



# **The Florida Senate**

## **Interim Work Plan 2005 Session**

**James E. "Jim" King, Jr.**  
**President**

**Alex Diaz de la Portilla**  
**President Pro Tempore**

# TABLE OF CONTENTS

<b>Agriculture.....</b>	<b>1</b>
INTERIM PROJECTS.....	1
Reuse of Water.....	1
MANDATORY REVIEWS.....	1
Citrus Canker Exposed Trees, s.581-184(1)(b), F.S.....	1
MONITOR PROJECTS.....	2
Agricultural Economic Development .....	2
Beef Market Development Act .....	3
Citrus Canker .....	4
Citrus Commission.....	4
Agriculture and Migrant Labor .....	5
<b>Appropriations .....</b>	<b>7</b>
INTERIM PROJECTS.....	7
MANDATORY REVIEWS.....	7
MONITOR PROJECTS.....	7
<b>Appropriations Subcommittee on Article V Implementation and Judiciary.....</b>	<b>9</b>
INTERIM PROJECTS.....	9
MANDATORY REVIEWS.....	9
MONITOR PROJECTS.....	9
Implementation of the Circuit Article V Indigent Services Committee .....	9
Florida Clerk of Court Operations Corporation.....	10
Article V Revenue Sharing .....	10
State Payments for Due Process Services Costs .....	11
Recording Fees Increased to Fund Technology Expenditures.....	12
Article V Technology Board Implementation .....	12
<b>Appropriations Subcommittee on Criminal Justice .....</b>	<b>15</b>
INTERIM PROJECTS.....	15
MANDATORY REVIEWS.....	15
MONITOR PROJECTS.....	15
Joint Financial Participation of the State and Counties in the Provision of Juvenile Detention .....	15
Impact of Hepatitis C on the Prison Population and Others .....	16
Interstate Compact for Juveniles in the Department of Juvenile Justice .....	16
Pilot Re-Direction Program in the Department of Juvenile Justice.....	17
Substance Abuse and Drug Treatment Programs in the Department of Corrections.....	17
<b>Appropriations Subcommittee on Education.....</b>	<b>19</b>
INTERIM PROJECTS.....	19
Impact of the General Appropriations Act on Various Educational Institutions and School Districts .....	19
Public Postsecondary Challenge Grant Programs.....	19
Calculation of Full Time Equivalent Students for the Florida Education Finance Program .....	20
MANDATORY REVIEWS.....	20
MONITOR PROJECTS.....	21
Class Size Reduction Implementation .....	21
Department of Education Indirect Cost Budget.....	21

Florida Information Resource Network (FIRN) .....	22
Five Year Enrollment Plan for State Universities.....	23
Knott Data Center Cost.....	23
Workforce Development Funding Model.....	24
Consensus Estimating/Enrollment Conferences .....	25
<b>Appropriations Subcommittee on General Government .....</b>	<b>27</b>
INTERIM PROJECTS.....	27
MANDATORY REVIEWS.....	27
MONITOR PROJECTS.....	27
Child Support Enforcement Administrative Costs Recovery .....	27
INTERIM MONITOR PROJECT TITLE: .....	28
Condominium Complaints .....	28
Consolidation of State Facilities Pool Office Space; “Restack” Initiative .....	29
Recycling of Electronic Equipment.....	30
INTERIM MONITOR PROJECT TITLE: .....	32
Piney Point Phosphate Site Remediation.....	32
MyFloridaMarketPlace New Compensation Model .....	33
Projected Trust Fund Deficits in the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission .....	35
INTERIM MONITOR PROJECT TITLE: .....	36
DBPR Technology Options for Tax Functions.....	36
<b>Appropriations Subcommittee on Health and Human Services .....</b>	<b>39</b>
INTERIM PROJECTS.....	39
MANDATORY REVIEWS.....	39
MONITOR PROJECTS.....	39
Establishment of the Agency for Persons with Disabilities.....	39
Information Technology Operating Budget Analysis.....	40
Medicaid Reform Efforts .....	41
<b>Appropriations Subcommittee on Transportation and Economic Development .....</b>	<b>42</b>
INTERIM PROJECTS.....	42
Hazard Mitigation Program Funding .....	42
MANDATORY REVIEWS.....	43
MONITOR PROJECTS.....	43
Strategic Intermodal System.....	43
Transportation Equity Act - 21 Reauthorization.....	44
<b>Banking and Insurance.....</b>	<b>45</b>
INTERIM PROJECTS.....	45
Insurance Company Solvency Regulation .....	45
Deterring Insurance Fraud by Employment Agencies.....	46
Enforcing the Ban on Retail Sale of Fireworks .....	47
Determining the Sufficiency of Regulation of Third Party Administrators and Fiscal Intermediary Services Organizations .....	48
MANDATORY REVIEWS.....	49
MONITOR PROJECTS.....	49
Status of Citizens Property Insurance Corporation.....	49
Implementation of the Florida Health Insurance Plan .....	50
Anti-Insurance Fraud Activities of the Division of Insurance Fraud and Prosecution by State Attorneys.....	50
Status of the Medical Malpractice Insurance Market .....	51

<b>Children and Families .....</b>	<b>53</b>
INTERIM PROJECTS.....	53
Mental Health Professions Authorized to Initiate Involuntary Mental Health Evaluations .....	53
MANDATORY REVIEWS.....	54
Open Government Sunset Review of s. 741.3165, F.S., Records Held by a Domestic Violence Fatality Review Team .....	54
MONITOR PROJECTS.....	55
Education of Dependent Children Interagency Agreements.....	55
Community-Based Care Continued Implementation.....	56
Child Support Guidelines Proposed Changes .....	56
Establishment of the Agency for Persons with Disabilities.....	57
Substance Abuse Services Single “Managing Entity” in DCF Districts 4 and 12.....	58
Economic Self-Sufficiency Privatization.....	59
Community Mental Health Initiatives Implementation .....	60
Managed Behavioral Health Care Contracts Impact on Mental Health System.....	60
Insurance Reimbursement Issues for Substance Abuse Treatment Providers .....	61
Substance Abuse and Child Welfare Programs .....	62
Florida Substance Abuse and Mental Health Corp., Inc.....	63
<b>Commerce, Economic Opportunities, and Consumer Services.....</b>	<b>65</b>
INTERIM PROJECTS.....	65
A Review and Evaluation of the Florida Enterprise Zone Program and Incentives .....	65
School Readiness Programs II: Next Steps in the Evolution of Child Development .....	66
Accessing Consumer Services of State Government.....	66
MANDATORY REVIEWS.....	67
Open Government Sunset Review of the Public Records Exemptions for Investigation and Review Information and Social Security Numbers under CAPCO Program, s. 288.99(15) & (16), F.S.....	67
Open Government Sunset Review of the Public Records Exemption for the Individual Records of Children Enrolled in School Readiness Programs, s. 411.011, F.S.....	68
MONITOR PROJECTS.....	69
Transfer of International Responsibilities to the Governor’s Office of Tourism, Trade, and Economic Development.....	69
Scripps Biomedical Research Institute and Campus.....	70
<b>Communication and Public Utilities .....</b>	<b>71</b>
INTERIM PROJECTS.....	71
Governmental Entity Provisioning of Electric, Water and Wastewater Treatment, Telecommunications and Advanced Communications, and Cable Services .....	71
Florida Public Service Commission, Review of Chapter 350, F.S.....	72
Assessment of Lifeline Assistance Program.....	73
MANDATORY REVIEWS.....	74
Open Government Sunset Review of the Public Records Exemption for Proprietary Confidential Business Information Obtained From a Telecommunications Company or Franchised Cable Company by a Local Governmental Entity Relating to Imposing Fees for Occupying the Public Rights-of-way or Assessing the Local Communications Services Tax, s. 202.195, F.S.....	74
MONITOR PROJECTS.....	75
Development of Renewable Energy by the Energy Office.....	75
Implementation of the Tele-Competition Innovation and Infrastructure Enhancement Act of 2003.....	76

<b>Comprehensive Planning</b> .....	<b>77</b>
INTERIM PROJECTS.....	77
Review of Florida’s Growth Management Policy .....	77
Codification of the Imposition of Impact fees by Local Governments.....	78
Land Use Board of Appeals .....	79
Antiquated Subdivisions .....	80
A Matrix of Legislative Responses to Catastrophic Disasters.....	81
Working Waterfronts .....	82
MANDATORY REVIEWS.....	83
MONITOR PROJECTS.....	83
Implementation of the Administrative Rule providing for a Building Product Approval System by the Florida Building Commission.....	83
Implementation of the Local Government Comprehensive Plan Certification Program.....	84
Provision of Emergency Public Shelter Space.....	85
Retrofitting of Fire Sprinklers, Handrails, and Guardrails in Residential Condominiums and Cooperatives Reporting Requirements .....	85
Optional Sector Plan Process .....	87
<b>Criminal Justice</b> .....	<b>89</b>
INTERIM PROJECTS.....	89
Constitutional Prohibitions Affecting Criminal Laws .....	89
Statute of Limitations, s. 775.15, F.S.....	89
The Connection Between Domestic Violence, Child Abuse and Cruelty to Animals.....	90
Global Positioning System (GPS) Technology Use in Monitoring the Activities of Probationers .....	91
MANDATORY REVIEWS.....	91
MONITOR PROJECTS.....	91
Laws Relating to Intrusion on Computers and Computer Networks.....	92
Minimum Age for Imposing the Death Sentence and the United States Supreme Court.....	92
The Department of Juvenile Justice’s Implementation of Changes in Response to Recent Problems with and Criticisms of Detention Centers and a Maximum Risk Correctional Facility for Girls.....	93
Implementation of Legislation Requiring Gender Specific Programming within the Department of Juvenile Justice .....	94
Implementation of the Settlement Agreement in Osterback v. Moore .....	94
Postconviction DNA Testing .....	95
Sexual Predator and Sexual Offender Registration and Notification System.....	96
“Three Strikes” Law.....	97
<b>Education</b> .....	<b>99</b>
INTERIM PROJECTS.....	99
Elementary and Secondary Private School Accreditation .....	99
School Bus Driver Training and School Bus Maintenance .....	100
Review of High School Vocational and Technical Programs .....	101
MANDATORY REVIEWS.....	103
Charter Schools Operation, s. 1002.33(22)(b), F.S.....	103
Public Records Exemption Review of the Florida College Savings Program, s. 1009.981(6), F.S. ....	104
MONITOR PROJECTS.....	104
Voluntary Prekindergarten Education Program.....	104
Accelerated High School Graduation Programs .....	105

Community College Baccalaureate Programs .....	106
Florida Comprehensive Assessment Test (FCAT) .....	107
Physical Education in K-12 Schools.....	108
District and School Advisory Councils.....	109
School Voucher Programs .....	109
Florida Business and Education In School Together Program (Florida BEST) .....	110
Middle Grades Reform Act Implementation .....	111
Education of Dependent Children Interagency Agreements.....	112
<b>Ethics and Elections.....</b>	<b>113</b>
INTERIM PROJECTS.....	113
Survey of Lobbying Fees and Compensation Regulation.....	113
MANDATORY REVIEWS.....	113
MONITOR PROJECTS.....	113
2004 Election Cycle.....	113
Help America Vote Act (HAVA) .....	114
Citizen Initiative Process During the 2004 Election Cycle.....	115
<b>Finance and Taxation .....</b>	<b>117</b>
INTERIM PROJECTS.....	117
Application of the Tourist Development Tax to the Sale of Discounted Hotel Rooms Over the Internet and to Hotel Reward Points Programs.....	117
Implications of the Absence of a Use Tax on Utilities for Education Funding .....	118
2005 Florida Tax Handbook Including Fiscal Impact of Potential Changes .....	119
MANDATORY REVIEWS.....	120
County Contributions to Public General Hospitals, s. 212.055(5)(d)(e); (7).....	120
Award of Reasonable Attorney’s Fees and Costs to Prevailing Appellant Regarding Assessment of Taxes Under Chapter 212, S. 120.80(14)(b)6, F.S. ....	121
Tourist Development Tax, s. 125.0104(6)(d),(10)(c) F.S. ....	121
Certain Intangible Personal Property Exempt From Annual and Nonrecurring Taxes, s. 199.185(1)(n) F.S.....	122
Responsibility for Auditing the Convention Development Tax Records, s. 212.0305(5)(c) F.S. ..	123
Department of Revenue to Pass Upon and Order Refunds, s. 197.182(1)(a),(b),(3) F.S. ....	123
Permits Department of Revenue to Share Certain Information for the Registration Information Sharing and Exchange Program, s. 213.053(7)(j) F.S. ....	124
Compromising Liability of Taxpayer Who Reasonably Relied on a Written Determination of the Department, s. 213.21(2)(c),(3) F.S. ....	125
MONITOR PROJECTS.....	125
Streamlined Sales and Use Tax Project .....	125
<b>Governmental Oversight and Productivity .....</b>	<b>127</b>
INTERIM PROJECTS.....	127
Review of Executive Branch Collegial Bodies.....	127
Florida Retirement System Contribution Rates for FY 2005-2006 .....	128
Review of Joint Legislative Committees and Operations.....	128
Improving Legislative Oversight of Governmental Functions .....	129
Public Records and Meetings: Clarifying and Streamlining Open Government Requirements.....	130
MANDATORY REVIEWS.....	131
MONITOR PROJECTS.....	131
State Employee Health Insurance .....	131
<b>Health, Aging and Long-Term Care .....</b>	<b>133</b>
INTERIM PROJECTS.....	133

Review of Statutes Regulating Hospitals.....	133
Review of Nursing Shortages in Hospitals and Nursing Homes .....	133
Review of Medicaid Prescription Drug Pricing.....	134
Review of Statutes Regulating Access to Patient Medical Records .....	136
<b>MANDATORY REVIEWS.....</b>	<b>137</b>
<b>MONITOR PROJECTS.....</b>	<b>137</b>
Changes to the Certificate-of-Need Program.....	137
Electronic Tracking System for Continuing Education of Licensed Health Care Practitioners by the Department of Health.....	137
Long-Term Care Service Delivery System.....	138
Medicaid Reform Efforts .....	139
Patient Safety and Cost-Saving Initiatives.....	140
Department of Health’s Activities to Assess the State’s Trauma System and Update the State Trauma System Plan .....	141
<b>Home Defense, Public Security, and Ports .....</b>	<b>143</b>
<b>INTERIM PROJECTS.....</b>	<b>143</b>
State Domestic Security Operational Structure .....	143
Seaport Security .....	144
<b>MANDATORY REVIEWS.....</b>	<b>144</b>
Open Government Sunset Review of Certain Information Exempt From Disclosure, s. 311.13, F.S. ....	144
<b>MONITOR PROJECTS.....</b>	<b>145</b>
State Hospital Response Plan Strategy .....	145
Federal Funding and Program Guidelines .....	146
Security Planning and Operations.....	147
Implementation of Transportation Worker Identification Card (TWIC) Prototype .....	147
Regional Domestic Security Task Forces (RDSTF) Exercises and Activities and Domestic Security Oversight Board (DSOB) Activities.....	148
<b>Judiciary .....</b>	<b>149</b>
<b>INTERIM PROJECTS.....</b>	<b>149</b>
Parenting Coordinators and Domestic Violence.....	149
Review of Alimony Payments .....	149
Sovereign Immunity and the Claim Bill Process.....	150
Duty to Maintain Streetlights.....	151
Florida Unfair and Deceptive Trade Practices Act relating to Motor Vehicles.....	151
Lawyer Advertising .....	152
<b>MANDATORY REVIEWS.....</b>	<b>153</b>
Review of Public Records Exemption for Certain Sheriff and State Attorney Records Relating to Interference With Custody (s. 787.03, F.S.) .....	153
<b>MONITOR PROJECTS.....</b>	<b>154</b>
Implementation of Revision 7 to Article V of the State Constitution.....	154
<b>Military and Veterans’ Affairs, Base Protection, and Spaceports .....</b>	<b>155</b>
<b>INTERIM PROJECTS.....</b>	<b>155</b>
Florida Space Industry .....	155
<b>MANDATORY REVIEWS.....</b>	<b>156</b>
<b>MONITOR PROJECTS.....</b>	<b>156</b>
Base Protection and Military Families Legislation Passed by the 2004 Legislature.....	156
<b>Natural Resources.....</b>	<b>159</b>
<b>INTERIM PROJECTS.....</b>	<b>159</b>

Brownfields Redevelopment Act Review.....	159
Underground Petroleum Storage Tank Cleanup Program .....	159
Activities Related to the Closure of Phosphate Mining Operations and the Uses of Phosphate Mining Byproducts and Closed Phosphate Lands .....	160
MANDATORY REVIEWS.....	161
Fish and Wildlife Conservation 5-Year License and Fee Review, s. 372.5711, F.S.....	161
Florida Forever Program Funds Used for Preacquisition Costs, s. 201.15(13), F.S.....	162
MONITOR PROJECTS.....	163
Environmental Permits for Dairies .....	163
Reorganization of the Fish and Wildlife Conservation Commission .....	163
Wekiva Parkway and Protection Act .....	164
<b>Regulated Industries.....</b>	<b>165</b>
INTERIM PROJECTS.....	165
Legalized Gambling in Florida – the Competition in the Marketplace .....	165
Evaluate the Implementation of the Smoking Ban .....	167
Florida Tobacco Settlement and Nonsettling Manufacturers .....	167
MANDATORY REVIEWS.....	168
MONITOR PROJECTS.....	169
Condominium Complaints .....	169
Funeral and Cemetery Regulation Consolidation .....	170
Agriculture and Migrant Labor .....	171
<b>Transportation .....</b>	<b>173</b>
INTERIM PROJECTS.....	173
Points Deduction for Convictions and Review of Driver Improvement Courses.....	173
Creating Regional Approaches to Transportation Infrastructure Development .....	173
MANDATORY REVIEWS.....	174
MONITOR PROJECTS.....	174
Florida High Speed Rail Authority .....	174
Direct to Customer Delivery of Specialty License Plates.....	175
Strategic Intermodal System .....	175
Transportation Equity Act - 21 Reauthorization.....	176
Continued Revenue Source for Trauma Care .....	176



---

# Agriculture

## INTERIM PROJECTS

<b>INTERIM PROJECT TITLE:</b>
-------------------------------

<i>Reuse of Water</i>
-----------------------

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-101

**BACKGROUND and DESCRIPTION:**

Agricultural reuse of production water, irrigation runoff recycling and the use of water from stormwater retention areas are practices where significant gains in water conservation and efficient water use appear to be possible. These methods have demonstrated excellent results benefiting both the environment and water resources in some areas of the state.

Providing clear statutory direction to implement such programs, including eliminating regulatory impediments, expanding existing agricultural exemptions to include water conservation and providing incentives will be explored.

**PROJECT OBJECTIVE(S):**

Review existing situations in the state that have been successful in the reuse of agricultural production water, irrigation runoff recycling and the use of water from stormwater retention areas. Propose practical methods for expansion of these programs. Where statutory direction is unclear, proposed changes will be made for legislative consideration.

**METHODOLOGY:**

Staff will contact both public agencies and private entities with an interest in facilitating these practices. Also, a review of statutes will be made for the purpose of recommending possible changes. Additionally, staff will consult with the staff of the Senate Committee on Natural Resources on the project.

## MANDATORY REVIEWS

<b>INTERIM MANDATORY REVIEW TITLE:</b>
--

<i>Citrus Canker Exposed Trees, s.581-184(1)(b), F.S.</i>
---

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-201

**BACKGROUND and DESCRIPTION:**

In September of 1995, citrus canker, caused by the bacterial pathogen *Xanomonas axonopodis pv citri* was discovered in a residential area near the Miami International Airport. Initial surveys showed that an area of about 50 square miles contained many citrus canker infected trees. Much has transpired since that time in the Citrus Canker Eradication Program (CCEP) effort designed to protect Florida

citrus from this disease. The size and scope of the CCEP has expanded as the disease has spread in South Florida to encompass portions of Dade, Broward, and Palm Beach counties. A significant obstacle to the CCEP has been the legal challenges that have impeded the application of citrus canker control measures.

**PROJECT OBJECTIVE(S):**

A review will be made of s. 581.184(1)(b), F.S., specifically pertaining to only the term “exposed to infection” meaning citrus trees located within 1,900 feet of an infected tree. A recommendation will be made as to whether the Legislature should readopt, amend, or repeal the provision.

**METHODOLOGY:**

Staff will review the statutory history of the paragraph. A review of decisions by the courts will also be made. Information will be requested from regulatory agencies and other interested parties.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Agricultural Economic Development*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-301

**BACKGROUND and DESCRIPTION:**

Committee Substitute for Committee Substitute for Senate Bill 1712 creates s. 70.005, F.S., which reduces the waiting period from 180 days to 90 days before a suit can be filed by agricultural landowners whose property has been rezoned or the residential density has been lowered.

It amends ss. 163.2514 and 163.2517, F.S., by designating as an “agricultural enclave” land used for agricultural production that is surrounded on 75 percent of its perimeter by industrial, commercial and residential development. With that designation, an “agricultural enclave” landowner’s petition to amend the local government’s comprehensive plan will be deemed to be “in compliance” if other provisions for amending the comprehensive plan are met.

The bill amends s. 163.3187, F.S., to provide that large scale comprehensive plan amendments resulting from mandated informal mediation pursuant to s. 163.3181(4), F.S., will not count as one of the two annual amendments permitted in any calendar year.

The bill also creates s. 259.047, F.S., which requires that consideration be given to the acquiring entity’s management plan in the continuation of agricultural leases and agricultural production on land acquired for recreation and conservation purposes.

It amends s. 373.0361, F.S., to specify that population projections by the University of Florida’s Bureau of Economic and Business Research will be used to determine public water supply needs. It also requires that water supply plans recognize that alternative water sources are limited for agricultural self-suppliers.

The bill amends s. 373.236, F.S., to require water management districts to inform agricultural landowners in the application form for a consumptive use permit that 20-year permits are available.

It creates s. 373.407, F.S., which requires the Department of Agriculture and Consumer Services (DACS) and each water management district to enter into a memorandum of agreement in which DACS will assist in determining whether an activity qualifies for an agricultural-related exemption that allows a landowner to alter the topography of his land for purposes consistent with agricultural uses.

**PROJECT OBJECTIVE(S):**

Monitor implementation of the provisions of the legislation by governmental agencies for effectiveness and efficiency.

**METHODOLOGY:**

Staff will monitor meetings, reports, and activities of governmental agencies under the bill and will also monitor private sector provisions created by the bill.

**INTERIM MONITOR PROJECT TITLE:**

*Beef Market Development Act*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-302

**BACKGROUND and DESCRIPTION:**

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill 1770 establishes the Florida Beef Council, Inc. (Council). The Council's goal is to provide Florida beef producers with a program that promotes beef if a national program is determined by the courts to be unconstitutional. The program would be financed by a per head assessment on cattle sold in the state.

In order for the program to take effect, beef producers in the state must, by majority vote, approve an assessment program which would be mandatory at the time of sale but refundable upon request.

The Council, governed by a board of directors, would administer the program and have the duty and power to:

- Establish the amount of the assessment up to \$1 per head.
- Establish collection and refund procedures.
- Develop programs of promotion, research and information dissemination.
- Own property and do such acts as are necessary or expedient to administer the affairs and achieve the goals of the Council.
- Maintain business records and make annual reports.
- Adopt bylaws to carry out the purposes and intents of the assessment program.

**PROJECT OBJECTIVE(S):**

Monitor the national beef promotion program and if abolished, monitor implementation of the Florida Beef Council, Inc., program created in statute.

**METHODOLOGY:**

Staff will monitor rulings by the Court regarding the status of the national beef promotion program. If it is ruled unconstitutional, staff will monitor meetings and activities of the Florida Beef Council, Inc., as it proceeds to assume its responsibilities.

**INTERIM MONITOR PROJECT TITLE:**

*Citrus Canker*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-303

**BACKGROUND and DESCRIPTION:**

Senate Bill 2484 provides that rules adopted by the Department of Agriculture and Consumer Services (DACS) in its citrus canker eradication program are not subject to the rule challenge procedures contained in the Administrative Procedures Act.

It also amends s. 581.184, F.S., to give DACS the power to regulate the removal of citrus trees under its citrus canker eradication program and the authority to destroy the removed trees by chipping.

It creates s. 933.40, F.S., which creates an “agricultural warrant” designed to expedite and facilitate performance of the state’s citrus canker eradication program. The bill also provides that a single search warrant can be issued for multiple properties in the same county, that a stamp or electronic signature can be used, that a warrant will be valid for a 60 day period, and that the warrant can be issued ex-parte. As before, a search warrant will be issued only on a finding of probable cause. There are limitations on when the search warrant can be served and the extent to which a search or inspection can be conducted. The agricultural warrants can be served and executed by employees of DACS. The bill makes it a misdemeanor of the second degree to refuse to permit the execution of an agricultural warrant.

**PROJECT OBJECTIVE(S):**

Monitor implementation of the provisions of the legislation by the Department of Agriculture and Consumer Services for effectiveness and efficiency.

**METHODOLOGY:**

Staff will monitor the activities of the Department of Agriculture and Consumer Services under the provisions of the bill as it proceeds with the responsibility to eradicate citrus canker from the state.

**INTERIM MONITOR PROJECT TITLE:**

*Citrus Commission*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-304

**BACKGROUND and DESCRIPTION:**

The Department of Citrus (department) is funded by a “box tax” and an “equalizing excise tax”. The box tax is an excise tax levied on each standard field box of fruit grown and placed into the primary

channel of trade in Florida. The equalizing excise tax is assessed on processed citrus products imported into the state at a rate equal to the box tax. The majority of the proceeds of these taxes are used by the department to advertise Florida citrus products.

CS/CS/SB 96 allows persons liable for payment of the equalizing excise tax under the Florida Citrus Code to elect not to pay two-thirds of that tax each year. It codifies into law the “opt out” provision contained in the settlement agreement of Consolidated Case No. 2002-CA-4686 in the Circuit Court of the Tenth Judicial Circuit in Polk County. The bill also codifies the portion of the settlement agreement providing for future payments totaling \$2 million. In exchange for the two provisions, the plaintiffs are to dismiss their foreign commerce clause claim.

The bill also requires the Florida Citrus Commission to include a report by the internal auditor of the department as an agenda item at each regularly scheduled meeting.

**PROJECT OBJECTIVE(S):**

Monitor the Department of Citrus’s implementation of the “opt out” provision and future payments by the Department to plaintiffs in the case and the plaintiff’s agreement to dismiss their foreign commerce clause claim under the settlement agreement. Also, monitor the requirement that the Florida Citrus Commission include a report by the internal auditor of the Department as an agenda item of regularly scheduled meetings.

**METHODOLOGY:**

Staff will monitor meetings and reports of the Department of Citrus pertaining to implementation of the newly enacted provisions of the legislation.

**INTERIM MONITOR PROJECT TITLE:**

*Agriculture and Migrant Labor*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-305

**BACKGROUND and DESCRIPTION:**

Committee Substitute for House Bill 1307 creates the Alfredo Bahena Act, which revises the framework for the regulation of farm labor contractors. It also revises the employer-employee relationship between farm labor contractors and migrant farmworkers, by, among other things, providing a migrant farmworker with certain protections from retaliation by a farm labor contractor. It revises the duties of the Department of Business and Professional Regulation with respect to the certification of registration for farm labor contractors and strengthens its enforcement powers. It sets up a best practices incentive program for farm labor contractors, which would enable the public to identify farm labor contractors who have demonstrated a firm commitment to responsible and safe labor practices. The bill renames and reactivates the Legislative Commission on Migrant and Seasonal Labor, which has not been active for several years. In addition, it renames part III of ch. 450, F.S., currently cited as the “Farm Labor Registration Law,” to the “Farm Labor Contractor Registration Law.” The bill revises the penalties imposed for violations of part III of ch. 450, F.S. For a major violation, a penalty of up to \$2,500 will be assessed. For a minor violation, a warning will be issued for the first violation, and a penalty in increments of \$250 will be assessed for each successive violation up to a maximum of \$2,500.

The bill also creates the “Florida Agricultural Worker Safety Act” to be administered by the Department of Agriculture and Consumer Services (DACS). The intent of the act is to ensure that agricultural workers are protected from and receive information about agricultural pesticides. It specifies that DACS shall continue to operate under the regulations established by the United States Environmental Protection Agency Labeling Requirement for Pesticides and Devices and the Worker Protection Standards, which DACS adopted by rule during the 1995-1996 fiscal year. It requires an agricultural employer to provide agricultural workers and others with specific written information concerning agricultural pesticides within two working days after being requested. It is unlawful for the employer to fail to provide the required pesticide information or to take any retaliatory action against any agricultural worker. The bill requires DACS to monitor all complaints of retaliation and to report its findings to the Legislature on or before October 1, 2008.

There is also provided an appropriation of \$300,000 from the General Revenue Fund for the 2004-2005 fiscal year and four positions to DACS for the purpose of conducting regulatory, training, and outreach activities related to migrant labor.

**PROJECT OBJECTIVE(S):**

Monitor implementation of the regulatory functions of the “Florida Agricultural Worker Safety Act” by the Department of Agriculture and Consumer Services and, in conjunction with the staff of the Committee on Regulated Industries, the implementation of the “Farm Labor Contractor Registration Law” by the Department of Business and Professional Regulation.

**METHODOLOGY:**

Staff will monitor meetings and reports of the Department of Agriculture and Consumer Services pertaining to responsibilities of the department and will coordinate with the staff of the Committee on Regulated Industries to monitor meetings and reports by Department of Business and Professional Regulation pertaining to responsibilities of that agency.

---

# **Appropriations**

## **INTERIM PROJECTS**

*(None)*

## **MANDATORY REVIEWS**

*(None)*

## **MONITOR PROJECTS**

*(None)*



---

# Appropriations Subcommittee on Article V Implementation and Judiciary

## INTERIM PROJECTS

(None)

## MANDATORY REVIEWS

(None)

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b>
---------------------------------------

<i>Implementation of the Circuit Article V Indigent Services Committee</i>
--

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-306

**BACKGROUND and DESCRIPTION:**

In some criminal defense cases in which the defendant is indigent, the state's public defender develops a conflict of interest in representing one defendant. In such cases, the court appoints private counsel to represent the defendant. Prior to implementation of Revision 7 to Article V of the Florida Constitution, court appointed counsel was paid by the county using maximum rates set in the Florida Statutes. Various judicial committees have been formed over time to select private attorneys. In 2003, the Legislature passed Chapter 2003-402, L.O.F. to implement Revision 7 to Article V of the Florida Constitution. The law formally established the Circuit Article V Indigent Services Committees effective July 1, 2004. As required by law, the General Appropriations Act provides separate funds to pay the fees and expenses of court-appointed counsel for criminal conflict cases. The purpose of these committees is to manage the appointment and compensation of court-appointed counsel. By October 1, 2004, the committees must maintain a registry of attorneys eligible for appointment in criminal conflict cases. The committees must also develop a schedule of fees and expenses for the different types of cases. Fees must be established consistent with the statutory maximum amounts to be paid by case type. Membership on the committees consists of the chief judge of the circuit, the public defender, a private criminal defense attorney, and a private civil trial attorney.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of the Circuit Article V Indigent Services Committees associated with Revision 7 to Article V of the Florida Constitution.

