2001 Session Summary
Major Legislation Passed

Compiled and Edited by
Office of the Senate Secretary

*This document can be accessed on the Legislature's Web page (***http://www/leg.state.fl.us***), and copies are available in the Senate Document Center, 304 Capitol, (850) 487-5915*

The *2001 Session Summary of Major Legislation Passed* is a collection of reports submitted by Senate Committees to the Secretary of the Senate. These reports have been compiled and edited for standardization. This summary is provided for information only and does not represent the opinion of any Senator, Senate Officer, or Senate Office.

Table of Contents

AGRICULTURE

CS/CS/HB 719 — Agriculture Crops/Damage or Destruction

by Competitive Commerce Council; Agriculture & Consumer Affairs Committee; and Rep. Stansel and others (CS/SB 1528 by Judiciary Committee and Senators Geller, Mitchell, Bronson, and Peaden)

Allows a private or commercial agricultural grower or producer, whose crop has been willfully and knowingly destroyed by another person, to bring action for damages up to twice the market value of the crop. Over the past few years, opponents of agricultural biotechnology have resorted to the destruction of private farm lands and field trials conducted by state universities and colleges as a means of protesting the technology. Applies to any agricultural field crop grown for personal or commercial purposes or for testing or research in a product development program conducted in conjunction or coordination with a private research facility, a university, or any federal, state, or local government agency. Provides considerations and limits in award of damages and provides for court costs and attorney's fees. If the property trespassed upon is an agricultural site for testing or research purposes, and is legally posted as such, the offender commits a felony of the third degree, punishable by a term of imprisonment not exceeding three years, a fine not to exceed $5,000, or in the case of a habitual offender, a term of imprisonment not exceeding ten years.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 40-0; House 118-0

CS/SB 1922 — Agriculture and Consumer Services Department

by Agriculture & Consumer Services Committee and Senator Geller

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

Department of Agriculture and Consumer Services

- Waives civil liability to the Division of Forestry when equipment, vehicles, or supplies are leased to state, county, or local government entities having fire/rescue responsibilities.

- Authorizes the department and the Department of Environmental Protection to adopt rules governing the distribution of funds for implementation of Best Management Practices with regard to agricultural nonpoint water quality sources.

- Clarifies that farmers are allowed to move certain equipment and supplies from one location to another in a truck defined as a "goat."

- Clarifies that commercial motor vehicles transporting unprocessed logs or pulpwood must attach a minimum of one amber strobe light on the rear of any load which extends more than four feet beyond the body or the bed of the vehicle.

- Eliminates requirements for the department to report on the use of compost by state agencies.

- Authorizes the department to verify data supporting label claims of termite prevention or protection on pesticide products registered in the state. Authorizes the department to adopt rules specifying performance standards and acceptable test conditions for reviewing data submitted in support of an efficacy claim.

- Authorizes the department to raise the fee cap for a food permit from $350 to $500. Allows the department to recover the cost of re-inspection of food establishments to verify compliance.

- Mandates that licenses for frozen dessert plants are not transferable and are subject to suspension or revocation.

- Authorizes, in an emergency situation the sale of reconstituted pasteurized milk products that are appropriately labeled, as well as revises references relating to the pasteurized milk ordinance and milk sanitation.

- Authorizes the department to investigate and bring action under Chapter 501, F.S., on behalf of consumers for violation of the laws relating to consumer protection.

- Allows the department to repair or build structures, from existing appropriations, as long as the costs do not exceed $250,000.

- Repeals obsolete provisions concerning the Florida Organic Farming and Food Act, timber and lumber, and Appaloosa horse racing.

- Clarifies that seafood and aquacultural crops are eligible for Agricultural Economic Development Program disaster loans.

- Increases the membership of the Animal Industry Technical Council to include representation for emerging animal industries, such as alligators and ostriches.

- Revises commercial feed laws.

- Provides requirements with respect to veterinarians who may inspect animals for disease. Authorizes the department to suspend or revoke veterinary accreditation for certain unauthorized or unethical practices.

- Revises vaccination requirements for calves.

- Provides that the first state forest acquired in Baker County is to be named after John M. Bethea who was Florida's fourth state forester.

- Exempts certain cars or vehicles from amusement ride safety standards.

- Provides for the development of acceptable humane euthanasia methods for killing livestock.

Special Risk Membership

Revises the criteria that must be met by employees in order to be designated as a special risk member within the Florida Retirement System. The member must be employed as a firefighter by a local government or an agency of state government with firefighting responsibilities. Includes fixed-wing aircraft pilots employed by the Division of Forestry of the Department of Agriculture and Consumer Services whose duties include aerial firefighting surveillance.

Assessment of Agricultural Property

Provides that containment structures, used in the disposal, storage, and utilization of waste, located on poultry farms and dairy farms shall be assessed by the income methodology approach, meaning that the structures shall be considered part of the average yields per acre and have no separate assessable value. Animal waste is a potential source of nitrates, which can contaminate surface water and groundwater. In 1996, the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) and the Suwannee River Water Management District (SRWMD) cooperated in designing and implementing best management practices (BMP) to improve animal waste management at dairy farms and poultry farms. The BMP's that have been implemented include construction of containment structures used in the disposal, storage, and utilization of waste. According to information provided by SRWMD, the cost of the containment structures can run as high as $200,000 for an average dairy farm and $60,000 for an average poultry farm. NRCS and SRWMD have provided some, but not all of the funds, needed to build these structures.

Article VII, section 4, of the State Constitution states that regulations shall be prescribed to secure a just valuation of all property for ad valorem taxation and lists several exceptions. Agricultural land is one of the exceptions and it is to be classified and assessed solely on the basis of character or use. Section 193.461(6), F.S., sets forth the use factors to be considered and requires the appraiser to rely on 5-year moving average data when utilizing the income methodology approach in assessing agricultural property. In assessing land that has been

classified as "agricultural use," the county property appraisers apply a standard approach that is used to value income producing properties. This legislation will provide appraisers with direction as to how to treat containment structures to achieve uniformity of assessments for ad valorem tax purposes throughout the state.

Damage or Destruction of Agricultural Crops

Allows a private or commercial agricultural grower or producer, whose crop has been willfully and knowingly destroyed by another person, to bring action for damages up to twice the market value of the crop. Over the past few years, opponents of agricultural biotechnology have resorted to the destruction of private farm lands and field trials conducted by state universities and colleges as a means of protesting the technology. Applies to any agricultural field crop grown for personal or commercial purposes or for testing or research in a product development program conducted in conjunction or coordination with a private research facility, a university, or any federal, state, or local government agency. Provides considerations and limits in award of damages and provides for court costs and attorney's fees. If the property trespassed upon is an agricultural site for testing or research purposes, and is legally posted as such, the offender commits a felony of the third degree, punishable by a term of imprisonment not exceeding three years, a fine not to exceed $5,000, or in the case of a habitual offender, a term of imprisonment not exceeding ten years.

Agricultural Water Conservation

Directs the Department of Agriculture and Consumer Services to establish an agricultural water conservation program that includes:

- A cost share program, coordinated where appropriate with the United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation.

- The development and implementation of voluntary interim measures or best management practices which provide for increased efficiencies in the use and management of water for agricultural production.

- Assistance to the water management districts in the development and implementation of a consistent methodology for the efficient allocation of water for agricultural irrigation.

Official Citrus Archive

Designates The Florida Citrus Archives, located at Florida Southern College and dedicated to Thomas B. Mack, as the official citrus archive of Florida. Florida Southern College in Lakeland has accumulated and maintains an extensive collection of citrus related materials. The collection is called The Florida Citrus Archives and is dedicated to Thomas B. Mack, the person most responsible for the success of the project. Florida Citrus Mutual, an association representing

growers statewide, maintains that The Florida Citrus Archives are the largest collection of its kind by far and that they function now as the unofficial statewide citrus archives.

Florida Department of Citrus

Deletes the requirement for USDA inspection of grade standards in registered citrus processing plants. The processing plants and their retail customers currently have inspection standards in place. Allows the Department of Citrus to collect money for a non-governmental entity or any of its related subsidiaries located in Florida. Money collected can be dues, special assessments, or any other funds the bylaws of the nonprofit allows to be collected from its members.

General Requirements for High School Graduation

Authorizes Agriscience Foundations I, the core course in secondary Agriscience and Natural Resource programs, to count as one of the science credits that are required for a student to graduate from a Florida high school. A student must successfully complete a minimum of 24 academic credits, three of which must be in science.

Residential Citrus Canker Compensation Program

Authorizes the Department of Agriculture and Consumer Services to compensate eligible homeowners whose residential citrus trees have been removed under a citrus canker eradication program. Up to $500,000 of federal and state funds appropriated by law may be used to administer the residential citrus canker compensation program. Defines eligible homeowners as those of record as of the effective date of the bill who have had one or more citrus trees removed from their property since January 1, 1995, as part of the canker eradication program and have not received commercial compensation from the United States Department of Agriculture. Sets compensation at $100 per tree, subject to the availability of funds. The bill does not limit the amount of compensation paid by another entity or pursuant to court order for the removal of citrus trees as part of a citrus canker eradication program.

Rural and Family Lands Protection Act

Creates the "Rural and Family Lands Protection Act" for the purpose of limiting subdivision and conversion of ranch and farm lands. Authorizes the department, on behalf of the Board of Trustees of the Internal Improvement Trust Fund, to acquire interests and enter into agreements for the following public purposes:

- Promotion and improvement of wildlife habitat,
- Protection and enhancement of water bodies, aquifer recharge areas, wetlands, and watersheds,
- Perpetuation of open space on lands with significant natural areas, or
- Protection of agricultural lands threatened by conversion into other uses.

To achieve the purposes of this act, beginning no earlier than July 1, 2002, and every year thereafter, the department may accept applications for project proposals. Any expenditures to implement the program prior to July 1, 2002, are prohibited. Four types of interest and agreements may be negotiated by the department:

1. Conservation easements pursuant to s. 704.06, F.S.
2. Rural lands protection easements.
3. Resource conservation agreements.
4. Agricultural protection agreements.

Requires that, concurrent with entering into an agricultural protection agreement, the landowner must grant to the state an option to purchase a conservation easement or rural land protection easement at the end of the agreement based on the value of the property at the time the agreement is entered into plus a reasonable escalator, multiplied by the number of full calendar years from the date of the commencement of the agreement. Upon mutual consent and agreement of the parties, a landowner may enter into a perpetual easement at any time during the term of an agricultural protection agreement. If the landowner sells the fee title, the buyer shall become the successor interest to the agriculture protection agreement and option.

Directs the department, in consultation with the Department of Environmental Protection, Florida Wildlife Conservation Commission, and the water management districts to conduct a study to determine and prioritize needs for implementing the act. The needs assessment shall locate areas of the state where existing privately-owned ranch and timber lands containing resources of the type identified can be preserved or protected through implementation of the Rural and Family Lands Protection Act.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 39-0; House 115-3

CS/SB 2042 — Pest Control Operators

by Agriculture & Consumer Services Committee and Senator Bronson

This bill contains a number of provisions from CS/SB 2042 and CS/SB 1052, relating to regulation of the pest control industry by the Department of Agriculture and Consumer Services (department).

The bill revises pest control regulations in order to improve pre-construction home termite treatments. Between 33 and 50 percent of pre-construction termite prevention treatments observed by the Department of Agriculture and Consumer Services from 1997 to 1999 were not in compliance with existing laws. The bill provides the department with the authority to establish, by rule, a written authorization for pre-construction termite treatments for pest control licensees. This written authorization could be suspended or revoked separately from the business license granted under ch. 482, F.S. This provision will significantly improve the ability of the

department to enforce the requirements of this chapter for proper pre-treatments and thereby improve the protection of Florida's citizens against improper and ineffective termite treatments. The bill establishes requirements for standardized training of pest control technicians and authorizes stop-work orders on structural fumigations.

This bill also provides additional exceptions to the state's preemption of pest-control regulation and ensures that the pest control inspections and treatments will be performed in accordance with current state law. It:

- Requires, for multi-complex dwellings in excess of 10 units, annual termite inspections for termite activity or damage, including Formosan termites, performed by a person licensed under ch. 482, F.S.;

- Requires pest control treatments of structures that have termite activity or damage to be performed by a person licensed under ch. 482, F.S.; and

- Requires property owners or other persons to obtain inspections or pest control treatments performed by a person licensed under ch. 482, F.S.

The bill requires an ordinance by a local government or other political subdivision which requires an annual inspection or pest control treatment to conform to current law.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 39-0; House 119-0

CONSUMER SERVICES

CS/CS/SB 784 — Consumer Protection

by Agriculture & Consumer Services Committee; Commerce & Economic Opportunities Committee; and Senators Geller, Crist, and Wasserman Schultz

This bill revises several consumer-protection programs under the regulatory authority of the Division of Consumer Services within the Department of Agriculture and Consumer Services (department):

Assistive Technology Device Warranty Act

Repeals the Assistive Technology Device Warranty Act. Repeal of the Act will delete duplicative provisions within two acts. The 1999 Legislature amended the Assistive Technology Device Warranty Act adding a consumer protection program to the existing minimum mandatory warranty law. Also in 1999, the Legislature passed the Home Medical Equipment Providers Act, which is a complete professional licensure act. The Home Medical Equipment Providers object

to having to pay to register as dealers under the Warranty Act in addition to licensure. Also revises the definition of "home medical equipment" to include reference to motor vehicle adaptive transportation aids.

Solicitation of Funds by Charitable Organizations

Requires solicitations to include the solicitor's registration number, the percentage of contributions kept by the solicitor, and the percentage of funds received by the charity.

Health Studios

Requires health studios to pay required refunds within 30 days after canceling a contract for future health-studio services under certain circumstances. Requires refunds to be paid within 30 days in cases where the health studio goes out of business or moves its facilities more than five driving miles away and in cases where the consumer dies or becomes physically unable to avail him or herself of a substantial portion of the health-studio services. Allows any person to be prosecuted for knowingly making false representations to the department with the intent of obtaining an exemption for a health studio from any of the security requirements in current law. These violations are punished as a third-degree felony. Thus, it expands the category of those who are subject to criminal penalties to all persons from a health studio owner or, in the case of corporate ownership, any officer of the corporation, or any manager of a health studio or the health studio's business location.

Pawnbrokers

Prohibits a pawnbroker to knowingly accept or receive any stolen property in a pawn or purchase transaction. Thus, the license of a pawnbroker who knowingly accepts or receives stolen property would be subject to suspension or revocation. In addition to other criminal penalties for dealing in stolen property, pawnbrokers who willfully accept or receive any stolen property in a pawn or purchase transaction in violation of the Florida Pawnbroking Act would be subject to criminal penalties, punished under the act as a first-degree misdemeanor.

Sellers of Business Opportunities

Removes the requirement that any guarantee from the seller of a business opportunity must be *in writing* to subject the seller to the Sale of Business Opportunities Act (act). Thus, verbal guarantees that a seller will refund monies paid if the individual does not receive income in excess of the charges for the business opportunity would be subject to regulation. Specifically, all sellers making these guarantees would be required to post a $50,000 security, file disclosure statements with the department, and comply with all other provisions of the act. Amends the security requirements in current law to allow sellers of business opportunities to post certificates of deposit in lieu of the $50,000 bond, and removes authority for a seller to post a trust account as security. These provisions conform the security requirements for sellers of business opportunities to the security requirements for other programs implemented by the department,

including, for example, sellers of travel and health studios. Broadens the scope of civil actions that may be brought against a seller of a business opportunity to include fraud, misrepresentation, and financial failure. Requires that consumer complaints be brought against the $50,000 security as administrative proceedings before the department instead of before a circuit court. Establishes a presumption that the amount of a court judgment is prima facie evidence of the value of an administrative claim. Requires disclosure statements to inform consumers of the number of persons who purchased the business opportunity in the past three years and to provide contact information for 10 previous purchasers. Subjects securities to administrative, rather than judicial, determination and revises security requirements. Subjects sellers of business opportunities to administrative and criminal penalties for failure to deliver goods and services as promised in the contract. Limits the exemption for sales and marketing programs connected to trademark or service marks to those instances in which the seller requires use of the mark.

Motor Vehicle Repair Shops

Removes the definition of the term "minor repair services" and consequently removes the distinction between motor vehicle repair shops performing minor versus major repairs. Thus, repair shops currently registered with the department as minor repair shops will not be eligible for the lesser $25 registration fee. These repair shops will be required to register based upon the number of employees and will pay a registration fee between $50 and $300: one to five employees ($50), six to 10 employees ($150), or 11 or more employees ($300). Removes obsolete provisions permitting a minor repair shop that received a certificate of exemption from the department before July 1, 1997, to remain exempt from registration until the certificate expires. Removes the requirement that one of the eight industry members serving on the Motor Vehicle Repair Advisory Council be engaged solely in minor repair service. Removes obsolete provisions that established staggered four-year terms for the initial council members and required these initial members to be registered with the department by October 1, 1993, in order to serve on the council.

Requires motor vehicle repair shops to submit copies of their estimate and invoice forms to the department as part of the registration process. Requires motor vehicle repair shops to detail the estimated cost of repair, including charges for shop supplies, hazardous waste, or other waste removal, when providing a written estimate or repair work that will exceed $100. Thus, repair shops will not be permitted to include additional charges in their written estimates, ranging from 3 to 10 percent of the estimated cost of repair, in order to account for these other costs. It will remain unlawful for a motor vehicle repair shop to charge more than the written estimate plus $10 or 10 percent, whichever is greater, but not to exceed $50, unless the motor vehicle repair shop has obtained the customer's permission to exceed the written estimate. Allows the department to revoke the registration of a motor vehicle repair shop for failure to meet the requirements of the act or as the result of certain civil, criminal, or administrative adjudications.

If approved by the Governor, these provisions take effect October 1, 2001
Vote: Senate 38-2; House 112-0

SB 2000 — General Appropriations

by Appropriations Committee

This bill is the General Appropriations Act which provides moneys for the annual period beginning July 1, 2001 and ending June 30, 2002, to pay salaries, expenses, capital outlay – buildings, and other improvements, and for other specified purposes of the various agencies of State government.

Total funds appropriated in the General Appropriations Act: $48.3 Billion

EDUCATION

Public Schools

- Provides $739 million (6.3 percent) increase in FEFP total potential funds; a $201.03 (4.1 percent increase in total potential stand and local funds per unweighted student.
- Provides $152 million for teacher recruitment and retention, which will be used to provide $850 bonus awards and associated Social Security and Medicare tax payments for all instructional staff. In addition, funds will be used to provide $850 signing bonuses to newly hired instructional personnel.
- Provides a total of $31.4 million for the Excellent Teaching Program, which is sufficient to provide bonus payments to all eligible nationally-board-certified teachers and to increase the maximum bonus amount by $1,000.

Community Colleges

Provides an overall increase in the Community College Program Fund of $29.8 million.

- Provides $7.0 million as match for challenge grant programs and $8.8 million for facilities matching grants.
- Provides $10.0 million for high demand degree programs.
- Provides $11.1 million in savings to colleges as a result of the change in the Florida Retirement System contribution rate.
- Provides a 3.5 percent tuition increase which should generate an additional $9.7 million.

Workforce Development

- Provides an increase of $1.9 million in new funding which will be distributed using the performance measures from the workforce development formula.

State University System

- Provides an increase of $45.4 million for an additional 4,343 undergraduate and 1,073 graduate full-time equivalent students, $10.5 million for increasing access to baccalaureate degrees on branch campuses and centers, and $6 million for increasing access to targeted baccalaureate degree programs through the community colleges.

- Provides an increase of $4.2 million to continue the implementation of a new medical school at FSU and $1.5 million to begin the implementation of a new Chiropractic School at FSU.

- Provides an increase of $5 million to continue the implementation of two new law schools ($2.5 million for FAMU and $2.5 million for FIU).

- Provides $22.2 million for Challenge Grant Matching funds for endowed professorships, scholarships and improvements for academic programs; and provides $31 million for Facilities Challenge Grants Matching.

- Provides an increase of $16.2 million for high-technology research initiatives and economic development.

- Provides for a 7.5 percent across-the-board tuition increase which generates $30.8 million.

Private Colleges and Universities

- Provides $70.8 million for the Florida Resident Access Grant. This provides for an increase in the number of students from 25,176 to 26,370 (1,194 full-time-equivalent student increase) at an annual award amount of $2,686.

Student Financial Aid

- Provides $58.9 million additional funding for the Florida Bright Futures Scholarship.

- Provides an increase of $7.9 million for the need-based Student Assistance Grant Program, including $3.8 million for part-time students.

HEALTH AND HUMAN SERVICES

- A total of $16.5 billion was provided by the 2001 Legislature to meet the health and human services needs of Floridians. The resources required to cover the large workload and price level growth in the Medicaid program were appropriated for both the current year and for FY 2001-02 and significant investments were made services to the mentally ill, children at risk of abuse and neglect, the homeless, nursing homes and community living alternatives for our elders.

- Funding increases for the Health and Human Services departments include:

  The Department of Children and Families increased by $200.2 million which included increases for child welfare initiatives of $97 million, $43.7 million in increases for mental health services including major expansions of services in the G.P. Wood Hospital service area, $30 million to continue services to the developmentally disabled plus authorization to carry forward $42.9 million in state and federal funding not spent on developmental services programs in FY 2000-01 and $5 million to expand services for the homeless.

  Department of Health funding, which increased overall by $43.4 million, included continuation funding for the highly successful Tobacco Pilot Program at $39.1 million, increased funding for primary care services of $3.0 million, and $4 million for abstinence programs.

  Department of Elder Affairs funding increased by $51.8 million which included an expansion of home and community based alternatives to nursing home care by $22.9 million, additional Older Americans Act and other grant program funding of $22.7 and community based Alzheimer's Disease projects was also provided.

  Significant additional resources were required for the Agency for Health Care Administration to meet current year and FY 2001-02 Medicaid workload and price level adjustments. Anticipated Medicaid expenditures increased by a total of $1.57 billion even with significant policy changes which resulted in program savings. The Medicaid Pharmacy Program was changed to allow for a restricted formulary and provisions were added to require state supplemental rebates from drug manufacturers. $643.8 million was provided to improve payments for hospital services, $76.6 million was allocated to improve the quality of care in nursing homes and to redesign the nursing home reimbursement plan, services to women with breast and cervical cancer were expanded and a new eligibility group was created for the working disabled.

  The Department of Veterans' Affairs received $4 million in new funding for the new nursing homes in Bay County and Charlotte County and also additional resources to strengthen the infrastructure of the department.

GENERAL GOVERNMENT

- Over $350 million for acquisition of recreational, conservation, and environmentally sensitive lands (using the 2ND series of bonds for Florida Forever and Save Our Rivers funds).

- $100 million deposit provided for the Save Our Everglades Trust Fund using $75 million of unencumbered Preservation 2000 funds and $25 million from Florida Forever bond proceeds (part of the South Florida Water Management District's Florida Forever allocation).

- $125.6 million dedicated to continue the state effort in funding wastewater, stormwater, and surface water projects.

- $30 million to continue restoration and renourishment of Florida's pristine beaches.

- Included the necessary state matching funds to provide a $37 million Drinking Water Facility Construction Revolving Loan Program and $134 million Wastewater Treatment Facility Construction Revolving Loan Program.

- Transportation Outreach Program – provided $116 million for high priority projects that preserve Florida's transportation infrastructure and enhance mobility across the state.

- Economic Development - $140.4 million reauthorized for the various programs, with a boost in the funding for military base infrastructure improvements ($5 million)

- Citrus canker eradication funds are provided at $45.2 million, and compensation for destroyed residential trees is provided at $27.5 million

- Renovations and expansions of agricultural fair and livestock pavilion facilities were funded at $6.3 million

- Funds and positions are authorized for 25 new Fish and Wildlife Conservation Commission law enforcement officers for enhanced manatee protection

- Law enforcement overtime for the Highway Patrol was provided at $2 million

- $10.9 million provided for Florida System improvements and for the implementation of a new automated system to improve child support enforcement operations in the Department of Revenue.

- Authorized another $10 million for the Department of Business and Professional Regulation to continue development of their online licensing system.

- Provided $2 million to Department of Military Affairs for armory repairs and maintenance.

- Over $27 million to fund the entire Florida Recreation Development Assistance Program (FRDAP).

- Historical Preservation Projects – funded the advisory council's entire list with $17.2 million

- Cultural Facilities Grants – funded the arts council's entire list with $16.6 million

- Library Construction Grants - funded the entire recommended list with $6.3 million

- Grants to counties for voting systems assistance - $20 million

- Library Operational Grants - $32.4 million

- Library Cooperative Grant Program - $1.2 million

PUBLIC SAFETY AND JUDICIARY

- To make Florida's communities safer, the budget provides nearly $80 million dollars for Juvenile Delinquency, Prevention, and Diversion Programs. Of these funds, $18.2 million is provided for local juvenile crime and delinquency prevention services. These funds will help schools, parents, and law enforcement officers respond to local juvenile crime and delinquency problems. Local communities will implement innovative programs in juvenile crime prevention including truancy reduction programs, job training and placement, family and child counseling, after school activities and support for Florida's Boys and Girls Clubs. These solutions for preventing juvenile crime will encourage responsible behavior, build character, and keep youth in school and out of trouble.

- To ensure that violent and habitual juvenile offenders are punished for their crimes, more than $28 million additional dollars are provided to fund the operational costs of 1,152 new commitment facility beds. Many of these beds will located in commitment facilities providing specialized mental health and substance abuse treatment services designed to rehabilitate juvenile offenders.

  The budget for the Department of Juvenile Justice reflects the Legislature's balanced approach in dealing with Florida's juvenile crime problem by providing funds for prevention and diversion as well as for commitment, treatment, and rehabilitation.

- The budget for Public Safety and Judiciary also provides funding for 16 new circuit and 11 new county judges as well as funding to significantly enhance Florida's Family Court System. More than $3 million additional dollars are provided to expand the Guardian Ad Litem program and enhance dependency court operations to enable more dependency cases to be processed in a shorter period of time. Overall, the budget provides nearly $12 million in additional funding for the State Court System to ensure the citizens of Florida are served by an adequately funded judiciary system.

- To protect the rights of all Floridians, especially those most vulnerable to abuse, discrimination, and/or unscrupulous behavior, the budget adds three additional positions and $181,015 to the Office of Civil Rights within the Department of Legal Affairs. These additional FTE and resources will focus on predatory mortgage lending, and other types of economic discrimination, as well as accessible housing and bias crime prevention with particular attention paid to the discrimination of women, senior citizens and those with physical and mental handicaps.

- Finally, to ensure that Florida continues to experience significant reductions in crime, especially violent crime, more than $20 million additional dollars are provided to hire more prison guards and provide food, bedding, clothing, and medical care to support the anticipated increase in the inmate population. These additional funds will be used to support the costs associated with longer prison sentences for those persons convicted of violent crimes.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 37-3; House 115-3

SB 2002 — Appropriations Implementing

by Appropriations Committee

This bill provides additional instructions to agencies of government for which funds have been appropriated so that affected agencies will be better able to implement the intentions of the Legislature as manifested in the General Appropriations Act.

Section 1. Provides Legislative intent.

Section 2. Permits the transfer of funds provided to community colleges and school districts for workforce development, subject to the approval of a budget amendment submitted when a program is moved, in order to implement Specific Appropriation 171.

Sections 3-4. Provides that funding for Advanced International Certificate of Education Program full-time equivalent (FTE) be the same as International Baccalaureate Program FTE. Provides that the Quality Assurance Guarantee in the Florida Education Finance Program shall be calculated on unweighted FTE in order to implement Specific Appropriation 118.

Sections 5-6. Deletes provisions authorizing school districts to conduct a pilot program of the Advanced International Certificate of Education Program in order to implement Specific Appropriation 118.

Sections 7-8. Includes the combined total of the fee schedule adopted by the State Board of Community Colleges and the technology fee adopted by a board of trustees, when determining the matriculation and tuition fees in order to implement Specific Appropriation 178.

Sections 9-12. Specifies the minimum of funds from university and community college student financial aid fees that must be based on absolute need.

Section 13. Delays until FY 2002-2003 the school district's FTE membership being adjusted by the average daily attendance factor in order to implement Specific Appropriation 118.

Section 14. Authorizes the Department of Children and Families and the Department of Health to advance money to contract providers in order to implement Specific Appropriations 302-466 and 503-637.

Section 15. Authorizes the Department of Children and Families to transfer funds and associated staff to the Department of Juvenile Justice. Requires only a 3-day consultation period with the Legislature for such transfers. Directs the Department of Juvenile Justice to give priority to employ persons employed at G. Pierce Wood Memorial Hospital (GPW). Requires the Department of Juvenile Justice contracted sexually violent predator program to give employees from GPW priority for employment in order to implement Specific Appropriations 408 and 410.

Section 16. Requires the funds in excess of 1998-1999 appropriations be allocated to the G. Pierce Wood catchment area, or as specified in the General Appropriations Act. Requires development of an alternate allocation methodology. Holds districts harmless at their 1998-1999 funding levels in order to implement Specific Appropriations 400-402.

Sections 17-18. Directs the Department of Elder Affairs to choose at least two Community Care for the Elderly providers in Miami-Dade County in order to implement Specific Appropriation 480.

Section 19. The Department of Children and Families can transfer funds within the Family Safety Program between specified appropriations without limitation. Must be consistent with Legislative intent and not increase recurring General Revenue in order to implement Specific Appropriations 348, 350A, and 305C.

Section 20. Authorizes the transfer of funds from the Department of Children and Families to the state court system to operate the Florida foster care citizen review panels in order to implement Specific Appropriation 3018.

Section 21. Designates the State Courts System as the agency to distribute funds to counties for the reimbursement for court-appointed conflict counsel in order to implement Specific Appropriation 2967.

Section 22. Relates to the County Article V Trust Fund. Changes the threshold for a small county from 75,000 to 90,000 population. Allows funds to be used for operating expenditures for offices of the state attorneys and public defenders in order to implement Specific Appropriations 862-1126.

Sections 23-24. Raises threshold from 85,000 to 90,000 population for the definition of "small county" for purpose of receiving funds to cover extraordinary criminal case related costs in order to implement Specific Appropriation 2968.

Section 25. Allows the Florida Department of Law Enforcement to transfer up to 0.5 percent of Specific Appropriations 1248, 1259, 1268, 1278, 1280A, 1281, 1289, 1296, and 1302 to provide meritorious performance bonuses for employees, subject to approval.

Section 26. Allows the Florida Department of Law Enforcement to transfer up to 20 FTE and associated budget and 10 percent of the initial approved salary rate between budget entities in order to implement Specific Appropriations 1248-1307.

Section 27. Authorizes the Correctional Privatization Commission to make expenditures to defray costs of impacts incurred by a municipality or county for privatized facilities under the authority of the Correctional Privatization Commission or the Department of Juvenile Justice in order to implement Specific Appropriation 1225.

Section 28. Authorizes the Governor to request the establishment of FTE in excess of the number authorized in the General Appropriations Act and funding from the Working Capital Trust Fund under certain circumstances. If the actual inmate population exceeds Criminal Justice Estimating Conference projections or the Department of Corrections implements a Close Management Consolidation Plan, additional positions may be established. If the department does not execute a contract(s) to privatize health services in Region IV by October 1, 2001, up to 97 FTE may be added to the Department of Corrections in order to implement Specific Appropriation 681-788F and 819-848.

Sections 29-30. Directs the deposit of certain court costs to the Florida Department of Law Enforcement to implement the transfer of certain criminal justice related grant disbursement programs from the Department of Community Affairs in order to implement Specific Appropriations 333-339 and 1248-1256.

Sections 31-32. Allows the Florida Department of Law Enforcement to disburse certain appropriated funds related to administering and preserving federal funds to implement the transfer of certain criminal justice related grant disbursement programs from the Department of Community Affairs in order to implement Specific Appropriations 333-339 and 1248-1256.

Section 33. Transfers funding for Criminal Justice Program from the Department of Community Affairs to the Florida Department of Law Enforcement; and Prevention of Domestic and Sexual Violence Program from the Department of Community Affairs to the Department of Children and Families; requires the Florida Department of Law Enforcement to transfer the Department of Children and Families Domestic and Sexual Violence Program activities in order to implement Specific Appropriations 333-339 and 1248-1256.

Section 34. Allows the Department of Community Affairs to use alternative placement of newspaper advertisements to notice compliance of comprehensive plan or plan amendments and requires a posting of the notice on the agency's web site in order to implement Specific Appropriation 1519.

Section 35. Requires the Department of Management Services to operate the executive aircraft pool on a full cost recovery basis, less available funds in order to implement Specific Appropriations 2624-2628A.

Sections 36-37. Transfers $75 million from the cash balance remaining in the Florida P-2000 Trust Fund, less approved commitments encumbered, to the Save Our Everglades Trust Fund in order to implement Specific Appropriation 1742.

Section 38. Provides that solid waste management and recycling grants will be provided only to counties with populations under 100,000 in order to implement Specific Appropriation 1789.

Section 39. Authorizes the use of funds allocated to the Water Management Lands Trust Fund as provided in the General Appropriations Act in order to implement Specific Appropriation 1748.

Section 40. Authorizes the use of funds allocated to the Internal Improvement Trust Fund as provided in the General Appropriations Act in order to implement Specific Appropriation 1748.

Section 41. Directs the Secretary of the Department of Environmental Protection, at the request of a water management district, to release moneys allocated to the districts for legislatively authorized land acquisition and water restoration initiatives in order to implement Specific Appropriations 1653 and 1748.

Section 42. Allows up to $2.2 million of the unencumbered balance of the Emergency Management, Preparedness, and Assistance Trust Fund to be appropriated by the General Appropriations Act to improve and increase the number of disaster shelters and improve local disaster preparedness in order to implement Specific Appropriation 1543A.

Section 43. Repeals the requirement to provide $500,000 for the Department of State state-owned cultural facilities in order to implement Specific Appropriations 2932-2947A.

Section 44. Deletes requirement that the Department of State contract with a private company to compare databases for the Central Voter File in order to implement Specific Appropriation 2898B.

Section 45. Allows homeowners to be compensated for citrus trees destroyed under the citrus canker eradication program in order to implement Specific Appropriation 1488A.

Section 46. Extends the scheduled expiration of the prescription drug co-payment schedule to June 30, 2002 in order to implement section 8 of the General Appropriations Act.

Section 47. Extends to June 30, 2002, the scheduled expiration of the Department of Management Services' duty to determine premium levels necessary to fund the state employees' health insurance program in order to implement section 8 of the General Appropriations Act.

Section 48. Removes Class C travel reimbursement for state travelers in order to implement sections 2-7 of the General Appropriations Act.

Section 49. Requires the Department of Management Services to develop a plan for the outsourcing of human resource services on behalf of all state agencies. The plan must be submitted to the presiding officers and appropriations chairs for approval. Upon approval the Department of Management Services shall contract with a private vendor. As human resource services are outsourced, each agency shall place certain FTE and associated rate into unbudgeted reserve. Each agency may be assessed a special assessment by the Department of Management Services to pay for the costs of the outsourced services in order to implement Specific Appropriations 2654-2660B and section 47 of the General Appropriations Act.

Section 50. Requires the Governor, in consultation with the Legislature to develop accounting code structure for the State Technology Office within the Department of Management Services in order to implement Specific Appropriation 2729-2733 and section 55 of the General Appropriations Act.

Section 51. Prohibits state employees from receiving fundable tuition waivers to the state university system on a space-available basis in order to implement Specific Appropriation 208A.

Section 52. Prohibits state university employees from enrolling in tuition-free courses in order to implement Specific Appropriation 208A.

Section 53. Specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 54. Provides for a permanent change made by another law to any of the same statutes amended by this bill to take precedence over the provision in this bill.

Section 55. Provides that the agency performance measures and standards, contained in a separate document dated May 1, 2001, are incorporated by reference and agencies will update their long-range program plans accordingly.

Section 56. Provides a severability clause.

Section 57. Provides an effective date of July 1, 2001 and provides that in the event that the act fails to become a law until after July 1, 2001, it shall be retroactive.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 39-0; House 114-1

CS/SB 1784 — State Planning and Budgeting

by Appropriations Committee and Senator Horne

This bill amends ch. 216, F.S., which governs the planning and budgeting requirements and processes for the state. The bill makes several changes to ch. 216, F.S., by correcting, updating and modernizing provisions of the budgeting law. The most significant changes are:

- Specifying legislative intent to implement activity-based planning and budgeting;
- Requiring agencies to submit a unit cost summary report and providing for a funding penalty for failure to submit the report;
- Providing for an agency and judicial branch incentive and shared savings program that will permit agencies and the judicial branch to retain at least 5 percent, but no more than 25 percent, of annual savings resulting from operating efficiencies;
- Requiring the Legislative Budget Commission to review and act upon Trust Fund increases and transfers in excess of 5 percent of the original approved budget or $1,000,000 whichever is greater;
- Requiring agencies to include in their legislative budget request an inventory of all litigation in which the agency is involved that may require additional appropriations;
- Requiring agencies to have a specific appropriation or approval from the Legislative Budget Commission in order to spend funds obtained through court settlements;
- Requiring the Governor or Chief Justice to develop a plan to eliminate deficits in trust funds;
- Clarifying the schedule of appointing chairs to the Legislative Budget Commission to provide that during even-numbered years, the chair of the commission shall be the chair

of the Senate Budget Committee or its successor, and vice chair of the commission shall be the chair of the House Fiscal Responsibility Council or its successor and during odd-numbered years, the chair shall be the chair of the House Fiscal Responsibility Council and the vice chair shall be the chair of the Senate Budget Committee;

- Allowing the Legislative Budget Commission to approve increases in salary rate if in the best interest of the state and consistent with legislative policy and intent;

- Requiring the Division of Bond Finance to conduct an annual debt affordability analysis and to prepare a report to be presented to the governing board of the Division of Bond Finance, the President of the Senate, the Speaker of the House of Representatives, and the chair of each appropriations committee by December 15; and

- Requiring the Legislative Budget Commission to annually review the state's tax-supported debt and estimate the maximum amount of new tax-supported debt that prudently may be authorized.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 39-0; House 117-0

TRUST FUNDS

Department of Lottery

The following trust fund is recreated within the department:

			Effective Date
S 0544	Lottery Administrative Trust Fund	Ch. 2001-4	11/04/2004

Vote: Senate 38-0; House 117-0

Department of Management Services

The following trust funds are recreated within the department:

			Effective Date
S 0546	Administrative Trust Fund	Ch. 2001-5	11/04/2004
S 0548	Administrative Trust Fund of the Division of Adm. Hearings	Ch. 2001-6	11/04/2004
S 0558	Florida Facilities Pool Working Capital Trust Fund	Ch. 2001-7	11/04/2004
S 0560	Florida Facilities Pool Working Capital Trust Fund	Ch. 2001-8	04/25/2001
S 0562	Grants and Donations Trust Fund	Ch. 2001-9	11/04/2004
S 0564	Wireless Emergency Telephone System Trust Fund	Ch. 2001-10	07/01/2003
S 0566	Wireless Emergency Telephone System Trust Fund	Ch. 2001-11	11/04/2004
S 0568	State Agency Law Enforcement Radio System Trust Fund	Ch. 2001-12	11/04/2004

S 0572	Public Facilities Financing Trust Fund	Ch. 2001-13	11/04/2004
S 0574	Public Facilities Financing Trust Fund	Ch. 2001-14	04/25/2001
S 0576	Operating Trust Fund	Ch. 2001-15	11/04/2004
S 0578	Pretax Benefits Trust Fund	Ch. 2001-16	11/04/2004
S 0580	Retiree Health Insurance Subsidy Trust Fund	Ch. 2001-17	11/04/2004
S 0582	Retiree Health Insurance Subsidy Trust Fund	Ch. 2001-18	04/25/2001
S 0584	State Personnel System Trust Fund	Ch. 2001-19	11/04/2004
S 0586	Supervision Trust Fund	Ch. 2001-20	11/04/2004

Vote: Senate 38-0; House 117-0

Fish and Wildlife Conservation Commission

The following trust funds are recreated within the department:

			Effective Date
S 0590	Dedicated License Trust Fund	Ch. 2001-21	11/04/2004
S 0592	Florida Panther Research and Management Trust Fund	Ch. 2001-22	11/04/2004
S 0594	Florida Preservation 2000 Trust Fund	Ch. 2001-23	11/04/2004
S 0596	Florida Preservation 2000 Trust Fund	Ch. 2001-24	04/25/2001
S 0598	Florida Forever Program Trust Fund	Ch. 2001-25	07/01/2004
S 0600	Land Acquisition Trust Fund	Ch. 2001-26	11/04/2004
S 0602	Lifetime Fish And Wildlife Trust Fund	Ch. 2001-27	11/04/2004
S 0604	Marine Resources Conservation Trust Fund	Ch. 2001-28	11/04/2004
S 0606	Nongame Wildlife Trust Fund	Ch. 2001-29	11/04/2004
S 0608	Save the Manatee Trust Fund	Ch. 2001-30	11/04/2004
S 0610	State Game Trust Fund	Ch. 2001-31	11/04/2004
S 0612	Federal Law Enforcement Trust Fund	Ch. 2001-32	11/04/2004
S 0614	Federal Law Enforcement Trust Fund	Ch. 2001-33	07/01/2002
S 0616	Conservation and Recreation Lands Program Trust Fund	Ch. 2001-34	07/01/2004

Vote: Senate 38-0; House 117-0

HEALTH INSURANCE/HMO'S

CS/SB 836 — Health Insurers and Health Maintenance Organizations

by Banking & Insurance Committee and Senators Crist, Peaden, Wasserman Schultz, Dawson, Campbell, Saunders, and Geller

This committee substitute would prohibit health insurers and health maintenance organizations (HMOs) from requiring contracted health care practitioners to accept the terms of other health care practitioner contracts with the insurer, any other insurer, or any HMO, under common management and control with the insurer or HMO, as a condition of *continuation or renewal* of the contract. Any contract provision that would violate this provision is void. (However, this prohibition would not apply when an insurer or HMO is initially entering into a new contract with a physician.) This provision would apply to Medicare and Medicaid practitioner contracts as well as preferred provider (PPO), and exclusive provider (EPO) practitioner contracts. An exception is provided for a practitioner in a group practice who must accept the terms of a contract negotiated for the practitioner by the group. The bill provides that a violation of the above provision is not subject to the criminal penalty provision under s. 624.15, F.S. That criminal sanction makes any willful violation of the Insurance Code a second degree misdemeanor.

This bill is intended to prohibit the utilization of "all products clause" provisions contained in some insurance and HMO contracts, as a condition of continuation or renewal of a current contract. Health care practitioners object to insurers and HMOs using such clauses because these provisions require practitioners to participate in all of the health plan's current and future health plan products, as a condition of participating in any of the health plan's products.

If approved by the Governor, these provisions take effect July 1, 2001, and shall apply to contracts entered into or renewed on or after that date.
Vote: Senate 38-0; House 115-0

AUTO INSURANCE

CS/CS/SB 1092 — Motor Vehicle Insurance

by Criminal Justice Committee; Banking & Insurance Committee; and Senators Campbell, Crist and Garcia

Under the Florida Motor Vehicle No-Fault law, motor vehicle owners are required to maintain $10,000 of personal injury protection (PIP) coverage. Subject to co-payments and other restrictions, PIP insurance provides compensation for bodily injuries to the insured driver and

passengers regardless of who is at fault in an accident. This coverage also provides the policyholder with immunity from liability for economic damages up to the policy limits and for non-economic damages (pain and suffering) for non-permanent injuries. Property damage liability coverage of $10,000 is also required which pays for the property damage expenses caused by the insured to third parties in the accident.

In September 2000, the Fifteenth Statewide Grand Jury examined fraud relating to PIP insurance and found that PIP fraud consisted of: *1) the illegal solicitation of accident victims for the purpose of filing for PIP benefits and motor vehicle tort claims; 2) brokering patients between doctors, lawyers and diagnostic facilities, as well as attendant fraud, which can include the filing of false claims; 3) billing insurers for treatment not rendered; 4) using phony diagnostic tests or misusing legitimate tests; 5) inflating charges for diagnostic tests or procedures through brokers; and 6) filing fraudulent motor vehicle tort lawsuits.* According to the Grand Jury, "certain people have turned the $10,000 of personal injury protection coverage into their own personal slush fund." The Grand Jury made seven recommendations, five of which are addressed in this bill, while two of the recommendations are addressed in CS/HB 1805 (crash reports). In summary, the five recommendations provide for the following:

- Require regulation and licensure of medical facilities;
- Consider adopting a fee schedule for reimbursement under PIP similar to workers' compensation provisions;
- Provide insurers an additional 30 days to pay PIP claims, at least in instances where the insurer certifies that the claim be reviewed for fraud;
- Make all charges for magnetic resonance imaging (MRIs) unenforceable, unless such charges are billed/collected by 100 percent owner/lessee. This will remove incentives for brokering; and
- Provide that an insurer or PIP accident victim does not have to pay for services rendered by any provider or attorney who has solicited the victim.

This bill addresses the five recommendations in the Grand Jury report and related issues as follows:

- Requires certain clinics to register with the Department of Health and employ or contract with a physician as medical director or a specified health care practitioner as clinical director. Such directors must carry out and be legally responsible for specified responsibilities for the clinic and ensure compliance with record keeping, office surgery, and adverse incident reporting requirements as well as conduct systematic reviews of clinic billings to ensure the billings are not fraudulent or unlawful. Provides for exceptions to clinic registration for specified licensees and entities. Mandates penalties for unregistered clinics, for the disciplining of licensed health care practitioners who

violate certain provisions, and provides that it is a third degree felony for a person to operate or manage an unregistered clinic. Provides that charges or reimbursement claims made by an unregistered clinic are unlawful charges and are noncompensable and unenforceable. Authorizes $100,000 to be appropriated from registration fees collected from clinics to the Department of Health for the purpose of regulating clinics. These funds must be deposited into the Medical Quality Assurance Trust Fund.

- Adds five "medically necessary" diagnostic tests to be subject to the workers' compensation fee schedule (spinal ultrasounds, extremity ultrasounds, video fluoroscopy, surface electromyography, and nerve conduction testing). However, allowable amounts that may be charged to a PIP insurer or insured for medically necessary nerve conduction tests, done in conjunction with a needle electromyography procedure, and performed and billed solely by a specified physician who is especially certified, board recognized, or who holds diplomate status, shall not exceed 200 percent of the allowable amount under Medicare Part B.

- Limits the allowable amounts charged to PIP insurers and insureds after November 1, 2001, for magnetic resonance imaging (MRIs) services to 175 percent of the allowable amount under Medicare Part B, except that allowable amounts for MRIs provided in specified accredited facilities are limited to 200 percent of Medicare Part B. Provides that upon the effective date of the act and before November 1, 2001, allowable amounts that may be charged for MRIs are limited to 200 percent of Medicare Part B. Hospitals are excluded from this provision.

- Provides a definition of "broker" and states that insurance companies or insureds are not required to pay claims made by brokers or by persons making claims on behalf of brokers. Also defines "medically necessary" as used in the motor vehicle no-fault law.

- Provides that an insurer may, in good faith, request of a provider information or documentation as to why a PIP claim was reasonable in amount and medically necessary.

- Clarifies that insurers are not precluded or limited in asserting that a claim was unrelated, not medically necessary, or unreasonable in amount. Such assertion may be made at any time, including after payment of the claim.

- Authorizes that as a condition precedent to filing certain actions for an overdue claim for benefits, the insurer must receive a written notice of the intent to litigate (a "demand letter") containing specified information. This provision allows insurers 7 business days after receipt of a notice to pay the claim, with applicable interest and specified penalty, without being potentially subject to payment of attorney's fees.

- Requires insurers to provide specified information to providers when paying only a portion of a claim or rejecting a claim.

- Creates a civil cause of action to allow insurers to sue a person who, in connection with a claim for PIP benefits, is found guilty of or plead guilty or nolo contendere to specified violations, regardless of adjudication of guilt.

- Provides for specified crimes (insurance fraud, solicitation of persons involved in motor vehicle accidents, and patient brokering) to be ranked under the Criminal Punishment Code so that judges will consider such crimes as to sentencing guidelines. Provides that it is a third degree felony for persons to willfully use accident reports to commercially solicit accident victims.

- Expands immunity from civil liability for individuals reporting insurance fraud to the Department of Insurance.

- Provides that the "spiritual healing" provision does not affect determinations of what other services or procedures are medically necessary.

- Eliminates the medical payments provision which currently requires that medical payment insurance fill the 20 percent PIP co-insurance.

- Changes the interest rate for overdue payments from a fixed rate to the rate established by the Comptroller under s. 55.03, F.S.

- Helps to remedy the current practice of insurers utilizing "paper" independent medical examinations (IMEs) by requiring "valid" reports by experienced physicians or a physical examination by a physician who meets certain active practice criteria. Also provides that such report may not be modified by anyone other than the physician.

- Allows providers up to 75 days under specified conditions to submit a statement of charges to insurance companies.

- Certain changes in the bill take effect as to PIP policies issued or renewed on or after October 1, 2001, which are referenced above. These include: "medically necessary" benefits; "spiritual healing" provision; a "valid" report by a physician; and the repeal of medical payments provision. Changes as to treatments rendered on or after October 1, 2001, which are noted above, include: information insurers must provide when they deny or reduce a claim; the provision that insurers are not limited in asserting the claim was unrelated, not medically necessary; claims made by or on behalf of brokers; the new fee schedules; the time limitations for providers to send in claims; discovery of information by an insurer; and the provision related to demand letters.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided above.
Vote: Senate 39-0; House 108-8

CS/HB 1805 — Public Records/Motor Vehicle Crashes

by Competitive Commerce Council; Insurance Committee; and Rep. Waters and others (CS/SB 1466 by Banking & Insurance Committee and Senators Sanderson and Holzendorf)

In September 2000, the Fifteenth Statewide Grand Jury, in a report on insurance fraud related to personal injury protection (PIP) benefits found that individuals called "runners" pick up copies of motor vehicle crash reports filed with law enforcement agencies and use them to solicit people involved in motor vehicle accidents. The Grand Jury found that access to crash reports provided the ability of such runners, who were employed by unscrupulous attorneys and medical providers, to contact large numbers of potential clients in violation of the prohibition of crash report use for commercial solicitation purposes. In the words of the Grand Jury, "the wholesale availability of these reports is a major contributing factor to this illegal activity and likely the single biggest factor contributing to the high level of illegal solicitation."

The Grand Jury examined crash report fraud and made two recommendations to the Legislature:

- Protect the victims of crimes or accidents by prohibiting the release of accident reports to anyone other than the victim, their insurance company, a radio or television station licensed by the FCC, or a professional journalist. The Grand Jury stated that this would "close the door" to access by solicitors with no legitimate need for the reports.

- Increase the penalty for persons who access crash reports by increasing the violation to a third degree felony.

This bill addresses the Grand Jury's concerns by providing an exemption from the public records requirements for motor vehicle crash reports that reveal personal information concerning parties involved in a vehicular accident. Specifically, the bill provides an exemption from public records provisions (s. 119.07(1), F. S., and s. 24(a), Art. I, State Constitution) for such crash reports which reveal the identity, home or employment telephone number or address, or other personal information of parties involved in an accident, for a period of 60 days from the date the report is filed. However, such reports may be made available to the following persons or entities: parties to the crash, their legal representatives, their insurance agents, their insurers or insurers to which they have applied for coverage, persons under contract with such insurers to provide claims or underwriting information, prosecutorial authorities, radio or television stations licensed by the Federal Communications Commission, newspapers qualified to publish legal notices, and free newspapers. Persons attempting to access crash reports within the 60-day period must present "legitimate credentials or identification" demonstrating their right to access such information. Further, any state or federal agency authorized by law to have access to crash reports must be granted access.

The bill provides that it is a third degree felony for employees of state or local agencies who knowingly disclose crash report information to persons not entitled to access such information as well as for persons who obtain, or attempt to obtain, confidential crash report information who

know they are not entitled to obtain such information. The bill provides a statement of public necessity.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 115-0

WORKERS' COMPENSATION

SB 770 — Workers' Compensation/Law Enforcement

by Senator Crist

This bill amends s. 440.092, F.S., to broaden the circumstances in which law enforcement officers are considered to be acting within the course and scope of employment and, accordingly, covered by workers' compensation by creating an additional statutory exception to the "going and coming" rule. The bill provides that an injury to a law enforcement officer, as defined in s. 943.10(1), F.S., during the officer's work period or while going to or coming from work in an official law enforcement vehicle, shall be presumed to be an injury arising out of and in the course of employment unless the injury occurred during a distinct deviation for a non-essential personal errand. If however, the employer's policy or the collective bargaining agreement that applies to the officer permits such deviations for non-essential errands, the injury shall be presumed to arise out of and in the course of employment.

The bill provides that the Legislature declares that it is a proper and legitimate state purpose to provide workers' compensation coverage to law enforcement officers during work periods and while going to and coming from work in an official law enforcement vehicle. The bill also provides that the Legislature determines that the provisions of this act fulfill an important state interest.

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

CS/HB 1803 — Workers' Compensation

by Competitive Commerce Council; Insurance Committee; and Rep. Waters and others (CS/SB 1926 by Banking & Insurance Committee and Senator King)

The bill eliminates certain reporting requirements for carriers, authorizes outsourcing of certain functions of the Division of Workers' Compensation (division), and provides other changes that are designed to streamline the dispute resolution process and increase the overall efficiency of the administration of the workers' compensation system.

General Provisions

Managed care for the provision of medical treatment for employees is optional, rather than mandatory, for employers and carriers. Carriers are required to give an employee the opportunity for one change of physician during the course of treatment for any one accident.

The bill reestablishes and authorizes carriers to provide a workers' compensation insurance credit for employers that institute a safety program in the workplace, pursuant to the provisions of the rating plan. In addition, the bill establishes specific requirements for public employers relating to the safety program discount. Previously, the Division of Safety was responsible for approving safety programs; however, the division was abolished in 2000.

The bill revises the security deposit requirements for individual self-insured employers by eliminating the use of certificates of deposit and Treasury notes. Currently authorized self-insured employers must comply with the revised qualifying security deposit requirements on or before December 31, 2001, or upon maturity of existing security deposits, whichever occurs later.

The bill amends ss. 489.114, 489.115, 489.510, and 489.515, F.S., to address the conflict in requirements for obtaining a contractor's licensure and an exemption from workers' compensation coverage. Under current law, any person engaged in the business of construction contracting in Florida is required as a *precedent* to the issuance of a certificate to provide to the department evidence of workers' compensation coverage. This creates a conflict since the Division of Workers' Compensation requires an individual engaged in the construction business to submit a copy of their contractor's certificate as a *precedent* to issuing an exemption from coverage. To resolve this conflict, the bill requires the Department of Business and Professional Regulation to issue initial licenses to individuals seeking to engage in the business of contracting if the applicant qualifies for an exemption from coverage and submits an affidavit attesting to the fact that the exemption will be obtained within 30 days of initial licensure. This will provide an exception to the current law's requirement that proof of workers' compensation coverage or an exemption from coverage be submitted prior to obtaining a contractor's license.

The bill also provides that a person who performs services as a sports official for an entity sponsoring interscholastic sports events is an independent contractor, rather than an employee. A person who serves as a sports official as required by a school district is exempted from this provision.

Dispute Resolution Process

The Office of the Judges of Compensation Claims is responsible for hearing and resolving disputed workers' compensation issues under the authority of ch. 440, F.S. The bill transfers the workers' compensation hearings function, as a unit, from the Department of Labor and Employment Security to the Division of Administrative Hearings within the Department of

Management Services. The current number and location of the judges, the mediators, and the district offices of the judges will be maintained. The judges of compensation claims and the Deputy Chief Judge (currently the Chief Judge) will continue to be appointed by the Governor. The Deputy Chief Judge will report to the director of the Division of Administrative Hearings.

The petition for benefits will be filed directly with the Office of the Judges of Compensation Claims. By eliminating the role of the Division of Workers' Compensation as the quasi-clerk for receiving and processing petitions for the Office of Judges of Compensation Claims, it is anticipated that the judges will receive the petitions in a more timely manner.

In addition, the bill provides the following changes to ch. 440, F.S., relating to the appointment and accountability of the judges of compensation claims:

- Authorizes the Director of the Division of Administrative Hearings to investigate complaints against the Deputy Chief Judge and the judges of compensation claims and recommend to the Governor whether a judge should be disciplined or removed.

- Requires the statewide nominating commission to consider certain statutory requirements in evaluating a judge's performance and requires the Office of the Judges of Compensation Claims to collect information from the judges of compensation claims necessary for the commission to conduct its review of the judges' performance.

