providers on a prorated basis for individuals enrolled after the first day of the month.

- Amends s 624.91, F.S., to delete provisions requiring the Florida Healthy Kids Corporation to establish a local match policy for non-Title XXI eligible children and requiring a minimum local match.
- Creates one unnumbered section of law, to require the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review functions of the CARES program and report its findings to the President of the Senate and Speaker of the House of Representatives by February 1, 2007.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 117-0

HB 5009 — Substance Abuse/Mental Health Services

by Fiscal Council and Rep. Bean (CS/SB 398 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 2006-2007. Specifically, the bill:

- Amends s. 394.457, F.S., deleting provisions authorizing a reimbursement rate of 100 percent by the Department of Children and Family Services for certain services provided under the Baker Act, and clarifies that Baker Act services are subject to 25 percent local participation.
- Amends s. 394.908, F.S., revising the funding allocation methodology for substance abuse and mental health services to specify that 100 percent of all appropriation increases to these programs shall be distributed based on equity.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 115-0

HB 5011 — Foster Care and Related Services

by Fiscal Council and Rep. Bean and others (CS/SB 398 by Health and Human Services Appropriations Committee and Senator Saunders and CS/CS/SB 1694 by Health and Human Services Appropriations Committee; Children and Families Committee; and Senator Campbell)

Community-Based Care Risk Pool

- Requires the Department of Children and Family Services (DCF) to develop and implement a community-based care risk pool initiative to mitigate the financial risk to community-based care providers.
- Reassigns responsibility for the operation and maintenance of the community-based care risk pool from the Florida Coalition for Children, Inc., to DCF.
- Mandates DCF to develop a protocol for processing applications to access funds from the risk pool.
- Authorizes the DCF Secretary to appoint a peer review committee to review and make recommendations on risk pool applications.

Self Insurance Program

- Authorizes the department to issue an interest-free loan to the Florida Coalition for Children, Inc., to establish a self-insurance program based on certain appropriations.
- Provides for uses, expenditures and terms for repayment of the loan.

Community-Based Care Pilot Program

- Establishes a 3-year pilot program for Community-Based Care (CBC) lead agencies in Miami-Dade, Monroe, and Broward Counties to enhance funding flexibility and expand responsibilities and services.
- Provides for funding the pilot program from a grant from general revenue funds and federal funds.
- Authorizes the department to enter into fixed-price contracts with lead agencies and with CBCs in other parts of the states, funded in 36 equal monthly installments.
- Provides limits on the types of reports required of the lead agencies.
- Specifies that certain types of expenditures by the pilot program CBCs are permissible.
- Requires that annual financial statements regarding the pilot program be provided to the Governor, the department, and the Legislature.

- Requires that fiscal, administrative and programmatic monitoring be conducted by independent non-governmental third-party entities to be selected jointly by the pilot program lead agencies and the department.
- Provides that the annual program and performance evaluation required in s. 409.1671(4)(a), F.S., include an evaluation of the pilot program.
- Provides that the Office of Program Policy Analysis and Government Accountability and the Office of the Auditor General shall jointly complete an evaluation of the pilot program and report their findings to the President of the Senate and the Speaker of the House.
- Requires the department to submit a plan to the Executive Office of the Governor, the chair of the Senate Ways and Means Committee and the chair of the House Fiscal Council relating to the most efficient allocation of administrative funds to the department and the pilot program lead agencies.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 118-0

HB 5013 — Client Services Fee Collections

by Fiscal Council and Rep. Bean (CS/SB 398 by Health and Human Services Appropriations Committee and Senator Saunders)

The bill repeals s. 402.33(7), F.S., removing current restrictions on the use of certain fees collected by the Department of Children and Family Services and the Department of Health in excess of the appropriations.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 118-0

HB 5017 — Corrections

by Fiscal Council and Rep. Barreiro

The bill amends provisions in the Florida Statutes relating to corrections to conform to funding provisions in the FY 2006-2007 General Appropriations Act. Specifically, the bill:

- Abolishes the Florida Corrections Commission.
- Revises the membership of the Prison Per-Diem Workgroup.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 119-0

HB 5019 — Martin Lee Anderson Act of 2006

by Fiscal Council and Rep. Barreiro and others

This bill relates to boot camp funding and amends provisions in Florida Statutes to conform to the funding provisions in the FY 2006-2007 General Appropriations Act.

