

THE FLORIDA SENATE



INTERIM WORK PLAN 2009 SESSION

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President of the Senate

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AGRICULTURE

Interim Projects

INTERIM PROJECT TITLE:

<i>Animal Shelter Related Facilities</i>
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DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-101

ISSUE DESCRIPTION and BACKGROUND:

Animal shelter related facilities and organizations originated because of a need to control or house stray and unwanted animals. As a result of this need local governments and private organizations established what are commonly referred to as “animal” and “humane” shelters that are operated by local governments, humane organizations and private organizations.

Due to the unavailability of pet adoptive homes and the inability for shelters to provide adequate space to house them a great number of those animals are humanely euthanized. In recent years there has been a trend toward establishing “low-kill” or “no-kill” animal shelters in the state and around the country.

OBJECTIVE:

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will research the issues surrounding animal shelter related facilities. The objective is to determine procedures for the operation of “low-kill” or “no-kill” animal shelters. The information gathered under the review would be available for legislative consideration to enhance the availability of “low-kill” or “no-kill” animal shelters throughout the state.

METHODOLOGY:

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will review materials and conduct interviews on this subject with representatives from the Florida Animal Control Association, humane societies and privately operated animal shelters, and the Department of Agriculture and Consumer Services pertaining to the issue.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Agency Sunset Review Update of the Department of Citrus

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-201

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-920, F.S., are known as the Florida Government Accountability Act. Under this act, most state agencies are subject to a "sunset" review process to determine whether the agency should be retained, modified or abolished. Pursuant to this law the Department of Citrus was scheduled for review during the 2008 Regular Session. The Committee in accordance with the requirements of the act produced interim report 2008-203 "Florida Department of Citrus Agency Sunset Review."

The report and its recommendations were presented to the Committee and legislation was developed. The legislation (CS/SB 2222, as passed by the Senate on April 16, 2008) would have reenacted those statutory provisions that established the Department of Citrus. Additional provisions of the legislation addressed discontinuance of the School Marketing Program Administrative Committee and repeal of the Citrus Stabilization Act under which it was created. The bill did not pass the legislature. As a result of the failure to pass reenacting legislation during the statutorily scheduled sunset year, the Department of Citrus continues to be subject to annual sunset review.

During the 2009 Regular Session, the Legislature will again be required to review recommendations concerning the Department of Citrus. As a part of this review, the Legislature will determine if the Department of Citrus should be abolished or reenacted.

Professional staff of the Senate Committee on Agriculture will serve as the primary sunset review committee for the Department of Citrus. Assistance in this review will also be provided by the professional staff of the Committee on General Government Appropriations.

PROJECT OBJECTIVE(S):

The objective of this project will be twofold. The previously published interim report will be updated with a supplement to reflect current budgetary and performance measure data. Secondly, the report will expand on the relevant issues addressed by CS/SB 2222.

METHODOLOGY:

To assist the members of the legislative sunset review committee, Senate Professional Staff will review relevant agency submissions, OPPAGA reports, Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee.

Issue Briefs

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

The Use of Casuarina Cunninghamiana (variety of Australian Pine) as a Windbreak to Slow the Spread of Citrus Canker Disease in Commercial Citrus Groves

DATE DUE: N/A

PROJECT NUMBER: 2009-401

ISSUE DESCRIPTION and BACKGROUND:

Citrus canker is a bacterial disease of citrus that causes premature leaf and fruit drop. It is highly contagious and can be spread rapidly by wind-borne rain, non-decontaminated lawnmowers and other landscaping equipment, people carrying the infection on their hands, clothing or equipment, or by moving infected or exposed plants or plant parts. To date, there is no known cure for citrus canker.

Florida has been battling citrus canker since 1995, when an infestation occurred in an urban backyard very near Miami International Airport. Unfortunately, the United States Department of Agriculture (USDA) and the Florida Department of Agriculture and Consumer Services were not able to contain the disease in the urban setting. The eradication program was stymied by lengthy legal battles and unprecedented weather conditions. In May 2006, the Legislature enacted CS/CS/SB 994, which dismantled the citrus canker eradication plan codified in Florida statutes and set about implementing a Citrus Health Response Program (CHRP). CHRP concentrates on the development and implementation of minimum standards for citrus inspection, regulatory oversight, disease management and education and training.

In Argentina, where agricultural producers have been battling citrus canker for more than 30 years, *Casuarina cunninghamiana* is used effectively as a windbreak to stem the spread of citrus canker. The *Casuarina* species is a rapid-growing pine-like tree native to Australia. The 2008 Legislature passed CS/SB 2222, which establishes a permitted 5-year pilot program within the Department of Agriculture and Consumer Services to allow the planting of *Casuarina cunninghamiana* as a windbreak for commercial citrus groves growing fresh fruit in Indian River, St. Lucie, and Martin Counties.

OBJECTIVE:

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor implementation of the provisions of CS/SB 2222 pertaining to the newly established 5-year pilot program within the Department of Agriculture and Consumer Services to provide for agricultural windbreaks to slow the spread of citrus canker disease.

METHODOLOGY:

Senate Professional Staff of the Agriculture Committee and Senate Professional Staff of the General Government Appropriations Committee will monitor the activities of the Department of Agriculture and Consumer Services and citrus growers pertaining to implementation of the newly enacted provisions.

INTERIM MONITOR PROJECT TITLE:
The Gertrude Maxwell Save a Pet Act

DATE DUE: N/A

PROJECT NUMBER: 2009-402

ISSUE DESCRIPTION and BACKGROUND:

The Gertrude Maxwell Save a Pet Act creates a direct-support organization within the Department of Agriculture and Consumer Services. It provides for grants to animal shelters for spaying and neutering animals, shelters and services during times of emergencies, and developing and disseminating pet care education materials. The Act establishes a board of Directors and provides for one position within the department to implement the provisions of the legislation as guided by the Board of Directors.

OBJECTIVE:

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor implementation of the provisions of the legislation providing for the creation of the Gertrude Maxwell Save a Pet Act, a direct-support organization within the Department of Agriculture and Consumer Services.

METHODOLOGY:

Senate Professional Staff of the Agriculture Committee and Senate Professional Staff of the General Government Appropriations Committee will monitor the activities of the Department of Agriculture and Consumer Services and private entities pertaining to the appointment of the Board of Directors and implementation of the newly enacted provisions.

INTERIM MONITOR PROJECT TITLE:
Change in the Date for Setting Citrus Tax Rates

DATE DUE: N/A

PROJECT NUMBER: 2009-403

ISSUE DESCRIPTION and BACKGROUND:

The Citrus Commission is required by statute to set tax rates by majority vote each year prior to August 1. The first official USDA crop estimate for citrus is issued in October of each year. The statutory requirement to set tax rates prior to the official estimate creates a problem within the industry as to what the proper tax rate should be in order to adequately fund department programs. In order to address this problem, the 2008 Legislature changed the date by which the Commission is required to establish the tax rate for the citrus season, setting the vote to be “prior to November 1.” This allows the official U.S. Government estimate to be announced first. This change is expected to result in more accurate tax rates for the citrus industry to fund department programs.

OBJECTIVE:

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor implementation of the provisions CS/CS/SB 1702, pertaining to the change of date at which the Citrus Commission votes to set

the tax rate following the first official USDA crop estimate for the year in order to appropriately fund department programs.

METHODOLOGY:

Senate Professional Staff of the Agriculture Committee and Senate Professional Staff of the General Government Appropriations Committee will monitor the activities of the Department of Citrus and private citrus entities pertaining to implementation of the newly enacted provisions.

INTERIM MONITOR PROJECT TITLE:

Agriculture Industry Fee Adjustments

DATE DUE: N/A

PROJECT NUMBER: 2009-404

ISSUE DESCRIPTION and BACKGROUND:

Legislation passed during the 2008 Session, made adjustments to certain agriculture related fees in order to reduce the reliance on general revenue funds for services provided by the Department of Agriculture and Consumer Services. CS/CS/SB 1702 makes adjustments to the following fees:

- Increased county fire protection and land management assessments, which serve as cost-sharing mechanisms for statewide fire protection and land conservation, from three cents to seven cents per acre.
- Increased the \$300 annual license tax for a resident wholesale county saltwater products dealer to \$400.
- Increased the \$450 annual license tax for a resident wholesale state saltwater products dealer to \$550.
- Increased the \$500 annual license tax for a nonresident wholesale county saltwater products dealer to \$600.
- Increased the \$1,000 annual license tax for a nonresident wholesale state saltwater products dealer to \$1,100.
- Increased the \$1,500 annual license tax for an alien wholesale state saltwater products dealer to \$1,600.
- Increase the \$25 annual license tax for a resident retail saltwater products dealer to \$75 and increases the \$10 annual license tax for that dealer's additional places of business to \$25.
- Increased the \$200 annual license tax for a nonresident retail saltwater products dealer to \$250 and increases the \$25 annual license tax for that dealer's additional places of business to \$40.
- Increased the \$250 annual license tax for an alien retail saltwater products dealer to \$300 and increases the \$50 annual license tax for that dealer's additional places of business to \$65.
- Increased the annual registration fee for registered pesticide brands from \$250 to \$350.
- Increased the statutory limit on permit fees for food stores from \$500 to \$650.
- Required independent travel agents to submit an annual registration fee of \$50.
- Increased the inspection fee for fertilizer from 75 cents to one dollar per ton.
- Increased the annual fees on commercial feed, based on tons of feed distributed in Florida.
- Increased the annual registration fee for aquaculture certification from \$50 to \$100.

- Eliminated requirements that the department purchase and distribute brucella vaccine to licensed Florida veterinarians and that female dairy cows must be vaccinated. This would eliminate about \$140,000 per year for the purchase, storage, and shipping of the vaccine.

OBJECTIVE:

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor implementation of the provisions of legislation pertaining to fees adjusted to reduce the reliance on general revenue funds for services provided by the Department of Agriculture and Consumer Services.

METHODOLOGY:

Senate Professional Staff of the Agriculture Committee and Senate Professional Staff of the General Government Appropriations Committee will monitor the activities of the Department of Agriculture and Consumer Services and private agriculture entities pertaining to implementation of the newly enacted provisions.

INTERIM MONITOR PROJECT TITLE:

Citrus Canker Compensation Lawsuits

DATE DUE: N/A

PROJECT NUMBER: 2009-405

ISSUE DESCRIPTION and BACKGROUND:

There are five class-action lawsuits filed against the Department of Agriculture and Consumer Services in different counties arising out of the removal of citrus trees from private homeowners under the State's citrus canker eradication program. In the Broward County lawsuit and the Palm Beach County lawsuit, orders have been entered that found the State liable for damages and set a second trial for a jury to determine the amount of damages. Testimony has been presented in the Broward County damages trial and plaintiffs were awarded \$34 per tree. This was not acceptable to the homeowners who originally asked for \$435 per tree. The plaintiffs' attorney has asked for a retrial and the motion will be heard on June 27, 2008. The damages trial in the Palm Beach county lawsuit is set for September 2008.

OBJECTIVE:

Senate Professional Staff of the Agriculture Committee in coordination with Senate Professional Staff of the General Government Appropriations Committee will monitor activity pertaining to citrus canker compensation lawsuits in order to be aware of the State's potential exposure to damages.

METHODOLOGY:

Senate Professional Staff of the Agriculture Committee and Senate Professional Staff of the General Government Appropriations Committee will monitor the court's activities and will review news reports for articles concerning the lawsuits.

BANKING AND INSURANCE

Interim Projects

INTERIM PROJECT TITLE:

Options for Reorganizing the Department of Financial Services and the Financial Services Commission

DATE DUE: October 1 2008

PROJECT NUMBER: 2009-103

ISSUE DESCRIPTION and BACKGROUND:

The Department of Financial Services was created in 2002 following the adoption of the state constitutional amendment that reorganized the Florida Cabinet. The constitutional duties of the former offices of the Comptroller and Treasurer were merged into the office of the Chief Financial Officer. It was left to the Legislature to statutorily reassign the regulation of banking and securities formerly under the Comptroller as head of the Department of Banking and Finance, and the regulation of insurance formerly under the Treasurer as head of the Department of Insurance.

The 2002 act created s. 20.121, F.S., which prescribes the structure and duties of the Department of Financial Services, headed by the Chief Financial Officer (“CFO”), and the Financial Services Commission (“commission”), headed by the Governor and Cabinet. Two offices are created under the commission: the Office of Insurance Regulation and the Office of Financial Regulation, each headed by a director appointed by the commission, except that the commission is agency head for all rulemaking of each office.

The commission and its Office of Financial Regulation are provided the powers and duties relating to the regulation of banks, credit unions, mortgage brokers and lenders, the securities industry, finance companies, retail installment sales providers, title lenders, collection agencies, money transmitters, check cashers, deferred presentment (“pay-day loan”) providers, and other financial institutions.

The commission and its Office of Insurance Regulation are provided the “core” duties relating to the regulation of insurance, including licensure and regulation of insurers, specified self-insurance funds, warranty associations, health maintenance organizations, continuing care facilities, Citizens Property Insurance Corp., joint underwriting associations, and other insurance entities, including approval of policy forms and rates, regulation of insurer solvency, market conduct exams, and disciplinary action against insurers. The Department of Financial Services (headed by the CFO) is provided other duties relating to the regulation of insurance, including licensure and regulation of insurance agents and other insurance representatives; investigation and arrest of insurance fraud crimes; court appointment as receiver or rehabilitator of insolvent insurers and oversight of insurance guaranty associations; administration of the workers’ compensation act; appointment of the Insurance Consumer Advocate to represent the general public in insurance hearings; receipt of complaints related to insurance and other matters within the jurisdiction of the Department or the two offices; and administration of mediation programs for resolving property insurance claims. This split of insurance regulation between the Office of Insurance Regulation and the Department of Financial Services was a compromise resulting from competing views of having insurance regulated by an appointed official vs. a statewide elected official.

OBJECTIVE:

To present options for reorganizing the Department of Financial Services and the Financial Services Commission. The primary objective is to present options for merging all or most of the functions relating to the regulation of insurance under a single agency head, either under a constitutional officer or appointed official, including arguments for and against the various options and include options for transferring responsibilities to other agencies performing similar functions.

METHODOLOGY:

Identify and describe each program area within the Department of Financial Services, the Office of Insurance Regulation, and the Office of Financial Regulation, including: a) number of FTEs, source of appropriations (trust fund, general revenue), and revenue source (premium tax, fees); b) areas subject to duplicate or overlapping regulation by multiple agencies; c) problems or benefits due to different agencies regulating similar activities; and d) areas that could be transferred or merged with those of another agency performing similar functions. Staff will research past reports by the Auditor General and OPAGGA, research past legislative appropriations, interview agency representatives and interested parties, and research other states' organizational structures for regulating insurance and banking.

INTERIM PROJECT TITLE:

Applying the Florida Antitrust Act to the Business of Insurance

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-104

ISSUE DESCRIPTION and BACKGROUND:

The Florida Antitrust Act (Act) under ch. 542, F.S., codifies the provisions of the federal Sherman Antitrust Act by prohibiting restraints of trade or commerce. The intent of the Act is to complement the federal antitrust law in order to protect trade and commerce from unlawful restraints, price discrimination, price fixing and monopolies. A person whose business or property is injured by persons or entities violating the Act may sue to recover treble damages, including reasonable attorneys' fees. The Attorney General or a state attorney may bring an action in circuit court representing an injured party (or bring a class action) and recover treble damages. Natural persons who violate the Act's provisions are subject to civil penalties of not more than \$100,000; other persons, e.g., corporations that violate the same provisions are subject to civil penalties of not more than \$1 million. Persons who knowingly violate the Act's provisions are guilty of a felony punishable by the above fines, or imprisonment not exceeding 3 years, or both.

The Act provides that any activity or conduct exempt under common or statutory law or exempt from federal antitrust laws is exempt from the Act's provisions. Currently, insurers are exempt from Florida's antitrust provisions and are exempt from certain provisions of the federal antitrust regulations under the McCarran-Ferguson Act (McCarran). Under McCarran, the state regulated insurance industry is exempt from sections of the federal antitrust laws in order to promote competition in the insurance marketplace by allowing companies to exchange data regarding losses and other factors for the purpose of rate making. Otherwise, federal antitrust laws prohibit insurers from boycotting, intimidating, acting coercively, restraining trade, or violating the Sherman or Clayton Acts. According to information obtained from the National Association of Insurance Commissioners, 26 states have enacted antitrust laws that do not exempt the business of insurance. In 2008, legislation passed by the Florida Senate

(CS/CS/SBs 2860 and 1196, 2nd Eng.) would have subjected the business of insurance to the Florida Antitrust Act, subject to exceptions for activities expressly authorized by the Florida Insurance Code. However, the enrolled bill passed by the Legislature did not include this provision.

OBJECTIVE:

To evaluate the effects of applying the Florida Antitrust Act to the business of insurance and to provide options for applying the Act to the business of insurance.

METHODOLOGY:

Review other state laws that apply state antitrust laws to the business of insurance and describe the various approaches and differences among such laws. Interview insurance regulators and representatives of offices of the Attorney General in those states to determine how their state antitrust laws have actually been applied to the business of insurance. Research related cases and reports of any such actions. Research the current federal antitrust law as to the types of insurance-related activities that are subject to the law and those that are exempt and the extent to which application of state antitrust laws provides additional protections or problems for insurance consumers.

Mandatory Reviews

(None)

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Status of the Florida Hurricane Catastrophe Fund

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-301

ISSUE DESCRIPTION and BACKGROUND:

As of May, 2008, the Florida Hurricane Catastrophe Fund (FHCF) is estimated to have a payment capacity of \$29.1 billion for reimbursement to insurers for their potential residential hurricane losses in 2008. This would be funded by the FHCF's projected year-end balance of \$3.6 billion and its estimated bonding capacity of \$25.51 billion. Bonds would be funded by an assessment on most lines of property and casualty insurance, of up to 6 percent of premium for funding losses from a single year, and up to 10 percent of premium for funding losses from multiple years. Approximately \$11.5 billion of the estimated payment capacity is due to the optional \$12 billion of coverage offered only for 2007, 2008, and 2009. Legislation in 2008 requires the FHCF to again offer \$10 million of additional coverage to qualified insurers, as offered in 2006 and 2007. Insurers were required to make rate filings reflecting the savings of the expanded optional FHCF coverage, most of which have been finalized.

This summer, the State Board of Administration, as administrator of the FHCF, will again be considering options for purchasing reinsurance and risk transfer products available from the capital markets. Although such products have never been purchased by the SBA for FHCF obligations, there is

increased interest in such options due to concerns about market conditions affecting the ability of the FHCF to timely issue bonds to fully meet its estimated claims paying capacity.

The FHCF is expected to need an additional bond issue of about \$600 million to fund losses from the 2004 and 2005 hurricanes. Insurers have continued to increase their loss reports to the FHCF for their 2005 hurricane losses, primarily for Hurricane Wilma. The FHCF previously issued a \$1.35 billion bond issue that was expected to fully cover its obligations to insurers for the 2004 and 2005 hurricane losses. That bond issue is being financed by a one percent assessment that began in 2007 and is expected to be in effect for six years. A new \$600 million bond issue could be funded by continuing the current one percent assessment for about an additional two years. There is no consensus as to why the 2005 losses have grown much more than expected. Generally, the blame is placed on “reopened” claims which insurers had previously paid and closed, but the policyholders reopened to claim damage or repair not previously paid.

OBJECTIVE:

To provide a status report on the FHCF and identify potential legislative issues regarding: a) its estimated reimbursement premiums, payment capacity, and bonding capacity for the 2008 hurricane season; b) insurers’ selection of optional FHCF coverage; c) the SBA’s decision-making regarding the purchase of reinsurance or other risk transfer products; d) new bonds issued to fund increased losses from 2005 and identification of reasons for such increased losses; and e) summary of the rate filings made by insurers to reflect the savings of the expanded FHCF coverage.

METHODOLOGY:

Obtain and summarize reports from the FHCF, including reports from financial advisors to the FHCF, and attend or monitor meetings of the State Board of Administration, and interview executives of the FHCF, on the issues listed related directly to the FHCF. Obtain summaries and reports from the Office of Insurance Regulation regarding rate filings by insurers to reflect the savings of the expanded FHCF coverage.

INTERIM ISSUE BRIEF TITLE:

Impact of Federal Legislation on Mortgage Brokerage and Lending Laws in Florida

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-302

ISSUE DESCRIPTION and BACKGROUND:

The tremendous growth in subprime mortgages in recent years has enabled many consumers to obtain home loans who previously would have had much more limited access or no access to the credit market due to poor or limited credit ratings or high debts. However, with this increase in subprime lending, there has also been an increase in reports of abusive lending practices and fraud. Foreclosures on subprime loans has reached record levels during the last year.

In response to the subprime market turmoil, federal legislation is pending that would reform residential mortgage practices and provide greater accountability for such practices, establish licensing requirements for residential mortgage originators, and provide certain minimum standards for residential

mortgage loans. In recent years, the Florida Legislature has codified many federal provisions that provide additional consumer protections and greater enforcement tools.

In Florida, the Office of Financial Regulation is responsible for regulating mortgage brokers and lenders. Generally, mortgage brokers and lenders and financial institutions must comply with federal laws as well as state laws regulating the industry, unless exempted under state law or preempted by federal law. State and federal chartered financial institutions are exempt from licensure as a mortgage broker and lender licensure under ch. 494, F.S.

OBJECTIVE:

Professional committee staff would evaluate federal legislation that is enacted to determine how the changes in federal laws may necessitate changes in state laws regulating mortgage brokers and lenders to authorize state regulators to enforce additional federal laws.

METHODOLOGY:

Professional committee staff would review and track pending federal legislation and solicit comments from state regulators and other stakeholders to determine the impact of such federal legislation on Florida's laws.

INTERIM ISSUE BRIEF TITLE:

Cities Charging "Accident Response" Fees to At-Fault Drivers and Insurers

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-303

ISSUE DESCRIPTION and BACKGROUND:

Reportedly, about fifteen cities or towns in Florida have adopted ordinances to require charging "accident response" fees to at-fault drivers and their auto liability insurers to recover costs of police, fire, or emergency medical services. Ocala is the largest city to do so, but other larger cities are considering this option. This may become increasingly attractive to cities to help offset reduced property tax revenues. Seeking to recover emergency medical transportation costs may have already been common, but the new fees include costs of police and fire department services related to crash reports and investigations and cleaning up the accident scene. Additional or higher fees may be required if specialized services are required, such as extrication of a victim from a vehicle with "jaws of life." To some extent, this practice has been promoted by one or more third-party vendors that collect the fees on behalf of cities for a percentage of the recovery. Some cities limit the application or enforcement of the fees to out-of-town residents. It is also reported that many auto insurance companies refuse to pay such fees.

OBJECTIVE:

- Identify which cities in Florida are charging accident response fees;
- Summarize the amount or range of the fees, the services subject to such fees, and the criteria for which parties (e.g., non-residents) are subject to the fees;
- Estimate or provide examples of the total amounts billed and collected;
- Survey auto insurance companies regarding coverage for accident response fees;
- Research relevant statutory and case law regarding the authority for cities to charge accident response fees.

METHODOLOGY:

Professional staff will research Florida city ordinances to identify cities charging accident response fees, including request for assistance from the Florida League of Cities; interview insurance company representatives regarding coverage for accident response fees; and research statutory and case law regarding the authority for cities to charge accident response fees.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Title Insurance Study Advisory Council

DATE DUE: N/A

PROJECT NUMBER: 2009-406

ISSUE DESCRIPTION and BACKGROUND:

Committee Substitute to House Bill 937, as passed in 2008, creates the Title Insurance Study Advisory Council (Council) which will undertake a comprehensive examination of the title insurance system in Florida and make findings and recommendations in its final report to the Governor, Speaker of the House of Representatives and President of the Senate on or before December 31, 2009.

The Council is composed of 21 members including the Governor or designee serving as chair; the Chief Financial Officer or designee serving as vice chair; one member of the Senate appointed by the President; one member of the House of Representatives appointed by the Speaker; the Insurance Consumer Advocate; the Commissioners of Insurance Regulation and Financial Regulation or their designees; three representatives of title insurers and two independent title agents appointed by the Senate President; four representatives of title insurers and one independent title agent appointed by the Speaker of the House of Representatives; two members designated by the Real Property, Probate and Trust Law Section of the Florida Bar; one member of the banking industry appointed by the Commissioner of Financial Regulation; and one member of the real estate industry appointed by the Chief Financial Officer.

The Council will be administratively supported by the staff of the Executive Office of the Governor with specified agencies and legislative committees supplying information, assistance and facilities. The Legislature's Office of Program Policy Analysis and Governmental Accountability (OPPAGA) will conduct an independent historical analysis of title insurance and report its findings to the Council by September 30, 2008. The Council must hold its first meeting by August 1, 2008, with all meetings to be held in Tallahassee.

OBJECTIVE:

To monitor the meetings and recommendations of the Title Insurance Study Advisory Council and the preliminary, independent report of OPPAGA.

METHODOLOGY:

Review the report by OPPAGA, attend the meetings of the Title Insurance Study Advisory Council, and review all materials presented to the Council.

INTERIM MONITOR PROJECT TITLE:

Cover Florida Health Access Program and Florida Health Choices Program

DATE DUE: N/A

PROJECT NUMBER: 2009-407

ISSUE DESCRIPTION and BACKGROUND:

CS/CS/SB 2534, as passed in 2008, creates the "Cover Florida Health Access Program Act," which is designed to provide affordable health care options for state residents age 19 to 64 who have been uninsured for the past six months, with exceptions. The Agency for Health Care Administration and the Office of Insurance Regulation are jointly responsible for establishing and administering the program, including issuance by July 1, 2008 of an invitation to negotiate to health insurers, health maintenance organizations, health care provider sponsored organizations, and health care districts. The agency and the office are required to approve at least one Cover Florida plan entity having an existing statewide provider network, and may approve at least one regional network plan in each Medicaid area.

The same act created the Florida Health Choices Program ("program"). The program is designed to be a single, centralized market for the sale and purchase of health care products to small employers and eligible individuals and local government entities. Products include health insurance plans, HMO plans, prepaid services, service contracts, and flexible spending accounts, which would be exempt from regulation under the Insurance Code and laws governing health maintenance organizations (HMOs). Authorized vendors of these products include insurers, HMOs, prepaid health clinics, hospitals and other licensed health facilities, health care clinics, pharmacies, licensed health care providers, provider organizations, and corporate entities providing specific health services. Vendors may not sell products that provide "risk-bearing coverage" unless those vendors are authorized by the Office of Insurance Regulation under the Florida Insurance Code. The program is to be administered by Florida Health Choice, Inc., a not for profit corporation governed by a fifteen member board appointed by the Governor, Senate President, and Speaker of the House of Representatives, and including three designated non-voting members from state agencies.

OBJECTIVE:

To monitor: 1) the actions of the Agency for Health Care Administration and the Office of Insurance Regulation to implement the Cover Florida Health Access Program, including the terms and conditions specified in their invitations to negotiate to insurers and other entities to offer coverage under the Program and the responses and proposals from such entities; and 2) the appointments made to the Florida Health Choices, Inc., and activities of the corporation in implementing the Florida Health Choices Program.

METHODOLOGY:

Obtain information from the Agency for Health Care Administration and the Office of Insurance Regulation on their invitations to negotiate to entities to offer coverage under the Cover Florida Health Access Program and the responses from such entities. Obtain information from the offices of the Governor, Senate President, and Speaker of the House on appointments to the Florida Health Choices, Inc., and obtain information from such persons or staff hired by the corporation on implementation of the Florida Health Choices Program.

INTERIM MONITOR PROJECT TITLE:
Citizens Property Insurance Corporation

DATE DUE: N/A

PROJECT NUMBER: 2009-408

ISSUE DESCRIPTION and BACKGROUND:

Citizens Property Insurance Corporation (“Citizens”), is a state-created insurance company that is a government entity intended to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. Citizens is currently the largest writer of property insurance policies in Florida, with 1,234,727 policies as of April 30, 2008. Citizens maintains three accounts:

- Personal Lines Account (PLA) – Homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies, providing comprehensive multi-peril coverage.
- Commercial Lines Account (CLA) – Commercial residential (condominium association, apartment building and homeowner association policies) and commercial non-residential. Commercial non-residential policies are currently wind-only, but Citizens plans to offer multi-peril policies.
- High Risk Account (HRA) – Provides windstorm coverage for properties within defined eligible areas, including residential and commercial non-residential properties. In August, 2007, Citizens began offering multi-peril policies in the HRA.

Citizens estimated that its 100-year probable maximum loss for its 1.3 million policies as of the end of 2007 was \$23.9 billion for all three accounts combined. Citizens estimated that its claims-paying ability, based on estimated year-end resources for 2008, are as follows, for the three accounts combined.

Unaudited Year-end 2007 Surplus	\$2.643 billion
Projected 2008 Net Income	\$1.538 billion
Total Available for Claims from Surplus	\$4.181 billion
Pre-event Liquidity Available	\$6.5 billion
Projected FHCF Coverage (1st Layer only)	\$7.041 billion
Projected FHCF Coverage (TICL Layer only)	<u>\$4.895 billion</u>
Total Funds Available to Pay Claims	\$22.617 billion

The pre-event liquidity represents bond and notes that will have to be funded by assessments if they are required to be used to pay claims (as would a significant portion of the obligations of the FHCF). Current liquidity is expected to be replaced with other financing alternatives currently being structured. Legislation enacted in 2008 (CS/CS/SB 2860 and 1196) revised assessments and the method of apportioning assessment to Citizens policyholders and to property and casualty insurers and their policyholders in the voluntary market. The 2008 legislation also continued the premium rate freeze in Citizens until January 1, 2010.

OBJECTIVE:

To monitor the following issues related to Citizens: 1) its financial status and claims-paying ability for the 2008 hurricane season, including policy counts, premium volume, arrangements for preevent liquidity, and reinsurance purchased or considered; 2) the implementation of offering multi-peril

coverage for commercial non-residential property; 3) the impact of offering both wind-only and multi-peril coverage in the HRA account; 4) status of plans for merging the three accounts; 5) coverage changes, such as exclusion of coverage for screened pool cages; 6) meetings of the Citizens Mission Review Task Force, as appointed pursuant to the 2008 legislation; and 7) findings and recommendations of the Auditor General pursuant to its required triennial audit.

METHODOLOGY:

Staff will attend meetings and obtain reports from Citizens on the above issues, interview Citizens officials, and review related orders from the Office of Insurance Regulation.

INTERIM MONITOR PROJECT TITLE:

Working Group on Health Insurance Coverage for Children with Disabilities

DATE DUE: N/A

PROJECT NUMBER: 2009-409

ISSUE DESCRIPTION and BACKGROUND:

Legislation passed in 2008 (CS/CS/CS/SB 2654) created the "Window of Opportunity Act" which requires the Office of Insurance Regulation (OIR or Office) to convene a workgroup by August 31, 2008, to negotiate a binding compact agreement among participants relating to insurance and access to services for persons with developmental disabilities. The working group must include representatives from all licensed health insurers, all licensed health maintenance organizations, and employers with self insured health benefit plans. No party must agree to the compact, but a party that does agree to the compact is bound to its terms and conditions. Once the compact agreement negotiations are completed, the OIR must report the results to the Governor, President of the Senate, and Speaker of the House of Representatives. Beginning February 15, 2009, the OIR must submit an annual report regarding the implementation of the compact agreement.

The bill also creates the "Steven A. Geller Autism Coverage Act" which requires large group health insurance policies and HMO contracts to provide coverage for diagnostic screening, intervention, and treatment of autism spectrum disorder in children through speech therapy, occupational therapy, physical therapy, and applied behavior analysis that is prescribed by the insured's treating physician. All large group health insurance policies and HMO contracts issued or renewed on or after April 1, 2009, must provide the mandated autism spectrum coverage, except that the mandate is not enforceable against an insurer or HMO that is a signatory of the compact for developmental disabilities, described above, as of April 1, 2009. However, the autism spectrum mandate is enforceable against a signatory of the developmental disabilities compact if the insurer or HMO has not complied with the terms of the compact by April 1, 2010. The mandatory coverage for autism spectrum disorder is subject to a maximum benefit of \$36,000 per year not to exceed \$200,000 in total lifetime benefits, subject to annual adjustments in the maximum benefits based on the medical inflation component of the Consumer Price Index.