**METHODOLOGY:**

Staff will maintain communications with and conduct meetings as needed with staff of the Justice Administrative Commission, the state court system, and the other entities responsible for the implementation of the Circuit Article V Indigent Services Committees.

**INTERIM MONITOR PROJECT TITLE:**

*Florida Clerk of Court Operations Corporation*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-307

**BACKGROUND and DESCRIPTION:**

With passage of CS/CS/SB 2962 (the Article V “glitch” bill), the Florida Clerk of Court Operations Corporation is created effective July 1, 2004. (This legislation supercedes and replaces the creation of the Clerks of Court Operations Conference created in s. 28.35, F.S., by Chapter 2003-402, L.O.F.) The Florida Clerk of Court Operations Corporation is statutorily established as a public corporation composed of all clerks of the circuit court in an ex officio capacity, with an executive council composed of 8 clerks elected for 2 years. The corporation is tax exempt for purposes of s. 199.183(1), F.S., is not subject to the procurement provisions of chapter 287, F.S., and is not subject to chapter 120, F.S., administrative procedures. The corporation is to contract with Department of Financial Services to review all 67 clerks’ budgets, calculate the maximum authorized annual budget for each clerk’s court-related duties, and certify any clerk’s projected revenue deficit to the Chief Financial Officer. Not only is this function critical to the operation of the clerks of the court, but it also directly impacts the amount of excess fee revenue that will accrue to the state General Revenue Fund each year. Chapter 2003-402, Laws of Florida, provides that all fee and charges revenue received by the clerks of the court in excess of that needed to fund their approved court-related budgets shall be periodically remitted to the Department of Revenue for deposit into the state General Revenue Fund.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of the provisions of CS/CS/SB 2962 to identify any legal or operational deficiencies that may need to be addressed by the Legislature.

**METHODOLOGY:**

Staff will attend meetings of the Florida Clerk of Court Operations Corporation and will work with staff of the corporation to review and comment on forms and procedures

**INTERIM MONITOR PROJECT TITLE:**

*Article V Revenue Sharing*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-308

**BACKGROUND and DESCRIPTION:**

Prior to July 1, 2004, the counties have provided much of the funding for the state’s trial courts. Revision 7 to Article 5 of the Florida Constitution requires the state, with some exceptions, to fund the operations of the trial courts. The constitution and general law require the counties to continue to pay for communications services (including information technology systems), court facilities and their maintenance, and court security. In order to ensure that counties meet their obligations under Article V, the Legislature amended s. 29.008, F.S., in CS/CS/SB 2962, requiring the Department of Revenue to withhold state revenues shared with counties under part II of chapter 218, F.S.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of provisions of s. 29.008, F.S., providing for withholding and reallocation of county revenue sharing when a county does not meet its requirements to provide services and facilities to the state court system.

**METHODOLOGY:**

Staff will work as needed with the Florida Association of Counties and Department of Revenue to obtain the necessary data for this project, and will enlist the assistance of staff of the Department of Financial Services.

**INTERIM MONITOR PROJECT TITLE:**

*State Payments for Due Process Services Costs*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-309

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature passed CS/CS/SB 2962 to implement Revision 7 to Article V of the Florida Constitution. This revision requires the state to pay more of the costs of the state's trial courts effective July 1, 2004. One requirement of the constitutional amendment is that the state, rather than the counties, must pay due process services fees and costs. In 2003, the Legislature passed House Bill 113A (Chapter 2003-402, L.O.F.) creating Article V indigent services committees in each judicial circuit to be responsible for managing the appointment and compensation of court-appointed counsel. CS/CS/SB 2962 requires the Justice Administrative Commission to pay the invoices for court appointed counsel and other due process services on behalf of the state attorneys, public defenders, and conflict counsel. Other due process services costs include court reporting and transcription services, ordinary and expert witnesses, mental health professionals, and pretrial consultations. Funds were appropriated for these services in the General Appropriations Act for fiscal year 2004-2005. The Justice Administrative Commission will receive the invoices and supporting documentation from state attorneys, public defenders and court appointed counsel, review such invoices and process state payments. The commission is required to track and report such expenditures quarterly to the Legislature. (The Office of the State Courts Administrator will also be responsible for paying for due process services ordered by the trial courts and will therefore receive, review and process invoices for payment on behalf of the trial courts.)

**PROJECT OBJECTIVE(S):**

To monitor the implementation of new procedures developed by the Justice Administrative Commission to pay due process fees and costs associated with Revision 7 to Article V of the Florida Constitution.

**METHODOLOGY:**

To achieve the project objectives, staff will meet periodically with Justice Administrative Commission staff, as well as with the Office of the State Courts Administrator and the Department of Financial Services' staff. Staff will review the procedures as implemented and monitor the payments made.

**INTERIM MONITOR PROJECT TITLE:**

***Recording Fees Increased to Fund Technology Expenditures***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-310

**BACKGROUND and DESCRIPTION:**

The responsibility for funding the information technology requirements of the state courts system (including the courts, clerks of the court, state attorneys and public defenders) has been a significant issue that the state and the counties have disputed since the 1998 passage of Revision 7 to Article V of the Florida Constitution. All legislation passed to implement the constitutional amendment has maintained that counties are responsible for funding the court systems' information technology needs. In an effort to reach consensus on the issue, a funding source was created to provide the counties the means to meet this funding responsibility. CS/CS/SB 2962 (2004) increases by \$4 per page the service charge for recording instruments by the clerk of the court. Of the \$4 increase, 10 cents will be used to fund the clerks' comprehensive case information system, \$1.90 will be used to fund the information technology needs of the clerks statewide, and \$2 will be distributed to the counties and used to fund the information technology needs of the state courts, state attorneys and public defenders. If counties do not maintain legal responsibility to fund court-related technology needs, then the law requires that all \$4 is to be distributed to the state General Revenue Fund.

**PROJECT OBJECTIVE(S):**

To monitor both the funds generated in each county from the new service charge increase and the specific expenditures made by clerks and counties for technology needs of the court system.

**METHODOLOGY:**

Staff will work as needed with the Florida Association of Court Clerks and Comptroller, Inc., and the Florida Association of Counties to obtain the necessary data for this project.

**INTERIM MONITOR PROJECT TITLE:**

***Article V Technology Board Implementation***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-311

**BACKGROUND and DESCRIPTION:**

CS/CS/SB 2962 (2004) created the Article V Technology Board in section 29.0086, Florida Statutes. In large part, the creation of this board was predicated on the conclusions and recommendations presented in the Senate interim project report number 2004-104 entitled "*Implementation of an Integrated Computer System for the State Court System.*" The board is to be composed of stakeholder representatives from the courts, state attorneys, public defenders, counties, clerks of the court, executive branch agencies, and the private sector. The purpose of this new 10 member board is to: identify minimum data elements and functional requirements for statewide integration of state courts system information; propose integration models and standards; propose a governance structure for data integration; propose needed security solutions; and make recommendations to the Legislature in phases on January 15, 2005 and January 15, 2006. Funding for

the staffing and expenses of the board in the amount of \$500,000 was also appropriated in the bill to the joint Office of Legislative Services for fiscal year 2004-05. The President of the Senate and the Speaker of the House of Representatives are to make two appointments each to the board, and are to determine the hiring of staff and the disbursement of funds to support the board.

**PROJECT OBJECTIVE(S):**

To monitor the implementation and ongoing operation of the board and to assist the President of the Senate in determining the appropriate disbursement of funds to support the board.

**METHODOLOGY:**

Staff will attend meetings of the board, and will work with staff of the House, the President's Office and the Office of Legislative Services to assist in securing the staffing and disbursing the appropriated funds in support of the board.



---

# Appropriations Subcommittee on Criminal Justice

## INTERIM PROJECTS

*(None)*

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b>
---------------------------------------

<i>Joint Financial Participation of the State and Counties in the Provision of Juvenile Detention</i>
---

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-312

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature passed Senate Bill 2564 requiring joint financial participation of the state and counties in the provision of juvenile detention. Counties will be responsible for costs associated with the time juveniles spend in detention prior to adjudication. The state will be responsible for costs associated with the time spent in detention once the courts have adjudicated juveniles and for juveniles who have no known residence or whose residence is out of state. The bill requires the Department of Juvenile Justice (DJJ) to bill each county on a monthly basis for detention services. In addition, on a quarterly basis, the department will examine funding to ensure that each county is fulfilling this responsibility. If counties fail to transfer funds to DJJ, the Chief Financial Officer will be required to withhold state funding to that county.

The bill also states that if a juvenile is not a resident of the state, DJJ will bill the state of residence for detention services. In addition, the bill requires the state to assist fiscally constrained counties, defined in the bill as a rural area of critical economic concern under s. 288.0656, F.S., with pre-adjudication costs and provides \$3.5 million for the 27 counties that currently meet the definition of fiscally constrained.

**PROJECT OBJECTIVE(S):**

The project will ensure that the provisions of Senate Bill 2564 are implemented in a timely manner in order to meet the October 1, 2004 effective date. It will also include updated information relevant for budgetary decisions during for the 2005 Legislative Session.

**METHODOLOGY:**

Criminal Justice staff will conduct interviews and meetings with key staff in DJJ to review methodologies and policies and procedures for implementing the provisions of the bill. Staff will also meet with various stakeholders around the state to gather data and input information in order to develop recommendations.

**INTERIM MONITOR PROJECT TITLE:**

*Impact of Hepatitis C on the Prison Population and Others*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-313

**BACKGROUND and DESCRIPTION:**

Proviso language following Specific Appropriation 786 of the General Appropriations Act for FY 2004-05, requires the Department of Corrections (DOC) to determine the scope and study the impact of the Hepatitis C virus on the prison population. A final report is due to the Legislature by October 1, 2004.

**PROJECT OBJECTIVE(S):**

The project will monitor the progress of the report as it is developed. The review should include the potential danger to non-infected inmates, prison guards, and the general public. The report should provide data for the development of preventive measures and alternative treatment regimens which would defray costs in treating this population.

**METHODOLOGY:**

Appropriations staff will meet with DOC staff, key staff of the Committee on Criminal Justice, and others as the reports are developed. Staff will also meet with various stakeholders to gather data and information necessary for developing recommendations.

**INTERIM MONITOR PROJECT TITLE:**

*Interstate Compact for Juveniles in the Department of Juvenile Justice*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-314

**BACKGROUND and DESCRIPTION:**

The Juvenile interstate compact provides for cooperation among other states in the supervising and returning juveniles who have run away or escaped from detention across state boundaries. Senator Crist sponsored SB 2626 related to interstate compact for juveniles during the 2004 Legislative Session. This bill did not pass during session. In order to increase support for the 2005 Legislative Session, Senator Crist would like staff to review this issue. Both the Committee on Criminal Justice and Committee on Governmental Oversight and Productivity should be involved in this review.

**PROJECT OBJECTIVE(S):**

The project should determine if current interstate compact statutory provisions need revisions or updating. It should include the fiscal impact of recommendations necessary for budget decisions during for the 2005 Legislative Session.

**METHODOLOGY:**

Criminal Justice staff will conduct interviews and meetings with key staff of the Committee on Criminal Justice, Committee on Governmental Oversight and Productivity, OPPAGA, and Department of Juvenile Justice to review and develop methodologies on how best to revise and update the current

interstate compact of juveniles. Staff will also meet with various stakeholders to gather data and information necessary for developing recommendations.

**INTERIM MONITOR PROJECT TITLE:**

*Pilot Re-Direction Program in the Department of Juvenile Justice*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-315

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature authorized the Department of Juvenile Justice (DJJ) to establish a pilot Re-Direction Program that expands community-based accountability and treatment intervention programs. The new program will place juveniles charged with non-law violations of their probation or conditional release status in community-based programs. Currently, these juveniles are typically sent to residential commitment facilities for a seven-month placement because of a lack of alternative sanctions and treatment services.

**PROJECT OBJECTIVE(S):**

The project will ensure that DJJ addresses legislative issues related to juvenile offender accountability and unnecessary commitment of juveniles to residential and correctional programs and adequately implements the pilot program. It will also provide information relevant to budgetary decisions for the 2005 Legislative Session.

**METHODOLOGY:**

Criminal Justice staff will conduct interviews with key staff in DJJ to analyze methodologies and policies and procedures for implementing the re-direction pilot program in fiscal year 2004-2005. Staff will also meet with various stakeholders around the state to gather data and input information in order to develop recommendations for improvements to the Legislature.

**INTERIM MONITOR PROJECT TITLE:**

*Substance Abuse and Drug Treatment Programs in the Department of Corrections*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-316

**BACKGROUND and DESCRIPTION:**

Proviso language following Specific Appropriation 644 of the General Appropriations Act for FY 2004-05, requires the Office of Program Policy and Governmental Accountability (OPPAGA) to review and analyze the substance abuse and drug treatment programs of the Department of Corrections (DOC). A final report is due to the Legislature by October 1, 2004.

**PROJECT OBJECTIVE(S):**

The project will monitor the progress of the report as it is developed. The review should identify all types and levels of substance abuse programs and explore the possibility of merging individual programs for cost effectiveness.

**METHODOLOGY:**

Appropriations staff will meet with DOC staff, OPPAGA, key staff of the Committee on Criminal Justice, and others as the reports are developed. Staff will also meet with various stakeholders to gather data and information necessary for developing recommendations.

---

# Appropriations Subcommittee on Education

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Impact of the General Appropriations Act on Various Educational Institutions and School Districts*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-102

**BACKGROUND and DESCRIPTION:**

This report is a district and institutional level summary of the impact of the General Appropriations Act showing allocations of the appropriations to each community college, university and school district. The report has been produced annually for a number of years by Senate Education Appropriations staff. Several Senators and aides have commented to us that they have found this report very useful.

**PROJECT OBJECTIVE(S):**

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

**METHODOLOGY:**

A review of the last year's Senate post session education publication will be done to determine whether all types of information previously included are still useful or should be modified or enhanced. Once this determination is made, appropriations staff will work with DOE staff as allocations are made throughout the educational delivery system. These allocations will be checked for consistency with the General Appropriations Act as the post-session book is prepared. Completion of the book is anticipated following the Governor's veto review of the General Appropriations Act.

**INTERIM PROJECT TITLE:**

*Public Postsecondary Challenge Grant Programs*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-103

**BACKGROUND and DESCRIPTION:**

There are a number of statutorily established challenge grant programs which support community colleges and state universities. In order to encourage private support to public postsecondary education, these programs pledge state funds to match contributions from non-state sources. The programs have been very successful, and have resulted in significant state appropriations to meet matching obligations.

**PROJECT OBJECTIVE(S):**

This project will provide some history of state matching funds received by each of the programs, summarize the benefits of the programs, and demonstrate how some changes in the programs might reduce the need for state funds.

**METHODOLOGY:**

Appropriations staff will review the criteria for each public postsecondary challenge grant program, provide the recent history of state matching funds and non-state contributions received by each of the programs, and provide an analysis of how the programs have benefited specific institutions. In addition, the project will show how revisions in matching rates for the programs might reduce the state's funding requirements.

**INTERIM PROJECT TITLE:**

*Calculation of Full Time Equivalent Students for the Florida Education Finance Program*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-104

**BACKGROUND and DESCRIPTION:**

The Florida Education Finance Program for calculating public school district funding is a student-based funding formula which allocates to the 67 school districts roughly \$15 billion for public schools for 2004-05. The unit for calculating student funding is called a Full Time Equivalent (FTE) and it is based on the number of hours of instruction a student receives in a school year. One FTE is equal to 900 hours of instruction.

**PROJECT OBJECTIVE(S):**

The objective of this project is to describe and analyze the FTE calculation methodology, including the student enrollment forecast, the FTE survey process, and the use of FTE in the funding formula. In addition, as an alternative, the use of student attendance to modify the value of an FTE and its effect on funding will be examined.

**METHODOLOGY:**

Procedures will be reviewed in both statute and rule for the determination and reporting of FTE. In addition, previous and current calculations of the Florida Education Finance Program and related documents will be examined to describe the use of attendance in the calculation of a modified FTE for funding purposes. A paper will be prepared to describe the process and the alternative(s).

**MANDATORY REVIEWS**

*(None)*

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Class Size Reduction Implementation*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-317

**BACKGROUND and DESCRIPTION:**

Section 1003.03(4), Florida Statutes, requires school districts that do not reduce their district average class size by two or achieve the required maximum district average class size for each of the three grade groups: Pre-K to 3, 4 to 8, and 9 to 12, to have an amount from their class size reduction operating categorical which is proportionate to the amount of class size reduction not achieved be transferred to a capital account for class size reduction. The transfer amount is to be approved by the Florida Education Finance Program (FEFP) allocation conference and then subsequently an alternate transfer amount which takes into account school district appeals is to be recommended by the Commissioner of Education to the Legislative Budget Commission for approval. 2004-05 is the second year of implementation of the class size reduction effort as required by the Florida Constitution.

**PROJECT OBJECTIVE(S):**

The objective is to observe and replicate the calculation of the class size reduction operating to capital transfer amount and to advise and monitor the Department of Education's alternative transfer calculation following district appeals to facilitate Legislative Budget Commission review of Commissioner of Education's recommendations.

**METHODOLOGY:**

Appropriations staff will participate as a principal in the FEFP allocation conference and will replicate calculations of transfer amounts from class size reduction operations to capital. In addition, alternative transfer amounts, which will be calculated by Department of Education staff following school district appeals, will be reviewed by appropriations staff for appropriateness and accuracy. Staff will then make recommendations to the Legislative Budget Commission for the decision on the Commissioner's recommendation.

**INTERIM MONITOR PROJECT TITLE:**

*Department of Education Indirect Cost Budget*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-318

**BACKGROUND and DESCRIPTION:**

Specific Appropriations 135 through 137 of the 2004-05 General Appropriations Act require the State Board of Education to provide the Legislature and the Governor, on or before October 1, 2004, with the Department of Education's federal indirect cost rate, the estimated federal funds generated, and the expenditure plan for the use of these funds for the 2004-05 fiscal year. Federal indirect funds are a negotiated amount allocated to the Department of Education as reimbursement for administration of federal grant programs and may be spent for any purpose. Chapter 2001-170, Laws of Florida, requires

that the indirect cost allowance funds not be spent unless there is a specific appropriation by the Legislature.

**PROJECT OBJECTIVE(S):**

The objective is to be informed of the department's total amount of federal indirect funds and how they are to be spent in 2004-05, so that more effective appropriations decisions may be made for the State Board of Education for the 2005-06 fiscal year.

**METHODOLOGY:**

Appropriations staff will review the report submitted by October 1 and shall use the information included to assist the Legislature in making State Board of Education appropriations decisions for the 2005-06 fiscal year.

**INTERIM MONITOR PROJECT TITLE:**

*Florida Information Resource Network (FIRN)*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-319

**BACKGROUND and DESCRIPTION:**

FIRN is the long-time statewide network that provides internet access to all 67 school districts, community colleges, and universities. FIRN is essential to the transmission of information between the local education institutions and the Department of Education on critical matters such as funding and teacher information.

The amount of \$5,649,779 was provided in the 2003-04 General Appropriations Act for the operation of FIRN. In 2003, the Department made the decision to outsource FIRN; as a result, costs for FIRN for the 2003-04 fiscal year increased to a total of \$14.5 million. Of these additional costs, \$7.6 million were to be provided by federal eRate funds to the department to subsidize telecommunications and internet services for schools and libraries. However, the Universal Services Administration Corporation denied the department's request and subsequent appeal for the eRate funding, and the Legislative Budget Commission in January of 2004 approved a transfer of \$8,876,053 from the Projects, Contracts, and Grants Trust Fund, Grants and Aids and Expenses to continue the critical operation of FIRN.

For 2004-05, the FIRN appropriation (Specific Appropriation 119) is \$5,649,779 from the General Revenue Fund and \$7,850,221 from the Educational Aids Trust Fund, which anticipates again, the receipt of federal eRate funds pursuant to approval of the department's application. As a contingency for non-approval of eRate funding, Specific Appropriation 10F for FIRN provides an additional \$7,850,221 from the Educational Enhancement Trust Fund (Lottery) in case some or all of the eRate funding is not realized. If the eRate proposal is approved, then the lottery funds shall be transferred to the Just Read, Florida Program, subject to approval by the Legislative Budget Commission.

**PROJECT OBJECTIVE(S):**

The objective is to monitor the status of FIRN funding, approval of the eRate application, and the potential transfer of the Educational Enhancement Trust Fund appropriation for FIRN to the Just Read, Florida Program subject to approval by the Legislative Budget Commission.

**METHODOLOGY:**

Appropriations staff will communicate with Department of Education and Governor's Office staff to monitor the status of FIRN funding and approval of the eRate application in order to prepare the Legislative Budget Commission for the potential transfer of the unused Educational Enhancement Trust Fund appropriation for FIRN to the Just Read, Florida Program.

**INTERIM MONITOR PROJECT TITLE:**

*Five Year Enrollment Plan for State Universities*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-320

**BACKGROUND and DESCRIPTION:**

Proviso language associated with Specific Appropriation 156 of the General Appropriations Act requires the Chancellor of the Division of Colleges and Universities to submit an updated 5 year enrollment plan, by level and university, to the Florida Board of Governors by September 5, 2004. The State Board of Education is required to include funding recommendations in its FY 2005-06 Legislative Budget Request to implement the plan.

**PROJECT OBJECTIVE(S):**

This project will monitor the development of the 5 year enrollment plan and the actions of the State Board of Education to address the plan.

**METHODOLOGY:**

Appropriations staff will meet with staff of the Division of Colleges and Universities to obtain an understanding of the factors considered to develop the Chancellor's submission to the Board of Governors. In addition, appropriations staff will monitor the meetings of the Board of Governors and the State Board of Education during which the five year enrollment plan is considered.

**INTERIM MONITOR PROJECT TITLE:**

*Knott Data Center Cost*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-321

**BACKGROUND and DESCRIPTION:**

For several years the Knott Data Center within the Department of Education (DOE) was not included in the General Appropriations Act. Chapter 2001-170, Laws of Florida, removed this exemption and the data center was included in the 2003-04 General Appropriation Act for the first time. However funding sources and allocation of all costs for the data center were not apparent in the budget documents submitted for FY 2004-05. Proviso language is included in the General Appropriations Act for FY 2004-05 which requires the DOE to submit a report detailing user cost allocations, all funding sources which support the data center, all services provided to users of the data center, and detail of any funding problems.

**PROJECT OBJECTIVE(S):**

The project will provide detail regarding all services and costs of operating the Knot Data Center. In doing so, it will identify any problems with the underlying financial infrastructure of the center.

**METHODOLOGY:**

Appropriations staff will meet with DOE staff as the report is developed and review any underlying assumptions. The final report will be reviewed in depth as the 2005-06 Legislative Budget Request is reviewed.

**INTERIM MONITOR PROJECT TITLE:**

*Workforce Development Funding Model*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-322

**BACKGROUND and DESCRIPTION:**

Chapter 2004-357, Laws of Florida, addresses the method of funding Workforce Development Education Programs. The Department of Education (DOE) is required to develop a funding process for school district workforce development education programs that is comparable to that of community college workforce programs. This includes a plan for reporting data that is consistent between community colleges and school districts and includes program, student FTE, faculty, personnel, and financial data.

**PROJECT OBJECTIVE(S):**

Budget review of workforce programs within the community colleges and school districts has not been conducted on a comparable basis for the past several years. The legislation is an attempt to put both programs on a consistent footing with comparable data, such as FTE reporting, and comparable collection of cost information. Workforce education funding should become more predictable and more easily understood by the affected workforce education programs. This should lead to better planning and capacity to meet the local needs for adult vocational and technical education.

**METHODOLOGY:**

Appropriations staff will meet with DOE staff and other stake holders as the plan and funding process progress. Data and any assumptions used will be reviewed for reasonableness. Staff will then utilize an understanding of the final data and processes to review the Legislative Budget Request for 2005-06.

**INTERIM MONITOR PROJECT TITLE:**

*Consensus Estimating/Enrollment Conferences*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-323

**BACKGROUND and DESCRIPTION:**

Sections 216.136(4) and 1011.65, Florida Statutes, establish the enrollment and allocation conferences for estimating public school enrollment and funding conventions. Section 216.136(4), F.S., also authorizes conferences for estimating qualified students for state financial aid and for enrollment in post secondary institutions.

**PROJECT OBJECTIVE(S):**

The objective is to participate in both enrollment and funding conferences to ensure that funds are calculated and allocated to school districts consistent with the requirements of law and to participate in the development of the best possible estimates of the need for financial aid and post secondary student enrollment.

**METHODOLOGY:**

Appropriations staff will participate in the Education Estimating Conferences on public school enrollment, student financial aid, and post secondary enrollment for purposes of development of the Department of Education's Legislative Budget Request, the Governor's Recommended Budget, and the 2005-06 Legislative appropriation for public schools, community colleges, the Florida Resident Access Grant program, state universities, and student financial aid. In addition, staff will participate in the Florida Education Finance Program (FEFP) Appropriation Allocation Conferences and will replicate all 2004-05 FEFP categorical calculations and the Class Size Reduction operations to capital funds transfer for those school districts that do not meet the class size reduction goal.



---

# Appropriations Subcommittee on General Government

## INTERIM PROJECTS

*(None)*

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b>
---------------------------------------

<i>Child Support Enforcement Administrative Costs Recovery</i>
--

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-324

**BACKGROUND and DESCRIPTION:**

The Office of Program Policy Analysis and Government Accountability (OPAGGA) conducted a program evaluation and justification review of the Child Support Enforcement Program administered by the Department of Revenue in Report No. 00-24. OPAGGA's findings indicated the department could reduce its reliance on general revenue funding by increasing its efforts to recover administrative costs for child support enforcement actions. The OPAGGA report states the program could increase its recovery of administrative costs by an estimated \$4.4 million per year by taking three actions:

- updating its administrative cost schedule that was developed in 1995 to reflect its current costs could increase recovery of costs by \$1.8 million;
- increasing efforts to obtain court orders assessing administrative costs could increase cost recovery by \$0.5 million; and
- increasing its efforts to collect costs that have been assessed could increase revenue by \$2.1 million.

The 2004-05 General Appropriations Act contains proviso language which directs the Department of Revenue to review its administrative cost recovery processes in an effort to improve collection of costs assessed by courts in child support enforcement cases. Section 409.2567, Florida Statutes, provides that non-custodial parents may be assessed the Child Support Enforcement Program's administrative costs of court actions. These costs may include attorney's fees, clerk's filing fees, recording fees and related department administrative expenses. The department shall report to the Governor, Cabinet, President of the Senate and Speaker of the House of Representatives on the implementation and results of process improvements to increase collection of court ordered administrative costs. The department's review shall include, but not be limited to recommendations from the Office of Program Policy Analysis and Government Accountability (OPAGGA) Report No. 00-24.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor the implementation of recommendations to improve the collection of court ordered administrative costs in the child support enforcement program in the Department of Revenue.

**METHODOLOGY:**

Staff of the Senate Appropriations Committee will meet with the Department of Revenue, substantive committee staff and OPAGGA to review implementation and monitor process improvements in the recovery of child support enforcement administrative costs.

**INTERIM MONITOR PROJECT TITLE:**

*Condominium Complaints*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-325

**BACKGROUND and DESCRIPTION:**

Prior to the 2004 Legislative Session, the House of Representatives created a Select Committee on Condominium Association Governance to review constituent concerns regarding condominium association practices. The select committee provided numerous recommendations to the Legislature to improve these practices. Recommended statutory changes included: requiring background checks on potential board members; requiring no less than three bids for all contracted work; and creating an Ombudsman's office in the Department of Business and Professional Regulation (DBPR) to monitor elections and meetings and settle disputes.

Numerous bills were introduced during the 2004 session as a result of condominium association practices. Senate Bill 666 by Senator Margolis focused on revising the time within which the Division of Land Sales, Condominiums and Mobile Homes must respond to and take action on complaints. Language was included in the Senate proposed budget to address this issue by reducing the complaint response time from 90 to 30 days. Additional staff was also recommended in the Senate budget to address the increased workload.

The General Appropriations Act for the 2004-05 fiscal year includes proviso language for the Department of Business and Professional Regulation regarding condominium complaints and 14 additional positions. Specifically, the agency is required to report quarterly to the Executive Office of the Governor, the chairs of the House and Senate appropriations committees, the Senate Regulated Industries Committee, the House Business Regulation Committee, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) on the responsibilities defined in s. 718.501, F.S. The report shall include the following data: number of training programs provided for condominium association board members and unit owners; number of complaints received by type; number and percent of complaints acknowledged in writing within 30 days as required by s. 718.501(1)(m), F.S.; number and percent of investigations closed within 90 days as required by s. 718.501(1)(m), F.S.; and the number of investigations that are in excess of the 90-day requirement with reasons that cases required more than 90 days to close.

In addition, the department must evaluate non-jurisdictional complaints to determine if any categories of complaints warrant statutory changes.

**PROJECT OBJECTIVE(S):**

The objective of the project is to improve the condominium complaint review process in order to reduce the number of days it takes to investigate, review and close cases.

**METHODOLOGY:**

Staff will collect information and analyze quarterly report data to be provided by the agency and work with substantive committees and OPPAGA in order to make recommendations for the 2005 session for improving condominium complaint response time.

**INTERIM MONITOR PROJECT TITLE:**

*Consolidation of State Facilities Pool Office Space; “Restack” Initiative*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-326

**BACKGROUND and DESCRIPTION:**

The 2002 Legislature directed the Department of Management Services (department) to conduct an assessment of public and private sector office space utilization by state agencies and appropriated \$200,000 for a study. The department contracted with CLW Real Estate Services Group (CLW) to perform the study. CLW conducted a regional analysis of the state’s office space in the private market and within the state’s facility pool managed by the department. Among other recommendations, CLW proposed the department be responsible for assisting state agencies in determining spatial needs, enforcing efficient office space standards and “back filling” available space in state owned buildings as private sector leases expire (“Restacking”)<sup>1</sup>.

The department has developed a Workspace Management Project to implement recommendations of the CLW study. The project is comprised of three categories which include workspace standards, centralized leasing and asset management. For workspace standards, the department has updated existing space utilization rules to state that “to the extent possible without sacrificing critical public or client services, agencies are to obtain an average allocation of space, not to exceed, 180 usable square feet per full-time employee.”<sup>2</sup> Regarding centralized leasing, the department has adopted new rules for state leasing procedures allowing a competitive solicitation process. Additionally, agencies are allowed to utilize a private tenant representative to assist in lease procurements and renegotiations. The department has contracted with the Staubach Company, a professional third party tenant representation firm, to assist with these tasks. Finally, for asset management, the Staubach Company will assist the department in prioritizing the condition and usability of state facilities pool buildings and buildings leased by the state to develop a recommended course of action to be taken by agencies utilizing those spaces.

In February 2004, the Legislative Budget Commission approved \$803,858 in trust fund budget authority for the department to develop a prototype project to demonstrate the newly updated space

---

<sup>1</sup> CLW Study; Final Recommendations

<sup>2</sup> Rule 60H-2, Florida Administrative Code

utilization standards. The department renovated one floor of a Capital Circle Office Complex building. The Fiscal Year 2004-2005 General Appropriations Act provided \$2 million for the reconfiguration of state owned facilities space and \$71,319 in recurring funding for the lease purchase of furniture for the prototype project. The total cost of the furniture lease purchase for the prototype project is \$356,943.