- Requires the Deputy Chief Judge to submit to the Legislature an annual report regarding the formal dispute resolution process for the prior fiscal year, including workload statistics for the office and a summary of any statutory requirements that the judges are generally unable to meet. Additional reporting requirements relating to the formal dispute resolution process are transferred from the division to the Office of the Judges of Compensation Claims.

- Requires a nominee for a judge's positions to be a member of the Florida Bar for the prior 5 years and experienced in the practice of workers' compensation. In addition to this requirement, a nominee for the Deputy Chief Judge will be required to demonstrate 5 years of administrative experience.

The bill provides the following changes to ch. 440, F.S., relating to the workers' compensation hearings process that are designed to expedite the process:

- Authorizes the Governor to appoint a temporary judge of compensation claims in the event of a vacancy for a period not to exceed 120 successive days.

- Authorizes the judges of compensation claims to dismiss portions of petitions for benefits upon receipt of the petition for benefits if the petition does not specifically identify or itemize certain information required by s. 440.192, F.S. The dismissal of any petition or

any portion of such petition under this provision would be without prejudice and would not require a hearing.

- Requires the judges of compensation claims to issue final orders on the merits of disputed issues within 30 days or closure of the hearing record, unless otherwise agreed upon by the parties.

- Transfers 18 positions from the Division of Workers' Compensation to the Office of the Judges of Compensation Claims to assist the Office in establishing an agency clerk and custodian of records functions internally.

- Eliminates the docketing review by the judges of compensation claims.

- Clarifies when the 120-day investigatory period for payment of claims commences, either 14 days within the receipt of the notice of injury or 120 days from the receipt of the petition. The carrier has a 120-day period after this initial payment of benefits to investigate a claim and admit or deny benefits.

- Revises the 120-day requirement for lump sum settlements in order for the tolling of time to begin when the employer is notified of the injury rather than the date of the injury.

- Eliminates the requirement for a hearing on lump sum settlements under s. 440.20(11)(a), F.S., if legal counsel represents the claimant and all parties agree to forego a hearing.

- Requires the written consent of the client after the first continuance of a final hearing.

- Authorizes the judges of compensation claims to enter an abbreviated final order in cases where compensability is not disputed, with the parties having an option to request separate findings of fact and conclusions of law. This change would assist the judges in meeting the 30-day deadline for entering a final order, as required in s. 440.25(d), F.S.

- Authorizes a qualified rehabilitation provider to have access to a claimant's medical records.

If approved by the Governor, these provisions take effect October 1, 2001, except as otherwise provided.
Vote: Senate 39-0; House 110-5

FINANCIAL INSTITUTIONS

CS/SB 1260 — Financial Institutions

by Banking & Insurance Committee and Senator King

Capitalization Requirements for De Novo Banks and Other Provisions

The bill increases the minimum capitalization requirements for new state-charted banks from $4 million to $6 million for an institution located in a county with a metropolitan statistical area, and from $2 million to $4 million for an institution located elsewhere, and requires that organizing directors subscribe to at least 25 percent of capital stock. It also requires that at least two proposed directors have at least 1 year experience as an executive officer, regulator, or director of a financial institution within the previous 3 years. However, the department may allow only one director (as currently required) to have such experience.

The bill allows the Department of Banking and Finance ("department") to return a substantially incomplete application to an applicant and allows resubmission of the application within 30 days without payment of an additional fee.

The term "strong and well-managed" institution is eliminated and replaced with the term, "operating in a safe and sound manner." In this regard, the bill eliminates the filing fee for relocation of a bank's main office if it is operating in a safe and sound manner and provides that the application is deemed approved if it is not denied within 10 days of receipt.

The bill eliminates the current provision in s. 658.34(4), F.S., which requires the approval of the department for the issuance of previously un-issued stock to declare or pay dividends. However, the bill requires dividends declared or paid from previously un-issued stock to comply with provisions of s. 658.34, F.S., (shares of capital stock) and s. 658.37, F.S., (dividends and surplus).

The bill provides that the pay-on-death account provisions of s. 655.82, F.S., would apply to and govern deposits in trust, affecting only deposits made to an account created after December 31, 1994.

The bill requires each state bank and state trust company to pay the department $25 for each certificate of good standing certifying that a state-chartered financial institution is licensed to conduct business in this state under the financial institutions code.

The bill amends s. 655.50, F.S., relating to the Florida Control of Money Laundering in Financial Institutions Act, to conform state financial transaction reporting requirements to the federal reporting standards.

The bill allows "banker's banks" to provide specified services to financial institutions, including state and federal associations, banks, savings banks, trust companies, international bank agency, or credit union.

One-Bank Holding Companies

The bill increases the percent of capital stock a one-bank holding company may accept as collateral on a loan from any one borrower from 10 to 15 percent of the capital of the one-bank holding company, if the stock is listed and traded on a recognized exchange. If a loan is collateralized by capital stock that is not listed on a recognized exchange, the one-bank holding company would be permitted to accept loans with such collateral up to a maximum of 10 percent of the capital of the one-bank holding company. The bill permits a one-bank holding company to make a loan using its own stock as collateral, as long as the loan would not be used for the purchase of additional stock.

Confidentiality of Deposit Records

The bill amends s. 655.059, F.S., relating to confidentiality of depositor books and records. Current law requires books and records relating to deposit accounts and loans of depositors, borrowers, members and stockholders of financial institutions to be confidential and prohibits disclosure except upon express authorization of the account holder as to his or her own accounts. This is known as the "opt-in" provision. Information relating specifically to loans may be released without the borrower's authorization under specified circumstances. In addition, financial institutions, holding companies and their subsidiaries may furnish to one another information relating to their customers or members, subject to the requirement that each corporation maintain the confidentiality of such information and not disclose the information to any unaffiliated person or entity.

"Affiliates" of financial institutions would be allowed to furnish to other financial institutions, holding companies and their subsidiaries and affiliates information relating to their customers or members, subject to the confidentiality requirements noted above.

The bill also provides that notwithstanding the provisions relating to confidentiality (noted above), that nothing in this subsection shall prohibit a financial institution from disclosing financial information as permitted by Pub. L. 106-102 (1999), as set forth in 15 USCA, s. 6802, as amended. This refers to the Gramm-Leach-Bliley Act (GLB), also known as the "Financial Services Modernization Act."

The GLB was signed into law on November 12, 1999, and becomes effective on July 1, 2001. It allows banks, securities firms and insurance companies to merge, affiliate with each other, and engage in new business activities outside their traditional areas. These entities can share certain consumer information which they can ultimately provide to anyone they choose. However these third parties cannot share that information with anyone else. Also, under GLB, consumers must be offered the opportunity to refuse to allow their personal financial information to be shared by

signing and sending back disclosure information which has to be provided to the consumer on an annual basis by the financial institution. This is known as the "opt-out" provision. Thus, as a result of the implementation of this law, financial institutions would be able to adopt a less restrictive standard (opt-out provision) than current Florida law (opt-in provision) as to consumer financial disclosures.

Worthless Checks

The bill amends s. 68.065, F.S., relating to actions to collect worthless checks. It removes the requirement that a written demand must be delivered by "registered or certified mail," for recoveries of service charges on worthless checks, drafts or orders of payment. Current law would still require that a written demand be made.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.
Vote: Senate 39-0; House 118-2

CS/CS/HB 107 — Unclaimed Property

by Competitive Commerce Council; Banking Committee; and Rep. Prieguez and others (CS/SB 1398 by Banking & Insurance Committee and Senator Carlton)

The bill (Chapter 2001-36, L.O.F.) substantially revises the Florida Disposition of Unclaimed Property Act, in ch. 717, F.S., as follows:

1. Changes references from abandoned property to unclaimed property;

2. Revises requirements for recovery services agreements between an owner's representative and an owner to include the option to disclose specified information or to limit fees to 15 percent for all contracts with a dollar value of $250 that are held by the Department of Banking and Finance for 24 months or less (25 percent for property held by the department for more than 24 months) or $25 for all contracts with a dollar value of less than $250;

3. Removes the one-time notification limitation imposed on the department for notifying owners of unclaimed property;

4. Revises reporting requirements for holders of unclaimed property;

5. Allows for direct payments to the owner of the unclaimed property after authorized fee deductions to the attorney, certified public accountant, or private investigative agency;

6. Places an affirmative duty on holders of unclaimed property to use reasonable and prudent efforts to locate apparent owners through at least one active search for the owner

within 180 days after an account becomes inactive (2 years from the date of specified activities);

7. Revises the procedure for the Department of Banking and Finance to resolve disputes and conflicts among claims;

8. Includes certified public accountants among persons authorized to file claims as owner's representatives;

9. Requires owners' representatives to maintain certain records and requires representatives to provide such records to the Department of Banking and Finance;

10. Exempts a licensed, Florida-certified public accountant who is acting within the scope of the practice of public accounting, as defined in ch. 473, F.S., from the regulatory provisions for private investigative agencies (recovery agencies) under ch 493, F.S.;

11. Increases the maximum aggregate amount of unclaimed property from $1,000 to $5,000 in small estate accounts in which heirs must now submit an affidavit stipulating to specified expenses in claiming property;

12. Clarifies that the 10-year statute of limitations period to claim property escheated to the state begins at the time the property is received by the state; and

13. Eliminates a claimant's entitlement to interest on amount of unclaimed property.

These provisions were approved by the Governor and take effect October 1, 2001.
Vote: Senate 38-0; House 116-0

CS/CS/CS/SB's 1526 & 314 — Money Transmitter's Code ("Payday Loans")

by Finance & Taxation Committee; Commerce & Economic Opportunities Committee; Banking & Insurance Committee; and Senators Constantine, Campbell, and Cowin

The committee substitute creates the Deferred Presentment Act in ch. 560, part IV, F.S. It provides for regulation of deferred presentment transactions, more commonly referred to as "payday loans," by which a business provides cash or currency in exchange for another person's check and agrees to hold that person's check for a period of time prior to depositing or redeeming the check.

The committee substitute provides for regulation of this industry by the Department of Banking and Finance (department). In order to engage in a deferred presentment transaction, a person or business must be registered under part II of the chapter (which regulates persons who sell or issue payment instruments or who transmit funds) or part III of the chapter (which regulates persons who are in the business of cashing checks or other payment instruments or the

exchanging of foreign currency). Such persons must file with the department a declaration of intent to engage in deferred presentment transactions, accompanied by a $1,000 filing fee.

Deferred presentment agreements would be subject to the following requirements:

- Requires every deferred presentment transaction agreement to be written and signed by both the deferred presentment provider (provider) and the "drawer" (consumer) and executed on the same day that the currency is provided, and to include specified information regarding the terms of the agreement;

- Sets a maximum limit of $500 on the face amount of a check taken for deferred presentment, exclusive of allowable fees;

- Establishes a maximum fee of 10 percent of the amount paid to the consumer, plus a verification fee set by department rule (currently, $5);

- Requires the provider to immediately provide the consumer with the full amount of the check, less the allowable fee, upon receipt of the consumer's check (the provider may not actually collect the fee before the drawer's check is presented or redeemed).

- Prohibits the term of a deferred presentment agreement from being in excess of 31 days or less than 7 days;

- Requires the provider to comply with, and provide the consumer with a copy of, the disclosure requirements of the federal Truth-in-Lending Act and Regulation Z of the Board of Governors of the Federal Reserve Board;

- Allows the payment to the consumer to be in the form of the provider's payment instrument if the provider is registered under part II of the chapter, but no additional fee may be charged and the provider is prohibited from requiring the drawer to accept a payment instrument in lieu of currency;

- Prohibits "rollovers" which extend a deferred presentment agreement;

- Prohibits a deferred presentment provider ("provider") from entering into an agreement if an individual has an outstanding agreement with any provider or if a previous transaction has been closed for less than 24 hours. To verify this information, the provider must access a centralized database implemented by the department. Until such time as this database is implemented, the provider must obtain a signed statement from the individual that he or she does not have an outstanding agreement and has not terminated an agreement within the past 24 hours;

- Requires a 60-day grace period extension, without any additional charge, if an individual is unable to pay the amount due at the end of the deferment period, if the individual

agrees to make an appointment with a consumer credit counseling agency and complete the counseling by the end of the grace period; the consumer may agree to comply with, and adhere to, a repayment plan approved by the counseling agency;

- Allows the consumer to redeem his or her check prior to the presentation date; and
- Allows the provider to seek collection of a returned check pursuant to s. 68.065, F.S., (but without the provision for treble damages).

The committee substitute also amends ch. 560, F.S., the Money Transmitters' Code, which provides for the regulation of the money transmitter industry by the Department of Banking and Finance. This industry includes wire transmitters, check cashers, and foreign money exchangers. The committee substitute makes the following changes to ch. 560, F.S.:

- Deletes examination fees and uses registration fees to fund the regulatory program;
- Adds an initial $50 application fee for each vendor or branch of a part II (payment instruments and funds transmission) or part III (check cashing and foreign currency) registrant;
- Authorizes the department to assess a registrant a $500 late filing fee if the renewal application is submitted within 60 days after the expiration of the license;
- Increases the cap on renewal fees for registrants with multiple locations from $5,000 to $20,000; and
- Requires registrants to notify the department of any newly established locations within 60 days.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 39-0; House 120-0

HB 625 — Security for Public Deposits

by Rep. Bean and others (CS/SB 1670 by Banking & Insurance Committee and Senator Constantine)

The bill eliminates the advisory committee to the qualified public deposit program and establishes the Qualified Public Depository Oversight Board comprised of six members. The board would represent the interests of all qualified public depositories in safeguarding the integrity of the program and preventing the realization of loss assessments. The Treasurer will select two members that represent public depositories in each of the three asset groups. Any additional expenses of the public deposit program not covered by the resources of the program

will be paid in the same manner as loss assessments on qualified public depositories, as provided in s. 280.08, F.S.

The bill authorizes the Treasurer to establish special requirements for a qualified public depository in order to protect the integrity of the public deposit program. The Treasurer will be required to notify the custodian of collateral of any change in the Uniform Commercial Code in Florida which affects the requirements for a perfected security interest in collateral. The custodian has 180 days from such notice to withdraw, if the required collateral services cannot be provided. The bill authorizes the use of Federal Home Loan Bank letters of credit as eligible collateral, if certain requirements are met.

The bill also requires a qualified public depository to pledge, deposit, or issue additional eligible collateral between filing periods of monthly reports within 2 business days when notified by the Treasurer that the current market value of the collateral does not meet the required collateral. A qualified public depository is prohibited from acting as its own custodian.

Violations subject to administrative penalties are revised to include failure to maintain required collateral rather than failure to pledge sufficient collateral and the Treasurer is authorized to issue a cease and desist order if a qualified public depository deposits or arranges for the issuance of unacceptable collateral.

If approved by the Governor, these provisions take effect October 1, 2001, except as otherwise provided.
Vote: Senate 38-0; House 115-0

CS/HB 455 — Mortgage Brokers and Lenders

by Banking Committee and Rep. Detert (CS/SB 1896 by Banking & Insurance Committee and Senator Constantine)

The bill establishes education requirements for those seeking initial licensure under ch. 494, part III, F.S. (mortgage lending), and establishes continuing education requirements as a condition of renewal of licenses under part II (mortgage broker) and part III (mortgage lending) of the chapter.

An applicant for an initial mortgage lender license will be required to document 24 hours of classroom instruction in primary and subordinate financing transactions and in the provisions of ch. 494, F.S., and rules adopted under that chapter. An applicant for an initial mortgage lender's license, or the applicant's principal representative, will be required to pass a written test prescribed by the Department of Banking and Finance ("department") to determine competency in primary and subordinate financing transactions and the provisions of ch. 494, F.S., and rules adopted under that chapter. Mortgage brokers, mortgage lenders, and correspondent mortgage lenders will be required to complete at least 14 hours of professional education courses in

primary and subordinate mortgage financing transaction biennially as a condition for license renewal.

An applicant for an initial mortgage lender license will be required to designate a "principal representative" within the mortgage lender business, which is comparable to the "principal broker" within a mortgage broker business, who has responsibility for exercising operational control of the licensee's business. The bill also requires that a mortgage broker be licensed for at least 1 year prior to being designated as a "principal broker" within the brokerage, or demonstrate to the department that he or she has been actively engaged in mortgage-related business for at least 1 year prior to being designated as a principal broker.

Licensees will be required to maintain records documenting compliance with the education requirements for a period of 4 years.

If approved by the Governor, these provisions take effect October 1, 2001, except as otherwise provided.
Vote: Senate 36-0; House 112-4

MISCELLANEOUS

CS/CS/SB 108 — Structured Settlements/Transfers

by Judiciary Committee; Banking & Insurance Committee; and Senators Geller and Dawson

Structured Settlements

Structured settlements are increasingly being used as means to settle personal injury claims. The structured settlement provides periodic payments for future medical expenses and wage replacement. As an alternative to continuing to receive these long-term payments, some individuals may assign or sell their settlement payments to a factoring company for a discounted, lump-sum payment. The bill would require court review and approval for all such transfers of structured settlements for the resolution of tort claims. In addition, the bill would require such transfer agreements to contain specific disclosures regarding the costs of the transactions and a comparison of the amount to be received in the transfer in comparison to the amount to be received through the structured settlement.

Since s. 440.22, F.S., prohibits the assignment, release, or commutation of compensation or benefits due or payable under this chapter, this bill would not apply to workers' compensation structured settlements.

Viatical Settlements

In 1996, Florida established the framework for regulation of the viatical industry by the Department of Insurance. In general, a viatical settlement is an agreement under which the owner of a life insurance policy, the "viator," sells the policy to another person, the "viatical settlement provider," in exchange for an up-front payment, which is generally less than the expected death benefit under the policy. The viatical settlement provider buying the policy from the original policy owner takes over premium payments and, upon the death of the original policy owner, collects the death benefit under the policy. The amount paid to the viator could depend on the viator's life expectancy and on market forces.

In the 2000 Regular Session, substantial changes were enacted expanding viatical settlement regulation by the department to cover any person who sells a life insurance policy, not just individuals with a "life threatening" illness. The legislation also provided disclosures to be made by viatical settlement providers to viatical settlement purchasers, the requirement for licensees to maintain certain records, and increased penalties for specified unlawful acts.

This bill provides for disclosures, form filings, and other protections, which are currently afforded to consumers engaged in viatical settlement transactions in the primary market to apply to such persons in the secondary market. Secondary market viatical settlement transactions pertain to those purchases made from any person or entity other than the viatical settlement provider who effectuated the viatical settlement contract, that is, who originally viaticated the policy.

The bill provides that viatical settlement sales agents be responsible for disclosures to purchasers in the secondary market, that viatical settlement purchase transactions in the secondary market be completed only through the use of escrow agents or third-party trustees, that all funds paid by purchasers be deposited with such trustees or agents, and that the funds must not be released to the seller until after a 3-day voidable period has expired. Also, the bill provides requirements that the viatical settlement provider who initially purchased the policy from the viator be responsible for monitoring the insured as to the insured's whereabouts and health status, premium payments, and submission of the death claim. This responsibility may be contracted out to a third party. The bill expands certain terms relating to trusts, financing and special purpose entities, purchasers, and purchase agreements. Finally, the bill clarifies that viatical settlement providers doing business from this state, and who transact business with viators or viatical settlement purchasers outside of the state, must be licensed in Florida.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 39-0; House 118-0

SB 218 — Mortgage Guaranty Insurance

by Senator Horne

This bill (Chapter 2001-37, L.O.F.) revises how a mortgage guaranty insurer's contingency reserve is calculated when determining whether the insurer meets the minimum surplus requirement.

Mortgage guaranty insurance protects a lender, usually a bank or mortgage company, against loss upon the default of a mortgage loan. Florida law requires a mortgage guaranty insurer to establish a contingency reserve equal to 50 percent of earned premiums on each policy it writes, which must be maintained for a 10-year period. This is a solvency-related requirement to protect against adverse economic conditions which could trigger mortgage guaranty insurance claims payments.

Florida law also requires that a mortgage guaranty insurer maintain a minimum surplus equal to the greater of $4 million, or 10 percent of the insurer's liabilities, but not more than $100 million. The contingency reserve has been considered a liability in calculating the surplus for a mortgage guaranty insurer and, therefore, in determining whether the minimum surplus requirement is met. Although the contingency reserve (and counting it as a liability) is a common requirement for mortgage guaranty insurers among the states, Florida's minimum surplus requirement that is based upon a percentage of the insurer's liabilities is not. The combined effect of these two requirements significantly increases the amount of the minimum surplus requirement to a greater amount than is typically required in other states.

Under the new law, each mortgage guaranty insurer will continue to report its contingency reserve as a liability in its financial statements, except that the contingency reserve will not be considered a liability for the purpose of determining whether the mortgage guaranty insurer meets the minimum surplus requirements.

The bill also clarifies provisions of current law by providing that a mortgage guaranty insurer may not have a total outstanding aggregate exposure (net of reinsurance) that exceeds 25 times the insurer's paid-in capital, surplus, and contingency reserve combined.

These provisions were approved by the Governor and take effect July 1, 2001.
Vote: Senate 39-0; House 118-0

CS/SB 658 — Insurance (Surplus Lines Insurance; Statutory Accounting)

by Banking & Insurance Committee and Senator Holzendorf

Surplus Lines Insurance

This bill authorizes the Florida Surplus Lines Service Office ("Service Office") to have access to records of surplus lines insurance agents related to the surplus lines insurance policies they write,

as currently authorized for the Department of Insurance. The bill also requires surplus lines agents to report certain information on policies written to the Service Office, that in most respects codifies what were already current practices of the Service Office pursuant to operational procedures approved by the Department of Insurance. Similarly, the bill clarifies the responsibilities of the Service Office relative to those of the department with regard to monitoring the surplus lines business and collecting the 5 percent premium tax imposed on surplus lines policies and the 0.3 percent service fee that funds the operations of the Service Office. Current fines and penalties that apply to late payment of the premium tax will now also apply to late payment of the service fee. The bill also deletes the requirement that insurers and adjusters notify the Service Office of each claim that is filed.

The bill increases maximum per-policy fee that may be charged by a surplus lines agent to a policyholder from $25 to $35.

The bill requires persons who independently obtain coverage from a surplus lines insurer (rather than through a surplus lines agent) to report and pay the 5 percent premium tax to the Service Office, rather than to the department. The bill would also impose the 0.3 percent service fee that currently applies to surplus lines policies on independently procured coverage, payable to the Service Office.

Statutory Accounting

The bill adopts uniform, statutory accounting principles, as defined in the National Association of Insurance Commissioners' (NAIC) Accounting Practices and Procedures Manual, effective January 1, 2001, and makes conforming changes to the accounting provisions of the Insurance Code for insurers and health maintenance organizations.

Statutory accounting principles are the accounting principles or practices prescribed or permitted by an insurer's state of domicile. Statutory accounting principles attempt to determine at the financial statement date an insurer's ability to meet its obligations to its policyholders and creditors. Statutory accounting principles are designed to address the concerns of regulators and are established on a relatively conservative basis. In contrast, generally accepted accounting principles (GAAP) are designed to meet the varying needs of different users of financial statements and emphasize the measurement of emerging earnings of a business from period to period. The purpose of NAIC's Codification of Statutory Accounting Principles project was to produce a comprehensive guide to statutory accounting for use by insurance departments, insurers, and auditors. By adopting the latest NAIC manual, Florida joins 44 other states that reference the manual in either their statutes or rules.

Health maintenance organizations (HMOs) authorized in Florida on January 1, 2001, are given two options with regard to complying with the new statutory accounting principles. An HMO may either report all assets in accordance with the new statutory accounting principles (the NAIC Accounting Practices and Procedures Manual, effective January 1, 2001), or the HMO may report assets acquired prior to June 30, 2001, in accordance with the 2000 version of s. 641.35,

F.S., through December 31, 2005. Assets acquired on or after June 30, 2001 must be accounted for in accordance with the new statutory accounting principles.

If approved by the Governor, these provisions take effect upon becoming law and section 24 (requiring any quarterly or annual statement filed after the effective date of the act to be prepared in accordance with the act) shall apply retroactively to January 1, 2001.
Vote: Senate 34-0; House 118-0

CS/SB 788 — Unfair Discrimination/Insurance

by Banking & Insurance Committee and Senator Silver

The committee substitute amends s. 626.9541, F. S., to add disability, property and casualty, and automobile insurance companies to the list of insurers (health and life insurers and managed care providers) that are currently prohibited from refusing to issue a policy or deny a claim to applicants or insureds who have been, or are likely to become, victims of domestic abuse by a family or household member. Specifically, the bill declares that it is an unfair or deceptive act for disability, property and casualty, and automobile insurers to underwrite a policy, refuse to issue or renew a policy, refuse to pay a claim, terminate a policy or increase rates based on the fact that the insured or applicant who is also the proposed insured, has made a claim or sought medical or psychological treatment in the past for abuse, or that a claim might occur as a result of any future abuse, by a family or household member upon another family or household member. It clarifies that a health insurer, life insurer, disability insurer, or managed care provider may refuse to underwrite, issue, or renew a policy based on the applicant's medical condition, but the company shall not consider whether such condition was caused by an act of abuse. The current law defines "abuse" to mean assault, battery, sexual assault, placing another in fear of serious bodily injury, false imprisonment, physically or sexually abusing a minor child, or an act of domestic violence.

The bill further clarifies that the above provision does not prohibit a property and casualty insurer or automobile insurer from excluding coverage for intentional acts by the insured if such exclusion does not constitute an act of unfair discrimination. The "intentional act" exclusion is a standard provision in property and casualty contracts. The exclusion provides that the insurance company is not required to pay any claim resulting from an intentional act by the insured as to covered property. For example, if a battered woman's spouse burns down their house, the insurer would not cover the loss since if it was an intentional act by the co-insured. However, the bill would prohibit an insurer from canceling or refusing to renew coverage of the wife, or refusing to issue new coverage to the wife, based on the past act of domestic violence.

The bill also deletes the term "solely" as that term applies to facts insurers consider as to domestic violence. This would clarify that an insurer could not base its decision to deny a claim or policy based on the fact that the insured made a claim as a result of domestic violence.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 119-0

CS/SB 806 — Insurance Examination/Exemptions

by Banking & Insurance Committee and Senator Laurent

This committee substitute would exempt applicants for licensure as a customer representative or adjuster from examination requirements under certain circumstances. Specifically, a customer representative applicant would be exempt from taking and passing an examination approved by the Department of Insurance if the applicant obtains a designation as a Certified Customer Service Representative (CCSR) from the Florida Association of Insurance Agents, or the designation of Registered Customer Service Representative (RCSR) from a regionally accredited postsecondary institution in Florida. Similarly, an applicant for licensure as an adjuster would be exempt from examination requirements if the applicant obtains a designation as an Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in the state. The curriculum for all three designations must be approved by the department and include comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for customer representative and all-lines adjuster licenses. The bill provides that the department shall adopt rules establishing standards for the approval of the curriculum.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 118-0

CS/SB 938 — Credit Insurance

by Banking & Insurance Committee and Senator Peaden

This committee substitute authorizes the issuance of a credit life or disability insurance license to a creditor or a lending or financial institution, e.g., state or federal banks, associations, savings banks, or credit unions, and provides that such licensees may also sell credit insurance and credit property insurance. The bill requires that officers and directors of the entity applying for credit life or disability licensure with the Department of Insurance must submit fingerprints with an application.

The bill also provides that in lieu of written acknowledgments for credit life insurance, that if credit life insurance is solicited or consummated by telephone, the creditor agent or agent must provide written disclosures to the borrower within 30 days from the date the coverage takes effect. Further, the borrower must be notified that he or she has 30 days from the date the disclosures are received to rescind the credit life insurance coverage.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 118-1

HB 405 — Public Records/Surplus Lines Insurance Records

by State Administration Committee and Rep. Brummer (CS/SB 1026 by Banking & Insurance Committee)

This bill reenacts and expands the current public records exemption and confidentiality for certain surplus lines insurance records submitted by surplus lines insurance agents to the Department of Insurance, as provided by s. 626.921(8), F.S. The exemption was scheduled for repeal on October 2, 2001, unless reviewed and reenacted by the Legislature, pursuant to the criteria specified in the Open Government Sunset Review Act, s. 119.15, F.S.

Presently, if requested by the department, surplus lines agents are required to submit copies of policies, applications, and other specified information related to surplus lines policies that are written. The information must be maintained for 5 years and available for inspection by the department. Any information obtained by the department that reveals a trade secret, as defined in s. 688.002, F.S., is exempt from the public records law and confidential. As currently interpreted, any information that is specific to an individual policy or policyholder is considered a trade secret. The bill clarifies this by revising the exemption to apply to information that reveals information specific to a particular policy or policyholder, rather than information that reveals a trade secret.

The bill also expands the exemption by applying it to information furnished to the Florida Surplus Lines Service Office ("Service Office") under the Surplus Lines Law (ss. 626.913-626.937, F.S.), if the disclosure would reveal information specific to a particular policy or policyholder. The Service Office was created by the Legislature in 1997 and is authorized by s. 626.921, F.S., to require surplus lines agents to submit such information as required by the association's plan of operation, approved by department rule. The plan requires surplus lines agents to submit detailed information about each surplus lines policy written. By referring to information furnished to the Service Office "under the Surplus Lines Law," this bill also conforms to CS/SB 658, that amends ss. 626.923, 626.930, and 626.931, F.S., to authorize the Service Office to have the same access to records of surplus lines agents as currently provided to the Department of Insurance and to require surplus lines agents to report specified information.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 39-0; House 117-0

SB 1428 — State Group Health Insurance

by Senators Posey, Clary, and Mitchell

The bill provides that the Department of Management Services and the Division of State Group Insurance shall not prohibit or limit any properly licensed insurer, health maintenance organization, prepaid limited health services organization, or insurance agent from competing for any insurance product or plan purchased, provided, or endorsed by the department or the division on the basis of the compensation arrangement used by the insurer or organization for its agents.

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

CS/SB 1530 — Financial Settlements

by Banking & Insurance Committee and Senator Geller

This bill is identical to CS/CS/SB 108. Please see the summary of that bill.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 38-0; House 119-0

CS/SB 1610 — Funeral and Cemetery Services

by Banking & Insurance Committee and Senators Latvala, Wasserman Schultz, Lee, Sullivan, Mitchell, Miller, Lawson, Peaden, Posey, and Cowin

The bill makes significant changes to the statutes regulating funeral and cemetery services in ch. 497, F.S.

The bill gradually phases out the authority for funeral and cemetery businesses to purchase surety "payment" bonds as security for funds they have collected on contracts for future or preneed funeral and cemetery services and merchandise. The revision allows certain certificateholders to continue to use these payment-type surety funds authorized under s. 497.425, F.S., to secure funds by bond rather than by trust, but only on contracts written before July 1, 2001, and only as to funds not held in trust as of July 1, 2001. A specific provision is made for a certificateholder that is authorized to do business in Florida and that currently has $100,000,000 secured by bonds. This particular certificateholder is allowed to use the payment-type surety bond alternative of securing funds, on contracts written prior to December 31, 2004, but relates only to those funds not held in trust as of July 1, 2001. In summary, this provision provides two cutoff dates after which the payment-type surety bonding alternative in s. 497.425 can no longer be used, holds harmless the bonding arrangements currently utilized by certificateholders, and does not allow those certificateholders to secure any other funds currently

being held in trust as of the effective date of the bill. The other financing arrangements available under current law remain: letters of credit, performance surety bonds, and trust accounts.

In addition, the bill makes the following changes:

- Expands the list of financial institutions to include federal or state savings and loan associations authorized to handle trust accounts for funeral and cemetery preneed funds, as well as funds collected for cemetery care and maintenance.

- Eliminates the requirement for the Department of Banking and Finance to establish the need for a new cemetery before issuing a license for it to operate.

- Raises the acreage requirement for new cemeteries from 15 to 30 contiguous acres and increases the number of years from 1 to 3 for cemetery management experience required for managers of new cemeteries.

- Expands the statutory definitions of "cemetery" and "preneed contracts" and adds definitions of "ossuary" and "scattering gardens" to reflect current funeral and cemetery practices.

- Amends s. 470.002, F.S., to revise the definition of *legally authorized person*, to exclude a spouse who has been arrested for committing against the deceased an act of violence. This would provide that in such circumstances, the spouse would not be authorized to direct a funeral director or direct disposer how the deceased body should be disposed.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 37-0; House 109-0

CS/SB 1722 — Surety Bonds/Reserve Amount

by Banking & Insurance Committee and Senator Horne

The bill amends s. 625.071, F.S., to revise the special reserve that surety insurers must establish for bail bonds from the current 25 percent of the total consideration (premium) paid for the bail bond, to the lesser of 35 percent of the bail premiums in force or $7 per $1,000 of bail liability. The bail premiums would not include amounts retained by licensed bail bond agents, but may not be less than 6.5 percent of the total consideration received for all bail bonds in force.

The bill benefits Florida domestic surety insurers which will have lower special reserve requirements which, in turn, will increase their surplus and increase the bail bond premiums that they may legally write. The amount of the special reserve, as amended, is still considered to be an adequate protection of the financial health of surety insurers and will be the same as that required by the U.S. Treasury for all insurers who issue bonds for federal agencies.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 39-0; House 118-0

CS/SB 2174 — Insurance Agents

by Banking & Insurance Committee and Senator Holzendorf

This committee substitute makes a variety of changes relating to the licensure of insurance company representatives, mostly in ch. 626, F.S. Major changes include:

- Requiring licensed insurance agents marketing other products to maintain separate records relating to insurance products and transactions.
- Allowing the Department of Insurance access to insurance agent records maintained at a third party location.
- Specifying the activities constituting the "solicitation of insurance" and requiring licensure.
- Authorizing employee leasing companies to carry out specified insurance-type activities under limited circumstances.
- Eliminating the collection of certain information by the Department of Insurance.
- Expanding the amount of time specified licensees would have to obtain an appointment after the termination of their appointment, licensure, or the filing of the original license application.
- Mandating the fingerprinting of officers or directors to be filed with the Department of Insurance under certain circumstances.
- Removing the ability of licensees to waive confidentiality as to investigative information.
- Allowing the Department of Insurance to revoke or suspend the license of a licensee selling securities not registered as required under ch. 517, F.S.
- Clarifying that a nonresident license is limited to the specific lines of authority granted in the license issued by the agent's state of residence and further limited to the specific lines authorized under nonresident licensure issued by this state.
- Declaring that the requirements of the Insurance Code would apply equally to all insurance transactions, insurance agents, and insurance agencies, unless otherwise specified in the Insurance Code.

- Clarifying that advertising and other communications materials developed by insurers regarding products must indicate that the communication relates to insurance products.

- Authorizing the Department of Insurance to promulgate rules to govern the use of a consumer's personal financial and health information. The rules must be consistent with the model regulation developed by the National Association of Insurance Commissioners (NAIC) and with the standards contained in Title V of the Gramm-Leach-Bliley Act (GLB) of 1999, Pub. L. No. 106-102. The GLB allows banks, securities firms and insurance companies to merge, affiliate with each other, and engage in new business activities outside their traditional areas. The GLB also authorizes state insurance departments to issue regulations protecting the privacy of insurance consumers' personal information. In response to the GLB, the NAIC adopted a model regulation to provide specific protection for financial and health information about consumers held by insurers, agents and other entities engaged in insurance activities. The model regulation requires insurers to:

    - notify consumers about their privacy policies;

    - give consumers the opportunity to prohibit the sharing of their protected financial information with non-affiliated third parties (a company that is not affiliated with an insurer); and

    - obtain affirmative consent from consumers before sharing protected health information with any other parties, affiliated and non-affiliates alike.

  The NAIC model is now under consideration by the states. The Florida Department of Insurance needed to secure specific authorization from the Legislature before the department could promulgate consumer protection rules consistent with the NAIC regulations.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 120-0

SB 2240 — Warranty Associations

by Senator Garcia

This bill revises ch. 634, F.S., relating to warranty associations. The bill amends and creates sections within all three parts of the chapter relating to the regulation of motor vehicle service agreement companies, home warranty associations, and service warranty associations. This bill would provide for the following:

- Specifies that a company licensed under ch. 634, F.S., does not require a sales representative license to market and sell its own contracts.

- Revises provisions relating to the determination of the financial condition of entities offering warranties under this chapter.

- Provides that the Department of Insurance may by rule require motor vehicle service companies, home and service warranty associations to submit information contained in financial reports electronically. Further, it authorizes the department to promulgate rules to identify specific methods of unfair competition or deceptive acts under ch. 634, F.S.

- Creates and amends sections defining certain practices as unfair methods of competition and unfair or deceptive acts as those practices relate to the advertising, sale, or delivery of motor vehicle service agreements. Provides the Department of Insurance with investigative and enforcement authority relative to motor vehicle service agreement companies.

- Prohibits the use of advertisements that would be defined as an unfair or deceptive practice when that advertisement would mislead or mistakenly lead a reasonable person to believe that the federal or state government is responsible for the motor vehicle service agreement sales activity or would guarantee any returns on the agreement or the payment of obligations arising under the agreement.

- Defines the term "additive product" and includes within the definition of "motor vehicle service agreement" any agreement to repair or replace a motor vehicle offered in conjunction with an additive product.

- Provides that when the premium or charge for a motor vehicle service agreement is included in the overall purchase price of the purchase of merchandise or property, the vendor must separately state and identify the amount charged for the motor vehicle service agreement and the classification upon which it is based.

- Authorizes the Department of Insurance to conduct proceedings pursuant to ch. 120, F.S., when it has reason to believe a person is engaging in an unfair or deceptive act relating to motor vehicle service agreements. Also, it allows the department to issue cease and desist orders, to suspend or revoke licenses, and impose specified fines.

- Provides that all home warranty contracts must disclose exclusions, restrictions, or limitations on the benefits offered or the coverage provided under the contract and include on the front page in bold type a disclaimer similar to this one: "Certain items and events are not covered by this contract. Please refer to the exclusions listed on page ____ of this document."

- Prohibits the advertising, offering, or providing of a free service warranty as an inducement to the purchase or sale of real or personal property or services connected therewith.

- Provides an effective date of January 1, 2002, for the sections of the bill which delineate the assets and liabilities that may be used to determine the financial condition of a home warranty association.

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

DOMESTIC VIOLENCE

HB 1673 — Domestic Violence

by Rep. Kyle and others (CS/SB 1778 by Children & Families Committee and Senators Cowin and Crist)

This bill, titled the Family Protection Act, strengthens the penalties for acts of violence and, in particular, commission of domestic violence offenses. A mandatory 5-day period of incarceration is created for persons adjudicated guilty of a crime of domestic violence who have intentionally caused bodily harm. The act raises the level of crime for second and subsequent battery convictions. A surcharge of $201 is imposed on persons who are found in violation of assault and battery related offenses, stalking, and domestic violence offenses. The funds from the surcharge are to be used to fund domestic violence centers, to defray the costs of incarcerating persons pursuant to the new 5-day mandatory jail provision, for additional training for law enforcement in combating domestic violence, and for a statewide public-awareness campaign regarding domestic violence. The bill requires attendance in the batterer's intervention program as a condition of probation, community control, or other community supervision when there is a crime of domestic violence. Effective July 1, 2002, the batterer's intervention program which the offender attends is required to be certified. The bill further requires that child protection investigation staff be provided with training on the use of the injunction processes to remove a domestic violence perpetrator as a strategy for protecting the child.

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

CHILD SUPPORT ENFORCEMENT

CS/CS/SB 400 — Support of Dependents

by Appropriations Committee; Children & Families Committee; and Senators Horne, Campbell, Mitchell, Sanderson, Sullivan, Smith, Burt, Bronson, Peaden, Lee, Crist, and Cowin

This bill removes the primary barrier to the current inability to criminally prosecute cases for persistent non-payment of child support and provides for a higher level of offense and mandatory penalties. Specifically, the bill eliminates the requirement that persons cannot be prosecuted for the crime of persistent non-support if there is a court that has jurisdiction for the child support or dissolution of marriage. Mandatory fines and periods of imprisonment are provided for the first three misdemeanor convictions of failure to pay support. A felony offense is established for failure to pay support by a person who is convicted of the fourth violation or who has owed support for more than 1 year in an amount equal to or greater than $5,000. The bill expresses the

intent of the Legislature that the criminal penalties provided by the bill are to be pursued when appropriate civil enforcement measures have been exhausted and have not resulted in payment.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 39-0; House 111-5

CS/SB 772 — Public Records/Child Support Service

by Children & Families Committee and Senator Sanderson

This bill makes confidential and exempt from public records requirements disclosure of identifying information regarding non-Title IV-D individuals served by county child support enforcement agencies. (Non-Title IV-D individuals are custodial parents who have sought assistance with child support enforcement with the county agency and excludes custodial parents who receive public assistance or have applied to the Department of Revenue for child support enforcement services.) Non-Title IV-D county child support enforcement agencies are prohibited from disclosing identifying information to the person against whom a protective order has been entered if there is reason to believe that the release of such information could result in harm to the individual or the child. At the time of its passage, the provisions of the bill apply only to Broward County.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 119-1

CS/SB 1284 — Child Support Enforcement

by Children & Families Committee and Senator Peaden

This bill provides a comprehensive package of provisions relating to child support that is designed to streamline the establishment and enforcement of support, bring Florida law into compliance with federal requirements, and improve the equitable establishment of child support orders. Specifically, this bill provides for the following:

- Genetic testing in paternity cases is allowed based on a written declaration by the custodial parent. This modification would allow genetic testing to proceed without the need for a notarized statement.

- The bill requires the Food Stamp Office to determine if the custodial parent has good cause for not cooperating with child support enforcement unless the responsible federal agency authorizes the Department of Revenue to continue this function.

- A number of sections of law are amended to clarify and explicitly include spousal support, in addition to child support, in the enforcement actions that the Department of Revenue is authorized to take if the child support obligation is being enforced by the Department of Revenue.

- Two additional conditions are provided for identifying when a family violence indicator must be placed on a child support enforcement case and transmitted to the Federal Case Registry to prevent the disclosure of information on the case when release of the information may result in harm to the individual or child. These conditions are when a domestic violence or repeat violence injunction has been granted and when the Domestic and Repeat Violence Injunction Statewide Verification System indicates an injunction has been granted.

- A method for processing unidentifiable and undistributable collections is established which includes an opportunity to reclaim collections if the appropriate party is identified or located. This provision will provide a mechanism for final disposition of undistributable and unidentifiable collections.

- Driver's license photographs are made available to the Department of Revenue to facilitate the service of process in Title IV-D cases based on an interagency agreement with the Department of Highway Safety and Motor Vehicles. This provision will allow driver's license photographs to be included in the service of process packages for use by law enforcement personnel and private process servers to effectuate accurate identification of the individuals being served thereby reducing service attempts.

- The notice requirement to consumer reporting agencies is modified to require that the Department of Revenue provide written notice to a non-custodial parent at least 15 days prior to the initial release of information to the consumer reporting agency and to specify that no further notice or opportunity for a hearing is required prior to subsequent periodic updates.

- The Judges of Compensation Claims' review of lump-sum workers' compensation payment settlements is modified to provide for consideration of the interests of the worker and the worker's family when approving the settlement. Such settlements must provide for appropriate recovery of child support arrearages.

- The court is permitted to order retroactive modification of support orders back to the date of filing. Changed circumstances and financial ability are to be considered in determining the retroactive application of the modification.

- The court is permitted to disregard the income from secondary employment for the purposes of calculating the child support obligation when modifying the level of support

if there are subsequent children and if the court determines the secondary employment was obtained primarily to support the subsequent children.

- The shared parental arrangement provision is modified to stipulate that a child who spends at least 40 percent of the overnights with the non-custodial parent is considered to be spending a "significant" amount of time with the non-custodial parent. A formula is provided for shared parental arrangements that exceed this threshold that must be used in adjusting the child support award.

- A 3-year pilot program is created for administratively establishing child support orders. The process provides for the Department of Revenue to calculate and establish the non-custodial parent's child support obligation based on existing child support guidelines and prescribed information and affidavits, unless a hearing is requested or either parent files a civil action in circuit court to determine the child support obligation.

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

BEHAVIORAL HEALTH

HB 421 — Mental Health Treatment/Adults

by Rep. Bean and others (CS/SB 682 by Appropriations Committee and Senator Mitchell)

This bill establishes a mental health client-directed and choice-based pilot project in District 4 of the Department of Children and Family Services to provide mental health treatment and support services to adults who have a serious mental illness. This project will allow the client to control the public mental health funds allotted for his or her treatment and to directly purchase the services from the vendor of choice.

The bill requires an evaluation by an independent entity to assess the pilot project. The evaluation will include an assessment of the following: criteria for selecting eligible participants, duties of the care coordinator, accessibility and quality of services provided to the participants, the degree to which the client participates in treatment plan development, achievement of treatment goals and outcome measure, demonstrated improvements or cost savings, monitoring and oversight by the Department of Children and Family Services and the Agency for Health Care Administration, and the assistance of the local advisory group in the design and implementation of the project.

A report must be submitted to the appropriate legislative committees by December 1, 2002, and December 1, 2003, concerning the progress of the pilot projects.

The bill includes an appropriation of $470,000 from general revenue funds for FY 2001-2002 to the Alcohol, Drug Abuse, and Mental Health Trust Fund in the Department of Children and Family Services to implement the pilot project.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 107-0

CS/CS/SB 1258 — Behavioral Health Services

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

This bill includes provisions relating to the development of two behavioral health service delivery strategies, the establishment of a Behavioral Health Services Integration Workgroup, the implementation of children's behavioral crisis unit demonstration models, and the state's acceptance of certain accreditation standards in place of onsite licensure reviews and administrative and monitoring requirements.

Behavioral Health Service Delivery Strategies

In an effort to improve the coordination, integration, and management of the delivery of behavioral health services (mental health and substance abuse), the bill directs the Department of Children and Family Services (department) and the Agency for Health Care Administration (agency) to develop two service delivery strategies and to contract with a single managing entity in each of two geographic locations for all publicly funded diagnostic or assessment services, acute care services, rehabilitative services, support services, and continuing care services. One strategy must be in the catchment area of G. Pierce Wood Memorial Hospital.

Under one service delivery strategy, the department may contract with a Medicaid prepaid mental health plan that operates pursuant to s. 409.912, F.S. The authority for the department to contract with this entity will add several desirable but currently absent dimensions to the department's capacity to maximize the value of its expenditures for behavioral health care. These improvements include the implementation and oversight of clinical guidelines to ensure best practices, utilization management to ensure appropriate access and that the right service is given in the right amount, and the credentialing of providers and improved quality of care monitoring.

Under the second service delivery strategy, the department and the agency must competitively procure a contract for the management of behavioral health services with a managing entity that will improve quality of care and contain costs. By having a single managing entity responsible for all state behavioral health funding, new elements of clinical management will be introduced including credentialing of providers, promulgation of clinical care and access criteria, utilization management of high cost units, improved outcome data, quality of care improvement and data management.

The bill proposes that the agency and department utilize methods that will simplify billing and enhance clinical flexibility. Methods specified in the bill for both strategies include using benefit packages based on the level of severity of illness and level of client functioning; aligning and integrating procedure codes, standards, or other requirements to simplify or improve client services and efficiencies in service delivery; using prepaid per capita and prepaid aggregate fixed-sum payment methodologies; and modifying current procedure codes to increase clinical flexibility, encourage the use of the most effective interventions, and support rehabilitative activities.

The bill directs the department to contract with the Louis de la Parte Florida Mental Health Institute to conduct a formative evaluation of each strategy identifying the most effective methods and techniques used to manage, integrate, and deliver behavioral health services. The entity conducting the evaluation must report every 12 months to the department, agency, Office of the Governor, and the Legislature on the status of the service delivery strategies.

Behavioral Health Services Integration Workgroup

The bill establishes a Behavioral Health Services Integration Workgroup to assess barriers to the effective and efficient integration of mental health and substance abuse services across various systems and to propose solutions. The Workgroup is comprised of representatives of state agencies which includes Juvenile Justice, Corrections, Education, Office of Drug Policy, Agency for Health Care Administration and representatives of local stakeholders such as the county jails, homeless coalitions, service providers, Baker Act receiving facilities, and consumers and their families. The department may transfer up to $200,000 under the authority of ch. 216, F.S., to support the Behavioral Health Services Integration Workgroup. The Workgroup must submit a report to the Governor and the Legislature by January 1, 2002, regarding the progress toward achieving their statutory purpose.

Children's Behavioral Crisis Unit Demonstration Models

The bill creates s. 394.499, F.S., authorizing the Department of Children and Family Services to implement children's behavioral crisis unit demonstration models beginning July 1, 2001, in Collier, Lee, and Sarasota counties to provide integrated emergency mental health and substance abuse services to persons under the age of 18 years at facilities licensed as Children's Crisis Stabilization Units. The demonstration models will integrate children's mental health crisis stabilization units with substance abuse juvenile addictions receiving facilities services, to provide emergency mental health and substance abuse services.

Children served in the demonstration models will have access to both mental health and substance abuse services, in accordance with their individual needs, in one facility. The demonstration models will be able to admit and stabilize children with co-occurring disorders in addition to children with mental health, or substance abuse-only needs. Criteria for admission to

and treatment in these new units are specified and reflect existing criteria for emergency mental health and substance abuse services for children. The bill provides for the children's behavioral crisis units to be licensed as crisis stabilization units and provides rule-making authority.

The bill specifies that nothing in the act would require an existing crisis stabilization unit or addiction receiving facility to convert to a children's behavioral crisis unit. Beginning July 1, 2004, pending a required evaluation of the demonstration sites, the department, in consultation with the agency, may expand the demonstration models to other locations in the state. The department is required to contract for an independent evaluation of the demonstration models to be reported to the Legislature by December 31, 2003.

Accreditation Standards

In an effort to reduce duplicative licensure and monitoring activities by the department and agency of contracted behavioral health organizations and facilities, s. 394.66, F.S., is amended to require the agency to accept accreditation instead of its own facility licensure on-site review requirements and the department to accept accreditation as a substitute for its administrative and program monitoring requirements. The bill specifies the accreditation organizations with appropriate standards for an organization, a mental health facility, or a network of providers from which the department purchases behavioral health services.

The bill includes provisions for the department and the agency to adopt rules establishing additional standards for licensing or monitoring accredited programs and facilities. The department or agency may perform inspections of accredited organizations, including contract monitoring, at any time to ensure that deliverables are provided in accordance with contracts.

The department and the agency are required to report to the Legislature by January 1, 2003, on the viability of mandating that all organizations that are under contract with the department or licensed by the agency to provide behavioral health services be accredited. The report must address the viability of privatizing all licensure and monitoring functions through an accrediting organization. The bill specifies that these provisions would apply to contracted organizations that are already accredited immediately upon becoming law.

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

CS/CS/SB 1346 — Behavioral Health Care Services

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

This bill includes provisions relating to the state's acceptance of certain accreditation standards in place of onsite licensure reviews and administrative and monitoring requirements and the implementation of children's behavioral crisis unit demonstration models.

Accreditation Standards

In an effort to reduce duplicative licensure and monitoring activities by the Department of Children and Family Services and the Agency for Health Care Administration of contracted behavioral health organizations and facilities, s. 394.66, F.S., is amended to require the agency to accept accreditation instead of its own facility licensure on-site review requirements and to require the department to accept accreditation as a substitute for its administrative and program monitoring requirements. The bill specifies the accreditation organizations with appropriate standards for an organization, a mental health facility, or a network of providers from which the department purchases behavioral health services.

The bill includes provisions for the department and the agency to adopt rules establishing additional standards for licensing or monitoring accredited programs and facilities. The department or agency may perform inspections of accredited organizations, including contract monitoring, at any time to ensure that deliverables are provided in accordance with contracts.

The department and the agency are required to report to the Legislature by January 1, 2003, on the viability of mandating that all organizations that are under contract with the department or licensed by the agency to provide behavioral health services be accredited. The report must address the viability of privatizing all licensure and monitoring functions through an accrediting organization. The bill specifies that these provisions would apply to contracted organizations that are already accredited immediately upon becoming law.

Children's Behavioral Crisis Unit Demonstration Models

The bill creates s. 394.499, F.S., authorizing the Department of Children and Family Services to implement children's behavioral crisis unit demonstration models beginning July 1, 2001, in Collier, Lee, and Sarasota counties to provide integrated emergency mental health and substance abuse services to persons under the age of 18 years at facilities licensed as Children's Crisis Stabilization Units. The demonstration models will integrate children's mental health crisis stabilization units with substance abuse juvenile addictions receiving facilities services to provide emergency mental health and substance abuse services.

Children served in the demonstration models will have access to both mental health and substance abuse services, in accordance with their individual needs, in one facility. The demonstration models will be able to admit and stabilize children with co-occurring disorders in addition to children with mental health, or substance abuse-only needs. Criteria for admission to and treatment in these new units are specified and reflect existing criteria for emergency mental health and substance abuse services for children. The bill provides for the children's behavioral crisis units to be licensed as crisis stabilization units and provides rule-making authority.

The bill specifies that nothing in the act would require an existing crisis stabilization unit or addiction receiving facility to convert to a children's behavioral crisis unit. Beginning

July 1, 2004, pending a required evaluation of the demonstration sites, the department, in consultation with the agency, may expand the demonstration models to other locations in the state. The department is required to contract for an independent evaluation of the demonstration models to be reported to the Legislature by December 31, 2003.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 113-0

CHILDREN AND FAMILIES

CS/CS/SB 1214 — Foster Care/Residential Group Care

by Appropriations Committee; Children & Families Committee; and Senators Peaden and Cowin

Foster Care and Residential Group Care

This legislation addresses a number of serious problems in Florida's foster care program through several strategies as follows:

For districts 4, 11, 12 and the Suncoast Region, the bill amends s. 39.521(5), F.S., by requiring the Department of Children and Family Services (department) to assess for placement in residential group care any child 11 years of age or older who has been in care at least 6 months who is then moved in care more than once. The assessment procedure is conducted by the department or its agent who incorporates current and historical information from a variety of sources which are specified. If it is determined as a result of the assessment that the placement in licensed residential group care is appropriate, the child must be placed in residential group care, if available. The bill provides for judicial review of assessment results and actions taken. Residential group care facilities that receive children as a result of the new requirement to assess for placement are directed to establish special permanency teams dedicated to overcoming the permanency challenges presented by this group of children and are required to report regularly to the department on its success in achieving permanency for them. The department is required to track a number of elements relating to implementation of this provision and to report to the Legislature by December 1 of each year.

Comprehensive Residential Service Strategies. The bill creates s. 409.1676, F.S., that describes comprehensive residential services to children with extraordinary needs. The new section states that the Legislature intends for comprehensive residential services to be provided to children in the child protection system who have extraordinary needs such as serious behavioral problems or do not have the options of either reunification with their family or adoption. These residential services must be provided by a not-for-profit corporation or local government entity under contract with the department or by a lead agency pursuant to s. 409.1671, F.S. These contracts must specify that an identified number of children will have access to a full array of services for a fixed price.

The bill specifies that, at a minimum, the department will contract for comprehensive residential services with a specific appropriation in Districts 4, 11, 12, the Suncoast Region of the department, and with a not-for-profit entity serving children from multiple districts. The entity under contract is responsible for the following services: comprehensive assessment, residential care, transportation, behavioral health, recreational activities, clothing, supplies and miscellaneous expenses associated with these children, for the necessary arrangement for or provision of educational services, and for assuring necessary and appropriate health and dental care.

The bill also creates s. 409.1677, F.S., establishing in the private sector a model comprehensive residential services program in Dade and Manatee counties. These programs must provide a full array of services for a fixed price to that portion of eligible children within each county as specified in the contract and based upon funds appropriated.

The bill specifies the following requirements for each model:

- A focus on children with specialized needs, such as those children not likely to be reunited with their families or adoptive homes, sibling groups, children with serious behavioral problems, and children who are victims of sexual abuse.
- Provision of or arrangement for all appropriate services.
- Commitment and ability to find and use innovative approaches to address the problems in the traditional foster care system.
- Provision of a full range of residential services designed to meet the individual needs of each child in care.
- Provision of the necessary administrative services for operational purposes.
- Eligibility criteria specified in the contract that include a "no-reject-no-eject" commitment unless otherwise determined by the court.
- An ability with trained multidisciplinary staff to facilitate the achievement of permanency goals of the children in care.
- Utilization of a retired-volunteer mentor program.
- Willingness and ability to assume financial risk for the children in care.
- Willingness and ability to serve as a research and teaching laboratory for departmental and community-based care programs to improve the quality of foster care.