OBJECTIVE:

To monitor the meetings of the working group convened by the Office of Insurance Regulation and the eventual report by the Office, for the purposes of negotiating a binding compact for providing coverage for persons with developmental disabilities. Monitor the number and market share of insurers

who agree to be bound by the compact and those that, instead, are subject to the mandatory coverage for autism spectrum disorder and the distinctions in coverage between the two groups.

METHODOLOGY:

Attend meetings of the working group and review all reports and options considered by the working group. Review the final report of the Office of Insurance Regulation on the implementation of the compact agreement.

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Interim Projects

INTERIM PROJECT TITLE:

Review of the Baker Act

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-105

ISSUE DESCRIPTION and BACKGROUND:

In 1971, the Florida Legislature passed into law the Florida Mental Health Act, also known as the “Baker Act” (chapter 394 [part I], F.S.). This Act brought about a dramatic and comprehensive revision of Florida’s mental health laws and substantially strengthened the due process and civil rights of persons in mental health facilities. At the time of its enactment, the Baker Act was considered landmark legislation.

Since becoming effective in 1972, the Baker Act has been amended a number of times to strengthen the protection of public safety, the assurance of appropriate care, and the protection of a person's civil liberty and due process rights, but concerns continue to be raised about its implementation and efficacy.

OBJECTIVE:

The purposes of this project are to:

- Review Baker Act processes and procedures and provide an overview of the delivery system of mental health services for Baker Act clients. This review will be included in the Agency Sunset Review of the Department of Children and Family Services (DCF), also being conducted by this Committee; and
- Evaluate the criteria for involuntary examination and involuntary admission under the Baker Act to determine if the Act adequately balances the due process and civil rights of persons with mental illness against the protection of public safety and the need for appropriate care and treatment for such persons.

METHODOLOGY:

Senate Professional Staff will interview or survey staff of DCF, crisis stabilization units, hospitals, and other Baker Act receiving facilities within the state, and review policies and procedures regarding the Baker Act. Senate Professional Staff will review Florida Statutes, rules, and case law, as well as treatises, articles, and case law from other states concerning standards for involuntary treatment of persons with mental illness. Senate Professional Staff may survey or interview public defenders and state attorneys, mental health court judges, court personnel, local law enforcement agencies, and other stakeholders to obtain additional information.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review Regarding Noncustodial Parents Owing Past Due Child Support

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-202

ISSUE DESCRIPTION and BACKGROUND:

Section 409.25659, F.S., requires the Department of Revenue to develop and operate a data match system in which an insurer may voluntarily provide the department with the name, address, and, if known, date of birth and social security number or other taxpayer identification number for each noncustodial parent who has a claim with the insurer and who owes past due child support. Section 409.25661, F.S., provides that specified information regarding a noncustodial parent who owes past due child support, collected by the Department of Revenue pursuant to s. 409.25659, F.S., is confidential and exempt from public records. This exemption was created during the 2004 Legislative Session and is subject to the Open Government Sunset Review Act. The paragraph stands repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

Under s. 119.15, F.S., the Open Government Sunset Review Act, exemptions under s. 24, Art. I of the State Constitution are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature pursuant to the standards established in the act. The objective of this review is to recommend whether or not the public records exemption should be retained.

METHODOLOGY:

Senate Professional Staff will review the current exemption pursuant to the standards of the Open Government Sunset Review Act and survey the Department of Revenue to determine whether the exemption should be retained, retained with amendments, or allowed to sunset.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 125.901, F.S., Children's Service Councils and Juvenile Welfare Boards

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-203

ISSUE DESCRIPTION and BACKGROUND:

Section 125.901 (11), F.S., provides that personal identifying information held by the governing board of an independent special district created to provide funding for children's services (also known as a children's service council, a juvenile welfare board, or other similar name) about a child or the child's parent or guardian is exempt from public disclosure. This subsection is subject to the Open Government Sunset Review Act (s. 119.15, F.S.) and stands repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

The project objective is to review s. 125.901, F.S., to determine if it meets the standards established in the Open Government Sunset Review Act and to recommend whether or not this public records exemption should be retained.

METHODOLOGY:

Senate Professional Staff will review the current exemption pursuant to the standards of the Open Government Sunset Review Act, contact the Florida Association of Counties and the First Amendment Foundation, and survey the governing boards of the existing independent special districts authorized by s. 125.901, F.S., to determine whether the exemption should be retained, retained with amendments, or allowed to sunset.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Agency Sunset Review of the Department of Children and Family Services

DATE DUE: December 1, 2008

PROJECT NUMBER: 2009-304

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-920, F.S. are known as the Florida Government Accountability Act. Under this act, the Department of Children and Family Services (DCF or the department), along with a number of other departments, are subject to a "sunset" review process to determine whether DCF should be retained, modified or abolished. Reviews are accomplished in three stages:

- By July 1, 2008, the department must produce specific information as enumerated in s. 11.906, F.S.
- Upon receipt of the information, the Joint Legislative Sunset Committee and the legislative committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA).
- Based upon the agency submissions, the OPPAGA studies and public input, the joint committee and the legislative sunset review committees will make recommendations to the Legislature by March 1, 2010, regarding the termination, modification or continuation of the department and its programs. The legislative sunset review committees will also propose necessary legislation.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. The department may be abolished if the Legislature, pursuant to law, finds that all state laws it had responsibility to implement or enforce have been repealed, revised, or reassigned to another agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

The review process for DCF will begin in July, 2008, when the department submits the statutorily mandated sunset report. The Senate Children, Families, and Elder Affairs Committee will be

the primary sunset review committee. The Health and Human Services Appropriations Committee will assist in the review.

OBJECTIVE:

The department must have its programs examined to determine the effectiveness and efficiency of the department's work and the necessity to continue its assigned duties and responsibilities by July 2008. The issue brief will describe the DCF programs and make recommendations for further study needed for completion of the sunset review.

METHODOLOGY:

Senate Professional Staff will review the information submitted by the department, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, and any other relevant information. Senate Professional Staff will identify all statutorily assigned duties and responsibilities of the department, and will make recommendations regarding further study needed for completion of the sunset review.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Federally Mandated Review of Florida's Child Support Guidelines

DATE DUE: N/A

PROJECT NUMBER: 2009-410

ISSUE DESCRIPTION and BACKGROUND:

Pursuant to 42 USCA s. 667, each state must review its guidelines for child support, at least once every four years, to ensure that the application of these guidelines results in the determination of appropriate child support award amounts. The last review of Florida's child support guidelines was conducted by Florida State University in 2004.

The 2003 Legislature appropriated \$50,000 from the General Revenue Fund and \$100,000 from the Grants and Donations Trust Fund to be used by the Department of Revenue (DOR or "the department") to conduct a review of the child support guidelines. The Legislature entered into a Memorandum of Understanding with DOR relating to the review. The DOR submitted the final study to the federal Office of Child Support Enforcement as part of the requirements for approval of the Child Support Enforcement Program's State Plan.

In 2007, the legislature appropriated \$59,500 from the Incentive Trust Fund and \$115,500 from the Grants and Donations Trust Fund to be used by DOR to fund the child support guideline review, to be conducted by the Office of Economic and Demographic Research. From the funds provided for this purpose, the department shall reimburse the Office of Economic and Demographic Research for contractual costs incurred to conduct the review of the child support guidelines schedule in accordance with the federal Family Support Act of 1988 and submit a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2008.

The Office of Economic and Demographic Research has contracted with Florida State University for the purpose of collecting and analyzing the economic data necessary for the review.

OBJECTIVE:

The objective of this project is to monitor the mandatory study and review and prepare for any resulting proposed legislation.

METHODOLOGY:

Senate Professional Staff will monitor the review of Florida's child support guidelines by maintaining communication with DOR and the Office of Economic and Demographic Research.

COMMERCE

Interim Projects

INTERIM PROJECT TITLE:

Review of the Retained Spring Training Franchise Incentive Program

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-106

ISSUE DESCRIPTION and BACKGROUND:

Section 288.1162(5), F.S., authorizes the Governor's Office of Tourism, Trade and Economic Development (OTTED) to grant an indirect state financial incentive to major league baseball franchises to induce them to keep their spring training facilities in Florida. The incentive is awarded to qualified local governments (the applicants) to fund, in partnership with the baseball franchise, the construction or renovation of a publicly-owned baseball facility. The incentive is in the form of a monthly sales tax "rebate" of \$41,667 for 30 years, for a total of \$15 million per award, and is limited to 10 qualified local governments.

To qualify for the incentive, OTTED must certify that the applicant:

- Is responsible for the acquisition, construction, management, or operation of the facility or holds title to the property on which the facility is located;
- Has a verified copy of a signed agreement with a retained spring training franchise for the use of the facility for a term of at least 15 years;
- Has a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility.
- Has projections which demonstrate that the facility will attract a paid attendance of at least 50,000 annually; and
- The facility is located in a county that is levying a tourist development tax.

Because the awards were competitively granted, the statutes specified additional criteria to establish an order of priority. After the award of the incentive, there are no additional requirements imposed over the term of the incentive.

There are indications that Florida's Grapefruit League tradition is eroding. The league currently has 17 teams, since the Los Angeles Dodgers are leaving Vero Beach for Glendale, AZ in time to play their spring-training games there in 2009. However, the Cincinnati Reds recently announced they are moving their spring-training operations from Sarasota to Goodyear, AZ, effective in 2010.

Consequently, after next year, the Cactus League will field 14 teams to the Grapefruit League's 16 teams. Additionally, the Orioles may leave Fort Lauderdale next year if problems with stadium improvements can't be resolved. Newspaper articles report that both the cities of Sarasota and Vero Beach have expressed interest in recruiting the Orioles. Newspaper articles also report that Sarasota is wooing the Red Sox to relocate from Ft. Myers.

During the 2008 Legislative Session, there were attempts to amend the incentive program to facilitate the transfer of major league baseball spring training headquarters from one Florida city to

another. Current law provides that state incentive funds may not “be used to relocate a retained spring training franchise to another unit of local government” unless “the existing unit of local government with the retained spring training franchise agrees to the relocation.” Legislation was filed to delete this restriction, and instead authorize OTTED to approve relocation, consistent with criteria it would develop for this purpose.

The legislation also proposed that OTTED be authorized to decertify local governments from continued eligibility to receive the incentive, recover unexpended rebates, and to certify other local governments for the incentive, should they qualify.

OBJECTIVE:

This interim project will address emerging issues related to the state incentive program to retain spring training by major league baseball in Florida. Specifically, the project will:

- Compile an inventory and profile of the major league teams that participate in the Grapefruit and Cactus Leagues;
- Identify recent recruitment efforts by Arizona to expand the Cactus League;
- Compile an inventory and profile of incentive program recipients (10) and non-recipients (5);
- Compare and contrast the Retained Spring Training incentive to the New and Retained Professional Sports Franchise Incentive;
- Review and Evaluate the following components of the Retained Spring Training Franchise Incentive Program:
 - Award criteria;
 - Post-award accountability requirements:
 - Agreements between OTTED and applicants and
 - Contracts between applicants and franchises.
 - OTTED and state agency oversight.
- Identify the role of the Florida Sports Commission in the incentive program;
- Identify Emerging Issues:
 - Intrastate competition for teams;
 - Interstate competition for teams;
 - The role of incentives in the competition for teams;
 - The need for decertification and recertification of applicants; and
 - The recovery of unexpended rebates.
- Recommend changes to s. 288.1162, F.S.

METHODOLOGY:

Professional staff will review statutes pertaining directly or indirectly to the retained spring training franchise incentive program, certification documentation on file with OTTED, and contracts between host cities, counties or entities and the baseball teams. In addition, professional staff will conduct document and Internet research related to spring training baseball.

Also, professional staff will survey the local governments that have been certified by OTTED for state funding for spring training facilities, and conduct follow-up interviews with state and local officials involved in spring training baseball. Professional staff plan to interview representatives of local governments or entities in Florida that are not certified for state funding, but which have spring training teams. Professional staff plans to interview Cactus League officials and representatives of several communities in Arizona which host spring training games.

Finally, professional staff plans to make site visits to one or two Florida spring-training facilities.

Commerce Committee Professional Staff will partner with the professional staff of the Senate Transportation and Economic Development Appropriations Committee to gather information for this interim project report.

INTERIM PROJECT TITLE:***Review of OTTED's Oversight of the Innovation Incentive Grant Program***

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-107

ISSUE DESCRIPTION and BACKGROUND:

In 2006, the Legislature created the Innovation Incentive Program. The purpose of the program is to provide state and local government resources for certain types of significant economic development projects, including the location in, or expansion of, research and development entities and innovation businesses in Florida.

The Governor's Office of Tourism, Trade and Economic Development (OTTED) oversees the Innovation Incentive Program. Upon review and recommendation by Enterprise Florida, Inc. (EFI), recommendation by the Governor, consultation with the President of the Senate and Speaker of the House of Representatives, and approval by the Legislative Budget Commission, OTTED enters into agreements with the grant recipients. The agreement must include: the total amount of funds awarded; the performance measures that the applicant must meet, including criteria such as net new jobs, average wages, and total investment; schedule of payments; and sanctions for failing to meet the performance measures, including clawbacks. All of the current contracts are for 20-year terms.

In fiscal year 2006-2007, the Legislature appropriated \$200 million in non-recurring general revenue to OTTED's Economic Development Trust Fund for this Innovation Incentive Program. In 2007-2008, \$250 million was appropriated. No funds were appropriated in fiscal year 2008-2009.

Summary of Innovation Incentive Program Awards

As of March 2008

Entity	State Funding Committed	State Funding Released	Local/Other Match	Jobs Required by Agreement/ Jobs as of 3/08
Burnham	\$155.255 million	\$51.440 million	\$155.5 million	303/28
Torrey Pines	\$24.728 million	\$11.272 million	\$71.52 million	189/19
SRI	\$20 million	\$11.4 million	at least \$30 million	160/64
UM - IHG	\$80 million	\$20 million	at least \$100 million	296/98
Max Planck	\$93 million	None	Unknown	Contract Unavailable
VGT	Unofficially	None	Unknown	Estimated

Entity	State Funding Committed	State Funding Released	Local/Other Match	Jobs Required by Agreement/ Jobs as of 3/08
Institute	\$60 million			200/0
Alfred Mann Research Inst.	None	None	Unknown	None

OBJECTIVE:

The primary purpose of this project is to review the process OTTED employs to oversee the Innovation Incentive Program. Professional staff will:

- Profile the program recipients;
- Review the contracts between the recipients and OTTED;
- Review the processes OTTED employs to oversee these contracts; and
- Explore alternatives to or augmentation of OTTED oversight specifically in regard to evaluation of program performance and impact.

METHODOLOGY:

Professional staff will review the existing contracts with grant program recipients, along with their quarterly and annual reports, and interview the recipients’ representatives and OTTED staff. Professional staff of the Transportation and Economic Development Appropriations Committee may assist in this review.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 288.9551, F.S., Scripps Florida Funding Corporation

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-204

ISSUE DESCRIPTION and BACKGROUND:

Ch. 2003-419, L.O.F., created s. 288.9551, F.S., to make exempt and confidential specified information of The Scripps Research Institute held by the Scripps Florida Funding Corporation, created by ch. 2003-420, L.O.F., or the Governor’s Office of Tourism, Trade, and Economic Development (OTTED).

This law also created a public meeting exemption for those portions of meetings of the Scripps Florida Funding Corporation’s board of directors at which confidential information is presented or discussed. The law allows confidential information to be released to public employees exclusively for the performance of their duties and provides criminal penalties for a person who fails to maintain the confidentiality of the information.

This exemption is repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

Professional staff will review s. 288.9551, F.S., which is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. The purpose of the review is to make recommendations to the Legislature on whether the exemption should be repealed, amended, or saved from repeal through reenactment.

METHODOLOGY:

Professional staff will review the statutory history of the section, as well as its application and its continued relevance, since legislative enactment. Also, professional staff will interview representatives of the Scripps Florida Funding Corporation, the Scripps Research Institute, OTTED, and any other entities that are impacted by the exemption.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Efforts to Address Workforce Issues Related to the Space Program

DATE DUE: October 15, 2008

PROJECT NUMBER: 2009-305

ISSUE DESCRIPTION and BACKGROUND:

The last mission for the Space Shuttle program is scheduled for March, 2010. The “moon to Mars” successor program (Constellation) is currently scheduled to begin in 2015. The intervening period is referred to as the “shuttle gap,” in which a number of employees in the space industry will likely lose their current positions.

The Brevard Workforce Development Board, Inc., (BWDB) estimates that shuttle-related activity in Florida supports a workforce level of approximately 9,235 employees (6,340 USA employees and 2,895 sub-tier and related support contractor employees). The majority of this workforce is located at or near the Kennedy Space Center. However the total economic impact of the Shuttle Program is statewide, and it has a specific shuttle-related supplier base of some 1046 companies throughout the state.

The BWDB further finds that Shuttle workforce skills are highly translatable to any work that the state pursues as part of its next generation space activities. The BWDB estimates that one-third of the Florida Shuttle-related Workforce will need transition assistance to a different industry or occupation, one-third will need skills upgrades for the next generation space programs, public or private. The remaining one-third is expected to retire.

In response to this anticipated shuttle gap, the Florida Legislature this year provided \$1.25 million to the Agency for Workforce Innovation (AWI) for services focused on retention and retraining of personnel employed in the space industry, to include workforce skills analysis, training, and placement services, and may include communications efforts. It is likely that more funds will be requested for additional phases of the program, until the Constellation program is fully implemented.

OBJECTIVE:

The primary purpose of this project is to compile a report on the initial phase of this initiative by BWDB, their partners, AWI and Workforce Florida, Inc. (WFI). The Issue Brief will:

- Review the workforce services provided through “One-Stop Centers” to address general workforce and employer needs;
- Profile the plan by AWI and BWDB to address the shuttle gap;
- Report the estimated resources necessary to implement the plan;
- Contrast the plan with the standard services offered through the One-Stop Centers; and
- Identify concurrent initiatives to address both the needs and opportunities created by the shuttle gap.

METHODOLOGY:

Professional staff will review related materials and interview pertinent parties. The Senate Transportation and Economic Development Appropriation Committee will assist in this project.

INTERIM ISSUE BRIEF TITLE:

Employ Florida Banner Centers

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-307

ISSUE DESCRIPTION and BACKGROUND:

Between Fiscal Years 2005/6 – 2007/8, Workforce Florida, Inc. (WFI), awarded over \$8,800,000 to establish 12 Employ Florida Banner Centers – programs in high demand and emerging industries that provide up-to-date training for personnel in businesses deemed critical to sustaining and growing a diverse Florida economy.

Eleven of the 12 Banner Centers are based at Florida universities or community colleges and engage multiple educational institutions, businesses, workforce, and economic development partners to provide a focal point for industry-specific skills training. (The Secondary Banner Center for Career Academies does not train workers but focuses on expanding career education in Florida high schools and technical schools.) The Banner Centers also serve as a clearinghouse for companies needing training and are tasked to create relevant and rigorous new curricula and to ensure that educational coursework and training offered in Florida schools are aligned to rigorous industry standards. This curriculum development supports essential skills in high demand occupations such as:

- Aviation and Aerospace (Florida Community College at Jacksonville and Brevard Community College);
- Biotechnology (University of Florida);
- Construction Technology (Santa Fe Community College in partnership with Lake City Community College and Tallahassee Community College);
- Energy (Lake Sumter Community College and Indian River Community College);
- Financial Services (Miami Dade Community College);
- Health Sciences (Valencia Community College);
- Homeland Security (Indian River Community College);
- Logistics and Distribution (University of North Florida, Lake City Community College, and Okaloosa-Walton Community College);

- Manufacturing (Hillsborough Community College);
- Information Technology (Seminole Community College); and
- Alternative Energy (University of Central Florida).

In 2008, the Legislature appropriated \$1,500,000 in non-recurring funding to continue existing Banner Centers. It is anticipated that operating funding for the existing as well as new Banner Centers will be requested on a recurring basis.

OBJECTIVE:

The primary purpose of this project is to compile an Issue Brief that:

- Profiles the respective Banners Centers;
- Contrasts the mission of the Centers with other services offered through the Florida Department of Education;
- Reviews the process for selection of Banner Centers;
- Reviews the process for curriculum development and certification; and
- Identifies new high demand and merging industries that could benefit from the designation of new Banner Centers.

METHODOLOGY:

Professional staff will review related materials and interview agency staff. Professional staff of the Transportation and Economic Development Appropriations Committee will assist in this review.

INTERIM ISSUE BRIEF TITLE:

Agency Sunset Review of the Division of Corporations of the Department of State

DATE DUE: October 15, 2008

PROJECT NUMBER: 2009-308

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901- 11.920, F.S., are known as the Florida Government Accountability Act (act). Under this act, most state agencies are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished. Reviews are accomplished in three steps. First, an agency under review must produce specific information as enumerated in statute. Second, upon receipt of the agency information, the Joint Legislative Sunset Review Committee and the legislative committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Third, based on the agency submissions, the OPPAGA studies, and public input, the joint committee and the legislative sunset review committees will make recommendations to the Legislature by March 1, 2010, regarding the termination, modification, or continuation of the agency and its programs. The legislative sunset review committees will also propose necessary legislation.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. An agency may be abolished if the Legislature, pursuant to law, finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

The review process for the Departments of Children and Families, Community Affairs, Management Services, and State will begin in July, 2008, when the Departments submit their respective statutorily mandated agency reports. The Senate Commerce Committee will be the primary sunset review committee for review of the Division of Corporations of the Department of State. The Senate Transportation and Economic Development Appropriations Committee will assist in this review.

OBJECTIVE:

The objective is to examine the Division of Corporations of the Department of State to determine its effectiveness and efficiency, and the necessity of continuing the duties and responsibilities assigned to the division. The Issue Brief will provide background on the Division and identify areas for further study for completion of the sunset review.

METHODOLOGY:

Senate professional staff will review the agency information submissions, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee. The professional staff will identify all statutorily assigned duties and responsibilities of the agency under review, and will make recommendations regarding further study needed for completion of the sunset review.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Expenditure of Space and Aerospace Infrastructure Funding

DATE DUE: N/A

PROJECT NUMBER: 2009-411

ISSUE DESCRIPTION and BACKGROUND:

Space Florida is the state's space-related economic development entity. Among Space Florida's economic development powers is the authority to acquire, own, and operate facilities, launch pads, experimental spaceport facilities, landing areas, ranges, payload assembly and processing buildings, laboratories, aerospace business incubators, launch vehicles, payloads, space flight hardware, and other aerospace-related systems or initiatives.

Specific Appropriation 2649 in the FY 2008-2009 General Appropriations Act includes proviso for Space Florida to receive \$14.5 million in general revenue funds to make infrastructure improvements to Launch Complex 36 on U.S. Air Force property at Cape Canaveral, for the purpose of attracting private companies participating in space vehicle testing and launching.

The line-item was an outgrowth of unsuccessful 2008 legislation supported by Space Florida (SB 2526) that would have created a non-lapsing "Space and Aerospace Catalyst and Enhancement Fund" with dollars earmarked for improvement and repairs of space-related infrastructure. Upgrading the various launch facilities, space vehicle storage facilities, and related structures is seen as key by many in Florida's space community to attract the private aerospace companies that are pursuing commercial space travel.

Currently, Space Florida is partnering with a number of commercial businesses to promote space travel and economic development. In November 2007, it entered into an agreement with Bigelow Aerospace, LLC, an entrepreneurial space development company headquartered in Nevada, to support the development of commercial launch systems at Cape Canaveral. Bigelow already has launched two inflatable, unmanned modules, the Genesis I and II, from Siberia, and is developing a manned vehicle, the Skywalker. According to Space Florida, Bigelow has committed up to \$100 million to support initiatives to develop and launch commercial manned spacecraft.

In March 2008, Space Florida entered into negotiations with Orbital Sciences Corporation (Orbital), which in February won NASA's second "Commercial Orbital Transportation Services" (COTS) contract of \$170 million over 3 years to develop a commercial cargo delivery system to low Earth orbit, with the potential to fly missions to the International Space Station following retirement of the Space Shuttle in 2010. Orbital apparently has not decided where in the United States it will build and launch its test rockets, although various aspects of the contract may be spread over several locations. Space Florida is hoping that it can persuade Orbital to consider Florida's space coast as one of its locations, and is suggesting that Launch Complex 36 on the Canaveral Air Force Station, if upgraded, can serve Orbital's needs, as well as provide launch facilities for Bigelow, Space X and PlanetSpace – all of which are private companies wanting to build a commercial space industry.

OBJECTIVE:

The main purpose of this interim monitoring project is to track Space Florida's progress in spending the \$14.5 million appropriation to upgrade Launch Complex 36, and whether the upgrade results in additional interest by private commercial space launchers.

METHODOLOGY:

Professional staff will periodically contact staff of Space Florida and the Governor's Office of Tourism, Trade, and Economic Development as a way of monitoring the implementation of the proviso language.

The Senate Transportation and Economic Development Appropriations Committee will assist in this review.

INTERIM MONITOR PROJECT TITLE:

Implementation of the Small Business Regulatory Relief Act

DATE DUE: N/A

PROJECT NUMBER: 2009-412

ISSUE DESCRIPTION and BACKGROUND:

In the 2008 Regular Session, HB 7109 created the Small Business Regulatory Relief Act to address issues related to small businesses in Florida. Sections 288.001, 288.7001 and 288.7002, F.S.:

- Designate the Florida Small Business Development Center Network (network) as the principle business-assistance organization for small businesses in this state.
- Establish the 9-member Small Business Regulatory Review Advisory Council (council).
- Create the Office of Small Business Advocate (advocate).

The council has a number of duties, the most important of which is to provide state agencies with input regarding proposed rules or programs that may adversely affect small businesses. It also will review agency rules in conjunction with the agency sunset review process in current law. The council is directed to provide the Governor, the President of the Senate, and the Speaker of the House of Representatives an annual report on its activities.

The council will be housed for administrative purposes within the network. The Governor, the President of the Senate, and the Speaker of the House of Representatives will each appoint 3 members to the council. The council members will serve without salary, and will not be entitled to per diem or state compensation for travel expenses. The council replaces the responsibilities of the “small business ombudsman,” a position that currently is housed in the Governor’s Office of Tourism, Trade, and Economic Development.

The Small Business Advocate has a number of responsibilities:

- Representing the views and interests of small businesses before the Legislature and agencies;
- Receiving and responding to complaints from small businesses about agency rules or state laws that may adversely affect small businesses;
- Creating a website and coordinating statewide meetings on small-business issues; and
- Submitting an annual report to the Governor and the Legislature about the office’s activities.

The advocate will be housed within Florida’s Small Business Development Center Network and will be either an employee of, or under contract with, the network. No money was appropriated by the Legislature to fund these responsibilities.

This bill also amends ss. 11.908, 11.911, and 11.919, F.S., to provide a role for the council to participate in the agency sunset review process.

Finally, this bill amends ss. 120.54 and 120.74, F.S., related to agency rulemaking. The changes to s. 120.54, F.S., are:

- Agencies must prepare a statement of estimated regulatory costs of their proposed rules that impact small businesses;
- The council, which replaces the small business ombudsman in statute, is directed to review agency rules and to recommend alternatives that achieve the same goal, but are less burdensome to small businesses; and
- If an agency does not adopt the council’s alternative rule, the council may request the Legislature’s presiding officers to direct the Office of Program Policy Analysis and Government Accountability (OPPAGA) to determine whether the rejected alternative does achieve the agency’s goals and reduce impacts on small businesses. OPPAGA will forward its report to the Joint Administrative Procedures Committee, which in turn will forward the OPPAGA recommendation to the applicable agency. The agency must respond in writing why it will not accept an alternative rule proposed by the council.

Section 120.74, F.S., is amended to require agencies to:

- Include in their biennial rule review a determination of whether rules should be amended or repealed to reduce their impacts on small businesses and to require state agencies to prepare a statement of estimated regulatory cost if their proposed rules will impact small business.

- Include in their annual rulemaking reports to the Legislature a discussion of how their rules impact small businesses.

OBJECTIVE:

The main purpose of this interim monitoring project is to track how the council, the advocate, and the network are implementing their statutorily required responsibilities. Additionally, professional staff will contact several agencies to determine how the legislation is impacting their rulemaking activities.

METHODOLOGY:

Professional staff will monitor the implementation of the Small Business Regulatory Relief Act to determine whether the council and the advocate are performing the tasks as assigned to them by the Legislature. As necessary, professional staff will conduct interviews of council members, the advocate, and others involved in the implementation of the legislation, and may attend council meetings, either in person or telephonically.

INTERIM MONITOR PROJECT TITLE:

Implementation of Chapter 2008-31, L.O.F., Technology and Growth Investments by the State Board of Administration

DATE DUE: N/A

PROJECT NUMBER: 2009-413

ISSUE DESCRIPTION and BACKGROUND:

The 2008 Legislature enacted ch. 2008-31, L.O.F., related to new investments by the State Board of Administration (SBA). The SBA is directed to invest a maximum 1.5 percent of the net asset value of the Florida Retirement System Trust Fund in “technology and growth investments” (GTIs) in businesses that are either domiciled in Florida, or whose principal address is in Florida. The investments must be consistent with the SBA’s fiduciary responsibilities.

As defined in the bill, the phrase “technology and growth investments” includes, but is not limited to: space technology, aerospace and aviation engineering, computer technology, renewable energy, and medical and life sciences. Based on the pension fund’s March 26, 2008, asset value of \$130.2 billion, the amount of investment in GTIs could total \$1.95 billion.

Pursuant to a newly created s. 215.474, F.S., the Office of Program Policy and Government Accountability (OPPAGA) will review and report on the investments by January 15 of each year. OPPAGA may consult with the SBA, the Department of Revenue, the Office of Economic and Demographic Research, and other entities as necessary to obtain and evaluate the information requested. The annual review shall include, among other information, the dollar amount of technology and growth investments made by the SBA during the previous year ending June 30 and the investments’ percentage share of the system trust fund’s net assets, as well as an analysis of the direct and indirect economic benefits to the state resulting from these investments.

OBJECTIVE:

The purpose of this project is to monitor the SBA’s implementation of the legislation.

METHODOLOGY:

Together with the professional staff of the Senate General Government Appropriations Committee, professional staff will periodically contact SBA and OPPAGA staff over the interim to monitor their progress in implementing the legislation, and will attend any scheduled meetings on the topic. Professional staff also will perform additional document and Internet research, and conduct interviews as necessary with representatives of other states making similar investments to gauge their experiences.

INTERIM MONITOR PROJECT TITLE:

Employee Leasing Agency Reporting to the Agency for Workforce Innovation

DATE DUE: N/A

PROJECT NUMBER: 2009-414

ISSUE DESCRIPTION and BACKGROUND:

Under the current unemployment compensation law, employee leasing companies report all of their clients (employers) and internal staff employment and employer counts under one account number. According to the Agency for Workforce Innovation (AWI), this current reporting practice distorts industry and geographic economic data for the state and local areas. This means that state and counties may have inaccurate employer counts and employment by industry and geographic location which may skew economic data – county employment levels can be reported as growing when in reality they could be declining or vice versa.

AWI has been working with employee leasing companies to pursue voluntary reporting of their clients' information to alleviate the problem. However, according to AWI, this reporting has been inadequate, sporadic and incomplete.

At the request of AWI, in 2008 Senator Diaz de la Portilla filed legislation to require employee leasing companies to file quarterly reports with the Labor Market Statistics Center of AWI which includes information relating to the client company's business, number of employees, wages paid, the business relationship between the employee leasing company and the client company, and the internal staff of the employee leasing company. The bill also prescribed a format for such reports and the time within which the reports must be filed, and granted AWI the authority to adopt rules to implement these provisions and to administer, collect, enforce, and waive penalties for failure to file such reports.