The department anticipates that savings will be generated by the utilization of more efficient space standards and reconfiguration of state office space to accommodate the new standards.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor the progress of the department's project, understand how savings will be generated by the project, the method by which such savings will be available for re-appropriation by the Legislature and amount of compensation paid to any vendor associated with the project. Additionally, the project will facilitate a better understanding of the state facilities pool vacancy rate and impact, if any, to the state facilities pool rental rate per square foot and associated debt service requirements for state facilities pool building bonds.

**METHODOLOGY:**

Staff of the Senate Appropriations Committee will work with the department, substantive committees and OPPAGA in order to make recommendations on how savings can be identified within agency budgets.

**INTERIM MONITOR PROJECT TITLE:**

*Recycling of Electronic Equipment*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-327

**BACKGROUND and DESCRIPTION:**

During the 2004 session, the General Government Appropriations Subcommittee requested research and assistance from OPPAGA, the Department of Environmental Protection, the Department of Management Services (DMS), and the State Technology Office (STO) on finding a cost-effective and environmentally sound way for state agencies to recycle and dispose of electronic equipment at the end of its useful life. Electronic equipment includes computers, monitors, other computer peripherals, cellular telephones, and televisions. To conduct this research, OPPAGA employees met with committee staff, agency staff, and industry representatives, and reviewed documents and reports to identify recycling and disposal practices.

OPPAGA reported to the subcommittee that state agencies first seek to dispose of used electronic equipment by transferring it to other units within their agencies, other state agencies, local governments, educational institutions, and non-profit organizations. For electronic equipment that cannot be used by these entities, agencies use one of several approaches, such as storing it, sending it to a local landfill, or paying a vendor to take it. DMS currently has a contract with a vendor for disposing of electronic equipment; however, few agencies are aware of this contract or use it, and the contract expires in June 2004.

OPPAGA also found:

- there are no guidelines to assist state agencies in deciding the most cost-effective and environmentally sound means for disposing of information technology equipment;
- there is no method for tracking the final disposition of state agencies' electronic equipment.

Based on OPPAGA recommendations to the Subcommittee, the 2004-2005 General Appropriations Act contains proviso language that directs the Department of Management Services to issue a competitive solicitation no later than September 1, 2004, to procure services for cost-effective reuse, recycling or disposition of state agencies' electronic equipment. The proviso requires all state agencies to use the contract for disposal of end-of-life electronic equipment. In addition, the 2004-2005 Implementing Bill amends the Florida Statutes to set a deadline of December 31, 2004 for the State Technology Office to create best practices for state agencies in acquiring, using, and disposing of information technology equipment and requires agencies to report the method of final disposition of electronic equipment.

As a result of the proviso, the Department of Management Services issued an Invitation to Bid No.: 20-991-705-X and received bids from nine vendors. On May 28, 2004, DMS issued an Intent to Award a 24-month contract to the top bidder, Star Asset Recovery. Star Asset Recovery was the only vendor that proposed to pay the state for all electronics it collects. DMS must resolve two major issues before a contract is signed. One issue is to reach consensus on a mechanism to resolve conflicts between agencies and the vendor if there is disagreement on the condition of equipment. This is significant because it will impact the amount the vendor will pay for the equipment. The vendor payment is based on a per unit price per item, i.e., \$3.25 for a working television and three cents a pound for a nonworking one. The other major issue is to reach agreement on how to account for the moneys collected from the vendor. The contract should stipulate: 1) how DMS will collect money from the vendor for electronic equipment it collects from agencies; and, 2) how revenues will be deposited into the General Revenue Fund.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor the implementation of the contract for disposing of state agencies' electronic equipment with payments from the vendor for the equipment. The project will include a review of any revenue the state receives from the vendor for electronic equipment. The project will also monitor the progress of the STO in promulgating rules on best practices for acquiring, using, upgrading, modifying, replacing, or disposing of electronic equipment.

**METHODOLOGY:**

Staff of the Senate Committee on Appropriations will meet with agency staff, substantive committee staff and OPPAGA to review implementation of the contract for disposing of electronic equipment, review fiscal information related to the contract, monitor STO's progress on promulgating rules on best practices, and review reports submitted by the STO on agencies' method of final disposition of electronic equipment.

**INTERIM MONITOR PROJECT TITLE:**  
***Piney Point Phosphate Site Remediation***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-328

**BACKGROUND and DESCRIPTION:**

Mulberry Phosphates in Polk County and Piney Point in Manatee County are both former phosphate fertilizer chemical processing plants that closed in December 1999. These plants produced gypsum, a sandy mineral byproduct of phosphate fertilizer manufacturing. Gypsum is mixed with water and stored in stacks of 150 feet or taller. Rain also adds water to the stacks. Because the water is acidic, it must be contained on the site or recycled into the plant for cooling. These stacks must be continuously monitored to ensure that the water does not seep into the environment.

The Mulberry Corporation owned both Mulberry and Piney Point chemical plants. In 2001 the company notified the Department of Environmental Protection (DEP) that it did not have funds to maintain the facilities and would abandon both sites within 48 hours.

To prevent an environmental catastrophe, the U.S. Environmental Protection Agency assumed responsibility for the environmental security at the facilities until transferring that role to the DEP in February 2001. In the same month, the Mulberry Corporation filed for bankruptcy protection.

Shortly after DEP assumed responsibility for securing the sites, bankruptcy proceedings were invoked, and the federal bankruptcy court appointed a receiver funded by DEP. The department is responsible, in conjunction with the receiver, for managing and securing the stack systems and providing for long-term closure.

In May 2002, the DEP and Cargill Fertilizer, Inc., entered into an agreement under which Cargill will manage and close the Mulberry facility. DEP will reimburse Cargill up to \$25 million for the closure work. Closure of the stack system is expected to be completed by 2008, after which Cargill will continue long-term care for approximately 50 years. Ownership of the stack system remains with the federal bankruptcy trustee.

Since February 2001, the DEP and the court appointed receiver have maintained environmental security at the Piney Point gypsum stack system. The primary problem that is being addressed, in addition to ongoing maintenance of the system, is treatment, movement and disposal of hundreds of millions of gallons of water from the stack system. The existing inventory to be disposed is approximately two billion gallons, which is affected by the amount of rainfall. There have been no reasonable offers to purchase the site and assume responsibility for management and closure.

A total of \$131.7 million has been appropriated for this project through FY 2004-05. The budget for the 2004-05 fiscal year totals \$42.7 million (\$12 million from general revenue and \$30.7 million from the Non-mandatory Land Reclamation Trust Fund). The department estimates that an additional \$54.2 million will be needed over the next seven years to close both sites, and trust fund revenues are insufficient to support the cost. The estimated balance in the trust fund is \$8 million.

The General Appropriations Act for the 2004-05 fiscal year includes proviso language in the Department of Environmental Protection for the Piney Point phosphate site remedial action plan. The agency may contract for a study of the cleanup of this site. The study would include a cost benefit analysis that provides risk quantification peer review and considers the environmental and associated local, regional and state economic impacts that may ultimately be associated with the remediation. The report is to be provided to the department, legislative appropriations committees, Senate and House Natural Resources Committees and the Office of Program Policy Analysis and Government Accountability (OPPAGA).

**PROJECT OBJECTIVE(S):**

The objective of the report is to ensure that the department is undertaking the cleanup efforts in the most fiscally responsible manner that protects both the environment and economic impacts to the state.

**METHODOLOGY:**

Staff will collect the information, analyze the data and work with the agency, substantive committees and OPPAGA for recommendations in the 2005 Legislative Session for the continued cleanup efforts and associated costs.

**INTERIM MONITOR PROJECT TITLE:**

*MyFloridaMarketPlace New Compensation Model*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-329

**BACKGROUND and DESCRIPTION:**

In October 2002, the Department of Management Services contracted with Accenture, LLP, to build, implement, and maintain a new statewide web-based electronic procurement system for goods and services, known as MyFloridaMarketPlace. The system is designed to provide a centralized database for vendors and state agency buyers to conduct business. The new system was brought on-line August 2003. As of May 2004, 13 agencies are using the system, 38,191 vendors have registered to conduct business with the state via the new system of which 32 percent are either Certified Minority Businesses or Minority Businesses, and more than \$157 million in purchases have been processed through the system.<sup>3</sup>

The revenue source for the current contract model is the existing 1 percent transaction fee charged to vendors utilizing state term contracts. Section 287.1345, F.S., provides the department with the authority to impose a surcharge on the users of state term contracts in order to fund the costs, including overhead, of its procurement function. The term of the MyFloridaMarketPlace contract is 61 months. Initial contract compensation terms provide that the 1 percent transaction fee is first to be used to provide the cash to support the department's Division of Purchasing annual legislative budget request (LBR). All transaction fees collected above the amount of the department's annual LBR are to be remitted to Accenture, LLP, until Accenture, LLP, is compensated \$92 million. Additionally, the contract provides for annual adjustments to the \$92 million compensation base. Beginning in Fiscal

---

<sup>3</sup> May 2004 Department of Management Services Newsletter, "DMS Direction."

Year 2004-2005 through Fiscal Year 2006-2007, the base compensation is to be increased by \$6.4 million or by the department's LBR, whichever is less, minus \$1 million. Contract revenues exceeding the base compensation of \$92 million plus the annual base compensation adjustment amounts are to be shared by the department and Accenture, LLP. The contract's compensation terms have been modified twice since the contract was signed. Modification one, executed June 2003, provides an additional \$192,104 for financial audit requirements and modification two, executed September 2003, provides approximately \$1.78 million to build the MyFloridaMarketPlace system interface with the state's new accounting and cash management system, ASPIRE, schedule to go live July 1, 2005. Currently, the amount of contract revenue generated by the new system is significantly less than projected.

Accenture, LLP, has also assisted the department in analyzing agency expenditure data for goods and services purchased during the 2001-2002 fiscal year. The department in conjunction with Accenture, LLP, categorized the types of goods and services purchased by the state and developed a sourcing business model. The state has entered into two contracts for office supplies and maintenance and repair supplies estimated to generate 30% and 5% savings, respectively, for these commodity types. The Fiscal Year 2004-2005 General Appropriations Act reduced agency expense budget authority by \$6.9 million based on savings projections attributable to these two contracts. The department is currently evaluating other commodity groups in anticipation of executing contracts that will leverage the state's purchasing power and generate additional savings. During the 2004 Session, the department and Accenture, LLP, began negotiating a third modification to the contract for a new compensation model which would include sharing these savings with Accenture, LLP.

Proviso in the Fiscal Year 2004-2005 General Appropriations Act provides the department authority to develop a new compensation model for the state's on-line procurement system, MyFloridaMarketPlace contract with Accenture, LLP. In return for a significant reduction in compensation to be paid to Accenture, LLP, for the MyFloridaMarketPlace contract, the department is authorized to submit a budget amendment to use the 1 percent transaction fee (surcharge) collected from vendors on state agency purchases of goods and services and shared realized strategic sourcing savings to pay Accenture, LLP. Shared strategic sourcing savings are estimated to be realized when purchases for goods and services are procured from contracts leveraging the state's purchasing power.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor the progress of the department related to the development of a new compensation model for the MyFloridaMarketPlace contract. The project will facilitate a better understanding of the methodology used to determine how the savings from strategic sourcing will be realized and the associated impact on agency budgets. It is anticipated that transfers of existing agency budget authority will be required to implement the new compensation model. Any such transfer must be approved by the Legislative Budget Commission.

**METHODOLOGY:**

Staff of the Senate Appropriations Committee will work with the department, substantive committees, OPPAGA and the Auditor General to develop recommendations regarding the new compensation model for the MyFloridaMarketPlace contract and advise how to implement the new model within the parameters of the budget process.

**INTERIM MONITOR PROJECT TITLE:**

***Projected Trust Fund Deficits in the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-330

**BACKGROUND and DESCRIPTION:**

The General Government Subcommittee's jurisdiction includes the Department of Environmental Protection (DEP) and the Florida Fish and Wildlife Conservation Commission (FWCC). Both agencies' operating costs are primarily funded from state and federal trust fund moneys. For Fiscal Year 2003-04, DEP was appropriated \$1,657 million, of which \$1,614 million (97%) was from trust funds and only \$43.5 million (3%) was from general revenue. For Fiscal Year 2003-04, FWCC was appropriated \$201.8 million, of which \$155.4 million (77%) was from trust funds and \$46.4 million (23%) was from general revenue.

DEP administers 25 trust funds and FWCC administers 8 trust funds. Both agencies are facing shortfalls in revenues for several of the trust funds that are used to fund major programs and have projected deficits for Fiscal Year 2005-06. One of the trust funds projected to be in deficit, which impacts both agencies' law enforcement programs, is the Florida Coastal Protection Trust Fund (FCPTF).

Chapter 376, F.S., provides that the FCPTF shall serve as a mechanism for having financial resources immediately available for prevention of, and cleanup and rehabilitation after, a pollutant discharge, to prevent further damage by the pollutant, and to pay for damages. The recurring revenue for the trust fund is approximately \$7.5 million annually. The revenue sources for the fund include penalties, judgments, and damages recovered from parties responsible for the injury or destruction of natural resources resulting from the discharge of pollutants, as well as other fees and excise tax revenues collected for the privilege of producing or importing pollutants for sale or use in Florida.

DEP is authorized to use the FCPTF moneys to fund: 1) administrative expenses, personnel expenses, and equipment costs of the DEP and the FWCC related to the enforcement of ss. 376.011-376.21, F.S.; 2) costs involved in the prevention and abatement of pollution related to the discharge of pollutants; 3) costs and expenses of the cleanup, restoration, and rehabilitation of waterfowl, wildlife, and all other natural resources damaged by the discharge of pollutants; 4) loans to the Inland Protection Trust Fund; 5) a grant program to coastal local governments, pursuant to s. 376.15, F.S., and, 6) the removal of derelict vessels from the public waters of the state.

Section 386.11, F.S., also provides that DEP may spend up to \$1 million per year from the principal of the fund to acquire, design, train, and maintain emergency cleanup response teams and equipment located at appropriate ports throughout the state for the purpose of cleaning oil and other toxic materials from coastal waters. In addition, DEP is authorized to provide a temporary transfer of funds from the FCPTF in an amount not to exceed \$10 million to the Minerals Trust Fund.

The FCPTF is also authorized to fund marine law enforcement. In 1999, the FWCC's Law Enforcement Program was created by merging law enforcement units from the former Florida Game and Fresh Water Fish Commission and the Department of Environmental Protection's former Marine Patrol.

A portion of the funding for the FWCC Law Enforcement Program since FY 1999-2000 has come from the FCPTF as a transfer from DEP. For Fiscal Year 2003-04, DEP was appropriated \$6.1 million from the Florida Coastal Protection Trust Fund for transfer to the FWCC's Marine Conservation Trust Fund for funding marine law enforcement activities related to Chapter 386, F.S. Based on projected revenues for FY 2004-05, DEP was appropriated \$3.6 million from FCPTF for transfer to FWCC, a reduction of \$2.4 million. DEP is currently projecting a deficit of \$1.1 million by June 20, 2006 based on funding a continuation budget.

**PROJECT OBJECTIVE(S):**

In anticipation of additional revenue needs or expenditure reductions for developing the FY 2005-06 budget, the objective of this project is to monitor and analyze trust funds for available cash balances on a recurring and non-recurring basis and work with the agencies to develop an action plan and options for addressing projected deficits.

The project would include: 1) monitor and analyze the revenues for the Florida Coastal Protection Trust Fund in the Department of Environmental Protection and the recurring expenditures from the trust fund in the DEP and FWCC; 2) monitor and analyze the stability of the Department of Environmental Protection Trust Funds; and 3) monitor and analyze the stability of the Fish and Wildlife Conservation Commission trust funds. Several funds are anticipated to be in deficit when the agencies submit their FY 2005-06 Legislative Budget Request.

**METHODOLOGY:**

Staff of the Senate Committee on Appropriations will meet periodically with staff from both agencies, substantive committees, and OPPAGA, and review trust fund fiscal data including projected recurring and non-recurring revenues, expenditures and non-operating transfers to determine estimated cash balances. The project will include an analysis of the fiscal stability of the trust funds, identification of potential expenditure reductions, and the development of an action plan with options to address trust fund deficits.

**INTERIM MONITOR PROJECT TITLE:**

*DBPR Technology Options for Tax Functions*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-331

**BACKGROUND and DESCRIPTION:**

In addition to regulating and licensing a wide range of professions, the Department of Business and Professional Regulation (DBPR) collects and distributes taxes from the alcoholic beverage, tobacco, and pari-mutuel wagering industries. On a much larger scale, the Department of Revenue (DOR) also collects and distributes taxes from numerous industries. The Office of Program Policy Analysis and Government Accountability (OPPAGA) evaluated the feasibility and merits of transferring the tax administration functions of the DBPR to the Department of Revenue's General Tax Administration Program. Report 04-20 was distributed March 2004 and concluded that the DBPR tax collection functions were directly linked with the regulation of the particular industry and did not recommend functions be transferred.

The report further stated, however, that the Department of Revenue's tax processing system, SUNTAX, should be considered by the DBPR as an alternative to the development of a separate tax processing system. The DBPR requested \$2.6 million in their 2004-05 Legislative Budget Request for a separate system. The 2004-2005 General Appropriations Act did not provide funding for a separate system. The General Appropriations Act included \$100,000 and proviso language directing the OPPAGA to procure a detailed cost-benefit and business case analysis which compares DBPR's proposed custom software development effort to the use of the tax processing infrastructure in the Department of Revenue. However, funds and the proviso language for the cost-benefit and business case analysis were vetoed by the Governor.

As an alternative, a workgroup will be formed with the Technology Review Workgroup (TRW), OPPAGA, DBPR, DOR, Senate Regulated Industries Committee and General Government Appropriations Subcommittee staff to review data and develop options for the 2005 Legislature to consider.

**PROJECT OBJECTIVE:**

The objective of this issue is to ensure that data is available and thoroughly reviewed and evaluated to determine if efficiencies could be gained by utilizing the Department of Revenue's SUNTAX system in lieu of developing a separate system for DBPR tax collection responsibilities.

**METHODOLOGY:**

Staff will participate in the workgroup and analyze data to make recommendations for the 2005 Legislative Session.



---

# Appropriations Subcommittee on Health and Human Services

## INTERIM PROJECTS

*(None)*

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b>
---------------------------------------

<i>Establishment of the Agency for Persons with Disabilities</i>
--

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-332

**BACKGROUND and DESCRIPTION:**

HB 1823 removes the Developmental Disabilities Program Office from the Department of Children and Families (DCF) and establishes the Agency for Persons with Disabilities (APD). The director of the new agency will be appointed by the Governor. The agency will be administratively housed at DCF but will be exclusively responsible for administering the developmental disabilities program, including services provided in the four developmental services institutions and the mentally retarded defendant program. The bill also adds legislative intent to reduce use of sheltered workshops to promote gainful employment and updated provisions related to the relationship with the Agency for Health Care Administration (AHCA) and other agencies who serve persons with needs. The effective date for the creation of the new agency is July 1, 2004. The date for the transfer of responsibilities from DCF to the new agency is October 1, 2004.

**PROJECT OBJECTIVE(S):**

The project will monitor the activities and progress of DCF in meeting the July and October deadlines. Staff will provide briefing materials to legislators as requested.

**METHODOLOGY:**

Staff will meet with DCF staff and others as the agency moves towards establishing the Agency for Persons with Disabilities. Staff will review DCF documents and reports used in the process for feasibility, reasonableness, completeness, compliance with statutes, and legislative intent. Staff will coordinate monitoring activities with staff from the Children and Families Committee.

**INTERIM MONITOR PROJECT TITLE:**

***Information Technology Operating Budget Analysis***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-333

**BACKGROUND and DESCRIPTION:**

The Technology Review Workgroup (TRW) is conducting a pilot project to gather and analyze information technology (IT) costs in the Department of Children and Families (DCF). TRW is utilizing “Service Level Management” (SLM) as a research tool. SLM is a process for IT investment control, which has been used in private sector companies and in the United Kingdom for many years. The object of SLM is to identify IT services funded in the department’s base budget and make sure they provide the support required by business units in organizations.

This pilot will encompass a detailed assessment of IT spending in DCF. The information collected through this project should enable the department to:

- More fully understand the cost of IT;
- Align the agency needs with IT investment and funding decisions;
- Develop a useful IT cost allocation plan;
- Effectively manage and prioritize IT resources; and.
- Identify specific business requirements for IT support functions.

The TRW pilot project is a step toward understanding what makes up the total cost of IT, as well as what this cost should actually be.

**PROJECT OBJECTIVE(S):**

The intent of this pilot is to test and refine the tools and processes used to gather IT information in DCF, in time for the FY 2005-06 budget cycle. The information collected and analyzed through this pilot will be documented for consideration by the 2005 Legislature, when making funding decisions for FY 2005-06.

**METHODOLOGY:**

The methodology for this project will include activities to:

- Collect and analyze IT cost data;
- Identify administrative and statutory barriers to full implementation of SLM;
- Streamline and consolidate data collection tools for IT;
- Link IT services with agency budget activities; and
- Document IT data collection and analysis for consideration by the 2005 Legislature.

Appropriations committee staff will monitor this project during the interim. Staff will attend meetings, review and analyze documents and interview TRW staff, to ensure maximum participation in the TRW review.

**INTERIM MONITOR PROJECT TITLE:**

*Medicaid Reform Efforts*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-334

**BACKGROUND and DESCRIPTION:**

Faced with sharp declines in revenues and growing Medicaid budgets, states are expressing a strong interest in even greater “flexibility” for their Medicaid programs, particularly associated with benefits and cost-sharing. This flexibility has been called for as part of larger efforts to reform the Medicaid program. There is much support for shifting items for which the states must now seek waivers to options the states may select as part of their state Medicaid plans. States are looking for the authority to implement these changes rather than having to seek federal approval. Many believe this will reduce delays, uncertainty, and the administrative burden involved in the current process.

States may apply for section 1115 research and demonstration waivers to gain greater flexibility. These waivers allow the Secretary of Health and Human Services to waive provisions of Medicaid law for demonstration projects that test a program improvement or develop a new idea of interest to the Federal Centers for Medicare and Medicaid Services (CMS). For example, under an 1115 waiver, a state may be exempt from compliance with usual requirements or may receive federal matching funds for expenditures not ordinarily eligible under Medicaid. All 1115 waiver demonstration projects must be budget neutral; that is, they cannot result in greater federal expenditures than would have otherwise occurred in the absence of the waiver. The Secretary’s ability to waive federal cost-sharing requirements is more constrained than his ability to waive federal benefits requirements. As of May 2003, 24 states were operating section 1115 demonstration waivers. Most of these demonstration waivers exempt states from federal rules regarding eligibility or delivery systems. An increasing number, however, affect benefits and cost-sharing or use private models of coverage for Medicaid beneficiaries. Since August 2001, the Secretary of HHS has granted waivers to New Jersey, New Mexico, Oregon, Tennessee, and Utah reducing benefits or increasing cost-sharing for some groups of Medicaid beneficiaries. Florida’s Agency for Health Care Administration (AHCA) is currently in the process of applying for an 1115 waiver in order to implement Medicaid reforms.

**PROJECT OBJECTIVE(S):**

Objectives include monitoring the process by which the 1115 research and demonstration waiver application is developed by AHCA, and the changes to the Medicaid program that are proposed in the waiver application.

**METHODOLOGY:**

Staff will attend meetings conducted by AHCA and any public meetings held with stakeholders relating to the development of the 1115 waiver application and proposed changes to the Medicaid program. Staff will coordinate monitoring activities with staff of the Health, Aging, and Long-Term Care Committee.

# Appropriations Subcommittee on Transportation and Economic Development

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Hazard Mitigation Program Funding*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-105

**BACKGROUND and DESCRIPTION:**

The Hazard Mitigation Grant Program (HMGP) is authorized by Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL 93-288 as amended). It is a partnership that is designed to assist states, local governments, private non-profit organizations and Indian Tribes in implementing long-term hazard mitigation measures following a major disaster declaration.

The objectives of the HMGP are: 1) to prevent future losses of lives and damage to property due to disasters; 2) to implement state or local hazard mitigation plans; 3) to enable mitigation measures to be implemented during immediate recovery from a disaster; and 4) to provide funding for previously identified mitigation measures that benefit the disaster area.

The federal government provides funds for the HMGP but requires a twenty-five percent match that must be provided by local government, the state or a combination of the two. Although proviso language in the General Appropriations Act has previously addressed this issue, Florida Statutes do not provide consistent state and local funding requirements. The program is administered through a partnership arrangement with the Florida Department of Community Affairs. The key responsibilities of the state are to:

- Solicit and review HMGP proposals from applicants;
- Prepare and submit the proposals to the Federal Emergency Management Agency in accordance with procedures set forth in the State Hazard Mitigation Grant Program Administrative Plan; and
- Manage the HMGP and the funds available under the program.

The State's Hazard Mitigation Grant Program Administrative Plan governs how projects are selected for funding. There are certain minimum criteria designed to ensure that the most cost-effective and appropriate projects are selected. Sub-grantees (eligible applicants) submit completed project applications to the state for its review and evaluation. Qualified projects within funding availabilities are then forwarded to the Federal Emergency Management Agency for eligibility and funding approval. Since this program is related to overall disaster recovery efforts, project funding requests are not typically included in the normal legislative budget request process.

**PROJECT OBJECTIVE(S):**

This project will review the hazard mitigation project selection process, state matching fund options, and appropriate level of legislative oversight to determine if statutory changes or proviso language are required to clarify roles and responsibilities related to this program.

**METHODOLOGY:**

Committee staff will obtain written materials and formal documents related to the Hazard Mitigation Grant Program, and meet with the Division of Emergency Management and Office of Program Policy Analysis and Government Accountability staff for necessary background information.

**MANDATORY REVIEWS**

*(None)*

**MONITOR PROJECTS**

**INTERIM MONITOR PROJECT TITLE:**

*Strategic Intermodal System*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-335

**BACKGROUND and DESCRIPTION:**

In 2003, the Legislature created the Florida Strategic Intermodal System (SIS), which is comprised of: the Florida Intrastate Highway System; the National Highway System; airport, seaport, and spaceport facilities; rail facilities; selected intermodal facilities; passenger and freight terminals; and appropriate components of the State Highway System, County Road System, City Street System and local public transit systems that serve as connections between other modes. The SIS represents a fundamental shift in the way Florida develops and funds its transportation system. Specific Appropriation 1963A in the General Appropriations Act for Fiscal Year 2004-2005 appropriates \$100 million in State funds for the SIS.

**PROJECT OBJECTIVE(S):**

This project will inform committee members of changes in both SIS and emerging SIS designations and the funding impact of the allocation of the \$100 million appropriation on the Department of Transportation's 5-year work plan. Staff will provide briefing materials for legislators as needed.

**METHODOLOGY:**

Staff will attend meetings of the various SIS groups; meet periodically with agency staff, and monitor the allocation of SIS funds.

**INTERIM MONITOR PROJECT TITLE:**

*Transportation Equity Act - 21 Reauthorization*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-336

**BACKGROUND and DESCRIPTION:**

The Transportation Equity Act (TEA) for the 21st Century was enacted June 9, 1998. TEA authorizes the Federal surface transportation programs for highways, highway safety, and transit for the 6-year period 1998-2003. While the act expired on September 30, 2003, Congress has provided funding through a continuing resolution pending federal reauthorization.

**PROJECT OBJECTIVE(S):**

This project will inform committee members of proposed changes to TEA and the associated impacts on the Department of Transportation's 5-year work program.

**METHODOLOGY:**

Staff will review proposed changes to TEA, and monitor the progress of House and Senate conferees as they develop the conference report for the Transportation Equity Act.

---

# Banking and Insurance

## INTERIM PROJECTS

<b>INTERIM PROJECT TITLE:</b>
-------------------------------

<i>Insurance Company Solvency Regulation</i>
--

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-106

**BACKGROUND and DESCRIPTION:**

The primary objective of state regulation of insurance is to assure insurance company solvency. Insurance consumers must have confidence that their insurance company has, and will continue to have, the financial ability to meet the obligations of the insurance contract. State regulators have the duty to assure that these obligations are met.

Each state is primarily responsible for assuring the solvency of those insurers domiciled in that state, i.e., incorporated or formed under the laws of that state. If an insurance company is rendered impaired or insolvent, the Department of Financial Services, at the direction of the Office of Insurance Regulation seeks a court order to place the insurer in rehabilitation or liquidation. Currently, there are 46 Florida domestic insurers in receivership and 3 insurers in rehabilitation. These include insurers placed in receivership as far back as 1989, including 11 companies placed in receivership in 1992, the most in any single year, due mainly to Hurricane Andrew claims. More recently, 15 domestic insurers have been placed in receivership and another 3 in rehabilitation since 1997. Some of these insolvencies have occurred in the non-standard auto insurance market which writes coverage for high-risk drivers, and other non-standard insurers have been identified as vulnerable to regulatory action. One problem that has been identified for some of these companies is that a holding company owns the insurance company plus other companies that provide management and claims processing services to the insurance company for a fee. Under this arrangement, profits can be drained from the insurance company to the benefit of the affiliated companies. Some states, notably Michigan, New York, and Illinois, prohibit insurance companies' use of affiliated management contracts. Another issue that has been raised is the need for greater statutory deposits of cash or securities with the state, currently limited to \$300,000 for domestic insurers.

**PROJECT OBJECTIVE(S):**

To determine whether Florida's solvency requirements for insurers should be strengthened in order to prevent insurer insolvencies.

**METHODOLOGY:**

Staff will review and analyze the current solvency requirements for insurers in Florida and compare these requirements to model laws adopted by the National Association of Insurance Commissioners and to other major states. Staff will also interview personnel at the Division of Rehabilitation and Regulation and the Office of Insurance Regulation to attempt to determine the causes of insolvency for insurers that have been placed in liquidation or rehabilitation in recent years, generally since 1997. Legislative proposals related to insurance solvency from recent sessions will also be analyzed. Insurance trade publications and insurance credit rating agency reports will be researched on this issue.

**INTERIM PROJECT TITLE:**

***Detering Insurance Fraud by Employment Agencies***

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-107

**BACKGROUND and DESCRIPTION:**

In recent years, employment agencies, which include professional employer organizations or employee leasing companies and temporary employment agencies, are increasingly being used by employers to meet staffing needs and reduce administrative costs, thereby allowing employers to become more competitive in the marketplace. Generally, these employment agencies provide employers with payroll processing, maintenance and filing of employee records, unemployment claims, health benefits, workers' compensation insurance, and other human resource functions.

Many of these employment agencies have provided their client employers with effective and necessary services; however, some of these employment agencies have operated fraudulently and marketed insurance products and health benefit plans that are fraudulent or non-existent. Presently, temporary employment agencies are not regulated by the state and concerns have been raised regarding the state's ability to regulate certain activities of some of these entities that are functioning as employee leasing companies which are regulated by the state. Certain employment agencies have engaged in premium fraud by misrepresenting an employee's classification code and payroll to the insurer. Some employers have paid workers' compensation premiums only to find out that the coverage was non-existent. As a result, some employers pay significant fees to employment agencies without obtaining any benefits and are ultimately liable for the payment of medical and worker's compensation claims for sick or injured employees. Moreover, employment agencies engaging in such fraudulent activities create an unlevel playing field for legitimate employment agencies that are complying with insurance coverage requirements.