- Titles the bill as the "Martin Lee Anderson Act of 2006."
- Amends s. 39.01, F.S., allowing the Department of Children and Family Services' Protective Services to have investigative jurisdiction over law enforcement officers employed in programs that are operated or contracted by the Department of Juvenile Justice (DJJ).
- Amends s. 985.2155, F.S., shared county and state responsibility for juvenile detention - deletes the designation as a rural area of critical economic concern provision in s. 288.0656, F.S., and increases the value of a mill in the county from $3 to $5 million.
- Amends s. 985.231, F.S., powers of disposition in delinquency cases – a technical change that deletes boot camp and replaces with sheriff's training and respect program.
- Repeals s. 985.309, F.S., creating juvenile boot camps.
- Creates s. 985.3091, F.S., establishes sheriff's training and respect programs (STAR) in lieu of juvenile boot camps and the policies and procedures for operating such programs. Allows non-sheriff local law enforcement entities to operate STAR programs, for example, Miami-Dade County. Children ages 14 through 17 are eligible for the program if they have been committed to the Department of Juvenile Justice (DJJ) for any offense that, if committed by an adult, would be a felony other than a capital felony, life felony, or violent felony of the first degree (same as currently required for boot camps).
    - A child must be physically examined by a physician licensed under ch. 458 or ch. 459, F.S., or an advanced registered nurse practitioner licensed and certified under chapter 464, F.S., when the child enters or exits the program. A child must complete a medical, psychological, and substance abuse evaluation before placement in the program. The child must be placed in a judicial circuit where he or she was adjudicated or the nearest circuit that has a STAR program.
    - When a participant enters a STAR program he or she must be presented with a list of rights under this law that he or she can easily understand and acknowledge that he or she understands those rights. At exit, participants must sign a statement that these rights were observed. Requires that, at a minimum, each STAR program be staffed with at least one advanced registered nurse practitioner during the core hours of each day (7:00 am till 9:00 pm).
    - A STAR program must provide a residential component and conditional release assessments. In addition, the minimum period of participation in the residential component must be four months for moderate-risk residential programs (same as currently required for boot camps).

- The new section also directs DJJ to adopt rules under s. 120.536(1) and 120.54, F.S., for the operation of STAR programs. The rules must prohibit the use of physical force or restraints except as authorized in rules adopted pursuant to s. 985.4055, F.S., and prohibit the use of harmful psychological intimidation techniques. It requires notice from the provider to DJJ that a child can be removed from the program for unmanageable behavior or is ineligible for the program due to changes in his or her medical, psychological, and substance abuse profile. For the first year of operations, STAR programs must comply with quarterly evaluations and yearly thereafter. If a program fails to meet the minimum thresholds and performance measures, DJJ must cancel the contract.
- The youth must sign an exit statement indicating he or she was not subjected to unauthorized physical intervention techniques or excessive force and document any unexplained injuries. Also, the youth must have the right to talk with outside counsel or law enforcement. It also requires that each STAR program have prominently displayed the telephone number of the statewide abuse registry.
- DJJ shall keep records and monitor criminal activity, educational progress, and employment placement of all STAR program participants after release from the program. In addition, DJJ shall adopt rules to establish training requirements for staff who work in a STAR program. Staff may not provide direct care to a child in a STAR program until they successfully complete the training.

- Amends s. 985.311, F.S. - technical change that deletes a reference to s. 985.309, F.S., Boot Camp for Children, and adds s. 985.3091, F.S., that creates the STAR programs.
- Creates s. 985.4055, F.S., protective action response – defines “Direct Care” and “Employee” in a program that is operated by DJJ or a provider under contract with the department. It also establishes a “Protective Action Response Policy,” the policy for governing the use of verbal and physical intervention techniques, mechanical restraints, and aerosol and chemical agents by employees. It also defines authorized physical intervention techniques and the situations under which employees may use these techniques on children. It prohibits lethal force except when necessary to protect an employee from an imminent threat of bodily harm or death. Finally, it also defines the authorized use of mechanical restraints and the situations under which employees may use restraints.
- Amends s. 958.046, F.S., placement in County-operated boot camp programs for youthful offenders - A technical change to include sheriff's training and respect programs.
- Amends s. 985.31, F.S., serious or habitual juvenile offender - A technical change that deletes the reference to Boot Camps and adds the sheriff's training and respect programs.
- Amends s. 985.314, F.S., commitment programs for juvenile felony offenders - A technical change that deletes the reference to boot camps and adds the sheriff's training and respect programs.

- Creates a new section of law. Establishes a pilot program in the Fourth and Eleventh Judicial Circuits from October 1, 2006 through June 30, 2009 that allows the cost of care fee to be waived if the parent successfully completes an approved parenting class and presents to the court a notarized document stating he or she has completed the program. Requires the Office of Program Policy and Government Accountability to evaluate this pilot program and report to the Governor, Legislature, and DJJ by September 30, 2007, and annually thereafter.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 116-0

HB 5021 — Sexually Violent Predators
by Fiscal Council and Rep. Negron and others

The bill limits the number of continuances in proceedings for involuntary civil commitment of sexually violent predators to one for not more than 120 days. The bill allows the court to grant additional continuances if it finds that a manifest injustice would otherwise occur.