While the legislation had broad support – and was not actively opposed by the affected industry - it was not enacted.

AWI reports that it will request voluntary compliance with the proposed reporting requirements. Preliminary reports from AWI indicate that employee leasing companies are complying with the requests.

OBJECTIVE:

Professional staff will monitor whether AWI is successful in implementing the voluntary compliance guidelines.

METHODOLOGY:

Professional staff will communicate with agency staff as necessary. Professional staff of the Transportation and Economic Development Appropriations Committee may assist in this monitor project.

COMMUNICATIONS AND PUBLIC UTILITIES

Interim Projects

INTERIM PROJECT TITLE:

Legislative Process for Rule Ratification of Renewable Portfolio Standard and Cap-and-Trade Regulatory Reform

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-108

ISSUE DESCRIPTION and BACKGROUND:

Section 42 of HB 7135, which passed during the 2008 Regular Session, requires the Public Service Commission to adopt rules for a renewable portfolio standard requiring each provider to supply renewable energy directly, by procuring, or through renewable energy credits. The bill further states that the rule shall not be implemented until ratified by the Legislature. Section 65 of HB 7135 directs the Department of Environmental Protection to adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from major emitters. The bill further provides that the department shall not adopt rules until after January 1, 2010. The rules are not to become effective until ratified by the Legislature. Rule ratification has been used in only a few instances by the Legislature and each case has been addressed differently.

Chapter 120, F.S., sets forth the process for rulemaking but does not contemplate ratification by the Legislature. Analysis of the rulemaking and legislative processes should result in identification of issues.

OBJECTIVE:

The resulting research should recommend appropriate legal options for legislative ratification of the respective proposed rules.

METHODOLOGY:

Conduct legal research of Florida administrative law and of laws in other states. Consult with staff of the Joint Administrative Procedures Committee, staff of the respective affected agencies, and professional staff of the Senate Committee on Environmental Preservation and Conservation.

Mandatory Reviews

(None)

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Review of Factors to be Considered in Making Further Changes to Energy Policy

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-309

ISSUE DESCRIPTION and BACKGROUND:

House Bill 7135, passed during the 2008 Regular Session, requires rulemaking which will impact utility ratepayers. The bill requires the Florida Public Service Commission to adopt rules to create a renewable portfolio standard requiring each investor-owned utility to supply renewable energy to its customers directly, by procuring, or through renewable energy credits. In developing the rule, the commission must consult the Department of Environmental Protection and the Florida Energy and Climate Commission. The rule cannot be implemented until ratified by the Legislature. The commission must present a draft rule for legislative consideration by February 1, 2009.

The bill also requires the Department of Environmental Protection to adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from electric utilities. When developing the rules, the department must consult with the Florida Energy and Climate Commission and the Florida Public Service Commission and may consult with the Governor's Action Team for Energy and Climate Change. The department cannot adopt rules until after January 1, 2010, and the rules cannot become effective until ratified by the Legislature. The rules of the cap-and-trade program must include cost containment mechanisms to reduce price and cost risks associated with the electric power generation market in this state. In considering cost containment mechanisms, one of the factors the department must evaluate is the anticipated overall effect of each mechanism on electricity ratepayers. Additionally, in recommending and evaluating proposed features of the cap-and-trade system, the department must consider the impacts on electricity prices for consumers and how to moderate impacts on low-income consumers that result from energy price increases. Prior to submitting the proposed rules to the Legislature, the department must submit them to the Florida Energy and Climate Commission, which will review the proposed rules and submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the department. Among the factors the report must address are the impacts on electricity prices for consumers.

These requirements, and to a lesser extent other provisions in the bill, will have significant impacts on regulated electric utility ratemaking and utility rates. In adopting the proposed rules and in enacting subsequent energy policy legislation, consideration must be given to the policy underlying existing regulatory structure and ratemaking, to the existing system for producing and delivering electric energy, and to the impacts proposed policy changes will have on this structure and system.

OBJECTIVE:

To set out the existing policy underpinnings, describe the existing system for production and delivery of electricity, and identify the factors that must be considered in making policy changes and the potential impacts of those policy changes.

METHODOLOGY:

Research existing law, underlying policy, and existing electricity systems, review and analyze changes proposed in rulemaking and elsewhere, and identify potential long-term effects of these changes.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Implementation of Legislation Creating the Florida Energy and Climate Commission and the Florida Energy Systems Consortium

DATE DUE: N/A

PROJECT NUMBER: 2009-415

ISSUE DESCRIPTION and BACKGROUND:

House Bill 7135, passed during the 2008 Regular Session, creates the Florida Energy and Climate Commission and the Florida Energy Systems Consortium.

The Florida Energy and Climate Commission is organized within the Executive Office of the Governor to consolidate various energy-related executive branch functions, including:

- administration of the Florida Renewable Energy and Energy Efficient Technologies Grants Program;
- developing policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant;
- administering the Florida Green Government Grants Act;
- administering specified information gathering and reporting functions;
- administering petroleum planning and emergency contingency planning;
- representing Florida in the Southern States Energy Compact;
- completing the annual assessment of the efficacy of Florida's Energy and Climate Change Action Plan, upon its completion by the Governor's Action Team on Energy and Climate Change;
- administering the provisions of the Florida Energy and Climate Protection Act;
- advocating for energy and climate change issues and providing educational outreach and technical assistance in cooperation with the state's academic institutions;
- being a party in the proceedings to adopt goals and submit comments to the Public Service Commission relating to electric energy efficiency and conservation;
- adopting rules to implement all these powers and duties.

To assist in the performance of these duties, the legislation transfers personnel, resources, and authority from existing entities to the commission. It transfers from the Office of Legislative Services all records, property, unexpended balances of appropriations, and personnel related to the Florida Energy Commission. It transfers from the Department of Environmental Protection all of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the state energy program.

The Florida Energy Systems Consortium is created within the State University System to promote collaboration among experts in the system for the purposes of sharing energy-related expertise and

assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state. The consortium is to focus on the research and development of innovative energy systems that will lead to alternative energy strategies, improved energy efficiencies, and expanded economic development for the state. The consortium consists of all universities within the state university system. It is to be administered at the University of Florida by a director who is to report to the Florida Energy and Climate Commission. An oversight board, consisting of the Vice President for Research or other appropriate representative appointed by the university president of each member of the consortium, is responsible for the technical performance and financial management of the consortium.

Through collaborative research and development across the State University System and the industry, the goal of the consortium is to become a world leader in energy research, education, technology, and energy systems analysis. In so doing, the consortium must:

- coordinate and initiate increased collaborative interdisciplinary energy research among the universities and the energy industry;
- assist in the creation and development of a Florida-based energy technology industry through efforts that would expedite commercialization of innovative energy technologies by taking advantage of the energy expertise within the State University System, high-technology incubators, industrial parks, and industry-driven research centers;
- provide a state resource for objective energy systems analysis; and
- develop education and outreach programs to prepare a qualified energy workforce and informed public.

A steering committee, consisting of the university representatives included in the Centers of Excellence proposals for the Florida Energy Systems Consortium and the Center of Excellence in Ocean Energy Technology-Phase II which were reviewed during the 2007-2008 fiscal year by the Florida Technology, Research, and Scholarship Board created in s. 1004.226(4), F.S.; a university representative appointed by the President of Florida International University; and the Florida Energy and Climate Commission, is responsible for establishing and ensuring the success of the consortium's mission.

OBJECTIVE:

Monitor the implementation of this legislation and the creation and initial operations of these entities to be aware of any problems or issues.

METHODOLOGY:

Discuss progress and developments with relevant personnel in the commission and the consortium and others. Consult with the professional staff of the Senate Committee on Environmental Preservation and Conservation.

COMMUNITY AFFAIRS

Interim Projects

INTERIM PROJECT TITLE:

Review of the Viability of City or County Pre-emption of Banning Certain Dog Breeds by Ordinance

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-102

ISSUE DESCRIPTION and BACKGROUND:

Chapter 767, F.S., Titled “Damage By Dogs” addresses a broad range of dog related issues. Under the chapter local governments are provided broad authority to place further restrictions or additional requirements on owners of dangerous dogs. Local governments may also develop procedures and criteria for implementing the chapter, with some exceptions.

OBJECTIVE:

Senate Professional Staff of the Community Affairs Committee will research issues pertaining to the viability of city or county pre-emption of banning certain dog breeds by ordinance. Additionally, the information gathered under the review would be available for legislative consideration.

METHODOLOGY:

Senate professional Staff of the Community Affairs Committee will review statutes and related materials as well as conduct interviews on this subject with representatives from the Florida Animal Control Association, the Department of Agriculture and Consumer Services, local government representatives, as well as other public and private organizations pertaining to the issue.

INTERIM PROJECT TITLE:

Review of Chapters 420, 421, 422, and 423, F.S., relating to Housing; Public Housing Authorities; the Housing Cooperation Law; and Tax Exemption of Housing Authorities.

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-109

ISSUE DESCRIPTION and BACKGROUND:

Chapter 420, Florida Statutes, consists of seven parts that contain the State Housing Strategy Act, the Housing Development Corporation of Florida, the Low-Income Emergency Home Repair Program, the Neighborhood Housing Services Act, the Florida Housing Finance Corporation Act, the Affordable Housing Planning and Community Assistance Act, and the State Housing Initiatives Partnership Act.

Chapter 421, Florida Statutes, contains two parts that govern public housing authorities and the relocation of displaced persons. Chapter 422, Florida Statutes, contains the housing cooperation law and provides that the Department of Community Affairs is the agency of state government responsible for the state's role in housing and urban development. Chapter 423, Florida Statutes, contains the tax exemption for housing projects of housing authorities. Each housing authority project, and all property

of the housing authority that is used for or in connection with or appurtenant to the project, is exempt from all taxes and special assessments of the state or any city, town, county, or political subdivision of the state. The housing authority may agree to make payment to the state, city, county, or political subdivision for services, improvements, or facilities furnished by the state, city, county, or political subdivision.

Many of the provisions in these four chapters are outdated, duplicative, or conflicting.

OBJECTIVE:

The purpose of the interim project is to review the four chapters to update, repeal, or modify existing statutory provisions. Where possible, provisions will be consolidated.

METHODOLOGY:

The professional staff of the Community Affairs Committee will prepare a spread sheet for each chapter that:

- Identifies each section of statute with the chapter.
- Explains the purpose of the statute.
- Identifies the year that the section was created and the year that the last substantive change to the statute was made.
- A recommendation for repeal, update, modification, or consolidation of the section.

Once the spread sheets are prepared, the committee's professional staff will meet with staff of the Department of Community Affairs and the Florida Housing Finance Corporation to review the list and incorporate the agency's and the corporation's recommendations. The spread sheets will be used to prepare proposed legislation to consolidate and revise statutory provisions relating to housing and public housing authorities.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 119.071(5)(c), F.S., Public Records Exemption for information that would identify or help locate a child, or the parents or guardian of a child that is participating in a government-sponsored recreation program or camp.

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-205

ISSUE DESCRIPTION and BACKGROUND:

This is a mandatory Open Government Sunset Review of s. 119.071(5)(c), F.S., which provides that any information that identifies or helps to locate a child who participates in government-sponsored recreation programs or camps or the parents or guardians of such child, including but not limited to, the name, home address, telephone number, social security number, or photograph of the child; the names and locations of schools attended by such child; and the names, home addresses, and social security numbers of parents or guardians of such child is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may be disclosed by court order upon a showing of good cause.

This exemption was created in chapter 2004-32, Laws of Florida, which also provides that the exemption is subject to the Open Government Sunset Review Act of 1995 and is repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

The objective of the project is to determine if the exemption continues to meet the requirements established under the Open Government Sunset Review Act created in s. 119.15, F.S., and providing for the review and repeal or reenactment of an exemption to the open government requirements of section 24(a), Article I, of the State Constitution, and s. 119.07(1), F.S.

METHODOLOGY:

A survey of state agencies and local governments will be conducted to determine how many are sponsoring recreational programs or camps and to determine the continued need for the exemption. The professional staff of the Community Affairs Committee will work with the Florida Parks and Recreation Association to collect information relating to government-sponsored recreational programs or camps, and with the First Amendment Foundation to receive input on the exemption. Also, the exemption will be tested under the specific standards set forth in s. 119.15, F.S., to determine if the exemption should be reenacted or repealed.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 73.0155, F.S., Business Information Provided by a Business Owner to a Governmental Condemning Authority for the Purpose of Making an Offer of Business Damages

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-206

ISSUE DESCRIPTION and BACKGROUND:

This is a mandatory Open Government Sunset Review of s. 73.0155, F.S., which exempts business information provided by a business owner to a governmental condemning authority for the purpose of making an offer of business damages under s. 73.015, F.S., if the business owner requests that such information be kept exempt. Specifically, the following information may be held exempt:

- Federal tax returns or tax information confidential under 26 U.S.C. s. 6103;
- State tax returns or tax information confidential under s. 213.053, F.S.;
- Balance sheets, profit-and-loss statements, cash-flow statements, inventory records, or customer lists or number of customers for a business operating on the parcel to be acquired;
- A franchise, distributorship, or lease agreement of which the business operating on the parcel to be acquired is the subject;
- Materials that relate to methods of manufacture or production, potential trade secrets, patentable material, or actual trade secrets as defined in s. 688.002, F.S.; and
- Other sensitive or proprietary information related to the business operating on the parcel to be acquired, if the owner attests in writing to the governmental condemning authority that the information is being relied upon to substantiate a claim for business damages under s. 73.015, F.S.; has not otherwise been publicly disclosed and cannot be readily obtained by the public using alternative means; is used by the business to protect or further a business

advantage over those who do not know or use the information; and the disclosure of the information would injure the business in the marketplace.

OBJECTIVE:

The objective of the project is to determine if the exemption meets the requirements established under the Open Government Sunset Review Act, created in s. 119.15, F.S., providing for the review and repeal or reenactment of an exemption to the open government requirements of section 24(a), Art. I of the State Constitution, and s. 119.07(1) or s. 286.011, F.S.

METHODOLOGY:

A survey of governmental condemning authorities will be conducted to determine the need for the exemption. Also, the exemption will be tested under the specific standards set forth in s. 119.15, F.S., to determine if the exemption should be reenacted or repealed.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Agency Sunset Review of the Department of Community Affairs

DATE DUE: October 15, 2008

PROJECT NUMBER: 2009-310

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-.920, F.S., the Florida Government Accountability Act, subjects specified state agencies to a "sunset" review process to determine whether the agency should be retained, modified, or abolished. Reviews are accomplished in three steps. First, an agency under review must produce specific information as enumerated in statute. Second, upon receipt of the agency information, the Joint Legislative Sunset Committee may and the standing or select committee assigned to act as legislative sunset review committee shall review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Third, based on the information submitted by the agency, the OPPAGA studies, and public input, the joint committee may and the legislative sunset review committee shall make recommendations to the Legislature by March 1, 2010, regarding the termination, modification, or continuation of the agency and its programs. Pursuant to s. 11.905, F.S., the Department of Community Affairs (agency) shall be reviewed by July 1, 2010.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. An agency may be abolished if the Legislature, pursuant to law, finds that all state laws the agency had the responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

The Senate Community Affairs Committee will be the primary sunset review committee for the review of the agency and the Division of Emergency Management Services (division) and the Florida Housing Finance Corporation (corporation), both of which are housed within the agency. The Senate Military Affairs and Domestic Security Committee and the Senate Transportation and Economic

Development Appropriations Committee will assist in this review. The review process will begin July 1, 2008, with the submission of the statutorily mandated agency report.

OBJECTIVE:

The objective is to examine the agency, the division, and the corporation to determine each entity's effectiveness and efficiency, and the necessity of continuing the duties and responsibilities assigned to each entity. The Issue Brief will provide background on the agency, the division, and the corporation and identify areas of further study for completion of the sunset review.

METHODOLOGY:

Senate professional staff will review the agency information submissions, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee. The professional staff will identify all statutorily assigned duties and responsibilities of the agency under review, and will make recommendations regarding further study needed for completion of the sunset review.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Expansion of the Florida Communities Trust Program and the creation of the Stan Mayfield Working Waterfronts Program

DATE DUE: N/A

PROJECT NUMBER: 2009-416

ISSUE DESCRIPTION and BACKGROUND:

During the 2008 Regular Session, the Legislature adopted CS/CS/SB 542, 2nd Engrossed, to increase the amount of bonds which may be issued under the Florida Forever Program from \$3 billion to a maximum of \$5.3 billion and to provide that any bonds issued will be retired by 2040. The bill reduced the percentage of Florida Forever funds distributed to the Florida Communities Trust Program in the Department of Community Affairs from 22 to 21 percent of bond proceeds for each series of bonds issued. Under the existing Florida Forever Program, \$300 million in bond sales have generally been appropriated to the Florida Forever Program participants annually, with the Florida Communities Trust Program receiving \$66 million each year. Under the new distribution and assuming \$300 million in bond proceeds, the Florida Communities Trust Program will receive \$63 million in bond proceeds. The bill expanded the projects funded by the Florida Communities Trust Program to include projects that provide direct water access and water-dependent facilities that are open to the public and that offer public access to the waters of the state by vessels, including boat ramps and associated parking and other support facilities.

The bill also created the "Stan Mayfield Working Waterfronts Program" within the Florida Communities Trust Program, and provided that 2.5 percent of bond proceeds will be distributed under the program for projects that restore and preserve working waterfronts. Assuming \$300 million in bond proceeds each year, the distribution will provide \$7.5 million for working waterfront acquisition projects. Rules that govern the application process are to be jointly developed by the Department of Community Affairs and the Department of Agriculture & Consumers Services.

OBJECTIVE:

The objective of the project is to monitor the impact of the expanded program purposes and the funding reallocation on the Florida Communities Trust Program, and to monitor the development and implementation of the Working Waterfronts program.

METHODOLOGY:

The professional staff of the Community Affairs Committee will work with the staff of the Florida Communities Trust Program to monitor the effects of the funding reallocation and program expansion on traditional Communities Trust projects. The committee's professional staff will also work with the professional staffs of the Environmental Preservation and Conservation Committee, the Agriculture Committee, and the General Government Appropriations Committee, as well as staff from the Department of Community Affairs and the Department of Agriculture & Consumer Services to monitor the development of rules to provide an application process, an evaluation process, and a system of weighted criteria for working waterfront project applicants.

INTERIM MONITOR PROJECT TITLE:

Development and Implementation of the Florida Building Commission's cost-effectiveness test rule relating to energy efficiency.

DATE DUE: N/A

PROJECT NUMBER: 2009-417

ISSUE DESCRIPTION and BACKGROUND:

During the 2008 Regular Session, the Legislature adopted CS/HB 697, Engrossed 1, which directs the Florida Building Commission (commission) to implement scheduled increases in the energy performance of buildings subject to the Florida Energy Efficiency Code for Building Construction. Prior to implementing goals to increase energy efficiency by the scheduled percentages, the commission must adopt by rule and implement a cost-effectiveness test for the proposed increases in energy efficiency. The test measures the cost-effectiveness of the energy efficiency increase to ensure that the measure will result in a net positive financial impact. The commission must submit the text of the rule to the Legislature in its "2009 Annual Report to the Legislature" and must provide an effective date for the rule before July 1, 2009.

OBJECTIVE:

The objective of the project is to monitor the progress of the commission in developing and implementing the cost-effectiveness test rule, as well as follow the commission's efforts to provide for scheduled percentages of energy efficiency increases.

METHODOLOGY:

The professional staff of the Community Affairs Committee will monitor the efforts of the Florida Building Commission in developing and implementing the cost-effectiveness test rule.

INTERIM MONITOR PROJECT TITLE:

Alternative State Review Process Pilot Program

DATE DUE: N/A

PROJECT NUMBER: 2009-418

ISSUE DESCRIPTION and BACKGROUND:

The 2007 Legislature created the Alternative State Review Process Pilot Program in s. 163.32465, F.S., to provide an expedited review process for certain comprehensive plan amendments. The designated pilot communities are: Pinellas and Broward Counties, and the cities within those counties, as well as the cities of Jacksonville, Miami, Tampa, and Hialeah. A city within a pilot county may elect, by a super majority vote of the governing body, to opt out of the pilot program. Pilot program jurisdictions use an alternative, expedited comprehensive plan amendment process that requires a local government to:

- Hold its first public hearing on a plan amendment at least 7 days after the first advertisement;
- Immediately transmit a plan amendment receiving an affirmative majority vote of the local governing body, along with supporting data and analyses, to the Department of Community Affairs (DCA), the appropriate state agencies, and any other local government or agency that has filed a written request;
- Hold its second public hearing on whether to adopt a plan amendment at least 5 days after the second advertisement; and
- Transmit the adopted plan amendment, along with supporting data and analyses, to DCA and any other agency or local government that provided timely comments within 10 days after the second public hearing.

A plan amendment adopted using this process does not become effective until 31 days after adoption. DCA may challenge a plan amendment adopted using the alternative, expedited process, but such a challenge is limited to the issues raised by commenting agencies. Also, DCA may challenge a plan amendment that differs substantially from the version on which the agencies provided comments. A plan amendment adopted using the alternative state review process is presumed to be in compliance with part II of chapter 163, F.S., and applicable rules. The burden of proof to overcome the presumption is preponderance of the evidence.

Certain types of plan amendments are not eligible for the alternative, expedited process. Those are:

- Small-scale amendments adopted pursuant to s. 163.3187(1)(c) and (3), F.S.;
- Amendments that propose a rural land stewardship area or optional sector plan;
- Amendments to update a local comprehensive plan based on an evaluation and appraisal report;
- Amendments that implement new statutory requirements; or
- A comprehensive plan for a newly-incorporated municipality.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is required to provide a report and legislative recommendations by December 1, 2008, for implementing a statewide program to streamline the process for amending local comprehensive plans in urban areas with sufficient planning capabilities and resources. OPPAGA is required to consult with DCA, the Florida Department of Transportation, the Department of Environmental Protection, and regional planning agencies for the

purpose of identifying local governments as additional participants in the alternative state review process. In addition, OPPAGA is required to solicit citizen input in potentially affected areas and consult with the affected local governments and stakeholder groups.

OBJECTIVE:

The purpose of this project is to further assess and evaluate the alternative state review process and the expansion of the program to include other local governments, as well as to identify specific issues that may need to be addressed in the 2009 legislative session.

METHODOLOGY:

The professional staff of the Community Affairs Committee will interview DCA staff, pilot jurisdictions, and other interested parties to discuss their relevant observations and experiences in developing and implementing the pilot program.

INTERIM MONITOR PROJECT TITLE:

Rural Land Stewardship Area Program

DATE DUE: N/A

PROJECT NUMBER: 2009-419

ISSUE DESCRIPTION and BACKGROUND:

In 2001, the Legislature enacted s. 163.3177(11)(d), F.S., authorizing local governments to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land stewardship area (RLSA). These areas are intended to be used to further rural sustainability; restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activity; maintenance of the viability of Florida's agricultural economy; and protection of the character of rural areas of Florida.

Currently, the process to create an RLSA requires a local government, in conjunction with a regional planning council, a group of private land owners, or another local government to notify the Department of Community Affairs (DCA) in writing of its intent to designate a rural land stewardship area. The area proposed for designation shall be not less than 10,000 acres, must be in an unincorporated area, and outside of established urban growth boundaries. A plan amendment designating an RLSA is subject to review by the DCA and must include:

- Criteria for the designation of receiving areas within the RLSA in which innovative planning and development strategies may be applied;
- Goals, objectives, and policies setting forth the innovative planning and development strategies to be applied within the RLSA;
- A process for the implementation of innovative planning and development strategies within the RLSA, including those described in s. 163.3177(11), F.S., and rule 9J-5.006(5)(l), Florida Administrative Code;
- A process which encourages visioning pursuant to s. 163.3167(11), F.S., to ensure innovative planning and development strategies that comply with s. 163.3177, F.S.; and
- Innovative strategies and creative land use techniques to control sprawl.

The local government designates a receiving area through the adoption of a land development regulation. Before designating a receiving area, DCA has 30 days in which to review a proposed receiving area for consistency with the RLSA plan amendment and to provide comments to the local government. If a listed species occurs on the receiving area site, the developer is required to coordinate with the appropriate agencies to determine if adequate provisions have been made to protect those species in accordance with applicable regulations. After a plan amendment establishing an RLSA has been adopted, the local government shall, by ordinance, establish the methodology for the creation, conveyance, and use of transferable rural land use credits, otherwise referred to as stewardship credits, the application of which shall not constitute a right to develop land, nor increase density of land, except as provided by s. 163.3177, F.S. The total amount of transferable rural land use credits within the RLSA must enable the realization of the long-term vision and goals for the 25-year or greater projected population of the RLSA.

DCA has recently experienced an increased interest from local governments considering the designation of an RLSA. As a result, DCA has created a technical advisory team to assist DCA in evaluating local government proposals to designate an RLSA. In 2007, DCA began the process of revising its administrative rules with respect to the RLSA program. Thus far, DCA has held three administrative rule development workshops. DCA is required to report to the Legislature on an annual basis on the results of implementation of the RLSA program.

OBJECTIVE:

The purpose of the project is to monitor the development and implementation of revised administrative rules for the RLSA program.

METHODOLOGY:

The professional staff of the Community Affairs Committee will interview DCA staff, local governments, and other interested parties to discuss their relevant observations and experiences regarding the development and implementation of the RLSA program and proposed revisions to administrative rules governing the program.

INTERIM MONITOR PROJECT TITLE:

Revisions to the Solar Energy System Incentives Program and certain Thermal Energy Standards to be made by the Florida Building Commission

DATE DUE: N/A

PROJECT NUMBER: 2009-420

ISSUE DESCRIPTION and BACKGROUND:

During the 2008 Regular Session, the Legislature adopted HB 7135, Engrossed 2, relating to energy. The bill provides that with respect to commercial or residential swimming pool pumps or water heaters sold after July 1, 2011, the Florida Energy Efficiency Code for Building Construction must include new standards that include, but are not limited to, the following:

- Natural gas heaters must not be equipped with constantly burning pilots;
 - Heat pump pool heaters must have a specific coefficient performance;
 - Gas-fired and oil-fired pool heaters must have a thermal efficiency of at least 78 percent;
- and

- Residential pool pump motors must be capable of operating at two speeds.

Prior to 2011, the code must set the minimum requirements for commercial or residential swimming pool pumps and water heaters, and water heaters used to heat potable water.

OBJECTIVE:

The objective of the project is to monitor the progress of the Florida Building Commission in meeting the requirements of the energy legislation enacted during the 2008 Regular Session.

METHODOLOGY:

The professional staff of the Community Affairs Committee will monitor the efforts of the Florida Building Commission in meeting the requirements of the legislation relating to swimming pool pumps and motors, and swimming pool and water heaters not currently covered under the Florida Building Code.

CRIMINAL AND CIVIL JUSTICE APPROPRIATIONS

Interim Projects

(None)

Mandatory Reviews

(None)

Issue Briefs

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

<i>Reduction of Residential Beds in the Department of Juvenile Justice</i>
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DATE DUE: N/A

PROJECT NUMBER: 2009-421

ISSUE DESCRIPTION and BACKGROUND:

During the 2007 Special Session C, the Legislature required the Department of Juvenile Justice (DJJ) to submit a plan detailing how the department would reduce the size of residential programs that are larger than 165 beds. The Legislature required the department to submit a plan by January 1, 2008, detailing the process and timeline necessary to complete the transition to smaller residential commitment programs. In addition, the plan required DJJ to maximize bed vacancies by reducing the number of commitment beds. As of December 12, 2007, the department had 663 vacancies in residential programs, 47 in low risk, 458 in moderate risk, and 158 in secure risk. The main reason the department has a large number of vacancies is due to additional requirements for specialty beds; these are beds that have either mental health or substance abuse overlay services. Most juveniles that enter into DJJ programs require these types of specialty services. These new facility requirements will allow the department to reconfigure the current beds in order to better serve juveniles are placed in commitment programs. During Special Session C the Legislature eliminated approximately 28 moderate risk beds. This reduction in beds provided a \$1 million cost savings to the state, increased the efficiency of residential placements, and also allowed some of the programs to be more community-based.

In addition, the 2008 Legislature reduced the number of residential commitment beds in DJJ by 606 for FY 2008-09. This consisted of 84 low risk, 214 moderate risk, and 308 secure risk beds in DJJ's residential commitment programs. The department currently has a significant waiting list of juveniles who need to be placed in all types of residential beds. In order to help implement the bed reductions, the department will have to transfer juveniles and rearrange two facilities: Hastings moderate-risk facility and Avon Park Youth Academy. Senate Professional Staff will monitor the impact of these reductions

on the department's detention centers to determine if juveniles are staying longer in these facilities, which is more costly for the department.

OBJECTIVE:

Monitoring the bed reductions in DJJ will allow the Legislature to determine if additional funding should be considered during the 2009 Legislature Session.

METHODOLOGY:

Senate Professional Staff will monitor the progress of the implementation of the bed reductions to make sure DJJ has sufficient beds to meet the requirements for placing youth in residential commitment programs.

INTERIM MONITOR PROJECT TITLE:

Implementation of Regional Conflict Counsel Offices

DATE DUE: N/A

PROJECT NUMBER: 2009-422

ISSUE DESCRIPTION and BACKGROUND:

The 2007 Legislature passed SB 1088 (chapter 2007-62, Laws of Florida) to revise the way indigent persons are represented in certain legal proceedings. Cost increases in the delivery of criminal conflict cases by private attorneys under contract with the state led the Legislature to establish new regional conflict counsel offices. The Governor appointed the 5 new regional counsels in August of 2007 and most offices were open and taking cases by January 2008. The Florida Association of Criminal Defense Lawyers sued the Governor and Senate and asked the court to invalidate the appointment of these new regional conflict counsels. The lawsuit was successful in circuit court, but was overturned by the Supreme Court in March of 2008. In addition, few Florida counties have provided the new counsel with the required office space. Counties have cited the previous litigation as reasons not to comply with SB 1088. Due to the unsuccessful lawsuit over SB 1088 and the fact that few counties have provided the services to the new regional conflict counsels required by law, the implementation of these new offices has been negatively affected. The conference report on SB 1790 makes minor changes in the five offices of criminal conflict and civil regional counsel to improve their operations.

OBJECTIVE:

To monitor the continued implementation of the regional conflict counsels to be able to report to the Legislature the performance of these offices and any issues the Legislature may need to address.

METHODOLOGY:

Senate Professional Staff will conduct regular meetings with the Justice Administrative Commission and the five regional counsels to monitor the operations of the regional counsels.

CRIMINAL JUSTICE

Interim Projects

(None)

Mandatory Reviews

(None)

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

An Examination of the National Movement Toward Collecting DNA Samples from Arrestees

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-311

ISSUE DESCRIPTION and BACKGROUND:

At least a dozen states have adopted laws that provide for taking and analyzing DNA samples from arrestees. A number of states are currently considering similar legislation, and one Florida Senator filed a bill on the topic last legislative session, although there was no companion bill in the House so the bill died in committee. The federal government will soon implement its own DNA collection from arrestees.

Critics argue these DNA collections amount to an invasion of privacy on a level that far exceeds the taking and "databasing" of a person's fingerprints. Supporters tout the new practice as an opportunity for solving crimes as more DNA samples become available for cross-matching with evidence from those unsolved crimes.

OBJECTIVE:

Senate professional staff will analyze the complex issues that arise from this national trend of collecting DNA samples from arrestees. The issues include privacy considerations, DNA database and criminal evidence comparisons, and the potential fiscal impact for Florida of collecting and loading arrestee DNA samples into the state and national database.

METHODOLOGY:

Senate professional staff will research and report on the laws enacted by other states, those under consideration, as well as the federal law. Where laws have actually been implemented, the professional staff will gather and report relevant information on any legal or fiscal issues that have arisen as a result, as well as the impact of the DNA collections on clearing unsolved crimes.