**PROJECT OBJECTIVE(S):**

To review current laws and rules relating to employment agencies to determine whether such state regulation provides adequate oversight and enforcement authority of these entities that ensures that insurance coverage is provided to the client employers as required by law.

**METHODOLOGY:**

Committee staff will:

- review current laws and rules relating to the regulation of employment agencies;
- evaluate the adequacy of current reporting requirements as they relate to ensuring that insurance coverage requirements are met;
- assess efforts by other states in regulating employment agencies to deter insurance fraud;
- evaluate relevant model laws relating to the regulation of employment agencies; and
- interview representatives of the employment agency industry, insurance industry, state regulators, and consumer advocates.

**INTERIM PROJECT TITLE:**

***Enforcing the Ban on Retail Sale of Fireworks***

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-108

**BACKGROUND and DESCRIPTION:**

For purposes of public safety, Florida bans the retail sales of fireworks, but exceptions to this prohibition result in illegal use of fireworks that is difficult to enforce. In addition to property damage due to fire, fireworks can result in burns, scars, disfigurement, and even death. Twelve people died from injuries in fires started by fireworks in 1999, the latest year for which figures are available from the National Fire Protection Association. Nationwide there were 24,200 fires associated with fireworks use in 1999 according to NFPA statistics.

Under current Florida law, the State Fire Marshal (Department of Financial Services) issues Certificates of Registration to firms and individuals engaged in the business of manufacturing, distributing, and selling at wholesale and retail, approved “sparklers.” The State Fire Marshal adopts by rule and publishes a list of approved sparklers.

Any person or firm who has registered with the State Fire Marshal as a manufacturer, distributor or wholesaler may sell fireworks at wholesale in compliance with s. 791.04, F.S. This allows the sale of: 1) fireworks to be shipped out of state by such manufacturer, distributor, or wholesaler; 2) fireworks to be used by a person holding a permit by any Board of County Commissioners at the display covered by such permit; 3) blank cartridges to be used by a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations. The law also allows railroads and other transportation agencies to use fireworks for signal purposes or illumination or when used in quarrying or for blasting or other industrial use. Also, the law allows the importation, purchase, sale, or use of fireworks used solely and exclusively in frightening birds from agricultural works and fish hatcheries, as prescribed by rules by the Department of Agriculture and Consumer Services.

**PROJECT OBJECTIVE(S):**

To determine how to provide for more effective enforcement of the ban on the retail sale of fireworks.

**METHODOLOGY:**

Staff will analyze the current Florida law that prohibits the retail sale of fireworks and how the current law is enforced, including interviews with personnel with the Division of State Fire Marshal and selected local government police and fire officials. Legislative proposals from prior legislative sessions will also be analyzed. The laws from other states that ban the sale of fireworks will also be reviewed and compared to the Florida law.

**INTERIM PROJECT TITLE:**

***Determining the Sufficiency of Regulation of Third Party Administrators and Fiscal Intermediary Services Organizations***

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-109

**BACKGROUND and DESCRIPTION:**

The mechanism of delivering and financing health care services has changed dramatically in recent years thereby allowing the development of innovative types of risk-sharing arrangements between insurers, providers, and consumers. The Office of Insurance Regulation is responsible for the regulation of insurers, third party administrators (“TPAs”) and fiscal intermediary services organizations.

Under the provisions of ch. 626, F.S., a third party administrator is defined as a person who solicits or effects coverage of, collects charges or premiums from, or adjusts or settles claims on Florida residents in connection with an authorized self-insurance fund or with insured or self-insured programs that provide life or health insurance coverage in Florida. The duties and responsibilities of the TPA and the insurer are governed by statute and by a written agreement between the TPA and the insurer. The insurer is responsible for determining benefits, premium rates, underwriting criteria, and claims handling procedures. Regulatory functions of TPAs include licensing, monitoring the financial condition, general operating results, and market conduct of companies to determine compliance with the Florida Insurance Code.

The regulation of fiscal intermediary services organizations was established to ensure the financial soundness of entities engaged in the management and administration of the business affairs of health care professional providers. Fiduciary or fiscal intermediary services may include reimbursements received or collected, patient and provider accounting, financial reporting and auditing, or other related fiduciary services pursuant to health care professional contracts with health maintenance organizations. Generally, fiscal intermediary services organizations are required to meet and maintain certain criteria, including fidelity and surety bond requirements, and register with the Office of Insurance Regulation under the provisions of s. 641.316, F.S.

**PROJECT OBJECTIVE(S):**

To determine whether the current regulatory requirements for third party administrators and fiscal intermediary services organizations should be strengthened in order to provide greater oversight and accountability of their activities.

**METHODOLOGY:**

Staff will review and analyze the current regulatory requirements for third party administrators and fiscal intermediary services organizations in Florida and compare these requirements to any applicable model laws adopted by the National Association of Insurance Commissioners and to other comparable states. Staff will contact various stakeholders, including the Florida Medical Association, Florida Podiatric Medical Association, Florida Osteopathic Medical Association, Florida Chiropractic Association, representatives of various insurers, and the Office of Insurance Regulation to provide input regarding the adequacy of the current regulation and to identify any specific regulatory concern, if applicable.

## MANDATORY REVIEWS

(None)

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b>
---------------------------------------

<i>Status of Citizens Property Insurance Corporation</i>
--

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-337

**BACKGROUND and DESCRIPTION:**

Citizens Property Insurance Corporation (Citizens) is the state-created insurer of property insurance for persons who cannot find coverage in the voluntary market. Citizens is the largest insurer in Florida for hurricane risk, which replaced the former Florida Windstorm Underwriting Association (FWUA) and the Florida Residential Property & Casualty Joint Underwriting Association (RPCJUA). Citizens' High-Risk Account, the former FWUA, provides windstorm coverage only, in most coastal areas of the state. Citizens also provides full residential property coverage statewide, like the former RPCJUA, including both personal lines and commercial lines.

The number of policies and insured value of Citizens have continued to grow. As of April 2004, Citizens insured approximately 820,000 policies, compared to about 672,000 policies only one year earlier. During the same period, the value of the insured property increased from \$162 billion to \$195 billion. Although Citizens is generally intended to have the highest rates in the state, the Legislature limited premium increases in the High-Risk Account in 2002 and 2003 in order to prevent significant rate increases. In January, 2004, Citizens reported to the Legislature on its mandate to develop in collaboration with the Office of Insurance Regulation a wind-only ratemaking methodology to assure that its rates are actuarially sound and not competitive with approved rates charged by authorized insurers. This methodology uses a variation of the "top 20" approach which is required for personal residential multiperil policies issued by Citizens. This generally requires that the rates charged by Citizens be the highest rates in the county as compared to the top 20 writers of homeowner's coverage and the top 5 writers of mobile homeowner's coverage in Florida.

**PROJECT OBJECTIVE(S):**

To monitor the number of policies and property value insured by Citizens; to compare the rates charged by Citizens with insurers in the voluntary market; to monitor the "take-out" activities of Citizens to have policies placed with insurers in the voluntary market; and to monitor the financing arrangements entered into by Citizens to cover its probable maximum loss.

**METHODOLOGY:**

Committee staff will review reports by Citizens of policies written and dollar value insured; obtain premium information from the Office of Insurance Regulation to compare rates charged by Citizens with insurers in the voluntary market; obtain financing information from Citizens for funding its probable maximum loss; and interview representatives of Citizens, the Office of Insurance Regulation, and the insurance industry.

**INTERIM MONITOR PROJECT TITLE:**

***Implementation of the Florida Health Insurance Plan***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-338

**BACKGROUND and DESCRIPTION:**

In the 2004 session, CS/HB 1629 was enacted which included the establishment of the Florida Health Insurance Plan (FHIP), as the successor to the Florida Comprehensive Health Association (FCHA), to provide health insurance to high-risk individuals who are unable to obtain coverage in the private market. The bill provides for appointment of a board of governors for the FHIP and for the board to assume the operation of the FCHA. The board is directed to conduct an actuarial study and to report to the Governor and Legislature by December 1, 2004 regarding the number of individuals the pool could cover at various funding levels and related issues. The FHIP is prohibited from insuring new individuals until funding is provided by the Legislature. Funding of the high risk pool is provided by premiums capped at 300 percent of the standard risk rate, subject to a sliding scale surcharge based on the insured's income. Additional revenue for any deficit shall be primarily funded through amounts appropriated by the Legislature from general revenue sources, including a portion of the annual growth in premium taxes. The board must operate the plan so that the estimated cost will not exceed total income and to limit plan enrollment accordingly.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of the FHIP, to review the actuarial study conducted by the board and the funding needed to provide coverage for new enrollees, and to determine if additional legislation is necessary to implement the plan.

**METHODOLOGY:**

Committee staff will interview the board and staff of the FHIP, personnel at the Office of Insurance Regulation, and insurance industry representatives; attend board meetings; review the actuarial study conducted by the board; and compare the laws of other states that have high-risk insurance pools.

**INTERIM MONITOR PROJECT TITLE:**

***Anti-Insurance Fraud Activities of the Division of Insurance Fraud and Prosecution by State Attorneys***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-339

**BACKGROUND and DESCRIPTION:**

The investigation and prosecution of insurance fraud is a high priority for the Banking and Insurance Committee. In 2003, significant fraud legislation was enacted in the worker's compensation reforms (SB 50-A), the PIP/Auto Insurance act (SB 32-A), and the Pete Orr Anti-Insurance Fraud Act (CS/SB 1694). The focus has been on the investigations and arrests made by the Division of Insurance Fraud in the Department of Financial Services and subsequent prosecution by the state attorneys in each judicial circuit, as well as the Statewide Prosecutor's Office. For workers' compensation in particular,

the law requires an annual report by the Division's Bureau of Workers' Compensation Fraud to provide greater accountability regarding its fraud activities.

**PROJECT OBJECTIVE(S):**

To monitor the activities of the Division of Insurance Fraud and state attorneys to determine their effectiveness in investigating, arresting, and prosecuting crimes of insurance fraud.

**METHODOLOGY:**

Committee staff will review reports and documentation and interview personnel of the Division of Insurance Fraud, the offices of the state attorneys of selected judicial circuits, and the Office of the Statewide Prosecutor.

**INTERIM MONITOR PROJECT TITLE:**

*Status of the Medical Malpractice Insurance Market*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-340

**BACKGROUND and DESCRIPTION:**

Significant medical malpractice reforms were enacted during the 2003 Special Session D (SB 2-D, "the act"), intended to improve the availability and affordability of medical malpractice insurance. The act required each medical malpractice insurer to make a rate filing effective no later than January 1, 2004, to reflect the savings of the act, using the presumed factor established by the Office of Insurance Regulation (OIR). If the insurer contended that the rate was excessive, inadequate, or unfairly discriminatory, it was permitted to file the rate it contended was appropriate, subject to prior approval by OIR. The OIR contracted with Deloitte & Touche LLP (Deloitte) to estimate the savings of the act. The Deloitte report estimated that the act would have an overall impact of -7.8 percent on rates for medical malpractice insurance in Florida. This estimate was based on aggregate Florida data and was an overall factor for all specialties combined. No breakdown was calculated for certain high risk or low risk specialties. Only two sections of the bill were determined to result in measurable savings: the limitations on non-economic damages (section 54), estimated to be -5.3 percent, and the requirements for bad faith actions against insurers (section 56), estimated to be -2.5 percent.

As of January 5, 2004, OIR had received nineteen rate filings, all but one of which proposed statewide average rate increases, even after accounting for the reduction of the presumed factor. At that time OIR had approved three rate filings for rate increases of 8 percent, 19.9 percent, and 45 percent, respectively, including the state's largest writer of medical malpractice coverage, First Professionals Insurance Co., which received the 8 percent rate increase.

Concerns were raised by representatives of emergency room (ER) physicians that applying a single presumed factor to reflect the savings of the act results in underestimating the impact of the act on ER physicians, due to the lower, "non-pierceable" cap on non-economic damages that applies in ER situations of \$150,000 per claimant/\$300,000 aggregate practitioner cap. In response to these concerns and at the request of the Senate President, the OIR asked Deloitte to separately calculate the estimated savings of the act for ER providers. Deloitte did so, and estimated that the presumed factor for ER practitioners would be -16.1 percent rather than -7.8 percent, but which reduced the presumed factor for

non-ER practitioners to -5.3 percent. Discussions have been held among representatives of OIR, medical malpractice insurers, ER physicians, and legislative staff regarding whether subsequent rate filings should reflect greater savings for ER providers and to what extent the presumed factor should continue to be reflected in future rate filings, but it is not clear what actions are likely to be taken.

**PROJECT OBJECTIVE(S):**

To monitor the rate filings made by medical malpractice insurers and to identify new insurers, risk retention groups, and self-insurance funds that have entered the medical malpractice insurance market.

**METHODOLOGY:**

Committee staff will obtain information from OIR regarding rate filings filed and approved for medical malpractice and information regarding new insurers, risk retention groups, and self-insurance funds that have been approved to write medical malpractice, and those insurers that are actively writing coverage.

---

# Children and Families

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Mental Health Professions Authorized to Initiate Involuntary Mental Health Evaluations*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-110

**BACKGROUND and DESCRIPTION:**

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

Since becoming effective in 1972, the Baker Act has been amended a number of times to strengthen the protection of public safety, the assurance of appropriate care, and the protection of persons’ civil liberty and due process rights. Notably, in 1996, greater protections were extended to persons seeking voluntary admission, and informed consent and guardian advocacy provisions were strengthened, among many other revisions.

The most recent revision made by the 2004 Legislature provided for outpatient commitment of persons with mental illness. This provision authorizes the court to order persons with mental illness who meet certain requirements to participate in community-based mental health treatment if the needed services are available in the individual’s community and if the local service provider agrees to provide the services. Additionally, this legislation authorizes mental health counselors to initiate involuntary examinations effective July 1, 2005.

Currently, specified professionals are authorized to issue a certificate to initiate the involuntary examination of a person who appears to meet commitment criteria. These persons include a physician, clinical psychologist, psychiatric nurse, and clinical social worker, all as defined in chapter 394, F.S. The inclusion of mental health counselors as one of the professionals authorized to initiate involuntary examinations has raised concerns and has added to the likelihood that other professional groups will seek to be added. An increase in the number of persons who are authorized to initiate involuntary examinations may inappropriately increase the number of persons being evaluated for involuntary placement resulting in unnecessary increased costs. Concerns have also been raised about whether mental health counselors possess the necessary educational, training, and experiential background to perform this function. Further, the definitions provided by chapter 394, F.S., are not consistent with other current statutory and licensing requirements for these professionals and may need to be modified.

**PROJECT OBJECTIVE(S):**

- Determine the appropriateness of the current definitions of mental health professionals in chapter 394, F.S., including the consistency of these definitions with the current licensing and other statutory requirements.

- Consider whether the list of professionals needs to be expanded or further limited and whether there is need to revise the current set of definitions.

**METHODOLOGY:**

Committee staff will:

- Conduct a literature review and an assessment of other state statutes.
- Identify the mental health commitment practices of other states.
- Conduct a review of the current educational, training, licensure and practice requirements of the professionals who are authorized to initiate an involuntary examination, including the mental health counselor, as well as other professional groups that are likely to seek authorization.
- Identify the roles and responsibilities of each authorized professional when initiating an involuntary examination.
- Identify the competencies that are needed by professionals in order to complete a risk assessment and apply the Baker Act criteria.
- Assess the impact of decisions made by these professionals.
- Compare the definitions that are provided in statute for these professions.
- Conduct individual interviews.
- Review evaluative reports relating to the topic area including the evaluation that is to be conducted by the department of the fiscal impact of adding mental health counselors.
- Review available data to assess the appropriateness of the professionals who initiate involuntary examinations.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 741.3165, F.S., Records Held by a Domestic Violence Fatality Review Team*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-202

**BACKGROUND and DESCRIPTION:**

The Domestic Violence Fatality Review Teams were established to review fatal and near fatal incidents of domestic violence, related domestic violence matters, and suicides at the community level. The purpose of these reviews is to learn how to prevent domestic violence through improved individual and system responses and earlier intervention. Section 741.316, F.S., sets forth the parameters for the focus and direction of the Domestic Violence Fatality Review Teams, as well as a mechanism for statewide data collection. The reviews of domestic violence fatal and near fatal incidents often include a review of the events leading up to the incident, actions taken by community services and individuals, available community resources, current laws and policies, and any other information determined important. The information required for such reviews may include public records or records which are exempted from public disclosure. Section 741.3165, F.S., provides Domestic Violence Fatality Review Teams with an exemption from public disclosure for certain information. Specifically, this public records and public meeting exemption provides that information and records provided to a Domestic Violence Fatality Review Team that is otherwise confidential and exempt remain confidential and exempt from public disclosure, that any portion of a report produced by the review team which contains

information that is otherwise confidential and exempt remain confidential and exempt, and that meetings during which the identity of a victim or their children is discussed is exempt from the public meeting requirements. These public records and public meeting exemptions are subject to the Open Government Sunset Review Act of 1995 and stand repealed on October 2, 2005, unless reviewed and reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

The objective of this interim review project is to review the confidentiality and exemption from public disclosure provided for Domestic Violence Fatality Review Teams using the criteria established in the Open Government Sunset Review Act and recommend whether the exemptions should be reenacted or revised.

**METHODOLOGY:**

The methodology would include a survey of and discussions with Domestic Violence Fatality Review Teams and state level stakeholders to assess the types of information and records covered by the exemption, the issues related to the administration of the exemption, how the exempted information is used, the value of the fatality reviews, and the effect and significance of the exemption.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Education of Dependent Children Interagency Agreements*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-341

**BACKGROUND and DESCRIPTION:**

House Bill 723 requires interagency agreements between the Department of Children and Families and the Department of Education at the state level and the Department of Children and Families and the district school boards at the local level relative to the education of and related services for children found dependent or in shelter care. Requirements for the interagency agreements include efforts to avoid disruption of a child's education, identification of educational and other school services necessary for a child's education, sharing of information, determining the availability of transportation to avoid changes in school assignments, supporting the educational needs of a child with disabilities, participation in case planning activities, and provision of training in areas that would facilitate the desired outcomes of these agreements.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to monitor the development and implementation of the interagency agreement between the two departments, as well as the implementation of the agreements between the Department of Children and Families and the district school boards.

**METHODOLOGY:**

The methodology would include:

- Meeting with staff of the Department of Children and Families and the Department of Education;
- Reviewing pertinent documents relative to the development and implementation of the interagency agreements; and

- Coordinating with the Senate Committee on Education but taking the lead monitoring role for the project.

**INTERIM MONITOR PROJECT TITLE:**

***Community-Based Care Continued Implementation***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-342

**BACKGROUND and DESCRIPTION:**

Chapter 98-180, L.O.F., directed the Department of Children and Families to implement community-based care statewide by contracting with private community-based care lead agencies for the planning, administration, and delivery of foster care and related services. This conversion to community-based care is to be completed during the 2004 calendar year. The implementation of this community-based care initiative has experienced successes and, more recently, near failures. As a result, ch. 2003-146, L.O.F., required that a readiness assessment be utilized to determine the readiness of both the districts and the lead agencies to transfer the services to the community-based care lead agencies. As the Department of Children and Families completes the statewide privatization of these foster care and related services through the community-based care initiative, close legislative monitoring of the implementation, problems, and successes is important.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to monitor the continued transition of foster care and related services from the Department of Children and Families to the community-based care lead agencies.

**METHODOLOGY:**

The methodology for this interim monitoring project would include:

- Regular meetings with the staff of the Department of Children and Families and representatives from the community-based care lead agencies regarding the status of the implementation and problems being experienced; and
- Reviews of or ad hoc participation in the readiness assessment process.

**INTERIM MONITOR PROJECT TITLE:**

***Child Support Guidelines Proposed Changes***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-343

**BACKGROUND and DESCRIPTION:**

Federal and state law (s. 61.30(16), F.S.) require that the child support guidelines be reviewed every four years. During the last four years, work has been initiated to accomplish the child support guideline review including a House committee interim project and introduction of a bill in the 2000 session and a proposed child support bill drafted jointly by the Family Court Steering Committee appointed by the Florida Supreme Court, the Florida Chapter of the American Academy of Matrimonial Lawyers, and the

Family Law Section of the Florida Bar. Most recently, the Legislature contracted with Florida State University to update Florida's existing child support schedule amounts and to examine other models for developing child support guidelines. Products from this initiative provide an economic analysis of the current model, other possible models, and key guideline issues but were not available in time to allow for the child support guideline review to be completed during the 2004 session. The House has historically undertaken the examination of the child support guidelines and may continue this effort using the results of the Florida State University contract.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to study the results of the Florida State University project and its implications to Florida's child support guidelines and to monitor other activities that may be initiated to update the child support guidelines.

**METHODOLOGY:**

The methodology would include:

- Analyzing the reports produced by the Florida State University contract,
- Reviewing literature pertinent to child support guidelines, and
- Attending meetings with appropriate parties relative to updating child support guidelines.

**INTERIM MONITOR PROJECT TITLE:**

*Establishment of the Agency for Persons with Disabilities*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-344

**BACKGROUND and DESCRIPTION:**

House Bill 1823 adopted by the 2004 Legislature removes the Developmental Disabilities program from the Department of Children and Family Services (the department or DCF) and establishes the Agency for Persons with Disabilities (the agency or APD). The new agency is to be administratively housed within the department but established as a separate budget entity that is not subject to the control, supervision, or the direction of the department.

The new agency has responsibility for the provision of all services for persons with developmental disabilities pursuant to chapter 393, F.S., and will maintain the fiscal and programmatic management of the developmental disabilities institutions. However, fiscal management of the home and community-based waiver services will be administered by the Agency for Health Care Administration (AHCA).

A Type 2 transfer will become effective October 1, 2004, transferring the Developmental Disabilities Program and the Developmental Disabilities Institutions Programs of the department to the Agency for Persons with Disabilities. In order to complete the transfer, the Director of APD is to work in consultation with the Secretaries of DCF and AHCA or their designees to develop a transition plan. This plan must be submitted to the Executive Office of the Governor and the Legislature by September 1, 2004. As a component of the transfer, APD is directed to enter into inter-agency agreements with AHCA and DCF to delineate the responsibilities of each organization.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to monitor the transfer of the Developmental Disabilities program.

**METHODOLOGY:**

Committee staff will review relevant documents and periodically meet with staff from the Department of Children and Family Services, the Agency for Health Care Administration, the Developmental Disabilities Program, and the Agency for Persons with Disabilities to determine the status of activities that are required by this legislation. Whenever possible, committee staff will attend, as an observer, any meetings convened to accomplish the transfer of the Developmental Disabilities program. Committee staff will work with staff from the Appropriations Subcommittee on Health and Human Services to complete this monitoring project.

**INTERIM MONITOR PROJECT TITLE:**

*Substance Abuse Services Single “Managing Entity” in DCF Districts 4 and 12*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-345

**BACKGROUND and DESCRIPTION:**

Section 394.9082, F.S., directs the Department of Children and Families (DCF or the department) to expand the “managing entity” concept into Districts 4 and 12 specifically for substance abuse services. In these districts, a managing entity is to be accountable for the provision of substance abuse services to the recipients of child protective services. The department has been working with stakeholders and a consultant to develop a phase-in of services and to provide technical assistance to assure district and provider readiness, as well as to develop a contract with a managing entity. This project has been underway since August, 2003, and the first report required to be submitted by the department to the Legislature has been received. Progress is being made in the development of this pilot, but it is not fully implemented. The protocols that have been recommended for this pilot are scheduled for completion by June 30, 2004. Additionally, a contract has not been negotiated with a managing entity, and the clinical components of the substance abuse service delivery system have not yet been established. The full implementation of this project is statutorily directed to be completed within 2 years of its initiation.

**PROJECT OBJECTIVE(S):**

The objectives of this interim monitoring project are:

- To continue to track the implementation of the managing entity concept across two districts and identify associated issues.
- To assess findings of any efficiencies achieved using a “substance abuse only” managing entity.
- To compare efficiencies achieved with the “substance abuse” managing entity model to those achieved with the “behavioral health care” managing entity model utilized in Districts 1 and 8.
- To track improvements in service delivery to recipients of child protective services.

**METHODOLOGY:**

Committee staff will continue to track this pilot project by meeting with involved parties periodically and by reviewing the documentation, protocols, and reports that are generated. Any available data that relates to the provision of services and improved outcomes for recipients of child protective services will be obtained and reviewed.

**INTERIM MONITOR PROJECT TITLE:**

*Economic Self-Sufficiency Privatization*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-346

**BACKGROUND and DESCRIPTION:**

The Economic Self-Sufficiency program of the Department of Children and Families determines eligibility for a number of services that assist low-income individuals and families meet basic needs, including food stamps, Temporary Assistance for Needy Families (TANF), and Medicaid. Efforts to privatize the eligibility determination functions were introduced in 1997. The General Appropriations Act for FY 2003-2004 directed the department to develop a plan for achieving efficiencies through either outsourcing, alternative service deliveries and administrative efficiencies, or a combination of these two approaches. The 2004 Legislature continued this directive in the General Appropriations Act for FY 2004-2005. In addition, HB 1823 authorized the department to provide its eligibility determination function either using department staff or through contracts with private vendors. However, the geographic area for any one contract is not to be larger than a combined seven districts or a combined three zones, with the exception of the contract for information technology, without the approval of the Legislative Budget Commission. In addition, department employees are required to provide the eligibility determination function in at least one area of the state if their proposed cost is competitive with the private vendors.

The Department of Children and Families has been in the process of soliciting proposals and selecting contractors. No other state has contracted eligibility determination for Medicaid and food stamps to the private sector. Concerns have been raised that any privatization effort should preserve the duty of the state to assist low-income persons intended to be served. It is important, therefore, that this privatization of the eligibility determination function be monitored by the Legislature.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to monitor the transition of eligibility determination functions of the Economic Self-Sufficiency from the Department of Children and Families to private vendors.

**METHODOLOGY:**

The methodology for this interim monitoring project would include:

- Reviews of the documents pertinent to proposal solicitation and the contracting process, and
- Meeting with staff of the Department of Children and Families and vendors regarding the status of the transition.

**INTERIM MONITOR PROJECT TITLE:**

***Community Mental Health Initiatives Implementation***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-347

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature passed legislation pertaining to community mental health services that are managed by the Department of Children and Families (the department or DCF). This legislation included:

- Approval of an involuntary outpatient commitment process that allows the court to order involuntary outpatient placement for individuals who meet specific criteria. This placement is contingent upon the availability of community-based mental health services and the agreement of a community mental health service provider to render the needed mental health services (SB 700).
- Authorization to continue the client-directed and choice-based pilot project for adults with serious and persistent mental illness in District 4, to expand the project to three additional districts, and to establish a similar project for children. (SB 2894)
- Approval of \$6,394,184 in general revenue funding to increase the capacity of adult and child crisis stabilization unit (CSU) beds statewide. These funds are to be targeted to districts with the highest levels of unmet need (2004-2005 General Appropriations Act).

Upon approval by the Governor, the Department of Children and Families Mental Health Program will be responsible for the implementation of this legislation.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to track the planning and implementation of:

- The involuntary outpatient commitment process;
- The expansion of the self-directed care project; and
- The expansion and allocation of CSU beds statewide.

**METHODOLOGY:**

Committee staff will attend meetings with appropriate persons whenever possible. Staff will also review action plans, contracts, reports and other documentation pertaining to these community mental health initiatives.

**INTERIM MONITOR PROJECT TITLE:**

***Managed Behavioral Health Care Contracts Impact on Mental Health System***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-348

**BACKGROUND and DESCRIPTION:**

The 2003 Legislature enacted chapter 2003-279, Laws of Florida, to allow for the use of managed care principles in the provision of behavioral health services for Medicaid recipients. The Agency for Health Care Administration did not implement the changes and requested an opinion from the Attorney

General regarding the legislation's meaning. The agency's uncertainty related to whether Medicaid recipients who are enrolled in Medicaid health maintenance organizations (HMO) would receive their behavioral health services through the HMO or through a separate capitated behavioral health plan. This issue was addressed by the 2004 Legislature in HB 1843 (chapter 2004-270, L.O.F.), the result of which will be that those Medicaid clients enrolled in an HMO will receive behavioral health services from that HMO. There are concerns that this decision may negatively impact the quality and availability of behavioral health services to Medicaid recipients.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to monitor the impact of managed behavioral health care contracts on the behavioral health service delivery system.

**METHODOLOGY:**

Committee staff will:

- Study evaluative reports relating to client outcomes associated with the utilization of managed behavioral health care contracts in Florida, including the evaluation of managed behavioral health care contracts to be conducted by the Substance Abuse and Mental Health Corporation, Inc.

**INTERIM MONITOR PROJECT TITLE:**

*Insurance Reimbursement Issues for Substance Abuse Treatment Providers*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-349

**BACKGROUND and DESCRIPTION:**

An issue has been raised regarding the difficulties that are experienced by certain for-profit substance abuse providers in obtaining third party payments for "inpatient treatment." These problems are reported to be associated with the language contained in s. 397.311(18), F.S., placing medically monitored inpatient treatment occurring in a substance abuse treatment facility within the category of residential treatment.

The Department of Children and Families has agreed to propose changes to the current statutory language that will provide a treatment category that more accurately describes the services that are being provided in facilities experiencing problems with reimbursement. It is reported that these changes will address the barrier to obtaining third party payment.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to monitor the completion of activities by the department to propose statutory language to address the identified problem.

**METHODOLOGY:**

Committee staff will periodically contact department staff and stakeholders to determine if proposed changes have been agreed upon and obtain a copy of the proposed language. Committee staff will also collect any available information related to the substance abuse reimbursement issue.

**INTERIM MONITOR PROJECT TITLE:**

*Substance Abuse and Child Welfare Programs*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-350

**BACKGROUND and DESCRIPTION:**

Interim Project No. 2004-114 determined the outcomes achieved by the Department of Children and Families (DCF or the department) in improving the coordination and integration of substance abuse services with the child protection system. The project examined the benefits that had been accomplished through system changes and funding that was specifically directed for use by the adult population in families where child abuse had occurred. The project results indicated that many parents did not actually receive or complete substance abuse treatment. Further, despite the importance of parents receiving and completing substance abuse services and the existence of a legislative performance measure, (i.e., number of adults in child welfare protective supervision who have case plans requiring substance abuse treatment and are receiving treatment), DCF had not initiated efforts to track and evaluate service delivery. However, the department has continued initiatives to improve outcomes for families who are involved in the child protection system and need substance abuse treatment. These initiatives have included obtaining a federal technical assistance grant to help improve collaboration in the provision of substance abuse treatment and child protection services and applying for a federal demonstration waiver.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to track the progress that has been made by the DCF Substance Abuse and Child Welfare programs in improving collaboration and provision of substance abuse services to individuals who are involved in the Family Safety Program by:

- Monitoring the status of the application for the demonstration waiver to support the provision of substance abuse services to persons involved in the Family Safety Program.
- Determining the status of the In-Depth Technical Assistance project that is being sponsored by the National Center on Substance Abuse and Child Welfare.
- Checking on the department's compliance with the direction to meet a legislatively-established performance measure relative to the provision of substance abuse services to parents of children in the child protection system.

**METHODOLOGY:**

Committee staff will track this monitoring project by:

- Attending meetings held by the department, consultants, and private providers;
- Conducting staff interviews;
- Reviewing the "deliverables" that were prepared as a part of the technical assistance grant; and
- Reviewing any existing data and reports pertaining to this project.