Section 409.1679, F.S., specifies measurable outcomes for the programs created in s. 409.1676, F.S., and s. 409.1677, F.S., addressing the following:

- The provision of a stable living environment for children in care;
- The achievement of an appropriate education and grade level;
- Keeping sibling groups together;
- The reduction of such system problems as staff turnover and child run-aways;
- The provision of an array of services to children in care if determined to be needed by the child's assessment.

The department must reimburse the programs established under s. 409.1676, F.S., and s. 409.1677, F.S., at a fair and reasonable level and based on a prospective per-diem rate, which must be specified annually in the General Appropriations Act.

Child Welfare

Section 409.175, F.S., is amended by specifying that a family foster home license may be valid for longer than 1 year but no longer than 3 years if the home has maintained a license with the department for at least the 3 previous consecutive years, maintains good standing with the department, and has not been the subject of reports of child abuse or neglect with any findings of maltreatment.

The bill amends s. 409.176, F.S., requiring that registration of residential child-caring agencies and family foster homes include proof of compliance with the uniform fire safety standards required in ch. 633, F.S.

Section 39.402, F.S., is amended regarding shelter hearings to specify that the department must provide a recommendation to the court for scheduled contact between the child and parents. If the court orders visitation and the visit does not commence within 72 hours after the shelter hearing, the department must provide justification to the court. The department must make referral information available to parents or legal custodians seeking voluntary services and participation in services must not be considered an admission or other acknowledgement of the allegations in the shelter petition.

The bill amends s. 435.045, F.S., modifying requirements for placement of dependent children to authorize the department to conduct criminal record checks equivalent to level 2 screening under s. 435.04(1), F.S., for any person being considered by the department for placement of a child subject to a placement decision pursuant to ch. 39, F.S.

The Office of Program Policy Analysis and Government Accountability is directed to provide the Legislature with a status report on the child protection program no later than February 1, 2002, and the bill specifies the data and information to be included in the report.

Community-Based Care

The law governing the child protection community-based care initiative is amended to provide additional flexibility and direction as the state moves toward statewide implementation.

Section 409.1671(1)(a), F.S., is amended relating to foster care and related services to allow the term "related services" to include other services which are not currently listed in that section. Services currently listed include: family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, postplacement supervision, permanent foster care, and family reunification.

Section 20.19(7)(c)2., F.S., is amended specifying that a lead agency in the prototype region of the department may provide core services and removes the provision that the lead agency must obtain approval from the department to provide core services.

Section 409.1671(1)(b)7., F.S., is amended specifying that an agency competing for lead agency designation must have the ability to maintain eligibility to receive all federal child welfare funds (Title IV-E and Title IV-A funds) currently used by the department. In addition, the bill specifies that if the department is not successful in its efforts to competitively procure services through an eligible lead community-based provider, the department in collaboration with the local community alliance must develop a plan that: 1) ensures local control over the management and administration of service provision and 2) explains how the community will continue to implement privatization through competitively procuring either the specific components of foster care and related services or a comprehensive community-based care system from qualified licensed agencies. If a community alliance does not exist, the plan must be submitted to the President of the Senate and the Speaker of the House of Representatives for their comments.

Section 784.081, F.S., is amended to add employees of lead community-based providers and their direct service contract providers to the list of specified officials or employees for purposes of reclassifying offenses in cases when the person committing the offense knows or has reason to know the identity or position or employment of the victim.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 40-0; House 117-0

CS/HB 563 — Lawton Chiles Endowment

by Fiscal Responsibility Council; and Reps. Fasano, Atwater, and others (CS/SB 1286 by Children & Families Committee and Senator King)

This bill restructures the current allocation of funds distributed from the Lawton Chiles Endowment Fund for community-based health and human services initiatives for children and elders and biomedical research. An annual and perpetual source of funding from the principal is appropriated to the endowment for biomedical research of diseases related to tobacco use, including cancer, heart disease, and lung disease.

The endowment will receive $200 million annually for FYs 2001-2002 and 2002-2003. For FY 2001-2002, $150 million of the existing principal in the endowment must be reserved and accounted for solely as funding for biomedical research activities, with 5 percent of the cash flow reinvested to adjust the base for inflation. The remaining principal in the endowment is to be used to fund health and human services programs for children and elders. When a cure has been found for tobacco-related cancer, heart disease, and lung disease, the dedicated biomedical research funding must be discontinued and the entire principal in the endowment used exclusively for health and human services programs.

The Legislature must establish dedicated line item categories for the agencies receiving funds, and funds distributed from the endowment may not be used to supplant existing revenues. The Governor is required to develop a plan of action to address any fund deficits in accordance with initial legislative intent.

A 15-member Lawton Chiles Endowment Fund Advisory Council is created with specified representatives to evaluate funding priorities. The Advisory Council is responsible for recommending to the Governor and the Legislature, before November 1 of each year, with respect to endowment funding for health and human services programs for children and elders. The Advisory Council's recommendations are based on input from state agency heads, child and elder advocacy organizations, community stakeholders, service providers, and the general public.

The bill requires that the Biomedical Research Advisory Council report annually as to the progress made in the prevention and diagnosis of diseases related to tobacco use.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 120-0

ECONOMIC SELF-SUFFICIENCY

CS/HB 1385 — Public Meetings and Public Records

by State Administration Committee and Rep. Joyner and others (CS/CS/SB 2178 by Governmental Oversight & Productivity Committee; Children & Families Committee; and Senator Peaden)

This bill provides for an exemption from the public records and public meeting laws for individuals who are applying for or receiving temporary cash assistance from the Temporary Assistance for Needy Families program. Portions of certain meetings where information identifying these individuals are exempt from the public meeting requirements and information in records that would identify these individuals is made confidential and exempt from the public records requirements. This exemption applies to a number of state agencies and entities that work or contract to provide services to individuals receiving temporary assistance.

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

CS/SB 350 — Individual Development Accounts

by Children & Families Committee and Senators Dawson, Miller, Mitchell, and Lawson

CS/SB 350 establishes Individual Development Accounts (IDAs) to enable families receiving temporary cash assistance to save earned income for the specific purposes of either purchasing a home, paying for a college or vocational education, or starting a business. Funds in the IDAs are matched with other funding sources and are not considered in determining TANF, food stamp, or Medicaid benefits. Specifically, the bill:

- Establishes individual development accounts to provide families with the opportunity to accumulate assets to promote education, home ownership, and micro-enterprise development.

- Identifies eligible participants in an IDA program as any family who is fully complying with the temporary cash assistance program, who is subject to the time limits, and who has entered into an agreement with an approved fiduciary organization.

- Provides that participant contributions into the IDAs can only be made from earned income.

- Stipulates that IDA funds can only be accessed after the family is no longer receiving cash assistance and only for one of the qualified purposes.

- Provides for fiduciary organizations to serve as intermediaries between the families with IDAs and the financial institutions holding the IDAs.

- Provides that funds in the IDA are to be disregarded in determining eligibility for any federal or state program.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 32-0; House 104-1

DEVELOPMENTAL DISABILITIES

HB 1519 — Clearinghouse on Disability Information

by Rep. Berfield (SB 1650 by Senator Mitchell)

This bill is designed to ease the complexity of the systems that individuals with disabilities and their families must identify and navigate in order to secure the assistance needed by providing both information on where to find the service and an understanding of the processes required to access the service. The bill creates a Clearinghouse on Disability Information Office for the purpose of developing and maintaining a statewide toll-free information and referral system, the focus of which is to provide information and referral for all disability related and generic services, assistance, programs and resources that individuals with disabilities and their families need. The Clearinghouse on Disability Information Office is assigned to the Department of Management Services for administrative purposes. However, the bill stipulates that the clearinghouse and its operation are not subject to control, supervision, or direction of the department.

The bill establishes an advisory council not to exceed 19 members to assist the clearinghouse in planning and developing its services. At least one-third of the advisory council members must be individuals with disabilities or family members, and state agency representatives cannot exceed one-third of the advisory council membership. The bill provides for staff for the clearinghouse and for a phase-in progression to the establishment and performance of the functions of the clearinghouse. The bill further requires the clearinghouse to submit an annual report on its services to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 115-0

ECONOMIC DEVELOPMENT

HB 1225 — Economic Development

by Reps. Pickens, Kilmer, and others (CS/CS/SB 460 by Finance & Taxation Committee; Commerce & Economic Opportunities Committee; and Senators Clary, Smith, and Mitchell)

This bill contains a substantial rewrite of the Enterprise Zone Program, and includes provisions for community development, workforce education, comprehensive planning, and economic development, as well as $2.8 million in appropriations.

Enterprise Zone Program

Part of this bill has been developed out of recommendations from the Senate Commerce & Economic Opportunities Committee's interim project report 2001-29, *Review and Evaluation of the Enterprise Zone Program*, November 2000. The overall finding of that report is that the Enterprise Zone Program has largely failed to achieve the primary goal of encouraging economic growth and investment in distressed areas by offering tax advantages to businesses. The report recommended transforming the jobs tax credit into a job creation tool and suggested some housing provisions to mitigate gentrification problems caused by the Enterprise Zone Program.

Jobs Tax Credit: The bill proposes a significant change to the Enterprise Zone Program that will affect both rural and urban zones by making the jobs tax credits against sales and corporate income taxes dependent upon the creation of new full-time jobs rather than being based upon the hiring of new individuals into existing jobs. The bill doubles the value of the current incentive and provides the incentive for two years instead of one, which is intended to provide four times the current incentive value for the creation of a new job. The jobs tax credit can also be used as an incentive to encourage better jobs by allowing a former part time worker to be upgraded to full-time. In addition, it can be used to encourage higher pay for welfare transition participants by the state paying half of the difference in wage increases for two years if the business provides a wage that is at least $4 dollars (up to $8 dollars) higher than the federal hourly minimum wage. (The credit shall range from 40 percent of the monthly wages paid for $4 above hourly minimum wage, to 44 percent of the monthly wages paid for $8 above hourly minimum wage.)

Community Contribution Tax Credit Program: The bill creates a sales tax refund version of the community contribution tax credit program, under which a taxpayer may receive a credit of 50 percent of a community contribution against sales taxes. This bill provides a community contribution sales tax credit as an alternative to the present corporate income tax or insurance premium tax credit, which will provide additional opportunity for a business that only pays sales tax or flexibility for a multi-tax taxpayer provided the taxpayer takes the credit against only one of the taxes specified. A sales tax refund can be submitted for the prior 12 months of taxes paid, which allows a business to receive half of its donation back within a few months without waiting

a year to apply for the credit. (The credit shall be granted as a refund against state sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the Department of Revenue for the credit.)

Rural Enterprise Zones: The bill tailors certain provisions of the Enterprise Zone Program to accurately reflect the circumstances of rural disadvantaged areas. The bill triples the value of the jobs tax credit for rural areas and provides the incentive for two years instead of one, which provides a rural business with six times the current value of the tax credit for full-time job creation. The bill also defines rural zones, and authorizes the expansion of the size of rural zones up to 20 square miles, including a noncontiguous zero population area, to reflect rural land usage patterns and population densities. In addition, the bill revises some existing rural economic development programs, such as an existing revolving loan program, a staffing grant program, and a rural job tax credit program in order to duplicate the package-of-incentives approach that appears to be successful in creating jobs in urban enterprise zones. The bill also directs state agencies to review other existing programs to see if they can be made more accessible to rural communities. The bill allows nine new rural areas to apply for designation as enterprise zones, including: three Rural Champion Communities (Hamilton, Madison, and Putnam counties), and one community in each county within a rural area of critical economic concern that does not already have a zone designation (Calhoun, Holmes, Desoto, Glades, Hardee, and Okeechobee counties).

Zone Website and Marketing: The bill provides for the creation of an Internet website to market all enterprise zones in the state. The Regional Rural Development Grants Program is amended to allow the Office of Tourism, Trade, and Economic Development (OTTED) to contract for the administration and development of an enterprise zone web portal or websites for marketing the Enterprise Zone Program for job creation in disadvantaged urban and rural enterprise zones. The bill allows OTTED the flexibility to use an additional $150,000 in the rural staffing grants program to either contribute toward rural marketing staff or contract with Enterprise Florida, Inc., to develop and administer an enterprise zone web portal or website for each zone. Each enterprise zone web page should include downloadable links to state forms and information, as well as local message boards that help businesses and residents receive information concerning zone boundaries, job openings, zone programs, and neighborhood improvement activities.

Rural High-Speed Broadband Capability: The bill adds broadband communications investments to the "eligible project" list for the community contribution tax program if a project is the investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. The bill also makes revisions in the Quick Action Closing Fund to allow a privately owned broadband infrastructure investment to receive state funds if the project improves high-speed broadband capacity in a rural county that has an enterprise zone. Businesses in counties with a rural enterprise zone can now jointly donate toward an expansion of broadband capability and receive half of their donation back in tax refunds or credits and can combine their local effort with state funds from the Quick Action

Closing Fund to expand broadband infrastructure, which may benefit schools, libraries, and medical treatment facilities, as well as expand business opportunities in rural areas.

Housing: The bill provides for housing policies that may help mitigate the effects of gentrification, which is a chronic problem for programs like the Enterprise Zone Program or community redevelopment programs that are intended to redevelop disadvantaged areas. The bill creates incentives for property owners to sell rental property in distressed areas to low-income residents and provides other affordable housing provisions. Specifically the bill:

- Allows the community contribution tax program to be used for down payment, closing costs, and lien removal for low income households, and the program can be combined with a Governor's recognition program authorized in this bill to encourage property owners to sell their property to appropriate families that are currently renting the property. Down payment, closing costs, lien removal, and the Governor's recognition can also be used to develop unused, distressed, or abandoned property for low-income housing.

- Allows OTTED to reserve up to 50 percent of the available annual community contribution tax credits to provide housing for very-low-income households for the first six months of the fiscal year.

- Directs OTTED to consult with the Department of Community Affairs, the Florida Housing Finance Corporation, and statewide and regional housing and financial intermediaries in the marketing of the community contribution tax credit program and also allows a community with Front Porch Florida designation to use the tax credits.

- Amends provisions of the Florida Housing Finance Corporation Act (HFCA). Specifically, it allows the Mortgage Revenue Bond Program under the HFCA to be included in the definition for elderly housing, and allows funds from the Homeowner's Assistance Program to be used for certain programs other than those sponsored by the corporation. The bill also increases the corporation's bonding capacity from $200 to $400 million under the Florida Affordable Housing Guarantee Program.

Business Property: The bill requires that business property purchased for use by businesses located in an enterprise zone must have a sales price of at least $5,000 dollars per unit to be eligible for a sales tax refund.

Sarasota County and Satellite Enterprise Zones: The bill allows Sarasota County, or Sarasota County and the City of Sarasota jointly, to apply to OTTED for designation of one enterprise zone. The bill also revises the existing statute relating to satellite enterprise zones, deleting the specified date by which an eligible municipality must create a satellite enterprise zone. The bill provides that a satellite enterprise zone may be created retroactively to December 31, 1999, and allows for businesses in a newly created satellite zone to receive retroactively a refund of certain sales taxes paid back to that date.

Other Economic Development Initiatives

Qualified Target Industry and Qualified Defense Contractor Tax Refunds: The bill increases the allowable state share of the tax refund payments under the Qualified Target Industry and Qualified Defense Contractor Tax Refund programs from $30 million to $35 million for each fiscal year following FY 2001-2002.

Citrus Industry: The bill allows the Department of Citrus to collect membership dues from citrus growers on behalf of a citrus industry not-for-profit corporation if the corporation produces citrus grower market news and education and has at least 5,000 members engaged in growing citrus in this state for commercial sale.

Workforce Training and Dropout Prevention Program

The bill establishes the Jobs for Florida's Graduates Program (program) as a permanent program instead of allowing the original five-year program to expire. The program is a dropout prevention program for at-risk high school seniors which provides placement and support services after graduation. The bill also expands the eligibility for schools and students to participate in the program; revises membership of the program's board of directors; and revises criteria for outcome goals and reporting requirements.

Community Development and Comprehensive Planning

The bill contains a number of provisions related to community development and comprehensive planning. Specifically the bill:

- Authorizes the Department of Community Affairs to establish advisory committees and repeals an advisory council related to the Florida Small Cities Community Development Block Grant Loan Guarantee Program.

- Provides that local option gas tax revenue may be used to pave existing graded roads when compatible with the local comprehensive plan, by deleting from existing law a requirement to use such funds only if it is for the purpose of relieving or mitigating existing or potential adverse environmental impacts.

- Adds federally recognized Native American Indian Tribes to the definition of "public agency" for the purpose of the Florida Interlocal Agreement Act.

- Allows schools serving rural counties to use agricultural land for the location of public school facilities.

- Revises conditions governing Developments of Regional Impact (DRI) in rural areas of critical economic concern, thereby allowing for more significant development projects in

these areas without triggering the multi-jurisdictional impact studies associated with the DRI review process.

Appropriations

The bill provides $650,000 to the Florida Commercial Space Financing Corporation and $650,000 to the Spaceport Florida Authority for funding aerospace infrastructure. The funding can be used for infrastructure and other expenses directly related to land, buildings, and other improvements, fixtures, machinery, equipment, instruments, and software that will improve the state's capability to support, expand, or attract aerospace industry. The bill also provides $1 million to a qualifying corporation in the information technology industry to provide $3,000 for each full-time Florida employee hired between January 1 and December 31, 2001. The bill also provides up to $500,000 in sales tax refunds to a qualified facility, school, or business that trains aircraft pilots and flight crews.

If approved by the Governor, these provisions take effect July 1, 2001, except for the enterprise zone jobs tax credit and the rural job tax credit provisions, which take effect January 1, 2002. *Vote: Senate 33-0; House 107-1*

CS/CS/SB 668 — Enterprise Zones

by Finance & Taxation Committee; Commerce & Economic Opportunities Committee; and Senator Carlton

New Enterprise Zones

This bill allows the following counties, or cities and counties jointly, to apply to the Office of Tourism, Trade, and Economic Development (OTTED) for designation of one enterprise zone each: Hernando County and the City of Brooksville; Holmes County; Calhoun County; Okaloosa County; Sarasota County and the City of Sarasota; and Hillsborough County.

Zone Boundary Changes

The bill also allows the City of Gainesville to apply to change the boundaries of its existing enterprise zone and requires OTTED to approve the boundary change if the new boundaries do not increase the overall size of the enterprise zone and if the new boundaries are contiguous to the existing enterprise zone. The bill also allows Orange County to add up to an additional four square miles to one of the three noncontiguous areas of the county's enterprise zone, and requires OTTED to approve the boundary change if the additional area does not exceed four square miles.

Retroactive Satellite Enterprise Zones

The bill also revises the existing statute relating to satellite enterprise zones, deleting the specified date by which an eligible municipality must create a satellite enterprise zone. The bill provides that a satellite enterprise zone may be created retroactively to December 31, 1999, and

allows for businesses in a newly created satellite zone to receive retroactively a refund of certain sales taxes paid back to that date.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 33-0; House 116-0

SB 814 — Entertainment Industry

by Senators Crist and Klein

This bill renames the Office of the Film Commissioner as the Office of Film and Entertainment, the Film Commissioner as the Commissioner of Film and Entertainment, and the Florida Film Advisory Council as the Florida Film and Entertainment Advisory Council.

This bill also:

- Enables motion picture production businesses and their allied industries to apply for tax incentives under the Urban High-Crime-Area Job Tax Credit Program (s. 212.097, F.S.) and the Rural Job Tax Credit Program (s. 212.098, F.S.);

- Authorizes the Office of Film and Entertainment to request or accept grants and donations of funds or property for any of the office's strategic-plan purposes or permitted activities; and

- Changes the Florida Film and Entertainment Advisory Council by adding a representative of Workforce Florida, Inc., to the council as an ex officio, nonvoting member and by clarifying that the chair of the council must be elected annually from the council's appointed membership.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 117-0

CS/SB 1541 — Public Records Exemption/Economic Development Agency

by Competitive Commerce Council; Economic Development & International Trade Committee; and Rep. Prieguez and others (SB 484 by Commerce & Economic Opportunities Committee)

This bill prevents the October 2, 2001, expiration of s. 288.075(2), F.S., which specifies that records of an economic development agency which contain or would provide information on the plans, interests, or intentions of a business to locate, relocate, or expand any of its activities in this state are confidential and exempt from the public records law, upon written request of the business. The bill also revises this public records exemption by:

- Including the records of a county or a municipal economic development office within the coverage of the exemption, as well as the records of the Florida Commercial Space Financing Corporation;

- Allowing confidentiality to be maintained for longer than 24 months in the case of trade secrets, or in the case of other information if it can be shown that a business is still engaged in the site-selection process for its economic development project; and

- Clarifying a prohibition against entering into an agreement with a business that has requested confidentiality, by allowing such agreements if they are executed in the official capacity of a public officer or employee, do not accrue to the personal benefit of that officer or employee, and are necessary to effectuate the economic development project.

The bill specifies that the revised exemption expires October 2, 2006, and shall be subject to legislative review under the Open Government Sunset Review Act. Section 288.075, F.S., was reviewed in its current form during the 2000-2001 interim. (*See* Florida Senate Interim Project Report 2001-030, November 2000.)

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 34-0; House 116-3

HB 387 — Public Records Exemption/Sports Promotion

by State Administration Committee and Rep. Brummer and others (SB 454 by Commerce & Economic Opportunities Committee)

This bill abrogates the scheduled expiration of a public records exemption for the identity of a donor or prospective donor to the Florida Sports Foundation who desires to remain anonymous. The foundation is a direct-support organization authorized to assist the state with the promotion of sports-related industries. The bill amends s. 288.12295, F.S., to delete language specifying that the exemption is repealed on October 2, 2001, and to delete language requiring legislative review under the Open Government Sunset Review Act. Such review was conducted during the 2000-2001 interim. (*See* Florida Senate Interim Project Report 2001-033, November 2000.)

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 34-2; House 117-0

HB 393 — Public Records Exemption/Tourism Marketing

by State Administration Committee and Rep. Brummer and others (SB 456 by Commerce & Economic Opportunities Committee)

This bill abrogates the scheduled expiration of a public records exemption for the identity of a person who responds to a marketing project or an advertising research project of the Florida Tourism Industry Marketing Corporation, as well as for trade secret information obtained through such activities. The corporation, which does business under the name VISIT FLORIDA, is a direct-support organization for the Florida Commission on Tourism and conducts tourism-promotion activities on behalf of the state. The bill reenacts and amends s. 288.1226(8), F.S., to delete language specifying that the exemption is repealed on October 2, 2001, and to delete language requiring legislative review under the Open Government Sunset Review Act. Such review was conducted during the 2000-2001 interim. (*See* Florida Senate Interim Project Report 2001-032, November 2000.)

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 38-0; House 113-0

BUSINESS ENTITIES AND TRANSACTIONS

CS/CS/SB 1880 — Corporations

by Judiciary Committee; Commerce & Economic Opportunities Committee; and Senator Klein

Proxy Voting

This bill amends ss. 607.01401 and 607.0722, F.S., to clarify that Florida for-profit corporations may accept proxy appointments from shareholders by electronic transmission and through the shareholder's attorney in fact. The term "electronic transmission" is defined for purposes of proxy voting to include, but not be limited to, telegrams, cablegrams, telephone transmissions, and transmissions through the Internet. Thus, the bill allows corporations to accept proxy appointments received electronically using telephonic menu systems and Internet-based systems.

The bill removes requirements that certain irrevocable proxies become revocable after three years unless renewed. Accordingly, all irrevocable proxies become revocable after the coupled interest is extinguished.

The bill also allows corporations to adopt bylaws authorizing additional procedures for proxy voting.

Filing Fees

The bill amends s. 15.16, F.S., to allow the Department of State (department) to discount the filing fees paid by business entities when electronically filing documents with the Division of Corporations. The bill requires that the discount be equal to the amount of the convenience charge for electronic filing. Thus, the fees paid by a business entity for filing documents electronically through the Internet would be the same as the fees paid by business entities that file by mail or in person.

The bill also amends s. 607.193, F.S., to require the department to waive the $400 late charge for filing the supplemental corporate fee after May 1 of any year if the business entity did not receive the Uniform Business Report form prescribed by the department.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 119-0

HB 1157 — Department of State

by Rep. Miller and others (SB 2126 by Senator Garcia)

Secured Transaction Registry

This bill requires the Department of State (department) to cease performing the duties of the filing office and filing officer for secured transactions under the Uniform Commercial Code by October 1, 2001, or by the effective date of a contract for the performance of these duties, whichever occurs later. Because current law establishes the department as the proper place to file financing statements for secured transactions, the bill amends s. 679.401, F.S., effective October 1, 2001, to allow filing under the Florida Secured Transaction Registry (registry). In lieu of the department's current filing system, the bill directs the department to contract with the most qualified and capable respondent to a request for qualifications to operate and maintain the registry in a manner that:

- Is comparable and compatible with the department's current filing system;
- Is open to the public and accessible through the Internet;
- Will maintain filings as public records;
- Will provide for oversight and compliance audits by the department; and
- Will maintain the current level of filing fees and procedures for the deposit of revenues with the department, net of operating costs.

The bill specifies that the contract may not be assignable or transferable without the written consent of the department and that the department and the state retain ownership of the materials and records in the registry. In the event that a contractor fails to perform its duties or becomes bankrupt, insolvent, or is in receivership, the bill requires the department to reclaim possession and control of the materials and records in the registry and provide uninterrupted performance of the duties of the filing office and filing officer. The bill allows the department to approve the registry's forms and to authorize the certification of financing statements and amendments for admissibility in court. The bill requires the department to develop performance standards to ensure the registry is accurate and complete. The department also must periodically verify these standards are being met and may modify the standards as needed. Although these provisions take effect upon becoming law, substantially similar provisions that take effect January 1, 2002, were enacted in HB 579 by Rep. Crow (CS/SB 386 by Judiciary Committee and Senator Campbell), which revises ch. 679, F.S. (Article 9 of the Uniform Commercial Code).

Lighthouse Study

The bill requires the Coastal Management Program within the Department of Community Affairs and the Division of Historical Resources within the Department of State to study the lighthouses in the state, to determine the location, ownership, condition, and historical significance of all lighthouses in the state and ensure that all historically significant lighthouses are nominated for inclusion on the National Register of Historic Places. The study must assess the condition and restoration needs of historic lighthouses and develop plans for appropriate future public access and use. The Coastal Management Program and the Division of Historical Resources are directed to "take a leadership role in implementing plans to stabilize lighthouses and associated structures and to preserve and protect them from future deterioration." When possible, the lighthouses and associated buildings are to be made available to the public for educational and recreational purposes. The Department of Community Affairs is directed to consider these responsibilities to be a priority of the Florida Coastal Management Program and implementation of the bill a priority in the use of Coastal Management funds.

The Department of Community Affairs and the Department of State are required to request in their annual legislative budget requests funding necessary to carry out these duties and responsibilities. Funds for the rehabilitation of lighthouses are to be allocated through matching grants-in-aid to state and local government agencies and to nonprofit organizations. The Department of Community Affairs is authorized to assist the Division of Historical Resources in projects to accomplish lighthouse identification, assessment, restoration, and interpretation. An appropriation of $100,000 is provided to implement the study.

Arrest and Detention of Foreign Citizens

The bill removes provisions in ss. 288.816(2)(f) and 901.26, F.S., which prescribe procedures for law enforcement agencies to inform the Department of State (department) when arresting or incarcerating a foreign citizen and procedures for the department to notify the appropriate foreign governmental officials. By removing these consular notification provisions, the bill relies

on the Vienna Convention on Consular Relations and other bilateral agreements as the sources of the state's consular notification procedures. Under bilateral agreements with 55 countries, consular notification is mandatory. Under the Vienna Convention, however, consular notification is the option of the foreign citizen. Because the consular notification provisions in current law are mandatory for all foreign citizens, by removing these provisions, the bill eliminates the inconsistency with the Vienna Convention.

The bill also specifies that failure to provide consular notification under the Vienna Convention or other bilateral agreements is not a defense in a criminal proceeding or cause for release of a foreign citizen from custody.

Advertising of Fictitious Names

The bill amends s. 15.16, F.S., to allow the Department of State (department) to waive the requirement in s. 865.09(3)(d), F.S., that a person advertise the intention to register a business's fictitious name at least once in a newspaper in the county where the business will be located if the department indexes the fictitious name registration in a central database available to the public on the Internet.

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

CS/SB 2034 — Rural Electric Cooperatives

by Commerce & Economic Opportunities Committee and Senator Latvala

This bill allows rural electric cooperatives to adopt bylaws that create a form of limited proxy voting that places limits on existing proxy voting. Members voting by mail or limited proxy will not be counted on any matter raised at a meeting that was not specifically listed and identified on the mail ballot or limited proxy. A majority of a quorum is required to approve any motion or matter before a meeting of the members. This bill allows members of a rural electric cooperative to use electronic transmission to send their votes on a limited ballot to a proxy, a proxy solicitation firm, a proxy support service organization, a registrar, or the agent authorized by the person who will be designated as the proxy. This bill also prohibits voting by general proxy.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 33-0; House 117-0

WORKFORCE/EMPLOYMENT

CS/SB 252 — Release of Employee Information by Employers

by Commerce & Economic Opportunities Committee and Senator King

This bill requires the current and former employers of an applicant seeking employment as a law enforcement officer, correctional officer, or correctional probation officer to provide employment information about the applicant to the employing agency as part of a background investigation.

The bill also allows an employing agency to seek injunctive relief against an employer who refuses to disclose employment information in order to compel disclosure to the employing agency. The bill protects employers by allowing them to charge reasonable fees for furnishing records, providing them immunity from liability when releasing employment information as required, directing that they are not required to maintain employment information other than that kept in the ordinary course of business, and exempting from disclosure information that any other state or federal law prohibits disclosing and information that is subject to a legally recognized privilege the employer is otherwise entitled to invoke.

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

CS/SB 354 — Civil Rights Complaints

by Commerce & Economic Opportunities Committee and Senators Miller and Crist

This bill amends s. 760.11, F.S., to allow individuals to file complaints brought under the Florida Civil Rights Act of 1992 with the United States Equal Employment Opportunity Commission (EEOC) or with any unit of government of the state which is a fair-employment-practice (FEP) agency, instead of being required to file duplicate complaints with the Florida Commission on Human Relations (commission).

The bill provides that the date clearly stamped on the face of a complaint, if a stamp is present, is the date of filing. The bill also specifies that, for purposes of the Florida Civil Rights Act of 1992, the date of filing with the commission is the earliest date the complaint was filed with the EEOC, the FEP agency, or the commission. Thus, the bill allows complaints filed with the EEOC or the local FEP agency within 365 days after an alleged violation to be considered timely filed under the Florida Civil Rights Act of 1992, regardless of when the complaint is actually received by the commission.

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

CS/CS/SB 1672 — Workforce Development

by Appropriations Committee; Commerce & Economic Opportunities Committee; and Senators Lee, Miller, Sebesta, and Crist

Passport to Economic Progress Demonstration Program

This bill creates the Passport to Economic Progress demonstration program in Hillsborough and Manatee counties. The program increases the earned income disregard for recipients of cash assistance from $200 plus one-half of the remaining income to $300 plus one-half of the remaining income. The program also provides wage supplementation and extends transitional benefits and services from two years to four years for former recipients of cash assistance. Specifically, the program extends transitional education and training, transportation, and child care support services. Wage supplementation is provided for no more than 12 months and pays the amount needed to bring a family's income up to 100 percent of the federal poverty level. The bill specifies that, to be eligible for the wage supplement, an individual must:

- Reside in one of the designated counties for the demonstration program: Hillsborough or Manatee counties;
- Be a former recipient of temporary cash assistance;
- Have received cash assistance on or after January 1, 2000;
- Be employed full time (at least 32 hours per week); and
- Have a family income for the preceding six months which is less than 100 percent of the federal poverty level.

The demonstration program is administered by Workforce Florida, Inc., the Department of Children and Family Services, the Agency for Workforce Innovation, and the regional workforce boards and must be implemented by November 1, 2001. The bill requires that a report be submitted to the Governor and the Legislature by January 1, 2003, with recommendations about future expansion of the program. An appropriation of $3,532,500 is provided to implement the program during FY 2001-2002.

Workforce Boards

The bill amends s. 445.004, F.S., to require the board of directors of Workforce Florida, Inc., to include at least one member who is a current or former recipient of welfare transition or workforce services. The bill also amends s. 445.007, F.S., to provide the intent of the Legislature that, whenever possible and to the greatest extent practicable, each regional workforce board should include persons who are current or former recipients of welfare transition or workforce services and that these persons should be included as ex officio members of the board or of committees organized by the board.

After-School Care Programs

The bill amends s. 445.004, F.S., to require at least 15 percent of all federal Workforce Investment Act (WIA) funds for youth services be expended for after-school care programs for children 14 through 18 years of age, which provide academic tutoring, mentoring, and other services. The bill also allows federal Temporary Assistance for Needy Families (TANF) funds to be used to provide similar services for children 6 through 13 years of age. The bill specifies that these programs will be provided through contracts with qualified community-based and faith-based organizations on an equal basis with other private organizations. These community-based and faith-based organizations must be exempt from federal taxation under s. 501(c)(3) or (4) of the Internal Revenue Code in order to provide the after-school care programs. In addition, the bill prohibits funds expended for these programs to be used for religious or sectarian purposes.

Digital Divide Council

The bill creates the Digital Divide Council (council) in the State Technology Office (STO) and authorizes the council to facilitate the design and implementation of six pilot programs through local workforce development boards to develop exportable model programs for statewide use to educate and train economically disadvantaged families to become competitively qualified for high skill/high wage employment. The council is composed of 15 members:

- STO's chief information officer;
- Director of the Office of Tourism, Trade, and Economic Development;
- President of Workforce Florida, Inc.;
- Director of the Agency for Workforce Innovation;
- Chair of itflorida.com, Inc.
- Commissioner of Education;
- Executive Director of the State Board of Community Colleges;
- Executive Director of the State Board of Career Education;
- Chair of the Network Access Point of the Americas;
- Two information technology industry representatives;
- Two ex officio nonvoting members of the Florida Senate; and
- Two ex officio nonvoting members of the Florida House of Representatives.

The bill requires the council to submit an annual report to the Governor and the Legislature by March 1, 2002, which must include the results of the council's monitor, review, and evaluation of the pilot programs and recommendations of whether these programs should be continued or expanded. The bill also requires the STO to provide administrative and technical support for the council and allows the direct and indirect costs of the STO for providing this support to be paid from appropriations authorized for that purpose.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 111-3

BUSINESS/CONSUMER REGULATION

SB 2104 — Hiring or Leasing Personal Property with Intent to Defraud

by Senator Crist

This bill amends s. 812.155, F.S., to provide that a person who obtains personal property from a business via a rental-purchase ("rent-to-own") agreement, under which the rental store retains title to the property throughout the agreement period, will be criminally prosecutable if he or she fails to honor the agreement and does not return the goods to the business.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 117-0

CS/CS/SB's 336 & 190 — Building Code Revisions

by Appropriations Committee; Comprehensive Planning, Local & Military Affairs Committee; and Senators Constantine, Clary, and Crist

This bill delays implementation of the Florida Building Code from July 1, 2001 to January 1, 2002; implements the recommendations of the Florida Building Commission providing for a state product approval system; delays the deadline, from July 1, 2001 to July 1, 2002, for school relocatables to meet standards established by the Commissioner of Education; creates the "Elevator Safety Act," which establishes the Elevator Safety Technical Advisory Committee, provides regulatory standards and permits for elevators and similar equipment; and addresses the following technical issues relating to the Florida Building Code:

- Changes the standards for ventilation requirements for relocatable classrooms by allowing doors to be used in the calculation used for ventilation requirements;
- Exempts the Governor's mansion and capitol buildings from plans review and inspections by local governments;
- Provides that water well contractors are authorized to install, repair, and modify pumps and tanks in accordance with applicable provisions of the Florida Building Code;
- Requires $4 from the application or renewal fee paid by electrical contractors and alarm system contractors be transferred to the Department of Community Affairs, rather than the Department of Education, to fund research projects relating to the building construction industry or continuing education programs to persons engaged in the building industry in Florida;
- Allows cities and counties to require one electrical journeyman be present on large commercial construction projects;
- Allows concrete "portables" to be used as shelters and provides that DCA, or its designated representative, determine if the plans qualify for purposes of a factory-built school shelter;
- Corrects cross-references relating to accessible parking requirements;
- Requires statutory residential swimming pool safety features be integrated into the code;
- Provides procedures for adopting technical amendments to the code;

- Provides that storage sheds and "chickee huts" be exempted from the code;
- Authorizes the commission to provide by rule for the review and approval of plans for prototype buildings;
- Authorizes the commission to produce a commentary to accompany the code;
- Authorizes the commission to establish standards and criteria for issuance of permits for preliminary construction prior to the completion of plans review, including specific authority for permits for building foundations;
- Clarifies the liability standard in current law for violations of the building code;
- Directs the commission to ensure that initial training for the Florida Building Code be achieved as soon as practicable after the effective date of bill, and to, wherever possible, to outsource components of the training;
- Exempts certain telecommunications spaces and buildings with specified fire sprinkler systems from fire sprinkler systems specified in statute;
- Requires the commission to research the issue of adopting a rehabilitation code for the state;
- Requires the commission to research the issue of requiring all primary elevators in buildings with more than five levels to operate with a universal key, which allows access and operation of elevators by emergency personnel;
- Requires the commission to appoint the current members of the Building Construction Industry Advisory Committee, as established by Rule 6A-10.029, F.A.C., to the Education Technical Advisory Committee of the Florida Building Commission;
- Creates the Building Construction Permitting and Inspection Task Force to recommend a procedure for engineers or architects to perform plans review and inspection;
- Requires the commission research and evaluate the types of specific needs appropriate to justify amendments to the Florida Building Code;
- Appropriates $250,000 from the General Revenue Fund to Florida Community College at Jacksonville for the operation of the Institute of Applied Technology in Construction Excellence; and
- Appropriates $250,000 from the General Revenue Fund to Miami-Dade Community College to implement the building code training program for inspectors, contractors, architects, and engineers.

If approved by the Governor, these provisions take effect January 1, 2002, except as otherwise provided.
Vote: Senate 39-0; House 90-21

SB 210 — Ad Val Tax/Nonprofit Homes for Aged

by Senators Saunders, Carlton, and Crist

This bill clarifies provisions that provide ad valorem tax exemptions for nonprofit homes for the aged.

Section 196.1975(1), F.S., is amended to clarify that an applicant for exemption must be a corporation not for profit pursuant to the provisions of chapter 617, F.S., or a limited partnership, the sole general partner of which is organized as a not for profit corporation pursuant chapter 617, F.S. Subsection (4)(a), is revised to clarify that units or apartments in homes for the aged are exempt from taxation, rather than the more general term that the homes for the aged are exempt. Subsection (8) is amended to clarify that "portions of a property" failing to meet specified income limits shall qualify for an alternative exemption as provided in subsection (9), which is the renter's exemption pursuant to s. 196.1975(7), F.S. Subsection (9)(b) is amended to require each corporation, rather than home for the aged, applying for an exemption under subsection (4)(a) to file with the annual application for exemption an affidavit from each person who occupies a unit or apartment for which an exemption is claimed stating that the person resides therein and in good faith makes that unit or apartment his or her permanent residence.

A new subsection (13) is added to provide that ss. 196.195, F.S., relating to requirements for exemptions for nonprofits, and 196.196, F.S., relating to criteria for determining whether property is entitled to charitable, religious, scientific, or literary exemption, do not apply to this section.

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

CS/CS/CS/SB 446 — Homelessness

by Appropriations Committee; Children & Families Committee; Comprehensive Planning, Local & Military Affairs Committee; and Senators Constantine, Wasserman Schultz, Saunders, Cowin, and Crist

This bill incorporates the recommendations of the Commission on the Homeless, establishing the State Office on Homelessness and the Council on Homelessness to address the problem of homelessness.

This bill also amends public school admissions requirements for homeless children; redefines the terms "homeless" and "homeless child"; reserves 5 percent of State Apartment Incentive Loan

Program (SAIL) funds for housing programs serving homeless persons; increases the maximum total amount of revenue bonds that may be issued by the Florida Housing Finance Corporation (FHFC) from the Florida Affordable Housing Guarantee Program from $200 to $400 million; amends reporting requirements of the FHFC; revises the membership of the Affordable Housing Study Commission, to include a representative from a local housing authority and a citizen representing the housing interest of homeless persons; creates "Challenge Grants" and "Homeless Housing Assistance Grants" to fund services for the homeless; amends provisions relating to local homeless coalitions; encourages the adoption of local homeless continuums of care; encourages mental health facilities to ensure that persons leaving their care are not discharged into homelessness; encourages State Housing Initiative Partnerships program (SHIP) recipients to partner with representatives of the homeless, elderly, and farm workers in the development of local housing programs; requires regional workforce boards to consider including homeless service providers as partners in the local One-Stop Delivery system; requires the Office on Program Policy Analysis and Government Accountability (OPPAGA) study the impact of homelessness, with a report due in 2005; designates December 21 as the Homeless Persons' Memorial Day; and appropriates funds for homeless services and housing for the homeless.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 40-0; House 117-0

SB 1132 — Real and Personal Property/Disposition

by Senator Brown-Waite

The bill provides counties with an alternative procedure to competitive bidding for the sale and disposition of real or personal property.

The bill also adds a provision relating to the conservation of water. The definition of "Xeriscape" is redefined to include "Florida friendly landscape." Deed restrictions or covenants entered after October 1, 2001, or local government ordinances may not prohibit any property owner from implementing Xeriscape on his or her land. Rain sensor devices or switches installed on an automatic lawn sprinkler system must be maintained and operated.

Chapter 197, F.S., is amended to clarify the provisions concerning the sale of tax certificates. The bill requires a nonrefundable $200 cash deposit by the highest bidder of a tax certificate sold at a public auction. If full payment is not made by the high bidder within 24 hours, the clerk shall cancel all bids, readvertise, and pay the costs from the deposit.

Section 129.06, F.S., regarding the execution and amendment of county budgets, is amended to provide that the board of county commissioners may within the first 60 days of a fiscal year, amend the county budget of the prior fiscal year.

Certain counties levying the tourist impact tax are authorized to levy the tax throughout the entire county, rather than just in the area of critical state concern. Section 125.0104, F.S., is amended to authorize certain counties to continue using a tourist development tax after the retirement of applicable bonds under certain circumstances.

Finally, the bill restates that municipalities and counties may adopt ordinances, rules, or other measures for increasing the supply of affordable housing.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.
Vote: Senate 35-0; House 120-0

SB 1516 — Surety Bonds

by Senator Constantine

This bill prohibits school boards and other public entities from directing that contractors building public facilities obtain surety bonds from a specific agent or bonding company.

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

CS/SB 1642 — Homestead Exemption/Disabled Person

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

This bill reduces the number of physicians, from two to one, required to certify a person as "totally and permanently disabled," to qualify for a $500 reduction in taxable value of property owned by such persons.

This bill also provides that property owners are not entitled to a homestead exemption if they receive an ad valorem exemption or tax credit from another state, where permanent residency is required as a basis for the exemption or credit. However, such person may qualify for the exemption if the property is used as a permanent residence by someone legally or naturally dependent upon the owner.

If approved by the Governor, these provisions take effect January 1, 2002.
Vote: Senate 32-0; House 119-0

CS/SB 2118 — Schools/Adult Entertainment Location

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

This bill prohibits the location of adult entertainment establishments within 2,500 feet of a public or private elementary school, middle school, or secondary school unless the county or city approves the location under proceedings specified in statute.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 34-0; House 120-0

CS/SB 2220 — Governmental Data Processing

by Comprehensive Planning, Local & Military Affairs Committee and Senators Posey and Klein

This bill allows any state or local agency to hold copyrights to software materials created by them and to charge for the use of those materials. The bill creates s. 119.084, F.S., to re-establish and revise the provisions of s. 119.083, F.S. Section 119.083, F.S., which expired pursuant to s. 2, chapter 90-237, L.O.F.

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

CONTROLLED SUBSTANCES AND DRUG CONTROL

CS/SB 232 — Controlled Substances/Hydrocodone

by Criminal Justice Committee and Senator Brown-Waite

This bill amends s. 893.03(3)(c), F.S., to reinstate the former listing under that paragraph of materials, compounds, mixtures, or preparations containing hydrocodone in limited quantities per milliliters or dosage unit as Schedule III controlled substances.

The bill also amends s. 893.135(1)(c), F.S., which prohibits trafficking in hydrocodone, to reference the Schedule III scheduling references for hydrocodone in order to indicate that this trafficking provision applies to hydrocodone, regardless of whether it is a Schedule II or Schedule III substance.

The bill clarifies legislative intent regarding the weighing of hydrocodone, or any other controlled substance, in a mixture, for the purpose of charging trafficking.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 117-0

CS/SB 1932 — Controlled Substances

by Criminal Justice Committee and Senator Laurent

This bill authorizes the Orange County Sheriff's Office to create and supervise a 3-year pilot program in Orange County to target and intercept the illegal shipment of controlled substances via package-delivery services. The Sheriff's Office is required to submit a formal report of its findings to the Legislature by May 1, 2004.

The bill amends s. 823.10, F.S., to provide that a person commits a third degree felony by willfully keeping or maintaining or willfully aiding or abetting another to keep or maintain a public nuisance consisting of a warehouse, structure, or building. For purposes of this section, a warehouse, structure, or building is a public nuisance if it is visited for the purpose of obtaining illegal drugs or is used to keep, sell, or deliver illegal drugs.

The bill amends s. 877.111, F.S., to clarify current exceptions to unlawful possession and use of nitrous oxide, such as in the treatment of a disease or injury by a licensed practitioner.

The bill amends s. 893.03, F.S., to add 1, 4 butanediol, gamma-butyrolactone (GBL), and gamma-hydroxybutyric acid (GHB) to the list of Schedule I controlled substances and groups the

substances with methaqualone (Quaaludes) and mecloqualone, which are currently listed in Schedule I; adds 4-methoxymethamphetamine, a phenethylamine, to Schedule I; deletes current Schedule II references for 1, 4 butanediol, and GHB; and adds to Schedule III any drug product containing GHB for which an application is approved under s. 505 of the Federal Food, Drug, and Cosmetic Act.

The bill amends s. 893.033, F.S., to list chloroephedrine and chloropseudoephedrine as precursor chemicals.

The bill amends s. 893.135, F.S., to create offenses for trafficking in GBL and lysergic acid diethylamide (LSD). The applicable GBL and LSD trafficking penalties: a first degree felony with 3, 7, or 15-year mandatory term (depending on the amount trafficked), or a capital felony, if 150 kilos or more of GBL or 7 grams or more of LSD are manufactured or imported and such manufacture or importation results in the death of a person. The bill also lists 4-methoxymethamphetamine for the purpose of prosecution of trafficking in phenethylamines.

If approved by the Governor, these provisions take effect July 1, 2001, except for the provision creating the Orange County pilot program, which takes effect upon becoming law.
Vote: Senate 38-0; House 120-0

CORRECTIONS

SB 226 — Sexual Violence/Jails and Prisons

by Senator Dawson

This act is called the "Protection Against Sexual Violence in Florida Jails and Prisons Act." The act amends s. 944.35, F.S., to require the Criminal Justice Standards and Training Commission to develop a course relating to sexual assault identification and prevention as part of the correctional officer training program. The act also creates s. 951.221, F.S., which applies the same prohibitions against sexual misconduct by correctional staff to county and municipal jails that are currently enforced for prisons, under s. 944.35, F.S.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 40-0; House 117-1

CS/SB 322 — Disposition of Youthful Offenders

by Criminal Justice Committee and Senator Geller

This act amends the Department of Corrections inmate classification scheme described in s. 944.1905, F.S., to require the department to provide separate housing for those inmates under

the age of 18 and allow for placement of certain young inmates in youthful offender programs that would otherwise be off limits to them because of the degree of offense committed. This act also amends s. 921.0021, F.S., to redefine the term "prior record," in reference to crimes adjudicated in juvenile court, to include the five years prior to the offense for which the younger offender is to be sentenced.

If approved by the Governor, these provisions take effect on July 1, 2001.
Vote: Senate 33-0; House 115-0

CS/HB 245 — Parole Commission Reform

by Healthy Communities Council, Rep. Brummer and others (CS/SB 388 by Criminal Justice Committee and Senator Burt)

This act may be referred to as the "Parole Commission Reform Act of 2001." It amends parts of ch. 947, F.S., dealing with the Florida Parole Commission (commission). This reorganization of the commission transfers most of the case management or information gathering functions now performed by the commission to the Department of Corrections (department). The commission retains all of its decision making authority to set conditions of supervision, modify those conditions upon review, conduct revocation hearings, reinstate parole and conditional release and discharge persons from supervision.

Section 947.04(4), F.S., is amended to allow the field offices of the commission to be relocated into existing department space, which would provide the state with a cost savings.

Section 944.605, F.S., is amended to designate the department as the agency responsible for notifying all of the interested parties - victims or their representatives, local law enforcement, the prosecuting attorney and the sentencing court - of an impending release of an offender from prison or other form of custody.

Section 947.1405, F.S., dealing with the conditional release program is amended to transfer conditional release casework from commission staff to department classification officers. This act authorizes the department to take over the inmate evaluation and release plan function from the commission by:

- Authorizing a representative of the department (classification officer supervising the inmate), rather than representative of the commission (parole examiner), to review the inmate's program participation, disciplinary report, psychological and medical reports, criminal records, and any other information pertinent to the impending release;

- Authorizing a representative of the department, rather than representative of the commission, to personally interview the inmate to determine the inmate's release plan, especially where the inmate will live and work;

- Requiring the department to evaluate this information and submit a written report to the commission recommending terms and conditions of the inmate's supervision;

- Allowing the commission to review and consider the department's recommendations; and

- Permitting the commission to adopt the recommendations of the department, but the commission may impose different terms of supervision.

If approved by the Governor, these provisions take effect on July 1, 2001.
Vote: Senate 38-0; House 114-1

CS/SB 888 — Probation or Community Control

by Criminal Justice Committee and Senator Campbell

This act substantially amends s. 948.06, F.S., dealing with community supervision of offenders. This act provides for the period of an offender's probation or community control to be tolled upon the filing of an affidavit and the issuance of a warrant alleging violation of supervision. Notwithstanding the tolling, the court retains jurisdiction over the offender, and the probation officer continues supervision, pending the court's decision to revoke, reinstate, or terminate supervision. If the court dismisses the affidavit of violation, the term of supervision continues and the offender receives credit for all the tolled time against his or her term of supervision.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 36-0; House 116-0

CS/CS/SB 912 — Criminal Rehabilitation

by Appropriations Committee; Criminal Justice Committee; and Senator Villalobos

This bill implements most of the recommendations made in the Task Force on Self-Inflicted Crimes' January 2000 report. In brief summary, the bill:

- Modifies the position of Assistant Secretary for Programming to include transition and release services which organizationally will result in a separate bureau within the Department of Corrections (DOC) responsible for transition and special release services**;**

- Adds responsibilities for the DOC to assist released inmates transition into the community and funds 52 transition-assistance specialist positions to be located at each major institution;

- Requires the department to ensure that inmates released from its custody complete a 100-hour transition course;

- Funds 400 additional beds for the contracted faith-based substance abuse transitional housing program;

- Designates 400 non-secure drug treatment or probation and restitution center beds as post-release transition beds and requires the department to ensure that the number of transition-housing beds provided by private organizations with a faith component not exceed the number of transition housing beds provided by private organizations without a faith component;

- Mandates and expands substance-abuse treatment for offenders;

- Creates, prospectively, a mandatory post prison release program for substance abusers who, in addition to being supervised upon release, will also be given an opportunity to opt for placement in a contracted substance abuse transitional housing program;

- Requires the DOC to assist state inmates released from a private prison with transition services, similar to what is required for inmates released from state facilities;

- Provides privately operated transition housing assistance programs for released inmates;

- Adds six additional faith-based dormitory programs modeled after the dormitory program at Tomoka Correctional Institution and authorizes funding for six additional chaplains and clerical staff to coordinate the program and recruit volunteers;

- Funds ten additional chaplains for placement in the community correctional centers to recruit volunteers, serve as liaisons with community faith leaders, and assist inmates in placement in a contracted faith-based substance abuse transitional housing program, if requested;

- Specifies that two members appointed to the Statewide Drug Policy Advisory Council have professional expertise in faith-based substance abuse treatment services and directs the council to identify necessary law changes that would remove barriers to enhance the work component of any substance abuse treatment program and to recommend ways to expand and fund drug courts;

- Prohibits a person who has been charged with a violent offense from being accepted into a drug court program and gives the state attorney veto power over drug court eligibility when certain offenses have been charged;

- Requires an extensive study to identify effective intervention and treatment strategies for prostitution; and

- Provides an appropriation ($5,005,514).

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 36-0; House 111-3

SB 1148 — Prison Industries and Offender Supervision

by Senator Crist

This act allows PRIDE (prison industries) to set up a second non-profit corporation to pursue new industries not usually associated with prison industries, and allows PRIDE employees to buy into the state's employee insurance programs and HMO's. This act makes some minor technical changes to some of the sections related to correctional work programs so that cross referencing is accurate and conforms with prior changes. The act also permits the Department of Corrections to charge offenders up to the full cost for electronic monitoring of criminal offenders who are being electronically monitored on community supervision.

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

COURT PROCEDURES

CS/SB 238 — Death Penalty/Mental Retardation

by Criminal Justice Committee and Senators Mitchell, Sullivan, Sebesta, Jones, Dawson, Holzendorf, Wasserman Schultz, Latvala, Horne, Clary, Rossin, Meek, Dyer, Lawson, Garcia, Lee, Silver, Campbell, Smith, Miller, and Crist

The bill creates s. 921.137, F.S., to bar the execution of the mentally retarded as follows:

Definition

The bill contains a definition of mental retardation which is substantially the same as the existing definition in s. 393.063, F.S., and in s. 916.106, F.S. The definition in the bill has three prongs: low intellectual functioning; deficits in adaptive behavior; and manifestation of conditions by age 18.

The bill does not contain a set IQ level, but rather it provides that low intellectual functioning "means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the Department of Children and Family Services." Although the department does not currently have a rule specifying the intelligence test, it is anticipated that the department will adopt the nationally recognized tests. Two standard deviations from these tests is approximately a 70 IQ, although it can be extended up to 75. The effect in practical terms will be that a person that has an IQ of around 70 or less will likely establish an exemption from the death penalty. An IQ score of 70 falls in the category of the "mildly retarded."

The bill provides express rule-making authority to the Department of Children and Family Services.

Exemption

The bill provides that a death sentence may not be imposed on a person who suffers from mental retardation. Currently, mental retardation is considered in death cases only as a "non-statutory" mitigating circumstance which may be outweighed by aggravating circumstances. The exemption created by the bill is limited to those cases where the defense is able to prove by clear and convincing evidence that the defendant suffers from mental retardation.

Notice Required

The bill provides that a defendant who intends to raise the defense of mental retardation as a bar to the death penalty must give notice of his or her intention to do so in accordance with the rules of court governing notice of intent to offer expert testimony regarding mental health mitigation during the penalty phase of a capital trial. The rules of court governing the presentation of mental health mitigation through expert testimony requires the notice be provided not less than 20 days before trial. Fla.R.Crim.P. 3.202(c).

Separate hearing held after conviction or adjudication where advisory jury recommends death sentence; standard of proof

The bill provides that after conviction or adjudication when an advisory jury has recommended a sentence of death, the court shall, upon receiving a motion from the defendant, conduct a separate proceeding to determine whether a capital defendant should be sentenced to life imprisonment because the defendant suffers from mental retardation.

The court shall appoint two experts in the field of mental retardation who will evaluate the defendant and report their findings to the court and all interested parties prior to the final sentencing hearing. The state and the defendant may present the testimony of additional experts on the issue of whether the defendant suffers from mental retardation.

The final sentencing hearing is conducted without a jury. If the court finds by clear and convincing evidence that the defendant suffers from mental retardation, the court shall enter a written order that sets forth with specificity its findings in support of its determination that the defendant suffers from mental retardation.

Separate hearing held where defendant waives right to a recommended sentence by advisory jury

When the defendant waives the right to a recommended sentence by an advisory jury, either subsequent to entering a plea to a capital felony or a jury finding of guilt, if the defendant has given notice of the intent to raise mental retardation as a bar to the death sentence and filed the requisite motion, the court shall proceed as outlined above.