INTERIM ISSUE BRIEF TITLE:

Fiscal, Policy, and Legal Considerations Regarding State Compliance with the Adam Walsh Act

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-312

ISSUE DESCRIPTION and BACKGROUND:

The federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Protection and Safety Act of 2006 (P.L. 109-248), was enacted on July 27, 2006. The U.S. Department of Justice (DOJ) released proposed guidelines regarding implementation of SORNA on May 17, 2007. SORNA expands the requirements for state law enforcement and prison officials in registering and tracking sexual offenders. The deadline for states to submit compliance to the DOJ is April 27, 2009, and states must substantially comply with SORNA by July 27, 2009. The federal act authorizes a 10-percent reduction in Byrne Justice Assistance Grant funding for a state that does not substantially implement SORNA requirements. The act allows for bonus payments to states that promptly comply and implement SORNA standards. There are also a number of discretionary grants included in the act.

In 2007, the Florida Legislature enacted legislation to revise Florida's laws to comply with the proposed SORNA guidelines (ch. 2007-209, L.O.F.). This legislation did not implement every SORNA requirement. Subsequent legislation filed in 2008 to further implement SORNA requirements (SB 1698 and HB 1333) was not enacted. Fiscal considerations may be an impediment to enactment of Legislation implementing SORNA, especially in "tight" budget years. Policy and legal considerations may also be impediments to such enactment. Concerns have been raised in some state legislatures and other forums about various provisions of SORNA, such as required registration of juveniles adjudicated delinquent of certain sexual offenses and public notification of employer address information. Legal actions have been filed or threatened by those opposed to various SORNA requirements.

OBJECTIVE:

This interim issue brief will identify fiscal, policy, and legal considerations that may be relevant to legislators in determining whether this state should implement legislation to substantially comply with SORNA requirements, or not comply and chart its own course, regardless of a possible reduction in Byrne Justice Assistance Grant funding and other possibly adverse impacts for non-compliance.

METHODOLOGY:

Senate professional staff will review SORNA and the proposed guidelines for its implementation. The professional staff will confer with the Senate Criminal and Civil Justice Appropriations Committee, the Department of Law Enforcement, the Department of Corrections, the Department of Juvenile Justice, the Department of Highway Safety and Motor Vehicles, and local sheriffs' offices regarding fiscal impact to implement the 2007 legislation and projected fiscal impact to implement the 2008 legislation, and any policy or legal issues these departments and offices might deem relevant regarding the legislation. The professional staff will request the services of the Florida Legislative Committee on Intergovernmental Relations to survey the local sheriffs regarding fiscal impact and policy and legal considerations, and to identify specific appropriations by Congress relevant to SORNA requirements and grants authorized under SORNA. The professional staff will also review legal briefs, case law, and other materials, to identify policy and legal issues that have been raised regarding SORNA requirements.

INTERIM ISSUE BRIEF TITLE:

Breaking the Cycle of Crime: The Department of Corrections and Re-Entry Programming

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-313

ISSUE DESCRIPTION and BACKGROUND:

As prison populations are on the rise, the number of inmates released back into the community has also steadily increased over the years. In fiscal year 2006-2007, the Department of Corrections released 35,337 inmates. These inmates face a difficult transition as they re-enter society in need of documentation (drivers licenses and/or social security cards), employment, housing, medical care, and rehabilitative services.

Enacted on December 1, 2002, the Transitional Assistance Program Act requires that the Department of Corrections provide inmates with a release plan, orientation, and community resources before the expiration of their sentences. All inmates are eligible for this program, with priority given to inmates who have a history of substance abuse, prostitution, and other self-injurious criminal behaviors. Within available resources, the Department of Corrections contracts with the Florida Department of Children and Families, Salvation Army, and other private and public organizations, including faith-based service groups, to provide newly released inmates with substance abuse counseling, domestic violence counseling, family counseling, employment support programs, and other services.

The Second Chance Act (PL No: 110-199) was signed into law this year by President Bush, adding numerous grants and opportunities for extending re-entry efforts at the state and local levels. The Act provides for community and faith-based organizations to deliver mentoring and transitional services to individuals returning to their communities from jails and prisons. It will also help connect individuals released from jails and prisons to mental health and substance abuse treatment, expand job training and placement services, and facilitate transitional housing and case management services.

OBJECTIVE:

This interim issue brief will identify the programming efforts of the Department of Corrections to provide inmates with documentation (drivers licenses and social security cards), skills for finding employment and money managing, transitional housing and rehabilitative services such as substance abuse programs, and other services provided to complete a successful re-entry into society. The brief will also discuss initiatives by the Department of Corrections regarding the passage of the Second Chance Act.

METHODOLOGY:

Senate professional staff will review statutes and the department's re-entry programs and policies. The professional staff will confer with the Department of Corrections regarding re-entry programs and policies and the Second Chance Act.

INTERIM ISSUE BRIEF TITLE:

Overview of Sealing and Expunging Criminal History Records

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-314

ISSUE DESCRIPTION and BACKGROUND:

During the 2008 regular session, the members of the Criminal Justice Committee showed much interest in sealing and expunging criminal history records, particularly in the context of assisting persons desiring to become gainfully employed after being charged with and/or convicted of a crime and paying their debts to society. To this end, the members heard testimony from several ex offenders on obstacles confronting them when attempting to be hired after having a criminal record, especially as it related to the dissemination of such records. Our members also approved and supported a Criminal Justice Committee Bill, CS/CS/SB 2152, 1st Engrossed, which ultimately died in the House. It made several changes to the sealing and expungement laws in an attempt to clarify those laws and to ease some of the resultant employment barriers.

OBJECTIVE:

This interim issue brief will provide an overview of sealing and expunging criminal history records in Florida, including a summation of the policy, legal, practical, and historical aspects of this subject matter in an attempt to offer a concise and complete compilation of relevant information for the members.

METHODOLOGY:

Senate professional staff will review the laws governing sealing and expunging criminal history records, including a historical background check. Furthermore, the professional staff will confer with the Florida Department of Law Enforcement on the current process for sealing and expunging criminal history records, as well as discussing any problems or suggestions for change in this area.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Tracking Litigation on the Right to Bear Arms

DATE DUE: N/A

PROJECT NUMBER: 2009-423

ISSUE DESCRIPTION and BACKGROUND:

CS/HB 503, Chapter 2008-7, Laws of Florida (L.O.F.), codified legislative policy regarding the balancing of statutory rights of lawful firearm owners and carriers with the statutory rights of public or private employers. This bill (commonly referred to as the "Gun in the Parking Lot Bill") was controversial, as it had been in its various forms throughout the past several sessions. It pitted the interests of the business community against the interests of the National Rifle Association, and the conversation and testimony throughout the process often raised the issue of constitutional rights of real property owners versus the right to bear arms.

As expected, the Florida Chamber of Commerce and others filed litigation to try to stop the implementation of Chapter 2008-7, L.O.F. The "property rights" proponents allege in their federal complaint that the new law violates the U.S. Constitution and therefore should not be enforced. Many of the arguments raised successfully in prior litigation brought under much the same circumstances throughout the country are alleged in the complaint.

Coincidentally, the U.S. Supreme Court is expected to issue its opinion this summer in what is thought to be a case that might offer a chance for the Court to offer constitutional guidance in this general area. Although the facts in that federal case are different than those that are likely to arise from the implementation of Chapter 2008-7, L.O.F., the case before the Court is, nonetheless, a rare opportunity for the Court to opine on Second Amendment issues. It is hoped that the Court will speak to the question of whether the right to bear arms set forth in the Second Amendment is an individual right or whether it is more of a right reserved for the militia. The opinion is anxiously awaited by those on both sides of the issue.

OBJECTIVE:

Senate professional staff will follow the outcome in the U.S. Supreme Court case and the pending litigation on the new Florida law that prohibits employers from keeping lawfully owned and carried guns off their property.

METHODOLOGY:

The anticipated opinion of the U.S. Supreme Court will be reviewed and the pending local litigation will be closely tracked and documented.

INTERIM MONITOR PROJECT TITLE:

The Implementation of Committee Bill 1616: Mental Competency and Concealed Firearm Licenses

DATE DUE: N/A

PROJECT NUMBER: 2009-424

ISSUE DESCRIPTION and BACKGROUND:

Following the tragedy at Virginia Tech, the Committee on Criminal Justice professional staff recommended a statutory change to allow the Department of Agriculture and Consumer Services (department) to have access to mental competency data already gathered by the Florida Department of Law Enforcement, so that the department could carry out its duties relating to the suspension and revocation of concealed firearm licenses. The Committee bill (CS/SB 1616, 1st Engrossed) passed both chambers and, if approved by the Governor, takes effect July 1, 2008.

OBJECTIVE:

The objective of this monitor project is to assess the implementation of this legislation and to determine whether it is achieving the goal of information-sharing between the Florida Department of Law Enforcement and the department.

METHODOLOGY:

Senate professional staff will consult with staff at both agencies to monitor the implementation of the new law.

INTERIM MONITOR PROJECT TITLE:

Juvenile Justice Blue Print Commission Recommendations

DATE DUE: N/A

PROJECT NUMBER: 2009-425

ISSUE DESCRIPTION and BACKGROUND:

In July 2007, Governor Crist authorized the creation of the Blueprint Commission (commission) for the purpose of developing recommendations to reform Florida's juvenile justice system. The commission met throughout the second half of 2007 and issued its report titled "Getting Smart About Juvenile Justice in Florida" in February 2008. During the 2008 regular session, CS/CS/CS/SB 700 implemented many of the commission's 52 recommendations, in addition to several other policy changes. Unfortunately, the legislation died in the House.

However, many of the recommendations did not require legislation, but instead, required the Department of Juvenile Justice (DJJ) to make policy and/or rule changes.

OBJECTIVE:

This interim monitor project will monitor the implementation of the commission's recommendations that did not require legislative changes. It will also monitor the efforts of DJJ to hold a summit involving interested parties during the interim regarding the zero tolerance policy at schools.

METHODOLOGY:

Senate professional staff will maintain contact with the DJJ and commission staff to stay abreast of any implementation of policy and/or rule changes.

INTERIM MONITOR PROJECT TITLE:

Legal Status of Local Sexual Predator and Sexual Offender Residency Restriction Ordinances

DATE DUE: N/A

PROJECT NUMBER: 2009-426

ISSUE DESCRIPTION and BACKGROUND:

During the 2008 regular session, CS/CS/SB 1430, 2nd Engrossed, attempted to preempt to the state the adoption of residency distance limitations for enumerated sexual offenders and predators. It also attempted to repeal and abolish all local ordinances that contain residency exclusion zones (regardless of whether they were more stringent than the statewide restriction, which many are). However, this legislation died in the House.

OBJECTIVE:

This interim monitor project will monitor the legal status of local sexual predator and sexual offender residency restriction ordinances in an effort to determine whether any are upheld or declared unconstitutional by the courts in Florida.

METHODOLOGY:

Senate professional staff will review the ordinances' legal status, as well as be in contact with the Department of Corrections for its input.

INTERIM MONITOR PROJECT TITLE:

Monitor the Outcome of Kennedy v. Louisiana, Regarding the Constitutionality of the Death Penalty for the Rape of a Child

DATE DUE: N/A

PROJECT NUMBER: 2009-427

ISSUE DESCRIPTION and BACKGROUND:

In *Kennedy v. Louisiana*, Case No. 07-343, the U.S. Supreme Court accepted for certiorari review two issues:

- Whether the Eighth Amendment's Cruel and Unusual Punishment Clause permits a state to punish the offense of rape of a child with the death penalty; and
- If so, whether Louisiana's capital rape statute genuinely narrows the class of such offenders eligible for the death penalty.

Oral argument has concluded in this case and a decision is expected this year.

The decision in this case will be relevant to Florida's penalty for sexual battery by an adult on a child less than 12 years of age. Section 794.011(2)(a), F.S., provides that this offense is a capital felony. Pursuant to s. 775.082(1), F.S., a capital felony is punishable by the death penalty, if statutorily-required proceedings result in findings by the court supporting a death sentence, or by life imprisonment without parole eligibility. However, in *Buford v. State*, 403 So.2d 943, 951 (Fla.1981), *cert. denied*, 454 U.S. 1163 (1982), the Florida Supreme Court interpreted the U.S. Supreme Court's decision in *Coker v. Georgia*, 433 U.S. 584 (1977), as compelling the court to hold that the death penalty is "grossly disproportionate and excessive punishment for the crime of sexual assault and is therefore forbidden by the Eighth Amendment as cruel and unusual punishment."

Although the capital felony penalty designation remains in the statute for the sexual battery offense, the penalty is no longer "capital" in the sense that the death penalty may be imposed. However, "the degree is not lessened, at least not for the purposes of setting penalties for 'attempt' crimes." *State v. Hogan*, 451 So.2d 844, 845 (Fla.1984).

OBJECTIVE:

This interim monitor project will monitor the progress of the *Kennedy* case until the U.S. Supreme Court decides this case. Senate professional staff will advise the Senate Committee on Criminal Justice members if the opinion in that case has any impact on Florida's laws.

METHODOLOGY:

Senate professional staff will review the lower court decisions and legal materials, including briefs, relevant to the *Kennedy* case and the U.S. Supreme Court's opinion in the *Kennedy* case. The professional staff will confer with the Office of the Attorney General and the Florida Prosecuting

Attorneys Association on the impact, if any, of this decision on Florida's laws, and report that information to the members of the Senate Committee on Criminal Justice.

INTERIM MONITOR PROJECT TITLE:

The Impact of Section 943.04354, F.S., Florida's "Romeo and Juliet" Law

DATE DUE: N/A

PROJECT NUMBER: 2009-428

ISSUE DESCRIPTION and BACKGROUND:

In 2007, legislation was enacted (ch. 2007-209, L.O.F.) to implement requirements of Title I of the Adam Walsh Protection and Safety Act of 2006 (P.L. 109-248). This legislation also created s. 943.04354, F.S., which has been described as Florida's "Romeo and Juliet" law. Under this statute, a person may seek removal of the requirement to register as a sexual offender or sexual predator if the person:

- Was or will be convicted or adjudicated delinquent of a sexual battery offense (s. 794.011, F.S.) or lewd offense (s. 800.04, F.S.), regardless of whether adjudication of guilt was or will be withheld.
- Does not have any other conviction, adjudication of delinquency, or withhold of adjudication of guilt for such sexual battery offense or such lewd offense.
- Is required to register as a sexual offender or sexual predator solely on the basis of this violation; and
- Is not more than 4 years older than the victim of this violation who was 14 years of age or older but not more than 17 years of age at the time the person committed this violation.

Removal of the registration requirement cannot conflict with federal law. Further, even if a person meets these qualifying criteria, the court has complete discretion as to whether to remove the registration requirement.

OBJECTIVE:

This interim monitor project will determine how many persons have been removed from the sexual offender and sexual predator registry as a result of s. 943.04354, F.S., and if determinable, how many motions or petitions for removal of the registration requirements have been denied by the courts. Senate professional staff will report this information to the members of the Senate Committee on Criminal Justice. To the extent such information is available, the professional staff will report the following information relevant to persons removed from registry requirements: offense committed; age of the perpetrator and age of the victim when the offense was committed; and the court granting removal of the registration requirements.

METHODOLOGY:

Senate professional staff will request that the Florida Department of Law Enforcement provide data and court orders relevant to this monitor and will review and summarize the data and information from the court orders.

INTERIM MONITOR PROJECT TITLE:

Forcible Felons on Community Control: Futch Act Revisions

DATE DUE: N/A

PROJECT NUMBER: 2009-429

ISSUE DESCRIPTION and BACKGROUND:

Community control is a level of supervision that is more intense than regular probation. Compared to regular probation, community control requires more officer to offender contacts and is more restrictive in nature as it requires the offender to remain confined to his/her residence 24 hours a day with the exception of approved activities such as working, seeking medical attention, or participation in a mandated substance program. In addition, community control officers carry caseloads of 25 offenders to 1 officer and are required to make 8 personal contacts with offenders every month. Typically, community control officers are more experienced than regular probation officers.

The "Howard E. Futch Act" became law effective July 1, 2003 (s. 948.10, F.S.). This Act was passed in response to public criticism of the sentencing practices of judges who sentenced violent felony offenders who were statutorily ineligible to community control in lieu of prison. At the time of its passage, the Florida Statutes already provided that an offender could not be placed in community control if he or she had been convicted of or had adjudication withheld for a forcible felony, as defined in s. 776.08, F.S., and had a previous conviction or adjudication withheld for a forcible felony.

The Act amended s. 948.10, F.S., to require, among other provisions, that the Department of Corrections (department) identify ineligible community control sentences and report them to the sentencing court and provide an annual report to the Governor and the Legislature on the community control program. While this law change resulted in some reduction in the placement of ineligible offenders on community control, it has not resolved the unintended result of some violent offenders being sentenced to probation, instead of incarceration, in situations in which community control is not an option. According to the department, this has resulted in the unintentional sentencing of some violent offenders to regular probation instead of incarceration. The department reported that in June 2006, there were approximately 28,000 forcible felons on regular probation.

House Bill 7137 passed this year amending s. 948.10, F.S., which will allow forcible felons to be sentenced to community control.

OBJECTIVE:

This interim monitor project will determine how this recent law change impacts the probation and community control populations. In particular, the professional staff will seek to determine if this greater latitude given to courts will result in enhanced public safety.

METHODOLOGY:

Senate professional staff will request that the Department of Corrections provide profiles and recidivism information on offenders placed on probation and community control. The professional staff will examine the offenders' crimes and supervision sentences to observe if this increase in discretion results in the department's more intensive supervision resources being allocated to more violent offenders.

INTERIM MONITOR PROJECT TITLE:
Correctional Policy Advisory Council

DATE DUE: N/A

PROJECT NUMBER: 2009-430

ISSUE DESCRIPTION and BACKGROUND:

This year legislation was passed to create the Correctional Policy Advisory Council. The council's purpose is to evaluate correctional policies and laws affecting or applicable to corrections, and make findings and recommendations on changes to such policy and laws. The council will serve in an advisory capacity to the Legislature and the Governor. The council's goals include protecting public safety, ensuring the incarceration of repeat offenders, and providing the most cost-effective and efficient use of correctional resources.

A subcommittee within the council will review issues of alternate sanctions for low-level drug offenders; the effectiveness of mental health and substance abuse diversion programs; the effectiveness of prison reentry programs; the feasibility of implementing a progressive sanctions system for probationers; the impact of jail overcrowding on alternative programs and sanctions; supervision strategies; and the delivery of supervision and programs to neighborhoods that have a high proportion of supervised offenders.

This ten person council will meet at least quarterly. On or before January 15 of each year, the council will report its findings and recommendations to the Governor, President of the Senate, and the Speaker of the House of Representatives.

OBJECTIVE:

Through this interim monitor project, the professional staff will observe the activities of the council and be able to present information regarding council initiatives.

METHODOLOGY:

Senate professional staff will attend council meetings, monitor activities, and remain knowledgeable on council initiatives. The professional staff will review council reports.

EDUCATION PRE-K – 12

Interim Projects

INTERIM PROJECT TITLE:

Review the Criminal Background Screening Requirements for Personnel Employed by Voluntary Prekindergarten Providers

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-110

ISSUE DESCRIPTION and BACKGROUND:

Prior to employment and every five years thereafter, instructors employed by Voluntary Prekindergarten (VPK) providers are subject to state and national criminal history records checks conducted by the Florida Department of Law Enforcement and the Federal Bureau of Investigation respectively. These instructors must be screened using the standards in s. 435.04, F.S.

During the 2008 legislative session, there were proposals to revise the background screening requirements for VPK instructors and child care personnel. Proponents of the revision consider it a necessary requirement for protecting children. Those opposed base their opposition on the cost in money and time to administer the background screening requirements and a desire to have identical screening standards for VPK instructors and child care personnel.

OBJECTIVE:

The purpose of the project is to determine if the background screening requirements for child care personnel and instructors employed by VPK providers should be the same or undergo revision. The review will include the following:

- Determine the degree to which personnel are meeting the current background screening requirements;
- Determine the consequences for failing to meet screening requirements; and
- Review any exemptions to the current background screening requirements.

METHODOLOGY:

Senate professional staff activities will include the following:

- Review and analyze the number of VPK personnel screened, as well as the schedule and costs for these screenings;
- Compare the screening procedures and costs of the screening requirements for child care personnel and VPK personnel;
- Review and analyze the standards and procedures for conducting the screening process and enforcing the standards for these personnel; and
- Consult with the Florida Department of Education, the Florida Department of Law Enforcement, the Department of Children and Family Services, school districts and other stakeholders in reviewing the research.

Mandatory Reviews

(None)

Issue Briefs

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:
High School Grading

DATE DUE: N/A

PROJECT NUMBER: 2009-431

BACKGROUND and DESCRIPTION:

The 2008 Legislature enacted legislation to provide additional student outcomes as methods for assignment of grades to high schools beginning with the 2009-2010 school year. These additional outcomes will more closely align to authentic secondary curriculum practices and include high school graduation rates and enrollment and performance of students in advanced coursework, postsecondary aptitude assessments, and end-of-course assessments.

PROJECT OBJECTIVE(S):

The project's purpose is to monitor and review the development of the revised high school grading process.

METHODOLOGY:

Senate professional staff will interview professional staff of the Department of Education and interested stakeholders and monitor development of the revised grading process, including rule development.

INTERIM MONITOR PROJECT TITLE:
Corporate Income Tax Scholarship Program

DATE DUE: N/A

PROJECT NUMBER: 2009-432

ISSUE DESCRIPTION and BACKGROUND:

In CS/CS/CS/HB 653 (ch. 2008-241, L.O.F.), the 2008 Legislature required the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the advisability and net state fiscal impact of increasing the maximum annual amount of credits for the corporate income tax and authorizing the use of credits for insurance premium taxes as an additional source of funding for the

Corporate Income Tax Scholarship (CTC) Program. OPPAGA must provide a report to the Governor and Legislature by December 1, 2008. If warranted, OPPAGA must include in the report recommendations for strategies to encourage scholarship students to participate in the statewide assessment program.

OBJECTIVE:

The purpose of the project is to monitor and review the recommendations in the OPPAGA report.

METHODOLOGY:

Senate professional staff will monitor the status of CTC program, including the results of the evaluation of the academic performance of scholarship students, and review OPPAGA’s report.

INTERIM MONITOR PROJECT TITLE:

School Breakfast Programs

DATE DUE: N/A

PROJECT NUMBER: 2009-433

BACKGROUND and DESCRIPTION:

The 2008 Legislature enacted legislation to encourage school districts to expand student access to school breakfast programs and to provide universal free breakfast programs in all elementary, middle, and high schools in which 80 percent of the student population is eligible for free or reduced-priced meals. District school boards are required to set prices in a manner that defrays costs to students without reliance on additional state or federal funds. The Office of Program Policy Analysis and Government Accountability is tasked to conduct and complete a study by January, 2009, to determine estimated costs to deliver universal free breakfast in all K-12 schools, and to review and evaluate such factors as economies of scale, federal reimbursement rates, student participation, and district best practices.

PROJECT OBJECTIVE(S):

The project’s purpose is to monitor and review the progress and outcomes of the OPPAGA study, as well as district implementation of the new legislation.

METHODOLOGY:

Senate professional staff will monitor the OPPAGA study and district implementation of the new law.

INTERIM MONITOR PROJECT TITLE:

Interscholastic Sports

DATE DUE: N/A

PROJECT NUMBER: 2009-434

ISSUE DESCRIPTION and BACKGROUND:

The Legislature established a 2-year pilot program in three school districts (Bradford, Duval and Nassau) to allow a middle or high school student enrolled in a private school to participate in

intrascholastic and interscholastic sports at a public school, if the student is zoned for the public school, the private school does not provide an intrascholastic or interscholastic program, and the school is not a member of the Florida High School Athletic Association.

OBJECTIVE:

The purpose of the project is to monitor the implementation of the pilot programs.

METHODOLOGY:

Senate professional staff will review the development of guidelines for conducting the pilot programs and monitor the progress made in each participating school district.

EDUCATION PRE-K 12 APPROPRIATIONS

Interim Projects

INTERIM PROJECT TITLE:

Report on the Impact of the General Appropriations Act on Pre-K – 12 Education

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-111

ISSUE DESCRIPTION and BACKGROUND:

This report is a summary of the impact of the General Appropriations Act showing allocations of appropriations to each school district. The report is produced annually by the Senate Education Appropriations Committee professional staff as a resource to members, aides, agency staff, and the general public.

OBJECTIVE:

The purpose of the report is to provide quick reference for Senators and aides on education funding specifics for all delivery areas of the state's educational system, and to provide answers to frequently asked questions about the financing of education in Florida. The project will continue the printing and distribution of the post-session report in book form. The report will also be available through the Senate website.

METHODOLOGY:

Last year's Senate post-session education publication will be reviewed to determine whether all types of information previously included are still useful or should be modified or enhanced. Once this determination is made, professional staff will work with Department of Education staff as allocations of state appropriations to various school districts are made. These allocations will be checked for consistency with the General Appropriations Act as the post-session book is prepared. Adjustments to the information will be made following Governor's vetoes.

Mandatory Reviews

(None)

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Examination of Potential Options for School Completion Incentives for At-Risk Students

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-315

ISSUE DESCRIPTION and BACKGROUND:

In recent years, several Legislative Committees have examined data related to high school graduation rates, the prevalence of at-risk students in higher education, and student referrals to the criminal justice system. During the 2007 Session, the Senate passed SB 1052 which would have created the Florida Prepaid Tuition Scholarship Endowment within the State Board of Administration for the purpose of providing a perpetual source of enhanced funding to provide postsecondary education prepaid tuition scholarships for economically disadvantaged youth. The endowment would have received money, subject to appropriation, from the tax on slot machine revenues. Funds for the endowment would have been an amount determined annually by the Legislature in the General Appropriations Act. Subject to legislative appropriation, the Florida Prepaid College Board would have used the distributions from the endowment to provide prepaid postsecondary tuition scholarships to economically disadvantaged youth. SB 1052, and a similar proposed bill during the 2008 Session, failed to become law.

Discussions of similar concepts and options for school completion incentives for at-risk students were discussed at several Education PreK-12 Appropriations Committee meetings during the 2008 Session. The Office of Economic and Demographic Research compiled a quick analysis of some of the revenue options for such incentives and delivered the analysis to the committee Chairman. These options looked at potential revenue from an endowment made up of funds transferred from the proceeds of the lottery, slot machines, and Indian gaming.

OBJECTIVE:

The purpose of this issue brief is to gather data and information regarding potential options for school completion incentives for at-risk students. This issue brief would identify potential options for definitions for “at-risk students”, provide data on the potential number of students that would qualify under various definitions, examine the cost of providing certain higher education incentives and the options for the format for such incentives (direct scholarships, pre-paid tuition plans, or other variations), analyze further the revenue options that would meet the various enrollment and program plan options, and examine other issues related to at-risk student incentives.

METHODOLOGY:

Professional staff will review the literature and state and national reports related to at-risk students. When potential options are identified, analyses will be completed after consultation in compiling pertinent data with the Department of Education, the Department of Juvenile Justice, and the Office of Economic and Demographic Research.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Implementation of School District Virtual Instruction Programs

DATE DUE: N/A

PROJECT NUMBER: 2009-435

ISSUE DESCRIPTION and BACKGROUND:

HB 7067 (CS/SB 1752) authorizes School District Virtual Instruction Programs. Beginning with the 2008-2009 school year, each school district in the state may offer courses by virtual instruction. The purpose of the program is to make academic instruction available to full-time school district students who use online and distance learning technology. Each school district may implement its program through approved district-operated programs or programs by contracted providers approved by the Department of Education. School districts may participate in multi-district contractual arrangements to provide such programs.

The bill establishes district and provider qualifications, instruction requirements, enrollment capacities, student eligibility and participation requirements, and assessment and accountability standards. The bill also authorizes districts to receive funding under the Florida Education Finance Program (FEFP) for eligible School District Virtual Instruction Programs.

OBJECTIVE:

The interim project will monitor the processes as the school districts develop their virtual education options and as the Florida Department of Education (DOE) implements the bill.

METHODOLOGY:

As information becomes available, professional staff will periodically conduct reviews on district virtual education plans and DOE implementation.

ENVIRONMENTAL PRESERVATION AND CONSERVATION

Interim Projects

INTERIM PROJECT TITLE:

Submerged Land Leasing

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-112

ISSUE DESCRIPTION and BACKGROUND:

Pursuant to s. 253.03(7), F.S., the Governor and Cabinet in their capacity as the Board of Trustees of The Internal Improvement Trust Fund have the responsibility to administer, manage, and dispose of sovereignty lands. As a part of this duty, in association with the Department of Environmental Protection, they execute leases for the use of state-owned lands, including submerged lands.

In addition to the authority granted for the execution of leases the statute also provides that the Board of Trustees may adopt rules to provide for the “assessment and collection of reasonable fees, commensurate with the actual cost to the board, for...leases,...” For the current fiscal year, there are over 2,600 submerged land leases which generate \$10.7 million dollars annually.

OBJECTIVE:

The object of this interim project is to examine the administration and implementation of the state’s sovereignty submerged land leasing program. Specific issues to be addressed include:

- An examination of the historic evolution of the statutes and rules.
- An evaluation of the types of uses permitted by the Board of Trustees.
- A review of the revenue generated from the lease fees and the use of those revenues.
- A review of the administrative and fiscal practices used to track leases and fees.

METHODOLOGY:

Senate professional staff will conduct: statutory and rule research; compile and evaluate Board of Trustees actions concerning the issuance of the leases and types of leases; examine the collection and expenditure data concerning lease fees; interview department and Cabinet personnel; and provide recommendations and options for consideration by the Legislature.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Agency Sunset Review Update of the Water Management Districts

DATE DUE: October 15, 2008

PROJECT NUMBER: 2009-207

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-11.920, F.S., are known as the Florida Government Accountability Act. Under this act, most state agencies are subject to a "sunset" review process to determine whether the agency should be retained, modified or abolished. Pursuant to this law the state's five water management districts were scheduled for review during the 2008 Regular Session. The Committee in accordance with the requirements of the act produced interim report 2008-212 "Agency Sunset Review of the Water Management Districts."

The report and its recommendations were presented to the Committee and legislation was developed. The legislation (CS/CS/SB 1296) would have reenacted those statutory provisions that established the water management districts. Additional provisions of the legislation addressed various water management district issues, including: the levying of ad valorem taxes; legislative review of certain district expenditures; and general governance issues. The bill was not passed. As a result of the failure to pass reenacting legislation during the statutorily scheduled sunset year, the water management districts continue to be subject to annual sunset review.

During the 2009 Regular Session, the Legislature will again be required to review recommendations concerning the water management districts. As a part of that review, the Legislature will determine if the water management districts should be abolished or reenacted.

Professional staff of the Senate Committee on Environmental Preservation and Conservation will serve as the primary sunset review committee for the water management districts. Assistance in this review will also be provided by the professional staff of the Committee on General Government Appropriations.

OBJECTIVE:

The objective of this project will be twofold. The previously published interim report will be updated to reflect current budgetary and performance measure data. Secondly, the report will expand on the relevant issue areas addressed by CS/CS/SB 1296.

METHODOLOGY:

To assist the members of the legislative sunset review committee, Senate Professional Staff will review relevant agency submissions, OPPAGA reports, Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 253.034(6), F.S., Department of Environmental Protection, Sale of Surplus Lands

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-208

ISSUE DESCRIPTION and BACKGROUND:

Subparagraph 1. of s. 253.034(6), F.S., provides that the written valuation of state land determined to be surplus and any related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution until two weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

OBJECTIVE:

A review will be made of s. 253.034(6), F.S., which is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. The purpose of the review is to make recommendations to the Legislature as to whether the section should be repealed, amended, or saved from repeal through reenactment.