**INTERIM MONITOR PROJECT TITLE:**

*Florida Substance Abuse and Mental Health Corp., Inc.*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-351

**BACKGROUND and DESCRIPTION:**

Chapter 2003-279, Laws of Florida, established several provisions that impact the publicly funded substance abuse and mental health service delivery system. One of these provisions directed the creation of a not-for-profit organization known as the Florida Substance Abuse and Mental Health Corporation, Inc. This corporation is responsible for providing oversight and making policy recommendations for the substance abuse and mental health systems. The corporation is also directed to work cooperatively with the Department of Children and Family Services (the department), the Agency for Healthcare Administration (the agency), and other agencies of state government to work toward fully developed and integrated mental health and substance abuse systems. The provisions of this law also address the restructuring of the department's Substance Abuse and Mental Health programs in order to increase the coordination and collaboration between these programs, other programs in the department, other state agencies and local programs. The Corporation is required to submit annual reports to the Governor and the Legislature. The first report is due in December, 2004.

Since the adoption of this law, the membership of the corporation has been appointed and an executive director has been selected. Meetings have been held with the membership of the corporation, and by-laws have been developed. Additionally, the substance abuse and mental health programs have been restructured. This reorganization has resulted in the appointment of a Deputy Secretary for Substance Abuse and Mental Health, as well as the establishment of a direct line of authority from the state program offices to the district level programs.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to continue to monitor the implementation of the Florida Substance Abuse and Mental Health Corporation, Inc., and its impact on the substance abuse and mental health systems and determine whether the implementation of this corporation, in conjunction with statutorily mandated organizational changes, result in increased integration and effectiveness for the substance abuse and mental health systems.

**METHODOLOGY:**

Committee staff will meet periodically with members of the corporation, department staff, and other agency staff and will review relevant data. Committee staff will also review recommendations made by the corporation and the utilization of these recommendations by the department, as well as any related documentation such as memoranda of understanding and the contract established with the department. Whenever possible, committee staff will attend as an observer any meetings that are scheduled by the corporation including those with the department and other agencies.



---

# Commerce, Economic Opportunities, and Consumer Services

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*A Review and Evaluation of the Florida Enterprise Zone Program and Incentives*

**DATE DUE:** December 31, 2004

**PROJECT NUMBER:** 2005-111

**BACKGROUND and DESCRIPTION:**

The Florida Enterprise Zone Act of 1994 (act), codified in ss. 290.001-290.016, F.S., was created “to provide the necessary means to assist local communities, their residents, and the private sector in creating the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas and to provide jobs for residents of such areas” (s. 290.003, F.S.). Under the act, areas of the state meeting specified criteria, including suffering from pervasive poverty, unemployment, and general distress, have been designated as enterprise zones. The act established a process for the nomination and designation of a maximum of 20 enterprise zones (ss. 290.0055 and 290.0065, F.S.). Subsequent to the 1994 act, however, the Legislature has authorized additional zones. Today there are more than 50 enterprise zones.

Certain state and local incentives are authorized to induce private businesses to invest in the enterprise zones. Among the state-level tax incentives are: a credit against corporate income taxes based upon job creation; a credit against sales taxes based upon job creation; a credit against corporate income taxes based on the amount of property taxes paid; a refund for sales taxes paid on the purchase of building materials used in the rehabilitation of real property; and a refund for sales taxes paid on the purchase of certain business property purchased by and for use in a business located in an enterprise zone.

The Florida Enterprise Zone Act is scheduled for repeal on December 31, 2005, as provided by s. 37, ch. 94-136, L.O.F. Although most of the statutory authority for the program expires on December 31, 2005, some of the key state tax incentives for the program are scheduled to expire on June 30, 2005. (See, for example, ss. 212.08(5)(q) and 220.181(9), F.S.)

**PROJECT OBJECTIVE(S):**

Review and evaluate the Florida Enterprise Zone Program and its incentives in order to assist the Legislature in its decision regarding whether to maintain the program and, if the program is maintained, whether and how to modify it. Examine, in particular, the utilization and structure of tax and other incentives employed under the program and evaluate the merits and feasibility of restructuring the tax credits and refunds as legislatively appropriated incentives similar to the Qualified Target Industry Tax Refund Program under s. 288.106, F.S.

**METHODOLOGY:**

Review program performance and fiscal data; conduct site visits to enterprise zones; interview state and local program administrators, economic development professionals, and enterprise zone businesses; review comparable programs in other states; conduct economic development literature reviews; survey

interested parties; and conduct the project in conjunction with the Senate Committee on Finance and Taxation.

**INTERIM PROJECT TITLE:**

*School Readiness Programs II: Next Steps in the Evolution of Child Development*

**DATE DUE:** December 31, 2004

**PROJECT NUMBER:** 2005-112

**BACKGROUND and DESCRIPTION:**

During the 2004 Regular Session, the Legislature enacted HB 821, which would create the Voluntary Prekindergarten Education Program within the Department of Education. If HB 821 becomes a law, the legislation would abolish the Florida Partnership for School Readiness, transfer the partnership's duties to the Agency for Workforce Innovation, redesignate the school readiness coalitions as regional child development boards, and reduce the number of regional boards to 30 or fewer boards. The legislation would replace the school readiness uniform screening developed by the partnership with a statewide kindergarten screening to be adopted by the Department of Education. The legislation would use the new screening as an accountability measure for the Voluntary Prekindergarten Education Program and would eliminate the screening as the basis for measuring the performance of school readiness programs. In addition, the legislation would address many of the policy questions discussed in interim project report 2004-116, *Administration of the School Readiness Programs*.

**PROJECT OBJECTIVE(S):**

If HB 821 becomes a law, identify policy questions and any administrative issues that may need to be addressed in school readiness programs which result from implementation of the Voluntary Prekindergarten Education Program, or, if HB 821 does not become a law, further identify policy questions raised during interim project 2004-116, which may be addressed by legislative action during the 2005 Regular Session.

**METHODOLOGY:**

Conduct interviews with staff from the Florida Partnership for School Readiness, the Agency for Workforce Innovation, the Department of Education, and the school readiness coalitions or successor regional child development boards; monitor implementation of legislation creating the Voluntary Prekindergarten Education Program in conjunction with the Senate Committee on Education (see interim monitor project 2005-368); and review the School Readiness Act (s. 411.01, F.S.), as well as any related sections of law governing school readiness programs and associated child care programs.

**INTERIM PROJECT TITLE:**

*Assessing Consumer Services of State Government*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-113

**BACKGROUND and DESCRIPTION:**

The State of Florida maintains a myriad of resources for consumers who believe they have been harmed, or are otherwise seeking assistance, related to their dealings in the marketplace or their dealings with state government. The Division of Consumer Services within the Department of Agriculture and Consumer Services, whose purpose is to protect consumers from unfair and deceptive business practices, is one of the principal state agencies engaged in consumer-protection activities. The division operates a toll-free telephone number for complaints against businesses, and the department also has a separate “Lemon Law” hotline for problems related to automobiles. A number of other state agencies, however, also engage in comparable, and often more specialized, consumer-protection activities. For example, the Attorney General’s Office has established a toll-free hotline for Floridians who feel they are victims of fraud, while the Public Service Commission maintains a hotline for issues related to utilities it regulates. The Agency for Health Care Administration processes inquiries about physicians and other health care practitioners, and the Department of Financial Services maintains a webpage regarding consumer alerts for fraud. Although the state’s “myflorida.com” website outlines these and other resources, a consumer unfamiliar with the jurisdiction of state agencies may nonetheless experience difficulty navigating the maze of available resources for consumer services as well as other related governmental services. In addition, a consumer who experiences difficulty reaching the correct state agency via telephone or Internet, or is dissatisfied with the assistance provided by a state agency, may not know what steps to take in response.

**PROJECT OBJECTIVE(S):**

Explore the feasibility of establishing an office of consumer advocacy or similar centralized resource-and-referral function to serve as a seamless, one-stop location for consumers’ initial contacts with state government. Catalog the state’s existing consumer-services resources and identify options for simplifying a consumer’s ability to contact state government for assistance, including providing referrals to the appropriate agency with subject-matter expertise and follow-up and advocacy services to ensure that consumer assistance is delivered effectively and thoroughly. Examine options for streamlining and coordinating the state’s telephone-based and Internet-based consumer-services resources to enhance and simplify Floridians’ interaction with state government.

**METHODOLOGY:**

Inventory existing agency consumer-protection and similar activities, including fiscal resources dedicated to these activities; consult with consumer and business organizations to identify any existing barriers to effective access to the consumer-services functions of state government; communicate with state agencies to assess policy and fiscal issues related to establishing an office of consumer advocacy or similar centralized resource-and-referral function for consumers’ initial contacts with state government; review how comparable consumer-services activities are delivered in selected states; and coordinate with staff of the Senate Committee on Appropriations.

## **MANDATORY REVIEWS**

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of the Public Records Exemptions for Investigation and Review Information and Social Security Numbers under CAPCO Program, s. 288.99(15) & (16), F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-203

**BACKGROUND and DESCRIPTION:**

The Certified Capital Company (CAPCO) Act, s. 288.99, F.S., was designed to stimulate an increase in venture capital investment in this state by providing an incentive for insurance companies to invest in certified capital companies, which in turn invest in new businesses or expanding businesses. The act, among other provisions, authorized credits against premium tax liability for investments by insurance companies; established a process for the certification and decertification of certified capital companies; and prescribed minimum levels of qualified investments by the certified capital companies. The Office of Financial Regulation of the Financial Services Commission conducts annual reviews of each certified capital company to determine if the company is abiding by certification requirements, to advise the company on the eligibility status of its qualified investments, and to ensure that investments have not been made in violation of the act. Under s. 288.99(15), F.S., information relating to an investigation or office review of a certified capital company, including any consumer complaint, is confidential and exempt from the Public Records Law until the investigation or review is complete and, in some cases (e.g., information in the nature of trade secrets), remains confidential and exempt after the investigation or review is complete. Under s. 288.99(16), F.S., the social security number of any customer of a certified capital company, complainant, or person associated with a certified capital company or qualified business is exempt from the Public Records Law. These public records exemptions are subject to the Open Government Sunset Review Act of 1995 and stand repeal on October 2, 2005, unless reviewed and saved from repeal through reenactment by the Legislature.

**PROJECT OBJECTIVE(S):**

Review the public records exemptions for investigation and review information and social security numbers under the Certified Capital Company Act, using the criteria established in the Open Government Sunset Review Act, and recommend whether the exemptions should be reenacted or revised.

**METHODOLOGY:**

Through communications with certified capital companies, the Office of Financial Regulation, and other stakeholders, assess the types of information and materials covered by the public records exemptions, issues related to administration of the exemptions, the effect and significance of the exemptions, any public purposes or goals of the exemptions, and whether the information and materials in the records can be obtained through alternative means.

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of the Public Records Exemption for the Individual Records of Children Enrolled in School Readiness Programs, s. 411.011, F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-204

**BACKGROUND and DESCRIPTION:**

In 2000, the Legislature exempted certain records of children in school readiness programs from the requirements of the Public Records Law (s. 119.07, F.S.) and from s. 24(a), Art. I of the State Constitution. These records comprise the individual records of each child, including assessment data, health data, records of teacher observations, and identifying data, including the child's social security number (s. 3, ch. 2000-299, L.O.F.; s. 411.011, F.S.). This public records exemption applies to records

held in the possession of a school readiness coalition or the Florida Partnership for School Readiness. During the 2004 Regular Session, the Legislature amended this exemption as part of the legislation creating the Voluntary Prekindergarten Education Program (HB 821). If HB 821 becomes a law, the Florida Partnership for School Readiness would be abolished and the school readiness records held by the partnership would remain confidential when held by the Agency for Workforce Innovation. In addition, the school readiness records held by the school readiness coalitions would remain confidential if the provisions of HB 821 which redesignate the coalitions as regional child development boards become law. The public records exemption for these school readiness records is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2005, unless reviewed and saved from repeal through reenactment by the Legislature.

**PROJECT OBJECTIVE(S):**

Determine if the exemption from the Public Records Law contained in s. 411.011, F.S., should be continued or modified under the criteria specified in the Open Government Sunset Review Act of 1995.

**METHODOLOGY:**

Review the provisions and applicable law according to the criteria specified in the Open Government Sunset Review Act of 1995 and seek input from the Florida Partnership for School Readiness, the Agency for Workforce Innovation, the school readiness coalitions or successor regional child development boards, providers of school readiness programs, and other interested stakeholders to determine if any aspects of s. 411.011, F.S., should be saved from repeal through reenactment or revised.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Transfer of International Responsibilities to the Governor's Office of Tourism, Trade, and Economic Development*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-352

**BACKGROUND and DESCRIPTION:**

For the past two years, the Office of Tourism, Trade, and Economic Development (OTTED) of the Executive Office of the Governor has been operating the Department of State's international programs and diplomatic responsibilities through a memorandum of agreement. During the 2004 Regular Session, the Legislature passed House Bill 1855 (ch. 2004-242, L.O.F.) to transfer these international programs and diplomatic responsibilities from the Department of State to OTTED. The international programs and diplomatic responsibilities include, among other things: the provision of assistance and facilities to the Organization of American States; state protocol functions; international development outreach activities in Latin America and the Caribbean Basin; the Florida Intergovernmental Relations Foundation; and intergovernmental relations functions such as consular operations and sister city/state programs.

**PROJECT OBJECTIVE(S):**

Monitor the transfer between the Department of State and the Governor's Office of Tourism, Trade, and Economic Development to determine the effectiveness of the operation and implementation of the

international programs and diplomatic responsibilities and to identify any issues that may require legislative action.

**METHODOLOGY:**

Conduct interviews with staff from the Governor's Office of Tourism, Trade, and Economic Development and review ongoing international programs and the operation of diplomatic responsibilities.

**INTERIM MONITOR PROJECT TITLE:**

*Scripps Biomedical Research Institute and Campus*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-353

**BACKGROUND and DESCRIPTION:**

During Special Session E in 2003, the Legislature provided for the creation of the Scripps Florida Funding Corporation, which is responsible for contracting with the The Scripps Research Institute (TSRI) to establish a state-of-the-art biomedical research institute and campus in this state. The funding for the contract is provided by \$310 million of the \$543.5 million in federal economic stimulus funds provided to Florida under the Jobs and Growth Tax Reconciliation Act of 2003. The Scripps Research Institute must reinvest \$155 to \$200 million to the Biomedical Research Trust Fund from a portion of its revenues generated from royalties and naming rights.

In January 2004, the funding corporation, which had entered into a funding agreement with the Governor's Office of Tourism, Trade, and Economic Development, contracted with The Scripps Research Institute. TSRI is now in the midst of planning for and establishing the institute and campus in Palm Beach County.

**PROJECT OBJECTIVE(S):**

Monitor continued implementation of the legislation providing financial support and oversight for the establishment of a biomedical institute and campus in this state by the The Scripps Research Institute, to identify any impediments to implementation or other issues that may require legislative action.

**METHODOLOGY:**

Maintain contact with staff from the Office of Tourism, Trade, and Economic Development, the Scripps Florida Funding Corporation, and The Scripps Research Institute; attend relevant meetings of those entities; and examine reports or similar documents related to the establishment of the biomedical research institute and campus in this state.

---

# Communication and Public Utilities

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Governmental Entity Provisioning of Electric, Water and Wastewater Treatment, Telecommunications and Advanced Communications, and Cable Services*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-114

**BACKGROUND and DESCRIPTION:**

Governmental entities, such as municipalities, may provide services such as electric, water and wastewater treatment, telecommunications and advanced communications, and cable to the citizens within and outside its political boundaries. These same services may also be provided by private companies. While each of these entities are subject to state regulation and taxation, governmental and nongovernmental entities providing the same service may not be subject to the same state regulation and taxation when providing the same service. The varied application of various regulations and taxation may create an unlevel marketplace between the public governmental entities and private companies providing a competitive service.

**PROJECT OBJECTIVE(S):**

Identify relevant statutes that apply to governmental entities and private companies that provide electric, water and wastewater treatment, telecommunications and advanced communications, and cable service to determine the effects on competition and what changes to the relevant statutes, if any, are necessary so that governmental and nongovernmental entities providing the same or similar services operate on the same footing in a competitive marketplace. Identify necessary differences between governmental and nongovernmental entities that provide the same or similar services that should be created or maintained.

**METHODOLOGY:**

Review the application of various taxes and fees as applied to governmental and nongovernmental entities providing electric, water and wastewater treatment, telecommunications and advanced communications, and cable services. Examine current authority of governmental entities and review the regulatory differences between governmental entities and private businesses providing electric, water and wastewater treatment, telecommunications and advanced communications, and cable services. Work with the Department of Revenue and staff of the Senate Committee on Finance and Tax, as necessary. Interview representatives of affected governmental entities and businesses. Based on this information, staff will recommend any necessary changes.

**INTERIM PROJECT TITLE:**

***Florida Public Service Commission, Review of Chapter 350, F.S.***

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-115

**BACKGROUND and DESCRIPTION:**

Chapter 350, Florida Statutes, provides the structure, authority, and general procedures of the Florida Public Service Commission, the Florida Public Service Commission Nominating Council, and the Office of the Public Counsel.

The Florida Public Service Commission is an arm of the Legislature. It consists of five members, each of whom serves a four-year term. The members are nominated by the Florida Public Service Commission Nominating Council, appointed by Governor, and confirmed by the Senate.

The Florida Public Service Commission Nominating Council consists of nine members, at least one of whom must be 60 years of age or older. The Speaker of the House of Representatives appoints three members, including one member of the House, who serve at the pleasure of the Speaker. The President of the Senate appoints three members, including one member of the Senate, who serve at the pleasure of the President. These six members select and appoint the other three members by a majority vote.

The Nominating Council interviews applicants for the commission and nominates to the Governor not less than three persons for each vacancy. The Council must determine that each nominee is competent and knowledgeable in one or more fields, which include, but are not limited to: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the commission. Membership of the commission must fairly represent these fields.

Commissioners are prohibited from having specified financial interests, engaging in specified business activity, accepting anything from specified persons, engaging in specified political activity, making public comment regarding the merits of any proceeding before the commission, or conducting himself or herself in an unprofessional manner. Commissioners are also prohibited from engaging in any ex parte communications relating to a proceeding before the commission or a matter to be filed with the commission within 90 days.

Former commissioners are prohibited from appearing before the commission representing any client or industry regulated by the commission for a period of two years after leaving the commission. Additionally, former commissioners are prohibited for a period of two years from accepting employment by or compensation from specified types of business entities. These include: a business entity which, directly or indirectly, controls a public utility regulated by the commission; a public utility regulated by the commission; a business entity which, directly or indirectly, is an affiliate or subsidiary of a public utility regulated by the commission or is an actual business competitor of a local exchange company or public utility regulated by the commission and is otherwise exempt from regulation by the commission; and a business entity or trade association that has been a party to a commission proceeding within the two years preceding the commissioner's termination of service on the commission.

The chapter also provides for the appointment, duties, and responsibilities of the Public Counsel. The Public Counsel is appointed by a majority vote of the members of the Joint Legislative Auditing Committee. The Public Counsel must be an attorney admitted to practice before the Florida Supreme Court, and serves at the pleasure of the Committee. The Public Counsel is under the legislative branch of government and the Governor has no power to release or withhold funds appropriated to it. Additionally, neither the Governor nor the Department of Management Services has any power to determine the number, or fix the compensation, of the employees of the Public Counsel or exercise any manner of control over them.

All officers and full-time employees of the Public Counsel are prohibited from actively engaging in any other business or profession; serving as the representative of any political party or on any executive committee or other governing body thereof; serving as an executive, officer, or employee of any political party, committee, organization, or association; receiving remuneration for activities on behalf of any candidate for public office; or engaging on behalf of any candidate for public office in the solicitation of votes or other activities in behalf of such candidacy. Additionally, neither the Public Counsel nor any employee of the Public Counsel may become a candidate for election to public office unless he or she first resigns from his or her office or employment.

The Public Counsel is charged with providing legal representation for the people of the state in proceedings before the commission and in specified water utility proceedings before counties. The Public Counsel may recommend commencement of any action of proceeding or appear in any action or proceeding before the commission. The Public Counsel may seek review, in any action or proceeding in which he or she has participated as a party, of any determination, finding, or order of the commission in the name of the state or its citizens.

**PROJECT OBJECTIVE(S):**

The objective of this project is to review the responsibilities and the performance of these three entities and to identify any changes that should be made to the chapter to improve the efficiency and effectiveness of operations.

**METHODOLOGY:**

Staff will study relevant statutes, rules, and procedures both in Florida and other states. Staff will talk with relevant persons, including officials and staff of the entities under review, officials and staff of similar entities in other states, and officials and staff of national organizations with information on such entities. Based on this information, staff will recommend any necessary changes.

**INTERIM PROJECT TITLE:**

*Assessment of Lifeline Assistance Program*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-116

**BACKGROUND and DESCRIPTION:**

Section 364.10(3), Florida Statutes, relating to Lifeline Service was added in 2003 by SB 654 (Chapter 2003-32, Laws of Florida). This subsection expanded the eligibility criteria for customers and

potential customers to receive Lifeline assistance. The Office of Public Counsel was given the responsibility of certifying eligible customers.

Companies are required to provide to certain state and federal agencies materials that inform potential customers of this assistance. Those agencies are then required to pass the materials on to its clients. Procedures for Lifeline promotion are also to be developed as a coordinated effort among affected agencies.

Annual reports on subscribership and the effectiveness of promotions are to be submitted to the Governor, President of the Senate, and Speaker of the House each December 31.

**PROJECT OBJECTIVE(S):**

Determine if sufficient participation in the Lifeline Assistance Program is being achieved. If it is not, develop options regarding criteria for eligibility, program promotion, or certification procedures that could be used to improve participation.

**METHODOLOGY:**

Staff will meet with the relevant agencies, gather available data, and review relevant statutes.

## **MANDATORY REVIEWS**

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of the Public Records Exemption for Proprietary Confidential Business Information Obtained From a Telecommunications Company or Franchised Cable Company by a Local Governmental Entity Relating to Imposing Fees for Occupying the Public Rights-of-way or Assessing the Local Communications Services Tax, s. 202.195, F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-205

**BACKGROUND and DESCRIPTION:**

Chapter 2000-322, L.O.F., created section 202.195, Florida Statutes, to make proprietary confidential business information obtained from a telecommunications company or franchised cable company by a local governmental entity relating to imposing fees for occupying the public rights-of-way or assessing the local communications services tax exempt from public records laws. The section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, F.S., and stands repealed on October 1, 2005, unless reviewed and saved from repeal through reenactment by the Legislature.

**PROJECT OBJECTIVE(S):**

This project would review the public records exemption for information relating to proprietary confidential business information obtained from a telecommunications company or franchised cable company by a local governmental entity relating to imposing fees for occupying the public rights-of-way or assessing the local communications services tax as provided in s. 202.195, F.S., under the criteria specified in s. 119.15, F.S., and recommend reenactment, repeal, or revision.

**METHODOLOGY:**

Staff will analyze the type of proprietary confidential business information obtained by local governmental entities. Legislative history of the 2000 law will be reviewed. Interviews and discussions will be held with the department personnel and other persons, who will be asked whether the exemption is justified under the criteria specified in s. 119.15, F.S.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Development of Renewable Energy by the Energy Office*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-354

**BACKGROUND and DESCRIPTION:**

On June 20, 2003, the Department of Community Affairs, transferred the Energy Office to the Department of Environmental Protection DEP through a Memorandum of Agreement (MOA). The MOA gave DEP responsibility for the supervision and administration of the Energy Office. It also authorized DEP to enter into contracts on behalf of the Energy Program, to amend existing Energy Program contracts, to administer all contracts, and to approve and disapprove payments, reports and other documentation, to approve procurements, and to approve travel requests and reimbursements. This transfer was completed during the 2004 Regular Session through HB 1857, which takes effect July 1, 2004, if it becomes law.

While DEP was operating under the MOA, it began efforts to recruit companies that produce or use renewable energy products to relocate to Florida. During discussions with DEP staff concerning the transfer bill and bills related to renewable and alternative energy, DEP staff indicated that DEP intends to continue its recruitment efforts and to expand its efforts to develop production and use of renewable energy in Florida.

**PROJECT OBJECTIVE(S):**

To monitor the Energy Office's activities and results and determine whether any improvements or alternatives are advisable.

**METHODOLOGY:**

Meet with DEP staff to discuss the agency's progress.

**INTERIM MONITOR PROJECT TITLE:**

***Implementation of the Tele-Competition Innovation and Infrastructure Enhancement Act of 2003***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-355

**BACKGROUND and DESCRIPTION:**

On May 23, 2003, the Tele-Competition Innovation and Infrastructure Enhancement Act (Chapter 2003-32, Laws of Florida) became law. The Act authorized reductions to intrastate interexchange switched network access charges in a revenue neutral manner upon petition by a company and upon findings by the Florida Public Service Commission that certain criteria are met. The act also removed intrastate interexchange telecommunications companies from certain regulatory obligations and created additional criteria for low income persons to qualify for Lifeline Assistance.

On December 24, 2003, the PSC issued its Order approving petitions by BellSouth, Sprint-Florida, and Verizon that requested certain increases in rates for basic local telecommunications services and reductions in rates for intrastate switched network access charges. On May 4, 2004, the PSC issued a modified Order clarifying or correcting certain portions of its original order. Both Orders have been appealed by the Attorney General, Public Counsel, and the American Association of Retired Persons (AARP) to the Supreme Court of Florida.

On March 2, 2004, the District of Columbia Circuit Court of Appeals (DC Circuit) vacated certain rules of the Federal Communications Commission (FCC) relating to impairment determinations of certain network elements. The DC Circuit temporarily stayed the vacature until July 15, 2004. Under the direction of the FCC, facilities-based companies are urged to negotiate market rates with users of their facilities. After July 15, the FCC may appeal the DC Circuit's decision or initiate rulemaking.

This project will monitor the implementation of the Act at the state level and monitor the proceedings at the federal level that may effect the implementation of the Act.

**PROJECT OBJECTIVE(S):**

To determine the effects of the bill as it is implemented.

**METHODOLOGY:**

Staff will work with representatives from the Public Service Commission, Office of the Public Counsel, and the telecommunications industry in making this review. Staff will also review the pleadings and any Orders or other actions of the Florida Supreme Court, District of Columbia Circuit Court of Appeals, and the Federal Communications Commission.

---

# Comprehensive Planning

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Review of Florida's Growth Management Policy*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-117

**BACKGROUND and DESCRIPTION:**

Beginning in 1972, the Legislature enacted a series of statutes that implemented a coordinated system of state, regional, and local planning. Florida's current growth management system includes: the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; ss. 163.3161-163.3246, F.S.; chapter 380, F.S., Land and Water Management, which includes the Development of Regional Impact (DRI) and Areas of Critical State Concern programs; chapter 186, F.S., establishing regional planning councils and requiring the development of state and regional plans; and chapter 187, F.S., the State Comprehensive Plan. Specifically, the DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review under the DRI program, numerical thresholds are identified in s. 380.0651, F.S., and ch. 28-24, F.A.C. Legislation was introduced in the 2004 Regular Session to revise those thresholds, but it did not pass into law.

Florida's current growth management policy is intended to promote sustainability. As part of this effort, development is subject to concurrency requirements and must meet certain level-of-service standards. The sustainability of Florida's communities and its future economic growth are dependent on meeting the applicable level-of-service standards for transportation, sanitary sewer, solid waste, drainage, potable water, and parks and recreation.

**PROJECT OBJECTIVE(S):**

The objective of this proposed interim project is to review, through a series of workshops, Florida's growth management policy. The workshops will focus on the following:

- enhancing public participation at all levels of decision making involving growth management;
- providing development interests with necessary certainty regarding where, when, and how development will be encouraged and promoted;
- identifying strategies to meet the applicable level-of-service standards for existing and new development; and
- revising the development-of-regional-impact process to streamline and reduce duplication in the application for development approval and to make any necessary changes to the applicable thresholds.

**METHODOLOGY:**

Committee staff will hold several workshops with a number of groups or individuals invited to participate, including the Department of Community Affairs, Florida Home Builders Association, Association of Florida Community Developers, Florida Chapter of the American Planning Association, 1000 Friends of Florida, Audubon of Florida, Sierra Club, Florida Agricultural Coalition, and representatives of property rights interest groups, to review and provide comments on proposed legislation.

**INTERIM PROJECT TITLE:**

*Codification of the Imposition of Impact fees by Local Governments*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-118

**BACKGROUND and DESCRIPTION:**

Local governments impose impact fees, as a condition of development approval, to provide public facilities that are necessitated by development projects. These fees are assessed against new development or a change in use that results in an increased need for public facilities. Impact fees are imposed for a variety of facilities, including transportation; parks and recreation; police and corrections; fire and emergency management; libraries; schools; and water and sewer. The concurrency provisions of ch. 163, F.S. require that public facilities be in place concurrent with the impacts of development. In local fiscal year ending September 30, 2001, thirty-three of Florida's counties imposed impact fees and collected \$385,440,873.

The Florida Constitution grants local governments broad home rule authority, which allows them to impose impact fees to fund services and improvements without express statutory authorization.

In the 2004 Legislative Session, SB 2874 was filed to provide for codification of case law with regard to the imposition of impact fees. This codification would provide uniformity in the levy and collection of such impact fees across the state.

**PROJECT OBJECTIVE(S):**

The objective of this interim project is to develop legislation to codify the imposition of impact fees.

**METHODOLOGY:**

Staff will review the current policies and relevant case law relating to local government impact fees, and consult with the various stakeholders in the development of legislation to codify the imposition of impact fees.

**INTERIM PROJECT TITLE:**

*Land Use Board of Appeals*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-119

**BACKGROUND and DESCRIPTION:**

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985, ss. 163.3161-163.3246, F.S., establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan. A local government's comprehensive plan, and any amendments thereto, must be consistent with the state comprehensive plan. All land development regulations and development orders must be consistent with the local government's comprehensive plan. Florida law currently provides for administrative and judicial review of land use decisions based on the type of decision at issue.

Under s. 163.3184, F.S., an "affected person" can challenge the decision of the Department of Community Affairs that a comprehensive plan or an amendment to the plan is, or is not, in compliance with the chapter 163, F.S. In order to challenge the department's decision, the affected person may file a petition with the department for a hearing before an administrative law judge of the Division of Administrative Hearings. For purposes of maintaining such action, the term "affected person" means the local government adopting the plan or an amendment, an adjoining local government that can demonstrate substantial impacts, and persons that own property, reside, or own or operate a business with the local government's jurisdiction that adopted the plan or amendment. If a future land use map amendment is involved, owners of real property abutting the subject real property can challenge the department's decision. If a plan or plan amendment is found not in compliance, the recommended order is subject to final agency action by the Administration Commission (Governor and Cabinet).

With regard to land development regulations, s. 163.3213, F.S., defines the term "land development regulation" as an ordinance enacted by a local governing body for the regulation of any aspect of land development. This term includes a general zoning code, but does not include a zoning map or any action that results in zoning or rezoning of land. The section authorizes a substantially affected person within 12 months after final adoption of a land development regulation to petition the Department of Community Affairs for review after notifying the local government. If the department determines that the regulation is consistent with the local comprehensive plan, the substantially affected person may request a hearing from the Division of Administrative Hearings.