Separate hearing held where advisory jury recommends life imprisonment but state will ask court to sentence defendant to death

Where the defendant has filed notice of his or her intent to rely on mental retardation as a bar to the death penalty, if the advisory jury recommends life imprisonment but the state asks the court to sentence the defendant to death, upon the state notifying the defendant of that intent, the defendant may file the motion for determination of mental retardation by the court. The court shall then proceed as outlined above.

State appeal authorized; application of the bill

The state is authorized to appeal a determination of mental retardation, pursuant to s. 924.07, F.S.

The bill provides that the provision barring the execution of the mentally retarded does not apply to a capital defendant who was sentenced to death before the effective date of this act.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 32-0; House 110-1

CS/CS/SB 366 — DNA Evidence

by Appropriations Committee; Criminal Justice Committee; and Senators Villalobos and Smith

Postsentencing DNA Testing

The bill creates a new statutory section which provides that a person who has been found guilty at trial of committing a criminal offense has the right to seek testing of physical evidence collected at the time of the crime which may contain DNA evidence that would exonerate him or her, or mitigate the sentence that he or she received.

In order to seek such testing, a sworn motion must be filed in the trial court within two years of the date on which the judgment and sentence in the case becomes final if no direct appeal is taken, within two years of the date on which the conviction is affirmed on direct appeal if an appeal is taken, within two years following the date that collateral counsel is appointed or retained subsequent to the conviction being affirmed on direct appeal in a capital case or by October 1, 2003, whichever is later. The bill also authorizes a petition being filed or considered at any time if the facts on which the petition is predicated were unknown to the petitioner or the petitioner's attorney and could not have been ascertained by the exercise of due diligence.

The sworn petition must contain the following:

- A statement of the facts relied upon, including a description of the physical evidence which contains DNA and, if known, the present location or the last known location of the evidence and how it was originally obtained;

- A statement that the evidence was either not previously tested for DNA, or, if tested, that the results of the previous test(s) was inconclusive, and that subsequent scientific developments in DNA testing would likely produce a definitive result;

- A statement that the defendant is innocent and how the DNA evidence will exonerate the defendant of the crime for which he or she was convicted, or mitigate the sentence received;

- A statement that identification of the defendant is a genuinely disputed issue in the case, and why it is an issue; and

- Any other material facts that are relevant to the petition.

The petition must also contain a certification that the appropriate state attorney has been served with a copy of the petition.

Under the provisions of the bill, the trial court will review the petition and determine if the facts are sufficient to support its filing. The court has the option of denying the petition at that point if the facts are insufficient. If the court finds the facts alleged are sufficient to support the filing of the petition, the court shall then order the state attorney to respond to the petition within 30 days. After reviewing the state's response, the court may then rule on the petition or order a hearing on the matter. If the defendant is indigent, counsel may be appointed to assist the defendant if the petition proceeds to a hearing and the court deems the assistance of counsel is necessary.

In ruling on the motion, the court must find whether:

- The physical evidence that may contain DNA still exists;

- The results of DNA testing of that evidence would be admissible at trial and whether there is reliable proof that the evidence has not been materially altered and would be admissible at a future hearing; and

- There is a reasonable probability that the defendant would have been acquitted or would have received a lesser sentence if the DNA evidence had been admitted at trial.

The court's ruling on the petition may be appealed by any adversely affected party under the provisions of the bill. The defendant may appeal an adverse ruling within 30 days. The time for filing the appeal is tolled if a petition for rehearing is filed, until an order on that petition is filed. A petition for rehearing must be filed within 15 days of service of the court's order denying the original motion for DNA testing. The order denying relief must include notice of these time limitations.

If the petition for testing is granted, the court is required to make a determination of whether the defendant is indigent. An indigent defendant may not be required to pay for the DNA testing. If the defendant is not indigent, the cost of testing the physical evidence may be assessed against him or her. The Florida Department of Law Enforcement or its designee is directed to carry out any testing ordered by the court.

The bill provides that results of testing ordered by the court shall be provided to the court, the defendant, and the prosecuting authority.

The bill requires governmental entities to hold physical evidence for the time frame within which a postconviction DNA petition could be filed, and for 60 days after the execution of the sentence in a death penalty case.

DNA Testing/Data Bank

In 1989, the Legislature created a state DNA data bank to accumulate and analyze DNA from known criminals to compare to DNA evidence collected from crime scenes to help solve crimes. A major part of the bill establishes a time table for expanding the DNA data bank to include:

- Any person convicted for robbery as of July 1, 2002;
- Any person convicted for manslaughter or kidnapping as of July 1, 2003;
- Any person convicted for any violent felony offense or attempted violent felony offense as of July 1, 2004; and
- Any person convicted for any felony offense.

The bill adds a provision requiring criminals convicted for certain violent crimes to submit blood specimens for DNA analysis not later than 45 days prior to their release dates. In doing so, this provision will capture DNA profiles from persons in prison for violations of kidnapping, false imprisonment, manslaughter, and robbery.

If approved by the Governor, the provisions regarding Postsentencing DNA Testing take effect October 1, 2001, and the DNA Data Bank provisions take effect July 1, 2001.
Vote: Senate 37-0; House 118-0

CRIMINAL OFFENSES AND PENALTIES

HJR 951 — Constitutional Amendment/Excessive Punishment

by Crime Prevention, Corrections & Safety Committee and Reps. Bilirakis and Kyle (SJR 124 by Senator Burt)

This joint resolution submits to the Florida electors a proposed amendment to s. 17, Art I, State Constitution, which presently prohibits (and has historically prohibited) "cruel or unusual" punishment. The joint resolution includes a ballot title and summary of the proposed amendment.

The proposed amendment to Section 17 would prohibit "cruel and unusual" punishment rather than "cruel or unusual" punishment, and would require that this prohibition be construed in conformity with decisions of the United States Supreme Court that interpret the federal constitutional prohibition against cruel and unusual punishment.

The proposed amendment would also provide that the death penalty is an authorized punishment for any capital crime designated by the Legislature.

The proposed amendment would also allow any method of execution not prohibited by the Federal Constitution and allow the Legislature to designate the method of execution. It would authorize retroactive application of a change in any method of execution. Further, it would provide that, when a method of execution is declared invalid, a death sentence shall not be reduced and shall remain in force until it can be carried out by a valid method.

Finally, the proposed amendment would provide for retroactive application of Section 17, as amended.

The proposed amendment to Section 17 would be submitted to the Florida electors for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.
Vote: Senate 27-7; House 96-22

CS/SB 208 — Consumer Protection

by Commerce & Economic Opportunities Committee and Senator Geller

The bill (Chapter 2001-39, L.O.F.) amends s. 501.203, F.S., relating to definitions for the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), so that protections and remedies under

FDUTPA will clearly extend to consumers, which the bill specifies includes a business and any commercial entity, however structured.

The bill amends s. 501.207, F.S., to provide the FDUTPA "enforcing authority," which is the Office of the State Attorney or the Department of Legal Affairs (depending on such factors as where the violation occurred), with the power to take the same actions on behalf of governmental entities that it now takes on behalf of consumers. Additionally, the bill adds the granting of legal and equitable relief to the list of orders that a court may make upon motion of the enforcing authority or any interested party in any action brought under this section.

The bill amends s. 501.2075, F.S., to provide that the court may waive the civil penalties for violations of the FDUTPA if a governmental entity has been made whole.

The bill repeals s. 501.2091, F.S., which provided that any party to a FDUTPA proceeding may obtain a stay of such proceedings at any time by filing a civil action requesting a trial on the issues raised by the enforcing authority in the circuit court in the county of this party's residence.

The bill amends s. 501.211, F.S., to clarify that the remedies available to individuals under the FDUTPA are also available to businesses that are harmed by a violation of the FDUTPA.

The bill amends s. 501.212, F.S., to update the exemptions to the FDUTPA to provide that the exemptions include: any person or activity regulated under laws administered by the Department of Insurance; banks and savings and loan associations regulated by the Department of Banking and Finance; banks or savings and loan associations regulated by federal agencies; and any activity regulated under laws administered by the Florida Public Service Commission.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 37-0; House 118-0

CS/SB 240 — Sentencing/Crimes Committed While Incarcerated

by Criminal Justice Committee and Senator Smith

This act affects prison inmates who commit and are convicted for committing new crimes while incarcerated. The act requires any inmate to serve the sentence for the newly committed crime in the state correctional system or private prison, regardless of whether the new crime(s) is a felony or a misdemeanor. To accomplish this the act creates s. 944.17(3)(b), F.S., pertaining to any inmate incarcerated in the state correctional system who is convicted of any new crime committed during that incarceration. The act directs the sentencing court on how to sentence the prisoner when the highest ranking offence is a felony and when the highest ranking offense is a misdemeanor.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 116-0

SB 338 — Felony Murder

by Senator Campbell

This bill amends s. 782.04, F.S., the homicide statute, to add the offense of resisting an officer with violence to his or her person to the list of qualifying offenses for first degree or second degree felony murder.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 38-0; House 120-0

HB 1845 — Criminal Use of Personal Information

by Information Technology Committee and Rep. Hart and others (CS/SB 524 by Criminal Justice Committee and Senators Burt and Crist)

This bill amends s. 817.568, F.S., to create a new identity theft offense. It provides that any person who willfully and without authorization fraudulently uses personal identification information without first obtaining that individual's consent commits a second degree felony if the value of services received is $75,000 or more. The bill also provides for the reclassification of misdemeanor and felony offenses, if the offenses were facilitated or furthered by the use of a public record. For the purpose of sentencing, the bill ranks the new identity theft offense and directs how to rank reclassified offenses.

The bill provides that, in the absence of evidence to the contrary, the location where a victim gives or fails to give consent to the use of personal information is the county where the victim generally resides, and venue for prosecution is in any county in which an element of the offense occurred, including the county where the victim generally resides.

A prosecution of a felony identity theft offense must be commenced within three years after the offense occurred. However, a prosecution may be commenced within one year after discovery of the offense by an aggrieved party, or by a person who has the legal duty to represent the aggrieved party and who is not a party to the offense, if such prosecution is commenced within five years.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 37-0; House 108-0

SB 540 — White Collar Crime

by Senators Burt and Crist

This bill, which may be cited as the "White Collar Crime Victim Protection Act," defines "white collar crime" as the commission of, or a conspiracy to commit, various felony offenses.

The bill defines an "aggravated white collar crime" as engaging in at least two white collar crimes that have the same or similar intents, results, accomplices, victims, or methods of commission, or that are otherwise interrelated by distinguishing characteristics and are not isolated incidents, provided that at least one of such crimes occurred on or after July 1, 2001.

It is a first degree felony, ranked in offense severity level 9, for any person to commit aggravated white collar crime, and in doing so, victimize 10 or more elderly persons, victimize 20 or more persons, or victimize the State of Florida, any state agency, any of the state's political subdivisions, or any agency of the state's political subdivisions. In addition to the sentence provided, the person may pay a fine of $500,000 or double the value of the pecuniary gain or loss, whichever is greater.

A person convicted of an aggravated white-collar crime is liable for all court costs and required to pay restitution to each victim of the crime, regardless of whether the victim is named in the information or indictment. A "victim" is any person directly and proximately harmed by the crime for which restitution may be ordered. The court must hold a hearing to determine the identity of qualifying victims and order the defendant to pay restitution based on the defendant's ability to pay.

The court must make payment of restitution a condition of any probation granted to the defendant. They may order continued probation for the defendant for up to 10 years or until full restitution is made to the victim, whichever occurs earlier.

The court retains jurisdiction to enforce its order to pay fines or restitution. The court may initiate proceedings against a defendant for a violation of probation or for contempt of court if the defendant willfully fails to comply with a lawful order of the court.

This bill also amends s. 910.15, F.S., relating to theft and fraudulent practices concerning communication systems, to provide that a person charged with committing a fraudulent practice in a manner in which it may be reasonably assumed that a communication made to facilitate the fraudulent practice could or would be disseminated across jurisdictional lines, may be tried in the county in which the dissemination was originated or made, or in which any act necessary to consummate the offense occurred. If a communication is made by or made available through use of the Internet, the communication was made in every county within the state.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 37-0; House 114-3

HB 953 — Burglary

by Crime Prevention, Corrections & Safety Committee and Reps. Bilirakis, Cantens, and others (CS/SB's 1080 & 950 by Criminal Justice Committee and Senators Villalobos, Smith, and Crist)

This bill provides legislative findings and intent to reject a recent construction of the burglary definition by the Florida Supreme Court. The Court interpreted the definition to provide that a licensed entry, if established, is a complete defense to burglary and that unlawfully "remaining in" a premises, as prohibited in the burglary statute, means only surreptitiously remaining in the premises.

The bill expressly supports the Florida Supreme Court's longstanding prior construction of the burglary definition, which provided that:

- Consent to enter and remain in the premises is an affirmative defense; and
- A reasonable trier of fact could infer on the basis of circumstantial evidence of the crime committed within the premises that the victim of the crime impliedly withdrew consent to remain in the premises. The bill directs that this construction operates retroactively to February 1, 2000.

For burglaries committed on or before July 1, 2001, the definition remains unaltered and applies. For offenses committed after July 1, 2001, the burglary definition is altered and the new definition applies. This definition specifies that a person commits burglary by entering a premises with the intent to commit an offense therein, unless the premises is at the time open to the public or the entry is licensed or by invitation. A person also commits burglary, regardless of lawful entry, if the person remains in a premises surreptitiously or after permission to remain is withdrawn and with the intent to commit an offense therein, or remains in a premises to commit or attempt to commit a forcible felony therein.

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

SB 1198 — Crimes/Using Two-Way Communications Device

by Senators Webster and Crist

This bill provides that any person who uses a two-way communications device, including, but not limited to, a portable two-way wireless communications device, to facilitate or further the commission of any felony commits a felony of the third degree. The bill ranks this felony for the purpose of sentencing.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 120-0

CS/CS/SB 1282 — Property Crimes

by Commerce & Economic Opportunities Committee; Criminal Justice Committee; and Senators Burt and Horne

This bill addresses numerous property-related crimes. The bill amends s. 812.014, F.S., to make it a first degree felony to steal cargo valued at $50,000 or more, and a second degree felony if the cargo is valued at less than $50,000. The bill also makes it a second degree felony, to steal emergency medical equipment valued at $300 or more from hospitals and medical transport.

The bill amends s. 812.015, F.S., to provide that retail theft includes taking possession of or carrying away property and altering or removing a universal product code, and to provide that an antishoplifting or inventory control device includes any electronic or digital imaging or any video recording or other film used for security purposes and the cash register tape or other record made of the register receipt.

If a merchant or merchant's employee takes a person into custody or acts as a witness with respect to any person taken into custody, the merchant or merchant's employee may provide his or her business address to any investigating law enforcement officer.

The penalty for unlawful possession, use, or attempted use of an antishoplifting or inventory control device countermeasure is increased to a third-degree felony, and the offense is made subject to repeat offender sanctions.

If a person commits retail theft, it is a third-degree felony if the property stolen is valued at $300 or more, and one or more specified aggravating factors is present. Value of property may be aggregated in specified, limited circumstances. A second or subsequent retail theft violation is a second degree felony.

The bill creates s. 812.0155, F.S., to authorize the court to order the suspension of the driver's license of each person adjudicated guilty of any misdemeanor violation of s. 812.014, F.S., (theft) or s. 812.015, F.S., (retail theft), regardless of the value of the property stolen. However, the court is required to order the suspension of a repeat offender's license.

If an offender is a minor and a first-time offender, the court is authorized to revoke, suspend, or withhold issuance of the minor's driver's license as an alternative to other specified sentencing.

The bill creates s. 812.017, F.S., which makes it a second-degree misdemeanor to request a refund of merchandise, money, or any other thing of value through the use of a fraudulently obtained receipt or false receipt. It is a first-degree misdemeanor to obtain merchandise, money, or any other thing of value through the use of a fraudulently obtained receipt or false receipt.

The bill creates s. 812.0195, F.S., which provides that any person in this state who uses the Internet to sell or offer for sale any merchandise or other property that the person knows, or has reasonable cause to believe, is stolen commits a second-degree misdemeanor, if the value of the property is less than $300. It is a third-degree felony, ranked in offense severity level 4, if the value of the property is $300 or more.

The bill creates s. 817.625, F.S., which makes it a third-degree felony for a person to use a scanning device or reencoder to obtain or transfer encoded information on a payment card without the permission of the authorized card user and with the intent to defraud the user, the issuer of the user's card, or a merchant. A second or subsequent scanning or reencoding violation is a second-degree felony. Additionally, anyone who commits a scanning or reencoding violation is subject to state contraband forfeiture laws.

The bill amends s. 831.07, F.S., (forging bank bills or promissory notes), s. 831.08, F.S., (possessing certain forged notes or bills), s. 831.11, F.S., (bringing into the state forged bank bills), and s. 831.12, F.S., (fraudulently connecting parts of a genuine instrument), to provide that the sections apply to checks or drafts. Section 831.09, F.S., (offense of uttering forged bills), is amended to provide that this section applies to checks, drafts, or notes.

The bill creates s. 831.28, F.S., to make it a third-degree felony to counterfeit a payment instrument with the intent to defraud a financial institution, account holder, or any other person or organization or for a person to have a counterfeit payment instrument in such person's possession. Printing of a payment instrument in the name of a person or entity or with the routing number or account number of a person or entity without the permission of the person or entity to manufacture or reproduce such payment instrument with the name, routing number, or account number is prima facie evidence of intent to defraud.

The counterfeiting offenses do not apply to a law enforcement agency that produces or displays counterfeit payment instruments for investigative or educational purposes.

The bill amends s. 832.05, F.S., for the following construction of the worthless check section: a payee or holder does not have knowledge, express notification, or reason to believe that the maker or drawer has insufficient funds to ensure payment of a check, draft, or debit card solely because the maker or drawer has previously drawn or issued a worthless check, draft, or debit card order to the payee or holder.

The bill ranks various current offenses and created offenses for the purpose of sentencing.

Finally, the bill provides a statement encouraging each local law enforcement agency to create a task force on retail crime and indicates how such a task force, if created, should be composed and conducted.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 32-0; House 119-0

CS/SB 1318 — Offenses Against Correctional Officers

by Criminal Justice Committee and Senator Saunders

This act creates s. 784.078, F.S., the new third-degree felony offense of "battery upon a facility employee by throwing, tossing, or expelling certain fluids or materials." The offense applies to any person being detained in any public or privatized jail, prison, or detention facility that causes or attempts to cause an employee to come into contact with saliva, blood, masticated food, regurgitated food, seminal fluid, urine or feces. Such offense is to be ranked as a level 4 offense under the Criminal Punishment Code.

If there were reason to believe that an employee or other person in the facility may have been exposed to a communicable disease, inmates would have to be promptly tested at the request of the affected person for the presence of a communicable disease. The test results would be inadmissible in any civil or criminal proceeding against the tested person. Appropriate access to counseling would have to be provided by the Department of Corrections to the affected person that was an employee of the department.

The act also creates s. 784.074, F.S., providing enhanced penalties for persons who commit assaults and batteries against the staff of the Sexually Violent Predator Program (SVPP) and criminal mischief against the property of the SVPP. This act mirrors the law providing enhanced penalties for those who commit crimes against law enforcement, with similar offense sentencing levels.

If approved by the Governor, these provisions take effect on October 1, 2001.
Vote: Senate 38-0; House 119-0

FIREARMS

SB 412 — Civil Actions/Firearms and Ammunition

by Senators Bronson, Garcia, Posey, Peaden, and Cowin

This bill (Chapter 2001-38, L.O.F.) prohibits civil actions against firearms and ammunition manufacturers, distributors, dealers and trade associations by certain governmental entities under certain circumstances. The right to sue the firearms entities for damages, abatement, or injunctive relief resulting from the lawful design, marketing, or sale of firearms to the public is prohibited. The specified entities prohibited from bringing such suits are the state or its agencies and instrumentalities, counties, municipalities, special districts, or other political subdivisions of the state. The bill does not prohibit an individual person from bringing a suit for breach of contract, breach of express warranty, or injuries resulting from a defect in materials or workmanship.

The bill specifically does not prohibit actions against firearms or ammunition manufacturers or dealers for breach of contract or warranty in connection with firearms or ammunition purchased by a county, municipality, special district or other political subdivision or agency of the state. Further, the bill does not prohibit actions for injuries resulting from a firearm or ammunition malfunction due to defects in design or manufacture.

The bill provides a legislative finding that the manufacture, distribution, or sale of firearms and ammunition by duly licensed manufacturers, distributors, or dealers is a lawful activity and is not unreasonably dangerous. The bill also provides that the unlawful use of firearms and ammunition is the proximate cause of injuries arising from their unlawful use, not the lawful manufacture, distribution or sale of firearms and ammunition.

The bill further provides that the potential of a firearm or ammunition to cause serious injury, damage or death as a result of normal function, or when it is discharged legally or illegally, does not constitute a defective condition of the product.

The bill provides for attorney's fees, costs, lost income and expenses for civil actions brought in violation of the provisions of the bill.

These provisions became law upon approval by the Governor on May 1, 2001.
Vote: Senate 27-12; House 78-35

JUVENILE JUSTICE

CS/CS/HB 267 — Juvenile Justice

by Lifelong Learning Council, Juvenile Justice Committee, and Reps. Kravitz, Barreiro, Davis, and others (CS/SB 1914 by Criminal Justice Committee and Senator Smith; CS/SB 974 by Education Committee and Senator Bronson)

This legislation amends laws relating to juvenile justice as follows:

- Expands the list of enumerated offenses under s. 435.04, F.S., which disqualify a candidate from employment with the Department of Juvenile Justice (DJJ) to include assault and battery on a law enforcement officer, felony burglary, and escape. Potential employees are also required to be of good moral character. No exemptions are granted for applicants seeking employment in the juvenile justice system for any of these enumerated offenses if it occurred during the most recent 7-year period.

- Allows the Florida Department of Law Enforcement (FDLE) to expunge a nonjudicial arrest record of a juvenile for a non-violent misdemeanor who successfully completed a prearrest, postarrest, or teen court diversion program that was verified and approved in

writing by the state attorney. This change allows such juveniles to apply subsequently for another expunction if otherwise qualified under s. 943.0585, F.S.

- Allows the Secretary of DJJ to designate as certified law enforcement officers certain employees who work within the Office of the Inspector General and who already hold law enforcement certifications under ch. 943, F.S. This authority allows DJJ to enforce criminal laws and conduct criminal investigations that relates to state-operated programs or facilities over which the DJJ has jurisdiction. The bill also allows certified youth custody officers to receive special risk retirement benefits.

- Expands current law that requires certain offenders to submit a blood sample for purposes of DNA testing to include juveniles who are transferred to Florida under the Interstate Compact on Juveniles. Failure to comply would result in the State refusing to accept the juvenile under the Interstate Compact on Juveniles.

- Permits the secure detention of a juvenile offender for a period, not to exceed 24 hours, for the purpose of being transported by DJJ to or from a commitment facility in order to ensure the safe delivery of the child to the commitment program, to court, or to the community.

- Requires an offender's parent or guardian to provide personal identification and financial information when the offender is taken into custody, released or delivered from custody, placed in any form of detention care or in a residential commitment facility in order to determine ability to pay. Upon refusal to provide this information, the parent or guardian can be held in contempt of court. DJJ is required to determine the cost of care and report it to the court at the detention hearing and/or disposition hearing. The department is given authorization, even in the absence of a court order, to collect at least $5 per day that the child is placed in a commitment program, $2 per day that the child is in secure detention, and $1 per day that the child is otherwise under the supervision of the department.

- Removes confidentiality requirements presently provided for the name, photograph, address, and arrest report of juvenile offenders who are transferred to the adult system and sentenced as an adult or transferred back to the juvenile system and sentenced as a juvenile, or who commit crimes for which adult sanctions are applicable.

- Provides legislative intent that the department, when contracting for service providers, consider faith-based organizations equally with other non-governmental providers.

- Moves language concerning collection and reporting of cost-effectiveness program information from s. 985.404 to s. 985.412, F.S., and adds requirements relating to the collection and reporting of cost data and program ranking. Further, the amendment requires DJJ to submit to the Legislature proposals for funding incentives and disincentives based upon quality assurance performance and cost-effectiveness performance. It allows the DJJ to include recommendations for the use of liquidated

damages in the proposal; however, the department is not presently authorized to contract for liquidated damages in non-hardware-secure facilities until January 1, 2002.

- Authorizes the district school board, at the request of the provider, to decrease the number of days of school instruction up to 20 days for teacher planning for nonresidential programs, subject to the approval of DJJ and DOE.

- Prohibits certain students from attending a school or riding on a school bus if the victim of an enumerated felony or the victim's sibling attends the school or rides on the bus, except as provided for in a written disposition order. The school district must allow these students to attend another school in the district in which the student resides, unless the victim or the victim's sibling attends the school. If the student is unable to attend any other school in his or her district and is prohibited from attending school in another school district, the student's school district must take every reasonable precaution to keep the student separated from the victim while on school grounds or on school transportation.

- Requires the DJJ to notify the appropriate school district about the court's action on a student's case, the new law, and any prohibition related to student attendance and transportation. Responsibility for transportation arrangements and payment is assigned to the student or his or her parents or legal guardians, if the student is a juvenile. However, the responsible party cannot be charged for existing modes of transportation that can be used by the student at no additional cost to the district.

- Requires the court to make a finding related to the appropriateness of entering a "no contact" order in favor of the victim or sibling of the victim. The determination must be made by the court, based on whether the child attends or is eligible to attend the same public school as the victim or the victim's sibling.

- Requires each school district to adopt a zero tolerance policy for victimizing students. Cooperative agreements between the DJJ and the district must specify guidelines for ensuring that all court "no-contact orders" are reported and enforced and that all necessary steps are taken to protect crime victims.

- Requires each school district to conduct a mandatory self-assessment of its safety and security practices. Each school superintendent must then provide recommendations for improving safety and security to the school board. School boards must annually receive self-assessment results at publicly noticed school board meetings. Each superintendent must report self-assessment results and school board actions to the Commissioner of Education within 30 days following the meeting.

- Requires the "best safety and security practices" developed by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and approved by the Commissioner of Education to be annually reviewed by OPPAGA and the Partnership for

School Safety and Security. Each entity must make recommendations to the Commissioner of Education for changes to the best practices.

- Makes numerous clarifying, technical, and conforming changes in ch. 985, F.S.

If approved by the Governor, all these provisions, except the ones relating to cost of care, take effect October 1, 2001. The cost of care provisions take effect upon becoming a law.
Vote: Senate 39-0; House 116-0

LAW ENFORCEMENT

CS/SB 84 — Motorist Profiling

by Criminal Justice Committee and Senators Meek and Crist

This bill provides that by October 1, 2001, the Criminal Justice Standards and Training Commission, shall develop and provide instruction on the subject of interpersonal skills relating to diverse populations relating to discriminatory profiling.

The bill also provides that on or before January 1, 2002, every sheriff shall incorporate an antiracial or other antidiscriminatory profiling policy into the sheriff's policies and practices, utilizing the Florida Police Chiefs Association Model Policy as a guide. Antiprofiling policies shall include elements of definitions, traffic stop procedures, community education and awareness efforts, and policies for handling public complaints.

Finally, the bill imposes on municipal law enforcement agencies the same requirements that are imposed on sheriffs to incorporate an antiracial or other antidiscriminatory profiling policy.

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

SB 272 — Liability Exemption/Imitation Controlled Substances

by Senator Klein

This bill amends s. 817.564, F.S., to provide that civil or criminal liability may not be imposed by virtue of this section against a law enforcement officer engaged in an authorized drug investigation in which the officer possesses, manufactures, dispenses, sells, gives, or distributes an imitation controlled substance as part of the investigation. The liability exemption also extends to an informer or third party acting under the direction or control of this officer.

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

HB 403 — Public Records Exemption/Pawnbroker Transactions

by State Administration Committee and Rep. Brummer (SB 804 by Criminal Justice Committee)

Chapter 539, F.S., regulates the pawnbroker industry in Florida. Section 539.001(9), F.S., requires pawnbrokers to provide local law enforcement with copies of every pawnbroker transaction form generated by the business, which includes the name and address of the pawnshop, a complete description of the pledged or purchased goods, the name, address, home telephone number, place of employment, date of birth, physical description, personal identification number and right thumbprint of the pledgor or seller, the date and time of the transaction, and the financial arrangements made between the pledgor or seller and the pawnbroker.

Although the local law enforcement agency is allowed to disclose a limited amount of information from the pawnbroker transaction form to the alleged owner of stolen property that may have been pawned, the Legislature exempted the information contained on the form from the public records law in 1996 by finding that "information relating to pawnbroker transactions is of a sensitive and personal nature to the pledgor or seller of pledged goods…it is a public necessity that such information be held confidential and exempt from public records laws." Chapter 1996-241, s. 2, L.O.F., s. 539.003, F.S. The section would expire October 2, 2001, unless the Legislature reviewed and reenacted it. The bill reenacts s. 539.003, F.S.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 37-0; House 116-0

CS/HB 1425 — Law Enforcement

by Healthy Communities Council and Rep. Bowen and others (CS/SB's 1864 & 2086 by Criminal Justice Committee and Senators Bronson, Burt, and Crist)

Violent Crime Council

This bill expands the functions of the Violent Crime Council to allow it to assume a role in promoting Florida's drug control strategies in addition to violent crime strategies. The bill amends s. 943.031, F.S., (Florida Violent Crime Council), to rename the Florida Violent Crime Council as the Florida Violent Crime and Drug Control Council, and provide that drug control efforts by state and local law enforcement agencies, including investigations of illicit money laundering activities, must also be addressed by the council.

The bill expands the council's membership and provides that the council may advise the executive director of the Department of Law Enforcement.

The bill amends s. 943.042, F.S., (Violent Crime Emergency Account), to change the name of the Violent Crime Emergency Account to the Violent Crime Investigative Emergency and Drug

Control Strategy Implementation Account. Use of funds from the account is expanded to include supplemental or matching funding to multiagency or statewide drug control or illicit money laundering investigative efforts that significantly contribute to the state's goal of reducing drug-related crime, that represent a significant money laundering investigative effort, or otherwise support statewide strategies developed by the Statewide Drug Policy Advisory Council.

The Department of Law Enforcement, in consultation with the council, must maintain rules which address guidelines establishing a $100,000 maximum limit on the amount that may be disbursed on a single investigation and a $200,000 maximum limit on funds that may be provided to a single agency during the agency's fiscal year.

The Department of Law Enforcement, in consultation with the council, must adopt rules with regard to the eligibility for funding of drug control or illicit money laundering investigative efforts or task force efforts.

Criminal Records

The bill expands the list of enumerated offenses that make a person ineligible to have his or her criminal record expunged or sealed. The bill amends ss. 943.0585 and 943.059, F.S., (respectively, expunction and sealing of criminal history records), to provide that a person who has been found guilty of or pled guilty or nolo contendere to any of the following criminal offenses is ineligible for the court-ordered expunction or sealing of a criminal history record:

- Luring or enticing a child.
- Procuring a person under the age of 18 for prostitution.
- Lewd or lascivious offenses against an elderly person or disabled adult.
- Showing obscene material to a minor.
- Computer pornography.
- Selling or buying of minors, as defined in s. 847.0145, F.S.

Section 943.0585, F.S., provides that, prior to petitioning the court to expunge a criminal history record, a person seeking to have a record expunged must obtain, and submit to the Department of Law Enforcement, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates that the criminal history record does not relate to a criminal offense specified in that section. The bill expands the list of criminal offenses listed in s. 943.0585, F.S.

DNA Analysis

The bill amends s. 943.325, F.S., (blood specimen testing for DNA analysis), to expand the Department of Law Enforcement's authority to collect blood samples for DNA analysis to include other biological specimens approved by the Department of Law Enforcement. The bill clarifies that DNA analysis applies to convicted persons who have never been incarcerated yet are within the confines of the legal state boundaries and are on probation, community control, parole, conditional release, control release, or any other court-ordered supervision.

The withdrawal of blood for DNA analysis must be performed in a medically approved manner using a collection kit provided by, or accepted by, the Department of Law Enforcement. The withdrawal of blood may be performed by or under the supervision of, in addition to medical personnel, other trained and competent personnel. The collection of other approved biological specimens must be performed by a person using a collection kit that is provided by, or accepted by, the Department of Law Enforcement, in a manner approved by the department, as directed in the kit, or as otherwise found to be acceptable by the department.

The Department of Law Enforcement may, in addition to the specimens required for submission under s. 943.325, F.S., receive and utilize other blood specimens or other approved biological specimens.

Courts are required to include in the judgment of conviction an order stating that blood specimens or other approved biological specimens are required to be drawn or collected by the appropriate agency in a manner consistent with s. 943.325, F.S.

A person who collects an approved biological specimen other than blood will not be held civilly or criminally liable as long as the collector used a Department of Law Enforcement collection kit, and the collection is done by instruction or in a reasonable manner.

The agency having custody over a convicted person, and acting pursuant to a court order for withdrawal or collection of blood or biological specimen, may, in lieu of transporting the person to a collection site, secure the specimen at the location of the convicted person in a reasonable manner. If the convicted person resists collection of the specimen, a person using reasonable force to secure the collection or reasonably assisting in the securing of the specimen is not civilly or criminally liable.

Police Radio Communication

The bill creates s. 843.167, F.S., which provides that a person may not intercept any police radio communication by use of a scanner or any other means for the purpose of using that communication to assist in committing a crime or to escape from or avoid detection, arrest, trial, conviction, or punishment in connection with the commission of such crime. The penalty for a crime committed in this manner is enhanced one misdemeanor or felony degree, as appropriate, or in the case of a first degree misdemeanor is punished as if it were a third degree felony.

A person commits a first degree misdemeanor if he or she divulges the existence, contents, substance, purpose, effect, or meaning of a police radio communication to any person he or she knows to be a suspect in the commission of a crime with the intent that the suspect may escape from or avoid detection, arrest, trial, conviction, or punishment.

A person is presumed to have unlawfully intercepted a police radio communication if the person is charged with a crime and during the time such crime was committed, possessed or used a police scanner or similar device capable of receiving police radio transmissions.

Costs of Producing Criminal History Information

The bill amends s. 943.053, F.S., (dissemination of criminal history information), to provide that the Department of Law Enforcement's determination of actual costs for producing criminal history information must take into account the total cost of creating, storing, maintaining, updating, retrieving, improving, and providing this information in a centralized, automated database, including personnel, technology, and infrastructure expenses. Actual costs must be computed on a fee-per-record basis, and access to criminal history information by the private sector must be assessed using the per-record without regard to the quantity or category of information requested.

Expunction of Non-Judicial Record

The bill creates s. 943.0582, F.S., which provides that, notwithstanding any law dealing generally with the preservation and destruction of public records, the Department of Law Enforcement may provide by rule for the expunction of any nonjudicial record of the arrest of a minor who has successfully completed a prearrest or postarrest diversion program for minors as authorized by s. 985.3065, F.S., (prearrest diversion programs).

As used in s. 943.0582, F.S., the term "expunction" has the same meaning ascribed in s. 943.0585, F.S., the expunction statute. The provisions of the expunction statute relating to the effect of expunction of criminal history records do not apply, except that such record of a person whose record is expunged pursuant to this section must be made available only to criminal justice agencies for the purpose of determining eligibility for prearrest, postarrest, or teen court diversion programs; when the record is sought as part of a criminal investigation; or when the subject of the record is a candidate for employment with a criminal justice agency. For all other purposes, this person may lawfully deny or fail to acknowledge the arrest or charge covered by the expunged record.

Records maintained by local criminal justice agencies in the county in which the arrest occurred which are eligible for expunction pursuant to s. 943.0582, F.S., must be sealed as that term is used in s. 943.059, F.S., the sealing statute.

As used in s. 943.0582, F.S., the term "nonviolent misdemeanor" includes simple assault or battery when prearrest or postarrest diversion expunction is approved in writing by the state attorney for the county in which the arrest occurred.

The Department of Law Enforcement must expunge the nonjudicial arrest record of a minor who has successfully completed a prearrest or postarrest diversion program if the minor:

- Submits an FDLE-form application for expunction signed by the minor's parent or legal guardian, or by the minor if he or she has reached the age of majority at the time of applying, within 6 months after completion of the diversion program;

- Participates in a diversion program that expressly permits such expunction and on the basis of an arrest that is not an act of domestic violence; and

- Has never, prior to filing the expunction application, been charged with or found to have committed a criminal offense or comparable ordinance violation.

The Department of Law Enforcement is authorized to collect a $75 processing fee for each expunction application.

Prearrest Diversion Program

The bill amends s. 985.3065, F.S., (prearrest diversion programs), to provide that a law enforcement agency or school district, in cooperation with the state attorney, may establish a postarrest diversion program.

The child in the postarrest diversion program is subject to the provisions currently in s. 985.3065, F.S., that provide that a child in a prearrest program may be required to surrender his or her driver's license, or refrain from applying for such license, for a period of not more than 90 days, and further provides that if the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child's driver's license for a period of not more than 90 days.

The bill authorizes the prearrest or postarrest diversion program, upon agreement of the agencies that establish the program, to provide for the expunction of the nonjudicial records of a minor who successfully completes such a program

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 120-0

HB 1731 — Criminal Justice Programs/Transfer

by Fiscal Responsibility Council and Rep. Johnson (SB 1980 by Senator Burt)

This bill amends ss. 938.01 and 943.25, F.S., to delete references to the Department of Community Affairs as they relate to disbursements from the Additional Court Cost Clearing Trust Fund and the Operating Trust Fund. Disbursements from those funds are to the Department of Law Enforcement.

The bill transfers the Criminal Justice Program from the Department of Community Affairs to the Department of Law enforcement by a type two transfer.

The bill transfers the Prevention of Domestic and Sexual Violence Program from the Department of Community Affairs to the Department of Children and Family Services by a type two transfer. From the funds deposited into the Department of Law Enforcement Operating Trust Fund, the Department of Law Enforcement shall transfer funds to the Department of Children and Family Services to be used as matching funds for the administration of the Prevention of Domestic and Sexual Violence Program. The bill directs how the amount of the transfer shall be determined.

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

SENTENCING ENHANCEMENTS AND MINIMUM MANDATORY TERMS OF IMPRISONMENT

HB 695 — Criminal Street Gangs

by Rep. Mack and others (SB 122 by Senators Burt and Klein)

This bill amends s. 874.04, F.S., which provides for enhanced penalties for felonies and misdemeanors, or any delinquent act or violation of a law which would be a felony or misdemeanor if committed by an adult, if the court finds at sentencing that the defendant is a member of a criminal street gang. The bill provides that the court at sentencing must find that the defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang. The amendment of the law is intended to address language in the criminal street gang statute that the Florida Supreme Court held violates a defendant's substantive due process rights because it subjects the defendant to conviction for a higher degree crime than originally charged based solely upon a defendant's simple association with a criminal street gang.

Conforming changes are made to s. 921.0024, F.S., as it relates to the Criminal Punishment Code scoresheet and that part of the worksheet key explaining the 1.5 sentence multiplier applied to the offender who has been convicted of the primary offense and is found to have been a member of a criminal street gang at the time of the commission of the primary offense pursuant to s. 874.04, F.S.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 34-0; House 118-0

SEXUAL OFFENDERS

CS/CS/SB 144 — Computer Crimes

by Judiciary Committee; Criminal Justice Committee; and Senators Geller and Crist

This act prohibits several offenses committed through the use of the Internet or computers, such as transmitting child pornography, transmitting sexually explicit material to minors, damaging computer services, or introducing computer viruses. If a person knowingly sends child pornography in, into, or from Florida, he or she commits a third degree felony. If a person knowingly sends sexually explicit images to a child in, into, or from Florida, he or she commits a third degree felony. If a person knowingly and without permission disrupts computer service or introduces a computer virus resulting in under $5,000 damage, he or she commits a third degree felony. If a person knowingly and without permission disrupts computer service or introduces a computer virus resulting in over $5,000 damage, he or she commits a second degree felony. If a person knowingly and without permission disrupts computer service or introduces a computer virus that endangers human life, he or she commits a first degree felony.

This act creates and updates a number of definitions in regard to the computer crimes listed above:

- Child pornography – any image depicting a minor engaged in sexual conduct;
- Transmit – send an electronic mail communication to a specified electronic mail address or addresses;
- Computer contaminant – (virus) a program introduced into a computer to cause damage to data or the network; and
- Computer network – a system that provides communications between one or more computer systems and other electronic devices such as printers or terminals.

This act expands the jurisdiction of the Statewide Prosecutor to prosecute these crimes regardless of where they occur in this state or elsewhere causing harm in the state. The law provides a grant of civil immunity to persons who uncover evidence of child pornography and transmission of images harmful minors if they report such evidence to law enforcement.

If approved by the Governor, these provisions take effect July 1, 2001, except as otherwise provided.
Vote: Senate 37-0; House 116-0

SEXUAL OFFENSES/VICTIMS

SB 698 — Statute of Limitations/Sexual Offenses

by Senator Campbell

This bill amends s. 775.15(7), F.S., to provide that if the victim of a sexual battery, a lewd and lascivious offense, statutory rape under former s. 794.05, F.S., or of incest is under the age of 18, the applicable limitation period would not begin to run until the victim reaches the age of 18, rather than the age of 16, or until the violation is reported to a law enforcement agency, whichever occurs earlier. Thus, under the bill, if a 14 year old child is a victim of a third degree felony lewd and lascivious offense, the three-year statute of limitations would not begin to run until the victim reaches the age of 18, or until he or she reports the crime, whichever occurs earlier. Accordingly, the statute of limitations would not expire until the victim reaches the age of 21, rather than the age of 19 as under the current statute.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 32-0; House 119-0

VICTIMS AND PUBLIC PROTECTION

CS/CS/SB 306 — Public Protection

by Appropriations Committee; Criminal Justice Committee; and Senators Clary and Smith

This bill requires the Department of Corrections (DOC), within 30 days of approving an inmate for community work release, to notify: the state attorney; the victim; the victim's parent or guardian if the victim is a minor; the lawful representative of the victim or the victim's parent or guardian if the victim is a minor; or the victim's next of kin in a homicide case. Additionally, the bill amends other victim notification statutes to expand the notification requirements to include notification of the victim's parent or guardian or lawful representative, when applicable.

The bill requires that domestic violence victims be informed about the address confidentiality program established in s. 741.403, F.S. It also requires the court to inform the victim of a sex offense of his or her right to have the courtroom cleared of certain persons before testifying. The bill provides that a victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim, or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin in the case of a homicide may review the presentence investigation report of a defendant being considered for adjudication as a youthful offender.

The bill also enables Florida to join with other states to establish the "Interstate Compact for Adult Offender Supervision" in place of the current Interstate Compact for the Supervision of Parolees and Probationers. It substantially amends s. 949.07, F.S., by replacing the current language describing the compact the state utilizes to coordinate the movement of parolees and

probationers among Florida and other states. The new language is drawn from a model version of the compact and authorizes the Governor to enter into the compact. The new provisions include:

- A statement of purpose that describes the need to form an interstate compact to coordinate the movement of offenders and their supervision in order to prevent crime.

- A description of the "Interstate Commission for Adult Offender Supervision" which would be the corporate body and a joint agency of the compacting states. The commission consists of the representatives of the compacting states and support staff. The commission must meet at least once a year to conduct business.

- A requirement to form a "State Council" to oversee that state's participation in the compact.

- A provision that empowers the commission to supervise the interstate movement of offenders, enforce compliance with the rules of the commission, maintain offices, contract, conduct the normal business of an agency or similar commission and resolve disputes between compacting states.

- A provision that each member (state) of the commission will have a vote in establishing the rules and policies of the commission and compact. All meetings will be public. The commissioner will have the authority to make rules; however, if a majority of the compacting states' Legislature rejects a commission rule, that rule would be in effect repealed.

- A statement specifying that jurisdiction for contesting actions or rules of the commission would be the United States District Court for the District of Columbia or the federal district court where the commission's principal office is located.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 34-0; House 114-0

HB 1083 — Public Records/Autopsy Photographs

by Reps. Johnson, Miller, and others (CS/CS/SB 1356 by Governmental Oversight & Productivity Committee; Criminal Justice Committee; and Senators King, Posey, Sebesta, Clary, Peaden, Bronson, Horne, Brown-Waite, Pruitt, Dawson, Burt, Constantine, Sanderson, Saunders and Garcia)

This legislation (Chapter 2001-1, L.O.F.) makes confidential and exempt from the inspection and copying requirements of s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution, photographs and video and audio recordings of autopsies in the possession of a medical examiner. A surviving spouse is permitted to view, listen to, and copy the autopsy records. In the absence of a

surviving spouse, the parents of the deceased have access. If there is not a living parent, the adult children of the deceased have access.

Additionally, the bill authorizes a local governmental entity, or state or federal agency in furtherance of its official duties, upon written request, to view, listen to, or copy such photographs or video or audio recordings. The custodian of the record or his or her designee may not permit any other person to view or duplicate the photo or video or audio recording without a court order.

Under the bill, the court, upon a showing of good cause, may issue an order authorizing any other person to view or copy a photograph or video of an autopsy or listen to or copy an audio recording of the autopsy and to prescribe any restrictions or stipulations that the court deems appropriate. The bill requires that the surviving spouse must be given reasonable notice of a petition filed with the court to view or copy an autopsy photograph or video recording, or listen to or copy an audio recording. In all cases, the viewing of, listening to, copying of, or other handling of the photo or video must be under the direct supervision of the custodian of the record or his or her designee.

The bill provides that it is a felony of the third degree for any custodian of a photo or video or audio recording of an autopsy to willfully and knowingly violate the provisions of the section. It also provides a third degree felony penalty for anyone to willfully and knowingly violate a court order issued pursuant to this section.

The bill also notes that photographs and video and audio recordings of an autopsy are highly sensitive depictions of the deceased that, if copied and publicized on the World Wide Web or in written publications, could result in continuous injury to the immediate family of the deceased, as well as injury to the memory of the deceased. As such, it is a public necessity to make autopsy photos and video and audio recordings confidential and exempt. The written autopsy report, which typically includes drawings, remains subject to public inspection and can be copied, thereby preserving public oversight.

The bill also provides a statement that the Legislature finds that the exemption should be given retroactive application because it is remedial in nature.

These provisions became law upon approval by the Governor on March 29, 2001.
Vote: Senate 40-0; House 91-12

EDUCATION GOVERNANCE

SB 1162 — Reorganization of Education Governance

by Senator Sebesta

This act includes the content of CS/CS/SB 2108 (by Appropriations Committee; Education Committee; and Senators Pruitt, Horne, and Lawson), requiring the reorganization of the governance of Florida's education system to commence July 1, 2001, and outlining specific tasks and due dates for the implementation process. It amends the Education Governance Reorganization Act of 2000 (ch. 229, part I, F.S.) and creates new sections of statute to require the reorganization to occur mostly by "type two transfer," which merges an agency or governmental unit into another structure but retains all the former statutory requirements and tangible and fiscal attributes, including staff and funds.

The intent is that, by creating the structural units required to implement the new system, and by allowing them a year to operate under the laws, rules, and guidelines that regulated the previous units, it will become apparent which statutory changes are needed. During the interim between the 2001 and 2002 Legislative Sessions, the bill directs that amendments to rewrite the Florida School Code be drafted with the assistance of the affected organizational units.

Boards to be Abolished or Created

The Governor will appoint the seven members of the Florida Board of Education on July 1, 2001, but the elected State Board of Education retains authority to override any activity of the Florida Board of Education. Members of the Florida Board of Education must be residents of the state and will be confirmed by the Senate. However, they may operate without Senate confirmation throughout the implementation process.

The act abolishes the following boards by a type two transfer to the appointed Florida Board of Education:

- Board of Regents
- State Board of Community Colleges
- Articulation Coordinating Committee
- Education Standards Commission

The Governor will appoint 12 members to the board of trustees for each state university, and a student body president serves as the 13th member. The boards have responsibility formerly given to the Board of Regents for appointment, compensation, and evaluation of the university

presidents; approval of programs through the master's degree level; and other university functions.

The following boards are abolished but merged into new boards with amended responsibilities:

- State Board of Independent Colleges and Universities
- State Board of Nonpublic Career Education
- Postsecondary Education Planning Commission

The changes in responsibility include:

- The independent research function is located in the Office of Legislative Services and is called the Council for Education Policy Research. It has duties assigned to Postsecondary Education Planning Commission, including the Master Plan, but expanded to the K-20 system.

- The two boards with jurisdiction for nonpublic colleges and career schools are merged into one.

- The Commission for Independent Education consists of six members, two from independent colleges, one from a nonpublic proprietary school, one administrator of a public technical education program, and two lay members who are not affiliated with an independent postsecondary education institution.

- Independent colleges whose students are eligible for the William L. Boyd, IV, Florida Resident Access Grant are not under the jurisdiction of the newly created Commission for Independent Education but under the jurisdiction of the Division of Colleges and Universities.

Reorganization of the Department of Education

The Governor appoints the first chairperson of the Florida Board of Education, and after 2 years the board will appoint its chairperson.

The Florida Board of Education appoints a secretary and the heads of the following divisions of the Department of Education:

- Division of Colleges and Universities
- Division of Community Colleges
- Division of Public Schools
- Division of Independent Education

The division heads are called vice presidents and serve at the pleasure of the Secretary of the Florida Board of Education.

The following units are under the Commissioner of Education, instead of within divisions: Legal; Communications; Strategic Planning and Budget Development; General Administration; Assessment and Accountability; Data Management, Education Technology, and an Education Data Warehouse; Access and Opportunity; Office of Student Financial Assistance; Policy Research and Development; Personnel; Workforce and Economic Development; Educational Facilities; and Inspector General.

The SMART Schools Clearinghouse is transferred from the Department of Management Services to a newly created office in the Office of the Commissioner of Education.

Oversight of Transition Process

In addition to the Education Governance Reorganization Transition Task Force, the bill creates the following advisory bodies or teams to assist the transition process:

- The Secretary's Education Reorganization Advisory Workgroup, consisting of

The secretary of the Florida Board of Education

The commissioner

The chancellors of public schools, colleges and universities, and community colleges

The executive director of independent education

The Governor or designee

The chairman of the Education Governance Reorganization Transition Task Force

The legislators who serve on the Education Governance Reorganization Transition Task Force

The *K-20 Education Leadership Team*, consisting of the same membership, except not the representatives of the Governor, the Legislature, or the Education Governance Reorganization Transition Task Force.

- The Education Governance Reorganization Transition Task Force remains active throughout the transition and may intervene in any activity by reporting it to the State Board of Education.

Florida Virtual High School

The Florida On-line High School is to be a body corporate renamed the Florida Virtual High School and housed in the commissioner's office for administrative purposes. The Governor will appoint a seven-member board of trustees. The bill requires the school to be self-sufficient through the Florida Education Finance Program (by FY 2003-2004).

Early Childhood Provisions

The Agency for Workforce Innovation will administer school readiness funds, and the Partnership for School Readiness and the following programs are transferred by type two transfer to AWI:

- Child care executive partnership
- Child care resource and referral
- Subsidized child care
- Prekindergarten
- Migrant prekindergarten
- Florida First Start

The School Readiness Act is amended to add four new members to the partnership, two from childcare industry, two from business. The Executive Director serves at the pleasure of the Governor. Reimbursement rates may not limit parental choice or exceed legislative authorization. The Partnership reviews coalition plans annually. DOE must implement uniform school readiness screening statewide in 2002-2003.

Effective January 1, 2002, the bill repeals prekindergarten, subsidized child care, and Florida First Start programs; various child care enhancements; and the State Coordinating Council for Early Childhood Services.

Access to Baccalaureate-Degree Level Programs

The bill contains the following measures designed to increase community access to baccalaureate-level education:

- Procedures are authorized to allow a community college to obtain the authority to offer a limited number of selected baccalaureate-degree level programs. These provisions are contained in SB 1636, by Senator Pruitt, as amended by the Education Committee.

- St. Petersburg Junior College is authorized to conduct selected baccalaureate degree level programs upon approval of its accrediting agency, and is renamed St. Petersburg College. These provisions are contained in CS/SB 1190, by Appropriations Committee and Senator Sullivan.

- The branch campuses of the University of South Florida in Sarasota/Manatee and in St. Petersburg are converted into fiscally autonomous campuses with separate campus boards and executive officers. These provisions are contained in CS/SB 986, by Senator Sullivan, and SB 1596, by Senators Sebesta, Sullivan, Miller, Latvala, and Lee.

New College, which is currently a branch campus of the University of South Florida, is designated as the eleventh member of the State University System, while it retains its distinctive

mission as the 4-year residential liberal arts honors college of the State of Florida. Its board of trustees will consist of 13 members, including seven members who currently serve on the Board of Trustees of the New College Foundation. These provisions are contained in CS/SB 986, by Education Committee and Senators Sullivan and Carlton.

Bright Futures Testing Program

The act requires recipients of a Bright Futures Academic or Merit Scholarship who enroll in a public postsecondary education institution to take at least five CLEP examinations. The tests will be provided at no cost in the 2001-02 year, but they become mandatory in the 2002-03 school year.

- Students who have earned college credit through dual enrollment, Advanced Placement, or International Baccalaureate programs may take one less CLEP test for each high school course accepted for college credit.

- Credit earned by passing a test or by completing an accelerated high school course reduces eligibility for Bright Futures by the number of college credit hours earned.

- Students who do not pass the tests and who have not earned college credit through an acceleration program in high school retain the full 132 hours of eligibility formerly authorized under the Bright Futures program.

- The Department of Education must negotiate with the College Board regarding the cost, which must not exceed $46 per test and is to be paid out of lottery dollars.

- No other vendor may compete for the testing program.

Prepaid College Program

The act amends provisions of the Florida Prepaid College Program that govern transfers or refunds from the program. The transfer or refund value will be equivalent to the value of an advanced payment contract at a Florida public postsecondary education institution.

A nonprofit corporation that is exempt from federal taxation under s. 501(c)(3) of the Internal Revenue Code may purchase advanced payment contracts for a scholarship program under the Prepaid College Program. The scholarship program will be approved by the Prepaid College Board and operated by the nonprofit corporation.

These provisions are the text of SB 1162, by Senator Sebesta, and CS/SB 2088, by the Education Committee and Senators Rossin and Crist.

If approved by the Governor, these provisions take effect upon becoming a law, unless otherwise provided in the act.
Vote: Senate 27-10; House 70-45

EXCEPTIONAL STUDENT EDUCATION

CS/SB 1018 — Young Children/Learning Gateway

by Education Committee and Senators Pruitt and Crist

This bill implements recommendations of the Commission on the Study of Children with Developmental Delays. The study commission proposed 3-year pilot programs as a method for getting the latest research findings on learning disabilities and learning problems into the systems that serve children from birth to age nine. The bill authorizes pilot programs in Broward, Manatee, and St. Lucie Counties to identify and address learning problems in children from birth to age 9, earlier and more efficiently than currently happens.

Each pilot programs will develop a Learning Gateway to provide a single point of access for a parent who suspect that his or her child has a potential learning problem. The Learning Gateway will inform parents, pediatricians, and teachers of the early warning signs of learning problems according to the best current research. The projects will design a system for addressing learning problems and learning disabilities and will determine what portion of the system can be funded using existing funds, pilot program funds, and other available private and community funds. The pilot programs will recommend linking or combining local planning bodies concerned with services for young children if the change would improve coordination and reduce unnecessary duplication of effort.

A 23-member steering committee of university researchers, parents, practitioners, and agency representatives will support and oversee the pilot programs. Fifteen members who are academic experts, practitioners, and parents will be appointed by the Governor, President of the Senate, and Speaker of the House of Representatives, who will each make 5 appointments. In addition, eight agency and program representatives will be designated by their agencies to support and facilitate system improvements. The steering committee is assigned to the Department of Education for administrative purposes.

The steering committee will work with the Florida Pediatric Society, the Florida Partnership for School Readiness, and the Department of Education to establish guidelines for screening children from birth to age nine for early learning problems, mild developmental delays, and child-specific precursors of school failure. In cooperation with universities in the state and the Department of Education, the steering committee will identify competencies for instructional personnel to identify learning problems and learning disabilities. Every teacher preparation program in the state must require a minimum of 3 hours of coursework in normal child development and the disorders of development.

The steering committee will oversee a formative evaluation of the project during implementation and will report on short-term outcomes and system improvements. By January 2003, the steering committee will make recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education related to the merits of expansion of the demonstration projects.

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

CS/CS/SB 1180 — John McKay Scholarships for Students with Disabilities

by Appropriations Committee; Education Committee; and Senator Pruitt

This bill amends s. 229.05371, F.S., to clarify procedures for the scholarship program for students with disabilities. The bill names the program after Senate President John McKay who sponsored the legislation that created the program in 1999.