METHODOLOGY:

Senate professional staff will review the statutory history of the section, as well as its application, since legislative enactment. The relevance of the statute will be reviewed with respect to governmental agencies and private entities affected by the statute.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

The Florida Institute of Phosphate Research

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-316

ISSUE DESCRIPTION and BACKGROUND:

The Florida Institute of Phosphate Research was created by the Legislature in 1978 to study phosphate issues and to be a resource to provide phosphate information to the phosphate industry and the general public. The institute is governed by a five-member board of directors appointed by the Governor. The institute is administratively housed at the University of South Florida and is funded by a portion of the phosphate severance tax.

OBJECTIVE:

The object of this issue brief is to look at the activities of the institute and its use of state phosphate severance tax funds.

METHODOLOGY:

Senate professional staff will look at the various activities of the institute, and review reports and studies that are provided to the phosphate industry and others. Professional staff will also analyze the level of funding that has been provided to the institute over the years.

INTERIM ISSUE BRIEF TITLE:

Springs Protection: An Overview of Recent Activities

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-317

ISSUE DESCRIPTION and BACKGROUND:

During the past three legislative sessions bills have been filed concerning the protection of Florida's springs. The bills have taken two distinctive tracts. Some sought to implement an actual set of protection guidelines to be used for governing future impacts to the springs. Others sought to create a task force. To date none have been passed.

OBJECTIVE:

The object of this issue brief will be to provide a historical overview of the state's activities regarding springs protection during the past 20 years. The brief will review the various studies and compile data concerning specific funding levels.

METHODOLOGY:

Senate professional staff will analyze the various reports, studies, and appropriations bills.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Beach Management

DATE DUE: N/A

PROJECT NUMBER: 2009-436

ISSUE DESCRIPTION and BACKGROUND:

In order to address the potential downturn in revenues available for beach renourishment projects the Department of Environmental Protection, as part of this year's appropriations act, was directed to form a working group. The group is directed to review the effectiveness of the state's beach management program. The review shall, at a minimum, address the following: 1) the responsiveness and timeliness of the permitting process associated with beach projects; 2) project selection and funding procedures; 3) post-construction project monitoring requirements; and 4) the potential to utilize regional mitigation plans in southeast Florida.

The group is directed to submit a report with recommendations to the President of the Senate, the Speaker of the House, and the Executive Office of the Governor, by January 15, 2009.

OBJECTIVE:

To objective of this project is to monitor the progress and activities of the group.

METHODOLOGY:

Senate professional staff will monitor the activities and attend meetings of the group.

INTERIM MONITOR PROJECT TITLE:

Implementation of Florida Energy Legislative Provisions related to the Regulatory Authority of the Department of Environmental Protection

DATE DUE: N/A

PROJECT NUMBER: 2009-437

ISSUE DESCRIPTION and BACKGROUND:

House Bill 7135, passed during the 2008 Regular Session, was a comprehensive energy package. Among the issues addressed by the legislation are charges to the Department of Environmental Protection. In summary, provisions of the legislation:

- Direct the department to undertake rule-making for the establishment of an air emissions cap and trade program.
- Provide that the state shall develop methods to achieve a 75% recycling goal by 2020. Additionally, as part of the solid waste responsibilities the department is also directed to undertake an analysis of the need for new or different regulations concerning auxiliary containers, wrappings, or disposable plastic bags.

OBJECTIVE:

The objective of this project is to monitor the progress in the implementation of the various components of the energy legislation.

METHODOLOGY:

Senate professional staff will monitor activities, participate in various meetings and continue discussions with the department and the Office of the Governor concerning energy issues.

INTERIM MONITOR PROJECT TITLE:

Comprehensive Everglades Restoration Program

DATE DUE: N/A

PROJECT NUMBER: 2009-438

ISSUE DESCRIPTION and BACKGROUND:

The state is currently partnering with the federal government and the South Florida Water Management District in a multi-billion dollar restoration program for the Everglades, commonly referred to as CERP (Comprehensive Everglades Restoration Program). The project is composed of numerous components including achievement of certain pollutant reduction standards, implementation of construction projects, and land acquisition. Additionally, the U.S. Congress recently passed the 2007

Water Resources Development Act which provided authorization for a series of CERP projects that may lead to additional federal funds.

OBJECTIVE:

The objective of this project is to monitor progress on the various components and federal legislative impacts as they relate to the state's responsibilities under the Everglades Forever Act and CERP.

METHODOLOGY:

Senate professional staff will monitor activities, participate in various meetings, and continue discussions with the Department of Environmental Protection and the South Florida Water Management District.

INTERIM MONITOR PROJECT TITLE:

Florida Forever

DATE DUE: N/A

PROJECT NUMBER: 2009-439

ISSUE DESCRIPTION and BACKGROUND:

CS/CS/SB 542, passed during the 2008 Regular Session, made a number of significant changes to the Florida Forever Act, the state's land acquisition program. Central to these modifications was the addition of two new programs that would now receive an annual funding allocation. Of the program's annual \$300 million appropriation, the Rural and Family Lands program in the Department of Agriculture and Consumer Services will now receive \$10.5 million and a new program, the Stan Mayfield Working Waterfronts program established within the existing Florida Communities Trust program, will now receive \$7.5 million. In order to expend these appropriations both programs will have to undertake rule making to develop annual priority lists.

OBJECTIVE:

The objective of this project is to monitor the progress of rule making and subsequent expenditure decisions concerning the two additional programs.

METHODOLOGY:

Senate professional staff will monitor rule making and other activities concerning the implementation of the programs and other minor changes also made by the legislation to the Florida Forever program.

INTERIM MONITOR PROJECT TITLE:

Implementation of the Merger of Chapters 370 and 372, F.S., Concerning Duties and Responsibilities of the Fish and Wildlife Conservation Commission

DATE DUE: N/A

PROJECT NUMBER: 2009-440

ISSUE DESCRIPTION and BACKGROUND:

House Bill 7091 passed in the 2008 Regular Session consolidates Chapters 370 and 372, Florida Statutes, into one chapter in order to provide for better consistency and clarity for addressing issues related to the Fish and Wildlife Conservation Commission. The legislation, in addition to consolidating statutory language, made changes to ensure that the statutory provisions are consistent with provisions of the State Constitution related to the regulation of wild animal life, freshwater aquatic life, and marine life. The legislation was drafted to ensure that no substantive changes were made and, as a result, many issues remain to be addressed. The Commission plans to undertake an effort during the interim to draft proposed substantive changes.

OBJECTIVE:

The objective of this project is to monitor efforts of the Commission and various interest groups as they develop the necessary follow-up legislation.

METHODOLOGY:

Senate professional staff will monitor activities, participate in various meetings, and continue discussions with the Commission as they develop the necessary follow-up legislation.

ETHICS AND ELECTIONS

Interim Projects

(None)

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 106.0706, F.S., electronic filing of campaign finance reports; confidentiality of information and draft reports.

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-209

ISSUE DESCRIPTION and BACKGROUND:

Section 106.0706, F.S., concerns the electronic filing of campaign finance reports. The statute specifically exempts all user identifications and passwords held by the Department of State for the purpose of electronically filing campaign finance reports required by s. 106.0705, F.S.

OBJECTIVE:

A review will be conducted of s. 106.0706, F.S., which is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. The purpose of the review is to make recommendations to the Legislature as to whether the section should be repealed, amended, or saved from repeal through reenactment.

METHODOLOGY:

Senate professional staff will review the statutory history of the section, as well as its application, since legislative enactment. The relevance of the statute will be reviewed with respect to governmental agencies and private entities affected by the statute.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Agency Sunset Review of the Division of Elections of the Department of State

DATE DUE: October 15, 2008

PROJECT NUMBER: 2009-318

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-11.920, F.S., are known as the Florida Government Accountability Act (act). Under this act, most state agencies are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished. Reviews are accomplished in three steps. First, by July 1, 2008, an agency under review must produce specific information as enumerated in statute. Second, upon receipt of the agency information, the Joint Legislative Sunset Review Committee and the legislative

committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Third, based on the agency submissions, the OPPAGA studies, and public input, the joint committee and the legislative sunset review committees will make recommendations to the Legislature by March 1, 2010, regarding the termination, modification or continuation of the agency and its programs. The legislative sunset review committees will also propose necessary legislation.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. An agency may be abolished if the Legislature, pursuant to law, finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

OBJECTIVE:

The objective is to examine the programs of the Division of Elections within the Department of State to determine their effectiveness and efficiency, and the necessity of continuing the duties and responsibilities assigned to the agency. Based on the recommendations of each sunset review committee, proposed legislation will be drafted to continue, modify, or abolish the agency under review.

METHODOLOGY:

To assist the members of the Legislative Sunset Review Committee, Senate professional staff will review the agency information submissions, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee. Senate professional staff will identify all statutorily assigned duties and responsibilities of the agency under review.

The Senate Ethics and Elections Committee will be the primary sunset review committee for review of the Division of Elections of the Department of State. The Senate Transportation and Economic Development Appropriations Committee will assist in this review.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Review of the 2008 Election Cycle

DATE DUE: N/A

PROJECT NUMBER: 2009-441

ISSUE DESCRIPTION and BACKGROUND:

The unofficially-titled Florida Paper Trail Voting Act of 2007 (Ch. 2007-30, Laws of Florida) prohibited the use of direct recording equipment, better known as “touch screen” voting machines, for all voters in the state, except the disabled (who, out of necessity, may continue to vote on such equipment through 2012). At the Governor’s and Secretary of State’s suggestion, the Act further authorized for early voting the use of a new, experimental method of ballot production called “ballot-on-demand” --- whereby a voter’s ballot will not be pre-printed but rather created by computer when the voter arrives at early voting sites in several counties. As a result of this legislation, election officials in

15 Florida counties, including Miami-Dade, Broward, Palm Beach, and Hillsborough, are being required to deploy an entirely new optical scan voting system in about 16 months: about twice that number of counties may use ballot-on-demand to produce ballots at early voting sites.

Although at least one affected county has conducted a local election with the new voting equipment, the Act remains largely untested. The 2008 elections will serve as the first major proving ground for the new law, and it is likely that Florida will experience, at a minimum, some growing pains.

OBJECTIVE:

The purpose of the project is to monitor and assess the implementation of new voting systems during the upcoming 2008 election cycle, and to identify specific issues that may need to be addressed in the upcoming legislative session.

METHODOLOGY:

Senate professional staff will meet with the Division of Elections, supervisors of elections, and other interested parties to discuss the problems that arise in connection with the implementation of paper voting systems during the 2008 elections. Senate professional staff will review media reports and, where necessary, post-election reports of county canvassing boards, supervisors of elections, and the Division of Elections to identify problem areas and concerns for consideration by the 2009 Legislature.

FINANCE AND TAX

Interim Projects

INTERIM PROJECT TITLE:

Documentary Stamp Tax on Real Property Transfers after Crescent Miami

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-113

ISSUE DESCRIPTION and BACKGROUND:

The ability to avoid documentary stamp tax on the transfer of a controlling interest in real property is expected to cause a steady erosion in tax collections. It appears that significant numbers of real estate transactions are being structured in a manner that allows property to be sold without incurring a documentary stamp tax liability. These transactions are structured to conform to what the Florida Supreme Court opined was not a taxable transfer in a 2005 opinion generally referred to as Crescent Miami. Florida relies on these revenues to fund the payment of debt service on a variety of environmental bond issuances as well as a variety of trust funded programs. The State General Revenue Fund also receives a residual amount after other distributions as set forth in statute.

OBJECTIVE:

Senate professional staff will prepare a report on the impact of Crescent Miami and will work with revenue department staff and other interested parties, as appropriate, to ensure that information needed by the legislature to understand the impact of the Florida Supreme Court opinion is available, as well as options for legislation intended to modify the decision.

METHODOLOGY:

Senate professional staff will meet with department personnel and others and review draft work products.

INTERIM PROJECT TITLE:

Florida Tax Handbook Including Fiscal Impact of Potential Changes

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-114

ISSUE DESCRIPTION and BACKGROUND:

The Florida Tax Handbook Including Fiscal Impact of Potential Changes is published annually by the Senate Finance and Taxation Committee, with assistance from the House Committee on Finance and Tax, the Office of Economic and Demographic Research, and the Office of Research and Analysis of the Department of Revenue. The Handbook reviews Florida state finances, providing statutory and administering authority for all specific revenue sources, and provides a review of tax collections and dispositions. Base and rate information and a brief history are also provided. The Handbook presents current revenue estimates and provides a comprehensive and systematic look at the revenue potential of selected alternative tax sources. In addition, for each major tax, estimates are provided for the value of all major exemptions, refunds, or credits. This information is frequently used by policy makers to

analyze the revenue effects of proposals for tax relief, tax increases, changes in exemptions, or alterations to the mix of the existing tax structure. The Handbook identifies sales and use tax exemptions and provides estimates regarding their annual fiscal impact.

OBJECTIVE:

The main objective of this project is to publish, prior to the 2009 Legislative Session, the 2009 Florida Tax Handbook Including Fiscal Impact of Potential Changes.

This project will also review restructuring the method used to produce and publish the Handbook. Currently, numerous analysts provide written information with coordination by Committee staff. The process may be more efficiently handled by the Office of Economic and Demographic Research. Also, the use of a computer assisted collaboration technique (Wiki-model) should be explored for production as well as greater emphasis on electronic publication of the Handbook.

METHODOLOGY:

Coordinate the publication of the 2009 Florida Tax Handbook Including Fiscal Impact of Potential Changes by assigning tax sources to the professional staff of the Senate Finance and Taxation Committee, House Committee on Finance and Tax, the Office of Economic and Demographic Research, and the Office of Research and Analysis of the Department of Revenue. Redesign the production and publication of the Handbook.

Data for the Handbook is derived from Fall Revenue Estimating Conferences. Specifically, general revenue data comes from the December General Revenue Estimating Conference and, as a result, the Handbook cannot be published until just prior to the Regular Legislative Session.

Mandatory Reviews

(None)

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Review of Tax Law Regarding Aircraft Temporarily in State For Training and Fractional Aircraft Ownership

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-319

ISSUE DESCRIPTION and BACKGROUND:

Determine the law and rules governing the taxation of aircraft temporarily brought into Florida by a non-resident for pilot training purposes and for fractional ownership of aircraft.

OBJECTIVE:

Identify laws and administrative rules applicable to the subject activities.

METHODOLOGY:

Review current statutes and administrative rules.

INTERIM ISSUE BRIEF TITLE:

Application of the State Sales Tax and the Tourist Development Tax to the Sale of Discounted Hotel Rooms Over the Internet

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-320

ISSUE DESCRIPTION and BACKGROUND:

Under current practices, state and local sales tax and local tourist taxes are collected and remitted by the hotels on the discounted rates paid by the Internet intermediaries to the hotels and not on the higher amounts paid by the customers occupying the rooms. As a result, state and local governments are receiving neither sales tax nor tourist development tax and tourist tax revenues on the markup. Interim Project Report 2005-131, published in November, 2004, by the Committee on Government Efficiency Appropriations addressed the issue. Legislation relating to this issue was proposed in the 2008 legislative session, in CS/SB 2788.

OBJECTIVE:

Update the 2005 report, including discussion of the relevant issues.

METHODOLOGY:

Review applicable statutes, research pertinent documents regarding current business models and obtain information and comments from the Department of Revenue, interested counties and private industry representatives.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Implementation of Legislation regarding Property Taxation and Value Adjustment Boards

DATE DUE: N/A

PROJECT NUMBER: 2009-442

ISSUE DESCRIPTION and BACKGROUND:

HB 909 requires the Department of Revenue to develop a uniform policies and procedures manual for use in proceedings before value adjustment boards and to provide and conduct training for special magistrates.

OBJECTIVE:

To monitor the department's progress toward fulfilling these requirements and review the policies and procedures manual and training curriculum.

METHODOLOGY:

Senate professional staff will review drafts of the manual and training curriculum and provide comments as needed.

INTERIM MONITOR PROJECT TITLE:

TBRC Tax Swap Constitutional Amendment

DATE DUE: N/A

PROJECT NUMBER: 2009-443

ISSUE DESCRIPTION and BACKGROUND:

The Taxation and Budget Reform Commission proposed a constitutional amendment (CP 0002) that will, if approved by the voters, replace the required school property taxes with state revenues generating an equivalent hold harmless amount for schools through one or more of the following options: repealing sales tax exemptions not specifically excluded; increasing sales tax rate up to one percentage point; spending reductions; other revenue options created by the legislature. The Revenue Estimating Conference is preparing an estimate of the proposed amendment's fiscal impacts.

OBJECTIVE:

Prepare for the possible approval of the amendment in order to provide useful information to the Legislature in replacing the required school property taxes.

METHODOLOGY:

Participate in the Revenue Estimating Conference's analysis of the expected impacts and examine existing revenue estimates for sales tax exemptions, the estimates for taxing various services, and the estimated impacts of various tax alternatives.

FISCAL POLICY AND CALENDAR

Interim Projects

INTERIM PROJECT TITLE:

Development of the Long-Range Financial Outlook

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-115

ISSUE DESCRIPTION and BACKGROUND:

Amendment No. 1, approved in the November 7, 2006 general election, made a number of changes to the Constitution, including adding a requirement that the Legislative Budget Commission issue an annual long-range financial outlook beginning September 15, 2007. The outlook is based on current consensus estimates for workload and revenues and sets forth fiscal strategies for the state budget. The Legislative Budget Commission must consider input from the public, the executive and the judicial branches in developing and adopting the outlook. The first three year outlook was completed in September, 2007. An update of this outlook is required to be approved by the Legislative Budget Commission by September 15, 2009.

OBJECTIVE:

The objective of this project will be to update the 2007 three year financial outlook. The outlook is useful as a reference point in developing the state budget and will increase overall understanding of pending budget and revenue issues, as well as the out-year implications of various budget decision

METHODOLOGY:

Staff of the appropriations committees of the House and Senate will jointly develop the outlook under the direction of the Legislative Budget Commission.

Mandatory Reviews

(None)

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Florida Financial Management Information System (FFMIS) Act

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-321

ISSUE DESCRIPTION and BACKGROUND:

The FFMIS Act became law in 1980 and is comprised of s. 215.90-215.96, F.S. It establishes a framework for a unified information system to provide fiscal, management, and accounting information that supports state planning, policy development, management, evaluation, and performance monitoring,

and ensures accountability for public funds, resources, and activities. The FFMIS Act designates the Governor and Cabinet sitting as the Florida Financial Management Information Board, and establishes the staff-level FFMIS Coordinating Council to provide counsel to the Board and resolve problems among or between the functional owner subsystems. In its existence, the FFMIS Act has failed to deliver the planning and management capability necessary to enable Florida to standardize administrative and financial business processes and implement and operate new systems that meet state business needs.

In August 1999, the Office of Program Policy Analysis and Government Accountability (OPPAGA) found that “existing FFMIS statewide sub-systems are ‘separate, stand-alone systems operating on different data centers with problems including lack of standards, lack of integration, duplication of data and effort, insufficient management-level information, insufficient reporting capabilities, lack of a single chart of accounts, complex external interfaces, and high maintenance costs.’ Most importantly ... (the systems)... do not provide the type of information needed to analyze administrative and support resource use in state agencies.”

Despite having invested more than **\$500 million** in several large projects in the past several years, the state has made little progress in addressing strategic problems related to these issues.

OBJECTIVE:

Understand problems with current FFMIS legislation and other relevant sections of statute to develop recommended statutory and administrative changes needed to address the problems that have inhibited Florida’s ability to plan, manage, and implement its central administrative and financial systems.

METHODOLOGY:

Research and document problems

- Conduct a comprehensive statutory review of existing policy and technology and business process management structures for the state’s enterprise personnel, procurement, accounting, cash management, and revenue collection information systems to identify any conflicts or inconsistencies.
- Compile and analyze relevant findings and concerns identified in recent reviews of Florida’s central administrative and financial systems.
- Review statutory and administrative structures and processes of other states that have been able to successfully establish business and technology management structures and processes for their centralized administrative and financial systems.

Identify potential policy recommendations

Draft proposed legislation to address identified structural or policy problems in current statute that are necessary to enable improved management capabilities for planning, implementing and operating the state’s central administrative and financial systems.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Implementation Of Legislation Affecting Data Center Consolidation

DATE DUE: N/A

PROJECT NUMBER: 2009-444

ISSUE DESCRIPTION and BACKGROUND:

In December, 2007 the Florida Senate hired Gartner, Inc. to conduct a data center consolidation cost analysis and feasibility study for the purpose of developing a current-state baseline assessment of the state's data center operations and analyze alternatives for effective consolidation. In order to perform this analysis, Gartner collected workload and cost data on approximately sixty seven agency data center facilities. Data for forty-three of the largest computer facilities were included in Gartner's final study. A comparison of workload in forty-three of Florida's computing facilities against a consolidated peer group of comparable workload indicated annual savings of \$17 million could be achieved from consolidation. Gartner reported a total cost for those data centers of \$112 million.

Gartner categorized the twenty largest facilities by quality to determine what facilities were available as recipients for consolidation of other facilities. Three were determined suitable: The Shared Resource Center at the Department of Management Services, the Northwood Data Center at the Department of Children and Families and the Northwest Florida Regional Data Center, an ancillary facility of Florida State University. In its interim report, Gartner found that the sixty seven data centers surveyed covered approximately 226,100 square feet of raised and non-raised floor space and over 56,525 square feet of that space represented unoccupied and conditioned raised floor space. Further, the three largest facilities, the Shared Resource Center, Northwood Data Center and Northwest Florida Regional Data Center, contained approximately 33,000 square feet of the unused conditioned and raised floor space. In the final study containing data for the largest forty-three computing facilities, Gartner identified 134,778 sq. ft. of raised floor space (96% conditioned) established for 15 state agencies with the largest twenty facilities as less than 60% occupied. The study also concluded that almost a quarter of the current total unused power capacity of 3.2 megawatts is at the Northwood Data Center.

Findings from the Gartner report provided the foundation for policies included in Senate Bill 1892. Senate Bill 1892 also further refined the role of the Agency for Enterprise Information Technology (AEIT) which was created by the 2007 Legislature based on recommendations included in Senate Interim Project 2007-140. The major provisions of Senate Bill 1892 are as follows:

- Establishes a process for consolidation of data centers over a 10 year period based upon AEIT recommendations.
- Provides limitations on creating expanded capacity of state agency computing facilities or data centers, unless otherwise authorized by the Legislature or the AEIT.
- Adds a number of new responsibilities to the AEIT in association with the State Data Center System; provides the AEIT with rulemaking authority; assigns AEIT a coordinating role in the purchase of software used by multiple agencies; provides for appointment of the Executive Director of the AEIT by the Governor with confirmation by the Cabinet and the Senate; and changes Governor and Cabinet voting to be in accordance with section 14.2001, F.S.

- Creates two primary data centers and provides for each primary data center to be headed by a board of trustees.
 - Southwood Shared Resource Center (housed in DMS for admin purposes) July 1, 2008
 - Northwood Shared Resource Center (housed in DCF for admin purposes) July 1, 2009
 - Northwood Shared Resource Center Transition Workgroup within DCF to develop a conversion plan during FY 2008-09
- Transfers data center functions (management and support resources) provided in state agencies to the primary data center where data center equipment is located by July 1, 2010.

Consolidates mainframes in the Department of Management Services (DMS), Department of Transportation (DOT) and the Department of Highway Safety and Motor Vehicles (HSMV) by July 1, 2009 into the Southwood Shared Resource Center.

OBJECTIVE:

The objective of this project will be to monitor the implementation of the bill's provisions to determine if overall goals are being achieved and gather information for recommendations for further legislative changes. Immediate actions which require monitoring are the ramping up of the AEIT, the creation of the new Southwood Shared Resource Center, the development of mainframe consolidation plans for the Southwood Resource Center, and the Northwood Shared Resource Center transition workgroup activities.

METHODOLOGY:

Senate professional staff will monitor meetings of the Agency for Enterprise Information Technology, the Northwood Shared Resources Center workgroup and the Southwood Shared Resource Center and any other meetings related to the bill's provisions

GENERAL GOVERNMENT APPROPRIATIONS

Interim Projects

(None)

Mandatory Reviews

(None)

Issue Briefs

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Department of Business and Professional Regulation Regulatory Compliance and Enforcement Investigations

DATE DUE: N/A

PROJECT NUMBER: 2009-445

ISSUE DESCRIPTION and BACKGROUND:

The Department of Business and Professional Regulation (DBPR) is responsible for the regulation and enforcement of statutes and rules for approximately 400,000 individuals who hold professional licenses throughout the state. Enforcement activities are carried out through investigations, inspections, sweeps, and sting operations conducted by the agency in order to protect the public and to maintain the integrity of the regulated professions. The department also works to resolve consumer complaints through its alternative dispute resolution programs and through consumer awareness and public education outreach efforts to protect the public from those who practice without a license.

The number of investigators responsible for these activities has not increased since Fiscal Year 2003-2004, while the average number of complaints filed with the department has tripled during the same period. The total number of open investigations in Fiscal Year 2006-2007 was 3,638 and is expected to increase to 4,011 in Fiscal Year 2008-2009. The increase in the number of complaints, without adjustments in staffing, has negatively impacted the quality of the complaint and investigation process by increasing the processing time of an open complaint from four months to almost one year. The length of the complaint and investigation process is a major concern that the 18 boards and councils regulated by the department have identified with the services provided by the department. Recent agency complaint data reveals that the opportunity for just resolution of complaints is significantly enhanced when it can be investigated soon after the event has occurred, while older cases are much more difficult to resolve.

The Fiscal Year 2008-2009 General Appropriations Act (GAA) provides five additional investigator positions to reduce the average complaint caseload per investigator and, in turn, reduce complaint processing times. In addition, the GAA requires that quarterly reports be submitted to the Legislature on the status of complaints received as outlined in the disciplinary proceedings provisions for boards pursuant to s. 455.225, F.S.

OBJECTIVE:

The objective of this project is to monitor department regulatory compliance and enforcement investigations to ensure that complaints of licensed and unlicensed professionals and businesses are dealt with efficiently and in a more timely manner.

METHODOLOGY:

Senate Professional Staff of the General Government Appropriations and the Regulated Industries Committees will collect and analyze quarterly report data provided by the agency to determine if complaints are being sufficiently resolved to protect the public and to maintain the integrity of the regulated professions.

INTERIM MONITOR PROJECT TITLE:

MyFloridaMarketPlace and PeopleFirst Studies

DATE DUE: N/A

PROJECT NUMBER: 2009-446

ISSUE DESCRIPTION and BACKGROUND:

In October 2002, the Department of Management Services (DMS) contracted with Accenture, LLP, to build, implement, and maintain a new statewide web-based electronic procurement system to enable the state to buy and sell goods and services electronically. This system is known as MyFloridaMarketPlace (MFMP). The current estimated contract value is \$114 million and will expire in the year 2010.

Also in 2002, DMS contracted with Convergys Customer Management Group, Inc., to provide an automated web-based system for the state's human resource functions. The initiative, known as PeopleFirst, was intended to automate and streamline timesheet submission, new employee processing, leave use and accrual management, payroll preparation, benefits administration, and employee records maintenance. The current estimated contract value is \$350 million and will expire in the year 2011.

In order to prepare for the expiration of these contracts and determine what alternatives are available to the state, the Fiscal Year 2008-2009 General Appropriations Act includes proviso language requiring the DMS to transfer to the Office of Program Policy Analysis and Government Accountability (OPPAGA) up to \$250,000 for a study of MyFloridaMarketPlace and up to \$250,000 for a study of PeopleFirst. Both studies will be conducted independently and will include an examination of each system's cost effectiveness, efficiency, staffing needs, maintenance requirements, functionality, security, and ability to meet the state's business needs for their respective areas. Each study will also include alternative solutions for service delivery with a timeline for implementation. The OPPAGA may contract with a private entity to conduct or assist with the study of each system. The OPPAGA's findings and recommendations shall be provided to the Executive Office of the Governor, the chair of

the Senate Fiscal Policy and Calendar Committee, and the chair of the House Policy and Budget Council no later than February 1, 2009.

OBJECTIVE:

The objective of this project is to monitor the findings and recommendations of the OPPAGA to determine what alternatives may be available to the state prior to the expiration of each system's contract.

METHODOLOGY:

Senate Professional Staff of the General Government Appropriations Committee will work with the OPPAGA staff to review and analyze data related to the study of the MyFloridaMarketPlace and PeopleFirst systems.

INTERIM MONITOR PROJECT TITLE:

Hotel and Restaurant Inspections

DATE DUE: N/A

PROJECT NUMBER: 2009-447

ISSUE DESCRIPTION and BACKGROUND:

The Division of Hotels and Restaurants in the Department of Business and Professional Regulation regulates Florida's food and lodging industries to protect the public from unsafe and unsanitary facilities. Regulating food service establishments helps protect against food borne illnesses that can be lethal to children, the elderly, and those with compromised immune systems. Regulating public lodging establishments helps to protect tourists and residents from fire and other safety hazards. Section 509.032(2), F.S., requires that public food and lodging establishments be inspected at least twice a year.

In November 2005, the Office of Program Policy Analysis and Government Accountability (OPPAGA) issued Report No. 05-51 indicating that, while the Division of Hotels and Restaurants has improved its operations in recent years, it has not inspected food establishments, public lodgings, and apartments as often as required by law. The report cited staffing cuts, changes in inspection field procedures and problems implementing hand held computers as the primary reasons for the division's inability to meet inspection goals.

The OPPAGA report made the following recommendations to increase the number of division inspections:

- Provide additional inspectors.
- Streamline the current sanctioning process.
- Increase consumer access to the division's website.
- Ensure the success of the division's hand held computers used in the inspection process (PDAs).
- Adopt performance measures in the inspection process which are more closely aligned to the division's core mission.

Since Fiscal Year 2006-2007, the state has provided 32 additional positions to increase the number of inspections and required quarterly reporting to the Legislature by the division on the status of inspections. Recent division status reports reveal that, while the number of hotel and restaurant

inspections has increased, the division still has not been able to meet its statutorily required schedule due to industry growth and staffing shortages.

The Fiscal Year 2008-2009 General Appropriations Acts provided six additional inspectors and support staff positions to meet the inspection requirements. In addition, the agency was directed in HB 5047 that passed during the 2008 Legislative Session, to provide annual reports to the Legislature on the status of these inspections.

OBJECTIVE:

The objective of this project is to monitor hotel and restaurant inspections in the Department of Business and Professional Regulation to ensure that the statutorily required number of inspections is conducted.

METHODOLOGY:

Senate Professional Staff of the General Government Appropriations and the Regulated Industries Committees will continue to collect and analyze report data provided by the agency to determine if the number of required inspections is being met. In addition, Senate Professional Staff will monitor the number of filled and vacant positions for the division throughout the fiscal year.

INTERIM MONITOR PROJECT TITLE:

Fish and Wildlife Conservation Commission Cost Savings and Efficiency Reviews

DATE DUE: N/A

PROJECT NUMBER: 2009-448

ISSUE DESCRIPTION and BACKGROUND:

The Florida Government Accountability Act required a review of the Fish and Wildlife Conservation Commission (commission) by July 1, 2008, to determine if it should be retained, modified, or abolished. CS/CS/SB 1286 passed by the 2008 Legislature retained the commission, abolished several committees that were no longer active, increased the vessel registration fees, and directed further review for potential cost savings in several areas.

Based on the information provided by the commission related to the sunset review, further review was directed in several areas to determine if cost-saving benefits or efficiency gains could be achieved by combining or outsourcing certain activities. These activities include land management, aircraft operations and maintenance, and public relations, outreach, and educational programs. In addition, a cost-benefit analysis of the activities currently conducted by the Fish and Wildlife Research Institute was directed to determine if cost-saving benefits or efficiencies could be achieved through outsourcing.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to conduct a review of the public relations and outreach staffing levels to determine if they are appropriate to an agency of similar composition and size. OPPAGA is also directed to review educational programs in the Divisions of Freshwater Fisheries and Marine Fisheries Management. This review should determine if any duplication of efforts exist among the divisions and other state agencies or if efficiencies may be gained by restructuring or combining programs. OPPAGA's findings and recommendations are due to the Legislature by January 1, 2009.