Section 163.3215(3), F.S., allows an aggrieved or adversely affected party to maintain a de novo action challenging the consistency of a development order with an adopted local comprehensive plan. An aggrieved or adversely affected party may challenge any action on a development order by a local government which "materially alters the use or density or intensity of use on a particular piece of property that is not consistent with the comprehensive plan..." If a local government adopts the standards established in s. 163.3215(4), F.S., which provide for a quasi-judicial hearing before a special master, an aggrieved or adversely affected party may only challenge the decision of a local government granting or denying a development order by writ of certiorari. The local government determines what types of development orders are subject to the special master process. For review of a development order in any area of critical state concern or relating to any development of regional impact, s. 380.07, F.S., allows

the owner, the developer, or the Department of Community Affairs to petition the Florida Land and Water Adjudicatory Commission (Governor and Cabinet).

In an effort to provide a more streamlined process for the review of land use decisions, several states have opted to create a land use board of appeals. In general, the purposes of instituting a land use board of appeals include to provide timely review of land use decisions, to provide more cost effective review, and to achieve consistency in land use decisions. The creation of a land use board of appeals requires a determination as to the length of appointments, qualifications of appointees, applicable standard of review, and the type of decisions to be reviewed by the board.

**PROJECT OBJECTIVE(S):**

The objective of the project is to evaluate the effectiveness of creating a land use board of appeals to review certain land use decisions. If it is determined that such a board would be effective, the project objectives shall also include proposing a model for the composition of the board, including qualifications and the appointment process for board members and the scope of the board's jurisdiction.

With this information staff may propose legislation to create a land use board of appeals.

**METHODOLOGY:**

Committee staff will work with interested parties to determine if a land use board of appeals should be created and to develop any proposed legislation.

**INTERIM PROJECT TITLE:**

*Antiquated Subdivisions*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-120

**BACKGROUND and DESCRIPTION:**

Antiquated subdivisions or platted lands refer to areas that were platted years ago, but are not able to be developed under existing planning and environmental regulations. As part of legislation considered in the 2004 Regular Session, the term "antiquated subdivision" was defined as platted subdivisions that were recorded or otherwise approved pursuant to law prior to 1980 and, in which, not more than 20 percent of the total subdivision area has been built into the subdivision's zoned or land use purposes. As a result of these antiquated subdivisions, a local government may not be able to fully implement efficient planning strategies, developers may struggle with land assemblage for needed projects, and property owners within the subdivision cannot realize the development potential of their property. Although many of these antiquated subdivisions are located in southwest Florida, these subdivisions are found throughout the State.

The Florida Legislative Committee on Intergovernmental Relations issued a report in February of 2003 on the antiquated subdivisions or platted lands issue. The report notes that antiquated subdivisions may be characterized by inefficient service delivery or the absence of services; lack of parks, schools, or commercial areas; poor planning which includes a lack of community character and sufficient environmental sensitivity; inadequate planning for emergency management; and, lack of infrastructure. The report discussed the following approaches to address the issue of antiquated subdivisions: lot

merger, plat vacation, acquisition, impact fees, transfer of development rights, incorporation, consolidation or readjustment, and community redevelopment agencies.

Legislation was considered in the 2004 Regular Session to address antiquated subdivisions. However, this legislation did not pass. In part, this legislation authorized county and municipal governments to exercise eminent domain for the purpose of consolidating platted or subdivided lots. In addition, the legislation required a local government's future land use plan to include provisions that address antiquated subdivisions, including the identification of any area where the local government seeks to consolidate platted or subdivided lots. It also specified that local land development regulations must address the assembly, reassembly, or adjustment of land. Although this legislation included several recommended approaches for addressing the issue of antiquated subdivisions, the interested parties could not agree on which of these approaches, or a combination thereof, would best enable a local government to effectively deal with antiquated subdivisions.

**PROJECT OBJECTIVE(S):**

The objective of this project is to evaluate various approaches to address the issue of antiquated subdivisions. With this information, staff may propose legislation that represents a consensus approach.

**METHODOLOGY:**

Staff will hold a workshop with interested parties to review the legislation on antiquated subdivisions from the 2004 Regular Session and to receive input on a revised bill addressing this issue.

**INTERIM PROJECT TITLE:**

*A Matrix of Legislative Responses to Catastrophic Disasters*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-121

**BACKGROUND and DESCRIPTION:**

Florida is vulnerable to a wide range of emergencies, including natural, technological, and manmade disasters which may threaten the life, health, and safety of its people, disrupt services and commerce, and result in significant financial losses in both the public and private sector.

The Division of Emergency Management within the Department of Community Affairs is responsible to coordinate activities relating to emergency preparedness, response, recovery, and mitigation among and between agencies and officials of this state, with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with the private sector. (Section 252.32, F.S.) The division is nationally recognized for the quality of services it provides in fulfilling its mission.

Historically, when a catastrophic disaster or emergency occurs, the Legislature has responded with additional assistance, both financial and regulatory, to mitigate the impact of such events.

**PROJECT OBJECTIVE(S):**

The objective of this project is to develop a matrix of options the Legislature could consider in the event that another catastrophic disaster or emergency occurs.

**METHODOLOGY:**

Staff will review these assistance strategies, and strategies used by other states, to catastrophic disasters or emergencies.

In addition, staff will consult with staff of the Senate Committee on Home Defense, Public Security and Ports on the review.

**INTERIM PROJECT TITLE:**

*Working Waterfronts*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-122

**BACKGROUND and DESCRIPTION:**

Changes in Florida's economy and land use have substantially affected working waterfronts. In response to these changes, the Florida Coastal Management Program commissioned a study in 1995 to develop a profile of Florida's working waterfronts and the economic viability of those areas. As a result of the study, the Waterfronts Florida Partnership Program was created in 1997 to provide technical and limited financial assistance to participating communities for the development and implementation of a plan to revitalize their waterfront districts. Specifically, waterfront revitalization is intended to address "environmental resource protection, public access, retention of viable traditional waterfront economies, and hazard mitigation." See *Profile of Working Waterfronts*, FAU/FIU Joint Center for Environmental and Urban Problems, 1995.

The Department of Community Affairs provides technical assistance and limited funding to eligible waterfront communities through the Waterfronts Florida Partnership Program. New Waterfronts Florida Partnership Communities are selected every two years and those communities receive technical assistance over a two-year period and a grant to reimburse the recipient for a portion of costs associated with preparing the plan. The department designated 13 communities as Waterfronts Florida Partnership Communities between 1997 and 2003. These Waterfronts Florida Partnership Communities have been the beneficiaries of 7,000 hours of volunteer services, \$143,362 in private donations, and \$7.4 million of other public investment. This program is funded, in part, by an award from the National Oceanic and Atmospheric Administration Award.

The Florida Boating Improvement Program provides funding for projects that improve boating access and is administered by the Office of Boating and Waterways within the Fish and Wildlife Conservation Commission (FWC). Its responsibilities include boating education and safety programs, improving boating access, and economic initiatives to promote boating in the state. In each fiscal year, \$2.5 million of the state taxes collected on motor fuel are transferred to the FWC to be used for recreational boating activities and freshwater fisheries management and research. A minimum of \$1.25 million must be used to fund local projects that provide "recreational channel marking, public launching facilities, aquatic plant control, and other local boating related activities." The FWC is required to file an annual report with the Legislature that outlines the status of the Florida Boating Improvement Program, including the projects funded and a list of counties with unmet needs due to insufficient funding from vessel registration fees. Some additional funding is available to local governments through the Florida Recreational Development Assistance Program and the federal Land and Water Conservation Fund for the development of recreational facilities.

Legislation was considered in the 2004 Regular Session that would have required the FWC to undertake a comprehensive study of the future demand for and economic impacts of recreational and fishing working waterfronts. The term “recreational and fishing working waterfronts” was defined as water-dependent facilities that are open to the public and provide public access for vessels to the waters of the state or serve as support facilities for those vessels. The reference to vessels included pleasure, commercial, research, and governmental vessels. However, this legislation did not pass.

**PROJECT OBJECTIVE(S):**

The objective of this project is to identify options that will assist in maintaining economically viable recreational and fishing working waterfronts.

**METHODOLOGY:**

Committee staff will work with the Fish and Wildlife Conservation Commission, Department of Community Affairs, and other interested parties to identify options to assist in maintaining economically viable recreational and fishing working waterfronts for consideration by the Legislature.

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Administrative Rule providing for a Building Product Approval System by the Florida Building Commission*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-356

**BACKGROUND and DESCRIPTION:**

Section 553.842, F.S., requires the Florida Building Commission to adopt an administrative rule to develop and implement a product evaluation and approval system that applies statewide to operate in coordination with the Florida Building Code. Rule 9B.72, F.A.C., implements this requirement.

The rule provides for either state or local approval for all products for which the code establishes standards. Approval of a product by the State would be voluntary and at the manufacturer’s discretion. State or local approval is based on the evaluation of a product’s compliance with the standards established by the code and validation of the information supporting compliance presented to the approving entity. Manufacturers are also required to operate quality assurance programs to ensure approved products continue to comply with the requirements of the Code.

Subsequent to implementation, local building officials and product manufacturers argued that local validation provisions required by the rule exceeded what they think is necessary to provide adequate protection to the public. Legislation was considered in the 2004 Legislative Session which would have suspended the rule until these validation provisions were reconsidered by the Florida Building Commission. However, this legislation was not enacted into law.

In May, 2004, the Florida Building Commission proposed to revise the rule to limit the scope of the validation requirements to products affecting the wind resistance and structural integrity of buildings. This directly addresses the concerns expressed by local building officials and product manufacturers. If approved by the commission, this revised rule would become effective August 2, 2004.

**PROJECT OBJECTIVE(S):**

Committee staff will monitor the commission's efforts to revise the rule.

**METHODOLOGY:**

Committee staff will monitor the commission's efforts to revise the rule by attending commission meetings and obtaining the relevant documents pertaining to the rule.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Local Government Comprehensive Plan Certification Program*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-357

**BACKGROUND and DESCRIPTION:**

In 2002, the Legislature enacted s. 163.3246, F.S., the local government comprehensive plan certification program. The purpose of the program is the creation of a certification process for a local government to identify a geographic area in which it plans to direct growth and to require less state and regional oversight of the comprehensive plan amendment process if that local government has a demonstrated record of enforcing its comprehensive plan and has shown a commitment to exemplary planning practices. Local governments must meet additional statutory criteria under s. 163.3246(2), F.S., to be eligible for certification under the program. If the local government meets the eligibility criteria, the Department of Community Affairs shall certify all or part of the local government by written agreement. The department is authorized to enter up to eight new certification agreements each fiscal year.

**PROJECT OBJECTIVE(S):**

The objective is to monitor the implementation and effectiveness of the local government comprehensive plan certification program.

**METHODOLOGY:**

Staff will work with the Department of Community Affairs to identify any implementation problems and any necessary legislative changes for the 2005 Legislative Session.

**INTERIM MONITOR PROJECT TITLE:**

*Provision of Emergency Public Shelter Space*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-358

**BACKGROUND and DESCRIPTION:**

Florida is frequently confronted with major hurricanes and related storms that impact its citizens and visitors. It is estimated that 80 percent of Florida's population live, and many of its visitors stay, within 10 miles of the coast, which is the area most susceptible to the damaging effects of hurricanes. In the event of a major storm, many of these people will have to evacuate to public shelters. If adequate shelters are unavailable, our citizens and visitors may be exposed to unacceptable safety risks.

The Department of Community Affairs states that by the year 2000, the state's cumulative hurricane shelter space deficit was calculated to be more than 1.5 million spaces. In its 2003 Shelter Retrofit Report, DCA reported that significant progress has been made toward reducing the deficit of safe public hurricane shelter space. In Florida, 541,096 hurricane shelter spaces have been created through a combination of retrofitting and use of enhanced wind design and construction standards. Another 117,719 spaces are scheduled to be ready by the beginning of the 2004 hurricane season. By August 2004, this will provide a total of 658,815 hurricane shelter spaces that meet the American Red Cross' *Guidelines for Hurricane Evacuation Shelter Selection* (ARC 4496, July 1992).

However, a shelter space deficit continues to exist in various regions across the state.

**PROJECT OBJECTIVE(S):**

Committee staff will monitor DCA's efforts to identify regional public shelter deficits and strategies to reduce this deficit.

**METHODOLOGY:**

Committee staff will consult with DCA staff and obtain relevant documents pertaining to the department's efforts to identify regional public shelter deficits and strategies to reduce this deficit.

**INTERIM MONITOR PROJECT TITLE:**

*Retrofitting of Fire Sprinklers, Handrails, and Guardrails in Residential Condominiums and Cooperatives Reporting Requirements*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-359

**BACKGROUND and DESCRIPTION:**

In the 2003 legislative session, the Legislature enacted ch. 2003-14, s. 6, L.O.F., that allows unit owners to vote to forego the retrofitting of individual units in a high-rise, residential condominium or cooperative building with a fire sprinkler system or other engineered life safety system. The vote to forego the retrofitting requires the approval of two-thirds of all voting interests in the affected condominium or cooperative. However, the unit owners in a residential condominium or cooperative may not vote to forego the retrofitting of common areas in a high-rise building. Sections 718.112(2)(l)

and 719.1055(5), F.S., define the term “high-rise building” as a building that is greater than 75 feet in height when measured from the lowest level of fire department access to the floor of the highest occupiable story. The term “common areas” refers to an “enclosed hallway, corridor, lobby, stairwell, or entryway.” In addition, a local authority having jurisdiction is prohibited from requiring the completion of retrofitting of common areas in residential condominiums or cooperatives with a fire sprinkler system before the end of 2014. Legislation was passed in the 2004 Regular Session that revised the voting procedures and notice requirements for votes to forego retrofitting.

The Division of Florida Land Sales, Condominiums, and Mobile Homes within the Department of Business and Professional Regulation is required to collect certain information from condominiums and cooperatives, to include the membership vote, recording of a certificate of the vote, whether the retrofitting has been undertaken, and the per-unit cost of the work.<sup>4</sup> The division is required to report the number of condominiums and cooperatives that have elected to forego retrofitting annually to the Division of State Fire Marshal within the Department of Financial Services. Based on the 2003 legislation, the division promulgated rules and provided a form for condominium and cooperative associations to report information on any vote to forego retrofitting. The division has indicated that it will report this information to the Division of State Fire Marshal annually beginning on August 1, 2004.

The Legislature recently enacted ch. 2004-80, F.S., that contains very similar provisions regarding the retrofitting or replacing of handrails or guardrails in a residential condominium or cooperative that meets the definition of “housing for older persons” in s. 760.29(4)(b)3., F.S. The vote to forego retrofitting or replacing the handrails and guardrails in common elements or units must be approved by a two-thirds vote of all voting interests. A local authority is prohibited from requiring the retrofitting of common areas with handrails and guardrails before the end of 2014. The Division of Florida Land Sales, Condominiums, and Mobile Homes is required to collect information regarding the number of associations voting to forego the retrofitting and the cost per unit for associations that retrofit with handrails and guardrails. The division is required to report the number of associations voting to forego the retrofitting of handrails and guardrails annually to the Division of State Fire Marshall.

**PROJECT OBJECTIVE(S):**

The objective is to monitor the information collected by the Division of Florida Land Sales, Condominiums, and Mobile Homes and identify any necessary statutory changes.

**METHODOLOGY:**

Committee staff will monitor the information collected by the Division of Florida Land Sales, Condominiums, and Mobile Homes and work with the division’s staff and the Division of State Fire Marshall to identify any necessary statutory changes for the 2005 legislative session.

---

<sup>4</sup> Ss. 718.112(2)(l)2. and 719.1055(5)(b), F.S.

**INTERIM MONITOR PROJECT TITLE:**

*Optional Sector Plan Process*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-360

**BACKGROUND and DESCRIPTION:**

The Legislature created the optional sector plan process in 1998 as an alternative to development-of-regional-impact review that reduces duplication in the provision of data and its analysis while ensuring adequate mitigation of any impacts to regional resources and facilities. Optional sector plans are intended for geographic areas that exceed 5,000 acres, but may consist of less acreage under certain circumstances. Under s. 163.3245, F.S., the Department of Community Affairs may enter into an agreement that authorizes a local government to prepare an optional sector plan upon the request of one or more local governments. The department is required to provide a status report annually on each sector plan authorized under s. 163.3245, F.S., to the Legislative Committee on Intergovernmental Relations

Prior to the execution of an agreement between the department and a local government that authorizes an optional sector plan, the applicable regional planning council and the local government must meet certain notice and hearing requirements. Following execution of the agreement and adoption of a detailed specific area plan, the local government is required to report annually to the applicable regional planning council and the department. This report must include information on development orders issued, development that has occurred, and public facility improvements that have been made and are anticipated in the next 5 years. The local government is primarily responsible for the enforcement of the detailed specific area plan.

**PROJECT OBJECTIVE(S):**

The objective is to monitor the optional sector plan process and its effectiveness.

**METHODOLOGY:**

Committee staff will work with the Department of Community Affairs to evaluate the effectiveness of the optional sector plan process and to identify any necessary statutory changes for the 2005 Legislative Session.



---

# Criminal Justice

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Constitutional Prohibitions Affecting Criminal Laws*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-123

**BACKGROUND and DESCRIPTION:**

Defendants or offenders have challenged and continue to challenge criminal laws as violating constitutional prohibitions. The result of successful legal challenges can be very serious. Criminal laws or provisions of those laws may be voided and offenders' sentences may be vacated or reduced by re-sentencing or offenders may be released from prison earlier than projected.

**PROJECT OBJECTIVE(S):**

The objective of this project is to assist legislators in avoiding legal challenges to criminal laws by informing them about the analyses used by Florida courts to determine whether a criminal law violates certain constitutional prohibitions. The constitutional prohibitions that will be discussed by staff include the prohibitions against ex post facto punishments, multiple subjects in legislation, encroachment on judicial authority (in violation of the separation of powers doctrine), delegation of the Legislature's exclusive lawmaking power, and vagueness and overbreadth.

**METHODOLOGY:**

Staff will review the case law relevant to the cited constitutional prohibitions and summarize the analyses used by the courts to determine whether criminal laws violate those prohibitions.

**INTERIM PROJECT TITLE:**

*Time Limitations for Initiating Criminal Prosecutions*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-124

**BACKGROUND and DESCRIPTION:**

Section 775.15, F.S., sets forth time limitations for commencing criminal prosecutions, commonly known as the "statute of limitations." The purpose of the statute of limitations for a criminal prosecution is to protect people from being indefinitely threatened by possible criminal prosecution, which might otherwise be delayed until such a time when defense witnesses become unavailable, judges change office, or other time hazards develop which could impede an otherwise good defense. *State v. Hickman*, 189 So.2d 254 (Fla. 2nd DCA 1966), cert. denied, 194 So.2d 618 (1966). This statute contains confusing provisions which need to be reorganized and reconciled with each other. The confusion has occurred in large part because the statute has been amended "piecemeal" over the years without these amendments being reconciled with each other. As recently as April 27, 2004, the Legislature amended this statute by passing HB 1831 during the 2004 Regular Session.

**PROJECT OBJECTIVE(S):**

This project will review, reorganize, and reconcile confusing provisions within s. 775.15, F.S., the statute of limitations, in an effort to make this statute more understandable and “user friendly.” Recommendations for providing technical clarity will be contained in proposed legislation.

**METHODOLOGY:**

Staff will review the statute, including its history, amendments, and relevant case law, in an effort to suggest technical and clarifying changes to the statute of limitations, making it less confusing and easier to understand.

**INTERIM PROJECT TITLE:**

*The Connection Between Domestic Violence, Child Abuse and Cruelty to Animals*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-125

**BACKGROUND and DESCRIPTION:**

Research has shown that cruelty to animals is often the first act of violence committed by people who become serial killers. There is also a strong link demonstrated between domestic violence, child abuse and animal cruelty. For example, a 1997 survey of 50 shelters for battered women indicated that 85 percent of women and 63 percent of children who entered the shelters revealed incidents of pet abuse at home. Children who witness domestic violence or are victims of abuse themselves may commit acts of animal cruelty out of frustration and anger, or imitating what they have witnessed. Pets are a source of comfort to victims of abuse, particularly children, and are therefore a source of vulnerability as well. Many times the abuser will injure or kill pets as a way of threatening or controlling the human victims in the household. Sometimes citizens are aware of the abuse of animals in a household, when they would be less likely to witness the domestic violence or child abuse that is usually committed out of the public eye. The link between these crimes is a potentially powerful tool that could be used to deter crimes of violence against human victims.

**PROJECT OBJECTIVE(S):**

Because research indicates that cruelty to animals is a likely precursor or companion to more serious crimes against human victims, this project will examine these links and consider ways this continuum of violence could be stopped.

**METHODOLOGY:**

Staff will review scientific research, literature, and articles on the connection between domestic violence, child abuse, and cruelty to animals. Legal research will be conducted to determine whether other states have recognized the reported link, and what, if any, legislation has been enacted on the subject in recent years.

**INTERIM PROJECT TITLE:**

*Global Positioning System (GPS) Technology Use in Monitoring the Activities of Probationers*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-126

**BACKGROUND and DESCRIPTION:**

During the 2004 Legislative Session, SB 2018, a bill that expanded statewide the use of GPS to track and monitor probationers, was filed and debated but failed to pass both chambers. The legislation sought to expand the use of GPS in a way that would allow crime scene correlations to be matched with the movement of probationers. This new and enhanced capability was expected to assist not only the Department of Corrections (DOC) in monitoring offenders placed on state probation but also assist local law enforcement in solving crimes. Unique to this bill was the policy change that permitted the DOC, in addition to the court, to decide individually which offenders should be placed on GPS electronic monitoring. In addition, the legislation prospectively mandated that specified types of offenders, such as sex offenders, be placed on the GPS system.

While GPS technology is not entirely new to the field of probationer tracking, the crime scene correlation connection is new and the technology has not been used on a statewide basis.

**PROJECT OBJECTIVE(S):**

The objective of this project is to provide policymakers with an assessment of the suitability and feasibility of expanding the use of GPS technology in the state probation system. The project will survey localities in Florida which have employed this GPS and crime scene correlation technology to monitor offenders and assess the effectiveness of these pilot projects and/or applications. The project will likewise survey other states to determine the extent to which this new technology has been employed and whether research exists to support its efficacy. Finally, the project will examine the potential of the GPS technology to reduce workload demands on correctional probation officers.

**METHODOLOGY:**

Staff will perform literature reviews, conduct site visits to areas in the state which have used this technology and interview relevant officials, vendors, and officers. In general, staff will research the entire field of GPS technology in corrections and report its findings to assist policymakers in crafting meaningful legislation for the 2005 Legislative Session.

**MANDATORY REVIEWS**

*(None)*

**MONITOR PROJECTS**

**INTERIM MONITOR PROJECT TITLE:**

***Laws Relating to Intrusion on Computers and Computer Networks***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-361

**BACKGROUND and DESCRIPTION:**

Recent media reports indicate that computer viruses, worms, and spyware have become increasing problems for computer users. The damage from such programs can range from mere annoyance to serious disruption of communications and economic harm. This monitor project will consider the appropriateness of using criminal sanctions to address misuses of technology that intrude upon computer networks or individual computers. It will assess the extent to which existing laws can be used to prosecute intrusions, and the need for creating new criminal laws.

**PROJECT OBJECTIVE(S):**

The objective of the project is to examine the extent of harm posed by the various types of computer intrusion and determine whether harmful acts can be prosecuted under existing laws.

**METHODOLOGY:**

Staff will examine literature and interview information technology specialists in order to determine the extent and types of computer intrusions that are encountered. Florida statutes and case law will be reviewed to determine whether existing criminal laws apply to the acts that are identified. The laws of other states and the federal government will also be examined to see ways in which other jurisdictions address computer intrusion incidents.

**INTERIM MONITOR PROJECT TITLE:**

***Minimum Age for Imposing the Death Sentence and the United States Supreme Court***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-362

**BACKGROUND and DESCRIPTION:**

The United States Supreme Court has granted certiorari to hear a case out of Missouri dealing with the issue of the minimum age for imposing a death sentence. *See State ex rel. Simmons v. Roper*, 112 S.W.3d 397 (Mo. 2003), *certiorari granted*, *Roper v. Simmons*, 124 S.Ct. 1171 (U.S. Mo. Jan 26, 2004) (No. 03-633). In *Simmons*, the Missouri Supreme Court held that imposition of a death sentence on a person less than 18 years of age violates the Eighth Amendment of the United States Constitution. The United States Supreme Court is expected to take up this issue during its fall term.

There are presently four offenders incarcerated on Florida's Death Row for a capital murder committed as a minor.

In the 2004 Regular Session, the Florida Senate passed SB 224, which provides that a death sentence may only be imposed on a person 18 years of age or older. This legislation died in House Messages.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor any developments in the case before the United States Supreme Court and, should the Court issue a decision in the interim, advise legislators whether that decision may necessitate action by the Legislature.

**METHODOLOGY:**

Staff will review legal documents filed in the case before the United States Supreme Court and, if necessary, consult with the Department of Legal Affairs and the Department of Corrections.

**INTERIM MONITOR PROJECT TITLE:**

*The Department of Juvenile Justice's Implementation of Changes in Response to Recent Problems with and Criticisms of Detention Centers and a Maximum Risk Correctional Facility for Girls*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-363

**BACKGROUND and DESCRIPTION:**

During the last year, there have been several high profile incidents, including the death of 17-year old Omar Paisley from a burst appendix in the Miami-Dade County Regional Juvenile Detention Center. There were also reported incidents of alleged abuses on incarcerated girls at the Florida Institute for Girls (a maximum risk residential correctional facility for girls). Two investigative grand jury reports ensued with findings and recommendations for improvements. A House Select Committee was formed to investigate the problems occurring at the detention facilities. Several administrative personnel changes occurred within the DJJ during this investigative process. Some of the recommended changes are being planned or are being carried out by the department (digital video cameras have been installed in Miami-Dade detention center).

**PROJECT OBJECTIVE(S):**

Staff will monitor this issue so that committee members will be well informed as to the progress of the department in this area, and be prepared if any legislative changes are necessary.

**METHODOLOGY:**

Staff will attend any relevant meetings as well as maintain communications with the Department of Juvenile Justice and other relevant interested parties.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of Legislation Requiring Gender Specific Programming within the Department of Juvenile Justice*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-364

**BACKGROUND and DESCRIPTION:**

Monitor the implementation of legislation (HB 1989) that requires the Department of Juvenile Justice (DJJ) to provide gender-specific programming for children in the department's care and custody. It also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an analysis of programs for females to determine if existing programs meet their gender-specific needs. The analysis must also determine the cost of providing such programming, and if females charged with status or probation violation offenses could be better served by less costly community-based programs.

**PROJECT OBJECTIVE(S):**

Staff will monitor this issue so that committee members will be well informed as to the department's progress and will be updated with the report by OPPAGA.

**METHODOLOGY:**

Staff will attend any relevant meetings as well as maintain communications with the DJJ and OPPAGA.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Settlement Agreement in Osterback v. Moore*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-365

**BACKGROUND and DESCRIPTION:**

*Osterback v. Moore* is a class-action suit filed by inmates alleging that the conditions of close management confinement in the Department of Corrections violate their constitutional right to be free from cruel and unusual punishment. In October 2001, the parties entered into a settlement agreement in which the department agreed to change certain practices relating to close management.

**PROJECT OBJECTIVE(S):**

The objective of the project is to determine whether the parties are complying with the provisions of the settlement agreement in *Osterback v. Moore*.

**METHODOLOGY:**

The project will require review of quarterly reports that are provided to the court and inmates' counsel pursuant to the settlement agreement. Department of Corrections' rules and policies that relate to close management will be monitored. In addition, interviews may be conducted with department personnel and representatives of inmates.

**INTERIM MONITOR PROJECT TITLE:*****Postconviction DNA Testing*****DATE DUE:** N/A**PROJECT NUMBER:** 2005-366**BACKGROUND and DESCRIPTION:**

When the Florida Legislature first addressed this issue in 2001, it gave a person convicted at trial and sentenced a statutory right to petition for post-conviction DNA testing of physical evidence collected at the time of the crime based on the assertion that the DNA test results could exonerate that person or alternatively reduce the sentence. *See* ch. 2001-97, L.O.F.; ss. 925.11 and 943.3251, F.S. A two-year period for filing such petitions was created in s. 925.11(1)(b), F.S. The time limitation is measured from *the later of the following dates* based on the law's effective date of October 1, 2001: two years from the date the judgment and sentence became final; two years from the date the conviction was affirmed on direct appeal; two years from the date collateral counsel was appointed (applicable solely in death penalty cases); or October 1, 2003.

Section 925.11(4), F.S., provides for preservation of physical evidence collected at the time of the crime for which post-conviction DNA testing may be requested. With the exception of death penalty cases, physical evidence in the possession of governmental entities must be maintained for at least the time limitations set forth in s. 925.11(1)(b), F.S. Under the statute, evidence in death penalty cases must be maintained for 60 days after the execution of the sentence.

The labor-and time-intensive review process to investigate inmates' claims of innocence made to the Innocence Projects and the approaching two-year time limitation prompted the filing of two emergency petitions before the Florida Supreme Court in September 2003. The petition filed by the Criminal Procedural Rules Committee of the Florida Bar sought to change the October 1, 2003, deadline in Rule 3.853 to October 1, 2004, to "extend the rapidly approaching deadline of October 1, 2003." *Emergency Petition by the Florida Criminal Procedure Rules Committee for an Amendment to the Florida Rules of Criminal Procedure, Case No. SC03-1630*. The Florida Innocence Project and the Florida Innocence Initiative filed an Emergency Petition (*Case No. SC03-1654*) asking the Court to suspend the destruction of physical evidence, at least so long as the Court considered the matters raised by the Emergency Petitions.

The Court suspended the Rule and held a part of the postconviction DNA testing statute "in abeyance" until the Court could fully consider the matter. Oral arguments were heard in November 2003. The Court has not yet ruled on the pending Emergency Petitions.

The 2004 Legislature amended s. 925.11, F.S., to extend the deadline for filing postconviction DNA testing petitions to October 1, 2005. By virtue of extending the filing deadline, the requirements related to preservation of evidence set forth in s. 925.11(4), F.S., are necessarily likewise extended. The act is effective upon becoming a law and will operate retroactively to October 1, 2003.

**PROJECT OBJECTIVE(S):**

Monitor the actions of the Florida Supreme Court with regard to both the Emergency Petitions before it and the statute that was held in abeyance until the petitions are considered by the Court.

**METHODOLOGY:**

Attend any court hearings or scheduled arguments on the matters before the Court, and analyze any rulings made by the Court during the interim.

**INTERIM MONITOR PROJECT TITLE:**

*Sexual Predator and Sexual Offender Registration and Notification System*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-367

**BACKGROUND and DESCRIPTION:**

Florida's Sexual Predator Act and other statutes require that certain sexual offenders, including offenders designated by a court as sexual predators, register as sexual predators or sexual offenders, as applicable, and provide information that is a public record. This information is made available on the Internet to any member of the public who wants to access that information.