Under the John McKay Scholarships for Students with Disabilities Program, a student with a disability for whom an individual education plan has been written is provided the option of attending a different public school of choice or a private school that participates in the scholarship program. The student must have been enrolled at a Florida public school in the previous October and February Florida Education Finance Program (FEFP) surveys. The student's parent must be dissatisfied with the student's progress and must request the scholarship and obtain acceptance of the student in a private school that is eligible to participate in the program. The parent must notify the school district in writing of intent to participate in the program at least 60 days prior to the first scholarship payment.

The bill provides a method for calculating the maximum scholarship amount equivalent to what the student would have received in the public school. The scholarship amount will be the cost of the private school's tuition and fees or the maximum calculated amount, whichever is less. The scholarship will be paid in four quarterly payments, and students may enter the program in any quarter with appropriate documentation. The scholarship payment is in the form of a warrant made payable to the student's parents that is mailed to the private school by DOE. The parent must restrictively endorse the warrant to the private school for deposit into the private school's account.

A school district must notify parents of students with disabilities of the opportunity to attend a public school of their choice or apply for a scholarship. The district must complete a matrix of services under s. 236.025, F.S., for scholarship applicants who do not have such a matrix and must notify the Department of Education (DOE) of the student's matrix level. The district must provide scholarship students the opportunity to take the statewide assessments under s. 229.57, F.S.

A private school that participates in the scholarship program must demonstrate fiscal soundness, comply with anti-discrimination laws and health and safety standards, be academically accountable to the parent, employ or contract with teachers with specified qualifications, comply with state laws that regulate private schools, and adhere to the tenets of its published disciplinary procedures. A private school must notify the DOE of its intent to participate by May 1 of the previous school year.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-4; House 76-39

ELEMENTARY AND SECONDARY EDUCATION

SB 708 — Education Employees/Unused Sick Leave

by Senator Sullivan

The bill limits the amount of unused sick leave that may be accumulated for terminal pay purposes after July 1, 2001, to no more than 60 days for full-time school district and community college personnel, other than instructional and educational support employees. The 60-day limit does not affect employee contracts entered into prior to July 1, 2001; however, if such contracts are renewed after the July 1st date, they will be considered new contracts for accumulated leave purposes. Leave accumulated prior to July 1, 2001, will be governed by board policies in effect on June 30, 2001. In addition, non-instructional employees of school districts and community colleges who have accumulated 60 days or more of sick leave prior to July1, 2001, will not be able to accumulate additional sick leave for terminal pay purposes after that date until their pre-July 1, 2001, accumulated leave total dips below 60 days. The same leave accumulation restrictions apply to vacation or annual leave accrued by school district non-instructional employees. The limitations created by the bill affect prospective leave accumulation only, there is no provision to reduce the number of leave days accumulated by an employee prior to July 1, 2001.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 30-9; House 61-47

CS/HB 1633 — Student Assessment/School Performance Grades

by Education Innovation Committee and Rep. Attkisson and others (CS/SB 988 by Education Committee and Senators Sullivan and Holzendorf)

This bill amends s. 229.57, F.S., to establish the framework for the determination of school grades based on student learning gains. Beginning with the 2001-2002 school year, school grades will be based only on student performance. School grades will be based on student

learning gains, as measured by annual FCAT assessments in grades 3-10, and on improvement of the lowest twenty-fifth percentile of students in the school in reading, writing and math, unless those students are performing above satisfactory performance.

In order for a school to receive a performance grade of "C," the school must demonstrate that adequate progress has been made by students in the school who are in the lowest twenty-fifth percentile in reading, math or writing on the FCAT, unless those students are performing above satisfactory performance. Thus, a school that receive a grade of a "C" must demonstrate adequate progress of the school's lowest performing students.

Requirements are deleted that limited the Department of Education to a particular statistical model for calculating learning gains. Thus, the department may study and assess several statistical models for calculating learning gains. The Commissioner of Education will establish a schedule for the administration of the statewide assessment that must provide for the latest possible administration and the earliest possible results. The department must consult with the Office of Program Policy Analysis and Government Accountability (OPPAGA) in monitoring and reporting the implementation of the methodology used to identify student learning gains.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 68-43

CS/SB 1684 — Transition to Teaching Program

by Appropriations Committee and Senators Klein and Crist

This act creates a program to recruit retiring or career-changing professionals into teaching. It is designed to make Florida eligible for federal funds recently released for state programs called Transition to Teaching. Modeled after the successful Troops to Teachers Program, the program funds an applicant to:

- Work with local firms to recruit participants
- Work with postsecondary education institutions to prepare the participants for certification
- Assist the participants for at least 1 year when they are employed as teachers

In exchange for the services and up to $5,000 for a training stipend, participants will agree to become certified and teach in Florida schools for at least 3 years.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 120-0

CS/CS/HB 1193 — Teacher Recruitment, Retention, and Professional Development

by Lifelong Learning Council; General Education Committee; and Reps. Arza, Atwater, Brutus, and others. (CS/SB 1704 by Education Committee and Senators Sullivan and Jones)

This act contains a number of provisions to enable Florida to recruit and retain teachers. Under the provisions of the act:

- A type of alternate certification is created for "adjunct educators," who must have a bachelor's degree but do not need to demonstrate mastery of general knowledge, subject area knowledge, or professional preparation and education competence.

- Adjunct educators must be employed part time.

- School districts rather than the department will administer the certification process for adjunct educators.

- The school district must determine that the adjunct educator has expertise in the subject to be taught.

- The certificate requires certain supportive activities during the adjunct educator's first year.

- Adjunct educators are authorized to operate under contract and enjoy the same employment status as state-certified teachers.

- The open enrollment period for DROP is eliminated for public school teachers. Teachers may enroll in DROP anytime after their normal retirement date and participate for 5 years. Eliminating the DROP enrollment period allows the teacher to work additional years before committing to the 5-year DROP program.

- A school district may use another district's approved alternate route to certification, without the Department of Education's review and approval.

- School districts are required to recognize and accept for credit towards salary increases provided for years-of-service every year in which a teacher was employed, earned credit in the Florida Retirement System, and received a satisfactory performance evaluation. This provision applies only to teachers employed after July 1, 2001.

- The period is extended during which a teacher may be employed without demonstrating mastery of general knowledge. Teachers may remain in the position through the end of the school year for which they were contracted.

- District school board policy will determine how to classify a teacher as teaching "in-field" rather than "out-of-field." Current law authorizes a district to classify a teacher as in-field by demonstrating subject area expertise, but until this bill becomes a law, it is not clear what determines expertise.

- When the superintendent proposes to transfer a teacher, the principal of the receiving school will have the opportunity to review records, conduct an interview, and approve the transfer of the teacher to his or her school.

- A program is created to award bonuses to teachers whose students successfully pass an examination in the International Baccalaureate program. This bonus is awarded in the same way as provided by a program created in 2000 for teachers of Advanced Placement classes.

- A Teacher Education Pilot Program is created for high achieving students at UCF, UNF, and USF. Selected students will have a yearlong, paid teaching assignment in lieu of university coursework.

- Under a program created in 1999, regional educational consortia are eligible for grants to create professional development academies without a funding match required of other providers. This provision is the text of CS/SB 1640, by Senator Clary.

- If a school district employee fails to report complaints against teachers, the bill requires appropriate punishment. Each district will create procedures for informing the superintendent of each legally sufficient complaint.

- A program is eliminated that awarded bonuses or salary supplements to teachers with demonstrated mastery who taught at low performing schools or schools for violent or disruptive youth. The program did not include a way to demonstrate mastery and caused confusion.

- The Department of Education will:
    - Develop a system for posting teaching vacancies
    - Establish an applicant database
    - Identify best practices for retaining high-quality teachers
    - Develop a long-range plan for educator recruitment.
    - Communicate quarterly with Workforce Florida, Inc., and regional workforce boards to access resources to improve teacher recruitment and retention.
    - Seek waivers or reductions or matching contributions that may be required of district school boards to access workforce funding.

- A requirement is eliminated that teachers must have a professional teaching certificate to be classified as associate teachers or teachers participating in the Florida mentor teacher school pilot program. Teachers with temporary certificates and adjunct certificates will also be eligible.

- A mentor teacher under the Excellent Teaching Program will be allowed to provide mentoring or related services during the regular school day, but not during student contact time.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 37-0; House 97-1

CS/CS/HB 269 — Sharpening the Pencil Act/Land Acquisition/Charter Schools

by Lifelong Learning Council; Education Appropriations Committee; and Reps. Murman, Lacasa, Byrd, Mack, Melvin, Diaz-Balart, Cantens, Bense, Argenziano, Lynn, and others (CS/SB 1780 by Appropriations Committee and Senator Horne)

The bill, named the "Sharpening the Pencil Act," combines the current school district review program and the best financial management practices review program into a single revised and expanded best financial management practices review program. The Office of Program Policy Analysis and Government Accountability (OPPAGA) will manage the program and the Department of Education will assist by providing technical expertise to enhance the review process and by supporting school districts before, during, and after the reviews. No longer optional, the reviews will be conducted for all districts on a 5-year cycle, the review schedule is included in the legislation. Private contractors, selected through a request for proposal process, are to conduct most of the reviews to the extent funds are provided for that purpose in the General Appropriations Act; however, OPPAGA will conduct some reviews each fiscal year. Some of the more prominent changes created by the act are as follows:

1. School districts must complete a best practices self-assessment not later than 60 days prior to their scheduled reviews.

2. Increased public awareness and participation will be encouraged by at least two public forums to be held in a district being reviewed: the first to explain the process and elicit public concerns, and the second to explain the review findings and recommendations. Representatives from OPPAGA and the contract consultant are to attend both forums.

3. In districts found not to be meeting best financial management practices, the review recommendations must include an action plan describing how the district can meet the standards within two years.

4. A school district that meets the best practices standards within two years is eligible for a Seal of Best Financial Management Practices. The seal is good for five years, and a district maintaining best practices at the end of the five years may apply to the Legislative Budget Commission for a waiver from the next scheduled district review.

5. A school board must vote within 90 days of receipt of the final review report on whether or not to implement the recommended action plan. The district superintendent must notify the Commissioner of Education of the local school board's decision.

6. A school board failing to vote on the adoption of the action plan, or failing to implement an adopted action plan may be asked to appear before a legislative committee to explain its position.

Land Acquisition and Facilities Advisory Board

The Land Acquisition and Facilities Advisory Board program is created to assist school districts experiencing deficiencies in the areas of land acquisition and facilities operational processes. If OPPAGA or the Auditor General determine, after review, that a school district's land acquisition and facilities operations demonstrate serious deficiencies, the agency is to notify the Governor, the presiding officers of the Legislature, and the Legislative Budget Commission of the situation. In response, the Legislative Budget Commission determines if the district's funds are to be placed in reserve until the deficiencies are corrected, and the Governor, President of the Senate, and Speaker of the House of Representatives appoint a Land Acquisition and Facilities Advisory Board to assist the district in correcting the deficiencies and improving its land acquisition and facilities processes. Upon certification by the advisory board that corrective actions have been taken that are consistent with the recommendations of OPPAGA or the Auditor General, the funds placed in reserve may be released and the advisory board is dissolved.

Charter Schools

The bill amends s. 228.056, F.S., to revise the law relating to charter schools. Three additional purposes for charter schools are established: promoting competition within the school district, improving academic choice, and expanding the capacity of the public school system. A sponsor may not charge a charter school an application fee to submit an application and may not base its decision on a promise of future payment.

The bill requires a public school to have been in operation for at least two years prior to applying to convert to charter status. A school board that denies an application for a conversion school must provide clear reasons and documentation for the denial. PECO maintenance funds generated by a public school that converts to charter school status must remain with that school.

The governing board of a charter school must adopt and maintain an operating budget annually. Charter schools may form cooperatives for administrative, evaluation, and professional

development services. Capital outlay funds will be distributed monthly, rather than twice per year.

Charter schools can admit students who meet academic, artistic, or other eligibility standards consistent with the school's mission and purpose. With the sponsor's approval, admission policies can accommodate articulation agreements between charter schools. The governing board will determine the capacity of a charter school annually, in conjunction with the sponsor. A charter may be granted for a charter school-in-a-development. With this designation, the charter school may give admission preference to residents of the municipality.

A charter school will be able to apply directly to the Commissioner of Education for a waiver of a portion of the school code. The commissioner must give the sponsor a copy of the school's request. Charter schools will be exempt from the policies of the sponsor.

The bill amends s. 159.27, F.S., to let charter schools take advantage of federal tax benefits when industrial development authorities issue federal tax exempt bonds for educational facilities. Under an amendment to s. 232.245, F.S., charter school students may participate in extra curricular activities in the non-charter public school they otherwise would have attended.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 36-1; House 117-0

SB 636 — High School Grading Scale

by Senators Pruitt and Cowin

The bill amends s. 232.2463, F.S., to change the requirements for high school teachers to convert percentage grades to letter grades and grade points. The required conversion is:

- A=90-100 percent, 4 grade points
- B=80-89 percent, 3 grade points
- C=70-79 percent, 2 grade points
- D=60-69 percent, 1 grade point
- F=below 60 percent, 0 grade points

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 96-19.

HB 1545 — Schools/Performance Reporting

by Education Appropriations Committee and Rep. Lynn and others (SB 1710 by Senator Webster)

The bill creates the "Dollars to the Classroom Act of 2001," and provides that beginning with the 2000-2001 school and student performance data, the required annual report for the student assessment program will include district performance grades based on average school performance grades by level, elementary schools, middle schools, and high schools. The Legislature will establish, in the annual General Appropriations Act, minimum academic performance standards for districts as well as minimum classroom expenditure requirements. Districts not meeting the minimum academic standards at one or more of the school levels will be required to meet the minimum expenditure requirements for classroom instruction. Districts subject to the minimum classroom expenditure requirements must include this information in their public advertisements of the proposed annual budget. These districts will also be required to file two reports with the Department of Education: a report at the beginning of the year describing the proposed budget and an explanation of why the classroom expenditures must be increased; and a second report at the end of the year that includes the amount of current operating funds actually spent on classroom instruction. If a district is unable to comply with the expenditure requirements, the second report must include an explanation for the noncompliance that has been adopted at a public hearing and signed by the superintendent and school board members.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 97-21

POSTSECONDARY EDUCATION

CS/SB 302 — Financing for Private Higher Education Facilities

by Appropriations Committee and Senators Pruitt and Horne

This act creates a public corporation called the Higher Education Facilities Financing Authority to finance projects of private higher education institutions that:

- Are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools
- Award baccalaureate degrees
- Have not-for-profit status
- Are chartered in Florida
- Are located in Florida
- Have a secular purpose.

The effect will be to create a statewide method for private colleges to obtain tax-exempt financing under a uniform set of rules and standards, rather than the varying rules adopted by local authorities.

Projects may be construction of dormitories, student service facilities, parking facilities, administration buildings, academic buildings, libraries, and loans in anticipation of tuition revenues.

The authority will be placed in the Department of Education for administrative purposes; the Governor will appoint the members. The authority may issue tax exempt or taxable revenue bonds, has contractual powers, and may execute loans, leases, and other legal instruments. It may acquire real estate. Bonds issued by the authority are incontestable and do not constitute a debt or liability of the authority, the state, or any political subdivision of the state. Bonds issued by the authority and any security for the bonds are exempt from taxes except corporate income taxes imposed under ch. 220, F.S.

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

CS/SB 1256 — Nurses' Training Programs

by Health, Aging & Long-Term Care Committee and Senator Campbell

This bill requires the Board of Nursing to hold in abeyance until July 1, 2002, the development of any rule that relates to faculty/student clinical ratios. The Board of Nursing and the Department of Education must submit to the President of the Senate and the Speaker of the House of Representatives by December 31, 2001, an implementation plan that details both the impact and the cost of any such rule change.

Under the bill, community colleges that conduct training programs for nurses will be notified of an impending change in the requirements in time to request state funds to recover their costs.

The bill also amends requirements for the Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program (ss. 240.4075 and 240.4076, F.S.) so that nurses who are employed by family practice teaching hospitals and specialty children's hospitals are eligible for loan repayment and forgiveness. In case funds are insufficient to grant every eligible applicant an award, the bill creates a priority listing, by employer, for the disbursement of funds.

By a type two transfer, the bill transfers from the Board of Regents to the Department of Health all statutory powers, duties, functions and the records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Nursing Student Loan Forgiveness Program.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 40-0; House 117-1

PUBLIC RECORDS EXEMPTIONS

HB 407 — Public Records and Meetings/University Health Services Support Organizations

by State Administration Committee and Rep. Brummer (SB 418 by Education Committee)

Under ss. 240.2995 and 240.2996, F.S., university health services support organizations are statutorily authorized to enter into arrangements with other entities as providers for accountable health partnerships and providers in other integrated health care systems or similar entities for the benefit of public university academic health sciences centers. The organizations were established to serve as the corporate entities through which public colleges of medicine may participate as partners in integrated health care delivery organizations.

The bill (Chapter 2001-35, L.O.F.) revises the exemptions for the organization's marketing plans. The marketing plans are limited to those plans which, if disclosed, may reasonably be expected by the governing board to be used by a competitor or affiliated provider to frustrate, circumvent, or exploit the plan's purpose before it is implemented and which is not otherwise known or cannot be legally obtained by a competitor or affiliated provider. The bill also reenacts without changes the current public records and public meetings exemptions for trade secrets, managed care contracts, and the credentialing and peer review process. The bill repeals s. 240.2995(6), F.S., and incorporates the provisions into s. 240.2996, F.S., for the Department of Insurance to obtain records needed to discharge its duties.

These provisions were approved by the Governor and take effect October 1, 2001.
Vote: Senate 37-0; House 118-0

ELECTIONS

CS/SB 1118 — Florida Election Reform Act of 2001

by Ethics & Elections Committee and Senators Posey, Lawson, Bronson, Sebesta, Brown-Waite, Dyer, Smith, Constantine, Carlton, Jones, and Crist

The Florida Election Reform Act of 2001 is an historic piece of legislation designed to address the problems highlighted by the 2000 U.S. Presidential election. Specific provisions of the bill include:

Voting Systems

Punchcards, paper ballots, mechanical lever machines and central-count voting systems will no longer be used in the state, beginning with the 2002 primary election. Any future system certified for use in the state must employ precinct-count tabulation, and offer the voter an opportunity to correct certain mistakes. The only system currently used in Florida that meets this standard is precinct-based optical scan, although the Act does contemplate the use of more technologically-advanced "direct recording equipment" or touchscreen computer technology if and when the Division of Elections certifies its use.

The Division of Elections is required to adopt a uniform primary and general election ballot design for each certified voting system. Following each general election, local supervisors of elections and the Division are required to report on voter errors in order to identify ballot design and voting system problems, along with possible solutions.

Funding is provided to the counties based on the number of precincts in the county as of the 2000 General Election. Small counties with a population of 75,000 or less will receive $7500 per precinct and other counties will receive $3750 per precinct. The distribution of funds is to be made over a two-year period.

Provisional Ballots

Voters who go to the polls on election day and whose eligibility cannot be determined will be allowed to vote a conditional, or "provisional," ballot. If the canvassing board subsequently determines that the voter was eligible to vote and the voter cast the provisional ballot in his or her proper precinct, the provisional ballot will be counted in the final vote tally. This change was made in response to reports that eligible voters were turned away from the polls on election day because their names were not on the precinct registers, and, conversely, that persons not eligible to vote were allowed to cast ballots.

Recounts

To address the equal protection concerns identified by the United States Supreme Court, the Act requires the same manner of recount to be conducted in each affected jurisdiction. For statewide elections, recounts will be conducted in every county in Florida. For multicounty races, all counties comprising the district of the candidacy or ballot measure will be required to recount. There will be no more partial recounts.

The local canvassing boards now have specific guidelines for when to order a recount; the Act does away with the canvassing boards' standardless and unfettered discretion to order recounts. An automatic machine recount will be conducted if the margin of victory is ½ of one percent or less. An automatic manual recount of the overvotes and undervotes will be conducted if the margin of victory is ¼ of one percent or less. If the margin of victory is between ¼ and ½ of one percent, an affected candidate or party is entitled to a manual recount of the overvotes and undervotes if requested in writing no later than 5 p.m. on the second day after the election.

The current statutory standard of voter intent is clarified for purposes of manual recounts. A vote will count only if there is a "clear indication on the ballot that the voter has made a definite choice." The Department of State is charged with adopting rules for each certified voting system prescribing precisely what constitutes a "clear indication on the ballot that the voter has made a definite choice," and for prescribing uniform recount procedures.

Certification Deadlines

The deadlines for county canvassing boards to certify the results of an election are modified as follows:

- *First and Second Primary Election*: 7 days following the primary.
- *General Election*: 11 days following the election.

The 11 day general election deadline will allow sufficient time for receipt of all overseas ballots, which pursuant to a federal court order must be counted up to 10 days after the general election for certain races.

Significantly, any returns not filed by the deadline will be ignored except in the case of a major emergency.

Second Primary Election

For the 2002 election cycle, the second primary will be eliminated. The remaining primary will be held on the second Tuesday in September to avoid the Labor Day holiday. Various dates are revised to conform to this change for the 2002 elections.

Military and Overseas Voting

Several new sections are created to facilitate the provisions of the federal Uniformed and Overseas Citizens Absentee Voting Act. These provisions include late registration, a state write-in ballot, e-mail notification of names of candidates, and electronic transmission of absentee ballots and requests from overseas voters.

A date line is provided on the absentee ballot envelope and a presumption is created to provide that a ballot from an overseas voter was mailed on the date signed and witnessed, regardless of whether there is a postmark or whether a postmark indicates a date after the election. This change was designed to afford overseas voters the opportunity to conform to the requirements of the federal court order providing for the counting of certain votes 10 days after the election.

The Elections Canvassing Commission is authorized to adopt emergency rules to avoid the disenfranchisement of voters during times of crises.

Absentee Ballots

The Act amends a number of provisions of the 1998 Voter Fraud Act that were not approved for implementation by the U.S. Justice Department, or that proved unworkable in practice.

All registered voters in Florida may cast an absentee ballot without restriction; the "for cause" requirements for casting an absentee ballot have been eliminated. Persons requesting an absentee ballot no longer need to provide social security numbers or voter identification numbers. The absentee ballot Voter's Certificate is amended to require only the signature of the voter and the signature and address of a witness 18 years of age or older.

Provisions of law relating to absentee ballot coordinators and limitations on returning more than 2 ballots have been repealed.

In an effort to enhance election day administration, canvassing boards may now process absentee ballots through the tabulating equipment up to 4 days before the election instead of having to wait until the morning of the election. No results may be released until after the polls close and any person who releases results early commits a 3rd degree felony.

Pollworker Training

Minimum standards and hourly requirements are provided for the training of pollworkers. In addition, the Division of Elections is required to adopt a uniform polling place manual to guide the pollworkers on procedures to be followed on election day.

Voter Education

The Division of Elections is required to adopt rules with minimum standards for voter education. Each county will be able to receive funds for voter education and pollworker training upon submission to the Division of a detailed description of the programs to be implemented. The supervisors of elections and the Division must submit post-election reports on the effectiveness of voter education efforts, and the Division must re-examine its voter education rules in light of the information in the reports.

A Voter's Bill of Rights and Responsibilities must be posted at each polling place on election day, identifying such things as the voter's right to a provisional ballot if his or her registration is in question.

Elections Canvassing Commission

The composition of the Elections Canvassing Commission is modified. The Commission will consist of the Governor and two members of the Cabinet. Any vacancy must be filled with an elected official.

Election Contests

The grounds for an election contest are modified. The current provision, which affords a circuit judge unfettered discretion in fashioning orders and the authority to order investigations to prevent or correct any alleged wrong and to provide any appropriate relief, is eliminated.

Statewide Voter Registration Database

The Department of State is authorized $2 million dollars to develop a statewide voter registration database containing voter registration information from all of the counties. The Department is given the authority to contract with the Florida Association of Court Clerks to analyze, design, develop, operate, and maintain the database. A criminal penalty is provided for any supervisor of elections who willfully refuses or neglects to perform his or her duties with respect to the implementation and administration of the database.

Time Zone Study

The Division of Elections, in conjunction with the Florida State Association of Supervisors of Elections, is required to study the benefits and drawbacks of having uniform poll opening and closing times throughout the state. A report of the findings is to be provided no later than January 1, 2002. This study is a direct response to the media inaccurately naming Al Gore, Jr., as the winner in Florida approximately ½ hour before the polls closed in the central time zone.

Public Financing

Contributions from out-of-state residents will not be counted toward the threshold amounts statewide candidates need to raise to receive public financing and will not qualify as matching contributions. Prior to this change, contributions of $250 or less from out-of-state residents counted toward the threshold amount a candidate needed to raise and could be matched with state funds.

If approved by the Governor, these provisions take effect January 1, 2002, except as otherwise provided.
Vote: Senate 38-2; House 120-0
[Senator Campbell recorded a change of vote after roll call from "nay" to "yea."]

MAJOR TAX REDUCTION PACKAGE

HB 21 — Intangibles Tax and Other Tax Issues

by Reps. Fasano, Kyle, and others (CS/SB 128 & 1598 by Finance & Taxation Committee and Senators Lee, King, Cowin, Crist, and Peaden)

This bill increases the intangibles tax exemptions for individuals and married couples to $250,000 and $500,000, respectively, and provides a new exemption for businesses of $250,000, effective January 1,2002.

It creates s. 220.187, F.S., to provide a 100 percent corporate income tax credit for monetary donations to a nonprofit scholarship funding organization (SFO). The credit may not exceed 75 percent of a taxpayer's total liability after all other credits are taken, and the total amount of credit granted in a year is capped at $50 million. These provisions take effect January 1, 2002, and apply to tax years beginning on or after that date.

The bill creates s. 213.256, F.S., the "Simplified Sales and Use Tax Administration Act," authorizing Florida to participate in the next phase of discussions with other states for the purpose of developing a multi-state, voluntary, streamlined system for the collection and administration of state and local sales and use taxes. The act:

- Clarifies certain terms used throughout the model legislation.
- Outlines the major simplifications to be adopted.
- Provides that Florida will have three representatives at the multi-state discussions of the next phase of the Streamline Sales Tax Project.
- Clarifies that the Agreement cannot preempt, amend or modify any provision of Florida law.
- Maintains that any relationship between states in furtherance of streamlining their sales and use tax collections systems is voluntary for each state.
- Ensures that if Florida complies with the provisions of the Agreement, the Agreement cannot be used to challenge existing state laws or statutes.

Subsection (3) of s. 215.20, F.S., imposes a general revenue service charge of 0.3 percent on the income of a revenue nature deposited in certain trust funds. Chapter 90-110, L.O.F., provided that the 0.3 percent general revenue service charge is to expire October 1, 2001, and is subject to legislative review. Effective July 1, 2001, the bill provides that subsection (3) of s. 215.20, F.S.,

shall not expire on October 1, 2001, as scheduled by s. 10 of ch. 90-110, L.O.F., but subsection (3) of s. 215.20, F.S., is revived and readopted.

Under current law, the sale of drinking water in bottles, cans, or other containers, including water that contains minerals in its natural state or water to which minerals have been added at a water treatment facility regulated by the Department of Environmental Protection (DEP), is exempt from sales tax. The bill amends s. 212.08(4)(a)1., F.S., to provide that the sale of drinking water to which minerals have been added at a water treatment facility regulated by the Department of Health (not just DEP), is exempt and that water that has been "enhanced" by the addition of minerals is exempt, if such water does not contain any added carbonation or flavorings.

If approved by the Governor, these provisions take effect July 1, 2001, except as otherwise expressly provided.
Vote: Senate 25-14; House 72-44

HB 251 — Sales Tax Holiday

by Rep. Kilmer and others (CS/SB 156 by Finance & Taxation Committee and Senator Cowin)

This bill creates the "Florida Residents' Tax Relief Act," which provides that no sales and use tax will be collected on sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of $50 or less during the period from 12:01 a.m. on Saturday, July 28, 2001, through midnight on Sunday, August 5, 2001.

The term "clothing" means any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body, but excludes watches, watchbands, jewelry, umbrellas, and handkerchiefs.

The exemption does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport.

This bill also provides that no sales and use tax may be collected on sales of school supplies having a selling price of $10 per item or less during the period from 12:01 a.m. on Saturday, July 28, 2001, through midnight on Sunday, August 5, 2001. The term "school supplies" includes pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, protractors, compasses, and calculators.

The Department of Revenue may adopt rules to administer these provisions and is appropriated $200,000 from the General Revenue Fund for the purpose of administering this bill.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 26-8; House 99-12

MAJOR TAX POLICY

CS/CS/SB 1878 — Communications Services Tax Bill

by Appropriations Committee; Finance & Taxation Committee; and Senators Horne, Carlton, Sanderson, Peaden, Pruitt, Geller, Latvala, Campbell, Posey, Villalobos, Diaz de la Portilla, Bronson, Silver, Meek, Garcia, Burt, and Klein

This bill amends various sections of ch. 202, F.S., relating to taxes on communications services. It provides revenue-neutral state and local tax rates for communications services, as required by ch. 2000-260, L.O.F. It provides changes with regard to private communication services and mobile communication services It allows a local government to audit dealers of communications services, if those dealers operate solely in that local government's jurisdiction. It also amends s. 337.401, F.S., relating to local government cable franchises and the choice by local governments of whether or not to levy permit fees. It repeals the repeal of most of the changes that were in ch. 2000-260, L.O.F., which created the communications services tax, that were to become effective on June 30, 2001.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 39-0; House 99-15

CS/SB 1576 — Property Tax Administration

by Finance & Taxation Committee and Senator Carlton

This bill addresses several issues identified by the Auditor General's Performance Audit of the Administration of the Ad Valorem Program of the Department of Revenue. It requires the documentation and retention of records of the measures of representativeness and statistical reliability in in-depth studies; it requires, to the greatest extent practicable, substratification of assessment roll data by value group or market area to enhance the representativeness of ratio sample studies.

The bill authorizes the tax collector to contract with a title company or an abstract company to provide a list of legal title holders and lienholders of record of property on which a tax deed application is made. It modifies the notice of proposed property taxes and non-ad valorem assessments to allow independent special districts to be listed separately, and provides that delinquent tax notices shall be sent out on April 30 instead of April 10.

It allows a county commission, at the request of the tax collector, to raise the minimum tax bill to an amount not greater than $30. The county can choose any minimum amount that does not

exceed $30. Any parcel that would receive a tax bill less than the minimum tax will not be billed for such tax. This promotes efficiency, by removing very small-value parcels from the tax roll.

It clarifies and confirms the tax exempt status of certain non-profit homes for the aged, and it allows property appraisers to correct material mistakes of fact on assessments of homesteads.

The bill creates an advisory committee on property taxation, to study taxation of airport and seaport property. The committee may study taxation of other public facilities and issues relating to special districts. The committee must make a report to the President of the Senate and Speaker of the House by October 1, 2001. There is an appropriation of $100,000 for the committee.

It creates the Property Tax Administration Task Force for the purpose of serving as a forum for bringing issues in property tax administration to the Department of Revenue, of providing and evaluating suggestions for improving the property tax administration process, and of promoting greater understanding of property tax administration issues.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 37-0; House 110-3

SB 1564 — Corporate Income Tax

by Senator Carlton

This bill updates the Florida Income Tax Code to reflect the changes Congress has made to the U.S. Internal Revenue Code of 1986. The definition of AInternal Revenue Code@ is updated to include those provisions of the 1986 Code, as amended, in effect on January 1, 2001. This definition provides for Apiggybacking@ each change made during 2000 in the U.S. Internal Revenue Code. The bill shall take effect upon becoming a law and shall operate retroactively to January 1, 2001.

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

RETIREMENT

CS/SB 2— Florida Retirement System

by Governmental Oversight & Productivity Committee and Senators Burt, Smith, Lawson, Mitchell, and Crist

The Committee Substitute for Senate Bill 2 provides a number of important benefit changes for active and inactive members of the Florida Retirement System (FRS) and makes further changes to the optional retirement program scheduled for implementation in 2002.

The bill provides a special 12 percent cost-of-living-adjustment payable in January 2002 for inactive members of the special risk retirement class of the FRS who did not benefit from the repurchase of prior service credit enacted by the Legislature following the passage of ch. 2000-169, L.O.F. The adjustment will permanently upgrade the pension benefits for the some 12,000 retirees and beneficiaries eligible to receive it. Funding of the adjustment will be paid from accrued available retirement plan surplus. Should insufficient funds be available, a small upward increase in the employer payroll cost schedule is authorized.

Additional upgraded retirement service is provided effective October 1, 2001, for a number of employee groups who move from the Regular Class to the Special Risk Class of the FRS: local government emergency medical service personnel with supervisory duties; fixed-wing aircraft pilots with firefighting duties employed by local governments or the Florida Division of Forestry; and upgraded special risk service credit for repurchase by emergency medical service or paramedic personnel or their employers. Effective January 1, 2002, the bill also reclassifies assistant attorneys general from the Regular Class to the Senior Management Class in the FRS. Municipal government and special taxing district members of the FRS are also permitted to enroll their elected officers in the Elected Officers' Class of the FRS provided they do so within a period beginning July 1, 2001, and ending December 31, 2001.

Under the terms of the bill, members of the Elected Officers' Class of the FRS who participate in the Deferred Retirement Option Program may leave that program prior to the expiration of the sixty-months maximum membership period and enroll in the Elected Officer's Class of the FRS.

Beginning in 2002 employees participating in the FRS will be given an opportunity to change from the employer-owned defined benefit plan to a portable and personally-owned defined contribution plan. CS/SB 2 makes changes to the provider companies eligible to participate in the procurement. These changes authorize the offering of investment options to participating employees from companies that provide guaranteed annuity products. Such offerings may impose fees that are reasonable and market-based. All provider companies must adhere to federal, state, and industry-sanctioned regulatory standards affecting their products and personnel.

CS/SB 2 provides that the appointment decision for the Executive Director of the State Board of Administration shall occur on an annual basis by majority vote of the Trustees (Governor, Treasurer, and Comptroller) of the Florida Retirement System with the Governor voting on the prevailing side.

The bill also provides the insertion of text to bring it into compliance with s. 18, Art. VII, State Constitution, on unfunded local government mandates by providing a statement of important state interest.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 40-0; House 116-0

HB 1821—Florida Retirement System/Retiree Health Insurance Funding

by Fiscal Responsibility Council and Rep. Murman and others

House Bill 1821 implements changes to the contribution rates charged employer members of the Florida Retirement System (FRS). Annual adjustments to payroll contribution rates are required to bring funding into compliance with actions taken in the General Appropriations Act. This act recognized a portion of the accrued retirement plan surplus and applied it toward a 1.85 percent overall rate reduction. This retirement bill in its year 2001 form differs from previous versions in that it abandons the tabular format for displaying cumulative historic rate changes dating from 1970 in favor of a narrative statement that is current year-specific only. The bill also sets the rates to be charged for the higher education members who are enrolled in the separate university and community college optional annuity program. Previously, these rates were set at the normal cost rate for the FRS. HB 1821 places a specific rate in the Florida Statutes.

Incorporated within the bill is an increase in the public employer rates charged for the funding of the retiree health insurance subsidy account. This program provides retirees with a five-dollar per year of service monthly credit, not to exceed $150, which can be applied toward any health insurance premium. The rate adjustment from .94 percent to 1.11 percent of gross monthly compensation proved necessary to maintain funding levels above reserve amounts.

The bill also contains a statement of important state interest to bring it into compliance with s. 18, Art. VII, State Constitution, on the funding of local government mandates.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 33-0; House 119-0

PUBLIC RECORDS

CS/SB 904 – Public Records Exemption

by Health, Aging & Long-Term Care Committee and Senators Garcia and Silver

This bill makes information regarding supplemental rebates from pharmaceutical manufacturers under the Florida Medicaid Program confidential and exempt from public disclosure. Portions of meetings of the Medicaid Pharmaceutical and Therapeutics Committee at which this information is disclosed for discussion or negotiation are made exempt from Florida's open meetings requirements. The bill provides legislative findings that these exemptions are a public necessity in that disclosure of similar information is prohibited under federal law, and that the exemptions will enable the state to negotiate supplemental pharmaceutical manufacturer rebates for the ultimate benefit of Medicaid recipients. The exemptions are subject to the Open Government Sunset Review Act of 1995 and will be repealed on October 2, 2006, unless reenacted by the Legislature. Provides a contingent effective date linked to the effective date of CS/SB 792, which establishes the substantive provisions relating to Medicaid pharmaceutical rebates.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 34-2; House 114-3

CS/SB 1562 — Public Records Exemption

by Regulated Industries Committee and Senator Burt

On March 28, 2001, the Task Force on Tobacco Settlement Revenue Protection ("Task Force") issued its Final Report to the President of the Senate and Speaker of the House of Representatives. The first recommendation of the Task Force was for the Legislature to ". . . provide a process for verifying that the tobacco settlement payments received are in accordance with the Florida Settlement Agreement." The report further recommends that the ". . . Legislature should also provide an exemption from the Florida Public Records Act for information considered necessary to verify the accuracy of the payments made by the tobacco companies if such information is considered a trade secret or insider information at the time of its receipt." The bill creates s. 569.215, F.S., to exempt from public records proprietary confidential business information received in negotiations for settlement payments pursuant to the tobacco settlement agreement or received by the Comptroller or the Auditor General for purposes of accomplishing their responsibilities relating to the settlement payments under s. 569.21, F.S. In addition, any state or federal agency that currently is authorized to have access to the documents by a provision of law is granted access despite the exemption. Information that is made public loses its exemption. The exemption is subject to the Sunset Review Act of 1995 and shall be repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 108-9

INFORMATION TECHNOLOGY

HB 1811 — State Technology Office

by Information Technology Committee and Rep. Hart and others (CS/SB 874 by Governmental Oversight & Productivity Committee and Senator Garcia)

The bill amends chapters 20, 110, 186, 216 and 282, F.S., to expand the roles, duties and activities of the State Technology Office (STO). Chapter 2000-164, Laws of Florida, created the STO, established the position of Chief Information Officer, and provided the STO with a mandate to create an integrated system of information technology (IT) to allow citizens to effectively interact with state government and establish the organization necessary to support the IT system. This bill provides additional authority and resources to enable the STO to accomplish its mandate by authorizing the STO to establish the necessary organization to integrate information technology staff and resources across the executive branch of state government.

The bill provides for the following:

- Clarifies the agency status of the STO and provides additional authority with regards to its internal operations;
- Establishes the role of the STO in the review and approval processes for planning and budgeting purposes under ch. 216, F.S. with regards to large information technology purchases;
- Expands the role, duties and activities of the STO in developing, acquiring, securing and operating information technology resources that span all executive branch agencies;
- Clarifies the role, duties and activities of state agencies in developing, acquiring, and operating agency-specific information technology resources;
- Establishes the relationship between the STO and state agencies in the transfer and consolidation of information technology resources from state agencies to the STO; and
- Provides for reporting requirements of the STO concerning high-risk information technology projects.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 35-0; House 116-0

MISCELLANEOUS

CS/SB 466 — Public Employment

by Governmental Oversight & Productivity Committee and Senators Garcia, Sanderson, Bronson, and Sebesta

This act makes significant and wide-ranging changes to the recruitment, employment, classification, retention, training, and discipline of state employees, as follows:

- **Employee Educational Benefits (effective July 1, 2001):** The act extends state employee matriculation fee vouchers and grants to community colleges and public technical centers. It also provides that the availability of vouchers and grants depends upon whether appropriations exist, rather than whether space is available.

- **Lump-Sum Bonuses and Permanent Salary Increases:** The act provides that bonuses are to be paid by agencies each June from funds appropriated by the Legislature. Each state agency is required to annually develop plans for awarding employee merit bonuses. These plans must specify criteria, including that: (a) the employee must not have had any sustained disciplinary violation during the year prior to the bonus; (b) the employee must have exceeded normal job expectations; and (c) peer input must account for at least 40 percent of the bonus award determination.

  Under the act, state agencies are permitted to retain a minimum of 20 percent of salary dollars for positions eliminated after July 1, 2001. These funds must be utilized for permanent salary increases. The joint Senate and House of Representatives Legislative Budget Commission may authorize the agency to retain an amount greater than 20 percent.

- **Leave Benefits (effective January 1, 2002):** The act provides that permanent career service employees may, subject to available funds, receive a payout of 24 hours of annual leave each December. The total payout is limited to 240 hours over the course of the employee's career with the state, including any leave received at the time of separation. Accrued leave for senior management employees may not exceed that provided for those in the selected exempt service class.

- **Administrative Training:** The act requires the Department of Management Services (DMS) to provide managerial training that includes the following topics: (a) improving the performance of individual employees; (b) improving the performance of groups of employees; (c) relating the efforts of employees to agency goals; (d) strategic planning; and (e) team leadership.

- **Broadbanding:** The act directs the DMS to develop a model civil service classification and compensation program that includes a reduced position classification system and a

pay plan that provides broad-based salary ranges. The DMS is required to submit this proposed program to the Executive Office of the Governor (EOG) and Legislature on or before December 1, 2001. The broadbanding plan will be patterned directly after one now in effect for the Florida Department of Transportation.

- **Probationary periods:** The act extends the period of probation for a newly hired career service employee from six to 12 months. Further, it extends the period of probation for an employee who violates the statutory prohibition against strikes from six to 18 months.

- **Bumping:** The act prohibits agency procedures that allow employees with more seniority to select other positions, whether vacant or filled, during layoffs, except for public safety officers, firefighters, and professional health care providers. It requires the DMS to develop rules that require consideration to be given during layoffs to comparative merit, skills, and experience.

- **Career Service Grievance and Appeal Procedures (effective July 1, 2001):** The act clarifies the career service grievance process. Under the act, a career service employee is permitted to file a grievance regarding any matter the employee believes is unjust, except for matters pertaining to discrimination, sexual harassment, suspensions, reductions in pay, and dismissals. If a grievance is properly filed, the employee is entitled to meet with his or her supervisor and with the agency head, who must file a written response to the grievance. The agency head's decision regarding a grievance is final and may not be appealed.

  Career service employees subject to a suspension, reduction in pay, demotion, or dismissal are permitted to appeal to the Public Employees Relations Commission (PERC). This appeal process is like that contained in existing law, except that: (a) PERC no longer has jurisdiction over appeals from transfers and layoffs (these matters may only be addressed by the agency head); (b) the time line for issuing a final order in a case has been shortened from 90 to 30 days; (c) the PERC may not reduce the penalty imposed by an agency head, except for public safety officers, firefighters, and professional healthcare workers if the PERC makes written findings of mitigation; and (d) the PERC must review appeals without regard to any other case or set of facts, except in appeals by public safety officers, firefighters, and professional healthcare workers.

- **Service Classes (effective July 1, 2001):** The act increases the permissible number of Senior Management Service employees from .5 percent to 1.0 percent of the total full-time equivalent (FTE) career service positions. It removes existing law's cap of 1.5 percent of the total FTE career service positions for the permissible number of Selected Exempt Service (SES) employees, and provides that some 16,000 managerial, confidential, and supervisory employees are to be moved into the SES. The act also appropriates more than $20 million to pay for the increased cost of benefits for those employees moved into the SES.

- **Transfer of PERC (effective July 1, 2001):** The act transfers the PERC to the DMS. It specifically provides that the PERC's independence in matters relating to the disposition of all cases, including career service appeals, is to be preserved.

- **Other-Personal-Services Employment; alternative benefits (effective July 1, 2001):** The act requires the EOG to approve all employment of persons in the other-personal-services (OPS) class, which exceeds 1,040 hours in any 12-month period, except for specified classes of employees.

- **Alternative Benefits (effective July 1, 2001):** The act authorizes the DMS to implement a new retirement program in lieu of Social Security coverage for OPS workers. The DMS is also authorized to contract with provider companies for the federal tax-sheltering of accrued leave payments for terminating employees similar to that in effect under the existing deferred compensation program.

- **Collective Bargaining Impasses:** The act eliminates the appointment of a special master for impasses occurring between a bargaining agent and the Governor in his capacity as a public employer. For such impasses, the parties are to proceed directly to the Legislature. Once notified of the issues that are unresolved, the presiding officers of the Legislature are to appoint a joint select committee to review the parties' positions and to recommend a resolution for all issues. The recommendation must be provided to the presiding officers no later than 10 days before the legislative session is to begin.

- **Career Service Advisory Group:** The act creates the Career Service Advisory Group, the membership of which is to consist of four members who are human resource officials for Florida-domiciled corporations with a workforce of at least 25,000. The group is to provide advice to the DMS and EOG on issues related to the implementation of this act.

The current law standard of just cause for career service employee suspension and dismissal and existing law on affirmative action in state employment were not amended by this act.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided above.
Vote: Senate 23-15; House 73-43

HB 47 — Volunteer and Community Service

by Rep. Bense and others (SB 674 by Senators Saunders and Crist)

HB 47 creates the "Florida Volunteer and Community Service Act of 2001" to authorize the Executive Office of the Governor to foster policies among state agencies which encourage citizen participation and volunteerism. The existing Florida Commission on Community Service authorized by s. 14.29, F.S., is directed to provide an assessment of volunteer activities in the

state. It and its direct support organization, "Volunteer Florida, Inc.," are charged to assist agencies in gathering the support they need to foster volunteer activities.

If approved by the Governor, these provisions are effective upon becoming a law.
Vote: Senate 33-0; House 118-0

CS/SB 1012 — Guaranteed Energy Performance Savings Contracting

by Governmental Oversight & Productivity Committee and Senator Garcia

The bill reforms several aspects of the Guaranteed Energy Performance Savings (GEPS) Contracting Act, which permits state and local government agencies to pay for energy conservation measures over a 10-year period with the savings that result from implementation of the measure.

Under the bill, the types of energy conservation measures that may be purchased are expanded to include: (a) renewable energy systems, such as solar, biomass, or wind systems; (b) devices that reduce water consumption or sewer charges; (c) storage systems, such as fuel cells and thermal storage; and (d) generating technologies, such as microturbines. Further, the term for agency payment for a conservation project is expanded from 10 to 20 years.

In order for a state agency to enter a GEPS contract, the bill requires that a GEPS contractor provide the agency with a report that summarizes the costs of the energy conservation measure and provides an estimate of the energy cost savings the measure will generate. Only if the report demonstrates that savings will exceed costs may the agency: (a) be held liable for costs associated with developing the report; and (b) enter a GEPS contract.

A GEPS contract may provide for third party, tax exempt financing, and must require that the contractor provide the agency with an annual reconciliation statement. If a shortfall occurs in the projected annual energy cost savings, the contractor is liable for that shortfall. If excess savings are realized, the GEPS contract may provide for allocation of the excess among the parties. The excess savings, however, may not be used to cover shortfalls that occur in subsequent contract years.

Lead agencies are designated to assist state agencies when executing GEPS contracts. The Office of the Comptroller is permitted to develop model GEPS contracts, and the Department of Management Services is permitted to provide technical assistance and to engage in activities that promote GEPS contracting. All state agency GEPS contracts must be approved by the Office of the Comptroller prior to execution.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 39-0; House 116-1

CS/SB 1172— Local Government Health Insurance/Prescription Drugs

by Governmental Oversight & Productivity Committee and Senators Mitchell, Latvala, Clary, and Smith

The committee substitute extends to small cities, counties, and district school boards the eligibility to participate in the state employee health insurance and prescription drug program. As a condition of participation the local governments must issue a request for proposal to determine if they can receive an equivalent offer of coverage from a local provider they find acceptable prior to entry into the state plan. If the governing authority chooses to apply for membership it must maintain that status for at least three years, provide advance notice of termination, and is barred from reapplication for two years. Applicant governments must pay a monthly enrollment fee per person covered to pay for plan administration. Participating local governments will be rated separately from the state employee members and any costs or savings will be allocated to their respective components of the total membership. A failure to remit or reimburse the state for its costs may subject the local government to the loss of non-debt service funds. An additional condition of participation requires the local governments to execute separate salary reduction agreements with their own employees if they wish to participate in the State of Florida's benefit cafeteria plan which provides pre-tax treatment of premium contributions.

CS/SB 1172 also includes a declaration of important state interest to bring the bill into compliance with s. 18, Art. VII, State Constitution, on the recognition and funding of local government mandates.

If approved by the Governor, these provisions take effect upon becoming a law and apply to local governments for the insurance plan year beginning January 1, 2003.
Vote: Senate 37-0; House 117-0

CS/HB 501 — Boards, Councils, and Commissions

by Smarter Government Council and Reps. Brummer and Cantens (CS/SB 1410 by Governmental Oversight & Productivity Committee and Senator Posey)

The 1999 Legislature required each department of the executive branch to survey the boards, councils, committees, and commissions ("boards") under its jurisdiction, and for this information to be provided to the Department of Management Services. Each agency was asked to identify the entities under its jurisdiction that had been created pursuant to federal or state statute, Executive Order of the Governor, or administrative directive by the agency or department head; to provide the number of members, the entity's public purpose, the duties of the entity, and the type of entity (regulatory, advisory, constituency, policy, or other); to identify the appropriations for the entity, the staffing, and the accomplishments of the entity; and, to make recommendations regarding whether to abolish, revise, or continue the entity. This information was compiled by the department in a report entitled the "Boards and Commissions Review," January 2000. A number of entities were repealed in the 2000 Legislative Session. This committee substitute

abolishes many additional entities recommended for abolishment by the agencies as included in the above report. Approximately three dozen entities were abolished by the bill.

If approved by the Governor, these provisions take effect June 30, 2001.
Vote: Senate 34-1; House 96-18

SB 1738 — Information Technology

By Senator Bronson

This act is a comprehensive information technology package that contains substance from CS/SB 1560 by the Natural Resources Committee and Senator Peaden and others, HB 1945 by the State Administration Committee and Rep. Brummer, CS/SB 876 by the Governmental Oversight & Productivity Committee and Senator Garcia, and CS/SB 2210 by the Regulated Industries Committee and Senator Campbell and others.

The act creates the Internet Publication Pilot Project. Under this 18-month project, the Department of Environmental Protection (DEP) and the State Technology Office (STO) are directed to publish any DEP notice, normally required by ch. 120, F.S. to be published in the Florida Administrative Weekly (FAW), on the Internet at the DEP's website. The FAW must contain a notice that states the DEP website address, and that all DEP notices may be found at the DEP's website. All notices published on the DEP website must be archived in a searchable Internet database. The DEP is required to report to the Governor and the Legislature on the cost-effectiveness of the pilot project by December 31, 2002.

The act modifies the competitive bid process for state agencies, as set forth in ch. 287, F.S., by creating two new methods for agency procurement: (1) an invitation to negotiate; and (2) a request for quote. An "invitation to negotiate" is defined as a written solicitation that calls for responses to select one or more entities with which to commence negotiations for the procurement of commodities or contractual services. An "invitation to negotiate" may only be used if an agency determines that the use of an invitation to bid or a request for proposal will not result in the best value to the state based on factors, including, but not limited to, price, quality, design, and workmanship. A "request for quote" is defined as a solicitation that calls for pricing information for purposes of competitively selecting and procuring commodities and contractual service from qualified or registered vendors that are under contract with the Department of Management Services (DMS). The act also adds that a protest to the terms, conditions, and specifications of a request for a proposal, request for a quote, invitation to bid, or invitation to negotiate, or to the modification of any contract must be filed within 72 hours after notice provided pursuant to ch. 120, F.S.

The act requires the DMS, in consultation with the STO, to prescribe procedures for procuring information technology and for negotiating information technology contracts. It requires the STO, in consultation with the DMS, to assess the technological needs of agencies, to evaluate

contracts related thereto, and to determine whether to enter into a written agreement with the letting federal, state, or political subdivision body to provide information technology for a particular agency. It authorizes the STO to enter into joint purchasing agreements for information technology. It permits the STO to collect fees for the use of an on-line procurement system. Fees that are collected are to be used to cover the projected costs of the system. Furthermore, it permits the STO to create strategic information technology alliances for the acquisition and use of information technology.

The act transfers the responsibilities for the "One-Stop Permitting System" from the DMS to the STO. It provides that existing law's 60-day time frame for approving or denying Internet permit applications does not apply to applications evaluated under a federally delegated or approved permitting system. It deletes existing law that requires agencies to waive permit fees during the first six months in which online permit applications are received.

Finally, the act provides that the Department of Business and Professional Regulation is solely responsible for the contents of all initial and renewal licensure documents. It specifies the types of information that must be required in such documents, and provides that documents may be submitted by electronic means.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 96-19

SB 1986 — Group Insurance for Public Employees

by Senator Sanderson

Senate Bill 1986 amends s. 112.08, F.S., to permit local governments to directly negotiate for replacement insurance coverage for their employees, in lieu of issuance of an advertisement for competitive bids, when faced with the financial impairment of their current carrier which could interrupt employee coverage.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 32-0; House 117-0

AGING AND LONG-TERM CARE

CS/CS/CS/SB 1202 — Long-Term Care

by Appropriations Committee; Judiciary Committee; Health, Aging Long-Term Care Committee; and Senators Brown-Waite and Holzendorf

The bill modifies regulatory provisions and standards for long-term care facilities (nursing homes and assisted living facilities) regulated under parts II and III of ch. 400, F.S.; makes changes to provisions regarding civil actions to enforce nursing home and assisted living facility residents' rights and to seek damages in negligence actions; revises qualifications for certified nursing assistants; modifies provisions related to reimbursement of nursing homes; and provides appropriations.

Licensure Provisions

The bill defines "controlling interest" and "voluntary board member" as applied to nursing home licensure applicants or nursing home licensees; to require an applicant for licensure to provide identifying information for any controlling interest. A subsection is added requiring a signed affidavit disclosing any financial or ownership interest held by specified individuals in the last 5 years in an entity in this or any other state which has closed voluntarily or involuntarily; has filed for bankruptcy; has had a receiver appointed; has had a license denied, suspended or revoked; or has had an injunction issued against it which was initiated by a regulatory agency. The affidavit must disclose the reason any such entity was closed, whether voluntarily or involuntarily. The agency is required to establish standards for reporting this information.

The agency is authorized to issue an inactive license to a nursing home temporarily unable to provide services, which is reasonably expected to resume services. A nursing home seeking an inactive license must obtain agency approval prior to suspending services or notifying residents of the need to be transferred or discharged. Facilities must establish and submit plans for quality assurance and risk management with applications for licensure.

Licensure fees for nursing homes are raised from a maximum of $35 per bed to $50 per bed, which can be adjusted annually based on the Consumer Price Index. The bill revises the minimum deposit amount from $500,000 to $1 million in the Resident Protection Trust Fund and provides for rate adjustments when funds are below that level to bring up the balance in the trust fund. It also revises the balance in the trust fund from $500,000 to $1 million for which the increased rates must revert back to the minimum rate per bed. Additionally, the bill revises the threshold amount from $800,000 to $2 million for reversions to the Health Care Trust Fund. The bill revises the licensure fee structure for assisted living facilities, including fees for a standard license, a license for extended congregate care services, and a license for limited nursing

services. Optional state supplementation beds are exempted from licensure fees. Each per bed licensure fee and the minimum and maximum limits must be adjusted annually for inflation.

Electronic Monitoring of Residents

The bill requires the Agency for Health Care Administration and the Attorney General to jointly study the potential use of electronic monitoring devices in nursing home facilities. The bill delineates areas to be studied, including the impact of such devices on the privacy and dignity of the resident on whose behalf the device is installed and on other residents who may be affected, the effects of such devices on staff, the impact on the care environment, and the use of the tapes in litigation. A report to the Governor and the Legislature is required by January 1, 2002.

Staffing Ratios in Nursing Homes

The bill requires 2.3 hours of direct care per resident per day by certified nursing assistants beginning January 1, 2002, increasing to 2.6 hours beginning January 1, 2003, and up to 2.9 hours beginning January 1, 2004, with a minimum, at all times, of one CNA per 20 residents. The bill requires 1 hour of direct care per resident per day by licensed nurses, with a minimum, at all times, of one licensed nurse per 40 residents. The bill requires nursing homes to report, at least twice a year, information regarding staff-to-resident ratios, staff turnover, staff stability and vacant beds. The bill requires a nursing home to cease admissions when staffing is below minimums. Failure to self-impose a moratorium constitutes a class II deficiency.

Training

Training of certified nursing assistants in nursing homes must include training on resident feeding, nutrition and hydration, cognitively impaired residents, end-of-life care techniques and pressure ulcers and falls. Costs associated with this training may not be reimbursed from additional Medicaid funding through interim rate adjustments. Certification as a nursing assistant continues in effect unless the nursing assistant has not performed any nursing-related services for compensation for a period of 24 months. If certification lapses, the nursing assistant must complete a new training and/or competency evaluation. The bill adds a requirement for 18 hours of continuing education per year for certified nursing assistants.