CS/CS/SB 1286 also directed the commission to complete several reviews during the interim. These include the following: 1) a five-year “Air Station” conceptional plan, designed to improve aircraft operations and maintenance, and to determine if additional efficiencies could be gained; 2) a cost-benefit analysis of the Fish and Wildlife Research Institute activities to determine if cost saving benefits or efficiencies could be achieved by outsourcing select activities; and 3) a review of land management activities to determine if cost saving benefits or efficiencies could be achieved by outsourcing select land management activities. The commission’s findings and recommendations are due to the Legislature by January 1, 2009.

OBJECTIVE:

The objective of this project is to monitor the reviews required by CS/CS/SB 1286 to determine if future cost-savings and efficiencies could be realized to the state.

METHODOLOGY:

Senate Professional Staff of the General Government Appropriations and the Environmental Preservation Committees will work with staff of the Office of Program Policy Analysis and Government Accountability and the commission to review and analyze data related to the reviews and to monitor the progress of the reviews.

INTERIM MONITOR PROJECT TITLE:

State Accounting System

DATE DUE: N/A

PROJECT NUMBER: 2009-449

ISSUE DESCRIPTION and BACKGROUND:

The Department of Financial Services (DFS) is responsible for supporting and maintaining the state’s financial and cash management systems, commonly referred to as the Florida Accounting Information Resource (FLAIR) Subsystem and the Cash Management Subsystem (CMS). These systems were designed in the 1970’s and implemented in phases from the late 1970’s to the early 1980’s. The department has maintained and incrementally upgraded the systems since then. There is a substantial need to replace these aged systems in order to update and standardize accounting and cash management functions statewide.

House Bill 5043 passed by the 2008 Legislature established a task force to be chaired by the Chief Financial Officer to develop a strategic plan for a successor state financial and cash management system. Other members of the task force include the executive director of the Agency for Enterprise Information Technology and the director of the Office of Policy and Budget in the Executive Office of the Governor.

The bill requires the task force to review and address specific issues in the strategic plan, including but not limited to known problems, business process requirements, and governance. Further, state agency administrative services directors, finance and accounting officers, and budget directors are directed to participate in the development of the strategic plan in order to ensure that the business needs of the state are met.

The bill requires the task force to submit a report and draft legislation by February 1, 2009, for the implementation of a standardized statewide financial and cash management system.

OBJECTIVE:

The objective of this project is to monitor the progress of the task force in the development of the strategic plan for a successor financial and cash management system as required by House Bill 5043.

METHODOLOGY:

Senate Professional Staff of the General Government Appropriations will work with the House of Representatives Jobs and Entrepreneurship Council staff and the Department of Financial Services staff to review and analyze data related to the development of the strategic plan and to monitor the progress of the task force.

INTERIM MONITOR PROJECT TITLE:

Department of Management Services' Executive Aircraft Pool

DATE DUE: N/A

PROJECT NUMBER: 2009-450

ISSUE DESCRIPTION and BACKGROUND:

The Fiscal Year 2008-2009 General Appropriations Act includes proviso language that directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study of passenger flight services of the state executive aircraft pool in the Department of Management Services (DMS). The study includes a comparative cost analysis of providing similar or identical services through alternative methods for priority two and three flyers. Priority two flyers include the Justices of the Supreme Court, appointed secretaries and executive directors of the executive branch, chairpersons of standing committees of the Legislature, and the chairpersons of the Public Service Commission. Priority three flyers include all other authorized persons. The priority one flyers which include the Governor, the Lt. Governor, a Cabinet Officer, the Senate President, the Speaker of the House, and the Chief Justice of the Supreme Court are not included in the study requirement.

The study is to be submitted to the Executive Office of the Governor, the chair of the Senate Fiscal Policy and Calendar Committee, and the chair of the House Policy and Budget Council no later than October 1, 2008. The DMS is required to implement any operational efficiencies recommended by the OPPAGA no later than December 31, 2008. If the findings and recommendations of the OPPAGA are that air travel can be furnished in a more cost effective manner through the private sector, the DMS is required to pursue outsourcing the executive aircraft pool in accordance with chapter 287, Florida Statutes, within 90 days of receipt of the final report.

In addition to the OPPAGA study requirement, the 2008 Legislature changed the methodology for funding the executive aircraft pool to reflect full cost recovery for operations. Historically, the indirect costs to operate the executive aircraft pool were appropriated in the Administered Funds Program in lump sum, allocated to the state agencies based upon prior year usage, and then transferred to the DMS for operation of the executive aircraft pool. The direct costs were billed based on actual usage throughout the year. This methodology provided a sufficient cash flow for the operations of the program and allowed the DMS to reduce the billable costs for the user agencies. Beginning July 1, 2008, the

funds provided in the Administered Funds Program will be proportionally distributed to the state agencies, based upon their prior year usage of the executive aircraft pool, instead of to the DMS. Since the indirect subsidy will no longer be directly transferred to the DMS, the cost to fully recover the executive aircraft pool operations will significantly increase the rate charged to agencies for the service. The increased rates could reduce demand for services, which in turn could lead to a financial shortfall for the program.

OBJECTIVE:

The objective of this project is to monitor the findings and recommendations of the OPPAGA to determine if a more cost efficient form of executive air travel is available to the state and to monitor the cash flow of the program based on a full cost recovery approach.

METHODOLOGY:

Senate Professional Staff of the General Government Appropriations Committee will work with the OPPAGA staff to review and analyze data related to the executive air pool and will monitor the progress of the DMS in implementing the OPPAGA recommendations.

INTERIM ISSUE BRIEF TITLE:

Agency Sunset Review of the Department of Management Services

DATE DUE: N/A

PROJECT NUMBER: 2009-451

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-920, F.S, are known as the Florida Government Accountability Act. Under this act, the Department of Management Services (DMS or department), along with a number of other departments, is subject to a “sunset” review process to determine whether the department should be retained, modified, or abolished. Reviews are accomplished in three stages:

- By July 1, 2008, the department must produce specific information as enumerated in s. 11.906, F.S.
- Upon receipt of the information, the Joint Legislative Sunset Committee and the legislative committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA).
- Based upon the agency submissions, the OPPAGA studies, and public input, the joint committee and the legislative sunset review committees will make recommendations to the Legislature by March 1, 2010, regarding the termination, modification, or continuation of the department and its programs. The legislative sunset review committees will also propose necessary legislation.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. The department may be abolished if the Legislature, pursuant to law, finds that all state laws it had responsibility to implement or enforce have been repealed, revised, or reassigned to another agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

The review process for the DMS will begin in July 2008, when the department submits the statutorily mandated sunset report. The Senate Governmental Operations Committee will be the primary sunset review committee. The Senate General Government Appropriations Committee will assist the review.

OBJECTIVE:

The department must have its programs examined to determine the effectiveness and efficiency of the department's work and the necessity to continue its assigned duties and responsibilities by July 2008. The issue brief will describe the DMS programs and make recommendations for further study needed for the completion of the sunset review.

METHODOLOGY:

Senate Professional Staff will review the information submitted by the department, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, and any other relevant information. Senate Professional Staff will identify all statutorily assigned duties and responsibilities of the department, and will make recommendations regarding further study needed for completion of the sunset review.

GOVERNMENTAL OPERATIONS

Interim Projects

(None)

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 119.071(4)(a)2., F.S., a Public Record Exemption for Social Security Numbers

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-210

ISSUE DESCRIPTION and BACKGROUND:

Section 119.15, F.S., the Open Government Sunset Review Act, requires the review of exemptions to public records or meetings requirements in the fifth year after their enactment. Every year, the Division of Statutory Revision identifies those exemptions that are subject to review and repeal and notifies the President of the Senate and the Speaker of the House of Representatives of those identified exemptions. The division identified s. 119.071(4)(a)2., F.S., as an exemption subject to review during this interim. The exemption, which will repeal October 2, 2009, unless reenacted, provides that an agency that is the custodian of a social security number of a current or former agency employee in agency employment records, but is not the employing agency, must maintain the exempt status only if the employee submits a written request for confidentiality. Upon request by a commercial entity as provided in s. 119.071(5)(a)7.b., F.S., the custodial agency must release the last four digits of the exempt number, except that a social security number provided in a lien filed with the Department of State must be released in its entirety.

OBJECTIVE:

To determine whether s. 119.071(4)(a)2., F.S., should be reenacted, reenacted with amendments or be repealed.

METHODOLOGY:

The standards for reviewing an exemption pursuant to s. 119.15, F.S., the Open Government Sunset Review Act, will be followed in making a recommendation to reenact s. 119.071(4)(a)2., F.S., to recommend reenactment with amendments, or to recommend that the exemption be repealed.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 257.38, F.S., a Public Record Exemption for Donated Manuscripts and Archival Material

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-211

ISSUE DESCRIPTION and BACKGROUND:

Section 119.15, F.S., the Open Government Sunset Review Act, requires the review of exemptions to public records or meetings requirements in the fifth year after their enactment. Every year, the Division of Statutory Revision identifies those exemptions that are subject to review and repeal and notifies the President of the Senate and the Speaker of the House of Representatives of those identified exemptions. The division identified s. 257.38, F.S., as an exemption subject to review during this interim. The exemption, which will repeal October 2, 2009, unless reenacted, provides that a manuscript or other archival material that is donated to and held by an official archive of a municipality or county contingent upon special terms and conditions that limit the right to inspect or copy such manuscript or other material, but which manuscript or archival material is not otherwise made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency, is confidential and exempt, except as otherwise provided in the special terms and conditions. However, such manuscript or other archival material must be made available for inspection and copying 50 years after the date of the creation of the manuscript or other material, at an earlier date specified in the special terms or conditions, or upon a showing of good cause before a court of competent jurisdiction.

OBJECTIVE:

To determine whether s. 257.38(1) and (2), F.S., should be reenacted, reenacted with amendments or be repealed.

METHODOLOGY:

The standards for reviewing an exemption pursuant to s. 119.15, F.S., the Open Government Sunset Review Act, will be followed in making a recommendation to reenact s. 257.38, F.S., to recommend reenactment with amendments, or to recommend that the exemption be repealed.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Agency Sunset Review of the Divisions of Historical Resources, Library and Information Services, Cultural Affairs, and Administration of the Department of State

DATE DUE: October 15, 2008

PROJECT NUMBER: 2009-322

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901- 11.920, F.S., are known as the Florida Government Accountability Act (act). Under this act, most state agencies are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished. Reviews are accomplished in three steps. First, an agency under review must produce specific information as enumerated in statute. Second, upon receipt

of the agency information, the Joint Legislative Sunset Review Committee and the legislative committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Third, based on the agency submissions, the OPPAGA studies, and public input, the joint committee and the legislative sunset review committees will make recommendations to the Legislature by March 1, 2010, regarding the termination, modification, or continuation of the agency and its programs. The legislative sunset review committees will also propose necessary legislation.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. An agency may be abolished if the Legislature, pursuant to law, finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

The review process for the Departments of Children and Families, Community Affairs, Management Services, and State will begin in July, 2008, when the Departments submit their respective statutorily mandated agency reports. The Senate Governmental Operations Committee will be the primary sunset review committee for review of the Divisions of Historical Resources, Library and Information Services, Cultural Affairs and Administration. The Senate General Government Appropriations Committee Commerce Committee will assist in this review.

OBJECTIVE:

The objective is to examine the Divisions of Historical Resources, Library and Information Services, Cultural Affairs and Administration of the Department of State to determine their effectiveness and efficiency, and the necessity of continuing the duties and responsibilities assigned to those divisions. The Issue Brief will provide background on the divisions and identify areas for further study for completion of the sunset review.

METHODOLOGY:

Senate professional staff will review the agency information submissions, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee. The professional staff will identify all statutorily assigned duties and responsibilities of the agency under review, and will make recommendations regarding further study needed for completion of the sunset review.

INTERIM ISSUE BRIEF TITLE:

Agency Sunset Review of the Department of Management Services

DATE DUE: October 15, 2008

PROJECT NUMBER: 2009-323

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901- 11.920, F.S., are known as the Florida Government Accountability Act (act). Under this act, most state agencies are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished. Reviews are accomplished in three steps. First, an agency under review must produce specific information as enumerated in statute. Second, upon receipt

of the agency information, the Joint Legislative Sunset Review Committee and the legislative committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Third, based on the agency submissions, the OPPAGA studies, and public input, the joint committee and the legislative sunset review committees will make recommendations to the Legislature by March 1, 2010, regarding the termination, modification, or continuation of the agency and its programs. The legislative sunset review committees will also propose necessary legislation.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. An agency may be abolished if the Legislature, pursuant to law, finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

The review process for the Departments of Children and Families, Community Affairs, Management Services, and State will begin in July, 2008, when the Departments submit their respective statutorily mandated agency reports. The Senate Governmental Operations Committee will be the primary sunset review committee for review of the Department of Management Services. The Senate General Government Appropriations Committee will assist in this review.

OBJECTIVE:

The objective is to examine the Department of Management Services to determine its effectiveness and efficiency, and the necessity of continuing the duties and responsibilities assigned to the agency. The Issue Brief will provide background on the agency and identify areas for further study for completion of the sunset review.

METHODOLOGY:

Senate professional staff will review the agency information submissions, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee. The professional staff will identify all statutorily assigned duties and responsibilities of the agency under review, and will make recommendations regarding further study needed for completion of the sunset review.

INTERIM ISSUE BRIEF TITLE:

Setting the 2009-2010 Employer Contribution Rates for the Florida Retirement System

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-324

ISSUE DESCRIPTION and BACKGROUND:

It has been the recent custom for the Legislature to set the employer payroll contribution rates for the Florida Retirement System in separate legislation accompanying the General Appropriations Act. The rates recommended by the state's consulting actuary are persuasive for the Legislature but they are not binding upon the body. The Legislature has total discretion in the setting of the rates provided it is in compliance with the full funding provisions of the State Constitution. By law, the annual plan valuation

is subject to a second opinion actuarial analysis commissioned by the Office of Program Policy Analysis and Government Accountability.

OBJECTIVE:

The brief will provide the implementing draft for the 2009-2010 employer contributions rates, consistent with recent past practice.

METHODOLOGY:

The practice has been to wait until the consulting actuary certifies the contribution rates in the annual plan valuation completed at the end of the 2008 calendar year. This year will begin a new five-year actuarial cycle in which the plan rates will be affected by the completion of an experience, or mortality and morbidity study, by the consulting actuary.

INTERIM ISSUE BRIEF TITLE:

General Public Records Exemption for Trade Secrets

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-325

ISSUE DESCRIPTION and BACKGROUND:

Chapter 119, F.S., the Public Records Act, provides general exemptions for certain types of records held by agencies. The act does not contain a general exemption for trade secrets held by agencies. There are numerous agency-specific exemptions for trade secrets in other parts of the Florida Statutes.

While there is no specific statutory exemption protecting all trade secret information in ch. 119, F.S, in the case *Sepero Corporation v. Department of Environmental Protection*, 839 So. 2d 781 (Fla. 1st DCA 2003), the First District Court of Appeal found that s. 815.045, F.S., was a trade secret exemption that could apply to agencies generally. The section relied upon by the court as a general exemption for trade secrets, however, was the public necessity statement in a bill creating an exemption that was codified as s. 815.04(3), F.S. That section exempts data, programs or supporting documentation which is a trade secret as defined in s. 812.081, F.S., which exists internal or external to a computer, computer system, or computer network. Article I, s. 24 of the State Constitution requires each bill that creates an exemption to contain a statement of public necessity that establishes the reasons why the exemption is necessary. Typically, these statements are not placed in statute and are not interpreted to be exemptions. Given the importance of protecting trade secret information, it may be appropriate to strengthen the provision which has been interpreted to be an exemption for trade secrets.

OBJECTIVE:

To determine if a recommendation should be made to create a general public records exemption for trade secrets that would apply to all agencies.

METHODOLOGY:

Applicable case law will be reviewed to determine if there are any other judicial opinions that support or contradict the *Sepero* case. Agencies will be surveyed to determine whether they would recommend enactment of an exemption for trade secret information, as well as to determine what processes they use when receiving trade secrets and public records requests for such information. Additionally, other agency-specific exemptions for trade secret exemptions will be reviewed.

INTERIM ISSUE BRIEF TITLE:
National Guard Pensions

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-326

ISSUE DESCRIPTION and BACKGROUND:

The Division of Retirement in the Department of Management Services directly administers or has indirect authority over several hundred public pension plans in the state. A part of this responsibility extends to the payment of pension benefits for members of the Florida National Guard who meet the service requirements for retirement benefits under ch. 250, F.S. The benefits themselves correlate with federal law which makes it difficult for the division to provide a full analysis of their cost impact based upon the state budget cycle.

On March 12, 2008, the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) identified Florida National Guard pension funding as a concern. OPPAGA presented its analysis along with three possible changes that could make estimating the state's financial obligation more certain. All of the options required a change in the general law.

OBJECTIVE:

The project seeks to provide a more rigorous method of determining the funding basis for National Guard pensions so the funding obligations can be more clearly recognized and accurately funded.

METHODOLOGY:

The project will seek the commissioning of a special study by the division's consulting actuary for a determination of the best method of aligning the future funding of these pensions with the full-funding requirements of the State Constitution.

INTERIM ISSUE BRIEF TITLE:
Local Government Pension Plans

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-327

ISSUE DESCRIPTION and BACKGROUND:

A 2007 interim project report of the Government Operations Committee documented the funding status of the more than 500 local government pension plans with active employees. Many of these plans, some of which received shared revenues from a tax on insurance premiums, are beginning to show consistently declining funding levels. The state oversight body for such plans, the Division of Retirement in the Department of Management Services, has also reported that about three such plans a month are closing to newly hired employees as those plans join the larger multi-employer Florida Retirement System. The Florida Constitution requires all public sector pension plans to be pre-funded on a sound actuarial basis. Benefit increases cannot be passed through to future generations without a financial recognition of their cost by the current generation.

OBJECTIVE:

The issue brief will update members on the state of local government pension finances in light of turbulent market conditions that began in late 2008 and the previous interim report given the committee in 2008.

METHODOLOGY:

The issue brief will update the analysis of the data set transmitted by the division to OPPAGA and the end of the local plan reporting year in October 2008. The issue brief will discuss any trends and conditions which are presented that could document either an improvement in or further deterioration of local government pension finances. As salary and benefits consume at least three-quarters of a public agency's budget, this subject has near- and long-term ramifications.

INTERIM ISSUE BRIEF TITLE:

Agency Use of Alternate Contract Sources

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-329

ISSUE DESCRIPTION and BACKGROUND:

Section 287.042(16)(a), F.S., gives the Department of Management Services (DMS) the authority to evaluate contracts let by the federal government, other states, and political subdivisions, and, when it is cost-effective and in the best interest of the state, enter into agreements to allow agencies to use such contracts. The Department approves two types of such alternate contract sources: those that are identified by DMS and approved for use by all agencies, and those that are identified by a requesting agency and approved by DMS for use by that requesting agency, for either a single transaction or multiple transactions.

OBJECTIVE:

The objective of this project is to examine the approval of alternate contract sources by DMS and their use by agencies, to determine whether use of alternate contract sources is increasing, and whether use of such contracts is a cost-effective method of procuring commodities and contractual services.

METHODOLOGY:

Committee professional staff will work with DMS to ascertain how many alternate contact sources are currently approved, and investigate how DMS determines that the use of alternate contract sources is cost-effective and in the best interest of the State.

Monitor Projects

(None)

HEALTH AND HUMAN SERVICES APPROPRIATIONS

Interim Projects

(None)

Mandatory Reviews

(None)

Issue Briefs

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

<i>Agency Sunset Review of the Department of Children and Family Services</i>

DATE DUE: N/A

PROJECT NUMBER: 2009-452

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-920, F.S. are known as the Florida Government Accountability Act. Under this act, the Department of Children and Family Services (DCF), along with a number of other departments, is subject to a "sunset" review process to determine whether the agency should be retained, modified or abolished. Reviews are accomplished in three stages.

- By July 1, 2008, the department must produce specific information as enumerated in s. 11.906 F.S.
- Upon receipt of the information, the Joint Legislative Sunset Committee and the legislative committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA).
- Based upon the agency submissions, the OPPAGA studies and public input, the joint committee and the legislative sunset review committees will make recommendations to the Legislature by March 1, 2010, regarding the termination, modification or continuation of the department and its programs. The legislative sunset review committees will also propose necessary legislation.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. The department may be abolished if the Legislature, pursuant to law, finds that all state laws it had responsibility to implement or enforce have been repealed, revised, or reassigned to

another agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

The review process for DCF will begin in July, 2008, when the department submits the statutorily mandated sunset report. The Senate Children, Families, and Elder Affairs Committee will be the primary sunset review committee. The Health and Human Services Appropriations Committee will assist in the review.

OBJECTIVE:

The department must have its programs examined to determine the effectiveness and efficiency of the department's work and the necessity to continue its assigned duties and responsibilities. The issue brief will describe the DCF programs and make recommendations for further study needed for completion of the sunset review.

METHODOLOGY:

Senate professional staff will review the information submitted by the department, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, and any other relevant information. Senate professional staff will identify all statutorily assigned duties and responsibilities of the department, and will make recommendations regarding further study needed for completion of the sunset review.

INTERIM MONITOR PROJECT TITLE:

Federally Mandated Maintenance of Effort

DATE DUE: N/A

PROJECT NUMBER: 2009-453

ISSUE DESCRIPTION and BACKGROUND:

The general revenue (GR) reductions appropriated by the 2008 Legislature in the Department of Children and Family Services (DCF) for the 2008-2009 fiscal year will affect the level of state funds that can be counted as the "maintenance of effort" (MOE) required by the federal block grants that fund many of the core programs administered by DCF and the Title IV-E waiver that funds Child Welfare. The extent to which the GR reductions will decrease costs that meet the MOE criteria is difficult to determine because most of the budget reductions affect costs that are subject to sampling or cost allocation after the expenditure is actually made.

Because financial penalties are assessed when the state MOE requirement is not met, all GR cuts appropriated for the 2008-2009 fiscal year that reduce the state MOE will also cause an added reduction in available federal funding.

In addition, two recent federal policy changes to the Temporary Assistance for Needy Families (TANF) program have the potential for affecting MOE reporting in Florida:

- The work requirement mandated by the Deficit Reduction Act in 2005 for two-parent families imposes higher standards. These requirements became effective for federal fiscal year 2007, and Florida barely met the new requirements. If Florida fails to meet the new

standards in any given subsequent federal fiscal year, the state's TANF MOE requirement would be increased by \$24.5 million for that fiscal year.

- The new regulations that will take effect October 1, 2008, restrict the activities that can be claimed as TANF MOE. The degree to which these new federal restrictions will affect TANF MOE reporting in Florida remains uncertain.

OBJECTIVE:

The objective of this project is to monitor MOE reporting for each of the block grants that fund many of the core programs administered by DCF and the Title IV-E waiver that funds Child Welfare; determine the extent to which MOE requirements are being met during the fiscal year; identify unintended consequences of the GR reductions; and monitor the impact of the new TANF MOE regulations.

METHODOLOGY:

Senate professional staff will maintain ongoing communication with DCF officials regarding the federal reporting of MOE, review federal reports, analyze cost data and identify problems that might require legislative intervention.

INTERIM MONITOR PROJECT TITLE:

Home and Community-based Waiver Services for the Developmentally Disabled

DATE DUE: N/A

PROJECT NUMBER: 2009-454

ISSUE DESCRIPTION and BACKGROUND:

The Agency for Persons with Disabilities (APD) provides home and community-based services to eligible persons with developmental disabilities through the Home and Community Based Services Waiver and the Family and Supported Living Waiver. The 2007 Legislature implemented various cost containment initiatives designed to control expenditures for clients with developmental disabilities. Chapter 2007-64, Laws of Florida, (SB 1124) required APD to work with the Agency for Health Care Administration (AHCA) to develop a four-tiered waiver system. All tiers, except Tier One, have per client annual expenditure limits on services: Tier Two is capped at \$55,000; Tier Three is capped at \$35,000; and Tier Four is capped at \$14,782. The four-tiered waiver system is scheduled to be implemented on July 1, 2008. In April 2008, APD estimated the tiered system would reduce expenditures on waiver services in the 2008-09 fiscal year by approximately \$120 million (\$53.5 million general revenue).

The 2008 Legislature provided \$3.1 million for the 2008-09 fiscal year to complete all waiver client assessments using the Questionnaire for Situational Information by June 30, 2009. Information from the assessments will be used with other service information to place clients in the appropriated service tier. APD is required to submit a report on the assessment process and results to the chair of the Senate Fiscal Policy and Calendar Committee and the chair of the House Policy and Budget Council by October 1, 2009.

OBJECTIVE:

The project will monitor the implementation of the four tiered waiver system and the progress made in completing the waiver client assessments.

METHODOLOGY:

Senate professional staff will meet periodically with representatives from APD to review, discuss and monitor the four-tiered waiver system and the client assessments. Staff will review APD documents and reports used in the process for feasibility, reasonableness, completeness, compliance with statutes, and legislative intent.

INTERIM MONITOR PROJECT TITLE:

KidCare Enrollment

DATE DUE: N/A

PROJECT NUMBER: 2009-455

ISSUE DESCRIPTION and BACKGROUND:

The Florida KidCare program was created by the 1998 Legislature in response to the enactment of Title XXI of the Social Security Act by Congress. The program provides health insurance to uninsured children in low-income families whose families earn too much money to be eligible for Medicaid, but not enough money to purchase private insurance. The program is funded with state (29%) and federal (71%) matching funds. The State Children's Health Insurance Program (SCHIP) was scheduled for reauthorization by Congress in 2007; however, attempts at reauthorization have stalled in Congress and the program is operating pursuant to special continuing budget authorizations through March 2009.

The Florida KidCare program is a combination of Medicaid expansions and public/private partnerships, with a wrap-around delivery system serving children with special health care needs. Family income level (below 200% of the federal poverty level), age of the child, and whether the child has a serious health condition are the eligibility criteria that determine which component serves a particular child. The components of KidCare include: Medicaid for children; Medikids; Florida Healthy Kids; and the Children's Medical Services (CMS) Network. Enrollment in the Florida KidCare program was initiated on October 1, 1998, and 1,430,156 children were enrolled in the various components of the program as of April 2008. Of this total, 229,013 children are Title XXI eligible, 25,647 children are non-Title XXI eligible (legal aliens and full pay), and 1,175,496 children are eligible under the Medicaid Title XIX program.

Since its inception, the Florida KidCare program has experienced several challenges ranging from open and closed enrollment periods, waiting lists, and increased documentation requirements. Arguments have been made that the multiple changes have added complexity to the program, and have hindered the growth of enrollment in the program. In the 2007 and 2008 legislative sessions, statutory language was proposed that attempted to eliminate the perceived complexities and streamline enrollment in the program; however, legislation did not pass.

During the 2008 Legislative Session, \$471.9 million was appropriated in the General Appropriations Act for FY 2008-09 to cover an average monthly enrollment of approximately 264,616 Title XXI children. This funding will cover an additional 37,000 enrollment slots above the Fiscal Year 2007-08 funding level.

OBJECTIVE:

This interim project will monitor the enrollment levels compared to the budgeted funds of the KidCare program and the continuing federal budget reauthorization of the SCHIP.

METHODOLOGY:

Senate professional staff will review and monitor monthly enrollment levels and related KidCare program expenditures as well as monitor the status of federal budget reauthorization of the SCHIP program.

HEALTH POLICY

Interim Projects

INTERIM PROJECT TITLE:

Review of the Medicaid Managed Care Pilot Program, Section 409.91211, F.S.

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-116

ISSUE DESCRIPTION and BACKGROUND:

On January 11, 2005, Governor Bush released a Medicaid reform proposal for consideration by the Legislature. The proposal was based on data at the time demonstrating that the Medicaid budget was growing at an unsustainable rate and that a comprehensive overhaul of the system was necessary to improve care and provide predictability in the state Medicaid budget. The proposal centered on moving Medicaid recipients out of the current fee-for-service system into a mostly managed care environment. In this new system, managed care plans, including traditional Medicaid HMOs and new provider service networks (PSNs), would receive actuarially-sound, risk-adjusted capitation rates to provide all mandatory and optional services to Medicaid recipients.

The Legislature passed a Medicaid reform law in CS/CS/SB 838 (ch. 2005-133, L.O.F.), now codified in s. 409.91211, F.S. The law established a pilot program in Baker, Broward, Clay, Duval, and Nassau Counties. Eligible Medicaid recipients in these counties are required to select among a number of managed care plans and recipients are no longer eligible to select the MediPass program as a managed care option. Reform plans offer comprehensive, catastrophic and enhanced benefits which are allowed to vary within certain parameters from plan to plan. Medicaid recipients receive choice counseling to help them select from among the available plans.

The law requires the Office of Program Policy Analysis and Government Accountability to evaluate the Medicaid managed care pilot program. Their report is to be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than June 30, 2008. Medicaid reform may not be expanded beyond the initial pilot counties without the express permission of the Legislature.

The Medicaid reform pilot project was implemented in Broward and Duval Counties in September 2006. Expansion into Baker, Clay, and Nassau Counties began in September 2007. There are currently ten HMOs and five PSNs serving eligible Medicaid recipients in Broward County, four HMOs and three PSNs serving eligible Medicaid recipients in Duval County, and one HMO and one PSN serving eligible Medicaid recipients in Baker, Clay, and Nassau Counties.

OBJECTIVE:

The project will determine: 1) the implementation status of the program, including the number and categories of eligibles enrolled in the program; 2) the strengths and weaknesses of the major program initiatives including choice counseling, the enhanced benefit, Medicaid opt-out, and the risk-adjusted capitation methodology; 3) the viability of the new managed care market created under the program; 4) whether the program has generated cost savings, improved access, or reduced fraud and abuse in the Florida Medicaid program; and 5) to what extent the Agency for Health Care Administration has

initiated rule making for those aspects of the pilot deemed appropriate. The report will provide recommendations regarding whether the pilot program should be expanded (and if so, how) and if any modifications to the law should be considered.

METHODOLOGY:

Senate professional staff will review evaluations and reports prepared by the Agency for Health Care Administration, the Office of Program Policy Analysis and Government Accountability, the University of Florida's Florida Center for Medicaid and the Uninsured, the Georgetown University, and other research institutes regarding the program's implementation and operation. Senate professional staff will interview program staff with the Agency for Health Care Administration regarding program implementation and review expenditure and utilization data collected by the agency. Senate professional staff will also conduct focus groups with representatives of health plans participating in the program, health care providers affected by the pilot program, and enrollees in the program. Senate professional staff will coordinate with the Senate Health and Human Services Appropriations Committee and Joint Administrative Procedures Committee for portions of this review.

Mandatory Reviews

(None)

Issue Briefs

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Effect of Removing the Cap on Full-pay Participants in the Florida Kidcare Program

DATE DUE: N/A

PROJECT NUMBER: 2009-456

ISSUE DESCRIPTION and BACKGROUND:

The Florida Kidcare program provides health care coverage to approximately 1.4 million children in Florida. Family income level, age of the child, and whether the child has a serious health condition are the eligibility criteria that determine which program component serves a particular child. The Florida Kidcare program includes Medicaid for children, the Florida Healthy Kids program, Medikids, and the Children's Medical Services Network.

If a child's family income exceeds the eligibility threshold for either Medikids or the Florida Healthy Kids program, a child may still be enrolled in these programs if the family agrees to pay the full cost of the monthly premium. These participants are known as "full-pay" enrollees. In an effort to address concerns that families may shift from other coverage or less healthy children will disproportionately enroll in these programs, current law contains a restriction that limits the number of

full-pay enrollees to no more than 10 percent of the total enrollees in Medikids or the Florida Healthy Kids program.

During the 2008 Regular Session, the Legislature passed CS/CS/SB 2534, which removes this 10 percent cap on full-pay enrollees in Medikids and the Florida Healthy Kids program. It also establishes requirements for the Florida Healthy Kids Corporation to monitor the effect of removing this cap on costs and service utilization patterns in the Kidcare programs. If costs or utilization patterns increase significantly, the Legislature may reconsider the removal of the cap during the next regular session.