In *Espindola v. State*, (Fla. 3d DCA 2003), the Florida Third District Court of Appeal declared that Florida's Sexual Predator Act violates procedural due process, finding that the statute failed to contain a provision allowing for a hearing to determine whether the defendant presents a danger to the public sufficient to require registration and public notification. The Florida Supreme Court may address the due process issue raised in *Espindola*. See *Milks v. State*, 848 So.2d 1167 (Fla. 2d DCA 2003), review granted, 859 So.2d 514 (Fla. 2003).

Subsequent to *Espindola*, the United Supreme Court decided two cases dealing with issues relating to Connecticut's sexual offender notification and registration system, *Connecticut Dept. of Public Safety v. Doe*, 123 S.Ct. 1160, 155 L.Ed.2d 98 (2003), and Alaska's system, *Smith v. Doe*, 123 S.Ct. 1140, 155 L.Ed.2d 164 (2003).

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor any developments in the case before the Florida Supreme Court and, should the Court issue a decision in the interim, advise legislators whether that decision may necessitate action by the Legislature.

**METHODOLOGY:**

Staff will review legal documents filed in the case before the Florida Supreme Court and, if necessary, consult with the Department of Legal Affairs, the Department of Law Enforcement, the Department of Corrections, and the Department of Highway Safety and Motor Vehicles.

**INTERIM MONITOR PROJECT TITLE:**

***“Three Strikes” Law***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-368

**BACKGROUND and DESCRIPTION:**

Chapter 99-188, L.O.F., created Florida’s “Three Strikes” law (providing for enhanced penalties for a “three-time violent felony offender”) and also created and amended several other laws. In *Taylor v. State*, 818 So.2d 544 (Fla. 2d DCA 2002), *review dismissed*, 821 So.2d 302 (Fla. 2002), the Florida Second District Court of Appeal declared that Chapter 99-108, L.O.F., violated the single subject requirement of the State Constitution. In 2002, in response to *Taylor*, the Legislature enacted Chapters 02-208, 02-209, 02-210, 02-211, and 02-212, L.O.F., which separately reenacted the provisions of Chapter 99-188, L.O.F. Each of these chapters made its provisions retroactive in application to July 1, 1999, the effective date of Chapter 99-188, L.O.F., “or as soon thereafter as the Constitution of the State of Florida and the Constitution of the United States may permit.”

The Florida Supreme Court may address the issue of the constitutionality of the retroactive application of the provisions of the cited chapters enacted by the Legislature in 2002. *See State v. Franklin*, 836 So.2d 1112 (Fla. 3d DCA 2003) and *Green v. State*, 839 So.2d 738 (Fla. 2d DCA 2003), *review granted*, *Franklin v. State*, 854 So.2d 659 (Fla. 2003).

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor any developments in the case before the Florida Supreme Court and, should the Court issue a decision in the interim, inform legislators of the affect, if any, of that decision on the law and offenders’ sentences.

**METHODOLOGY:**

Staff will review legal documents filed in the case before the Florida Supreme Court and, if necessary, consult with the Department of Legal Affairs and the Department of Corrections.



---

# Education

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Elementary and Secondary Private School Accreditation*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-127

**BACKGROUND and DESCRIPTION:**

According to the U.S. Network for Education Information, accreditation is the process used in U.S. education to ensure that schools, postsecondary institutions, and other education providers meet, and maintain, minimum standards of quality and integrity regarding academics, administration, and related services. It is a voluntary process based on the principle of academic self-governance. Both institutions and programs (faculties) within institutions participate in accreditation. The entities that conduct accreditation are associations comprised of institutions and academic specialists in specific subjects, who establish and enforce standards of membership and procedures for conducting the accreditation process.<sup>5</sup>

During the 2004 Legislative Session, a major issue in the debate on voucher program reform was the accreditation of private schools. Private school representatives are sharply divided on the need for or value of an accreditation requirement. Proponents of accreditation consider it a valid measure of school quality and a necessary requirement for establishing accountability in the Corporate Tax Credit Scholarship Program and the John M. McKay Scholarships for Students with Disabilities Program. Current law does not require private schools to be accredited to participate in either program, nor does the law authorize the use of accreditation as an alternative to meeting other participation requirements. Those opposed base their opposition on the cost in money and time of going through the accreditation process, the burden that going through the process would place on very small private schools, and doubt that accreditation necessarily reflects school effectiveness. There is also concern that the large number of accrediting bodies available to private schools in the state would almost assure accreditation for all schools, thereby making the requirement meaningless as a quality indicator.

**PROJECT OBJECTIVE(S):**

- Determine the reliability of the accrediting groups for evaluating and reporting on the quality of education or training provided by the elementary and secondary schools and the programs they accredit.
- Determine the benefit and impact of mandatory accreditation on scholarship program participation by private schools, including the fiscal implications.
- Determine the benefits of accreditation to the public.

**METHODOLOGY:**

Committee staff activities include the following:

- Identify and review the accrediting agencies reported by private schools participating in the scholarship programs, as well as other agencies that accredit Florida private schools.

---

<sup>5</sup> See <http://www.ed.gov/about/offices/list/ous/international/usnei/us/edlite-accred-whatiss.html>

- Review and analyze the accrediting standards and procedures for conducting the accreditation process and enforcing the accreditation standards for various accrediting groups, including those related to schools serving students with disabilities.
- Identify associations of accrediting associations operating in Florida, and review the role they serve in the school accreditation process.
- Consult with the Florida Department of Education, the Office of Non Public Education in the U.S. Department of Education, as well as private sector stakeholders in reviewing research.

**INTERIM PROJECT TITLE:**

***School Bus Driver Training and School Bus Maintenance***

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-128

**BACKGROUND and DESCRIPTION:**

During the 2004 legislative session, several members of the Senate noted a seemingly high number of claims bills associated with school bus accidents. They suggested an interim project to examine this relationship more closely, particularly from the perspectives of bus driver training and health requirements, driver job responsibilities, school board policies on the reporting and investigation of accidents, and school bus maintenance.

**PROJECT OBJECTIVE(S):**

Project objectives include:

- Determine the lines of responsibility in the event of a school bus accident.
- Identify school district best practices for the employment and training of school bus drivers and the maintenance of school buses.
- Determine the level of uniformity among districts for the grounds for disciplinary action and sanctions for school bus drivers who fail to comply with state and local requirements.
- Determine the relationship between best practices and school bus accidents.

**METHODOLOGY:**

Committee staff activities will include the following:

- Review the claims bill history for the last five years involving school bus drivers and school bus maintenance.
- Compare the accident history for school buses and other types of vehicles.
- Review OPPAGA transportation best practices reports for school districts.
- Review and analyze current school bus driver requirements, including training and health requirements, the grounds for disciplinary action, and sanctions.
- Determine the current supply of school bus drivers and the turnover for these personnel.
- Review the role of district school boards and unions in the hiring and rehiring of school bus drivers.
- Identify the personnel responsible for the proper maintenance of school buses.
- Consult with the Department of Education, the Department of Highway Safety and Motor Vehicles, and school districts in reviewing related research.

**INTERIM PROJECT TITLE:**

***Review of High School Vocational and Technical Programs***

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-129

**BACKGROUND and DESCRIPTION:**

The Florida Legislature has studied and made changes in the way vocational and technical career education programs are offered and funded for a number of years, and has not yet reached a point where it believes the delivery of career education opportunities and the job market in the state are matched to the maximum degree. Evidence of this may be seen in the passage of House Bill 769 during the 2004 Legislative Session.

House Bill 769, an act relating to career education, requires a number of studies to be conducted and completed before December 31, 2004. These studies are as follows:

- The Department of Education must study student performance in school district industry-certified career education programs. The study shall examine the performance of participating students over time to include, graduation rates, retention rates, additional educational attainment, employment records, earnings, and industry satisfaction.
- The Department of Education shall conduct a study to determine if a cost factor should be applied to school district industry-certified career education programs and review the need for startup funding for the programs.
- The Agency for Workforce Innovation (AWI) and the Council for Education Policy Research and Improvement (CEPRI) shall conduct a joint study on the need for new and expanded apprenticeship and other workforce education programs within each workforce region. A specific emphasis shall be placed upon apprenticeships in construction and educational programs, including, but not limited to, biotechnology, information technology, allied health, or other identified areas of critical need.
- The Commissioner of Education shall convene a study group to investigate issues related to workforce education in Florida. The study group is to recommend an implementation plan for its recommendations including:
  - A recommended funding model for workforce education that encompasses both enrollment and performance;
  - A recommended allocation model for workforce education based on occupational completion points, literacy completion points, and program length;
  - Recommendations to improve articulation and obtain the maximum appropriate transferability of coursework between components of the workforce education system and between workforce education programs and advanced degrees;
  - Recommendations for the implementation of innovative programs that provide high school students with work-related career-based educational opportunities;
  - Recommendations for the implementation of innovative options or expanded use of existing resources for the delivery of postsecondary workforce education;
  - Recommendations for improvements to guidance counseling and advising to ensure that all students in the k-12 system are properly informed and prepared for their future careers regardless of whether they intend to train for those careers in a traditional college setting or through workforce education.

The primary focus of this interim project will be on high school vocational and technical career education program offerings. The project will examine the types of high school programs offered, enrollments in the various programs, completions, and the success students experience after leaving the programs in terms of job placement, continuing education, wages, and other outcomes.

Other states and national organizations have also sought to insure that the high school vocational and technical curriculum is a meaningful career preparation for students. For one, the Southern Regional Education Board has examined this issue and reported several recommendations to improve the high school career education curriculum. The Educational Testing Service has also recently released a report stressing the need for high school students to take a more demanding math and science curriculum in order to ensure adequate preparation for high wage and high skill jobs.

**PROJECT OBJECTIVE(S):**

Examine school district vocational and technical career programs which are not industry-certified career education programs to determine:

- (a) the types of programs being offered and their relationship to the Florida job market;
- (b) the number and type of courses included in the program curricula;
- (c) student enrollment;
- (d) student completion rate, and, if possible, reasons for non-completion;
- (e) rate of placement in jobs related to training;
- (f) a wage comparison for dropouts, diploma recipients, certificate holders, and other appropriate degrees.

Compare the Florida findings with curriculum material and approaches identified and developed by the Southern Regional Education Board for “High Schools that Work” to determine if there are approaches which have not been implemented in Florida that the Legislature might want to consider.

**METHODOLOGY:**

Using information collected by the Department of Education through the Florida Education and Training Placement Information Program (FETPIP) data collection system, analyze data for students in vocational and technical programs at comprehensive high schools to determine if there are issues relating to programs, enrollments, completions, or job opportunities which should be addressed by the Legislature.

Research approaches identified by other agencies, specifically including the Southern Regional Educational Board’s “High Schools that Work” to determine if there are approaches Florida might consider implementing.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Charter Schools Operation, s. 1002.33(22)(b), F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-206

**BACKGROUND and DESCRIPTION:**

Paragraph 1002.33 (22) (b), Florida Statutes, requires the Legislature to review the operation of charter schools during the 2005 Regular Session of the Legislature. As would be expected, there are multiple aspects to such a review. The scope of the Senate Education Committee review will be limited to 2 of those aspects. They are, financing for the capital outlay needs of charter schools, and a profile of the characteristics of the charter schools in Florida.

The Office of Program Policy Assessment and Government Accountability (OPPAGA) will be submitting a series of reports on charter schools. The first report will be a descriptive report including basic information about school and student characteristics and is expected to be released in August, 2004. The second report will be a summary of how students in charter schools have performed over time and is projected for November, 2004. A third report will address how charter schools could become successful and tentatively will be submitted around the beginning of 2005.

The Senate and OPPAGA reports should be complementary to each other and not be duplicative. To the maximum extent possible, information requests will be combined and not place undue work requirements upon the charter schools.

**PROJECT OBJECTIVE(S):**

Determine what capital financial resources are available and are being used to meet the capital needs of charter schools in the state.

Determine if the capital resources provided by the state, when examined in conjunction with other available resources, are appropriate.

Determine the characteristics of charter schools which are currently operating in Florida.

**METHODOLOGY:**

The primary source of information for both aspects of the interim project will be through responses from the individual charter schools to a questionnaire and from follow-up telephone conversations and, where appropriate, follow-up e-mails. The questionnaire will be discussed with the Department of Education, the 4 university charter school resource centers, and with OPPAGA to ensure that to the maximum extent possible, the collection of data is not a duplication of other data available. The information is expected to be school specific though and will require individual school responses, not generalized or group responses.

**INTERIM MANDATORY REVIEW TITLE:**

***Public Records Exemption Review of the Florida College Savings Program, s. 1009.981(6), F.S.***

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-207

**BACKGROUND and DESCRIPTION:**

The 2000 Legislature (s. 1, ch. 2000-203, L.O.F.) enacted a public records disclosure exemption for information that identifies the benefactors, beneficiaries, and individual account activities conducted under the Florida College Savings Program. In accordance with the Open Government Sunset Review Act of 1995 under s. 119.15, F.S., this exemption shall be repealed on October 2, 2005, unless saved from repeal through reenactment by the Legislature.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to assist the 2005 Legislature in determining whether the public records exemption should be saved from repeal through reenactment.

**METHODOLOGY:**

The Open Government Sunset Review Act of 1995 under s. 119.15, F.S., provides that a public records exemption shall be maintained only if:

- The exempted record is of a sensitive, personal nature concerning individuals;
- The exemption is necessary for the effective and efficient administration of a governmental program; or
- The exemption affects confidential information concerning an entity.
- 
- The committee activities shall include:
  - Review of the exemption under the s. 119.15, F.S., to determine if the exemption meets the retention of the exemption criteria.
  - Examination of the use of the public records exemption.
  - Evaluation of the records protected from public disclosure.

## **MONITOR PROJECTS**

**INTERIM MONITOR PROJECT TITLE:**

***Voluntary Prekindergarten Education Program***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-369

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature passed legislation to create the Voluntary Prekindergarten Education Program in the Department of Education that allows a parent to enroll his or her child in a voluntary, free prekindergarten program provided by the state during the year before the child is eligible for admission to kindergarten. The state constitution requires that the Voluntary Prekindergarten Education Program be fully implemented beginning in the 2005 school year.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to monitor the implementation of the Voluntary Prekindergarten Education Program by the Department of Education, the school districts, and the regional child development boards.

**METHODOLOGY:**

In conjunction with the Commerce, Economic Opportunities and Consumer Services Committee's review of the school readiness program as amended by the 2004 Legislature, the Education Committee staff will conduct the following:

- Monitor the Department of Education's implementation of the prekindergarten education program including the adoption of performance standards, creation of the emerging literacy training course, recommendation on the professional development program, and the adoption of rules by the State Board of Education by the legislatively mandated timeframes.
- Review school district, regional child development board, and child development provider preparations for the full implementation of the Voluntary Prekindergarten Education Program.
- Consult with the appropriate stakeholders to identify areas of concern in implementation of the Voluntary Prekindergarten Education Program.

**INTERIM MONITOR PROJECT TITLE:**

*Accelerated High School Graduation Programs*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-370

**BACKGROUND and DESCRIPTION:**

Chapter 2003-391, L.O.F., included certain changes to existing state law regarding high school graduation. Codified at s. 1003.429, F.S., this law created two new, accelerated high school graduation tracks that permit students to graduate from high school after completing 18 high school academic credits, instead of the standard 24 required credits. One accelerated high school graduation program emphasizes college preparation, and one emphasizes vocational or career preparation. Graduation under either of these programs may be accomplished in just 3 years of high school instruction, instead of the standard 4 years.

Chapter 2004-42, L.O.F., modified the requirements of the two accelerated high school graduation programs, generally making program requirements more stringent and providing additional notice and informational requirements in connection with the programs.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to monitor the impact of the changes made by ch. 2004-24, L.O.F., to s. 1003.429, F.S., including:

- An assessment of whether these changes impact enrollment in the programs, and
- An assessment of whether the changes impact the demographic of students enrolling in the programs.

**METHODOLOGY:**

Committee staff will consult with school district and Department of Education personnel to obtain information regarding student participation in the accelerated graduation programs. Staff will also

monitor the adoption of related administrative rules, if any, and review other information related to the programs as available.

<b>INTERIM MONITOR PROJECT TITLE:</b> <i>Community College Baccalaureate Programs</i>
--

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-371

**BACKGROUND and DESCRIPTION:**

The Legislature has adopted several approaches to increase access to the baccalaureate degree and to produce more college graduates. One approach has been to either authorize community colleges, or allow the State Board of Education to authorize community colleges, to offer baccalaureate degree programs. The number of approved institutions has grown from one, at St. Petersburg Junior College in 2001, to four (St. Petersburg, Chipola, Edison, and Miami Dade) with a fifth, Edison, approved for a joint baccalaureate program with Florida Gulf Coast University.

In specific Appropriation 6 and associated proviso language of the 2003-2004 General Appropriations Act, Chapter 2003-397, Laws of Florida, \$333,333 was provided to Chipola Junior College, \$333,333 was provided to Edison Community College, and \$333,334 was provided to Miami-Dade Community College to implement baccalaureate degree programs as approved by the State Board of Education. The funds were restricted to the phase-in of baccalaureate programs only. In addition, Specific Appropriation 101A provided \$4,808,294 to St. Petersburg College for baccalaureate programs.

In Specific Appropriation 129 and associated proviso language of the proposed 2004-2005 General Appropriations Act, a total of \$7,767,160 is provided for baccalaureate degree programs at Chipola, Edison, Miami Dade, Okaloosa-Walton, and St. Petersburg Colleges.

Each of the institutions should now have initiated its degree program, hired faculty, and admitted its first class of students and in May 2004, St. Petersburg College graduated its first class of approximately 150 students in its Education, Nursing, and Advanced Technology degree programs.

Florida continues to lag behind the rest of the nation in the production of baccalaureate degrees. Improving access to 4-year degree programs, especially in critical areas of need, is vital to increasing diversity and growth in the state's economy.

**PROJECT OBJECTIVE(S):**

- Review the effectiveness of the current process for approving and implementing community college baccalaureate degree programs.
- Identify statutory provisions and administrative rules which may hinder the implementation of community college baccalaureate degree programs.
- Review the impact of community college baccalaureate degree programs on the enrollment and degree production of the state's public and private 4-year institutions.

**METHODOLOGY:**

Contact/visit those community colleges which have initiated baccalaureate degree programs to determine the progress the institution has made in achieving accreditation, enrolling students, and getting their program up and running. For St. Petersburg College, examine the costs to the state of producing the college's first graduates as compared to the costs at a Florida public university.

Contact/visit other community colleges that have identified baccalaureate programs for which they will request authorization to offer from the Legislature or State Board of Education.

**INTERIM MONITOR PROJECT TITLE:**

*Florida Comprehensive Assessment Test (FCAT)*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-372

**BACKGROUND and DESCRIPTION:**

The 2003 Legislature directed the Commissioner of Education to conduct a concordance study and authorized the Commissioner to approve the use of equivalent tests as alternatives to the tenth grade FCAT. A student who earned an equivalent score on an approved alternative assessment met the assessment requirement for graduation with a standard high school diploma. The use of these alternative assessments was limited to the 2002-2003 school year graduating class and approximately 125 students used their ACT or SAT scores in lieu of the required FCAT score.

Chapter 2004-42, L.O.F., extended the use of passing scores on the ACT or SAT assessments to satisfy the FCAT requirement for high school graduation. To use an alternative assessment score, a student must take the tenth grade FCAT three times without earning a passing score. However, students who are new to the public school system in the twelfth grade are not subject to this requirement.

Third grade students who are unable to pass the reading portion of the FCAT may not be promoted to grade four, unless they qualify for one of six good cause statutory exemptions, including the use of a portfolio and an alternate assessment. Approximately seven percent of the third grade students used the good cause exemptions during the past school year. The Department of Education has proposed rules to establish uniform criteria for the use of portfolios and continue the use of alternate assessments.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to:

- Monitor the 2004 FCAT results, especially for students in third and twelfth grades;
- Identify school district efforts to provide intensive remediation to third grade students who fail to make the necessary score for promotion to the fourth grade;
- Identify the services provided to twelfth grade students who were unable to earn a passing score on the tenth grade FCAT;
- Analyze changes in the number of students using concordant SAT or ACT scores to meet the graduation requirement to determine if there is any growth.
- Review the use of FCAT scores in the Department of Education's "return on investment" system.

**METHODOLOGY:**

Committee staff will monitor meetings related to the implementation of administrative rules and review relevant documents on student progression, high school graduation, and the return on investment system. Staff will also meet with personnel from the Florida Department of Education and review district efforts to assist students.

**INTERIM MONITOR PROJECT TITLE:**

*Physical Education in K-12 Schools*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-373

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature passed CS/CS/SB 354, which, in part, amended ss. 1001.42 and 1012.98, F.S, and created s. 1003.455, F.S, to add new requirements for K-12 physical education in Florida. The bill requires the Department of Education to study the status of physical education instruction in the public schools and to develop recommendations for changes to physical education programs. The Department of Education must report its findings to the Governor and the Legislature by February 1, 2005.

The bill also requires each school district to develop a written physical education policy and deliver a copy of the policy to the Department of Education by December 15, 2004. Any district that does not develop a written policy will be required to implement mandatory physical education for students in kindergarten through grade 5 that includes 30 minutes of physical education per day, 3 days per week.

The bill establishes an internet-based clearinghouse, funded primarily by private sources, for physical education professional development. The Department of Education will approve a state university to develop this clearinghouse, which will be available to all teachers.

**PROJECT OBJECTIVE(S):**

The project will:

- Review the study of physical education conducted by the Department of Education.
- Review school district compliance with the requirement that written physical education policies be developed and delivered to the Department of Education by December 15, 2004.
- Review the progress of creating an internet-based clearinghouse on physical education professional development.

**METHODOLOGY:**

Committee staff will consult with school district and Department of Education personnel to monitor whether written physical education policies are being developed by districts and whether any districts institute mandatory physical education in lieu of developing such policies. Committee staff will also consult with personnel at the Department of Education and at the state university chosen to develop the professional development clearinghouse to monitor progress of that project. Staff will review the study on physical education prepared by the Department of Education and will review other information related to the programs as available.

**INTERIM MONITOR PROJECT TITLE:**  
*District and School Advisory Councils*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-374

**BACKGROUND and DESCRIPTION:**

Section 1001.452, F.S., requires district school boards to establish an advisory council for each school in the district. Each council must consist of the school principal, teachers, education support employees, students, parents, and other business and community citizens representative of the ethnic, racial and economic community served by the school. By law, each school advisory council must perform functions at the direction of the district school board, including assisting with the preparation of the school improvement plan and the annual school budget.

**PROJECT OBJECTIVE(S):**

The project will:

- Review generally identified issues regarding the implementation of s. 1001.452, F.S.
- Review technical assistance and oversight provided to school advisory councils by the Department of Education and, as appropriate, school districts.

**METHODOLOGY:**

Committee staff will review available data regarding school advisory councils prepared by state agencies including, as applicable, any state audits. Staff will confer with school district and Department of Education personnel regarding technical assistance provided to the school advisory councils. Staff will also review other information related to school advisory councils, as appropriate.

**INTERIM MONITOR PROJECT TITLE:**  
*School Voucher Programs*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-375

**BACKGROUND and DESCRIPTION:**

During the 2004 Legislative Session, the Senate passed legislation to improve the administrative oversight and the fiscal and academic accountability of the Corporate Tax Credit Scholarship Program and the McKay Scholarships Program for Students with Disabilities. The proposed reforms were in response to recommendations made by the Senate Committee on Education and the McKay Scholarship Task Force on Accountability, as well as the Auditor General and the Chief Financial Officer. The legislation died in the House of Representatives at the end of the session.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to review the efforts by the Office of the Governor, the Department of Education, the State Board of Education, scholarship funding organizations, and private schools to implement accountability measures similar to those contained in the unsuccessful 2004 legislation.

**METHODOLOGY:**

Committee staff will monitor the meetings between staff for the Governor’s office, the Department of Education, private school personnel, and scholarship funding organizations. Also, staff will:

- Review documents related to implementing fiscal and other accountability measures.
- Maintain contact with staff of the State Board of Education and the Department of Education.
- Review any related recommendations or options presented for the board’s consideration and action, as well as implementation plans, status reports, performance data, or other similar documentation to the extent those materials are available.
- Identify additional issues that require legislative changes.

**INTERIM MONITOR PROJECT TITLE:**

*Florida Business and Education In School Together Program (Florida BEST)*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-376

**BACKGROUND and DESCRIPTION:**

Chapter 2003-391, L.O.F., authorized the Florida Business and Education in School Together (Florida BEST) Program, which was designed to encourage the formation of partnerships between businesses and school districts for the provision of school facilities. Codified at ss. 1013.501 and 1013.502, F.S., the law regarding this program requires every district school board to request proposals from area businesses for “business and education partnership schools” to be operated and located in the businesses’ facilities. These business and education partnership schools would be public schools serving students in grades K-3. School boards are responsible under the law for providing instructional, support and administrative staff to the schools as well as textbooks, materials and supplies, while the host businesses primarily provide the school facility.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to monitor the impact of the changes made by Chapter 2003-391, L.O.F., with respect to the Florida BEST Program, including:

- An review of whether, and to what extent, partnerships authorized under s. 1013.501 have been initiated by school districts and businesses, and
- A review of how any such partnership schools are operating.

**METHODOLOGY:**

Committee staff will consult with school district and Department of Education personnel to obtain information regarding implementation of and participation in the Florida BEST Program. Staff will contact any partnership schools as necessary to obtain additional operational information. Staff will also monitor the adoption of related administrative rules, if any, and review other information related to the program as available.

**INTERIM MONITOR PROJECT TITLE:**

*Middle Grades Reform Act Implementation*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-377

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature passed CS/CS/SB 354, which created s. 1003.415, F.S., the Middle Grades Reform Act. The Middle Grades Reform Act contains four main initiatives to improve learning by middle school students:

First, the Act requires the Department of Education to recommend a new middle school reading curriculum to the State Board of Education, which will be implemented beginning in 2005-2006.

Second, the Act requires every public middle school with fewer than 75 percent of its 6th, 7th or 8th grade students scoring at level 3 or above on the FCAT reading test to implement a new part of its school improvement plan, called a Rigorous Reading Requirement, which will focus primarily on reading.

Third, the Act requires the Department of Education to study ways to improve the performance of middle school students and schools. The Commissioner of Education will submit recommendations based on the study results to the Legislature and the State Board of Education by December 1, 2004.

Fourth, the Act requires schools to develop a personalized middle school success plan for every 6th grade student who scores below Level 3 on the FCAT reading test.

The Department of Education is required to provide technical assistance to school districts in implementing the requirements of the Middle Grades Reform Act.

**PROJECT OBJECTIVE(S):**

The project will:

- Monitor the implementation of the Middle Grades Reform Act, including the ability of schools and districts to reallocate existing resources, financial and otherwise, to comply with the requirements of the Act.
- Monitor the level of technical assistance provided to school districts by the Department of Education in implementing the Act's requirements and the extent to which this assistance enhances ease of implementation of the Act.

**METHODOLOGY:**

Committee staff will consult with school district personnel to monitor districts' and schools' progress in implementing the Middle Grades Reform Act. Staff will consult with district and Department of Education personnel regarding technical assistance proffered to districts and schools in connection with implementing the Act. Staff will review the adoption of related administrative rules, if any, and will review other information related to implementation of the Act as available.

**INTERIM MONITOR PROJECT TITLE:**

*Education of Dependent Children Interagency Agreements*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-378

**BACKGROUND and DESCRIPTION:**

House Bill 723 requires interagency agreements between the Department of Children and Families and the Department of Education at the state level and the Department of Children and Families and the district school boards at the local level relative to the education of and related services for children found dependent or in shelter care. Requirements for the interagency agreements include efforts to avoid disruption of a child's education, identification of educational and other school services necessary for a child's education, sharing of information, determining the availability of transportation to avoid changes in school assignments, supporting the educational needs of a child with disabilities, participation in case planning activities, and provision of training in areas that would facilitate the desired outcomes of these agreements.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to monitor the development and implementation of the interagency agreement between the two departments, as well as the implementation of the agreements between the Department of Children and Families and the district school boards.

**METHODOLOGY:**

The methodology would include:

- Meeting with staff of the Department of Children and Families and the Department of Education;
- Reviewing pertinent documents relative to the development and implementation of the interagency agreements; and
- Coordinating with the Senate Committee on Education but taking the lead monitoring role for the project.

---

# Ethics and Elections

## INTERIM PROJECTS

<b>INTERIM PROJECT TITLE:</b>
-------------------------------

<i>Survey of Lobbying Fees and Compensation Regulation</i>
--

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-130

**BACKGROUND and DESCRIPTION:**

The recently-enacted Florida Advertising Campaign Exposure Act (CS/SB 2346 & 516 (2004)) enhanced disclosure requirements for committees of continuous existence (“CCEs”) and groups engaging in non-ballot issue advocacy, in an attempt to provide the public with greater transparency about special interest money seeking to influence the outcome of Florida elections. There is, however, no complete public reporting of money expended by special interests/“principals” for the purpose of influencing *legislation*. Although Florida law does require legislative lobbyists and principals (through their designated lobbyists) to semi-annually report most “lobbying expenditures” in the aggregate by category, it does not consider lobbyists’ and principals’ salaries to be “lobbying expenditures.” Thus, compensation for lobbying services is never reported.

**PROJECT OBJECTIVE(S):**

To identify what methods of disclosure or regulation, if any, other jurisdictions have adopted with regard to lobbying fees and compensation paid by principals to lobbyists.

**METHODOLOGY:**

Committee staff will research the laws, regulations, and rules of the Congress and other states as they apply to lobbying fees and compensation, and identify any issues that may be appropriate for consideration during the 2005 session.

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b>
---------------------------------------

<i>2004 Election Cycle</i>
----------------------------

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-379

**BACKGROUND and DESCRIPTION:**

The Florida Election Reform Act of 2001 (Ch. 2001-40, Laws of Fla.) is a national model for election reform. The Act, and rules adopted pursuant to the Act by the Florida Division of Elections, completely overhauled the administration of elections in Florida in the wake of the 2000 U.S.

Presidential recount --- mandating new voting technology, establishing new procedures and standards for manual recounts and poll operations, creating new deadlines for election returns, etc. While the 2002 elections provided the first limited test of these new administration processes, the 2004 election cycle will find Florida the focus of unparalleled national media attention. The reforms adopted in 2001 and recently enacted modifications to the early voting process and absentee balloting procedures will be subject to an unprecedented amount of scrutiny by the media, special interest groups, and the voters.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to assess the efficacy of Florida election administration laws and to identify any specific issues that may need to be addressed in the 2005 legislative session.

**METHODOLOGY:**

Committee staff will meet with staff of the Division of Elections, the supervisors of elections, and interested parties to discuss any problems that arise in connection with the 2004 elections. Staff will also review media reports and post-election reports by election officials and other parties, where necessary, to identify areas of concern. Finally, staff will identify any issues appropriate for consideration during the 2005 session.

**INTERIM MONITOR PROJECT TITLE:**

*Help America Vote Act (HAVA)*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-380

**BACKGROUND and DESCRIPTION:**

The federal government enacted HAVA in October 2002. HAVA contained a host of highly-technical substantive requirements for the administration of elections. It also authorized the disbursement of funds to the States to help them meet their fiscal burden under the bill. The money Florida receives will be used to bring the State into compliance with the new federal requirements and for future election administration projects.