Increased Authority of the Agency for Health Care Administration to Enforce Quality Requirements

Facility monitoring is increased to require a quarterly visit to each nursing home by a quality-of-care monitor with priority for additional visits being given to problem facilities. Biennial unannounced onsite reviews are required in facilities that have been cited for serious violations or multiple violations and such facilities must pay additional fines to cover the cost of these reviews. A registered nurse or other appropriate designee of the agency is to visit assisted living facilities that have an extended congregate care license at least quarterly (instead of twice

a year) and each assisted living facility with a limited nursing license at least twice a year (instead of once a year) to monitor resident care.

The bill requires nursing home licensure applicants to submit information about controlling interests and management companies and authorizes the agency to deny licensure if the information about controlling interests indicates certain problems. The bill requires nursing home licensure renewal applicants to submit information about facility closures, bankruptcy, receivership, negative licensure action, or injunctions initiated by a regulatory agency; and prohibits the agency from renewing a license if the applicant has failed to pay fines assessed by final order. The bill authorizes the agency to deny, revoke, or suspend a nursing home license for a demonstrated pattern of deficient practice, for failure to pay outstanding fines, for exclusion from the Medicare or Medicaid program, or for an adverse action by a regulatory agency against any controlling interest or other facility with a common controlling interest. The bill provides that administrative proceedings challenging agency licensure enforcement actions must be reviewed on the basis of facts and conditions that resulted in the agency action. The agency is to revoke or deny a nursing home license if the licensee operates a facility that has had two moratoria imposed for quality-of-care problems within a 30 month period; is conditionally licensed for 180 or more continuous days; is cited for two unrelated class I deficiencies in a survey, or has two class I deficiencies on separate surveys in a 30 month period.

The minimum dollar amount of fines for deficiencies in nursing homes and assisted living facilities is increased and fines are required to be imposed against facilities for deficiencies. The agency is to deny nursing home license renewals where the applicant has failed to pay prior agency or HCFA fines. Falsification of records is added as a basis for agency action against a nursing home license; falsification of records is made a second degree misdemeanor. Falsification of records in an assisted living facility is made a second degree misdemeanor and conviction is grounds for agency action against the license.

The bill increases the penalty for operation of an unlicensed assisted living facility from $500 to $1,000 per day for each day beyond five days after agency notification. If the unlicensed facility is operated by a person who concurrently operates a licensed facility, the fine is increased from $500 per day to $5,000 per day. The bill provides for a mandatory $5,000 fine for owners who fail to apply for a change-of-ownership license. Minimum notice for relocation of a resident is increased from 30 to 45 days.

The bill provides a statutory basis for the agency's existing watch list of facilities that meet the criteria for a conditional licensure status or are operating under bankruptcy protection and requires nursing homes to post the watch list.

When a facility has been cited for a class I deficiency, cited for 2 or more class II deficiencies in a 60 day period, or has had 3 or more substantiated complaints in a 6 month period which resulted in a class I or II deficiency, the agency must increase survey frequency to every 6 months for a 2 year period. The agency is to assess an additional $6,000 fine, which may be adjusted by the Consumer Price Index, for each facility subject to the 6-month survey cycle.

Newly hired facility surveyors must complete training and educational requirements as specified. A surveyor may not survey a home where he or she had been employed within the preceding five years. Joint training with surveyors and facility staff is required on a semiannual basis. A physician or nurse with geriatric experience must participate in any necessary informal dispute resolution with a nursing home.

Nursing Home Administration

Every nursing home must have a grievance procedure available to its residents and their families. Nursing homes and assisted living facilities are required to notify a licensed physician when a resident exhibits signs of dementia or cognitive impairment or has a change of condition. The physician must be notified within 30 days of acknowledgement of signs by facility staff. The facility is required to arrange for necessary care and services to treat any underlying condition. If a nursing home implements a dining and hospitality attendant program, it must be developed and implemented under the supervision of the facility director of nursing; a licensed nurse, licensed speech or occupational therapist, or dietitian must conduct the training of the attendants; and a person employed in this program must perform tasks under the direct supervision of a licensed nurse.

Each nursing facility is required to report to the agency, within 30 days, any filing for bankruptcy protection by the facility or a parent corporation, spin-off or divestiture of assets, and corporate reorganization. Each facility is required to maintain liability insurance coverage that is in force at all times. The agency is prohibited from taking any administrative action to enforce liability insurance requirements until after January 1, 2002.

Nursing homes are to maintain a daily chart of certified nursing assistant services provided, including assistance with activities of daily living and offers of nutrition and hydration. Charting must be completed by the end of each shift. Nursing assistants must receive annual performance reviews. Nursing homes may employ on a short-term basis, nursing assistants who have not completed minimum requirements as specified.

Nursing homes are allowed to require volunteers to sign in and out, wear identification badges, and participate in an orientation and training program.

Nursing homes are required to post a copy of the most recent "Nursing Home Guide Watch List."

The bill requires training of staff in nursing home facilities that provide care for residents with Alzheimer's disease. The training is to be approved by the Department of Elderly Affairs.

Internal Risk Management and Quality Assurance

The bill requires nursing homes to have an internal risk management and quality assurance program and report adverse incidents to the agency. Each nursing facility must have an internal risk-management and quality-assurance committee and must provide training to staff on how to reduce the risk of adverse incidents to residents. Assisted living facilities may establish a voluntary risk management program, but must report adverse incidents. Nursing homes and assisted living facilities must submit, as a condition of licensure, a plan for quality assurance and risk management. Each nursing home and assisted living facility must report monthly to the agency any liability claim filed against it. The agency is required to annually report specified information about adverse incidents in nursing homes and assisted living facilities.

Medicaid "Up-or-Out" Pilot Project

The bill requires the agency to develop a pilot project to manage the medical and supportive care needs of residents in nursing homes in selected counties. The project is to ensure the quality of care of residents by placing skilled and trained medical personnel in highest scoring nursing homes in the Florida Nursing Home Guide, subject to an appropriation. The project is to be modeled after Medicare-approved demonstration projects. The agency is required to report to the Legislature and Governor and assess the program and submit a proposal for expansion to additional facilities. The bill specifies several criteria for the project. The agency is authorized to provide this service through contract.

Reimbursement

The bill authorizes re-basing of both the direct and indirect patient care components of the Medicaid reimbursement rate for nursing homes and prohibits change of ownership rate increases. The bill provides that nursing homes filing for a change of ownership on or after September 1, 2001, will not be eligible for step-up increases in Medicaid rates associated with the change of ownership. The amendment allows nursing homes to include the costs of contracted nursing services as a part of the direct care subcomponent of patient care.

The agency is authorized to request and implement Medicaid waivers from the federal Health Care Financing Administration to treat a portion of the Medicaid nursing home per diem as capital for creating and operating a risk-retention group for self-insurance purposes, consistent with federal and state laws and rules.

The agency is required to develop a standardized chart of accounts for nursing home cost reports. The Auditor General is to approve this chart of accounts. The chart of accounts may not be revised without consent of the Auditor General. Nursing home cost reports must contain detailed information on salaries, benefits, overtime costs, and hours for direct care staff.

Nursing home cost reports filed with AHCA for periods ending on or after December 31, 2003, must be filed electronically in a format and manner prescribed by AHCA.

Alternatives to Nursing Homes

The bill places a moratorium on the issuance of additional Certificates of Need for nursing home construction, stating that it is the intent of the Legislature to limit the increase in Medicaid nursing home expenditures to invest these funds in community-based care, which is more effective and in keeping with the wishes of the elderly residents or this state. Sheltered beds in continuing care retirement communities are excluded from the moratorium.

When a receiver is appointed for a nursing home, each resident must be assessed by the Comprehensive Assessment and Review for Long-Term-Care program to evaluate each resident's need for nursing home care. Residents who could be served in less restricted settings are to be referred for such care and shall be given priority for Community Care For the Elderly Services.

Department of Elderly Affairs

The Department of Elderly Affairs, in consultation with the Agency for Health Care Administration and the Department of Community Affairs is required to adopt rules regarding the components of a comprehensive emergency management plan for adult day care centers. The office of the State Long-Term Care Ombudsman is to be responsible for the cost of leasing its own office space, but shall not be co-located with the headquarters office of the Department of Elderly Affairs.

Civil Litigation

The bill substantially revises the statutes providing for civil enforcement of violations of long-term care residents' rights and negligent acts for causes of action arising after May 15, 2001. For actions alleging a violation of resident rights or negligence causing the death of a resident, the claimant must elect either survival damages pursuant to s. 46.021, F.S., or wrongful death damages pursuant to s. 768.21, F.S. For actions alleging a violation of resident rights or negligence not resulting in a resident's death, damages for negligence may be recovered. A resident who prevails in seeking injunctive or administrative relief is entitled to recover costs, and attorney's fees up to $25,000. Attorney's fees are not recoverable for claims, or portions of claims, involving personal injury or death.

Chapter 400, F.S., provides the exclusive remedy for recovery of damages for personal injury or death of a long-term care resident due to negligence or a violation of resident rights. In accordance with this exclusivity, a conforming change is made to s. 415.1111, F.S., which provides a civil action for the abuse of a vulnerable adult. Actions not based upon negligence or a violation of resident rights are not precluded, except that no medical malpractice actions may be brought under ch. 400, F.S.

A claimant is required to prove that a defendant owed a duty to the resident, the duty was breached by the defendant, the breach of that duty was a legal cause of injury, and damages resulted therefrom. The defendant has a duty to exercise reasonable care, and a nurse has a duty to exercise care consistent with the prevailing professional standard. A violation of any resident rights or standards is evidence of negligence, but not negligence per se or strict liability. Copies of complaints filed with court clerks under ch. 400, F.S., must be submitted to the Agency for Health Care Administration.

The bill provides for presuit: notice of an asserted violation of a resident's rights or deviation from the standard of care; evaluation of the claim during a 75-day waiting period before a suit may be filed; informal discovery; and mediation requirements. Unsworn statements and other informal discovery material generated by this presuit process are not discoverable or admissible in any civil action. Failure to furnish complete copies of resident records in the custody of the long-term care facility is evidence of a failure to comply with good faith discovery requirements.

Actions for damages must be commenced within two years from the time the incident occurred, is discovered or should have been discovered, up to four years from the date of the incident. In the event of fraudulent concealment or intentional misrepresentation, an additional two years to file suit is available, up to six years from the date of the incident.

To recover punitive damages there must be clear and convincing evidence that a defendant was personally guilty of intentional misconduct or gross negligence. An employer will be responsible for punitive damages resulting from an employee's conduct only if the employer: knowingly participated in such conduct; condoned, ratified, or consented to the employee's conduct; or the employer's gross negligence contributed to the resident's injury. Punitive damages are generally limited to the greater of three times compensatory damages or $1,000,000. If the defendant's conduct was motivated primarily by unreasonable financial gain and the unreasonably dangerous conduct and high likelihood of injury was actually known by the person responsible for facility policy decisions, punitive damages are limited to the greater of four times compensatory damages or $4,000,000. If the defendant had a specific intent to harm the claimant there is no cap on punitive damages. Attorney's fees are to be calculated based on the final judgment including any punitive damages. Any jury involved may not be informed of the limitations on punitive damages. Punitive damages awarded must be equally divided between the claimant and the Quality of Long-Term Care Facility Improvement Trust Fund. In any case where punitive damages are awarded under ch. 400, F.S., the clerk of the court must refer the case to the appropriate law enforcement authorities for the initiation of a criminal investigation.

Appropriations

The Agency for Health Care Administration is appropriated $5,035,636 from the General Revenue Fund, $3,428,975 from the Health Care Trust Fund, and $6,710,164 from the Medical Care Trust Fund and 79 positions.

The Department of Elderly Affairs is appropriated $100,000.

The Long-Term Care Ombudsman is appropriated $948,782.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided.
Vote: Senate 38-0; House 109-8

HB 1003 – Nursing Home Vaccinations

by Rep. Paul and others (CS/SB 634 by Appropriations Committee; Senators Clary and Cowin)

This bill provides that all residents of nursing homes who consent shall be given an influenza vaccination each year by November 30 or within 5 working days of admission if the resident is admitted after November 30 but before March 31, subject to exemptions for medical contraindications, religious or personal beliefs, documentation of previous vaccination, and availability of an adequate supply of vaccine. Each nursing home must assess all its residents for eligibility for pnuemococcal polysaccharide vaccination (PPV) within 60 days after the effective date of this act and vaccinate residents when indicated, subject to exemptions for medical contraindications, religious or personal beliefs, and documentation of previous vaccination. Residents admitted after the effective date of this act shall be assessed within 5 working days of admission, and vaccinated where indicated within 60 days of assessment. A resident may receive the flu or PPV immunization from his or her personal physician. Nursing homes are also required to encourage and promote influenza vaccination to their employees annually. The Agency for Health Care Administration may adopt and enforce rules necessary to comply with or implement the provisions of the bill.

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

HEALTH CARE REGULATION

HB 69 — Pharmacy/Generic and Brand-Name Drugs

by Reps. Argenziano, Fasano, and others (SB 342 by Senators Clary, Latvala, Klein, Silver, Lee, Dyer, Brown-Waite, Geller, Campbell, Rossin, Smith, Diaz de la Portilla, and Crist)

The bill requires the Board of Pharmacy and the Board of Medicine to remove from the negative drug formulary any generic drug for which all commercially marketed equivalents of that drug product are "A" rated as therapeutically equivalent to a reference listed drug or is a reference listed drug in the *Orange Book* published by the United States Food and Drug Administration. The practical effect of this bill is to allow pharmacists to dispense a generic form of the particular drug instead of the brand-name version. According to the staff with the Board of

Pharmacy, the bill would require 4 drugs (digoxin, warfarin, quinidine gluconate, and phenytoin) to be taken off the negative drug formulary. The bill specifies that it does not alter or amend existing law authorizing a physician to prohibit generic drug substitution by writing "medically necessary" on the prescription.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 30-9; House 106-12

HB 401 — Pubic Records Exemption/Health Care Provider Information for Antitrust Review

by State Administration Committee and Rep. Brummer (SB 414 by Health, Aging & Long-Term Care Committee)

This bill reenacts s. 408.185, F. S., without substantive changes, in accordance with a review pursuant to the Open Government Sunset Review Act of 1995. Section 408.185, F.S., makes trade secrets and other confidential proprietary business information held by the Office of the Attorney General, which is submitted by a member of the health care community pursuant to a request for an antitrust no-action letter, confidential and exempt from the Public Records Law for one year after the date of submission. This section of law is subject to the Open Government Sunset Review Act of 1995, and expires on October 2, 2001, unless reviewed and saved from repeal by reenactment of the Legislature.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 39-0; House 116-1

SB 654 — Pharmacy/Licensure by Endorsement

by Senators Saunders, Latvala, Miller, Pruitt, Dyer, Peaden, Brown-Waite, and Klein

The bill creates s. 465.0075, F.S., providing licensure by endorsement requirements for a pharmacist who is licensed in another jurisdiction who has met certain other requirements to practice pharmacy in Florida. The bill requires the Florida Board of Pharmacy to certify that licensure by endorsement applicants have met the specified requirements. Under s. 465.0075, F.S., the Department of Health must issue a license to practice pharmacy by endorsement, to any applicant who has submitted a non-refundable application fee no greater than $100, and who the Board of Pharmacy certifies has met the following licensure by examination requirements specified in s. 465.007(1)(b) and (c), F.S.: has attained 18 years of age; has received a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education or has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States and has demonstrated proficiency in English by passing both the Test of English as a Foreign Language

and the Test of Spoken English; and has completed an internship program approved by the board. In addition, a graduate of a foreign school or college of pharmacy must have completed a minimum of 500 hours of supervised work in Florida under a licensed pharmacist and have passed the board-approved Foreign Pharmacy Graduate Equivalency Examination.

The opportunity to obtain licensure by endorsement is limited to a pharmacist who has actively practiced as a pharmacist in another jurisdiction for at least 2 of the preceding 5 years before application to practice in Florida, has successfully completed a board-approved postgraduate training or board-approved clinical competency examination within the year before application, or has completed an internship meeting existing statutory internship requirements within the 2 years immediately preceding application. The applicant must obtain a passing score on the pharmacy jurisprudence portions of the licensure examination and must document completion of 30 hours of board-approved continuing education in the 2 years preceding application. The bill requires the Board of Pharmacy to certify that the licensure by endorsement applicant has obtained a passing score on the licensure examination of the National Association of Boards of Pharmacy (NABPLEX) or a similar national organization not more than 12 years prior to applying for a license by endorsement in Florida. The bill prohibits the Department of Health from issuing a license to any applicant who is being investigated for acts that would violate regulations applicable to Florida-licensed pharmacists until the investigation is complete, or to any pharmacist whose license has been suspended or revoked in another state, or to any applicant whose license to practice pharmacy is currently the subject of any disciplinary proceeding.

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

SB 666 — Physician Assistants

by Senator Sullivan

The bill authorizes physician assistants to dispense drug samples to patients within the regular course of the physician assistant's practice. The bill revises requirements for physician assistants to prescribe only medications listed on a formulary developed by a statutorily created committee. In lieu of the requirements for physician assistants to prescribe from that formulary, the bill authorizes the Council on Physician Assistants to establish a "negative" formulary, i.e., a formulary of medicinal drugs that a fully licensed physician assistant may not prescribe.

The "negative" formulary created by the bill must include controlled substances as defined in ch. 893, F.S., antipsychotics, general anesthetics and radiographic contrast materials, and all parenteral preparations except insulin and epinephrine. The bill requires the Council on Physician Assistants to consult with a Florida-licensed pharmacist who is not also licensed as a medical physician or osteopathic physician and who must be selected by the Secretary of the Department of Health. The Council on Physician Assistants is the only entity authorized to add to, delete from, or modify the "negative" formulary.

The Board of Medicine and the Board of Osteopathic Medicine must adopt, by administrative rule, the "negative" formulary of medicinal drugs that a fully licensed physician assistant may not prescribe. The "negative" formulary must be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the "negative" formulary, the Department of Health must mail a copy of the formulary to each fully licensed physician assistant and to each pharmacy licensed by the state.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 38-0; House 118-0

CS/SB 962 — Orthotics, Prosthetics, and Pedorthics

by Health, Aging & Long-Term Care Committee and Senator Diaz de la Portilla

This bill revises grandfathering provisions in s. 468.805(3), F.S., to extend the deadline from July 1, 2002, to July 1, 2003, to allow certain applicants for licensure as an orthotist, a prosthetist, a prosthetist-orthotist, or a pedorthist who have not received certification from a certifying body which requires successful completion of an examination before March 1, 1998, to waive the education requirements for licensure and to sit for the state licensure examination until July 1, 2003. The bill provides the Board of Orthotists and Prosthetists may not limit the number of times that an applicant may sit for the examination. An applicant has until July 1, 2003, to complete the examination process. To conform, the repeal date of s. 468.805, F.S., is extended from July 1, 2002, to July 1, 2003.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 31-0; House 116-0

CS/SB 1128 — Access to Medical Treatment Act

by Health, Aging & Long-Term Care Committee and Senator Latvala

The bill creates the "Access to Medical Treatment Act" to allow an allopathic or osteopathic physician to treat an individual for a life-threatening illness, disease, or condition by means of an investigational medical treatment subject to the individual's or the individual's legal representative's authorization, provided the following steps are followed:

- The physician examines the individual;
- There is no reasonable basis on which to conclude that the treatment itself when used as directed, poses an unreasonable and significant risk of danger to the individual;

- The physician provides an oral explanation and a written statement disclosing the facts regarding the nature of the treatment, that the treatment is experimental and not approved by the FDA for such indication, any available alternative treatments, and the risks of side effects which are generally recognized by reasonably prudent physicians.

- The individual acknowledges, in writing, receipt of such oral explanation and written statement.

If these steps are followed, the physician's investigational treatment cannot constitute *unprofessional conduct* by the physician on that basis alone. The bill provides that this provision is not intended to modify or change the scope of practice of any licensees of the Department of Health or alter in any way the provisions of individual practice acts, including the standard of care within the respective physician's practice act and the prohibition against fraud and exploitation.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 36-0; House 118-0

SB 1324 — Health Care/Alternative Treatment

by Senators Peaden, Brown-Waite, Clary, and Klein

This bill authorizes licensed health care practitioners to provide complementary or alternative health care treatment as an option to conventional treatment. Legislative intent is provided that citizens should be able to make informed choices for any type of health care they deem to be an effective option, to include prevailing or conventional treatment methods as well as complementary or substitute methods. The Legislature intends that health care practitioners be able to offer complementary or alternative treatments with the same professional practice requirements as those of prevailing or conventional methods. The bill defines complementary or alternative health care treatment as any treatment in addition to or in place of prevailing or conventional treatment methods. Explicit documentation of informed consent communication with the patient is required, including communicating the benefits and risks associated with the complementary or alternative treatment sufficient for the patient to make an informed and prudent decision. The health care practitioner may recommend any mode of treatment that in the practitioner's judgment is in the best interests of the patient, including complementary or alternative methods. The bill specifies that it does not modify or change the scope of practice of any Florida health care practitioner or the provisions of the individual practice acts, which require licensees to practice within their respective standards of care and ethics. Finally, the bill revises the Florida Patient's Bill of Rights and Responsibilities to include the right to access complementary or alternative health care.

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

CS/SB 1558 — Health Care

by Health, Aging & Long-Term Care Committee and Senator Saunders

Reducing Medical Errors

The bill: exempts licensed health care practitioners in hospitals and ambulatory surgical centers from the required annual 1 hour of risk management and risk prevention education, but requires all health care practitioners to complete a 2-hour Department of Health or board-approved course relating to the prevention of medical errors as part of licensure; requires risk management programs in hospitals and ambulatory surgical centers to implement measures to minimize surgical mistakes; requires the Agency for Health Care Administration to publish certain information relating to adverse incidents on its website; requires the Department of Health to maintain a website that contains copies of the boards' newsletters, information relating to adverse incident reports without identifying the patient, practitioner, or facility in which the adverse incident occurred until 10 days after probable cause is found, and information about error prevention and safety strategies; requires risk managers to report every allegation of sexual misconduct by a licensed health care practitioner to the Department of Health; creates a privilege against civil liability for any licensed risk manager or facility with regard to information furnished under ch. 395, F.S., unless it involved bad faith or malice; makes it unlawful to interfere with a risk manager in the performance of his or her reporting obligations; revises the composition of the Health Care Risk Manager Advisory Council; specifies additional grounds for discipline related to medical errors and penalties for licensed health care practitioners; requires the Department of Health to notify the patient named in a complaint regarding the status of disciplinary investigations and authorizes the complainant to receive the department's expert report; specifies additional disciplinary violations which boards may subject to resolution by the issuance of a citation; provides for emergency suspension of a health care licensee for fraud; and makes nursing home administrators subject to discipline for failing to implement an ongoing quality-assurance program.

Medical Quality Assurance Trust Fund

The bill contains numerous provisions designed to improve the efficiency of health care practitioner regulation and to enable the Department of Health to adequately fund its Medical Quality Assurance function. The bill specifies legislative intent that the Medical Quality Assurance Trust Fund (MQATF) should be administered in a fiscally responsible manner. The Auditor General is required to complete a follow-up audit of the MQATF and to issue a report to the Legislature by January 31, 2002. The Office of Program Policy Analysis and Government Accountability must complete a study on the feasibility of maintaining the Medical Quality Assurance function within a single department and to issue a report to the Legislature by November 30, 2001. The Department of Health and the Agency for Health Care Administration must review all statutorily imposed reporting requirements and recommend changes to streamline reporting requirements.

The Department of Health must reimburse the Agency for Health Care Administration for the agency's actual direct costs and the agency's indirect costs incurred as a result of the contract between both agencies, subject to appropriated funds. The Agency for Health Care Administration must provide the Department of Health with documentation, explanation, and justification of all direct and indirect costs incurred, by budget entity.

The Department of Health's rulemaking authority for professions it regulates is expanded to specify the expiration dates of licenses and the process for tracking compliance with continuing education requirements, financial responsibility requirements, and any other conditions of renewal established in statute or in rule. Examination fees must include all costs to develop, validate, administer, and defend the examination and the examination fee is defined as an amount certain to cover all administrative costs plus the actual per-applicant cost of the examination. The department must electronically provide the scores of state-developed examinations to licensure candidates and post aggregate scores on the department's website without identifying the names of the candidates. The department or the appropriate board must approve and begin administering a national examination no later than December 31, 2001. Section 458.31151, F.S., which provided limits on fees for a special examination for foreign licensed physicians, is repealed.

Only candidates who fail an examination by less than ten percent are entitled to challenge the validity of the examination at an administrative hearing. Examination applicants using an examination in a language other than English must pay the full cost of the examination prior to the examination being administered. The department may implement electronic administration of examinations if adequate security measures are used.

The manner in which the Department of Health and boards set licensure renewal fees is revised to require the consideration of specified criteria. The department must charge an initial license fee as determined by the applicable board and must provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession on or before October 1 of each year. The board chairpersons must meet annually to review the department's long-range plan and proposed fee schedules and make recommendations for statutory changes. If the cash balance of the trust fund at the end of any fiscal year exceeds the total appropriation for regulation of the health care professions in the prior fiscal year, the boards, in consultation with the department may lower the fees. Unless otherwise approved in advance by the director of the Division of Medical Quality Assurance, board meetings must be conducted through teleconferencing or other technological means with specified exceptions. Each board's option to earmark $5 of the current licensure fee for unlicensed activity, if the board or profession is not in a deficit and has a reasonable cash balance, is deleted.

The department, if there is no board, must set a fee not to exceed $250, for approval of continuing education providers and a biennial renewal fee. The use of continuing education fees is specified and the department must implement an electronic continuing education tracking system, for which electronic renewals are implemented. Continuing education providers must provide information on course attendance to the department.

The disciplinary penalties and procedures for health care practitioners are revised and streamlined and made more uniform. A six year statute of limitation is imposed on the filing of a disciplinary complaint against a licensed health care practitioner with specified exceptions. The statute of limitation does not apply to bar the initiation of an investigation or filing of an administrative complaint beyond the six year timeframe if the incident or occurrence involved criminal actions, diversion of controlled substances, sexual misconduct, or impairment by the licensee. In cases in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented discovery of the violation of law, the period of limitations is extended forward, but may not exceed 12 years after the time of the incident or occurrence. The department, in consultation with the applicable board, must establish a plan to expedite rather than reduce any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after filing of the complaint. A specific finding of aggravating or mitigating circumstances must be in final order to allow the department or applicable board to impose a disciplinary penalty other than that provided for in disciplinary guidelines. In addition to any other discipline imposed for a violation of any practice act, the board or department when there is no board must assess costs related to the investigation and prosecution of the disciplinary case.

Authority of Department of Health and Boards

The boards or the Department of Health are authorized to temporarily or permanently appoint a person or entity as a custodian of medical records in the event of the death of a practitioner, the mental or physical incapacitation of the practitioner, or the abandonment of medical records by a practitioner. The appointed custodian must comply with all requirements for the maintenance and release of the medical records. Unless expressly and specifically granted in statute, the duties conferred on the boards do not include the enlargement, modification, or contravention of the lawful scope of the profession regulated by the boards.

Credentialing System for Health Care Practitioners

The bill revises the Department of Health's credentialing program for health care practitioners to provide intent that the department and all entities and practitioners work cooperatively to ensure the integrity and accuracy of the program and to revise definitions. The bill provides that healthcare entities and credentials verification organizations may rely upon any data that has been primary-source verified by the department or its designee to meet primary-source verification requirements of national accrediting organizations.

Medical and Osteopathic Physicians

The bill revises procedures for persons obtaining a temporary certificate to practice medicine in an underserved area to require the Board of Medicine or the Board of Osteopathic Medicine to review the application and issue a temporary certificate or notify the applicant of denial within 60 days after the receipt of the application.

Medical School Eligibility

The bill creates s. 458.3147, F.S., to allow certain Florida residents who are students at or graduates of the United States military academies and who have command approval to apply to medical school prior to assignment to the medical corps of the United States military to be admitted to any medical school in the State University System. Each medical school in the State University System must admit two such applicants each academic year.

Physician Assistants

Effective October 1, 2001, physician assistants may dispense drug samples to patients within the regular course of the physician assistant's practice. The bill revises requirements for physician assistants to prescribe only medications listed on a formulary developed by a statutorily created committee. In lieu of the requirements for physician assistants to prescribe from that formulary, the bill authorizes the Council on Physician Assistants to establish a "negative" formulary, i.e., a formulary of medicinal drugs that a fully licensed physician assistant may not prescribe.

The "negative" formulary created by the bill must include controlled substances as defined in ch. 893, F.S., antipsychotics, general anesthetics and radiographic contrast materials, and all parenteral preparations except insulin and epinephrine. The bill requires the Council on Physician Assistants to consult with a Florida-licensed pharmacist who is not also licensed as a medical physician or osteopathic physician and who must be selected by the Secretary of the Department of Health. The Council on Physician Assistants is the only entity authorized to add to, delete from, or modify the "negative" formulary.

The Board of Medicine and the Board of Osteopathic Medicine must adopt, by administrative rule, the "negative" formulary of medicinal drugs that a fully licensed physician assistant may not prescribe. The "negative" formulary must be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the "negative" formulary, the Department of Health must mail a copy of the formulary to each fully licensed physician assistant and to each pharmacy licensed by the state.

Pharmacy

Institutional pharmacies or pharmacies with special permits that employ or utilize pharmacy technicians are required to have a written policy and procedures manual specifying those duties, tasks, and functions that a pharmacy technician is allowed to perform. The bill amends s. 499.012, F.S., relating to wholesale drug distribution, to revise one of the conditions under which a retail pharmacy may engage in wholesale distribution, to include certain transfers between a modified class II institutional pharmacy and another retail pharmacy or a health care practitioner licensed in Florida and authorized to dispense or prescribe drugs.

Nursing

The bill amends requirements for the Nursing Student Loan Forgiveness Program to include public schools as employing institutions whose nurse employees are eligible to receive loan repayment under the program. The bill extends an exemption to public schools, family practice teaching hospitals, and specialty children's hospitals from the requirement to match loan forgiveness funding for those nurses employed by those entities. The bill creates a priority listing, by employer, for the disbursement of funds from the Nursing Student Loan Forgiveness Trust Fund, if insufficient funding prevents the grant of all eligible applicant's request for awards.

The bill transfers, by a type two transfer, the Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program from the Department of Education to the Department of Health.

The Nursing Scholarship Program requirements are also amended to include nursing homes, hospitals, public schools, university colleges of nursing, and community college nursing programs in the list of places where scholarship recipients can complete their service obligation. The bill expands the eligibility for the Nursing Scholarship Program to include scholarship applicants who are enrolled as full-time or part-time students in the upper division of an approved nursing program leading to the award of a graduate degree that qualifies the recipient for a nursing faculty position.

The bill revises nursing licensing procedures to allow the Board of Nursing to determine the equivalency of other nursing programs to an approved nursing program for applicants to meet the licensure by examination requirements. The bill requires nursing licensure by endorsement applicants to submit to a national criminal history check in addition to the state criminal history check currently required. The department must develop an electronic applicant notification process for endorsement applicants and must issue a license within 30 days after the completion of all required data collection and verification. The application and processing fee is eliminated for persons applying for retired volunteer nurse certificates.

The Board of Nursing is transferred from Jacksonville to Tallahassee, effective July 1, 2003. The bill creates the Florida Center for Nursing to address issues of supply and demand for nursing, including recruitment, retention, and utilization of nurse workforce resources. The center is to be governed by a policy-setting board of directors consisting of 16 members as specified. The Board of Nursing is directed to hold in abeyance until July 1, 2002, the development of any rule, which relates to the establishment of faculty/student clinical ratios. The Board of Nursing and the Department of Education must submit an implementation plan for proposed rule changes to the Legislature by December 31, 2001.

Dentistry

The bill amends s. 456.031, F.S., relating to continuing education requirements for health care practitioners, to permit dentists and dental hygienists to take a course designated by the Board of

Dentistry, in lieu of completing a course in domestic violence, if the licensee has completed an approved domestic violence course in the immediately preceding biennium. The bill amends s. 456.033, F.S., relating to a requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome, to permit dentists and dental hygienists to take a course designated by the Board of Dentistry, in lieu of completing a course in AIDS/HIV, if the licensee has completed an approved AIDS/HIV course in the immediately preceding biennium.

Radiation Therapy

The bill revises exceptions to radiologic technology certification to allow a general radiographer certified under part IV, ch. 468, F.S., who receives additional training and skills in radiation therapy technology procedures to assist with managing patients undergoing radiation therapy treatments, if that assistance is provided to a person who is certified as a radiation therapy technologist under part IV, ch. 468, F.S., and who is also registered with the American Registry of Radiologic Technologists in radiation therapy. Both the general radiographer and the radiation therapy technologist must perform these radiation therapy services under the general supervision of a Florida-licensed medical or osteopathic physician. The radiation therapy technologist may not delegate any function to the general radiographer which could create an unnecessary danger to the patient's life, health, or safety. The bill specifies training requirements for the general radiographer and other limitations on the tasks delegated to the general radiographer.

Opticianry

The bill enhances the criminal penalty applicable to the preparing or dispensing of optical devices without a prescription under the opticianry practice act from a second-degree misdemeanor to a third degree felony. The bill provides a definition of the terms, "optical dispensing" and "contact lenses." "Contact lenses" mean a prescribed medical device intended to be worn directly against the cornea of the eye to correct vision conditions, act as a therapeutic device, or provide a cosmetic effect. In effect, persons who are not licensed to practice opticianry in Florida and who are not otherwise exempt from opticianry licensure may not prepare or dispense contact lenses as defined in the bill without a prescription from a duly licensed physician or optometrist. The new offense is a second degree misdemeanor punishable by up to 60 days in jail and maximum fine of $500.

The bill replaces references to the term "medical doctor" with the term "allopathic or osteopathic physician" and revises requirements for prescribing optical devices to clarify that such prescriptions must be written by licensed allopathic or osteopathic physicians. The bill revises the Criminal Punishment Code to specify that practicing opticianry without a license (a third degree felony) is a level 7 offense, for purposes of a minimum sentence calculation. Additionally, the bill expands the inspection authority of the Department of Health from establishments where optical devices are prepared and dispensed to include establishments of any kind in the state in which lenses, spectacles, eyeglasses, contact lenses, and any other optical device is prepared or dispensed.

Miscellaneous Regulatory Provisions

The bill revises provisions governing prohibited referrals to clinical laboratories to prohibit certain fee arrangements between dialysis facilities and clinical laboratories.

The bill provides that the Agency for Health Care Administration must create an Organ Transplant Task Force of up to 15 members from the agency, organ transplant providers and transplant recipients. The purpose of the task force is to study and make recommendations regarding the supply of organs, the number of existing transplant programs and the necessity of the current certificate-of-need requirement as to proposed programs. The task force must submit a report to the Legislature by January 15, 2002, consisting of at a minimum: a summary of the method of allocation and distribution of organs; a list of the facilities performing multiple organ transplants and the number being performed; the number of Medicaid and charity care patients who have received organs from existing transplant programs; suggested mechanisms for funding transplants including a potential organ transplant fund for Medicaid and charity patients; the impact of trends in transplant delivery and financing; and the number of transplant certificate-of-need applications reviewed, approved, denied and litigated in the previous five years. The task force will be dissolved December 31, 2002.

The bill directs the Department of Health to conduct a study of the area of specialty certification relating to the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Dentistry. The study should review current statutes and administrative rules to determine if any barriers exist in board recognition of certifying organizations and if restrictions placed on a licensee's speech target an identifiable harm and mitigate against such harm in a direct and effective manner. The department must submit a final report no later than January 1, 2002, to the President of the Senate and the Speaker of the House of Representatives.

Respiratory Care

The bill restricts the use of specified titles to only Florida-licensed respiratory care practitioners to reflect credentials from national certification entities such as the National Board for Respiratory Care in addition to State licensure.

Psychology and Psychotherapy

The bill revises requirements for the use of specified protected titles relating to the practice of psychology and psychotherapy. Effective January 1, 2002, the bill amends s. 490.012, F.S., relating to psychology, to prohibit any person from holding herself or himself out by any title or description incorporating the word "psychologist" unless such person holds a valid active license as a psychologist under ch. 490, F.S. A person is prohibited from holding herself or himself out by any professional title, name, or description incorporating the words "school psychologist" unless such person holds a valid, active license as a school psychologist under ch. 490, F.S., or is certified as a school psychologist by the Department of Education.

Effective January 1, 2002, the bill amends s. 490.014, F.S., relating to psychology and s. 491.014, F.S., relating to psychotherapy, to limit an exemption to licensure by employees of: governmental agencies, developmental services programs, mental health, alcohol, or drug abuse facilities operating under chs. 393, 394, or 397, F.S., subsidized child care programs, subsidized child care case management programs, or child care resources and referral programs operating under ch. 402, F.S.; child-placing or child-caring agencies licensed under ch. 409, F.S.; domestic violence centers certified under ch. 39, F.S.; accredited academic institutions; research institutions, if such employees are performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution and the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a), F.S., or as a psychologist, clinical social worker, mental health counselor, or marriage and family therapist. Effective January 1, 2002, the bill similarly limits the exemption to the psychology and psychotherapy licensing requirements for employees of a private, nonprofit organization providing counseling services to children, youth, and families when such services are provided for no charge, if the employee is performing duties for which he or she was trained and hired and if the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a), F.S., or as a clinical social worker, mental health counselor, or marriage and family therapist.

Effective January 1, 2002, the bill amends s. 491.012, F.S., relating to clinical social work, marriage and family therapy, and mental health counseling, to revise criminal violations for unlicensed practice of these professions, to allow interns registered with the Department of Health to provide comparable services without being subject to the specified criminal penalties.

Hearing Aid Specialists

The bill amends s. 484.0445, F.S., relating to the hearing aid specialists' training program and examinations, to delete requirements and procedures for the Department of Health to administer the written and practical examinations for persons to qualify for licensure to practice as a hearing aid specialist. The Board of Hearing Aid Specialist's rulemaking authority over training programs is revised to provide for a training program that has a minimum duration of 6 months. The board currently may only adopt by rule a training program that does not exceed a duration of 6 months. The bill revises license examination requirements to eliminate a clinical component, and to conform to changes to reflect that the Department of Health will no longer administer the examination. In lieu thereof, licensure candidates must pass an examination adopted by board rule and must demonstrate a knowledge of state laws relating to the fitting and dispensing of hearing aids. Restrictions on the number of times an applicant may sit for the licensure examination is eliminated. Any person who fails the examination may apply for reexamination to the appropriate examining entity as prescribed by board rule.

Massage

The bill amends s. 480.033, F.S., relating to definitions for the practice of massage therapy, to revise the definition of "massage" to mean the manipulation of the "soft" rather than "superficial" tissues of the human body with the hand, foot, arm, or elbow, whether or not such

manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical device; or the application to the human body of a chemical or herbal preparation.

Speech-language Pathology and Audiology

The bill amends s. 468.1155, F.S., relating to speech-language pathology and audiology, to revise provisional license requirements, to allow candidates to obtain provisional licensure who have not yet received a master's degree and who are currently enrolled in a doctoral degree program from an accredited institution in speech-language pathology or audiology and who have completed the number of clock hours required by an accredited institution meeting national certification standards in lieu of the current requirements for such applicants that include obtaining a master's degree and the 300 supervised clinical clock hours. The bill revises certification requirements for speech-language pathology assistants and audiology assistants to require applicants to complete at least 24 semester hours of coursework that are currently required for certification at an institution accredited by an accrediting agency recognized by the Council for Higher Education Accreditation. The Council for Higher Education Accreditation is the successor to the Commission on Recognition of Postsecondary Accreditation.

Orthotics, Prosthetics, and Pedorthics

The bill revises grandfathering requirements for licensure to practice orthotics, prosthetics, or pedorthics without meeting statutory educational requirements. The bill repeals s. 1. of Chapter 99-158, L.O.F., which extended the licensure application deadline established in s. 468.805(1), F.S., from March 1, 1998, to July 1, 1999, to allow a person who had met the experience requirements to practice orthotics, prosthetics, and pedorthics before March 1, 1998, to apply for licensure, based on the person's experience and educational preparation, without meeting the statutory educational requirements for licensure.

Registration of Medical Clinics

Effective October 1, 2001, the bill creates s. 456.0375, F.S., to require clinics to register with the Department of Health within 60 days after October 1, 2001. "Clinic" is defined to mean a business operating in a single structure or facility or group of adjacent structures or facilities operating under the same business name or management at which health care services are provided to individuals and which tenders charges for reimbursement for such services. Clinics that are not exempt must comply with the bill's requirements to employ or contract with a medical director who is a Florida-licensed physician or with a clinic director who is a Florida-licensed health care practitioner.

A clinic licensed or registered under chapters 390 (abortion), 394 (mental health), 395 (hospitals), 397 (substance abuse services), 400 (nursing homes), 463 (optometry), 465 (pharmacy), 466 (dental), 478 (electrolysis), 480 (massage), or 484 (optical/ hearing aid specialist), F.S., or that is exempt from federal taxation under 26 U.S.C. s. 501(c)(3) of the Tax Code is exempt from the bill's requirements. The bill exempts a sole proprietorship, group

practice, partnership, or corporation that provides health care services pursuant to ch. 457(acupuncture), 458 (medicine), 459 (osteopathic medicine), 460 (chiropractic medicine), 461 (podiatric medicine), 462 (naturopathy), 463 (optometry), 466 (dentistry), 467 (midwifery), 484 (hearing aid specialist/opticianry), 486 (physical therapy), 490 (psychology and school psychology), 491 (marriage and family therapy, mental health counseling, and clinical social work), and parts I, III, X, XIII, or XIV of ch. 468, F.S., (speech-language pathology and audiology, occupational therapy, dietetics and nutrition practice, athletic trainers, and orthotics, prosthetics, and pedorthics) or s. 464.012, F.S., (advanced registered nurse practitioners) which are wholly owned by licensed health care practitioners or wholly owned by licensed health care practitioners and the spouse, parent, or child of a licensed health care practitioner, if one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. No health care practitioner may supervise services beyond the scope of the practitioner's license.

Each clinic must employ or contract with a Florida-licensed allopathic or osteopathic physician, chiropractic physician, podiatric physician to serve as the medical director. However, if the clinic is limited to providing health care service services pursuant to ch. 457(acupuncture), 484 (hearing aid specialist/opticianry), 486 (physical therapy), 490 (psychology and school psychology), 491 (marriage and family therapy, mental health counseling, and clinical social work), and parts I, III, X, XIII, or XIV of ch. 468, F.S., (speech-language pathology and audiology, occupational therapy, dietetics and nutrition practice, athletic trainers, and orthotics, prosthetics, and pedorthics), the clinic may appoint a health care practitioner licensed under that chapter to serve as the clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director who is responsible for the clinic's activities if the services provided at the clinic are beyond the scope of that practitioner's license.

All clinics that are not otherwise exempt must register with the Department of Health. Registration may be performed electronically. The Department of Health must adopt rules to implement a registration program, including rules prescribing registration fees. The fees must not exceed an amount that will provide sufficient revenue to administer the registration program.

The medical director or clinic director is required to be legally responsible for activities on behalf of the clinic and the bill specifies the duties of the medical director or clinic director of such clinic.

Any person operating or managing an unregistered clinic commits a third degree felony. A third degree felony carries a maximum prison sentence of 5 years and a maximum fine of $5,000. The Department of Health must revoke the registration of clinics found to be in violation of the provisions of the bill. The Department of Health must investigate allegations of noncompliance with this section and the rules adopted pursuant to s. 456.0375, F.S. Also, a violation by a licensed health care practitioner would be grounds for discipline under ch. 456, F.S., and the practice act of that practitioner. All charges or any reimbursement claims made by or on behalf of unregistered clinics are considered to be unlawful charges and therefore be noncompensable and unenforceable. The bill makes any contract to serve as a medical director or clinic director

entered into or renewed by a physician or licensed health care practitioner after October 1, 2001, that violates the provisions of the bill void.

The sum of $100,000 is appropriated from the registration fees collected from the clinic pursuant to s. 456.0375, F.S., and one-half of one full-time equivalent position is authorized to the Department of Health for the purposes of regulating medical clinics pursuant to s. 456.0375, F.S. The appropriated funds must deposited into the Medical Quality Assurance Trust Fund.

Public Medical Assistance Trust Fund

Effective upon becoming a law and operating retroactively to July 1, 2000, the bill revises requirements for the Public Medical Assistance Trust Fund to delete an effective date contingent on the Agency for Health Care Administration receiving written confirmation from the federal Health Care Financing Administration that the changes contained in such amendments will not adversely affect the use of the remaining assessments as state match for the state's Medicaid program. The bill amends s. 395.701, F.S., relating to the annual hospital assessment to fund public medical assistance, to specify that worksheets from a hospital's prior year financial report to the Agency for Health Care Administration may be reconciled to the hospital's audited financial statements, but no additional audited financial components may be required, other than those in effect on July 1, 2000, for purposes of determining the amount of the assessment.

Managed Care Organizations/Adverse Determinations

The bill amends s. 641.51, F.S., to provide that only those allopathic or osteopathic physicians with an active and unencumbered Florida license may render an adverse determination regarding a service provided by a Florida-licensed physician to a subscriber of an HMO or prepaid health clinic. Out of state physicians and physicians with inactive or encumbered Florida licenses could no longer make adverse determinations for an HMO. Further, the bill clarifies that this provision does not create authority for either the Board of Medicine or the Board of Osteopathic Medicine to regulate an HMO or prepaid health clinic, however, such boards may continue to have jurisdiction over licensees of their respective boards.

Dental Claims

The bill amends s. 627.419, F.S., relating to the construction of insurance policies, to establish a process to appeal adverse decisions as to dental coverage. It provides that for any group or individual insurer covering dental services, that a claimant, or provider acting on the behalf of a claimant, who has had an adverse decision rendered on a claim, must be given an opportunity to appeal to the insurer's licensed dentist who is responsible for the dentally necessary reviews under the plan or is a member of the plan's peer review group. The appeal may be made by telephone and the insurance company's licensed dentist must respond within 15 business days.

Interscholastic Athletics

The bill amends s. 232.435, F.S., relating to extracurricular athletic activities and athletic trainers, to revise requirements for the employment classification and advancement scheme for school district programs to delete the positions and requirements for teacher apprentice trainer I and teacher apprentice trainer II. The requirements for teacher athletic trainer are revised to require a person to possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 232.17, F.S., and to hold a Florida license to practice as an athletic trainer. The requirements for a first responder position is created. To qualify for first responder, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 232.17, F.S., and be certified in cardiopulmonary resuscitation, first aid, and have 15 semester hours in specified coursework. The first responder may only administer first aid and similar care.

The bill amends s. 232.61, F.S., to require the Florida High School Activities Association (FHSAA) to adopt bylaws requiring all students participating in interscholastic athletic competition or who are candidates for an athletic team to satisfactorily pass an annual medical evaluation before participating in athletic competition or engaging in practices, tryouts, workouts, or any other physical activity associated with the student's candidacy for a position on an athletic team. The evaluation must be administered by a medical physician licensed under provisions of ch. 458, F.S., an osteopathic physician licensed under ch. 459, F.S., a chiropractic physician licensed under ch. 460, F.S., or a licensed nurse who is certified as an advanced registered nurse practitioner under s. 464.012, F.S. If the medical practitioner administering the evaluation determines there may be an abnormality in the student's cardiovascular system, the student may not participate in any school related athletic activities unless an electrocardiogram (EKG) or other cardiovascular assessment indicates the abnormality will not place the student at risk during athletic activity. If a student's parent or guardian objects to the requirement for a medical evaluation, the student still may participate in interscholastic athletic competition or be a candidate for a team as long as the parent or guardian objects in writing and attests that the medical evaluation is contrary to his or her religious beliefs, and as long as no person is held liable in the event the student is injured while participating in an athletic competition, or at a practice or workout as a candidate for a team.

Palliative Care

The bill redefines "end-stage condition" in ch. 765, F.S., to be a condition that has resulted in progressively severe and permanent deterioration and for which, treatment of the condition would be ineffective to a reasonable degree of medical probability. "Palliative care" is defined in s. 765.102, F.S., to be the comprehensive management of the physical, psychological, social, spiritual and existential needs of the patient, particularly those patients with an incurable, progressive illness. The bill amends s. 765.1103, F.S., relating to pain management and palliative care, to require providers and practitioners regulated under chapters 458 (medicine), 459 (osteopathic medicine), or 464 (nursing), F.S., to comply with a request for pain management or palliative care from a patient under their care or, for an incapacitated patient under their care, from a surrogate, proxy, guardian, or other representative permitted to make health care

decisions for the incapacitated patient. Facilities regulated under ch. 400, F.S., or ch. 395, F.S., must comply with the pain management or palliative care measures ordered by the patient's physician. Requirements for the court-appointed guardian or attorney in fact to have been delegated authority to make health care decisions on behalf of the patient are eliminated. The statutory responsibilities of health care surrogates and proxies under ch. 765, F.S., are revised to provide that absent patient intent, the surrogate or proxy may consider the patient's best interest in deciding whether to withhold or withdraw treatment.

Medicaid

The bill prohibits Medicaid reimbursement of dental services provided in a mobile dental unit except for a mobile dental unit owned or operated by the Department of Health or a Federally Qualified Health Center in compliance with Medicaid program specifications, a mobile dental unit that provides services at a nursing facility, or a mobile unit having a contractual agreement with a state-approved dental educational institution. The bill allows the Agency for Health Care Administration to restrict mandatory services rendered by providers in mobile units and to restrict or prohibit optional services rendered by providers in mobile units. The bill amends s. 409.91188, F.S., to require the Agency for Health Care Administration to seek all necessary federal waivers to allow Medicare beneficiaries who test positive for HIV infection and who also qualify for Medicaid benefits to participate in the Medipass HIV disease management program.

The bill amends s. 409.9205, F.S., relating to the Medicaid Fraud Control Unit, to transfer all positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs to the Career Service System, except as provided in s. 110.205, F.S. Investigators employed by the Medicaid Fraud Control Unit are no longer ineligible for membership in the Special Risk Class of the Florida Retirement System.

Nursing Homes/Influenza and Pneumococcal Vaccinations

The bill provides that all residents of nursing homes who consent shall be given an influenza vaccination each year by November 30 or within 5 working days of admission if the resident is admitted after November 30 but before March 31, subject to exemptions for medical contraindications, or religious or personal beliefs. Each nursing home must assess all its residents for eligibility for pnuemococcal polysaccharide vaccination within 60 days after the effective date of this act and vaccinate residents when indicated, subject to exemptions for medical contraindications and religious or personal beliefs. Nursing homes are also encouraged to promote vaccination of their employees against influenza virus. The Agency for Health Care Administration may adopt and enforce rules necessary to comply with or implement these provisions of the bill.

Medical Records/Solicitation

The bill prohibits the use of patient information for solicitation or marketing the sale of goods or services absent a specific written release or authorization permitting utilization of patient

information for that purpose. The Department of Insurance must adopt rules to govern the use of a consumer's nonpublic financial and health information by health insurers and health maintenance organizations (HMOs) consistent with the National Association of Insurance Commissioners' Privacy of Consumer and Health Information Regulation adopted September 26, 2000. Such rules must be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999 (Pub. L. No. 106-102).

Health Care Background Screening

Effective June 1, 2001, the bill saves from repeal provisions establishing the background screening requirements for owners and operators of health care facilities and programs enacted in Chapter 98-171, L.O.F.

Florida Birth-Related Neurological Injury Compensation Plan

The bill revises the definition of "birth-related neurological injury" to mean injury to the brain or spinal cord of a live infant weighing at least 2,500 grams for a single gestation or, in the case of a multiple gestation, a live infant weighing at least 2,000 grams at birth caused by oxygen deprivation or mechanical injury occurring in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital that renders the infant permanently and substantially mentally and physical impaired. The bill establishes that an administrative law judge must make an award for payment of funeral expenses not to exceed $1,500. Section 766.308, F.S., is repealed that requires each claim filed under Florida Birth-Related Neurological Injury Compensation Plan to be reviewed by a medical advisory panel.

Office of Community Partners

The bill creates the Office of Community Partners within the Department of Health for purposes of receiving, coordinating, and dispensing federal funds set aside to expand the delivery of social services through eligible private community organizations and programs. The office must provide policy direction and promote civic initiatives which seek to preserve and strengthen families.

If approved by the Governor, except as otherwise provided, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 114-0

CS/SB 1568 — Health Care Service Programs

by Banking & Insurance Committee and Senators Sebesta, Crist, and Cowin

This bill provides that only those allopathic or osteopathic physicians with an active and unencumbered Florida license may render an adverse determination regarding a service provided by a Florida-licensed physician to a subscriber of a health maintenance organization or prepaid

health clinic. Out-of-state physicians and physicians with inactive or encumbered Florida licenses will be precluded from making adverse determinations. The bill clarifies that this provision does not create authority for either the Board of Medicine or the Board of Osteopathic Medicine to regulate a health maintenance organization or prepaid health clinic, however, such boards continue to have jurisdiction over their respective licensees.

If approved by the Governor, these provisions take effect January 1, 2002.
Vote: Senate 38-0; House 116-3

CS/SB 1788 — Dentistry

by Health, Aging & Long-Term Care Committee and Senators Wasserman Schultz , Peaden, Sanderson, Clary and Cowin

Dental Continuing Education

The bill amends the domestic violence continuing education requirements for certain health care professionals in s. 456.031, F.S., to provide a licensed dentist or dental hygienist the option of completing a course approved by the Board of Dentistry in lieu of a domestic violence course for licensure renewal, if the licensed dentist or dental hygienist has completed a domestic violence course in the immediately preceding 2 years.

The bill amends the AIDS/HIV continuing education requirements for certain health care professionals in s. 456.033, F.S., to provide a licensed dentist or dental hygienist the option of completing a course approved by the Board of Dentistry in lieu of an AIDS/HIV course for licensure renewal, if the licensed dentist or dental hygienist has completed an AIDS/HIV course in the immediately preceding 2 years.

Dental Claims

The bill amends s. 627.419, F.S., relating to the construction of insurance policies, to establish a process to appeal adverse decisions as to dental coverage. It provides that for any group or individual insurer covering dental services, a claimant, or provider acting on the behalf of a claimant, who has had an adverse decision rendered on a claim, must be given an opportunity to appeal to the insurer's licensed dentist who is responsible for the dentally necessary reviews under the plan or is a member of the plan's peer review group. The appeal may be made by telephone and the insurance company's licensed dentist must respond within 15 business days. Section 627.419, F.S., as amended by this bill shall apply to policies issued or renewed after July 1, 2001.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 37-0; House 115-0

CS/CS/SB 2156 — End-of-Life Care

by Judiciary Committee; Health, Aging & Long-Term Care Committee; and Senator Klein

This bill amends continuing education requirements for licensed dentists and dental hygienists, to provide an option of completing a course approved by the Board of Dentistry in lieu of a domestic violence course or an AIDS/HIV course for licensure renewal, if the licensee has completed a course in domestic violence or AIDS/HIV in the immediately preceding two years.

The term "end-stage condition" is defined to be an irreversible condition resulting in progressively severe and permanent deterioration, for which, to a reasonable degree of medical probability, treatment would be ineffective. "Palliative care" is defined as the comprehensive management of all the needs of the patient, particularly those patients with an incurable, progressive illness. Palliative care must include: end-of-life care planning; attendance to suffering; honoring life-sustaining preferences; prioritization of personal goals and dignity; assurance of care and family support; respect for advance directives; and assurance of adequate organizational mechanisms, reimbursement and cultural propriety.