OBJECTIVE:

The objective of the project is to monitor the effect of removing the cap on full-pay enrollees in the subsidized portion of the Florida Kidcare program.

METHODOLOGY:

Senate professional staff will review information provided by the Florida Healthy Kids Corporation on a quarterly basis and compare the costs and utilization of the full-pay and the Title XXI-subsidized enrolled populations in the Florida Kidcare program. Senate professional staff will also review the Florida Healthy Kids Corporation study required to be submitted to the Legislature and Governor by February 2009. Senate professional staff will review the study's findings concerning the effects of lifting the caps on premiums in the subsidized portion of the program and any recommendations on how to eliminate or mitigate possible impacts to the subsidized premiums.

HEALTH REGULATION

Interim Projects

INTERIM PROJECT TITLE:

Authorization for Advanced Registered Nurse Practitioners to Prescribe Controlled Substances

DATE DUE: October 15, 2008

PROJECT NUMBER: 2009-117

ISSUE DESCRIPTION and BACKGROUND:

Chapter 893, Florida Statutes, is the “Florida Comprehensive Drug Abuse Prevention and Control Act.” The Act enumerates the substances that are controlled by chapter 893, Florida Statutes. The controlled substances are listed in Schedules I, II, III, IV, and V. A pharmacist may dispense controlled substances only upon a written or oral prescription of a practitioner (defined as certain licensed physicians, dentists, veterinarians, or naturopaths, who hold a valid federal controlled substance registry number). Advanced registered nurse practitioners are not included in the definition of “practitioner” for purposes of chapter 893, Florida Statutes.

For at least the past eight years, legislation has been filed in the Senate to authorize advanced registered nurse practitioners to prescribe controlled substances. Proponents of giving advanced registered nurse practitioners the authority to prescribe controlled substances argue that many other states already provide this authority, apparently without harm to patients. They also argue that giving such authority to advanced registered nurse practitioners will increase access to needed health care services for underserved populations and patients in areas of the state where there are shortages of physicians. Opponents argue that advanced registered nurse practitioners do not have adequate training to prescribe controlled substances and that increasing the number of persons prescribing controlled substances will lead to further opportunities for abuse of prescription drugs and diversion of prescription drugs from legal distribution systems.

OBJECTIVE:

The objective of this interim project is to determine whether the statutes should be amended to give advanced registered nurse practitioners the authority to prescribe controlled substances.

METHODOLOGY:

Senate professional staff will review the status of prescriptive authority by advanced registered nurse practitioners in other states. Senate professional staff will evaluate the potential for harm to patients, the potential impact on prescription drug abuse and diversion, and the potential for increased access to primary care services, especially in medically underserved areas, if advanced registered nurse practitioners are authorized to prescribe controlled substances. Senate professional staff will compare the educational and clinical training of physicians and advanced registered nurse practitioners relevant to prescribing controlled substances. Senate professional staff will analyze whether granting advanced registered nurse practitioners authority to prescribe controlled substances will increase their exposure to malpractice liability and whether the levels of medical malpractice insurance or proof of financial responsibility established by the Board of Nursing are sufficient to cover such potential claims. Senate professional staff will also review relevant federal law.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 381.0273, F.S., Public Records and Meetings Exemptions for the Florida Patient Safety Corporation

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-212

ISSUE DESCRIPTION and BACKGROUND:

The Florida Patient Safety Corporation was created in 2004 to serve as a learning organization to assist health care providers in this state to improve the quality and safety of health care rendered and to reduce harm to patients. The corporation is a patient safety organization as defined in s. 766.1016, F.S., for purposes of establishing a privilege for patient safety data in civil and administrative actions.

Section 381.0273, F.S., makes confidential and exempt from the public records requirements information that identifies a patient or the person or entity that reports patient safety data as defined in s. 766.1016, F.S., and that is contained in patient safety data or in other records held by the Florida Patient Safety Corporation and its subsidiaries, advisory committees, or contractors, with certain exceptions. This law also exempts information that identifies a health care practitioner or health care facility which is held by the Florida Patient Safety Corporation or its subsidiaries, advisory committees, or contractors, with certain exceptions, as well as any portion of a meeting held by the Florida Patient Safety Corporation or its subsidiaries, advisory committees, or contractors during which information is discussed which is confidential and exempt from disclosure pursuant to this law. Section 381.0273, F.S., will be repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

In 2004, Floridians adopted an amendment to the Florida Constitution titled "Patients Right to Know About Adverse Medical Incidents." This amendment, in part, provides that patients have a right to access any records made or received in the course of business by a health care facility or provider relating to any adverse medical incident. The identity of patients involved in the incidents must not be disclosed, and any privacy restrictions imposed by federal law must be maintained. The Florida Supreme Court recently issued a ruling on the effect of the constitutional amendment.

OBJECTIVE:

The project objective is to determine if the public records and meetings exemptions in s. 381.0273, F.S., should be saved from repeal, amended, or permitted to sunset.

METHODOLOGY:

Senate professional staff will review s. 381.0273, F.S., against the criteria in s. 119.15, F.S., to determine if the exemptions continue to meet the standards established in the Open Government Sunset Review Act (s. 119.15, F.S.) and whether the Patients Right to Know About Adverse Medical Incidents constitutional amendment and recent court cases affect the exemptions. Senate professional staff will inquire of the Board of Directors of the Florida Patient Safety Corporation about the need for the exemption.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Pharmacy Compounding: Non-patient specific

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-330

ISSUE DESCRIPTION and BACKGROUND:

Periodically Senators have expressed an interest in legislation to authorize a pharmacy licensed in Florida to compound prescription drugs that are not to be dispensed by the pharmacy to a named patient but are to be provided in bulk form to a hospital, ambulatory surgical center, or physician's office. A number of factors affect this issue, including but not limited to: federal and state laws related to manufacturing prescription drugs and pharmacy compounding, as well as court rulings on certain federal legislation in this area; recent standards adopted by the United States Pharmacopeia for compounding sterile products; and specific activity authorized by the state licensure laws and rules for the different parties.

OBJECTIVE:

The objective of this issue brief is to set forth the specific factors affecting pharmacy compounding including what is currently authorized under the regulatory framework; to identify gaps between current health care needs and the current regulatory framework; and to provide considerations for addressing those gaps, if applicable.

METHODOLOGY:

Senate professional staff will research federal and state law related to pharmacy compounding and manufacturing prescription drugs, review court decisions interpreting those laws, review other authoritative literature relating to compounding prescription drugs, and research public health care policy considerations related to compounding prescription drugs to be provided in bulk form to other health care providers. Senate professional staff will also consult with regulators and affected health care associations for input.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Implementation of Legislation Establishing a Health Access Dental License

DATE DUE: N/A

PROJECT NUMBER: 2009-457

ISSUE DESCRIPTION and BACKGROUND:

Legislation passed during the 2008 Session that establishes a new category of dental licensure called the "health access dental license." Under the health access dental license, an out-of-state dentist, or a dentist who has not taken the national dentist examination in the last 10 years, could become licensed to practice in underserved areas and eventually could convert his or her license to practice in

other parts of the state. The purpose of the legislation is to increase access to dental services in underserved areas of the state. The law takes effect January 1, 2009.

The Board of Dentistry is required to establish examination requirements, an application process, license renewal requirements, and license revocation requirements for a health access dental license. The Board of Dentistry is also required to adopt rules to implement the new dental licensure provisions.

OBJECTIVE:

Monitor the promulgation of rules by the Board of Dentistry relating to the health access dental license.

METHODOLOGY:

Senate professional staff will contact the Board of Dentistry regarding the schedule for rule promulgation and review draft rules as they become available.

INTERIM MONITOR PROJECT TITLE:

Implementation of Legislation Establishing an On-line Organ and Tissue Donor Registry and Educational Program

DATE DUE: N/A

PROJECT NUMBER: 2009-458

ISSUE DESCRIPTION and BACKGROUND:

Legislation passed during the 2008 Legislative Session that requires the Agency for Health Care Administration and the Department of Highway Safety and Motor Vehicles to jointly contract for the development, implementation, and maintenance of an interactive web-based organ and tissue donor registry that allows for online organ donor registration and the recording of organ and tissue donation records submitted through the driver's license identification program or through other sources. The contractor is also responsible for an educational program related to organ and tissue donation. Selection of the contractor must be based on competitive solicitation.

OBJECTIVE:

This project will monitor the competitive selection of the contractor and the implementation of the online organ and tissue donor registry to determine whether the legislative intent to establish the registry is achieved and to identify any statutory obstacles that may hinder the successful implementation of the registry. This project will also confirm that an educational program related to anatomical gifts and the need for anatomical gifts is developed.

METHODOLOGY:

Senate professional staff will follow the competitive procurement activities of the Agency for Health Care Administration and the Department of Highway Safety and Motor Vehicles through the Florida Administrative Weekly; obtain a copy of the contract once executed; consult with the Agency and the Department to follow completion of significant deliverables, including development of an educational program, or identify obstacles to implementation of the registry; and access the organ and tissue donor registry through the Internet when publicly accessible.

HIGHER EDUCATION

Interim Projects

(None)

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:
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<i>Open Government Sunset Review of Florida Institute for Human and Machine Cognition</i>

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-213

ISSUE DESCRIPTION and BACKGROUND:

The 2004 Legislature (ch. 2004-358, L.O.F.) enacted a public records disclosure exemption for information held by the Florida Institute for Human and Machine Cognition, Inc. The exemption applies to information relating to methods of manufacture, identification of a donor, and information that is otherwise exempt under Florida law or under the laws of the state or nation from which a person provided the information to the institute. The statute, s. 1004.4472, F.S., also provides a public meetings exemption for that portion of a meeting at which information is presented or discussed that is confidential or exempt from public disclosure requirements. In accordance with the Open Government Sunset Review Act of 1995 under s. 119.15, F.S., this exemption shall be repealed on October 2, 2009, unless saved from repeal through reenactment by the Legislature.

OBJECTIVE:

The purpose of the project is to assist the 2009 Legislature in determining whether the public records exemption should be reenacted, revised, or eliminated.

METHODOLOGY:

The Open Government Sunset Review Act of 1995 under s. 119.15, F.S., provides that a public records exemption shall be maintained only if the exempted record is of a sensitive, personal nature concerning individuals; is necessary for the effective and efficient administration of a governmental program; or affects confidential information concerning an entity.

Senate professional staff will review the exemption under the s. 119.15, F.S., to determine if the exemption meets the criteria for retention of the exemption. Senate professional staff will examine the use of the public records exemption and evaluate the records protected from public disclosure.

Issue Briefs

(None)

Monitor Projects

(None)

HIGHER EDUCATION APPROPRIATIONS

Interim Projects

INTERIM PROJECT TITLE:

Report on the Impact of the General Appropriations Act on Public Post-secondary Education

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-119

ISSUE DESCRIPTION and BACKGROUND:

This report is an institutional level summary of the impact of the General Appropriations Act showing allocations of appropriations to each community college and university. The report is produced annually by the Senate Education Appropriations Committee professional staff as a resource to members, aides, agency staff, and the general public.

OBJECTIVE:

The purpose of the report is to provide quick reference for Senators and aides on education funding specifics for all delivery areas of the state's educational system, and to provide answers to frequently asked questions about the financing of education in Florida. The project will continue the printing and distribution of the post-session report in book form. The report will also be available through the Senate website.

METHODOLOGY:

Last year's Senate post-session education publication will be reviewed to determine whether all types of information previously included are still useful or should be modified or enhanced. Once this determination is made, professional staff will work with Department of Education and Board of Governors staff as allocations of state appropriations to various institutions are made. These allocations will be checked for consistency with the General Appropriations Act as the post-session book is prepared. Adjustments to the information will be made following Governor's vetoes.

Mandatory Reviews

(None)

Issue Briefs

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Implementation of the State College System

DATE DUE: N/A

PROJECT NUMBER: 2009-459

ISSUE DESCRIPTION and BACKGROUND:

CS/CS/SB 1716 addresses the issue of access to baccalaureate degrees and statewide employment needs. The bill creates the Florida College System, the Florida College System Task Force, and the State College Pilot Project. The project requires participating institutions to recommend a transition policy from community colleges to a state college model for eligible institutions and to issue a report. The Florida College System Task Force is to recommend a program-approval process for baccalaureate degree programs at community colleges and state colleges, propose a new funding model for these institutions, identify statewide needs in baccalaureate degrees, and monitor the State College Pilot Project.

OBJECTIVE:

This interim project will monitor the task force as it oversees the implementation of the pilot, develops its funding model, identifies needs, and oversees the experiences of the institutions in the pilot.

METHODOLOGY:

Professional staff will conduct the project in conjunction with the Senate Higher Education Committee. Professional staff will monitor the meetings, discussions, and recommendations of the task force.

INTERIM MONITOR PROJECT TITLE:

Implementation of the Florida Distance Learning Task Force

DATE DUE: N/A

PROJECT NUMBER: 2009-460

ISSUE DESCRIPTION and BACKGROUND:

CS/HB 7105 (CS/CS/SB 1762) creates the Florida Distance Learning Task Force to study and make recommendations on key distance learning policy issues that will help to increase access to community college and university undergraduate distance learning resources. The task force is charged with submitting a detailed report by March 1, 2009 on several key distance learning issues to include: management and promotion of the distance learning catalog, policies to address ways to increase access and cost-effectiveness in developing and delivering distance learning courses, streamlining the registration process for students, and the role of the Distance Learning Consortium. These policies are expected to have a large impact on the growth of distance learning in Florida postsecondary education in the coming years.

The bill also establishes a per credit hour distance learning course user fee, which may be assessed by the institution, for both community colleges and state universities for distance learning courses listed in the Distance Learning Catalog.

OBJECTIVE:

This interim project will monitor the task force as it develops its distance learning recommendations as well as institutional use of the distance learning fee.

METHODOLOGY:

Professional staff will monitor the meetings, discussions, and products of the task force and utilization of the new distance learning fee.

JUDICIARY

Interim Projects

INTERIM PROJECT TITLE:

Grandparent Visitation Rights

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-120

BACKGROUND and DESCRIPTION:

Over the last several years, laws granting grandparent visitation rights have come under constitutional challenges and in some cases have been struck down as unconstitutional as they are written and applied. The courts' rationale is that these laws infringe on a parent's federal and state constitutional right to raise a child free from governmental interference. As a fundamental right, the courts have applied the strict standard of review, which requires the state to show a compelling state interest in overriding or proscribing parental rights.

In Florida, this parental right to raise a child applies equally to all parents whether the parents are married and in a stable relationship, whether the parents are unmarried, whether the parents are separated or divorced, whether the parent is a widower, or whether the parent and child have been abandoned by the other parent. The standard for determining whether to grant grandparent or other third-party visitation cannot be based solely on whether it is in the child's best interest but whether there is also some showing of "substantial threat of demonstrable harm to the child's health or welfare" or "parental unfitness."

A grandparent's right to visitation and custody was created in Florida statutory law, not common law. Enacted in 1984 by the Legislature, ch. 752, F.S., was designed to give a grandparent the right to petition for visitation or custody independent of or in the absence of any pending court matter relating to a child's custody, health, safety, or welfare. However, almost all of the provisions in ch. 752, F.S., have been struck down as unconstitutional. Additionally, the courts have struck down two other provisions in ch. 61, F.S., which permitted a grandparent to petition for either visitation or custody in a pending divorce or custody matter. In a more recent opinion, the Florida Supreme Court struck down former s. 61.13(2)(b)2.c., F.S., as unconstitutional. The provision authorized a grandparent to petition for visitation if there was a pending action with issues of custody, visitation, or support.

PROJECT OBJECTIVE(S):

The purpose of this interim project is to review the case law, statutes, and legal scholarship in Florida and other states to evaluate what options may exist for the enactment of grandparent visitation rights statutes under the constitutional standards articulated by the courts.

METHODOLOGY:

In addition to multistate case law, statutory, and other legal research, this project will entail consulting with constitutional scholars, family law practitioners, and others with an interest in the issue of grandparent visitation rights.

INTERIM PROJECT TITLE:

Review of the Small Claims Process in Florida

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-121

ISSUE DESCRIPTION and BACKGROUND:

Florida does not have a separate system of “small claims courts.” Rather, small claims are addressed as part of the jurisdiction of county courts. The Florida Small Claims Rules apply to civil actions in county court in which the demand or value of the property involved is \$5,000 or less. The small claims rules specify that they are designed “to implement the simple, speedy, and inexpensive trial of actions at law in county courts.” For fiscal year 2006-2007, there were 263,220 small claims filings, which represented 13 percent of the total county civil filings for that year. Small claims comprised the largest category of filings following civil traffic infractions (73.3 percent). In part due to its small claims jurisdiction, county court is sometimes referred to as “the people’s court.” Reflective of this character, litigants in small claims matters often proceed *pro se* or without an attorney. Nevertheless, pursuing or defending a small claim in county court may be complex, and the ramifications – legal and financial – for failing to follow the process may be significant.

OBJECTIVE:

The purpose of this interim project is to review the small claims process in Florida county courts to identify opportunities to improve the small claims process for litigants, particularly those who proceed without an attorney.

METHODOLOGY:

Senate Professional Staff will consult with judges, clerks of court, practicing attorneys, legal aid organizations, and other legal experts and interested parties in order to understand the “in the trenches” workings of the small claims process and to identify any problems litigants may be experiencing, any potential corrective actions, and any best practices being employed. As part of its research, professional staff will also review legal literature, relevant case law, and practices in other states.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 119.071(4)(d)3. and 4., F.S., Personal Information Relating to U.S. Attorneys and Federal Judges

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-214

ISSUE DESCRIPTION and BACKGROUND:

Subparagraphs 3. and 4. of s. 119.071(4)(d), F.S., provide that specified personal information relating to current or former U.S. attorneys and assistant attorneys and current or former federal judges and magistrates is exempt from disclosure under constitutional and statutory public-records requirements. The information covered by the public-records exemptions includes:

- Their home addresses, telephone numbers, social security numbers, and photographs;

- The home addresses, telephone numbers, social security numbers, photographs, and places of employment of their spouses and children; and
- The names and locations of schools and day care facilities attended by their children.

These public-records exemptions stand repealed on October 2, 2009, unless saved from repeal by the Legislature after review under the Open Government Sunset Review Act in accordance with s. 119.15, F.S.

OBJECTIVE:

Under the Open Government Sunset Review Act, s. 119.15, F.S., public-records exemptions are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature under the standards prescribed in the act. The objective of this mandatory review is to evaluate the public-records exemptions for personal information of U.S. attorneys and federal judges under those standards and recommend whether the Legislature should retain the exemptions.

METHODOLOGY:

Senate Professional Staff will review the public-records exemptions under the standards of the Open Government Sunset Review Act based on input solicited from U.S. attorneys, federal judges, the First Amendment Foundation, and other interested parties.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Analysis of Law Relating to Admissibility of Expert Testimony and Scientific Evidence

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-331

ISSUE DESCRIPTION and BACKGROUND:

The standards governing admissibility of evidence by expert witnesses are often discussed in the context of two federal court cases. *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923), articulated what some scholars characterize as the “general acceptance” test, under which the evidence may be admitted if the court finds that it has “gained general acceptance in the particular field in which it belongs.” That standard governed for most of the 20th Century until the U.S. Supreme Court articulated a different test in the case of *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993). Under *Daubert*, and subsequent cases, the Court required federal trial judges to evaluate expert testimony based on factors such as falsifiability, peer review, error rates, and acceptability in the relevant scientific community. The *Daubert* decision is cited for the principle that the judge should be a “gatekeeper” in the area of admission of scientific or similar evidence, and the decision has been embraced by some proponents of litigation reform as prescribing a tougher standard for admission of such evidence.

Because it was interpreting the Federal Rules of Evidence, the *Daubert* decision is binding on federal courts. In addition, it has been adopted by some state courts. Florida, however, is considered to follow the *Frye* standard. During the 2007 and 2008 regular sessions of the Florida Legislature, measures were introduced to move the state toward a standard and procedures closer to that articulated

in and stemming from *Daubert*. [See, e.g., SB 1960 (2007 Reg. Session) and SB 1448 (2008 Reg. Session).]

OBJECTIVE:

The purpose of this issue brief is to provide a primer on the standards governing admissibility of expert witness testimony and scientific evidence based on the *Frye* and *Daubert* decisions and other relevant case law, in order to provide the senators with a foundation for evaluating policy proposals in this area. The issue brief will also examine the extent to which evidence law in Florida may be prescribed in statute by the Legislature versus in rules by the Florida Supreme Court.

METHODOLOGY:

In addition to reviewing relevant federal and state case law and legal scholarship, Senate Professional Staff will talk with experts in the law of evidence and with practicing attorneys.

INTERIM ISSUE BRIEF TITLE:

Strategic Lawsuits Against Public Participation

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-332

ISSUE DESCRIPTION and BACKGROUND:

Strategic Lawsuits Against Public Participation – or SLAPP suits – are often intended to silence criticism of a project or action. One of many possible scenarios might involve a person speaking out against a development project at a governmental regulatory meeting. A proponent of the development project might sue the person for libel/slander in an effort to silence him or her rather than win damages. Because the lawsuit may be expensive to defend, the person against the project may capitulate. Concern that these lawsuits may have a chilling effect on free speech has led at least 24 states to enact anti-SLAPP legislation over the years, providing various levels of recourse for defendants.

Florida has an anti-SLAPP statute relating only to government plaintiffs. The Citizen Participation in Government Act, s. 768.295, F.S., prevents government entities from filing a lawsuit without merit and solely because a person has exercised the right to assemble and the right to petition for redress of grievances before governmental entities of the state. Florida also has an anti-SLAPP provision in s. 720.304(4), F.S., relating to homeowners' associations and prohibiting certain lawsuits that are filed solely because a parcel owner has addressed a governmental entity. This prohibition against filing such lawsuits in the homeowners' association context applies to business organizations and individuals, as well as to governmental entities.

During the 2008 Regular Session, the Legislature enacted CS/HB 995 (ch. 2008-28, L.O.F.), relating to community associations. Among other community association provisions, the measure prohibits certain SLAPP suits against unit owners stemming from an appearance before governmental entities on matters relating to a condominium association. Similar to the existing homeowners' association provision, the measure authorizes the award to the condominium unit owner of actual damages and treble damages, attorney's fees, and costs for a violation of the prohibition.

OBJECTIVE:

The purpose of this issue brief is to provide legal and policy research related to Strategic Lawsuits Against Public Participation – SLAPP suits –so that legislators will have background and a legal foundation for evaluating policy proposals that may arise in this area in the future.

METHODOLOGY:

Senate Professional Staff will review legal and policy literature, relevant case law, and illustrative statutes in other states, as well as communicate with experts and other interested parties.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Florida Registered Paralegal Program

DATE DUE: N/A

PROJECT NUMBER: 2009-461

ISSUE DESCRIPTION and BACKGROUND:

The Florida Supreme Court in November 2007 approved a program for voluntary registration of paralegals. Under the Florida Registered Paralegal Program, which was developed by The Florida Bar and approved by the Court, paralegals who meet certain educational or work-experience criteria and who agree to adhere to certain ethical standards may voluntarily register. The Court expressed that registration of paralegals would benefit the public in a similar manner to court rules for certified and court-appointed mediators. The Court’s program follows legislative consideration of proposals relating to statutory regulation of paralegals. During the 2006 Regular Session, the Legislature introduced but did not enact legislation providing for the regulation of the paralegal profession. (See SB 906 and HB 395.) The legislation, among other provisions, would have established minimum education and training requirements, as well as continuing education requirements; required compliance with a Florida Paralegal Code of Ethics and Professional Responsibility; prohibited certain persons from using the title “paralegal” and established penalties for violations of this prohibition; and created a Paralegal Regulation Board.

OBJECTIVE:

The purpose of this monitor project is to follow implementation of the Florida Registered Paralegal Program created by the Florida Supreme Court in the event the Legislature wishes to take any statutory action related to paralegals.

METHODOLOGY:

This monitor project will entail communicating with judges, attorneys, paralegals, The Florida Bar, and the Office of the State Courts Administrator.

INTERIM MONITOR PROJECT TITLE:

Compensation for Wrongful Incarceration

DATE DUE: N/A

PROJECT NUMBER: 2009-462

ISSUE DESCRIPTION and BACKGROUND:

During the 2008 Regular Session, the Legislature authorized a program under which a person who was convicted of and incarcerated for a felony, but was actually innocent, may apply for compensation from the state. (See CS/CS/CS/SB 756; ch. 2008-39, L.O.F.) Principal elements of the program include:

- Petitioning a court for a finding of wrongful incarceration and eligibility for compensation;
- Affording the prosecutor an opportunity to respond to the petition;
- Referring contested petitions to the Division of Administrative Hearings for findings and a recommendation to the court;
- Applying to the Department of Legal Affairs upon receiving a court order determining a person to be a wrongfully incarcerated person;
- Providing for monetary compensation; tuition and fee waivers; administrative expunction of criminal records; and recovery of fines, costs, and attorney's fees paid by the wrongfully incarcerated person;
- Purchasing an annuity for the wrongfully incarcerated person by the Chief Financial Officer; and
- Prohibiting relief under the program while related litigation or claim bills are pending.

OBJECTIVE:

The purpose of this monitor project is to follow implementation of the wrongful incarceration compensation program in order to identify any implementation issues that may warrant legislative attention or action.

METHODOLOGY:

This monitor project will entail communicating with judges, the Department of Legal Affairs, the Division of Administrative Hearings (DOAH), the Chief Financial Officer, the Innocence Project of Florida, and other organizations or persons engaged in, or interested in, implementation of the program, as well as attending, where feasible, court or DOAH proceedings related to petitions for compensation for wrongful incarceration. The Committee on Judiciary will coordinate these monitoring activities with the Committee on Criminal Justice.

MILITARY AFFAIRS AND DOMESTIC SECURITY

Interim Projects

INTERIM PROJECT TITLE:

Florida Seaport Security

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-122

ISSUE DESCRIPTION and BACKGROUND:

Determining the appropriate amount of effort needed to ensure security for Florida's public seaports is a difficult proposition. Seaports need to guard against acts of terrorism, illicit drug trafficking, and cargo theft, all of which can have an adverse effect on Florida's economy. More than 90 percent of all imported manufactured goods travel into the United States in cargo containers, most through our nation's seaports. Any disruption of this highly efficient supply chain can have grave consequences to both state and national economies. Impacting seaport security is the fact that the transportation industry is highly competitive. Seaports must strike a balance between ensuring adequate port security while containing costs that detract from the bottom line.

Florida's public seaports operate within a federal regulatory framework designed to counter acts of terrorism and a state regulatory framework adapted to counter-terrorism but primarily designed to counter illicit drug trafficking and cargo theft. The federal and state systems have some overlap while at the same time are complementary. Both systems include approval processes for individual seaport security plans. However, the federal and state seaport security frameworks have distinctly separate sets of responsibilities. For example, armed response to any attack on the water side of the port is a federal responsibility. Armed response on the land side of a port is the responsibility of local law enforcement as regulated by state law. Together, the federal and state systems provide the components of a layered system of physical security, defense, and deterrence.

Lately, there have been calls within the industry to review the seaport security framework. Many questions have arisen including:

- What constitutes an adequate level of seaport security?
- To what extent are the crimes of drug trafficking, cargo theft, and violent crime covered by federal seaport security law?
- Are federal access waiver procedures compatible with the requirements of Florida law?
- Are certain required security practices and procedures burdensome?
- Is the federal framework, including the interaction between federal and state authorities, adequate for the seaport security needs of Florida's ports listed in s. 311.09, F.S.?
- Have all the tools available to reduce costs been used to maximum effect?
- Have Florida's seaports met the requirements of current law?
- Do the systems provide for fair adjudication of disputed practices?
- Is commerce being inhibited?
- Are support systems adequate or excessive in fostering an efficient and effective seaport security program?
- Should there be a statewide seaport security authority as recommended by a statewide grand jury?

These and other questions have reached the point that the Legislature should conduct a review of seaport security in Florida.

OBJECTIVE:

To conduct a review of Florida's seaport security program to include identification of key issues along with recommended solutions.

METHODOLOGY:

Interview the Department of Law Enforcement; the Florida Seaport Transportation and Economic Development Council; Florida's commercial ports identified in s. 311.09, F.S.; federal regulatory and enforcement agencies i.e. Department of Homeland Security agencies including the U. S. Coast Guard, the Transportation Security Administration, U. S. Immigration and Customs Enforcement, and U. S. Customs and Border Protection; appropriate industry and port tenant representatives; and other agencies as required. Senate Professional Staff may collect data from and/or conduct interviews by phone, electronic mail, or in person with participants, affected parties, or others pertaining to this project. Workshops and meetings may be held to obtain and review information related to the project.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 119.071(3)(c), F.S., Building Plans, Blueprints, and Schematic Drawings of An Attractions and Recreation Facility, Entertainment or Resort Complex, Industrial Complex, and Other Developments Held by an Agency

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-215

ISSUE DESCRIPTION and BACKGROUND:

Pursuant to s. 119.15, F.S., "in the fifth year after enactment of a new (public meetings or public records) exemption or substantial amendment to an existing exemption, the exemption shall repeal on October 2 of the fifth year, unless the Legislature acts to reenact the exemption." This review of s. 119.071 (3) (c), F.S., is due to the fact that the original exemption was created in 2004 (see Chapter 2004-9, L.O.F.) and is due to expire October 2, 2009.

Section 119.071 (3) (c), F.S., was created to provide public records exemptions for building plans, blueprints, schematic drawings, and diagrams which depict the internal layout and structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development which are held by an agency defined in s. 119.011, F.S. These records are exempt from the provisions of s. 119.071(1), F.S., and s. 24(a), Art. I, State Constitution.

The purpose of s. 119.071 (3) (c), F.S., is to be able to protect certain information from attempted or actual acts of terrorism.

OBJECTIVE:

Review s. 119.071 (3) (c), F.S., its uses and applications to determine if it continues to serve a public purpose.

METHODOLOGY:

Interview the Florida Department of Law Enforcement and other affected entities to determine the original cause for the exemption and to determine if conditions remain the same, or have changed in such a way as to warrant repeal of the exemption. In addition, Senate Professional Staff may consult with the federal Department of Homeland Security to determine the impact of any federal regulations on the state exemption. As needed, Senate Professional Staff may collect data from and/or conduct interviews, by phone, electronic mail, or in person, with persons affected by this review. Workshops and meetings may be held to obtain and review information related to the project.

Issue Briefs

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Seaport Security Standards Advisory Council Report Recommendations

DATE DUE: N/A

PROJECT NUMBER: 2009-463

ISSUE DESCRIPTION and BACKGROUND:

The Legislature established statewide minimum security standards for Florida's 14 public seaports through the passage of Chapter 2001-112, L.O.F. This legislation adopted standards by reference citing the "Port Security Compliance Plan" which was delivered to the Speaker of the House of Representatives and the President of the Senate on December 11, 2000.

In 2006, the Legislature created the Seaport Security Standards Advisory Council by passing Chapter 2006-193, L.O.F. This legislation directed the council to review the statewide minimum standards for seaport security applicability to and effectiveness in combating current narcotics and terrorism threats to Florida's seaports.¹ The council was further directed to consult with the appropriate area maritime security committees to assess possible impacts to commerce and trade contained in its recommendations and findings.² The council has met steadily since its inception date of January 15, 2007 and is currently at the stage of sharing its recommendations and findings with area maritime security committees. It is anticipated that the council will transmit its required report to the presiding officers and the Governor sometime in late summer or early fall of 2008.

¹ Section 311.12(8)(e), F.S.

² Section 311.12(8)(g), F.S.

Florida Statutes, however, do not provide a mechanism for legislative review and adoption of any recommended changes to the statewide minimum standards that the council may produce.