The bill creates a registry of mental health experts for use in involuntary civil commitment of sexually violent predators proceedings in the Justice Administrative Commission.

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 38-0; House 119-0

STATE EMPLOYMENT

CS/SB 844 — State Employees
by Ways and Means Committee and Senator Carlton

This bill relates to issues regarding the pay and benefits offered to state employees.

The bill clarifies an ambiguity by granting the Justice Administrative Commission specific authority to approve a benefits plan for commission staff. Generally, the employees will be granted benefits comparable to the benefits afforded Career Service System employees. the commission has authority to grant certain managerial, policymaking and legal staff greater benefits. The employees of the State Guardian Ad Litem Office will be governed by this plan also.

The bill continues current co-payments for prescription drugs for the State Employee Health Insurance Plan and continues the current level of employer contributions into a participant's

health savings account for FY 2006-2007 for those employees participating in the high deductible plans.

The bill restricts an agency from providing pay additives to a cohort of employees unless the Legislature has specifically authorized the pay additives for the specific cohort of employees impacted and such additives are not inconsistent with the applicable collective bargaining agreement.

The bill prohibits the use of state funds to pay subsistence or per diem related to Class C travel (travel occurring within a single day).

If approved by the Governor, these provisions take effect July 1, 2006.
Vote: Senate 39-0; House 117-0

HB 5023 — State Employment

by Fiscal Council and Rep. Berfield (CS/SB 846 by Ways and Means Committee and Senator Carlton

This bill relates to state employment. The bill resolves the noneconomic collective bargaining issues at impasse between the State of Florida and the bargaining representatives for state employees for the FY 2006-2007.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 119-0

STATE FINANCIAL MATTERS

CS/SB 2548 — State Financial Matters

by Ways and Means Committee and Senator Carlton

This bill amends the state's planning and budgeting statute, ch. 216, F.S., and various other statutes which contain financial accounting and budgetary provisions.

Provisions Relating to the State's Financial Accounting Policies:
The bill changes responsibility from Auditor General to Chief Financial Officer for establishing capitalization thresholds, inventory requirements and recording of property in financial systems.

Provisions Relating to the Estimating Conferences:
The bill reorganizes provisions relating to estimating conferences and provides consistency among all estimating conferences regarding enumerated principals: the staff of the Executive

Office of the Governor, the coordinator of the Office of Economic and Demographic Research and staff of the House of Representatives and the Senate.

Provisions Relating to Agency Submittal of Performance Measures:
The bill changes the submittal and review process for agency performance measures and standards. The bill requires performance measures and standards be submitted with the agencies long range program plans rather than their legislative budget requests. Agencies and the judicial branch may request changes to their measures throughout the year based on the legislative review and objection procedures in s. 216.177, F.S. It also provides that the legislature may require an agency to update its measures and standards and provides that the Legislature can direct the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to review the adequacy of measures and standards at any time.

Provisions Relating to the State's Budgeting Process:

- The bill establishes a "reserve" for "salary rate" to withhold rate from an agency until conditions are met.
- Requires that trust fund loans approved by the Governor under s. 215.18, F.S., also be placed on a 3 day legislative consultation pursuant to s. 216.177, F.S., notice and objections procedures.
- Clarifies that the Legislative Budget Commission approves transfers from unallocated funds as authorized by ch. 252, F.S., to provide funds for disaster response and recovery.
- Requires the Governor and the Chief Financial Officer to make changes to the Legislature's original approved operating budget as directed by the presiding officers.
- Prohibits agencies from implementing general salary increases or pay additives not authorized by the Legislature.
- Repeals obsolete and redundant sections (repeals s. 216.346, F.S., relating to state agencies charging reasonable administrative costs, and s. 255.258, F.S., relating to a shared savings program used for state-owned facilities).
- Modifies ss. 287.063, and 287.064, F.S., to require certain state agency contracts to be supported by current appropriations.
- Requires information regarding any proposed consolidated financing of deferred payment commodity contracts to be submitted in the agency legislative budget requests.
- Broadens the investment authority of the State Treasury as specified in s. 17.57, F.S.
- Contains language relating to county maintenance of effort requirements for Article V of the Florida Constitution concerning judiciary funding.
- Modifies the certification forward process to allow "incurred obligations" to be carried forward.

If approved by the Governor, these provisions take effect July 1, 2006, except as otherwise provided.
Vote: Senate 39-0; House 116-0

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