The bill provides that allopathic and osteopathic physicians and nurses must comply with a request for pain management or palliative care from a patient. A surrogate, proxy, guardian, or other representative is permitted to make health care decisions for an incapacitated patient. Long-term care facilities and hospitals must comply with the pain management or palliative care measures ordered by the patient's physician. Where there is no indication of an incapacitated patient's health care preferences, a surrogate or proxy may consider the patient's best interest.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 119-0

CS/SB 684 — Organ Transplantation

by Health, Aging & Long-Term Care Committee and Senators Cowin, Smith, Sullivan, Mitchell, and Latvala

This bill provides that the Agency for Health Care Administration must create an Organ Transplant Task Force of up to 15 members from the agency, organ transplant providers and transplant recipients. The purpose of the task force is to study and make recommendations regarding the supply of organs, the number of existing transplant programs and the necessity of the current certificate-of-need requirement as to proposed programs. The task force must submit a report to the Legislature by January 15, 2002, consisting of at a minimum: a summary of the method of allocation and distribution of organs; a list of the facilities performing multiple organ transplants and the number being performed; the number of Medicaid and charity care patients who have received organs from existing transplant programs; suggested mechanisms for funding transplants including a potential organ transplant fund for Medicaid and charity patients; the impact of trends in transplant delivery and financing; and the number of transplant

certificate-of-need applications reviewed, approved, denied and litigated in the previous five years. The task force will be dissolved December 31, 2002.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 118-0

CS/SB 688 — Health Care Background Screening

by Health, Aging & Long-Term Care Committee

The bill requires the Agency for Health Care Administration to convene an interagency workgroup to study the establishment of uniform background screening requirements for health care licensees. The interagency workgroup is required to review ch. 435, F.S., providing for criminal background screening, and propose updates to the list of criminal offenses used in the screening process, specify appropriate statutes of limitation for disqualifying offenses, and identify any civil actions that might be added to the list of current criminal screens. The workgroup will consist of at least five members from various state agencies and two members from the Legislature, and is required to report to the Governor and the Legislature by December 1, 2001, after which it is abolished. The bill repeals the June 30, 2001, repeal date for the background screening requirements enacted in Chapter 98-171, L.O.F.

If approved by the Governor, these provisions take effect June 1, 2001.
Vote: Senate 39-0; House 120-0

CS/CS/SB 2092 — Health Care

by Appropriations Committee; Health, Aging & Long-Term Care Committee; and Senator Sanderson

Indigent Health Care

The bill specifies procedures for computing the maximum amount that counties having a population of 100,000 or less must pay for the treatment of indigent residents of the county at a hospital located outside the county. It provides for the exclusion of active-duty military personnel and certain institutionalized county residents from the state population estimates when calculating a county's financial responsibility for the hospital care. The bill requires the county of residence to accept the hospital's documentation of financial eligibility and county residence and requires that the documentation meet specified criteria.

Community Hospital Education Program

The bill transfers by a type two transfer, defined in s. 20.06, F.S., the Community Hospital Education Program (CHEP) from the Board of Regents to the Department of Health. The bill provides that the Department of Health may spend up to $75,000 of the state appropriations allocated to the CHEP for administrative costs. The bill implements the recommendation of the

Graduate Medical Education Committee to allow Florida medical schools to apply for Graduate Medical Education Innovations Program funding for the direct costs of providing graduate medical education in community-based clinical settings on a competitive grant or formula basis with specified exceptions. The bill modifies the membership of the Graduate Medical Education Committee.

Medicaid Program

The agency is authorized to certify all local governmental funds used as state match for Medicaid, to the extent that the identified local provider is the benefactor under the Medicaid program as determined in the General Appropriations Act and pursuant to an agreement between the agency and the local governmental entity. The bill requires the local governmental entity to use a certification form prescribed by the agency which must, at a minimum, include the amount being certified and describe the relationship between the local governmental entity and the health care provider. The agency is to prepare an annual statement to be submitted no later than January 1 annually, documenting activities undertaken pursuant to these provisions.

The bill revises the definition of "charity care" or "uncompensated charity care" for purposes of the Medicaid disproportionate share program to mean that portion of hospital charges reported to the Agency for Health Care Administration for which there is no compensation, other than restricted or unrestricted revenues provided to a hospital by local governments or tax districts regardless of the method of payment for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 200 percent rather than 150 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income.

The bill revises the eligibility criteria for the Primary Care Disproportionate Share Program to allow payment to hospitals when they agree to coordinate and provide primary care services free of charge, except for copayments, to all persons with incomes up to 100 percent of the federal poverty level and to persons on a sliding fee scale with incomes up to 200 percent of the federal poverty level, to specify that such persons must not otherwise be covered by Medicaid or another program administered by a governmental entity.

The bill amends s. 409.912, F.S., to revise the duration of Medicaid program demonstration projects for direct contracting for provider services from 2 to 4 years from the date of implementation.

Medical Records/Solicitation

The bill prohibits the use of patient information for solicitation or marketing the sale of goods or services absent a specific written release or authorization permitting utilization of patient information for that purpose. The Department of Insurance must adopt rules to govern the use of a consumer's nonpublic financial and health information by health insurers and health maintenance organizations (HMOs) consistent with the National Association of Insurance

Commissioners' Privacy of Consumer and Health Information Regulation adopted September 26, 2000. Such rules must be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999 (Pub. L. No. 106-102).

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 33-0; House 120-0

DEPARTMENT OF HEALTH

CS/HB 475 — Public Health

by Council for Healthy Communities and Rep. Hogan and others (CS/CS/SB 1312 by Judiciary Committee; Health, Aging & Long-Term Care Committee; and Senators Saunders and Crist)

The bill amends various provisions relating to public health as follows:

- Requires a minimum operating reserve in the County Health Department Trust Fund of 8.5 percent of the annual operating budget, requires a public emergency reserve of $500,000, and requires a fixed capital outlay reserve for the renovation, expansion, or construction of new facilities;

- Expands provisions relating to abandoned newborns to apply to paramedics and emergency medical services stations;

- Revises supervision requirements for nonmedical school district personnel performing health-related services;

- Revises background screening of school health services personnel;

- Makes the physical handicap provisions under the Florida Patient's Bill of Rights and Responsibilities applicable to all handicaps;

- Modifies provisions relating to vital records, including amendments to those records;

- Changes the annual reporting date for the child abuse death review report;

- Authorizes use of the Emergency Medical Services Trust Fund monies to fund injury prevention programs;

- Grants the Department of Health rulemaking authority to define the equivalent of cardiopulmonary resuscitation courses for emergency medical technicians and paramedics;

- Limits discovery of emergency medical services personnel examination questions and answers and specifies procedures for a limited review in an administrative proceeding;

- Eliminates outdated requirement for certain soil testing for radon;

- Clarifies the scope of medical consent for a minor under a power of attorney under ch. 743, F.S., to include the power to consent to necessary surgical and general anesthesia services;

- Requires school health programs to be consistent with all provisions governing state school health services;

- Creates an exception to the conflict of interest provisions applicable to public employees for public employees who are licensed medical or osteopathic physicians and who furnish medical services for the Children's Medical Services network under specified conditions;

- Repeals a prospective repeal provision in Chapter 98-171, L.O.F., relating to background screening requirements for licensure, certification and registration of health-related facilities;

- Revises one of the conditions under which a retail pharmacy may engage in wholesale distribution, to include transfers between a modified class II institutional pharmacy and another retail pharmacy or a health care practitioner licensed in Florida and authorized to dispense or prescribe drugs;

- Makes food safety employee training programs subject to the provider's continued compliance with minimum program standards;

- Authorizes the Department of Business and Professional Regulation's Division of Hotels and Restaurants to conduct random audits and to audit any program which it has reason to believe is not in compliance with the statute; and

- Authorizes the Department of Business and Professional Regulation's Division of Hotels and Restaurants to revoke a program's approval if there is finding of noncompliance.

If approved by the Governor, except as otherwise provided, these provisions take effect July 1, 2001.
Vote: Senate 36-0; House 118-0

HB1863 — Onsite Sewage Treatment and Disposal

by Health Regulation Committee and Reps. Farkas and Argenziano (SB 1648 by Senator Mitchell)

The bill amends ss. 381.0065 and 381.0066, F.S., to modify regulatory and permitting requirements for performance-based and aerobic treatment unit onsite sewage treatment systems. The bill requires owners of engineer-designed performance-based systems and aerobic treatment unit systems to have maintenance service agreements with entities permitted by the Department

of Health. The requirement that the owner obtain a system operating permit is removed, and placed instead on the maintenance entity with which the owner contracts, which is required to inspect the system twice annually. Maintenance entities are required to employ a plumbing contractor, septic tank contractor, or state-licensed wastewater plant operator, and obtain an annual system operating permit from the department for each system under service contract. The bill requires the maintenance entity to report quarterly to the department the number of performance-based systems inspected and serviced. The Department of Health is given rule authority to establish minimum qualifying criteria for maintenance entities.

Operating permits for aerobic treatment units are declared valid for 2 years and must be renewed every 2 years. The bill requires the owner of an aerobic treatment unit system to allow the department to inspect the system during reasonable hours at least annually, including the collection and analysis of samples for compliance with performance criteria established by the department.

The operating permit fee for these systems is reduced from the current range of $150 to $300 to not more than $100. A fee of not less than $25 or more than $150 per year is established for a maintenance entity permit for performance-based treatment systems.

The bill requires the Department of Health Technical Review and Advisory Panel to review and advise on the need for licensing the portable restroom industry in the state and submit a report by January 2, 2002. The subjects to be taken into consideration are qualifications, education, training, and the procedure for handling, transporting and disposal of septage. The bill specifies that the intent is not to impact work done by septic tank or master septic tank operators.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 36-0; House 120-0

MEDICAID

CS/CS/SB 792 — Agency for Health Care Administration

by Appropriations Committee; Health, Aging & Long-Term Care Committee; and Senator Silver

The bill contains substantive provisions of the Appropriations Implementing Bill (SB 2002), as well as other health-related provisions.

Medicaid Eligibility Changes

The bill authorizes Medicaid to make payments for health insurance premiums for Medicaid-eligible individuals who are insured, if the Agency for Health Care Administration (agency or AHCA) determines this to be cost-effective. Certain women screened through the National Breast and Cervical Cancer Early Detection program are made eligible for Medicaid. A Medicaid buy-in program is established pursuant to the "Ticket to Work and Work Incentives Act of 1999"

for persons who are between the ages of 16 and 64, are disabled, and who have assets, income and resources up to and including 250 percent of the federal poverty level. The Agency for Health Care Administration is authorized to seek a federal grant, demonstration project or waiver to implement a Medicaid buy-in program or other programs to assist individuals with disabilities in gaining employment.

Prior Authorization

The agency is authorized to require prior authorization for adult non-emergency hospital inpatient admissions and for adult emergency and urgent-care admissions within 24 hours after admission, and may limit prior authorization for hospital inpatient services to selected diagnosis-related groups, based on the cost and potential for unnecessary hospitalizations represented by certain diagnoses. Admissions for normal delivery and newborns are exempted from requirements for prior authorization. The agency is required to ensure that the process for prior authorization is accessible 24 hours a day, seven days per week. Prior authorization is automatically granted when not denied within 4 hours of request. The agency is to discontinue its hospital retrospective review program upon implementing the prior authorization program for hospital inpatient services. The agency is authorized to implement reimbursement and management reforms for community mental health services to comply with any limitations and directions in the General Appropriations Act including prior authorization of treatment and service plans, prior authorization of services, enhanced use review programs for highly-used services, and limits on services for recipients determined to be abusing their benefit coverage.

Competitive Bidding

The bill requires competitive bidding for home health services, medical supplies and appliances, and independent laboratory services. The agency is authorized to competitively procure transportation services or make changes to permit federal financing of transportation services at the service matching rate rather than the administrative matching rate.

Medicaid Provider Standards and Enrollment

The bill removes the requirement that community mental health or substance abuse providers be licensed by the agency in order to be reimbursed for rehabilitative services. The agency may exclude providers not selected through the competitive bidding process from the Medicaid provider network. The bill establishes "children's provider networks" to provide care coordination and care management for Medicaid-eligible pediatric patients, primary care, authorization of specialist care and other urgent and primary care through organized providers designed to service Medicaid eligibles under 18. The networks are to provide after-hours operation to promote the use of children's networks rather than hospital emergency departments.

The bill removes a requirement that exclusive provider network contracts not cost more than comparable managed care plan contracts.

Reimbursement Changes

The bill specifies that, effective July 1, 2001, the cost of exempting certain hospitals from reimbursement ceilings and the cost of special Medicaid payments are not to be included in premiums paid to HMOs and prepaid health clinics. Each rate semester, the agency is to calculate and publish a Medicaid hospital rate schedule that does not reflect either special Medicaid payments or the elimination of rate reimbursement ceilings to be used by hospitals and Medicaid health maintenance organizations to determine the Medicaid rate for payments to hospitals and physicians outside the entity's geographic service area and for emergency services. The bill deletes the requirement that Medicaid pay deductibles and coinsurance for nursing home and hospital outpatient Medicare part B services.

The agency is authorized to pay for assistive-care services for recipients with functional or cognitive impairments residing in assisted living facilities, adult family-care homes or residential treatment facilities. These services may include health support, assistance with the activities of daily living and instrumental acts of daily living, assistance with medication administration and arrangements for health care.

Hospital inpatient rates are reduced by 6 percent effective July 1, 2001 and restored effective April 1, 2002.

Disproportionate Share

The bill modifies the values for certain elements of the disproportionate share formula used for distributing funds for hospitals providing a disproportionate share of Medicaid or charity care by redefining "base Medicaid per diem" as a facility's Medicaid per diem as of January 1, 1999, rather than the per diem in effect at the beginning of each state fiscal year; requires the use of 1994 audited financial data, rather than most recent calendar year data; and modifies the formula by which disproportionate share percentages are computed, for those hospitals that qualify for the rural hospital disproportionate share program. The bill appropriates disproportionate share funds to the following hospitals:

Jackson Memorial	$13, 937,997
Mount Sinai Medical Center	$285,298
Orlando Regional Medical Center	$313,748
Shands - Jacksonville	$2,734,019
Shands - University of Florida	$1,060,047
Tampa General Hospital	$1,683,415
North Broward Hospital District	$2,231,910

Nursing Home Reimbursement Changes

The bill prohibits increases in nursing home rates associated with changes of ownership or of licensed operator. The agency is required to amend the Title XIX Long-Term Care

Reimbursement plan to provide that the operating, patient care and MAR components associated with related and unrelated party changes of ownership or licensed operator filed on or after September 1, 2001, are equivalent to the previous owner's reimbursement rates. The agency is required to further amend the long-term care reimbursement plan and the cost reporting system to separate the patient care component of the rates into direct care and indirect care components. These two components together are required to equal the patient care component. The direct care subcomponent is to be limited by the cost-based class ceiling and the indirect care subcomponent is to be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider target. The patient care component is rebased by a requirement that it be adjusted effective January 1, 2002. The bill specifies that the direct care subcomponent is to include salaries and benefits of direct care staff, including registered nurses, licensed practical nurses, and certified nursing assistants who directly deliver care to residents. Nursing administration, MDS, care plan coordinators, staff development and staffing coordinators are excluded from the direct care subcomponent. All other patient care costs are to be included in the indirect care cost subcomponent. Costs of management companies or home office costs are not to be directly or indirectly allocated to patient care. The agency is to report annually direct and indirect care costs, including average direct care and indirect care cost per resident per facility, and direct care and indirect care salaries and benefits per category of staff member per facility.

The bill continues current policy limiting rate adjustments relating to increases in the cost of general or professional liability insurance for nursing homes.

The agency is authorized to request and implement Medicaid waivers from the federal Health Care Financing Administration to treat a portion of the Medicaid nursing home per diem as capital for creating and operating a risk-retention group for self-insurance purposes, consistent with federal and state laws and rules.

Provisions Pertaining to Local Government

The agency is authorized to certify all local governmental funds used as state match for Medicaid, to the extent that the identified local provider is the benefactor under the Medicaid program as determined in the General Appropriations Act and pursuant to an agreement between the agency and the local governmental entity. The bill requires the local governmental entity to use a certification form prescribed by the agency which must, at a minimum, include the amount being certified and describe the relationship between the local governmental entity and the health care provider. The agency is to prepare an annual statement to be submitted no later than January 1 annually, documenting activities undertaken pursuant to these provisions.

The bill provides an exemption for counties from contributing toward the cost of the new exemptions on inpatient ceilings for statutory teaching hospitals, specialty hospitals and community hospital education program hospitals, and special Medicaid payments that came into effect July 1, 2000. The provisions relating to county contributions to Medicaid are revised to require county contributions for all Medicaid beneficiaries for inpatient hospitalization in excess of 10 days, rather than 12 days, but not in excess of 45 days. Counties are exempt from

contributing toward certain new exemptions on inpatient ceilings and special Medicaid payments.

Managed Care

The agency is authorized to contract with children's provider networks. The agency is required to disproportionately assign Medicaid-eligible children whose families do not select a provider to a children's network until the children's networks have sufficient numbers to be economically operated. The agency is to disproportionately assign Medicaid-eligible children in families who have failed to choose between managed care or MediPass to the children's networks created in the bill, until the children's networks have sufficient numbers to be economically operated.

Provisions Affecting Medicaid Pharmacy Services

The purpose of the Medicaid Pharmaceutical and Therapeutics Committee is revised to specify development of a preferred-drug list. The committee is to develop its preferred-drug list recommendations by considering the clinical efficacy, safety, and cost effectiveness of a product. Membership of the committee is revised to conform to federal requirements. Four members must be allopathic physicians, one member is to be an osteopathic physician, five members are to be pharmacists and one member is to be a consumer representative. The Governor is to appoint the members of the committee, and is to ensure that at least some of the members represent Medicaid-participating physicians and pharmacies serving all segments and diversity of the Medicaid population and have experience in developing or practicing under a preferred-drug formulary. One pharmacist is to represent the interests of pharmaceutical manufacturers. The agency shall adopt a preferred-drug list upon recommendation from the Medicaid Pharmaceutical and Therapeutics Committee. To the extent feasible, the committee is to review all drug classes included in the formulary at least every 12 months and may recommend additions to and deletions from the formulary so that the formulary provides medically appropriate drug therapies which achieve cost savings contained in the General Appropriations Act.

The committee is to ensure that pharmaceutical manufacturers agreeing to provide supplemental rebates have an opportunity to present evidence supporting inclusion of products in the preferred-drug list. The agency is required, upon timely notice, to ensure that a drug that has been approved or has had any of its uses approved under a priority review classification of the Food and Drug Administration be reviewed at the next regularly scheduled meeting of the committee. The agency is required, to the extent possible, to schedule a product review for any new product at the next regularly scheduled meeting of the committee. Until the committee is appointed and a preferred-drug list adopted, the agency is to use the existing voluntary preferred-drug list.

The committee may also make recommendations to the agency regarding the prior authorization of any prescribed drug covered by Medicaid. Medicaid recipients may appeal agency preferred-drug formulary decisions.

The agency is allowed to establish prior-authorization requirements for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse and possible dangerous interactions. The committee is to make recommendations to the agency on drugs for which prior authorization is required, and the agency is to inform the committee of its decisions regarding drugs subject to prior authorization.

Reimbursement of drugs not included in the formulary are subject to prior authorization, with the exception of mental-health related drugs, anti-retroviral drugs, and drugs for nursing home and other institutional residents. Drugs on the preferred-drug formulary are not exempt from the four-brand limit, however, if a product on the formulary is one of the first four brand-name drugs used by a recipient in a month the drug shall not require prior authorization. The bill removes an exception to the four-brand limit for adults residing in nursing homes and other institutions.

The bill specifies that prior authorization for an exception to the brand name drug restriction is to be sought by the prescriber and not the pharmacy, except for drugs on the restricted formulary for which prior authorization may be sought by an institutional or community pharmacy. Prior authorization for an exception to the brand-name-drug restriction is for 12 months and does not require monthly prior authorization for that patient.

The bill requires the Medicaid drug management program to include initiatives to manage drug therapies for HIV/AIDS patients, patients using 20 or more unique prescriptions in a 180 day period, and the top 1,000 patients in annual spending. The requirement for use of a counterfeit-proof prescription pad for Medicaid is expanded from only Medicaid-participating prescribers to all prescribers who write prescriptions for Medicaid recipients.

The agency is authorized to establish a preferred-drug formulary and to negotiate supplemental rebates from manufacturers in addition to those required by Title XIX, at no less than 10 percent of the average federally-defined manufacturer price on the last day of the quarter unless the federal or supplemental rebate or both exceed 25 percent. There is no upper limit on the amount of the supplemental rebate the agency may negotiate. The agency may determine that specific products are competitive at lower rebate percentages. Agreement to pay the minimum supplemental rebate percentage will guarantee a manufacturer that the Medicaid Pharmaceutical and Therapeutics Committee will consider a product for inclusion on the preferred-drug formulary. Inclusion is not guaranteed by payment of a minimum rebate.

Supplemental rebates may include cash, disease management programs, disease management programs, drug product donation programs, drug utilization control programs and other services or investments which guarantee savings to the Medicaid program in the same year the rebate reduction is included in the General Appropriations Act. The agency is authorized to seek federal waivers to implement this initiative. Reimbursement of drugs not on the formulary is subject to prior authorization by the agency. The agency is to establish an advisory committee to study the feasibility of using a restricted formulary for nursing home residents and other institutionalized adults.

The bill appropriates funds to increase the pharmaceutical dispensing fee for prescriptions dispensed to nursing home residents from $4.23 to $4.73 per prescription.

Other

The agency is to provide for development of a demonstration project in Miami-Dade county of a long-term care facility licensed as a hospital to improve access to health care for a predominately minority, medically-underserved and medically-complex population to evaluate alternatives to nursing home care and general acute care for such population. The project is to be located in a health care condominium and co-located with licensed facilities providing a continuum of care, and is not subject to certificate-of-need review.

From the funds in Specific Appropriation 1002 of the General Appropriations Act, $1,750,000 in non-recurring County Health Department Trust Funds is appropriated to:

School Health - Hillsborough County.....$550,000
School Health - Broward County.....$500,000
School Health - Escambia County.....$200,000
School Health - Monroe County.....$200,000
School Health - Dade County.....$300,000

The bill requires the certificate-of-need workgroup to review and make recommendations regarding the appropriateness of current regulations on services provided in ambulatory surgical centers, and prescribes factors to be considered.

The bill provides exemptions from certificate-of-need review for the conversion of hospital-based Medicare and Medicaid certified skilled nursing beds to acute care beds, if the conversion does not involve construction of new facilities; the transfer by a health care system of existing services and not more than 100 beds from a hospital in district 1, subdistrict 1 to another location within the same subdistrict to establish a satellite facility.

The bill makes appropriations to the following Public Guardianship programs:

Dade County.....$150,000
Collier County.....$38,000
Escambia County.....$8,000

The bill amends requirements for the Nursing Student Loan Forgiveness Program to include family practice teaching hospitals and specialty children's hospitals as employing institutions whose employees are eligible to receive loan repayment under the program. The bill extends an exemption to family practice teaching hospitals and specialty children's hospitals from the requirement to match loan forgiveness funding for those nurses employed by those entities. The bill creates a priority listing, by employer, for the disbursement of funds from the Nursing

Student Loan Forgiveness Trust Fund, if insufficient funding prevents the grant of all eligible applicants' requests for awards. The Nursing Scholarship Program requirements are also amended to include nursing homes, family practice teaching hospitals, and specialty children's hospitals in the list of facilities where scholarship recipients can complete their service obligation. The bill transfers by a type two transfer, all statutory powers, duties, functions and the records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Nursing Student Loan Forgiveness Program from the Department of Education to the Department of Health in a type two transfer.

If approved by the Governor, these provisions take effect July 1, 2001 or as otherwise provided. *Vote: Senate 33-0; House 116-0*

CS/SB 1306 — The Mary Brogan Breast and Cervical Cancer Early Detection Program Act

by Health, Aging & Long-Term Care Committee and Senators Sanderson, Miller, and Crist

Establishes the Mary Brogan Breast and Cervical Cancer Screening and Early Detection Program

The bill creates s. 381.93, F.S., to provide legislative intent and to authorize the Department of Health to establish the "Mary Brogan Breast and Cervical Cancer Screening and Early Detection Program" to provide breast and cervical cancer screening, diagnosis, evaluation, treatment, case management and referral to the Agency for Health Care Administration for coverage of treatment services for women who require follow-up. The program is to be funded through grants for such purpose from the federal Centers for Disease Control and Prevention. The Department of Health is to limit enrollment in the program to persons with incomes up to and including 200 percent of the federal poverty level and to establish an eligibility process, which includes income verification to ensure that persons served meet income guidelines. The department is permitted to provide other breast and cervical cancer screening and diagnostic services, however, these services are to be funded separately through other sources than this act.

Expands Medicaid Eligibility for Women Needing Further Medical Care

The bill amends s. 409.904, F.S., to establish a new optional eligibility category under the Florida Medicaid Program consisting of women under 65 years of age who have been screened by a qualified entity under the Mary Brogan Breast and Cervical Cancer Screening and Early Detection Program, need treatment for breast and cervical cancer, and do not have other health care coverage. A "qualified entity" is defined as a county public health department or other entity that has contracted with the Department of Health to provide screening services paid for under this act. An assets test is not required. Women are allowed to be made presumptively eligible for Medicaid, beginning when all eligibility criteria appear to be met and ending when eligibility is determined under the state plan or by the last day of the month following the month the

presumptive eligibility determination is made. A woman is eligible until she gains other health care coverage, no longer needs treatment, or attains 65 years of age. The bill requires the Department of Health and the Agency for Health Care Administration to monitor the total Medicaid expenditures for services under the act. The Department of Health is required to limit the number of screenings to ensure that Medicaid expenditures do not exceed the amount appropriated.

Requires an Annual Report to the Legislature

The annual report is to include the number of women screened, the percentage of positive and negative outcomes, the number of referrals to Medicaid and other providers for treatment services, the estimated number of women who are not screened or not served by Medicaid due to funding limitations (if any), the cost of Medicaid treatment services, and the estimated cost of treatment services for women who were not screened or referred for treatment services due to funding limitations. The report is due March 1 of each year.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 34-0; House 119-0

CS/SB 2110 — Medicaid Services by Providers in Mobile Units

by Health, Aging & Long-Term Care Committee and Senators Silver and Sanderson

The bill allows the Medicaid program to restrict *mandatory* state plan services rendered by health care providers in mobile units, and to restrict or prohibit *optional* state plan services rendered by providers in mobile units. In the instance of adult denture services and children's dental services, Medicaid may not provide reimbursement for services rendered in mobile units except for: a mobile dental unit owned by or under contract with the Department of Health, complying with Medicaid's county health department clinic services specifications as a county health department clinic services provider; a mobile dental unit owned by or under contract with a federally-qualified health center, complying with Medicaid's federally-qualified health center specifications as a federally-qualified health center provider; a mobile unit providing services at nursing facilities; or a mobile unit owned, operated or under contract with a state-approved dental educational institution.

If approved by the Governor, these provisions take effect July 1, 2001
Vote: Senate 39-0; House 119-0

EVIDENCE CODE AND CIVIL ACTIONS

SB 1066 — Civil Actions/Statements

by Senator Peaden

This bill amends the Florida Evidence Code to make portions of statements, writings, or benevolent gestures expressing sympathy relating to the pain, suffering, or death of a person involved in an accident inadmissible as an admission of liability in a civil action. Portions of statements or writings that show fault will continue to be admissible. The bill creates s. 90.4026, F.S.

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

HB 947 — Decedent's Medical Records/Presuit

by Rep. Seiler and others (CS/SB 1084 by Judiciary Committee and Senator Villalobos)

This bill amends s. 766.104, F.S., to allow a health care practitioner to provide the medical records of a deceased patient to the spouse, parent, adult child, guardian surrogate, proxy, or attorney in fact of the deceased patient. The health care practitioner can provide the records to such persons subsequent to the death of the patient and prior to the administration of the deceased patient's estate. This provision only applies for the purpose of completing the investigation of a potential medical malpractice claim.

The bill provides the health care practitioner with immunity from civil damages and disciplinary action, as long as the health care practitioner acts in good faith in complying with the bill's provisions.

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

CS/SB 2012 — Character Evidence/Child Molestation

by Judiciary Committee and Senator Crist

The bill amends s. 90.404, F.S., which is part of the Florida Evidence Code, by adding a new paragraph to subsection (2). The bill provides that, in a criminal case involving child molestation, evidence of the defendant's commission of other crimes, wrongs, or acts of child molestation is admissible and may be considered for its bearing on any matter which is relevant.

The term "child molestation" means conduct proscribed by s. 794.011, F.S. (sexual battery) or s. 800.04, F.S. (lewd or lascivious: battery, molestation, conduct, or exhibition), when committed against a person 16 years of age or younger.

The bill also requires the state in a criminal prosecution to provide notice to the defendant, no later than 10 days before trial, of the state's intent to offer evidence of other acts of child molestation.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 37-0; House 115-0

FAMILY LAW

CS/HB 215 — Parental Rights/Child's Records

by State Administrative Committee and Rep. Cusack and others (SB 98 by Senator Campbell)

This bill (Chapter 2001-2, L.O.F.) reinforces existing law giving both parents, regardless of who is the primary custodial parent, an equal right to access their child's medical, dental or educational records and other pertinent information. However, that right may be expressly limited or denied by court order including through the terms and conditions of an injunction for domestic violence. For those parents who have the same full right of access to their child's records, access in the same "form, substance, and manner" is not required unless the noncustodial parent requests that access to those records be provided in the same way as is being provided to the custodial parent.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 40-0; House 113-0

CS/HB 141 — Adoption

by Healthy Communities Council and Rep. Lynn and others (CS/CS SB 138 by Children & Families Committee; Judiciary Committee; and Senators Campbell, Latvala, and Sebesta)

The Legislature comprehensively amended Florida's adoption law (*see* Chapter 2001-3, L.O.F.) The provisions of the Act become effective October 1, 2001. The cumulative effect of the Act is to provide uniformity, continuity, clarification, and finality regarding proceedings for termination of parental rights and proceedings for adoption. It streamlines the total adoption process by providing for a uniform bifurcated procedural framework whereby the proceedings for termination of parental rights are completed before the proceedings for the creation of new parental rights may be initiated and completed. It adds registered child-caring agencies to the list of entities eligible to handle adoptions. It sets forth explicit and comprehensive disclosure,

consent, notice, service, and hearing requirements in termination of parental rights and adoption proceedings. More specifically, the Act:

- Prohibits de facto pre-birth termination of parental rights without notice;
- Requires written pre-birth and post-birth disclosures to parents and prospective adoptive parents;
- Prohibits pre-birth execution of a consent to adoption or an affidavit of nonpaternity;
- Provides a 48-hour post-birth waiting period before birth mothers may execute a consent to adoption;
- Provides a 3-day revocation period for a consent to adoption where a child has not yet been placed for adoption or up until the time the child is actually placed with the prospective adoptive parent, whichever occurs later;
- Deletes reference to physicians as handling adoptions and adds registered child-placing agency as another entity eligible to handle adoptions in Florida (this is in addition to the existing entities: 1) the Department of Children and Families, 2) a child-placing agency (licensed by DCF under s. 63.202, F.S.), and 3) an intermediary (licensed attorney or a child-placing agency licensed in another state that is qualified by DCF to place out-of-state children for adoption));
- Enumerates the express duties of adoption entities and the liabilities for material failure to adhere to those duties;
- Adds criminal penalties and civil liabilities against persons who withhold information and commit fraudulent acts in adoption proceedings;
- Establishes categories of fees, costs and expenses which an adoptive parent may be assessed, sets fee threshold limits, and establishes the repayment process under certain circumstances;
- Clarifies procedures for pre-approval, final approval and reimbursement of fees, costs and expenses connected with an adoption;
- Expands the opportunities for placing children in out-of-state adoptions;
- Retains the confidentiality of records and requires that these records be maintained for a specified period;

- Expands to parents in all adoptions the right to move to set aside judgments terminating parental rights and judgments for adoption based on willful acts precluding a parent from rightfully asserting his or her parental rights;

- Requires that a copy of the preliminary home study be given to the prospective adoptive parent; upon completion of the preliminary home study, a copy of the study must be provided to the prospective adoptive parents;

- Expands the scope of post-adoption communication or contact between an adopted child and a sibling to permit communication or contact with other specified biological relatives, provided the adoptive parents agree;

- Prohibits placement of a child in a home where there is a convicted sexual predator or other specified felon; and

- Requires licensed hospital facilities and birthing centers to establish protocols in order to educate staff as to the adoption law as it pertains to the waiting periods, the revocation periods and other requirements for consents and to the appropriate manner of interacting with birth parents and prospective adoptive parents in the process.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 30-8; House 104-8

CS/SB 886 — Durable Powers of Attorney

by Judiciary Committee and Senator Klein

This bill revises provisions in ch. 709, F.S., relating to durable powers of attorney. The bill clarifies how and when a third party may rely on the authority granted under any durable power of attorney. It also gives legal recognition to what is typically called a springing or contingent power of attorney. The bill:

- Incorporates new procedures and requirements for the execution, exercise, and reliance on the "springing or contingent" durable power of attorney that is conditioned upon the delivery of an executed medical affidavit regarding the principal's incapacity to manage property,

- Provides criminal and civil immunity from liability to a Florida-licensed medical or osteopathic physician who, in good faith, executes an affidavit of the principal's incapacity to manage property based on a medical determination of incapacity,

- Includes suggested statutory forms for affidavits to attest to the principal's lack of capacity to manage property by the physician and the attorney in fact, and

- Clarifies how notice of revocation, termination or suspension of the authority under a durable power of attorney must be mailed to a financial institution.

If approved by the Governor, these provisions take effect January 1, 2002.
Vote: Senate 39-0; House 116-0

CS/SB 1274 — Learner's Driver's License

by Judiciary Committee and Senators Burt, Latvala, and Peaden

The bill relieves a foster parent or the authorized representative of a group home of liability for damages caused by a foster child in their care who is under 18 years of age solely because the foster parent or group home representative signed the minor's application for a driver's license. It also bars a motor vehicle insurer from charging an additional premium for coverage of a minor child operating the foster parent's vehicle while the child is holding a learner's driver's license. This prohibition would apply until the child obtains a regular driver's license. The foster parent would still be vicariously liability as the vehicle owner for the permissive use of the vehicle by a foster child.

If approved by the Governor, these provisions take effect July 1, 2001 and would be applicable to insurance policies issued or renewed on or after that date.
Vote: Senate 36-0; House 118-0

BUSINESS LAW

CS/SB 94 — Consumer Collection Practices

by Judiciary Committee and Senator Laurent

This bill amends ss. 559.72 and 559.77, F.S., which are part of the Florida Consumer Collection Practices Act (FCCPA). Section 559.72, F.S., is amended to add additional activities in which debt collectors are prohibited from engaging. The prohibited activities include communicating with a debtor if the person collecting the debt knows that the debtor is represented by an attorney and causing charges to be made to a debtor for communications by concealment of the true purpose of the communication.

Section 559.77, F.S., which provides civil remedies for violations of the FCCPA, is amended to:

- Revise the amount of recoverable damages from the greater of actual damages or $500, to actual damages and additional statutory damages of up to $1,000;

- Allow class action plaintiffs who are the named plaintiffs in the lawsuit to recover additional statutory damages of up to $1,000 per named plaintiff;

- Authorize an aggregate award of damages in a class action lawsuit not to exceed the lesser of $500,000 or 1 percent of the defendant's net worth for all plaintiffs who are not the named plaintiffs; however, no individual class member may recover additional damages in excess of $1,000;

- Provide a defendant with a bona fide error affirmative defense;

- Provide a 2-year statute of limitations; and

- Provide that, in construing the FCCPA, due consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to the federal Fair Debt Collection Practices Act.

If approved by the Governor, these provisions take effect July 1, 2001, and apply to any cause of action accruing on or after that date.
Vote: Senate 37-0; House 117-0

HB 579 — Uniform Commercial Code

by Rep. Crow (CS/SB 386 by Judiciary Committee and Senator Campbell)

This bill substantially revises ch. 679, F.S., which governs Article 9 of the Uniform Commercial Code, relating to secured transactions. A secured transaction is an agreement between two or more parties wherein one party provides an interest in some type of property to another party in exchange for receipt of some type of consideration. For example, one type of secured transaction occurs when a consumer purchases goods from a retailer and finances the purchase of those goods with the retailer. Until the consumer pays for the goods in full, the retailer retains an interest in the goods that is "secured" when the retailer meets certain filing requirements. If the consumer fails to pay for the goods in full, the retailer can exercise certain rights in an attempt to be paid in full. The retailer's rights are governed by the provisions of ch. 679, F.S.

The bill repeals all of the existing statutes in ch. 679, F.S., and implements a new numbering system. The bill creates 7 parts in ch. 679, F.S., which relate to the following:

- Part I, consisting of ss. 679.1011-679.1101, F.S., contains general provisions regarding definitions, principles relating to control, description of collateral, and the scope of the chapter.

- Part II, consisting of ss. 679.2011-679.210, F.S., contains provisions relating to the effectiveness of a security agreement, attachment of a security interest, and the rights of parties to a security agreement.

- Part III, consisting of ss. 679.3011-679.342, F.S., governs the perfection and priority of security interests;

- Part IV, consisting of ss. 679.40111-679.409, F.S., provides rules relating to the rights of third parties to security interests;

- Part V, consisting of ss. 679.5011-679.527, F.S., contains provisions relating to the filing of security interests;

- Part VI, consisting of ss. 679.601-679.628, F.S., contains provisions relating to default; and

- Part VII, consisting of ss. 679.701-679.709, F.S., contains provisions governing the transition from former ch. 679 to the new ch. 679.

The bill also provides changes in conformance with the provisions of ch. 679, F.S., to the following sections of the Florida Statutes: 671.105, 671.201, 672.103, 672.210, 672.236, 672.502, 672.716, 674.2101, 677.503, 678.1031, 678.1061, 678.1101, 678.3011, 678.3021, 678.5101, 680.1031, 680.303, 680.307, and 680.309. Likewise, the bill creates ss. 285.20 and 675.1181, F.S., in conformance with the changes made to ch. 679, F.S.

If approved by the Governor, these provisions take effect July 1, 2002.
Vote: Senate 39-0; House 118-0

HB 601 — Judgments and Liens

by Rep. Pickens and others (CS/SB 1744 by Judiciary Committee and Senator Burt)

This bill is primarily a glitch bill to ch. 2000-258, L.O.F., in which the Legislature established a new statutory framework for perfecting and prioritizing claims of judgment liens on leviable personal property in addition to the revision of other procedures such as garnishment for the collection of debt. Last year's Act directed that the Department of State establish and maintain a centralized database of judgment liens on personal property. *See* ss. 55.201-55.209, F.S. This centralized database is intended to replace the county-by-county system of filing judgment liens with the sheriff of the county with a statewide system based on filing such judgment liens and other specified warrants and tax liens with the Department of State.

The operational date of the database was deferred until October 1, 2001, in order to allow the Department time to establish the database, implement the filing process for judgment lien certificates and to determine any corrections prior to the operation of the database. A two-year transitional provision was also included to give creditors the opportunity to execute on or enforce their existing liens against personal property, or to convert their judgment lien claims on personal property to the new statewide system by October 1, 2003, or otherwise lose their judgment lien priority under the new system.

This bill corrects inconsistencies and oversights in that Act. In addition, it makes the following changes:

- Establishes a staggered scheme for allowing purchasers of household goods or items who buy without knowledge of a judgment lien registered in the database to retain all or part of the value of the goods purchased based on the value of the purchased goods ranging from $10k to $30k,

- Clarifies that claims for exemption from garnishment only apply to individual defendants and not all defendants,

- Deletes the requirement that copies of foreign judgments be filed with the Department of State,

- Deletes the department's responsibility to maintain a list of foreign jurisdictions that do not recognize judgments issued from the State of Florida, and

- Amends the Florida Uniform Federal Lien Registration Act (s. 713.09, F.S.) to incorporate the registration of federal liens into the centralized judgment lien database and to permit the Department of State to accept electronic filing of such federal tax liens in lieu of paper filing.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 38-0; House 118-0

JUDICIARY AND BAR

CS/SB 778 — Lawyer Assistance Programs

by Judiciary Committee and Senator Rossin

This bill creates provisions relating to lawyer assistance programs. These programs typically consist of an extensive network of attorneys and other professionals who offer assistance to lawyers and judges in the treatment and recovery of substance abuse, mental illness and other behavioral problems. The Florida Lawyers Assistance, Inc. (FLA), has been in existence in Florida for a number of years and receives partial funding from the Florida Bar although it operates independently of the Supreme Court and the Florida Bar.

The bill attempts to encourage greater unhindered participation in FLA and similar lawyer assistance programs by:

- Providing civil immunity from liability for good faith actions taken by these programs and their employees, agents, members, volunteers and other persons who otherwise participate in the programs,

- Providing that all information furnished to a lawyer assistance program that is covered by an evidentiary privilege (such as attorney-client privilege and work product privilege) will remain privileged even when furnished to the program, and

- Setting forth the scope of records, proceedings and communications that will be deemed confidential as arising from the contact by or between a person seeking assistance and the lawyer assistance program.

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

HB 1865 — Judiciary/Number Increases

by Judicial Oversight Committee and Rep. Crow (SB 1444 by Senator Burt)

This bill authorizes an additional 16 circuit court and 11 county court judge positions based on an adjustment of the original judicial certification of need by the Florida Supreme Court to match available funding. The new positions require appointment by January 2, 2002, for the following circuits and counties:

Judicial Circuit	Circuit Court Judges
1st	+1
2nd	+2
4th	+1
5th	+1
6th	+1
7th	+1
9th	+1
10th	+1
11th	+1
13th	+1
15th	+1
17th	+2
18th	+1
20th	+1
TOTAL:	**16**

County	County Court Judges
Brevard	+1
Broward	+1
Duval	+1
Hillsborough	+1
Lee	+1
Okaloosa	+1
Orange	+1
Pasco	+1
Pinellas	+1
Polk	+1
Sarasota	+1
TOTAL:	**11**

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

CS/HB 367 — Judicial Nominating Commissions

by Smarter Government Council and Reps. Brummer and Cantens (CS/CS SB 1470 by Judiciary Committee; Governmental Oversight & Productivity Committee; and Senators Cowin and Crist)

Under this bill the law governing the nomination and appointment of the Judicial Nominating Commissions (JNC) will be as follows:

- Each JNC will still consist of 9 members, however, six of the members must be members of the Florida Bar.

- The Governor will now have sole authority to appoint members to each JNC. Four of the Florida Bar members must be selected from nominees from the Board of Governors of the Florida Bar. The Board of Governors must submit to the Governor a list of three recommended nominees for each of the positions from which the Governor may select his appointment. The Governor may reject all nominees and request a new list of previously unnominated persons. For the remaining five JNC positions, the Governor directly appoints the members of whom at least two must be Florida Bar members.

- The unconstitutional selection provisions relating to the mandated ethnic, racial, and gender composition of the JNC are replaced with a provision to solely require consideration of these factors when appointments are made.

- The geographic distribution of the population within the JNC and the adequacy of the representation of each county must now also be considered in making the appointments.

- The term of office for each JNC member will still be four years.

- A JNC member still cannot be a justice or judge.

- A commission member is still not eligible for consecutive reappointment.

- A commission member is still not eligible for judicial appointment during his or her commission term or two years thereafter for a judicial office over which that commission has jurisdictional authority.

- All acts of the commission must still be made with a concurrence of a majority of its members, however, a quorum is necessary to take any action or transact any business. A quorum is a majority of the commission members.

- The authority to suspend a JNC member for cause remains with the Governor and the authority to adopt uniform rules relating to suspension for cause is transferred from the JNCs to the Governor.

- Current JNC members who were appointed directly by the Florida Bar will serve the remainder of their term unless removed for cause. The remaining terms for all other JNC members who were either appointed directly by the Governor or by the remaining JNC membership are terminated.

- A staggered term schedule is provided for replacement of the discharged JNC members.

- The Executive Office of the Governor is required to provide administrative support for each JNC.

- Further, the Governor's office must enact rules to administer the new provisions. These rules presumably are not intended to override or conflict with the rules of procedure adopted by the JNC's in accordance with s. 11 of Art. V of the State Constitution.

- The definition of "state officers" is expanded to include circuit and district court of appeal JNC members for purposes of the financial disclosure reporting requirements in s. 112.3145, F.S. This makes these requirements applicable to all JNC members, not just the members of the Supreme Court Judicial Nominating Commission.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 29-10; House 68-48

CS/HB 199 — Substance Abuse Treatment Programs

by Judicial Oversight Committee and Rep. Traveling and others (CS/CS SB 1814 by Criminal Justice Committee; Judiciary Committee; and Senator Burt)

This bill requires each of the 20 judicial circuits to establish one or more model treatment-based drug court programs. It requires each drug court program to incorporate principles of therapeutic jurisprudence through the coordination of the courts, prosecutors, law enforcement, local government and community-based entities to address substance abuse offenders. It creates the Florida Association of Drug Court Professionals and requires that organization to annually, on October 1, submit recommendations to the Florida Supreme Court Treatment-Based Drug Court Steering Committee regarding the expansion, operation, and institutionalization of drug courts. The bill allows certain drug court program defendants to have their cases transferred from one

county or circuit to another for purposes of participating in drug-treatment programs. It also expands the category of non-violent offenders who may be eligible for participation in the felony pretrial intervention program and provides for the establishment of pretrial intervention programs for specified misdemeanor drug offenses.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 117-0

ESTATES

CS/HB 137 — Probate

by Smarter Government Council and Rep. Goodliest and others (CS/SB 402 by Judiciary Committee and Senator Burt)

This bill represents the culmination of a 3-year effort by the Florida Bar including many of the state's most experienced probate attorneys and judges to make major revisions and updates to the Florida Probate Code (ch. 731-735, F.S.), and to ch. 737, F.S., governing trust administration. In addition to technical, stylistic and grammatical changes, the bill eliminates many duplicative and sometimes conflicting statutory provisions in the Probate Code and defers to procedural matters already established in court probate rules. It also makes the following significant changes:

- Eliminates the provisions of the rarely used Family Administration process,

- Increases monetary values relating to various estate administration procedures—It increases the threshold from $25,000 to $75,000 for summary administration of small estates, and from $25,000 to $50,000 for ancillary administration of nonresident's estates. It increases the family allowance cap from $6,000 (which has remained unchanged since 1974) to $18,000, for which a spouse or lineal descendent may petition. It increases the surviving spouse's initial share of the intestate estate from $20,000 to $60,000, in those cases in which the decedent is survived by lineal descendents. It also increases from $500 to $2,500[1] the federal tax refund amount that may be paid directly to a surviving spouse or surviving child (if there is no surviving spouse) without requiring formal administration of the estate under specified circumstances.

- Revises the Elective Share law as recently amended in ch. 99-343, L.O.F., to correct glitches, to clarify how nonmarital assets held in trust are to be treated, and to eliminate a loophole that allowed someone to defeat a surviving spouse's right to an elective share. It also provides that specified changes to the Elective Share law found in sections 19-31 of the bill become effective October 1, 2001,

[1] The $500 figure was enacted in 1974. According to a calculation by the American Institute for Economic Research, using the Consumer Price Index calculated by the United States of America, Bureau of Labor Statistics, $500 in 1974 equals $1,742.39 in 2000. http://www.aier.org. The increase to $2,500 being beyond an inflationary adjustment, it represents a policy change.

- Clarifies creditors rights and creditors' claims procedures against a decedent's estate, including the creation of a Notice to Creditors form and the integration of the Medicaid Estate Recovery Act under s. 409.9101, F.S., into the estate claims system in the Probate Code,

- Clarifies the replacement and transition process for a change of personal representatives due to death, removal, resignation or some other disqualification,

- Revises the specified rights and duties of personal representative and other fiduciaries, creditors, beneficiaries, and other interested persons in the estate administration process,

- Re-prioritizes attorney's fees claims against the estate from a class 8 claim to a class 1 claim,

- Sets forth a more detailed process for opening and inventorying of a safe deposit box after someone dies, and

- Relocates the provisions of the Anatomical Gift law (ch. 732, part X, F.S.) to ch. 765, F.S. relating to Health Care Advance Directives, and makes conforming statutory cross-references.

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

PROPERTY

SB 150 — Property Exempt from Legal Process

by Senator Horne

This bill adds another category of exemptions to the existing list of property statutorily exempted from attachment, garnishment or other liens resulting from a bankruptcy proceeding or other legal process. It exempts a debtor's interest in an earned income credit. The earned income credit (EIC) is a special federal refundable tax credit available for low-income, working taxpayers who meet certain eligibility requirements. This new statutory exemption for the EIC will apply regardless of whether the earned income credit is received or commingled with the debtor's financial accounts as long as it is traceable. However, it is not exempted from attachment, garnishment or other lien in cases involving debts arising from child or spousal support obligations.

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

CS/SB 178 — Duration of Real Property Liens

by Judiciary Committee and Senator Brown-Waite

This bill corrects a glitch in the statutory recording periods for judgment liens on real property as revised in the 2000 legislative session. *See* ch. 2000-258, L.O.F. Prior to the 2000 Act, a judgment against real property could be recorded for two periods of 7 years and one period of 6 years for a total of the full 20 years a lien is valid. The 2000 Act intended to extend the initial recording and re-recording period from 7 to 10 years in order to require only one re-recording in lieu of two re-recordings. However, the initial recording period was not changed from 7 years to 10 years resulting in confusion and a potential loss of 3 years to someone seeking to enforce a valid judgment against real property.

This bill corrects that error to reflect that the initial recording and re-recording period is changed from 7 to 10 years. It ensures that those persons who validly recorded judgment liens under the defective law receive the benefit of the full 20 years in which to enforce their liens. It also clarifies that those liens that are no longer valid by virtue of having expired or having been satisfied are not inadvertently extended or revived by the glitch bill.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 120-0

CS/SB 838 — Landlord and Tenant

by Judiciary Committee and Senator Saunders

This committee substitute amends the security deposit provisions and the abandoned property provisions in the Florida Residential Landlord and Tenant Act, which are found in ch. 83, part II, F.S. The committee substitute provides for the following:

- Enlarges the time period from 15 days to 30 days within which a landlord must notify a tenant of an intent to impose a claim upon a security deposit;

- Relieves the landlord from compliance with the notice provisions of s. 715.104, F.S., which pertain to the treatment of abandoned or surrendered property. To avoid having to provide the tenant with written notice under s. 715.104, F.S., which notice is given after the tenant vacates the premises, the landlord must inform the tenant before the tenant vacates the premises, either in the rental agreement or some other written document, of how the landlord will treat abandoned property.

The committee substitute also amends ss. 715.105, 715.106, and 715.109, F.S., which govern the sale or disposition of abandoned property, to raise to $500 the value of abandoned property which requires no additional notification to the owner or former tenant before the sale or other disposition of the abandoned property.

The committee substitute amends s. 475.011, F.S., which lists activities exempted from the real estate brokers and salespersons regulatory law, to include the ability of property management firms and apartment complex owners to pay a finder's fee or referral fee to a tenant who refers a new tenant. The finder's fee or referral fee may not exceed $50 and can include a fee paid, credit towards rent, or some other thing of value.

The committee substitute also creates a new, unnumbered section of the Florida Statutes which provides members of the United States Armed Forces the ability to cancel their rental agreements, with limited liability, under certain circumstances. The provisions apply to military personnel who: are required to move, pursuant to permanent change of station orders, 35 miles or more from the location of the rental premises; are prematurely or involuntarily discharged or released from active duty; and die during the course of their enlistment. Damages pursuant to this section are limited to the following:

- Rent due under the rental agreement prorated to the effective date of the termination; and
- Liquidated damages of no greater than 1 month's rent if the tenant has completed less than 6 months of the tenancy as of the effective date of the termination;
- Liquidated damages of no greater than one-half of 1 month's rent if the tenant has completed at least 6 but not less than 9 months of the tenancy as of the effective date of termination; or
- No liquidated damages if the tenant has completed at least 9 months of the tenancy as of the effective date of termination.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-1; House 109-4

CS/SB 890 — Mortgages

by Banking & Insurance Committee and Senator Campbell

This bill revises provisions relating to mortgage foreclosures.

- It provides that rents in the control of a mortgagor are subject to an assignment of rents just as rents in the possession of the mortgagor.
- It amends the order to show cause process for mortgage foreclosure set out in s. 702.10, F.S. to:
    - Require that the order to show cause hearing must be held within 60 days of service of the order on the defendant.

- Require the order to show cause to state that the court may determine that when an answer does not contest the foreclosure the defendant has waived the right to a hearing and the court may enter a final judgment of foreclosure.
- Require the court to promptly enter a final judgment if the right to be heard has been waived.
- Provide it is unnecessary to hold a hearing to award attorney fees when the note or mortgage provides for the award of reasonable attorney's fees and the fees do not exceed 3 percent of the principal amount owed at the time of the filing of the complaint, even if the note or mortgage does not specify the amount of the percentage of the original amount of the mortgage to be paid as liquidated damages.

- The bill also creates a new section of law to provide an expedited process for uncontested mortgage foreclosures where the order to show cause process is not used. Under this process:
  - When a mortgage is uncontested and a mortgagee waives the right to recoup any deficiency, the court must enter a final judgment within 90 days of the close of the pleadings. A foreclosure is uncontested when an answer not contesting the foreclosure is filed or a default judgment is entered.
  - Where a default judgment is entered and the note or mortgage provides for reasonable attorney's fees, it is not necessary for the court to hold a hearing to determine that the fees requested are reasonable provided the fees do not exceed 3 percent of the principal amount owed at the time of filing the complaint. Such fees will constitute liquidated damages in any proceeding to enforce the note or mortgage. However, these provisions would not preclude a challenge to the reasonableness of the attorney's fees.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 34-0; House 114-0

CS/HB 9 — Pollution Control

by Natural Resources & Environmental Protection Committee and Rep. Ball and others (CS/SB 834 by Comprehensive Planning, Local & Military Affairs Committee and Senator Bronson)

The Department of Environmental Protection (DEP) is currently authorized to enter into a memorandum of agreement with the Florida Ports Council, the Florida Inland Navigation District and the West Coast Inland Navigation District for a supplemental permitting process for the issuance of a joint coastal permit for certain maintenance dredging, spoil disposal, beach nourishment, and environmental protection of activities of navigation channels, port harbors, turning basins, harbor berths, and inland waterways. This bill specifically gives the DEP the authority to adopt rules relating to such memoranda of agreement.

This bill requires an applicant for a permit for a solid waste management facility to notify the local government with jurisdiction over the facility before or on the same day of the filing of the permit application with the DEP. The bill also requires the applicant to publish newspaper notice of the filing of the application in a newspaper of general circulation in the area where the facility will be located. Further, the department shall not issue the requested permit until the applicant has provided the department with proof that the notices have been given. Issuance of a permit does not relieve an applicant from compliance with local zoning or land use ordinances, or with any other law, rules, or ordinances.

The DEP may use funds from the Solid Waste Management Trust Fund for grants to certain Florida-based businesses for demonstration projects with one or more counties for countywide comprehensive electronics recycling. The funding may also be used for grants to counties to develop methods to collect and transport electronics to be recycled provided such methods are comprehensive in nature.

The DEP is required to conduct a comprehensive review of the waste reduction and recycling goals set out in ch. 403, part IV, F.S., and other legislative requirements in view of reduced available funding for these purposes. The department shall issue its report, recommendation, and proposed legislative changes to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2001.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 120-0

SB 536 — Demineralization Concentrate

by Senator Bronson

This bill revises the provisions in s. 443.0882, F.S., regarding the discharge of demineralization concentrate to remove or reword confusing language and to update the statutes according to the latest Department of Environmental Protection rules and industry developments.

In order to promote the state objective of alternative water supply development, the concentrate resulting from demineralization must be classified as a potable water byproduct, regardless of flow quantity, and must be appropriately treated and discharged or reused.

Blending of demineralization concentrate with reclaimed water is allowed in accordance with the department's reuse rules.

For small water utility businesses, the discharge of demineralization concentrate is presumed to be allowable and permittable if certain specified conditions are met.

A mixing zone for the discharge of demineralization concentrate may be allowed in an Outstanding Florida Water under certain conditions.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 114-0

CS/SB 1030 — Water Resources

by Natural Resources Committee and Senator Bronson

This bill makes certain technical and clarifying amendments to conform Florida's Safe Drinking Water Act to the federal Safe Drinking Water Act. It redefines the terms "public water system," "noncommunity water system," "nontransient noncommunity water system," and "transient noncommunity water system." The Department of Environmental Protection is authorized to issue permits for altering or extending a public water system based on the size of the system under certain circumstances. Suppliers of water are required to submit periodic operating reports and testing data, which may include certain raw water data. The bill also provides for licensure of water distribution system operators and establishes continuing education requirements for water well contractors. Certain outdated provisions of the Florida Water Pollution Control and Sewage Treatment Plant Grant Act are repealed.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 36-0; House 118-1

CS/CS/SB 1204 — Fish and Wildlife Conservation Commission

by Finance & Taxation Committee; Agriculture & Consumer Services Committee; and Senator Bronson

This bill exempts any resident who is certified to be totally and permanently disabled by the Railroad Retirement Board from the income requirement for a restricted species endorsement on a saltwater products license (SPL), if the resident has held a SPL for at least three of the last five license years prior to the occurrence of the disability. Also, existing provisions authorizing a depredation endorsement on a SPL allowing an aquaculturist to harvest, but not sell, nuisance stone crabs and blue crabs are revised to authorize the issuance of a permit rather than an endorsement.