Further, in the aftermath of September 11, 2001, the federal government passed the Maritime Transportation Security Act of 2002 which ultimately resulted in the adoption of federal administrative rules³ relating to unescorted access to seaports. These federal standards differ in part from those adopted in Florida Statutes which has resulted in a need to reconcile the differences.

In addition, Florida Statutes require the Seaport Security Standards Advisory Council to meet upon the call of the chair and at least once every 5 years.⁴ However, the council is also required to convene at least every 4 years to review the statewide minimum standards.⁵ These two requirements should be reconciled.

OBJECTIVES:

- To review the Seaport Security Standards Advisory Council's report with its recommendations and findings relative to possible proposed legislation; and
- To review the recurring requirement in Florida Statutes that the Seaport Security Standards Advisory Council meet to review statewide minimum standards relative to possible revision.

METHODOLOGY:

As needed, Senate Professional Staff may collect data from and/or conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Senate Professional Staff may request documents from agencies involved in seaport security activities. Workshops and meetings may be held to obtain and review information related to this project.

INTERIM MONITOR PROJECT TITLE:

Federal Domestic Security Funding Process

DATE DUE: N/A

PROJECT NUMBER: 2009-464

ISSUE DESCRIPTION and BACKGROUND:

The Senate Military Affairs and Domestic Security Committee is responsible for monitoring federal funding and program guidelines for domestic security prevention, preparedness and response, and the integration of the Domestic Security Oversight Council, Regional Domestic Security Task Force, State Working Group, and Urban Area Security Initiative planning and operations activities funded by federal resources.

The strategic response to terrorist activity threats remains dynamic. Federal requirements continue to shift in focus towards funding threat and risk-based strategies. Florida may have to make adjustments to its Statewide Security Strategy to accommodate the shift in federal directives and to continue to maximize the availability of and eligibility for federal domestic security grant awards. Further, there is a

³ 49 CFR Part 1572.

⁴ Section 311.12(8)(d), F.S.

⁵ Section 311.12(8)(e), F.S.

need to monitor shifts in certain homeland security priorities along with an accompanying redirection and reduction of federal funding previously available for supporting programs.

OBJECTIVES:

- Continue to monitor congressional funding and federal agency program guidelines for domestic security grants and allocations coming to state and local governments; and
- Work with the Florida Washington Office, the Department of Law Enforcement (FDLE) (designated as State Homeland Security lead by title), Division of Emergency Management (designated as State Administering Agency for all federal Department of Homeland Security funding), Department of Health (designated as receiving agency for Centers for Disease Control/Health Resources and Services Administration (CDC/HRSA) grants, the Florida Seaport Transportation and Economic Development Council (coordinates public seaport grant request in conjunction with FDLE and individual, eligible ports) and any other agencies receiving federal funds for domestic security programs.

METHODOLOGY:

Monitor federal legislation, congressional activities, and federal agency guidance relative to domestic security funding through working partnerships with the Florida Washington Office, FDLE, Department of Community Affairs (DCA), Department of Health (DOH), Florida Seaport Transportation and Economic Development Council (FSTED), and other state agencies. As needed, Senate Professional Staff may collect data from and/or conduct interviews by phone, electronic mail, or in person with participants, affected parties, or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

REGULATED INDUSTRIES

Interim Projects

INTERIM PROJECT TITLE:

Review of Electronic Gaming Exceptions for Adult Arcades and Game Promotions

DATE DUE: October 15, 2008

PROJECT NUMBER: 2009-123

ISSUE DESCRIPTION and BACKGROUND:

Senators and Senate Professional Staff have received many complaints and comments regarding whether the adult arcades and electronic game promotions/sweepstakes/Internet cafes are operating legally under ch. 849, F.S. During the 2008 legislative session the Regulated Industries Committee conducted two days of hearings on this issue. During these meetings, several issues were identified such as: the inability to identify the location of the adult amusement machines because they are not registered in their own tax classification, the machines are not tested and certified, whether the machines can be manipulated internally, whether the machines operate by an application of skill, whether players are exceeding the maximum of 75 cents on any game played, there is currently no agency overseeing or licensing these machines, whether seniors are being taken advantage of in some places, and finally, that the police do not have clear rules or guidelines or legal authority to know when to shut down a place.

Over the past several years, law enforcement agencies have closed down adult arcades in Pinellas County, Hillsborough County, Panama City, Sarasota, and Jacksonville. The Broward County Sheriff's Office has also been very active against adult arcades. The Broward State Attorney brought illegal gambling charges last year against the owner of an adult arcade who was also president of the Florida Arcade and Bingo Association. The owner was acquitted by a jury and it is not clear whether additional charges will be filed.

Utilizing electronic machines as game promotions (also called sweepstakes or Internet cafes) is a relatively new occurrence in Florida. Game promotions are required to register with the Department of Agriculture and Consumer Services under s. 849.094, F.S. To be able to conduct a game promotion, a person may conduct a game of chance in connection "with the sale of consumer products or services and which the elements of chance and prize are present." The electronic game promotions usually sell phone cards with usage minutes in connection with the game promotions. It is unclear to law enforcement whether these machines are slot machines or are legal under the game promotion statute. Law enforcement conducted raids of several phone card sweepstakes and Internet café establishments and shut them down last year in Pensacola, Milton, and Ft. Walton Beach.

OBJECTIVE:

To investigate the current situation regarding adult arcades and game promotion/sweepstake/Internet café sites and gather factual information about how they operate. Compare this information to the current law and determine if the law is sufficiently clear to assist enforcement agencies and owners of adult amusement arcades and electronic game promotions in determining the legality of the games.

METHODOLOGY:

Senate Professional Staff will review the Florida Statutes, rules, relevant case law, other state statutes, and articles concerning adult arcades and game promotions/sweepstakes/ Internet cafes. Senate Professional Staff will conduct interviews with law enforcement personnel, Department of Business and Professional Regulation staff, industry experts, facility owners, senior advocates, and other interested persons.

INTERIM PROJECT TITLE:

Review of the Florida Construction Lien Law

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-124

ISSUE DESCRIPTION and BACKGROUND:

A construction lien is an equitable device designed to protect those enhancing an owner's property who are not in direct privity of contract with the owner, such as laborers and suppliers of material, who remain unpaid while the owner pays the contractor directly. Construction liens are governed by ch. 713, F.S., the "Construction Lien Law." The Construction Lien Law also serves to protect owners by requiring subcontractors to provide notice of possible liens, thereby preventing double payments to contractors and subcontractors, material suppliers, or laborers for the same services or materials.

Construction lien statutes set forth a right of action that did not exist at common law, and thus construction liens are purely statutory. Homeowners are often confused by the statutory process and still can end up paying twice to contractors and subcontractors despite the statutory protections.

Chapter 713, F.S., has been amended several times over many years, most recently during the 2007 Regular Session. Many Senators have received complaints from constituents concerning the complexity and difficulty with the lien process under the current statutory scheme. Senators Dockery, Saunders, and Jones have all indicated their concerns with the current procedures.

This project will continue the work that was conducted last year by the Senate Professional Staff. Because of the complicated nature of the lien law, additional issues such as lender liability were raised after the publication of the report.

OBJECTIVE:

The objective of this project is to continue the review of the Florida Construction Lien Law and provide recommendations for further protections for homeowners. Senate Professional Staff will also review the process to identify any methods to simplify the procedures and notifications while protecting the rights of the lienors and the property owners.

METHODOLOGY:

Senate Professional Staff will review the Florida Statutes, rules, and relevant case law, treatises and articles concerning construction liens, including the legislative history of ch. 713, F.S. Senate Professional Staff will conduct interviews with building department officials, construction industry representatives, financial industry representatives, representatives of The Florida Bar, consumer advocates, and the staff of the Department of Business and Professional Regulation.

INTERIM PROJECT TITLE:

Review of Elevator Safety and Regulation

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-125

ISSUE DESCRIPTION and BACKGROUND:

This study will address the concerns and issues presented by the implementation of two elevator safety and regulation provisions. During the 2006 Regular Session, s. 553.509(2), F.S., (s. 12, ch. 2006-71, L.O.F.) was enacted to require that residential multi-family dwellings that are at least 75 feet in height and have a public elevator must be capable of operating at least one elevator on alternate generated power. The elevator must be able to operate for an unspecified number of hours each day for a period of five days after a disaster or emergency resulting in an electrical power outage. Section 553.509(2)(b), F.S., requires that the person, firm, or corporation that owns, manages, or operates a building affected by this requirement must provide to the local building inspection agency verification of engineering plans for alternate generated power capability by December 31, 2006. The local building inspectors must verify the installation and operational capability of the alternate generated power source and report to the county emergency management director by December 31, 2007.

Based upon information from constituent complaints received by Senator Jones, there are concerns regarding the cost of these changes. The citizens were concerned about adding this financial burden to increasing costs for insurance, taxes, and maintenance. They were also concerned with the short period between the effective date of the requirement (July 1, 2006) and the dates for implementation, December 31, 2006 and December 31, 2007.

During the 2008 Regular Session, CS/SB 550 by the Regulated Industries Committee and Senator Jones provided that a person, firm, or corporation that has not met the requirement to provide to the local building inspection agency verification of engineering plans for alternate generated power by December 31, 2006 must meet that requirement by December 31, 2010. It also provided that an enforcement action, fine, or other penalty is not valid for a violation unless the violation of this requirement occurs after December 31, 2010. The bill died in the Community Affairs Committee. During the 2007 Regular Session, CS/SB 806 by the Regulated Industries Committee and Senator Jones also would have extended the implementation dates for s. 553.509(2), F.S.

During the 2000 Regular Session, the Legislature amended s. 399.061, F.S., (s. 4, ch. 2000-356, L.O.F.) and provided for the use of private elevator inspectors. A recent report by the Office of Program Policy Analysis & Government Accountability (OPPAGA) recommended Legislative action to require private inspectors or registered elevator companies to respond to requests by the Bureau of Elevator Safety (bureau) within the Division of Hotels and Restaurants of the Department of Business and Professional Regulation for information regarding how the private inspectors interpret the elevator safety standards. (*See* OPPAGA Report No. 08-18, April 2008.) The report made other recommendations regarding the bureau's practices that could be addressed through Legislative action. For example, the report recommends that the bureau annually review the results of its elevator re-inspections of inspections by private inspectors to identify the differences in the results of inspections performed by bureau inspectors and private inspectors. It also recommended that the bureau annually analyze its incident data and report to the Legislature those accidents that result in medical intervention or death.

OBJECTIVE:

The project will review the implementation of s. 553.509(2), F.S., and analyze whether further Legislative action is needed to facilitate the implementation of its requirements. The project will also review the issues and concerns faced by the persons affected by this provision, including persons, firms, or corporations that own, manage, or operate buildings affected by this requirement. The project will review the implementation of s. 399.061, F.S., and review the legal issues presented by the recommendations of the OPPAGA report.

METHODOLOGY:

Senate Professional Staff will review the relevant statutory and regulatory provisions related to elevator safety and regulation. Senate Professional Staff will meet with representatives from the Bureau of Elevator Safety, OPPAGA, and the Florida Building commission to discuss the implementation of ss. 399.061 and 553.509(2), F.S. Senate Professional Staff will also discuss these issues and concerns with representatives for condominium associations that may be affected by s. 553.509(2), F.S. Senate Professional Staff will also prepare and submit a survey to assess the extent of compliance with the requirements of s. 553.509(2), F.S., by condominium associations and the nature of any problems or concerns that these associations may have experience in complying with the requirements of s. 553.509(2), F.S., which may need to be addressed through further review or Legislative action.

Mandatory Reviews

(None)

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Direct Shipment of Wine to Florida Consumers

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-333

ISSUE DESCRIPTION and BACKGROUND:

The project will review the judicial decisions and issues that have arisen since the publication of the interim report (*Direct Shipment of Wine to Florida Consumers*, Interim Report No. 2006-146, Florida Senate Committee on Regulated Industries, October 2005) that reviewed the effect of the 2005 U.S. Supreme Court's decision in *Granholm v. Heald*, which held that a state cannot allow in-state wineries to sell wine directly to consumers in that state while simultaneously prohibiting out-of-state wineries from also selling wine directly to consumers. The decision invalidated laws in Michigan and New York that discriminated between in-state and out-of-state wine manufactures in this manner and thus violated the Commerce Clause, Art. s. 8, cl. 3 of the U.S. Constitution. Florida law allows in-state wineries to sell directly to consumers, while prohibiting out-of-state wineries from shipping directly to Florida consumers. Florida's prohibition was determined to be unconstitutional in the case of *Bainbridge v. Turner*, in which wine consumers and out-of-state wineries brought an action challenging Florida's statutory scheme prohibiting out-of-state wineries from shipping their products directly to Florida consumers while permitting in-state wineries to do so.

During the 2008 Regular Session, three Senate bills were introduced to regulate the direct shipment of wine to Florida consumers. CS/SB 1st Eng. by Finance and Tax, and Senator Margolis passed the Senate but died in messages. SB 1736 by Senator Geller was withdrawn from further consideration and SB 2608 by Senator Saunders died in the Regulated Industries Committee. There were other bills introduced for the 2006 and 2007 Regular Sessions that also failed to pass both chambers. These bill presented issues that may be affected by judicial decisions that have arisen since the previous interim report. For example, some of the bills limited the direct shipment of wine to manufacturers who produce less than 200,000 gallons of wine per year. Other states have enacted this type of gallonage limitation and have had the limitation judicially challenged.

The bills have also imposed requirements on common carriers relating to package labeling, record keeping, and age verification of the recipient which may be affected by the 2008 U.S. Supreme Court decision in *Rowe v. New Hampshire Motor Transport Association*. In *Rowe*, the U.S. Supreme Court held that that federal regulation of carriers pre-empted the State of Maine's regulations for the delivery of tobacco products that were intended to prevent the delivery and sale of tobacco products to minors. The Maine regulations in the *Rowe* case were similar to the types of regulations some of the previously introduced bills have imposed on common carriers for the delivery of wine to consumers.

OBJECTIVE:

The issue brief will review the judicial decisions and issues that have arisen since the publication of the October 2005 interim report on the direct shipment of wine to Florida consumers. The issue brief will analyze the effect of the decision in *Rowe v. New Hampshire Motor Transport Association* on the Legislative options for the regulation of the direct shipment of wine. The issue brief will review the status of judicial challenges to the gallonage limitations that have been imposed in other states to limit the number of manufacturers who can direct ship wine to consumers. The issue brief will also review legislative actions and judicial decisions, state and Federal, to identify whether there are other legal issues of concern.

METHODOLOGY:

Senate Professional Staff will review the relevant case law, litigation pleadings, and state and Federal statutory provisions, including resources from other states, and the rules adopted by the Department of Business and Professional Regulation (DBPR). Senate Professional Staff will meet with the staff of the DBPR, the Department of Revenue, representatives of the affected businesses, representatives from other states and Federal agencies, and other interested parties.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Simulcast Contract Dispute

DATE DUE: N/A

PROJECT NUMBER: 2009-465

ISSUE DESCRIPTION and BACKGROUND:

Under the Interstate Horseracing Act, the horsemen's association must give permission to a thoroughbred horsetrack to simulcast its signal to tracks in another state. A dispute between the

horsemen's groups, the racetracks, and what are termed advance deposit wagering companies has led to the signals being prohibited from being broadcast. According to the Division of Pari-Mutuel Wagering the dispute is reducing the amount of money being paid to the state in taxes as well as reducing the amount of purses being paid to the horsemen. This dispute threatened to prevent wagering on the simulcast signals for the Kentucky Derby and the Preakness. Last minute, short-term agreements allowed the signals to be received by Florida permitholders.

Under Florida law, simulcast signals may only be received and rebroadcast through a racetrack or fronton that is conducting live races or games. In addition, out-of-state simulcast signals may only be received by the same class of permitholders.

OBJECTIVE:

To monitor the dispute to attempt to ascertain the impact on tax revenues to the state.

METHODOLOGY:

The staff of the Division of Pari-Mutuel Wagering as well as representatives from the thoroughbred racetracks and horsemen's association will be contacted on an ongoing basis to keep abreast of the situation.

INTERIM MONITOR PROJECT TITLE: <i>Construction Complaint Process</i>
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DATE DUE: N/A

PROJECT NUMBER: 2009-466

ISSUE DESCRIPTION and BACKGROUND:

Senators and Senate Professional Staff have received many complaints regarding the construction industry. At the direction of the Legislature the Office of Program Policy Analysis & Governmental Accountability (OPPAGA) examined the Department of Business and Professional Regulation and the Construction Industry Licensing Board's efforts to process construction complaints, reduce unlicensed construction activity, and provide relief to consumers through the Homeowners' Recovery Fund.

The OPPAGA Report, No. 08-21, April 2008, addressed the following issues: how long it takes to process construction complaints; what were the results of the complaint process; what steps were being taken to address unlicensed activity and could that be improved; and what steps does a homeowner have to take to access the recovery fund. The report also reviewed alternative approaches to address homeowner losses. The report made several recommendations to improve the construction complaint process and increase homeowner protection.

OBJECTIVE:

To monitor the department's response and implementation of the recommendations in Report No. 08-21.

METHODOLOGY:

Senate Professional Staff will review the report and accompanying materials. Senate Professional Staff will contact interested parties in the construction industry, staff of the Department of Business and

Professional Regulation and the Construction Industry Licensing Board, OPPAGA staff, representatives of consumer groups, and The Florida Bar.

INTERIM MONITOR PROJECT TITLE:
Tribal-state Gaming Compact

DATE DUE: N/A

PROJECT NUMBER: 2009-467

ISSUE DESCRIPTION and BACKGROUND:

Tribal-state compacts are an issue in Florida due to the recent agreement entered into between Governor Crist and the Seminole Tribe of Florida and the ensuing challenge to the Governor's authority to bind the state to a 25-year compact without the approval of the Legislature.

The Tribal-state compact between the Governor and the Seminole Tribe of Florida grants to the Tribe an expansion on the type of slot machines allowed as well as gives them some additional forms of Class III gaming. The agreement was then challenged by the Legislature and oral arguments were heard by the Florida Supreme Court on January 30, 2008. The Court has not published a decision at the present time. Although the proposed compact was approved by the United States Secretary of the Interior and published in the Federal Register, the agreement may still be considered null and void by decision of the Florida Supreme Court. However, the Seminole Tribe of Florida has opened slot machine gaming at its gaming facilities.

OBJECTIVE:

To monitor the litigation regarding the enactment of the Tribal-state Compact entered into between the Seminole Tribe of Florida and Governor Crist.

METHODOLOGY:

Legal decisions will be reviewed and persons from the gaming industry, the Governor's Office, the Seminole Tribe of Florida, and the Attorney General's Office will be contacted on a regular basis to monitor the progress of any litigation on this issue.

TRANSPORTATION

Interim Projects

INTERIM PROJECT TITLE:

Freight Transportation Infrastructure: Assessing the Need for Statewide Coordination

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-126

ISSUE DESCRIPTION and BACKGROUND:

The transportation of freight has always been an evolving process. However, recent changes in transportation technology and in markets, both domestically and abroad, have greatly accelerated the stress on existing freight transportation infrastructure. In an increasingly globally-scaled economy, shippers seeking to maximize the efficiency of delivering cargo typically afford little deference to jurisdictional boundaries or borders, instead making decisions based on convenience, timeliness, and energy costs. Whether shippers choose to transport cargo to, through, or from our state has significant impacts on the state's economy.

OBJECTIVE:

The project will provide an assessment of the state's existing freight transportation infrastructure and identify potential organizational improvements in planning and development of freight transportation. The potential need for statewide coordination of planning and development will be examined, as well as the need for a single body overseeing all facets of freight transportation including air, sea, and land services will be assessed.

METHODOLOGY:

Senate professional staff will:

- Examine current and historical freight transportation infrastructure as it relates to the needs of changing technology and global and domestic shipping routes.
- Review other states' efforts in statewide freight infrastructure oversight.
- Make recommendations for legislation regarding a statewide freight infrastructure oversight organization.
- Conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this project.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Review of Section 119.0712(2), F.S., Personal Information Contained in Motor Vehicle Records

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-216

ISSUE DESCRIPTION and BACKGROUND:

The State of Florida's motor vehicle records held by the Department of Highway Safety and Motor Vehicles contain personal information about licensees and motor vehicle owners. Section 119.0712(2), F.S., provides personal information contained in a motor vehicle record that is confidential and exempt. Personal information includes, but is not limited to, a driver's social security number, driver's license number or identification card number, name, address, telephone number, medical or disability information, and emergency contact information. This subsection is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

Under s. 119.15, F.S., the Open Government Sunset Review Act, exemptions to s. 24, Art. I of the State Constitution are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature pursuant to the standards established in the act. The project objective of this review is to recommend whether or not the public records' exemption should be retained.

METHODOLOGY:

Senate professional staff will review the current exemption pursuant to the standards of the Open Government Sunset Review Act, survey the Department of Highway Safety and Motor Vehicles and interested stakeholders, and contact the First Amendment Foundation to determine whether the exemption should be retained, retained with amendments, or allowed to sunset.

INTERIM MANDATORY REVIEW TITLE:

Agency Sunset Review Update of the Department of Highway Safety and Motor Vehicles

DATE DUE: September 15, 2008

PROJECT NUMBER: 2009-217

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-.920, F.S., are known as the Florida Government Accountability Act. Under this act, most state agencies are subject to a "sunset" review process to determine whether the agency should be retained, modified or abolished. Pursuant to this law, the Department of Highway Safety and Motor Vehicles was scheduled for review during the 2008 Regular Session. The Committee in accordance with the requirements of the act produced Interim Mandatory Review 2008-215 "Florida Department of Highway Safety and Motor Vehicles Agency Sunset Review."

The report and its recommendations were presented to the Transportation and Transportation and Economic Development Appropriations Committees and legislation was developed. The legislation (CS/CS/SB 2220, as passed by the committees) would have reenacted those statutory provisions that established the Department of Highway Safety and Motor Vehicles. Additional provisions of the legislation addressed discontinuance of the obsolete Bureau of Motor Vehicle Inspection, abolishment of the Florida At-Risk Driver Council, support of measures to improve customer service and implementation of federal Real ID requirements. While the bill did not pass, several provisions of the bill were amended to CS/CS/CS/SB 1992 and HB 5067. HB 5067 was vetoed by the Governor. As a result of the Governor's veto the Department of Highway Safety and Motor Vehicles continues to be subject to annual sunset review.

During the 2009 Regular Session, the Legislature will again be required to review recommendations concerning the Department of Highway Safety and Motor Vehicles. As a part of this review, the Legislature will determine if the Department of Highway Safety and Motor Vehicles should be abolished or reenacted.

The Senate Committee on Transportation will serve as the primary sunset review committee for the review of the Department of Highway Safety and Motor Vehicles. Assistance in this review will be provided by the Professional Staff of the Committees on Transportation and on Transportation and Economic Development Appropriations.

OBJECTIVE:

The objective of this project will be twofold. The previously published interim report will be updated with a supplement to reflect current budgetary and performance measure data. Secondly, the report will expand on the relevant issues addressed by CS/CS/SB 2220.

METHODOLOGY:

To assist the members of the legislative sunset review committee, senate professional staff will review relevant agency submissions, OPPAGA reports, Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Development of the Florida Department of Transportation's 5-year Work Program

DATE DUE: October 1, 2008

PROJECT NUMBER: 2009-334

ISSUE DESCRIPTION and BACKGROUND:

Section 339.135, F.S., authorizes and establishes guidelines for the Florida Department of Transportation (FDOT) to develop a State Transportation Five-Year Work Program. The Work Program, which comprises a list of transportation projects scheduled for implementation during the ensuing five year period, is based on a complete financial plan for the State Transportation Trust Fund (STTF) and other funds managed by FDOT. In developing the Work Program, FDOT coordinates with its seven district offices, the Turnpike Enterprise Office (Turnpike), Metropolitan Planning Organizations

(MPOs), and local governments. Essentially, the FDOT Work Program reflects the priorities of MPOs, counties, and FDOT in one program of scheduled activities and improvements.

Development of the Work Program is guided by the Florida Transportation Plan (FTP) and the Program and Resource Plan (PRP). The FTP (part of the State Comprehensive Plan) is a statewide transportation plan that documents FDOT's long and short range goals and objectives. The FTP long range component identifies goals and objectives to be achieved with available resources for the next 20-25 years. The annual short range component identifies objectives and strategies to be implemented over the next five to ten years in moving toward the long range goals and objectives. The PRP provides a link between the FTP, FDOT's various programs, and the department's legislative budget request. The PRP also contains program funding levels comprising financial and production targets balanced to anticipated revenues. At the local level, the Work Program must be consistent to the maximum extent feasible with the capital improvement elements of the local government comprehensive plans.

OBJECTIVE:

The issue brief will examine and summarize the process used by FDOT in developing the Work Program.

METHODOLOGY:

Senate professional staff will interview FDOT staff and review statutes and departmental policies and procedures associated with the development of the Work Program.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Automobile Lenders Industry Task Force

DATE DUE: N/A

PROJECT NUMBER: 2009-468

ISSUE DESCRIPTION and BACKGROUND:

Senate Bill 1992 passed during the 2008 Legislative Session creating the Automobile Lenders Industry Task Force within the Department of Highway Safety and Motor Vehicles (department). The task force consists of 12 members representing lending institutions, law enforcement, the state attorney, state regulatory agencies, automotive repair industry, towing and motor vehicle dealers. The task force must make recommendations on proposed legislation and proposed department rules, present issues concerning the motor vehicle lending industry to the department for its consideration, consider matters relating to the motor vehicle lending industry presented to it by the department, and submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and appropriate committees within the Legislature by June 30, 2009.

OBJECTIVE:

This project will update the members on the progress of the Automobile Lenders Industry Task Force.

METHODOLOGY:

Senate professional staff will monitor the progress of all task force meetings during the interim.

INTERIM MONITOR PROJECT TITLE:

Florida Transportation Public-Private Partnerships (P³)

DATE DUE: N/A

PROJECT NUMBER: 2009-469

ISSUE DESCRIPTION and BACKGROUND:

The 2007 Legislature made significant changes to Florida Statutes relating to the Florida Department of Transportation's (FDOT) ability to enter contracts with private entities for the purpose of increasing the carrying capacity of the state's transportation system. Specific authority was granted to FDOT to enter agreements effectively leasing existing non-turnpike toll facilities to private entities for up to 75 years. Florida's expressway authorities were given similar authority.

OBJECTIVE:

Monitor and report on the development and implementation of any transportation P³s in the state.

METHODOLOGY:

Senate professional staff will monitor major projects undertaken by FDOT and expressway authorities.

TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS

Interim Projects

(None)

Mandatory Reviews

(None)

Issue Briefs

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

<i>Agency Sunset Review of the Department of State</i>
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DATE DUE: N/A

PROJECT NUMBER: 2009-470

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-.920, F.S, are known as the Florida Government Accountability Act. Under this act, most state agencies are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished. Reviews are accomplished in three steps. First, by July 1, 2008, an agency under review must produce specific information as enumerated in statute. Second, upon receipt of the agency information, the joint Legislative Sunset Committee and the legislative committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Third, based on the agency submissions, the OPPAGA studies, and public input, the joint committee and the legislative sunset review committees will make recommendations to the Legislature by March 1, 2010, regarding the termination, modification, or continuation of the agency and its programs. The legislative sunset review committees will also propose necessary legislation.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. An agency may be abolished if the Legislature, pursuant to law, finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

The Senate Governmental Operations and Ethics and Elections Committees will be the primary sunset review committees for review of the Department of State. The Senate Transportation and Economic Development Appropriations Committee will assist and provide input in the review of the agency.

OBJECTIVE:

An agency under sunset review will have its programs examined to determine the effectiveness and efficiency of the agency's work and the necessity of continuing the duties and responsibilities assigned to the agency. Based on the recommendations of each sunset review committee, proposed legislation will be drafted to continue, modify, or abolish the agency under review.

METHODOLOGY:

To assist the members of the legislative sunset review committee, senate professional staff will review the agency information submissions, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee. The senate professional staff will identify all statutorily assigned duties and responsibilities of the agency under review. As directed by the committee, staff will draft recommendations and proposed legislation to continue, modify, or abolish the agency.

INTERIM MONITOR PROJECT TITLE:

Agency Sunset Review of the Department of Community Affairs

DATE DUE: N/A

PROJECT NUMBER: 2009-471

ISSUE DESCRIPTION and BACKGROUND:

Sections 11.901-.920, F.S., are known as the Florida Government Accountability Act. Under this act, most state agencies are subject to a "sunset" review process to determine whether the agency should be retained, modified, or abolished. Reviews are accomplished in three steps. First, by July 1, 2008, an agency under review must produce specific information as enumerated in statute. Second, upon receipt of the agency information, the joint Legislative Sunset Committee and the legislative committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Third, based on the agency submissions, the OPPAGA studies, and public input, the joint committee and the legislative sunset review committees will make recommendations to the Legislature by March 1, 2010, regarding the termination, modification, or continuation of the agency and its programs. The legislative sunset review committees will also propose necessary legislation.

During the 2010 Regular Session, the Legislature will consider the recommendations and the proposed legislation. An agency may be abolished if the Legislature, pursuant to law, finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency.

The Senate Community Affairs and Domestic Security Committees will be the primary sunset review committees for review of the Department of Community Affairs. The Senate Transportation and

Economic Development Appropriations Committee will assist and provide input in the review of the agency.

OBJECTIVE:

An agency under sunset review will have its programs examined to determine the effectiveness and efficiency of the agency's work and the necessity of continuing the duties and responsibilities assigned to the agency. Based on the recommendations of each sunset review committee, proposed legislation will be drafted to continue, modify, or abolish the agency under review.

METHODOLOGY:

To assist the members of the legislative sunset review committee, senate professional staff will review the agency information submissions, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant by the committee. The senate professional staff will identify all statutorily assigned duties and responsibilities of the agency under review. As directed by the committee, staff will draft recommendations and proposed legislation to continue, modify, or abolish the agency.

INTERIM MONITOR PROJECT TITLE:

Revisions to the Department of Transportation's Five Year Work Program

DATE DUE: N/A

PROJECT NUMBER: 2009-472

BACKGROUND and DESCRIPTION:

Several bills were adopted during the 2008 Legislative Session that will have an impact on the funding for the Department of Transportation's (DOT) work program:

- Committee Substitute for Senate Bill 1882 which revises the formula for the annual distribution of documentary stamp revenues that are transferred to the DOT's State Transportation Trust Fund;
- House Bill 5067 which redirects the \$2 processing fee for specialty license plates and the 50 cent reflective material fee from DOT to the Department of Highway Safety and Motor Vehicles; and
- Committee Substitute for House Bill 1027 which redirects an additional \$100,000 annually from motor vehicle license fees to the State Homes for Veterans Trust Fund.

The cumulative negative cash impact of these revisions on the State Transportation Trust Fund is estimated to be \$315 million for Fiscal Year 2008-09, and close to a \$1 billion dollars over the next five fiscal years, The General Appropriations Act for FY 2008-09 reflects a reduction of \$525 million in commitment authority for the first year of the Department of Transportation's (DOT) 5 year work program, The overall reduction to the Amended Tentative Work Program for fiscal years 2008/09 – 2012/13 is \$1.3 billion. While the DOT appropriations were adjusted to reflect this loss of revenue, the specific projects or project phases that will be deferred or eliminated from the work program have not been determined. The Implementing Bill (HB 5003) provides some guidance to DOT (i.e. utilization of all reserve funds, without impacting safety, preservation, or maintenance) regarding the selection of projects within the Amended Tentative Work Program to be deferred or eliminated.

PROJECT OBJECTIVE(S):

This project will keep committee members informed of the development of the revised 5-year work program, including the overall implementation plan, the project selection process, and the individual projects or phases deferred or eliminated. Senate professional staff will also provide briefing materials for legislators as needed.

METHODOLOGY:

Senate professional staff will attend DOT briefings and meet periodically with staff from the Governor's Office of Policy and Budget, the DOT, the Committee on Transportation, and the House Economic Expansion and Infrastructure Council.