The bill revises and modernizes outdated provisions determining the designation of the Legislative members of the Atlantic and Gulf States Marine Fisheries Compacts. The commissioners will be appointed on a rotating basis by the President of the Senate and the Speaker of the House of Representatives.

The bill clarifies that the Department of Environmental Protection issues permits for artificial reef construction and that the Fish and Wildlife Conservation Commission approves the placement of regulatory markers in state waters.

Agencies and water management districts managing lands for public hunting are encouraged to authorize the release and feeding of quail to benefit quail hunting, and a provision requiring the payment of the prior year's landowner payment, in addition to the permit fee, to landowners in the recreational user permit fee program is deleted.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 33-0; House 116-1

HB 1221 — Water Resources

by Rep. Cantens and others (CS/CS/SB 2120 by Judiciary Committee; Natural Resources Committee; and Senators Garcia and Bronson)

This bill contains a number of provisions primarily intended to increase the efficiency of Water Management District (WMD) operations. It also revises provisions governing WMD budgetary matters and reporting requirements. Major features include:

- Authorization for WMDs to obtain and enforce patents, copyrights, and trademarks.
- Authorization for WMDs to bar defaulting contractors from doing business with a district and to limit the liability of certain vendors.
- Authorization for WMDs to solicit funding and lease specified property.

- Revision of budgeting, auditing, capital improvement planning, and fiscal reporting requirements for WMDs. The changes delete duplicative reporting requirements, group like functions together, and appropriately sequence the timing of responsibilities.

- Requiring the Public Service Commission to allow entities constructing alternative water supply facilities to recover the full cost of such facilities through rate structures.

- Revision of the membership of the Manasota Basin Board within the Southwest Florida Water Management District to include three members each from Manatee and Sarasota Counties.

- Revision of provisions authorizing a WMD employee who adopts a special needs child to receive benefits (as do other state employees), to provide procedures for the transfer of funds.

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

CS/CS/SB 1376 — Phosphogypsum Stack Management

by Finance & Taxation Committee; Natural Resources Committee; and Senator Laurent

This bill increases, from $30 million to $50 million, funds reserved in the Nonmandatory Land Reclamation Trust Fund (Fund). In addition to reclamation, the reserved funds may be used by the Department of Environmental Protection (DEP) to abate eminent hazards associated with phosphogypsum stacks (stacks) and for closing abandoned stacks and carrying out postclosure care. The bill provides that an imminent hazard exists if the physical condition, maintenance, operation, or closure of a stack system creates an immediate and substantial danger to human health, safety, or welfare or to the environment.

If the DEP determines that an imminent hazard exists, the bill provides procedures for the DEP to gain access to the stack, including instituting legal action in its own name. If serious harm to the environment or private or public property might occur prior to completion of a formal proceeding initiated to gain access to abate the imminent hazard, the DEP may obtain an injunction, ex parte. The DEP is authorized to take any appropriate action to abate an eminent hazard, including using its own employees, contracting for services, or financing some other party to perform the work.

The bill requires the DEP to recover funds expended to abate an imminent hazard from the stack's owner or operator, including funds expended prior to the effective date of this act, plus an annual penalty until the debt is repaid. The DEP may impose a lien on the stack system and

property to recover its costs. The bill provides similar powers and procedures for closing an abandoned stack.

The bill repeals existing annual registration fees. The new fee is $75,000 per stack for the first five years of registration. Unless used for the purposes of the act, all fees are to be returned following a certified stack closure.

The bill requires reports and includes a $16 million appropriation from the Fund.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 40-0; House 117-2

CS/SB 1468 — Land Acquisition and Management

by Governmental Oversight & Productivity Committee and Senator Latvala

This bill contains new goals and performance measures for the Florida Forever Program recommended by the Florida Forever Advisory Council (FFAC) as directed in the Florida Forever Act, s. 259.105, F.S., and repeals the old statutory goals and measures. It also includes a number of changes to land acquisition and management statutes recommended by the Department of Environmental Protection (DEP). Major features include:

- A definition of "conservation lands," to conform to constitutional requirements for an extraordinary vote to dispose of surplus conservation lands.

- Revision of provisions governing the sale of surplus lands to have the Board of Trustees of the Internal Improvement Trust Fund (Trustees) decide which other governmental entity may acquire surplus lands if a local government does not wish to purchase the parcel. If surplus land is valued at less than $1 million, only one appraisal is required. Notice requirements for surplus land sales do not apply to former Cross Florida Barge Canal Lands, which have their own statutory notice requirements.

- Murphy Act land sales need only one appraisal if the parcel is 10 acres or less in size and valued at $250,000 or less.

- The Office of Coastal and Aquatic Managed Areas is provided rulemaking authority for uplands it manages

- The Legislative members of the FFAC are deleted, and obsolete provisions are repealed.

Other changes include:

- The existing Green Utility program for counties is expanded to include municipalities with a population of 200,000 or more.

- Florida Communities Trust funding previously set aside for grant projects in the Florida Keys may now be accessed by local governments in Monroe County, as well as Monroe County.

- Legislative intent is provided that any funds from the Preservation 2000 Trust Fund redirected to Everglades restoration be restored by the General Appropriations Act for FY 2002-2003.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 116-0

CS/SB 1524 — Comprehensive Everglades Restoration

by Natural Resources Committee and Senator Constantine

This bill creates the Comprehensive Everglades Restoration Plan Regulation Act (ACT), providing an expedited permitting program for project components of the Comprehensive Everglades Restoration Plan (CERP). With certain exceptions, the expedited permitting program under s. 373.1502(3), F.S., will apply to all CERP project components. Such permits are in lieu of any other state permitting requirements under ch. 373, F.S., or ch. 403, F.S. Permits for project components will be for five years and may encompass multiple project components. The permit application must provide reasonable assurance that:

- The project component will achieve design objectives.

- State water quality standards will be met to the maximum extent practicable; a project component may not cause or contribute to violation of state water quality standards.

- Discharges from the project component will not pose a serious danger to the public.

- Impacts to wetlands or listed species from a project component will be avoided, minimized, or mitigated.

The bill permits construction for a project component to be initiated upon submission of a permit and completion of the Department of Environmental Protection's (DEP's) approval of a project component under s. 373.1501, F.S. However, a permit must be issued prior to operation of the project component.

The bill also requires the South Florida Water Management District (SFWMD) to provide specified financial information regarding the project component and an implementation schedule

to the Joint Legislative Committee on Everglades Oversight when a project component is approved.

The bill provides acceptance of Phase II of the Miami-Dade County Lake Belt Plan, amends the boundary of the Miami-Dade County Lake Belt Area, and repeals the Miami-Dade County Lake Belt Plan Implementation Committee, as its assigned tasks have been completed.

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

HB 1635 — Environmental Control

by Rep. Goodlette (CS/CS/SB 1664 by Judiciary Committee; Natural Resources Committee; and Senator Laurent)

This bill provides a schedule of administrative penalties for violation of environmental control laws. It establishes a voluntary process for paying specified penalties as an alternative to a negotiated settlement, an administrative hearing, or the court system.

The bill limits the penalty for any particular violation to $5,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation to the violator exceeds $5,000, or there are multi-day violations. The total administrative penalties may not exceed $10,000 per assessment for all violations attributable to a specific person in the notice of violation. Increased penalties may be assessed for certain repeat violators, and penalties may be assessed per day per violation for controlling violators.

The bill authorizes the administrative law judge to consider evidence in mitigation, and reduce penalties in specified circumstances, provides procedures for the program, and authorizes mediation. The DEP bears the burden of proof, which is by a preponderance of the evidence.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 115-0

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CS/CS/HB 411 — Florida Mobile Home Act

by Smarter Government Council; Judicial Oversight Committee; and Rep. Kyle and others (CS/CS/SB 442 by Comprehensive Planning, Local & Military Affairs Committee; Regulated Industries Committee; and Senators Latvala, Brown-Waite, Pruitt, Cowin, Posey, Carlton, Saunders, Campbell, Lee, Wasserman Schultz, Sullivan, Dyer, Burt, Geller, Sebesta, Miller, Mitchell, Constantine, Bronson, Crist, Dawson, King, and Sanderson)

The bill repeals the current, unconstitutional provisions for compensation for eviction for change in land use and creates a new system of compensation. The Florida Mobile Home Relocation Corporation is created to administer this compensation system. The corporation is to be operated by a six-member board of directors. The board members are to be appointed by the Secretary of the Department of Business and Professional Regulation, with three selected from nominees from the largest nonprofit association representing mobile home owners in this state and three selected from nominees from the largest nonprofit association representing the manufactured housing industry in this state. Board members may be reimbursed for actual and necessary expenses, but may not be otherwise compensated. The corporation can borrow from private sources to make relocation compensation payments.

A mobile home owner evicted for a change in land use is entitled to the lesser of the amount of actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or $5,000 for a single-section mobile home or $10,000 for a multi-section mobile home. A mobile home owner is not entitled to this compensation if; the park owner moves the mobile home to another space in the park or another park at the park owner's expense; the mobile home owner is vacating the park and has informed the park owner before notice of the change in land use is given; or the mobile home owner abandons the mobile home. If the mobile home owner abandons the mobile home, he or she is entitled to an amount equal to one-fourth of the maximum allowable moving expense if he or she gives to the park owner the current title to the mobile home duly endorsed by the mobile home owner and valid releases of all liens.

To receive compensation, a mobile home owner must apply to the Florida Mobile Home Relocation Corporation, providing a copy of the eviction notice and the contract with the moving company. The corporation must approve payment within 15 days of receipt of this information or payment is deemed automatically approved.

The corporation is not liable to any person for recovery if funds are insufficient to pay the amount claimed. In such an event, the corporation is to keep records of the date and time of approval of claims and to pay these claims as money becomes available.

The bill prohibits a park owner from increasing mobile home park lot rental within 90 days before giving a notice of a change in land use. Also, when a mobile home park owner increases rent based on the rent in comparable mobile home parks, the owner must provide a written disclosure of the address, lot rental amount, and other relevant factors relied upon by the park owner, such as facilities, services, and amenities.

The Division of Florida Land Sales, Condominiums, and Mobile Homes is required to maintain copies of each prospectus and all amendments to each prospectus that are considered adequate by the division. The division is to provide copies within ten days after a written request.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 116-0

HB 1265 — Florida Mobile Home Relocation Trust Fund

by Rep. Dockery (CS/SB 1920 by Regulated Industries Committee and Senator Crist)

The bill creates the Florida Mobile Home Relocation Trust Fund within the Department of Business and Professional Regulation to be used to fund the administration and operation of the Florida Mobile Home Relocation Corporation. The trust fund terminates July 1, 2005, unless terminated sooner, or unless the Legislature reviews it before its scheduled termination and preserves it.

If a mobile home owner residing on a rented lot in a mobile home park is evicted and required to move due to a change in use of the land comprising the mobile home park, the park owner must pay into the Trust Fund $2,000 for each single-section mobile home and $2,500 for each multi-section mobile home which is required to be moved and for which the mobile home owner has submitted an application for payment of moving expenses. The bill also appropriates to the trust fund $500,000 from the General Revenue Fund.

The bill takes effect on the effective date of CS/CS/SB 442 or similar legislation (July 1, 2001), if passed by a three-fifths vote of the membership of each house of the Legislature.
Vote: Senate 39-0; House 120-0

PARI-MUTUEL WAGERING AND ALCOHOLIC BEVERAGES

CS/SB 202 — Malt Beverages/Container Size

by Agriculture & Consumer Services Committee and Senators Lee and Latvala

Currently, malt beverages can be sold in individual containers of four sizes only, 8, 12, 16, and 32 ounces. The bill allows individual containers of any size up to and including 32 ounces. The bill also applies the malt beverage container size law to cider, allowing individual containers of up to 32 ounces, and allowing sales in bulk, in kegs or barrels, and in any individual container of one gallon or more.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 37-2; House 111-4

LEGISLATURE

HB 1935 — Legislature/Convening Date/2002

by Procedural & Redistricting Council and Rep. Byrd (SB 1714 by Senator Webster)

This bill provides that the regular session of the Legislature in 2002 will convene on Tuesday, January 22. During the regular session in 2002, the Legislature will apportion the state into senatorial and representative districts (s. 16, Art. III, State Constitution). The Legislature will map districts for the 25 representatives in Congress apportioned to Florida based on the 2000 Census.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 32-0; House 117-0

CLAIM BILLS

During the 2001 session, 42 claim bills were filed in the Senate. There were 32 companion bills filed in the House of Representatives. Also, there was one House claim bill filed that did not have a Senate companion.

Of the 42 bills filed in the Senate, 9 were taken up by the Senate, 2 of which were laid on the table, the House companion bill was substituted, and they have been ordered enrolled. The other 7 died in House Messages. If the 2 bills that were approved by both houses become law, they will authorize or direct payment of $5,555,347 in local funds paid by local government.

Nine claim bills were withdrawn from further consideration by the sponsor; 1 was reported unfavorably pursuant to Senate Rule; 6 were reported unfavorably by the Special Master and died in the next committee of reference; 13 died on the Senate Calendar; 3 died in a Senate committee after being reported favorably by the Special Master; and 1 died in the Committee on The Special Master on Claim Bills.

The following claim bills were approved:

			Vote: Senate	Vote: House
SB 50	by Senator Diaz de la Portilla *(passed as H 821)*	RELIEF: Oscar Ortiz / City of Miami	36-3	112-3
SB 66	by Senator Sullivan *(passed as H 795)*	RELIEF: Alfred Brinkley Roberts / City of St. Petersburg	37-2	113-0

HIGH SPEED RAIL

HB 489 — High Speed Rail

by Rep. Johnson and others (CS/CS/SB 1178 by Comprehensive Planning, Local & Military Affairs Committee; Transportation Committee; and Senator Sebesta).

This bill creates s. 341.821, F.S., creating the Florida High-Speed Rail Authority as an agency of the state. The authority will be comprised of nine voting members. The Florida Department of Transportation (FDOT) will serve as the primary staff for the authority. FDOT will provide technical and administrative assistance and ensure the authority's meetings are electronically recorded.

The bill provides criteria the authority must use in developing the preliminary engineering, preliminary environmental assessment, and recommendations required by this bill; what the authority must make recommendations on; and what must be included in the authority's operating plan.

The bill provides the authority must prepare and submit a report of its actions, findings, and necessary statutory changes and recommendations to the President of the Senate and the Speaker of the House of Representatives by January 1, 2002.

The bill authorizes the authority to prepare and issue a Request for Information and a Request for Proposal in order for the authority to contract for consultants to aid in fulfilling the requirements of this bill, and authorizes the authority to seek assistance from the private sector and other system vendors. The bill further requires the Florida Transportation Commission, the Department of Community Affairs, and the Department of Environmental Protection to provide assistance to the authority.

The bill appropriates $4.5 million from the Transportation Outreach Program to fund the work of the authority.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-1; House 97-14

HIGHWAY SAFETY AND MOTOR VEHICLES

CS/CS/HB 1053 — Transportation

by Ready Infrastructure Council; Transportation Committee; and Reps. Russell and Slosberg (CS/CS/SB 2056 by Governmental Oversight & Productivity Committee; Transportation Committee; and Senator Sebesta; CS/CS/CS/SB 1068 by Finance & Taxation Committee; Comprehensive Planning, Local & Military Affairs Committee; Transportation Committee; and Senator Sebesta; CS/SB 1268 by Transportation Committee and Senator Wasserman Schultz; CS/SB 84 by Criminal Justice Committee and Senators Meek and Crist; SB 2016 by Senator Rossin; CS/SB 626 by Transportation Committee and Senator Saunders; SB 1630 by Senators Silver and Miller; SB 1170 by Senator Sebesta; CS/SB 1232 by Finance & Taxation Committee and Senator Sebesta)

This act is a comprehensive transportation package which consists of the substance of many transportation bills.

This bill addresses a number of highway safety, motor vehicle, and vessel issues. Many of the provisions in the bill are related to programs administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Major provisions of the bill are summarized below.

Section 316.003, F.S., is amended to define a "motorized scooter" as a vehicle having no seat or saddle, no more than three wheels, and being incapable of speeds exceeding 30 miles per hour. The bill exempts motorized scooters from the definition of motor vehicle. The bill also designates certain Department of Health vehicles as emergency vehicles.

Section 316.006, F.S., is amended to permit issuance of a citation for failure to obey a multi-party stop sign in a private community, if provided for in the written agreement and if the signs conform to Department of Transportation specifications. Minimum traffic volumes are not required for installation of the signs or for enforcement of traffic laws for failure to stop at the signs.

Section 316.1967, F.S., is amended to clarify that persons electing to appear before a court on parking violations are subject to a fine amount designated by county ordinance.

Section 316.228, F.S., is amended to provide that commercial motor vehicles transporting certain forestry-related loads must display an amber strobe light, and clarifies the applicability of the strobe light requirement.

Section 316.640, F.S., is amended to authorize county and municipal crash investigation officers to issue traffic citations under chapters 319, 320, and 322, F.S. Currently, such officers are limited to issuing traffic citations under chapter 316, F.S. Clarifying language is added to prohibit parking enforcement specialists from carrying weapons, or from having arrest powers.

Section 319.14, F.S., is amended to authorize DHSMV to affix a decal to rebuilt vehicles to identify it as being rebuilt from parts, and to provide that removal of the decal is a third degree felony.

Section 319.30, F.S., is amended to revise the definition of "major component parts" and "major parts" to provide greater specificity regarding the disposition of salvage and rebuilt motor vehicles. The bill allows an insurer paying a total loss claim to obtain a certificate of destruction for such vehicle, and requires the insurer to obtain a certificate in its own name before the vehicle may be sold or transferred.

Section 320.023, F.S., is amended to conform provisions for separate audit and reporting requirements for recipients of specified funds to the Florida Single Audit Act (FSAA). The FSAA establishes uniform audit requirements for financial assistance provided by state agencies to non-state entities to carry out state projects. The FSAA applies to non-state entities expending $300,000 or more in state financial assistance annually. The bill requires an organization receiving proceeds derived from a voluntary check-off on a vehicle registration form to notify DHSMV immediately if the organization ceases to exist, or if it ceases the activity funded by the check-off contribution. Also requires certain organizations seeking to establish a voluntary contribution on a vehicle registration form to register as a charitable organization intending to solicit contributions with the Department of Agriculture and Consumer Services.

Section 320.08056, F.S., is amended to exempt the specialty license plates of Barry University and Bethune-Cookman College from the discontinuance requirements, thus applying the exemption to all collegiate specialty license plates. The bill directs DHSMV to count annual renewals in making its determination whether to discontinue a specialty plate. In addition, it requires an organization receiving proceeds derived from plate sales to notify DHSMV immediately if the organization ceases to exist, or if it ceases the activity funded by the contribution.

Section 320.27, F.S., is amended to provide that only the buyer of a motor vehicle sold at auction must be a licensed motor vehicle dealer, allowing other entities to sell motor vehicles at auctions and conforming this section to existing industry practice. The bill provides a definition for "Bona fide employee." The bill also allows the person offering a vehicle for auction to have control of the certificate of title or ownership document, a change allowing ownership documents to be kept in another location to reduce the risk of loss, and be sent to the purchaser later.

The bill contains several provisions relating to the suspension or cancellation of a motor vehicle dealer license, including:

- Deletes the requirement that a pattern of wrongdoing be established before DHSMV can take action against a licensee, so that a licensee could be subject to discipline for any one violation;

- When a motor vehicle dealer is convicted of a crime which results in revocation of the dealer's license, the dealer may not continue in any capacity within the industry. Such a person may not have a financial interest, or any other role, in the operation of a dealership. The person also may not derive income from the dealership beyond reasonable compensation for the sale of ownership interest.

- Conviction for a specified felony offense will disqualify a person from working in the industry or being involved in a dealership.

Section 322.01, F.S., is amended to provide that a motorized scooter is not a motor vehicle for driver's licensing purposes.

Section 322.0261, F.S., is amended to require DHSMV to screen crash reports identifying crashes where death or injury requiring transport to a medical facility occurs, or there is a first crash involving property damage of at least $2,500. Currently, DHSMV must screen crash reports to identify crashes involving death or injury requiring transport and a second crash involving at least $500 damage by the same driver in a two-year period. Drivers so identified in crash reports must attend a driver improvement course.

Section 322.02615, F.S., is created to require DHSMV to screen reports of convictions for traffic violations to identify drivers under 21 years old who have been convicted of, or plead nolo contendere to, a non-criminal traffic infraction. The bill also requires DHSMV to screen reports for any driver who has been convicted of, or plead nolo contendere to, more than one non-criminal traffic infraction in a 12-month period. A person identified in the screening must attend an approved basic driver improvement course or have his or her license suspended.

Section 322.161, F.S., is amended to require DHSMV to restrict for one year the driving privilege of class D or E licensees aged 15 through 17 who accumulate six or more points against their license within a 12-month period. A class E licensee who accumulates six points within 12 months is not eligible to obtain a class D license for one year. Current law provides for restrictions upon accumulation or four or more points.

Section 322.081, F.S., is amended to conform provisions for separate audit and reporting requirements for recipients of these funds to the Florida Single Audit Act (FSAA). The bill also requires an organization receiving proceeds derived from a voluntary check-off on a driver's license application to notify DHSMV immediately if the organization ceases to exist, or if it ceases the activity funded by the check-off contribution.

Section 322.2615, F.S., is amended to shorten the time that a DUI-related temporary permit is valid from 30 days to 10 days after issuance, conforming the permit's validity to the period of time the driver has to request a review of the suspension.

Section 322.292, F.S., is amended to require that DUI programs must be operated by either governmental entities or not-for-profit corporations.

Section 322.61, F.S., is amended to add two additional grounds for disqualification of a commercial driver license: (1) violation of an out-of-service order; and (2) violation of laws pertaining to railroad-highway grade crossings. For violations of an out-of-service order the suspension is 90 days to 1 year for a first violation; 1 to 5 years for two violations within 10 years; and 3 to 5 years for three violations within 10 years. These periods are increased for violations that occur while transporting hazardous materials. For railroad-highway grade crossing violations the suspension is a minimum of 60 days for a first violation; a minimum of 120 days for two violations within 3 years; and a minimum of 1 year for three violations within 3 years. These changes conform Florida law to federal commercial carrier safety requirements.

Section 322.64, F.S., is amended to reduce the temporary permit time from 30 days to 10 days in cases of DUI, bringing Florida law in compliance with federal requirements for commercial drivers.

Section 318.14, F.S., is amended to delete the provision limiting the number of times in a lifetime a person can elect to attend Driver Improvement School in lieu of having points assessed against his or her driver's license.

Section 320.691, F.S., is created which is the Automobile Dealers Industry Advisory Board within DHSMV. The board would make recommendations on proposed legislation, rules and procedures, and provide industry input to DHSMV, the Governor and the Legislature.

Section 713.78, F.S., is amended to add the insurance company to the list of those who must be notified when a vehicle has been towed. The bill also moves the notice requirement when law enforcement authorizes the removal of a vehicle from s. 715.05, F.S., to s. 713.78, F.S. The bill also revises requirements relating to the sale of unclaimed vehicles. The bill provides that a vehicle may be sold after 35 days if the vehicle is 3 years of age or older, or after 50 days if the vehicle is 3 years of age or less.

Section 715.07, F.S., is amended to define the term "vessel" and to allow for the removal of vessels parked on private property, conforming to the same notice, storage and release requirements for towing a vehicle. The bill also provides that failure of a towing company to make "good faith best efforts" to meet notice requirements precludes the imposition of any towing or storage charges.

The bill authorizes counties to impose an additional $3 fee on each civil traffic penalty to fund driver education programs in public and nonpublic schools. These funds are to be used exclusively for direct educational expenses.

Section 316.2065, F.S., is amended to provide that persons operating motorized scooters are subject to the same operational requirements as bicyclists, including the use of a safety helmet. The bill provides that motorized scooters may not be operated on roadways or sidewalks;

however, counties and municipalities are authorized to enact local ordinances that permit the use of motorized scooters on sidewalks and roadways.

The bill amends ss. 30.15, and 116.0493, F.S., to require sheriffs and municipal law enforcement agencies to incorporate anti-racial profiling policies in their agency policies and practices.

Section 318.14, F.S., is amended to provide that except for toll violations, any person cited at the scene for a traffic violation must sign and accept a citation indicating a promise to appear. The bill further provides that this section does not authorize the use of any photographic or video equipment at traffic intersections for the purpose of issuing traffic violations.

Section 318.1451, F.S., is amended to allow government entities and courts to distribute a traffic school reference guide or provider list developed by DHSMV; to allow course providers who receive requests for information about traffic schools from geographic areas they do not serve to provide a telephone number for a course provider they believe serves such geographic area; to amend the traffic school reference guide to include the names and telephone numbers of the fully approved course providers; to require the cost of producing the traffic school reference guide be assumed by providers included in the guide; and to specify guidelines for reproducing the guide.

Section 320.08058, F.S., is amended to direct DHSMV to issue a Florida Golf license plate. In addition to applicable motor vehicle registration taxes and fees, a $25 annual use fee will be charged for this new specialty license plate. Annual use fees for the Florida Golf license plate are to be distributed to the Florida Sports Foundation for specified purposes.

Section 322.056, F.S., is amended to authorize the court to direct DHSMV to issue a temporary driver's license, restricted to business or employment purposes only, to a minor whose driving privileges have been revoked or delayed, if the minor is otherwise qualified for such a license. Provides the court with the same discretion it currently possesses for adults to direct DHSMV to issue a business or employment purposes only driver's license to a minor under 18.

Section 320.089, F.S., is amended to provide for the issuance of a Pearl Harbor Survivor or Purple Heart motor vehicle license plate, without cost to a person who also qualifies for a disabled veteran's license plate.

If approved by the Governor, these provisions take effect July 1, 2001, or as otherwise provided in the bill.
Vote: Senate 39-1; House 106-8

CS/SB 1956 — Motor Vehicles

by Commerce & Economic Opportunities Committee and Senators Latvala, Sanderson, and Crist

This bill addresses a number of issues relating to motor vehicle and vessel operation, licensed motor vehicle manufacturers, and prohibited motor vehicle sales practices. Many of the provisions in the bill are related to programs administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Specific provisions of the bill are summarized below.

Motor Vehicle and Vessel Operation

The bill contains provisions relating to driving under the influence, motor vehicle title and registration, vessel title and registration, operator and commercial driver's license requirements, and vehicle/vessel towing requirements. Specific provisions in the bill include the following:

Section 316.003, F.S., is amended to define a "motorized scooter" as a vehicle having no seat or saddle, no more than three wheels, and being incapable of speeds exceeding 30 miles per hour. The bill exempts a motorized scooter from the definition of motor vehicle and designates certain Department of Health vehicles as emergency vehicles.

Section 316.1967, F.S., is amended to clarify persons electing to appear before a court on parking violations are subject to a fine amount designated by county ordinance.

Section 316.228, F.S., is amended to provide commercial motor vehicles transporting certain forestry-related loads must display an amber strobe light, and clarifies the applicability of the strobe light requirement.

Section 319.23, F.S., is amended to delete a requirement that DHSMV retain copies of certain documents. The Department is currently maintaining electronic records of title documents.

Section 320.023, F.S., is amended to conform provisions for separate audit and reporting requirements for recipients of these funds to the Florida Single Audit Act (FSAA). The FSAA establishes uniform audit requirements for financial assistance provided by state agencies to non-state entities to carry out state projects. The FSAA applies to non-state entities expending $300,000 or more in state financial assistance annually. The bill requires an organization receiving proceeds derived from a voluntary check-off on a vehicle registration form to notify DHSMV immediately if the organization ceases to exist, or if it ceases the activity funded by the check-off contribution. Also requires certain organizations seeking to establish a voluntary contribution on a vehicle registration form to register as a charitable organization intending to solicit contributions with the Department of Agriculture and Consumer Services.

Section 320.08056, F.S., is amended to exempt the specialty license plates of Barry University and Bethune-Cookman College from the discontinuance requirements, thus applying the exemption to all collegiate specialty license plates. The bill directs DHSMV to count annual

renewals in making its determination whether to discontinue a specialty plate. In addition, it requires an organization receiving proceeds derived from plate sales to notify DHSMV immediately if the organization ceases to exist, or if it ceases the activity funded by the check-off contribution.

Section 320.18, F.S., is amended to provide that DHSMV may cancel the registration or fuel-use decal of a vehicle if the owner has failed to pay a DOT weight or safety violation penalty.

Section 322.161, F.S., is amended to require DHSMV to restrict for one year the driving privilege of class D or E licensees aged 15 through 17 who accumulate six or more points against their license within a 12-month period. A class E licensee who accumulates six points within 12 months is not eligible to obtain a class D license for one year. Current law provides for restrictions upon accumulation or four or more points.

Section 322.2615, F.S., is amended to shorten the time that a temporary permit is valid from 30 days to 10 days after issuance, conforming the permit's validity to the period of time the driver has to request a review of the suspension. When a 30-day temporary driving permit is issued, the driver has 10 days to request review of the suspension. If the driver requests a review, a restricted permit is issued which is valid until the suspension is sustained or invalidated. If a driver does not request review within 10 days, the suspension becomes final on the tenth day and the driver should not have an unrestricted permit that is valid for up to 20 additional days.

Section 322.61, F.S., is amended to add two additional grounds for disqualification of a commercial driver's license: (1) violation of an out-of-service order; and (2) violation of laws pertaining to railroad-highway grade crossings. For violations of an out-of-service order the suspension is 90 days to 1 year for a first violation; 1 to 5 years for two violations within 10 years; and 3 to 5 years for three violations within 10 years. These periods are increased for violations that occur while transporting hazardous materials. For railroad-highway grade crossing violations the suspension is a minimum of 60 days for a first violation; a minimum of 120 days for two violations within 3 years; and a minimum of 1 year for three violations within 3 years. These changes conform Florida law to federal commercial carrier safety requirements.

Finally, the bill revises several provisions relating to the towing of vehicles and vessels. Section 713.78, F.S., is amended to add the insurance company to the list of those who must be notified when a vehicle has been towed. The bill also moves the notice requirement when law enforcement authorizes the removal of a vehicle from s. 715.05, F.S., to s. 713.78, F.S. The bill provides that an unclaimed vehicle may be sold after 35 days if the vehicle is 3 years of age or older, or after 50 days if the vehicle is 3 years of age or less.

Motor Vehicle Manufacturers and Distributors

The bill implements a number revisions to ss. 320.60-320.699, F.S., relating to the licensing of motor vehicle manufacturers and distributors.

Section 320.60, F.S., is amended to revise the definition of "motor vehicle dealer" to include licensed franchised motor vehicle dealers who repair or service motor vehicles or certain used motor vehicles for commission, money, or other things of value; and to define "sell" and its various synonyms to include lease transactions. Section 360.61, F.S., is amended to provide no replacement dealer license may be granted pending a dealer complaint of unfair or prohibited cancellation or non-renewal, so long as the dealer agreement of the complaining dealer is in effect as provided under s. 320.641(7), F.S.

Section 320.64, F.S., is amended to provide violations of prohibited acts are sufficient grounds for license denial, suspension, or revocation and makes them subject to penalties provided in ss. 320.695 and 320.697, F.S. These provisions relate to temporary or permanent injunctions, which shall be issued without bond and civil penalties respectively. If a violation by a licensee has occurred, the person who has been affected may recover damages in an amount equal to 3 times the pecuniary loss, together with costs and a reasonable attorney's fee to be assessed by the court. Burden of proof is upon the licensee to prove that a violation or unfair practice did not occur. The bill provides additional reasons which could justify the denial, suspension, or revocation of a manufacturers' license in Florida.

Section 320.641, F.S., relating to the discontinuation, cancellation, non-renewal, or replacement of franchise agreements is amended to provide that no replacement motor vehicle dealer shall be named and the franchise agreement shall continue in effect until all appeals are exhausted. The bill provides certain exceptions to this provision. The bill revises provisions governing certain transfers or franchise agreements.

Section 320.643, F.S., relating to the transfer, assignment, or sale of franchise agreement is amended to allow a manufacturer to use financial qualifications in its determinations regarding a transfer, and allows the dealer to file a complaint in protest of the denial of a transfer. The bill requires a manufacturer to state reasons for rejecting a transfer, and to provide for approval of the transfer if the manufacturer fails to notify the dealer of the rejection within 60 days. If the licensee fails to provide notification of rejection within the 60 day period the transfer shall be deemed approved.

Section 320.645, F.S., is amended to allow manufacturers to operate motor vehicle dealerships for the exclusive purpose of broadening diversity and improving minority representation. The bill provides certain definitions. In addition, the bill does not restrict the business activities of short term rental businesses that sell only used vehicles, perform warranty repairs only on vehicles they sell, and finance the sale of used vehicles only.

Section 320.699, F.S., is amended to require that a hearing on a notice of protest shall not be held sooner than 180 days nor 240 days from the filing of the protest.

Deceptive Trade Practices and Acts

The bill codifies 20 violations proscribed in a repealed Department of Legal Affairs rule regarding motor vehicle sales, and specifically provides that certain motor vehicle dealer practices are actionable under the Florida Deceptive and Unfair Trade Practices Act. The bill also requires a trial court to consider certain information when awarding attorney's fees to a person in civil litigation resulting from a violation of these provisions. The bill provides that it is an unfair or deceptive act or practice, actionable under the Florida Deceptive and Unfair Trade Practices Act, for a dealer to represent that a vehicle was a "factory executive vehicle" or "demonstrator" without reasonable proof. The bill also prohibits various misrepresentations by motor vehicle dealers regarding a vehicle's condition or previous maintenance or warranty coverage.

The bill prohibits dealers from having customers sign contracts which are incomplete, accepting a deposit from a customer before entering into a binding contract, adding fees or charges not authorized by law, increasing the price of a vehicle after having accepted a purchase order, and filing a lien against a new vehicle purchased with a check. An exception is provided for vehicles purchased with a check if the dealer fully discloses the procedures and costs for gaining title after the lien is filed. It also provides certain exceptions where the price of the vehicle may be increased due to reasons outside the control of the dealer.

The bill prohibits charging a customer for any pre-delivery service required by the manufacturer for which the dealer is reimbursed by the manufacturer. The dealer must clearly disclose all pre-delivery service charges noting that they represent costs and profit to the dealer. Dealers are also required to disclose damage to a new motor vehicle that is greater than three percent of the manufacturer's suggested retail price or $650, whichever is less. Finally, the bill provides that any civil litigation resulting from its provisions may result in the prevailing party receiving reasonable attorney's fees and costs.

If approved by the Governor, these provisions take effect October 1, 2001
Vote: Senate 39-0; House 118-0

HB 29 — Driving Under the Influence/Minors

by Rep. Brummer and others (SB 430 by Senator Dyer)

This bill requires the driver license suspension periods provided for in s. 322.2616, F.S., shall remain in effect until the person completes a substance abuse course and evaluation offered by a DUI program licensed by the Department of Highway Safety and Motor Vehicles in those instances where the person's blood or breath alcohol level was .05 or higher. As part of the substance abuse course, the program must conduct a substance abuse evaluation of the driver, and notify the parents or legal guardians of drivers under the age of 19 years, of the results of the evaluation. The driver must bear the cost of substance abuse education course and substance

abuse evaluation. The bill further provides that if the driver fails to complete the substance abuse education course and evaluation, the Department shall not reinstate the person's license.

In addition, the bill provides a temporary driving permit may not be effective until 12 hours after the notice of suspension is issued. The bill also allows the use of results of a blood test obtained during a traffic investigation to suspend a driver's license under this section. Further, if a minor under the age of 18 is found to be driving with a blood or breath alcohol level of 0.02 or higher, a law enforcement officer may take the minor to an addictions receiving facility in the county in which the minor is driving, if the county makes the facility available for this purpose.

Finally, the bill makes a number of technical corrections including deleting references to "percent" when referring to alcohol level, and adding appropriate references to "blood alcohol" and "breath alcohol" levels.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 37-0; House 113-1

CS/HB 175 — Reckless Driving

by Crime Prevention, Corrections & Safety Committee and Rep. Machek and others (CS/SB 678 by Transportation Committee and Senators Klein and Crist; SB 1088 by Senator Villalobos)

This bill, amending s. 316.192, F.S., enhances penalties for reckless driving resulting in serious bodily injury to another, and defines it as a third degree felony, punishable by up to 5 years imprisonment and a $5,000 fine, or both. The bill also enhances penalties for damaging the property of another as a result of reckless driving and defines the offense as a first degree misdemeanor, punishable by up to one year imprisonment and a $1,000 fine, or both.

The bill creates s. 316.1923, F.S., to provide a definition for the term "aggressive careless driving." The bill provides that any person who commits two or more of the following acts simultaneously or in succession is deemed to have committed "aggressive careless driving":

- Exceeding the posted speed by more than 15 miles per hour,
- Unsafely or improperly changing lanes,
- Following another vehicle too closely,
- Failing to yield the right-of-way,
- Improperly passing, and
- Violating traffic-control and signal devices.

The bill also amends s. 316.650, F.S., to require the Department of Highway Safety and Motor Vehicles to revise the uniform traffic citation to include a box to be checked by a law enforcement officer when the officer believes a traffic violation or traffic accident was caused by aggressive driving. The bill further requires the Department to submit a report to the President

of the Senate and the Speaker of the House by February 1, 2002, which sets forth the number of incidents of aggressive driving in Florida during the preceding 6-month period.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 37-0; House 116-0

CS/HB 157 — Motor Vehicle Airbags

by Competitive Commerce Council and Rep. Weissman and others (CS/SB 260 by Transportation Committee and Senators Geller and Villalobos)

This bill creates s. 860.146, F.S., to define the terms "Fake airbag" and "Junk-filled airbag" compartment. The bill also provides it is unlawful to knowingly purchase, sell, or install any fake or junk-filled airbag compartment. Violations of this provision are punishable as a second-degree felony. A second-degree felony is punishable by up to 15 years in prison and a $10,000 fine.

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

HB 635 — Drivers' Licenses/Selective Service

by Rep. Hart and others (SB 1948 by Senator Crist)

This bill creates s. 322.0515, F.S., directing the Department of Highway Safety and Motor Vehicles to require any male between the ages of 18 and 26 to comply with the Selective Service System requirements when applying for a driver's license, commercial driver's license, identification card, or a renewal or a replacement of such license or card. The Department will require male applicants to either certify compliance with Selective Service System requirements or authorize the Department to forward to the Selective Service System the information necessary for registration. This will be accomplished through the utilization of a data sharing system of the American Association of Motor Vehicle Administrators.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 38-0; House 120-0

HB 757 — Wrecker Liens

by Rep. Barreiro and others (CS/SB 2044 by Transportation Committee and Senator Burt)

This bill amends s. 320.03, F.S., to provide that if the applicant's name appears on a list as a result of a wrecker operator's lien filed in accordance with s. 713.78, F.S., a license plate or revalidation decal may not be issued. The license plate or revalidation decal may be issued once

the person's name no longer appears on the list or the person presents a receipt from the clerk showing that the outstanding fines have been paid.

The bill also amends s. 713.78, F.S., to provide that the Department of Highway Safety and Motor Vehicles (DHSMV) is to create a wrecker operator's lien list. A wrecker operator may claim a lien for the cost of recovery, towing, or storage of an abandoned motor vehicle, mobile home or vessel that was ordered towed by a law enforcement operator and for which a certificate of destruction has been issued. The lien is applicable against all owners of the motor vehicle, mobile home, or vessel. A notice of wrecker operator's lien must be submitted on forms provided by DHSMV.

For purposes of a wrecker operator's recorded lien only, the amount of a wrecker operator's lien may not exceed the amount of the charges for recovery and towing of the motor vehicle, mobile home, or vessel, plus no more than 7 days storage charges. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). Any registered owner of a motor vehicle, mobile home, or vessel, may dispute a wrecker operator's lien, by notifying DHSMV of the dispute.

A registered owner may not dispute a wrecker operator's lien if the wrecker operator has provided DHSMV with a certified copy of a judgment against the registered owner requiring the registered owner to pay the wrecker operator's lien. A wrecker operator's lien may be increased to include no more than $500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. A wrecker operator must issue a certificate of discharge to each registered owner of the motor vehicle, mobile home, or vessel, attesting that the amount of the wrecker operator's lien has been discharged.

Finally, the bill provides that an unclaimed vehicle may be sold after 35 days if the vehicle is more than 3 years of age, or after 50 days if the vehicle is 3 years of age or less.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 34-0; House 113-2

SB 766 — Drivers' License/DUI Convictions

by Senator Sanderson

This bill amends s. 322.28, F.S., to provide that persons convicted of a second or subsequent driving under the influence (DUI) offense are subject to license revocation for a period of 5 years or 10 years based on the date of offense rather than the conviction date. The bill requires the license revocation period to be 5 years based upon the second conviction for an offense occurring within 5 years of the previous conviction. A third conviction for an offense of DUI within a 10-year period would result in a 10-year license revocation period.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 39-0; House 119-0

CS/CS/HB 1121 — Driver Licenses/County Tax Collectors

by Smarter Government Council; Local Government & Veterans Affairs; and Rep. Byrd (CS/CS/SB 1276 by Comprehensive Planning, Local & Military Affairs Committee; Transportation Committee; and Senator Lee)

This bill amends s. 322.135, F.S., to allow county tax collectors to be designated the exclusive agent of the Department of Highway Safety and Motor Vehicles (DHSMV) for the local administration of driver license services. The bill establishes an application process for tax collectors to apply to DHSMV to serve as the exclusive agent. The bill provides that the administration of driver license services by the tax collector as the exclusive agent of DHSMV must be revenue neutral with no adverse state fiscal impact and with no adverse unfunded mandate to the tax collector.

This bill provides for the creation of a Cost Determination and Allocation Task Force to analyze and recommend the allocation of costs between DHSMV and tax collectors for the administration of driver license services. The bill also provides for the development of transition plans to facilitate, where applicable, the orderly transfer of service responsibilities to the tax collector.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-0; House 114-2

SB 1412 — Child Safety Booster Seat Act

by Senator Posey

This bill creates the "Child Safety Booster Seat Act of 2001" which revises the requirements for child restraint devices in motor vehicles. The bill amends s. 316.613, F.S., to require that children 8 years of age or younger, who are less than 4 feet 9 inches in height be provided the protection of a crash-tested, federally approved child restraint device. For children 3 years of age or younger the restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat. For children aged 4 through 8 years who are less than 4 feet 9 inches in height, a separate carrier, an integrated child seat or a child booster seat must be used.

Law enforcement officers will issue warnings for violations of the committee substitute and give educational literature from July 1, 2001, until January 1, 2002. After the warning period, moving traffic violations may be issued to drivers. The court must dismiss first violations if the driver provides proof of purchase of an approved child restraint device.

If approved by the Governor, these provisions take effect July 1, 2001.
Vote: Senate 29-2; House 107-8

TRANSPORTATION ADMINISTRATION

CS/CS/HB 1053 —Transportation

by Ready Infrastructure Council; Transportation Committee; and Reps. Russell and Slosberg (CS/CS/SB 2056 by Governmental Oversight & Productivity Committee; Transportation Committee; and Senator Sebesta; CS/SB 1566 by Transportation Committee and Senator Sebesta; CS/SB 1776 by Transportation Committee and Senator Jones; SB 506 by Senator Diaz de la Portilla; CS/SB 1976 by Commerce & Economic Opportunities Committee and Senator Sebesta; CS/SB 1482 by Commerce & Economic Opportunities Committee and Senator Bronson; SB 2204 by Senator Sebesta; SB 712 by Senator Mitchell; SB 1304 by Senator Webster; SB 1732 by Senator Jones; SB 1746 by Senator Smith)

This act is a comprehensive transportation package which consists of the substance of many transportation bills.

Amends s. 20.23, F.S., deleting instructions on the Department of Transportation (DOT) Secretary's responsibilities, deletes obsolete language and provides for the turnpike enterprise.

Amends s. 163.3177, F.S., to exempt airports from the Development of Regional Impact (DRI) process if the airport master plan has been incorporated into the local government comprehensive plan.

Amends s. 163.3180(2)(c), F.S., to provide FIHS facilities needed to serve new development must be in place or under actual construction no more than 5 years after issuance by the local government of a certificate of occupancy or its functional equivalent.

Amends s. 189.441, F.S., removing the exemption for Community Improvement Authorities from s. 287.055, F.S., for professional architectural, engineering, landscape architectural, or land surveying services, or for the procurement of design-build contracts.

Amends s. 73.092, F.S., to provide if a defendant does not accept the last written settlement offer by the condemning authority before the final judgment and the final judgment is equal to or less than the final judgment no attorneys fees or costs will be awarded.

Amends s. 206.46, F.S., to increase the debt service cap on the transfer of 7 percent of State Transportation Revenue to the Right of Way Acquisition and Bridge Construction Trust Fund from $135 million to $200 million.

Amends ss. 255.20, 336.41, 336.44, and 337.14, F.S., to provide any contractor prequalified with FDOT and eligible to bid is presumed prequalified to obtain bid documents and submit bids for county and expressway authority road projects.

Section 337.14, F.S., is amended to increase the validity period for a FDOT certificate of qualification from 16 months to 18 months.

Amends s. 287.055, F.S., to raise the threshold amounts for a "continuing contract" for projects in which construction costs do not exceed $1 million (from $500,000), for study activity when the fee for such professional service does not exceed $50,000 (from $25,000).

Amends s. 311.07, F.S., to provide seaports may utilize certain funds for seaport security projects and are exempt from the 50/50 match requirement. Amends s. 315.031, F.S., to authorize seaports to expend funds for promotional activities such as meals, hospitality, and entertainment in the interest of promoting and engendering goodwill toward its port facilities. Amends s. 311.09(12), F.S., to provide all moneys derived from the Florida Seaport Transportation and Economic Development Program must be expended in accordance with ss. 287.057 and 287.055, F.S. Further, the exemption for seaports subject to competitive negotiation requirements of a local governing body is repealed.

Amends ss. 316.302(1)(b), 316.3025, 316.515(2), 316.535, 316.545, F.S., to update the reference to the current safety regulations contained in the Code of Federal Regulations (C.F.R.) to October 1, 2000 and to provide other technical changes.

Amends ss. 330.27, 330.29, 330.30, 330.35, 330.36(2), F.S., to alter airport-related definitions to provide more currently accepted terminology; to include in the FDOT's duties the establishment of minimum standards for airport sites and airports under its registration jurisdiction; to include in the FDOT's duties the establishment and maintenance of a state aviation data system to facilitate licensing and registration of all airports; to abolish airport site approval fees; to establish separate site approval methods for public and private airports; to simplify and clarify the reasons to revoke an airport site approval; establishes private airport registration requirements and abolishes airport license and registration fees; provides for licensing of public airports and registration of private airports; clarifies temporary airport usage and authorization; and amends the validity period to conform to current FAA requirements.

Amends s. 332.004, F.S., to include off-airport noise mitigation projects in the definition of an "airport or aviation development project" or "development project."

Amends s. 333.06, F.S., to require airports to prepare a master plan and submit that plan to affected local governments.

Amends s. 334.044, F.S., to authorize FDOT to purchase promotional items for the Florida Scenic Highways Program. The section is further amended to authorize FDOT to enter into a permit delegation agreement with local governments to issue drainage permits.

Amends s. 334.193, F.S., to authorize certain FDOT employees to bid on projects prior to resignation, and amends s. 334.30, F.S., to provide for "public-private transportation facilities."

Creates s. 335.066, F.S., to establish within the FDOT the Safe Paths to Schools Program to consider the planning and construction of bicycle and pedestrian ways to provide safe transportation for children from neighborhoods to schools, to parks, and to the state's greenway and trails system. The section provides the FDOT may establish a grant program and adopt appropriate rules to administer the Safe Paths to Schools Program.

Amends ss. 335.141(3) and 341.302, F.S., to repeal the FDOT's authority to regulate train-operating speeds, which authority has been preempted by federal law.

Amends s. 336.12, F.S., to provide for optional conveyance of roads for gated communities.

Amends s. 337.107 and 337.11(7)(a), F.S., to authorize FDOT to include right-of-way services in a design-build contract, and to use design-build contracts for enhancement projects. Section 337.11(6)(c), F.S., is further amended to increase, from $60,000 to $120,000, the current cap on Fast Response contracts.

Amends s. 337.401(2), F.S., to authorize FDOT to accept a Utility Relocation Schedule and Relocation Agreement in lieu of a written permit, unless the utility work takes place before the Schedule and Agreement are available.

Amends s. 339.08(1) and (2), F.S., to delete a duplicative rulemaking requirement for the expenditure of moneys in the STTF.

Amends s. 339.12(4)(a), F.S., to allow FDOT to "compensate" rather than "reimburse" the governmental entity for the actual amount of the bond proceeds, time warrants, or cash used on a highway project or project phases that are not revenue producing and are contained in the FDOT's adopted work program. Increases the amount which may be loaned to $150 million.

Provides, for FIHS projects only, the first five years of the adopted work program are a commitment to local governments for planning purposes.

Amends s. 339.137, F.S., to provide the Transportation Outreach Program (TOP) council must develop a comprehensive ranking and scoring system. Changes TOP project criteria, and provides for a review of project list by the Transportation Commission.

Amends s. 341.051(5)(b), F.S., to delete the requirement that FDOT develop a major capital investment policy for public transit capital projects. According to FDOT, the necessity for specific state evaluations methodologies has been eliminated by changes in federal law regarding the evaluation of such projects.

Amends s. 348.0003, F.S., to provide the qualifications, terms of office, and obligations and rights of the members of the authority will be determined by the Miami-Dade County Commission.

Amends ss. 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S., respectively to give the Orlando Orange County Expressway Authority authority to issue its own bonds, and reissue bonds for certain projects. The section provides the bonds do not pledge the full faith and credit of the state.

Amends s. 373.4137, F.S., to allow expressway authorities to utilize the process developed for FDOT to pay mitigation funds into escrow accounts, managed by DEP, which finance WMD mitigation projects to offset the adverse environmental impacts of expressway projects.

Amends s. 380.06, F.S., to provide an exemption from DRIs for: any proposed facility for the storage of any petroleum product if the facility is consistent with a local comprehensive plan that is in compliance with s. 163.3177 or s. 163.3178, F.S.; and any development or expansion of an airport or airport-related or aviation-related development which has been incorporated in a local comprehensive plan. Provides procedures for an airport or petroleum storage facility which has received a DRI development order but is no longer required to undergo DRI review because of this act. Exempts certain motor vehicle wholesale facilities from the DRI process.

Amends s. 331.308, F.S., to revise the Spaceport Authority Board of Supervisors.

Amends s. 479.15, F.S., to provide the term "federal-aid primary highway system" means the federal-aid primary highway system in existence on June 1, 1991, and any highway which was not on such system but which is, or hereafter becomes, a part of the National Highway System.

Creates s. 479.25, F.S., to specify governmental entities may enter into agreements with billboard owners allowing a lawfully erected billboard to be raised when a sound barrier, visibility screen, or other highway improvement blocks the billboard from being seen.

Creates s. 70.20, F.S., authorizing municipalities and counties to enter into relocation agreements with outdoor advertising sign owners. The section provides no municipality, county, or governmental entity may remove or alter a lawfully erected sign along the interstate, federal-aid primary or other highway system without first paying just compensation through eminent domain proceedings.

Amends s. 496.425(1), F.S., to delete highway rest areas, roadside welcome centers and highway service plazas from the types of transportation facilities where fund solicitation can occur. Creates s. 496.4256, F.S., to specify any governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a solicitation permit.

Amends s. 337.408, F.S., providing local governments may authorize the installation of benches and transit shelters with or without public bid. Provides for removal of benches and shelters. Provides for the regulation of street light poles.

Amends s. 768.28, F.S., provides sovereign immunity for Tri-Rail security providers and rail service operators.

Amends s. 337.025, F.S., to provide the annual cap for innovative highway projects ($120 million) does not apply to turnpike enterprise projects.

Amends ss. 337.11, 338.165, 338.22, 338.221, 338.223, 338.227, 338.2275, 338.234, 338.235, 338.239, 338.241, 338.251, and 553.80, F.S., and creates ss. 338.2215 and 338.2216, F.S., to create the turnpike enterprise; to exempt the turnpike enterprise from the provision that no advertisement for bids may be published and no bid solicitation notice may be provided until title to necessary rights-of-way and easements for the construction of a project have been secured; to provide "economically feasible" for a turnpike project means the revenues of the project in combination with those of the existing turnpike system are sufficient to service the debt of the outstanding turnpike bonds to safeguard investors; to remove the provision that federal and state transportation funds included in an adopted work program, or the General Appropriations Act, for a turnpike project do not have to be reimbursed to the State Transportation Trust Fund, or used in determining the economic feasibility of the proposed project; to provide the turnpike enterprise may sell services, products, or business opportunities, which benefit the traveling public, on the turnpike system; to provide approved FHP expenses incurred patrolling the turnpike system will be reimbursed to the DHSMV by the turnpike enterprise.

Repeals s. 316.3027, F.S., to remove a state law concerning commercial motor vehicle identification and adopt by reference a similar federal regulation. Repeals s. 316.610(3), F.S. The commercial motor vehicle inspection provided in the subsection is no longer relevant.

This bill provides, notwithstanding the proviso contained in Specific Appropriation 2022 of the 2001-2002 General Appropriations Act, FDOT may use funds for arterial highway construction for all projects including Leon County, whether or not the contingency provided in the appropriation is met, and provides certain multicounty airports must establish a noise mitigation fund.

Amends s. 348.565, F.S., to provide the connector road linking the Lee Roy Selmon Crosstown Expressway to I-4 may be refinanced.

Provides for the Small Aircraft Transportation System.

Amends s. 338.165, F.S., authorizing the use of certain toll revenue in Miami-Dade County for non-transportation projects, and requires a referendum in Miami-Dade County to create an airport authority.

The bill amends ss. 331.367 and 331.368, F.S., providing operational changes to the Spaceport Management Council.

Amends s. 212.20, F.S., appropriating money to the Florida Commercial Space Financing Corporation and the Spaceport Florida Authority.

The bill provides numerous road designations.

If approved by the Governor, these provisions take effect July 1, 2001, or as otherwise provided in the bill.
Vote: Senate 39-1; House 106-8

CS/SB 978 — Seaport Security Standards

by Transportation Committee and Senator Burt

The bill amends s. 311.12, F.S., providing minimum-security standards for Florida's seaports. The bill provides the Florida Department of Law Enforcement (FDLE), in consultation with the Office of Drug Control (ODC), must adopt rules incorporating statewide minimum-security standards for all 14 of Florida's deep-water seaports. The bill provides:

Each seaport must maintain a security plan relating the specific and identifiable needs of the seaport which assures the seaport is in substantial compliance with the statewide minimum standards.

By January 1, 2002, each prospective and current port employee must have a fingerprint-based criminal history check as determined by each port and dependent upon the employees access to restricted areas.

The FDLE must conduct at least one unannounced inspection of each seaport to determine minimal compliance with security standards and report their findings and recommendations to the Governor and Legislature.

Funds appropriated for seaport security will be allocated as determined through a mutual agreement between FDLE, ODC and the Florida Seaport Transportation and Economic Development Council.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-2; House 106-3

HB 397 — Public Records/Toll Facility Charges

by State Administration Committee and Rep. Brummer (SB 1060 by Transportation Committee)

This bill amends s. 338.155, F.S., maintaining the existing public records exemption for personal identifying information, which is obtained from the use of a credit card, charge card or check for the prepayment of electronic toll facilities charges to the FDOT, a county, or an expressway authority.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 40-0; House 117-0

HB 395 — Public Records/Airport Security Plans

by State Administration Committee and Rep. Brummer (SB 1062 by Transportation Committee)

This bill amends s. 331.22, F.S., maintaining the existing public records exemption for airport security plans.

If approved by the Governor, these provisions take effect October 1, 2001.
Vote: Senate 38-0; House 116-0

SENATE AND HOUSE BILLS

CHAPTER LAWS

FLORIDA STATUTES

STATE CONSTITUTION

SUBJECT

A

B

C

D

E

F

G

H

I

J

L

M

N

O

P

R

S

T

U

V

W

Y

Z