The Legislature passed HB 29-B (Ch. 2003-415, Laws of Florida) in 2003, to bring Florida into compliance with the new substantive federal election administration requirements. Some of the more significant provisions of the bill included:

- Expanded use of provisional ballots.
- New identification requirements for voters who have never voted in a county and register to vote by mail.
- New absentee ballot and voter registration procedures for voters who have never voted in a county and register to vote by mail.
- Development of a comprehensive statewide voter registration database.

In June 2003, a 15 member HAVA planning committee was tasked with creating a plan that establishes how Florida will use the federal funding to: improve voting systems; educate voters; train poll workers; and carry out other activities to improve the administration of elections.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to monitor the implementation of the HAVA state plan and to identify any specific issues that may need to be addressed in the 2005 legislative session.

**METHODOLOGY:**

Committee staff will meet with staff of the Division of Elections, the supervisors of elections, the Collins Center for Public Policy, Inc., and interested parties to discuss implementation of the HAVA state plan and will monitor the deliberations of the HAVA State Planning Committee and any adopted updates to the plan. Finally, staff will identify any necessary measures for consideration by the 2005 Legislature.

**INTERIM MONITOR PROJECT TITLE:**

*Citizen Initiative Process During the 2004 Election Cycle*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-381

**BACKGROUND and DESCRIPTION:**

In November 2003, Senate President James E. “Jim” King, Jr., appointed a Select Committee on Constitutional Amendment Reform to examine the manner in which the Florida Constitution is amended, with particular emphasis on the citizen initiative process that allows citizens to directly amend the state Constitution. The President and the committee recognized that legislators have little input on amendments proposed through the initiative process, thus creating changes that do not necessarily take into account their potential impact on the day to day operations of the state. There are currently many active initiatives that could reach the ballot during this or subsequent election cycles and hamper future legislatures in their quest to meet the state’s basic needs.

The select committee received testimony from a broad cross-section of scholars, election and initiative experts, stakeholders in the initiative process, and concerned citizens. The committee’s recommendations were embodied in legislation introduced during the 2004 regular session. Senate Joint Resolution 2394, adjusting the timing for presentation of and initiative petitions to the custodian of state records and specifying a date certain for Supreme Court review, was the only recommendation of the Select Committee adopted during the regular session.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to further assess and evaluate the constitutional amendment process and to identify any additional specific issues that may need to be addressed in the 2005 legislative session.

**METHODOLOGY:**

Committee Staff will meet with scholars, election and initiative experts, and active participants in the amendment process to discuss their relevant observations and experiences during the 2004 election cycle. Staff will review media reports and observe the Supreme Court review process. Staff will also meet with the principals and participants involved in the development of the fiscal impact statements accompanying initiative proposals.

Finally, staff will identify any issues appropriate for consideration during the 2005 session.



---

# Finance and Taxation

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Application of the Tourist Development Tax to the Sale of Discounted Hotel Rooms Over the Internet and to Hotel Reward Points Programs*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-131

**BACKGROUND and DESCRIPTION:**

The sale of discounted hotel rooms over the Internet by such organizations as Priceline.com and Expedia.com has sky rocketed over the past several years. On-line re-marketers contract to pay discounted rates to hotels for rooms that are then sold over the Internet to the re-marketers' customers at higher prices. Under current practices, state and local sales tax and local tourist taxes are collected and remitted by the hotels on the discounted rates paid by the on-line re-marketers to the hotels and not on the higher amounts paid by the customers occupying the rooms. As a result, state and local governments are losing both sales tax and tourist tax revenues on the markup. During the 2004 Legislative Session, an informal workgroup representing the Department of Revenue, the Florida Hotel and Motel Association, several on-line re-marketers, the Florida Association of Counties, and legislative staff researched and proposed legislation to ameliorate this problem. No action was taken on this issue.

The question of whether or not hotels should remit taxes when a guest who is a member of a hotel reward points program redeems previously acquired points to secure short-term lodging has been debated recently without resolution. Reward points programs are established by hotel chains to encourage repeat business. Under a reward points program, each hotel in the chain is contractually obligated to contribute a percentage of revenues received from guests who are program members to a central program fund. Such contribution is made on a monthly basis. The program fund is used to promote the program and to compensate the chain that owns or franchises the participating hotels for services and expenses incurred for managing the program. When a member redeems points to stay at a participating hotel, that hotel receives a credit against its monthly obligation to fund the reward program. The hotels argue that there is no consideration paid by the member guest to the hotel when points are redeemed, and that no tax is therefore due on those stays. Local governments argue that the reward points redeemed by the member guest have value and are consideration, with the value of the consideration received by the hotel measured by the reimbursement received from the central fund in the form of a reduced contribution requirement for the month. Hotels have until recently accrued and remitted tax on that basis. Based on reassessing the applicable law, hotels have submitted pending state and local refund requests. The Department of Revenue has not taken a position on this issue.

Transient rentals represent a revenue base for both state and local government. Transient rentals involve the rental or lease of any living quarters or accommodations in any hotel, apartment motel, rooming house, mobile home park, recreational vehicle park, or condominium for a term of 6 months or less. Section 212.03, F.S., imposes state sales tax on transient rentals. Section 212.054, F.S., provides that local discretionary sales surtaxes apply to transactions that are subject to state sales tax. Section 125.0104, F.S., imposes tourist development taxes on transient rentals. There are four local option taxes which impose additional levies only on transient rentals. These taxes are:

- Tourist Development Tax - imposes a tax on transient rentals at a maximum rate of 5 percent. All counties are eligible to impose the tourist development tax. As of January 1, 2004, 53 counties levied tourist development taxes;
- Tourist Impact Tax – a 1 percent tax restricted to areas of critical state concern. Only Monroe County imposes the tourist impact tax;
- Convention Development Tax - imposes a tax on transient rentals at the maximum rate of 3 percent. The convention development tax is limited to Miami-Dade County, Duval County and Volusia County; and
- Municipal Resort Tax – authorized and levied in just three cities, Miami Beach, Bal Harbour, and Surfside, at the maximum rate of 4 percent on transient rentals. No other tourist development taxes may be imposed in municipalities levying the municipal resort tax.

Total local tourist tax revenue collections in fiscal year 2001-02 were \$342.0 million.

**PROJECT OBJECTIVE(S):**

This project will look at the impact on state sales tax revenues and local tourist development organizations of the current practice of selling hotel rooms over the Internet and collecting and remitting transient rental taxes on the discounted rate paid to the hotel instead of on the higher amounts actually paid by the hotel guest. In addition, the taxable status of the hotel reward points program will be analyzed.

**METHODOLOGY:**

Research pertinent documents on the sale of discounted hotel rooms over the Internet and the reward points program; research the application of taxes on transient rentals to rooms sold over the Internet and to reward points programs by other states; and form a workgroup to evaluate the data and make recommendations. The workgroup should consist of representatives of the following organizations: legislative staff; the Department of Revenue; county governments; the Florida Hotel and Motel Association; Internet re-marketers; and hotel chains that operate reward points programs.

**INTERIM PROJECT TITLE:**

*Implications of the Absence of a Use Tax on Utilities for Education Funding*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-132

**BACKGROUND and DESCRIPTION:**

In 2003, the Senate Finance and Taxation Committee Staff presented its interim project 2003-124 entitled, “Implications of the Absence of a Use Tax on Utilities for Education Funding.” This study concluded that the existing gross receipts tax law led to unequal treatment of in-state and out-of-state sellers of natural gas and their respective customers and reduced funding for education construction. It also found that deregulation of the retail electricity market would be subject to the same problems on a much larger scale if the gross receipts tax law were not changed before deregulation were to occur. The report recommended that the law be amended to provide for equal taxation of natural gas and electricity consumed in the state regardless of where it is purchased.

Legislation to implement the report's recommendations was filed in the 2003 and 2004 legislative sessions but it was not enacted into law. The Department of Revenue has determined that some transactions by Florida businesses who arranged for the importation of natural gas before 2002 were subject to the gross receipts tax and has assessed one company for these taxes. The legislation proposed in 2003 and 2004 would have provided forgiveness for certain taxes not paid by natural gas marketers.

**PROJECT OBJECTIVE(S):**

This project will update the 2003 interim project with new data on the natural gas market. Preliminary analysis indicates that natural gas importation has continued to grow as a proportion of all gas consumed in the state, and gas prices have risen more quickly than had been anticipated. The report will estimate the effect of the current law treatment of natural gas purchases from in-state and out-of-state sources on Florida companies and their customers, and on education funding.

**METHODOLOGY:**

Data from the Energy Information Administration (part of the U.S. Dept. of Energy), the Florida Public Service Commission, and the Florida Department of Revenue will be used to estimate the revenue impact of potential changes in the gross receipts tax law with respect to energy purchased through natural gas marketers or directly from outside the state.

**INTERIM PROJECT TITLE:**

*2005 Florida Tax Handbook Including Fiscal Impact of Potential Changes*

**DATE DUE:** March 1, 2005

**PROJECT NUMBER:** 2005-133

**BACKGROUND and DESCRIPTION:**

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

Florida relies heavily on its 6 percent sales and use tax. In fiscal year 2002-2003, sales and use tax collections accounted for 73 percent of General Revenue. The statutes currently provide more than 200 non-service exemptions. Exemptions generally take the form of identifying specifically exempt items, exempting items when used for particular purposes, and exempting purchases or sales by certain types of organizations, such as the government, churches, and charitable organizations. In addition, services are not directly subject to Florida's sales and use tax. The Handbook identifies all such sales and use tax exemptions and estimates the fiscal impact to be \$26.5 billion in fiscal year 2004-05.

**PROJECT OBJECTIVE(S):**

The main objective of this project is to publish, prior to the 2005 Legislative Session, the 2005 Florida Tax Handbook Including Fiscal Impact of Potential Changes. This project will also restructure the sales and use tax exemption tables to facilitate tax policy discussions by policy makers. In addition, a source by source review of the history of each tax will be done to ensure accuracy.

**METHODOLOGY:**

Coordinate the publication of the 2005 Florida Tax Handbook Including Fiscal Impact of Potential Changes by assigning tax sources to the staff of the Senate Finance and Taxation Committee, House Committee on Finance and Tax, the Office of Economic and Demographic Research, and the Office of Research and Analysis of the Department of Revenue. With input from such staff, redesign the sales and use tax exemption charts in the Handbook and update the history, where needed. Oversee changes, review document for accuracy, and prepare for printing. Data for the Handbook is derived from Fall Revenue Estimating Conferences. Specifically, general revenue data comes from the December General Revenue Estimating Conference and as a result, the Handbook cannot be published until just prior to the Regular Legislative Session.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*County Contributions to Public General Hospitals, s. 212.055(5)(d)(e); (7)*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-208

**BACKGROUND and DESCRIPTION:**

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, L.O.F. It appears that one of the bills amended into HB 509, HB 71, relating to the county public hospital surtax, contained a repealer section that, once amended into HB 509, was not limited in its scope. The repealer section states that “[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.” This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature.

Subsection (5) of s. 212.055, F.S., authorizes counties to levy the County Public Hospital Surtax. Sub-paragraphs (d) and (e) were amended by ch. 2000-312, L.O.F., and are set to repeal October 1, 2005, unless reenacted by the Legislature.

Subsection (7) of s. 212.055, F.S., the Voter-Approved Indigent Care Surtax, was created by ch. 2000-312, L.O.F., and is set to repeal October 1, 2005, unless reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

This project will evaluate s. 212.055(5)(d) and (e) and s. 212.055(7), F.S., which are set to expire on October 1, 2005, pursuant to s. 11, ch. 2000-312, L.O.F., to determine if they should be reenacted or stand repealed.

**METHODOLOGY:**

Through legislative history and by working with the Department of Revenue and local governments, determine if s. 212.055(5)(d) and (e) and s. 212.055(7), F.S., which are set to expire on October 1, 2005, should be reenacted.

**INTERIM MANDATORY REVIEW TITLE:**

*Award of Reasonable Attorney's Fees and Costs to Prevailing Appellant Regarding Assessment of Taxes Under Chapter 212, S. 120.80(14)(b)6, F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-209

**BACKGROUND and DESCRIPTION:**

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, L.O.F. It appears that one of the bills amended into HB 509, HB 71, relating to the county public hospital surtax, contained a repealer section that, once amended into HB 509, was not limited in its scope. The repealer section states that "[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature." This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature.

Section 120.80(14)(b)6, F.S., which addresses taxpayer contest proceedings against the Department of Revenue, was amended by ch. 2000-312, L.O.F., and is set to repeal October 1, 2005, unless reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

This project will evaluate s. 120.80(14)(b)6, F.S., which is set to expire on October 1, 2005, pursuant to s. 11, ch. 2000-312, L.O.F., to determine if it should be reenacted or stand repealed.

**METHODOLOGY:**

Through legislative history and by working with the Department of Revenue, determine if s. 120.80(14)(b)6, F.S., which is set to expire on October 1, 2005, should be reenacted.

**INTERIM MANDATORY REVIEW TITLE:**

*Tourist Development Tax, s. 125.0104(6)(d),(10)(c) F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-210

**BACKGROUND and DESCRIPTION:**

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, L.O.F. It appears that one of the bills amended into HB 509, HB 71, relating to the county public hospital surtax, contained a repealer section that, once amended into HB 509, was not limited in its scope. The

repealer section states that “[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.” This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature.

Section 125.0104(6)(d), F.S., which relates to the referendum repeal requirements for the Tourist Development Tax, was amended by ch. 2000-312, L.O.F., and is set to repeal October 1, 2005, unless reenacted by the Legislature.

Section 125.0104(10), F.S., which relates to local administration of the Tourist Development Tax and the Tourist Impact Tax, was amended by ch. 2000-312, L.O.F., and is set to repeal October 1, 2005, unless reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

This project will evaluate s. 125.0104(6)(d) and s.125.0104(10), F.S., which are set to expire on October 1, 2005, pursuant to s. 11, ch. 2000-312, L.O.F., to determine if they should be reenacted or stand repealed.

**METHODOLOGY:**

Through legislative history and by working with the Department of Revenue and local governments, determine if s. 125.0104(6)(d) and s. 125.0104(10), F.S., which are set to expire on October 1, 2005, should be reenacted.

**INTERIM MANDATORY REVIEW TITLE:**

*Certain Intangible Personal Property Exempt From Annual and Nonrecurring Taxes, s. 199.185(1)(n) F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-211

**BACKGROUND and DESCRIPTION:**

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, L.O.F. It appears that one of the bills amended into HB 509, HB 71, relating to the county public hospital surtax, contained a repealer section that, once amended into HB 509, was not limited in its scope. The repealer section states that “[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.” This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature.

Section 199.185(1)(n), F.S., which relates to intangible personal property tax exemptions, was amended by ch. 2000-312, L.O.F., and is set to repeal October 1, 2005, unless reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

This project will evaluate s. 199.185(1)(n), F.S., which is set to expire on October 1, 2005, pursuant to s. 11, ch. 2000-312, L.O.F., to determine if it should be reenacted or stand repealed.

**METHODOLOGY:**

Through legislative history and by working with the Department of Revenue, determine if s. 199.185(1)(n).F.S., which is set to expire on October 1, 2005, should be reenacted.

**INTERIM MANDATORY REVIEW TITLE:**

*Responsibility for Auditing the Convention Development Tax Records, s. 212.0305(5)(c) F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-212

**BACKGROUND and DESCRIPTION:**

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, L.O.F. It appears that one of the bills amended into HB 509, HB 71, relating to the county public hospital surtax, contained a repealer section that, once amended into HB 509, was not limited in its scope. The repealer section states that “[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.” This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature.

Section 212.0305(5)(c), F.S., which relates to auditing of records relating to the self-administration of the Convention Development Tax, was amended by ch. 2000-312, L.O.F., and is set to repeal October 1, 2005, unless reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

This project will evaluate s. 212.0305(5)(c), F.S., which is set to expire on October 1, 2005, pursuant to s. 11, ch. 2000-312, L.O.F., to determine if it should be reenacted or stand repealed.

**METHODOLOGY:**

Through legislative history and by working with the Department of Revenue and local governments, determine if s. 212.0305(5)(c), F.S., which is set to expire on October 1, 2005, should be reenacted.

**INTERIM MANDATORY REVIEW TITLE:**

*Department of Revenue to Pass Upon and Order Refunds, s. 197.182(1)(a),(b),(3) F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-213

**BACKGROUND and DESCRIPTION:**

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, L.O.F. It appears that one of the bills amended into HB 509, HB 71, relating to the county public hospital surtax, contained a repealer section that, once amended into HB 509, was not limited in its scope. The repealer section states that “[t]he provisions of this act shall be reviewed by the Legislature prior to

October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.” This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature.

Section 197.182(1)(a) and (b) and s. 197.182(3), F.S., which relate to the Department of Revenue’s authority to order refunds of property taxes, were amended by ch. 2000-312, L.O.F., and are set to repeal October 1, 2005, unless reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

This project will evaluate s. 197.182(1)(a) and (b) and s. 197.182(3), F.S., which are set to expire on October 1, 2005, pursuant to s. 11, ch. 2000-312, L.O.F., to determine if they should be reenacted or stand repealed.

**METHODOLOGY:**

Through legislative history and by working with the Department of Revenue and local governments, determine if s. 197.182(1)(a) and (b) and s. 197.182(3), F.S., which are set to expire on October 1, 2005, should be reenacted.

**INTERIM MANDATORY REVIEW TITLE:**

*Permits Department of Revenue to Share Certain Information for the Registration Information Sharing and Exchange Program, s. 213.053(7)(j) F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-214

**BACKGROUND and DESCRIPTION:**

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, L.O.F. It appears that one of the bills amended into HB 509, HB 71, relating to the county public hospital surtax, contained a repealer section that, once amended into HB 509, was not limited in its scope. The repealer section states that “[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.” This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature.

Section 213.053(7)(j), F.S., which relates to the disclosure of confidential information by the Department of Revenue, was amended by ch. 2000-312, L.O.F., and is set to repeal October 1, 2005, unless reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

This project will evaluate s. 213.053(7)(j), F.S., which is set to expire on October 1, 2005, pursuant to s. 11, ch. 2000-312, L.O.F., to determine if it should be reenacted or stand repealed.

**METHODOLOGY:**

Through legislative history and by working with the Department of Revenue, determine if s. 213.053(7)(j), F.S., which is set to expire on October 1, 2005, should be reenacted.

**INTERIM MANDATORY REVIEW TITLE:**

*Compromising Liability of Taxpayer Who Reasonably Relied on a Written Determination of the Department, s. 213.21(2)(c),(3) F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-215

**BACKGROUND and DESCRIPTION:**

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, L.O.F. It appears that one of the bills amended into HB 509, HB 71, relating to the county public hospital surtax, contained a repealer section that, once amended into HB 509, was not limited in its scope. The repealer section states that “[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.” This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature.

Section 213.21(2)(c) and s. 213.21(3), F.S., which address the Department of Revenue’s authority to enter into informal conference procedures to settle disputes between the department and taxpayers, were amended by ch. 2000-312, L.O.F., and are set to repeal October 1, 2005, unless reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

This project will evaluate s. 213.21(2)(c) and s. 213.21(3), F.S., which are set to expire on October 1, 2005, pursuant to s. 11, ch. 2000-312, L.O.F., to determine if they should be reenacted or stand repealed.

**METHODOLOGY:**

Through legislative history and by working with the Department of Revenue, determine if s. 213.21(2)(c) and s. 213.21(3), F.S., which are set to expire on October 1, 2005, should be reenacted.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Streamlined Sales and Use Tax Project*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-382

**BACKGROUND and DESCRIPTION:**

The Streamlined Sales Tax Project is an effort by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collections and administration. The Project’s proposals will incorporate uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. The goal of the Streamlined Sales Tax Project is to design and implement a simplified

sales tax collection system that can be used by traditional brick-and-mortar vendors and vendors involved in e-commerce.

In 2001, the Florida Legislature passed HB 21, which among other things, created the Simplified Sales and Use Tax Administration Act (“Act”), authorizing Florida to participate in the next phase of discussions with other states for the purposes of developing the Project. There are 39 states involved in the project. The adoption of the “Act” is the first step towards adoption of the “Streamlined Sales and Use Tax Agreement” in Florida, which will provide retailers with a greatly simplified system of sales tax collection. On November 12, 2002, representatives from 33 states and the District of Columbia voted to approve the multi-state Agreement to simplify the nation’s sales tax laws by establishing one uniform system to administer and collect sales taxes. These states make up the Streamlined Sales Tax Implementing States.

Interim Project Report 2003-126 recommended that Florida make the changes necessary to comply with the Agreement during the 2003 Legislative Session in order to be included in the governing states that will administer the Agreement. During the 2003 and 2004 Legislative Sessions, the Senate adopted CS/CS/SB 1776 (2003) and SB 1072 (2004) which adopted changes to chapter 212, F.S., to comply with the Agreement. Both bills died in House Messages. As of July 1, 2003, twenty states representing over 30 percent of the total population of the United States have enacted conforming legislation and make up the governing states. In order for Florida to continue to be a player in the Streamlined Project, compliance legislation must be passed.

**PROJECT OBJECTIVE(S):**

Continue to work with the Department of Revenue on legislation to implement the provisions of the Streamlined Sales and Use Tax Agreement.

**METHODOLOGY:**

- Continue to participate as an implementing state in national Streamlined Sales Tax Project meetings; and
- Prepare compliance legislation for the 2005 Legislative Session.

---

# Governmental Oversight and Productivity

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Review of Executive Branch Collegial Bodies*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-134

**BACKGROUND and DESCRIPTION:**

Florida's statutes are replete with sections creating boards, councils, commissions, task forces, and other collegial bodies within or adjunct to executive branch agencies. In a 2003 Senate Interim Project Report, entitled a "Review of Task Forces, Boards, and Commissions", survey results were reported, which indicated that as of October 2003, there were 556 executive branch collegial bodies. Of that number: 380 (68 percent) were created by statute; 42 (eight percent) were mandated by federal authority; 124 (22 percent) were created by discretionary executive branch administrative directive; and 10 (two percent) were created by executive order. The Senate report also indicated that the total number of executive branch collegial bodies in existence in 2003, represented a two percent increase over the total number of such entities in existence in 1999, when the last state survey of executive branch collegial bodies was conducted.

The Senate report recommended that the Legislature consider a proposed committee bill that would require the Executive Office of the Governor to maintain an annually updated, comprehensive listing of all executive branch collegial bodies. This recommendation became the substance of CS/CS/SB 1160, which was passed by the Senate during the 2004 Regular Legislative Session, but which was not considered by the House of Representatives.

**PROJECT OBJECTIVE(S):**

The project will update the survey results contained in the Senate's "Review of Task Forces, Boards, and Commissions" report, will review options for future legislative and executive review of executive branch collegial bodies, and will propose changes to the law if warranted.

**METHODOLOGY:**

Committee staff will survey executive branch agencies in order to update the survey results contained in the Senate's "Review of Task Forces, Boards, and Commissions" report and will work with the staff and members of affected executive branch agencies and collegial bodies in completing this project.

**INTERIM PROJECT TITLE:**

***Florida Retirement System Contribution Rates for FY 2005-2006***

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-135

**BACKGROUND and DESCRIPTION:**

Since the implementation of the portable Investment Plan option in 2001 the Legislature has chosen to move from a biennial to an annual valuation of the assets and liabilities of the multi-employer Florida Retirement System. As its legacy Pension Plan option represents an employer guaranteed benefit, the plan must adjust its funding requirements based upon actuarial experience and investment performance. The FY 2005-2006 plan year will also require the consideration of the results of a periodic experience study on the overall hiring and termination rates of the plan's employee participants and the completion of a biennial valuation of the separately constituted supplemental pension plan for employees of the Institute of Food and Agricultural Sciences at the University of Florida. The project will provide the implementing vehicle for making the changes for the FY 2005-2006 rate structure that will affect the more than 800 public employers and the 600,000 active employs that participate in these retirement programs. The rate stabilization mechanism established by a prior Legislature, coupled with the superior investment returns of the late 1990s, have permitted a sustained reduction in the employer costs for this pension system in spite of recent turbulent economic cycles. This reports acts as a necessary adjunct to the passage of the General Appropriations Act for the next fiscal year.

**PROJECT OBJECTIVE(S):**

The project will seek to implement a revised rate structure for the Florida Retirement System based upon the sound actuarial requirements of s. 10 of Art. 14, State Constitution.

**METHODOLOGY:**

By the end of the 2004 calendar year the external consulting actuaries will have prepared a series of reports that will permit a recalculation of the cost bases of the pension plan into a statutory document. For the 2004 Regular Session of the Legislature this equivalent document was Senate Bill 2230. A like bill will act as a template for the above changes in the subsequent plan year.

**INTERIM PROJECT TITLE:**

***Review of Joint Legislative Committees and Operations***

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-136

**BACKGROUND and DESCRIPTION:**

While commanding only about one-half of one percent of the state's operating budget, the legislative branch is itself a diverse organization. In addition to the two chambers which act as the policy-making body for Florida's more than 16 million residents, the Florida Legislature has created a number of customized committees and operations which report collectively to a shared administrative structure. Legislative bodies around the Nation routinely assess their internal operations for relevance, coordination, and unnecessary duplication, but it has been a number of years since Florida has reviewed the role and scope of those entities that serve the legislative body as a whole. As inherently collegial

bodies with a rotation of legislative members through different subject matter jurisdictions over their public careers, legislatures are constantly looking for organizational configurations that permit them to operate in the most time-sensitive and effective manners. While there is no single “one-size-fits-all” model for legislative organization, it is always incumbent for the policy-making body to periodically examine the manner in which it conducts its own business, since much of the structure of state legislatures does not reside in statute books.

**PROJECT OBJECTIVE(S):**

The project will undertake a description of the structure of the shared jurisdictional operations of the legislative branch. It will compare the operational elements of each of the entities with similar structures that are configured directly under the respective committee or governance structures of the Senate and House of Representatives. It will also examine how other states organize their legislative bodies with particular reference to entities that perform services for both chambers. The project will attempt to reach some conclusions about the validity of the joint organizational apparatus now in place for the Florida Legislature, and how coordination and efficiency among joint entities might be improved.

**METHODOLOGY:**

The project will compare duties of entities operating in a joint governance environment with those performing similar duties which report directly to the respective legislative presiding officers and their appointed committee chairs. It will also review descriptive materials from national organizations that discuss operating models of legislative branch organization. Lastly, it will present previous reviews of the Florida Legislature that have occurred over the recent past to determine if there is any need for changes that produce greater effectiveness in the presentation of work product or improve the investment of legislator time in the making of public policy.

**INTERIM PROJECT TITLE:**

*Improving Legislative Oversight of Governmental Functions*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-137

**BACKGROUND and DESCRIPTION:**

Article II, s. 3 of the State Constitution provides for the separation of state power into three branches, the legislative, executive and judicial branches. This constitutional standard prohibits a person within one branch of government from exercising powers of the other branches unless expressly provided in the State Constitution. This constitutional structure is further defined in s. 20.02, F.S., as follows:

. . . The legislative branch has the broad purpose of determining policies and programs and reviewing program performance. The executive branch has the purpose of executing the programs and policies adopted by the Legislature and of making policy recommendations to the Legislature. The judicial branch has the purpose of determining the constitutional propriety of the policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws.

The Legislature has established numerous methods and processes for overseeing and ensuring the lawful exercise of the powers that are constitutionally assigned to each branch. For example,

Chapter 20, F.S., establishes the organizational structure of the executive branch. That chapter creates departments, establishes how they are organized, and provides processes by which those structures are to be continuously reappraised by the executive and the legislative branches. Chapter 216, F.S., establishes processes for state planning and budgeting. Chapters 255 and 287, F.S., establish the means by which agencies purchase or lease buildings or purchase goods and services, respectively. Numerous other chapters and accountability provisions in the Florida Statutes establish the parameters within which executive agencies are to operate; however, these statutes often operate only after the executive branch has expended money or made a policy decision.

When considering separation of powers issues, Florida courts have repeatedly held that executive branch agencies may only exercise the powers granted to them through legislative enactment. As such, the statutes are replete with legislative delegations of authority to executive branch agencies to execute programs and policy established by the Legislature. In recent years, issues have arisen regarding the degree of specificity required to be contained in a legislative delegation in order for an executive branch agency's action to be authorized. One area of state government in which this issue has arisen relates to the outsourcing of state functions. Although the decision as to whether state functions should be performed by the private sector or state employees appears to be a significant policy determination that should be made by the Legislature, particularly given that expenditures for outsourcing now comprise a substantial portion of Florida's total budget, this decision is oft times made by executive branch agencies in the absence of any statutory or budgetary authorization for the outsourcing initiative.

**PROJECT OBJECTIVE(S):**

This project will provide an overview of Florida constitutional, statutory, and case law relating to the separation of powers doctrine and to legislative delegations of authority to executive branch agencies. It will evaluate legislative and executive branch implementation of the separation of powers doctrine and will make recommendations, if appropriate, for areas of state government in which the Legislature may wish to exercise greater oversight of executive branch actions and initiatives.

**METHODOLOGY:**

Committee staff will conduct legal research, compile information regarding past implementation of the separation of powers doctrine by the Legislature and executive branch, and will seek input from executive branch agency officers and staff regarding recommendations that may be offered in this project's report.

**INTERIM PROJECT TITLE:**

*Public Records and Meetings: Clarifying and Streamlining Open Government Requirements*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-138

**BACKGROUND and DESCRIPTION:**

Phase I of this project was passed by the Legislature during the 2004 Regular Session. The Committee Substitute for Senate Bill 1678 reorganized chapter 119, F.S., topically in order to make the chapter easier to use. Phase II of this project will continue the clarification and streamlining process a number of ways. To further improve compliance with open government requirements, it may be appropriate to transfer the requirements of s. 286.011, F.S., which relate to open meetings, into

chapter 119, F.S. Further, to assist agency personnel in protecting exempt information, it would be helpful to reduce the number of exemptions. This may be accomplished by examining existing exemptions to determine if any of them can be merged and re-created as general exemptions. Additionally, there are some aspects of public records law that can be clarified to ensure better compliance.

**PROJECT OBJECTIVE(S):**

The objectives of the project are to further clarify and streamline open government requirements by creating a single chapter of law that regulates these issues; to begin to reduce the number of exemptions by creating uniform exemptions; to identify areas where additional clarification or standard setting is appropriate.

**METHODOLOGY:**

The methodology will include research of case law and surveying users.

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*State Employee Health Insurance*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-383

**BACKGROUND and DESCRIPTION:**

For the past two years the committee has prepared interim project reports on the long-term financial health of the programs that provide health care and prescription drug coverage to active and retired state employees. These reports have identified the elements affecting the significant cash flow problems with which these programs must contend and suggested a number of options for stabilizing their financing and transforming the plans from their current sickness base into a wellness base. Significant changes to federal law have also been identified that could complement such a transformation without forcing either employers or affected employees into more drastic alternatives. Consultant reports commissioned by the Department of Management Services have presented further options for consideration by decision-makers.

**PROJECT OBJECTIVE(S):**

This monitor project will continue to follow the progress in looking at both internal and external changes to the array of benefits for the plan year beginning January 1, 2005. Significant increases in total premiums charged will affect retirees beginning next year that will add another element of urgency to providing more durable solutions.

**METHODOLOGY:**

The monitor project will follow the progress of additional consultant recommendations and the funding estimates prepared through the health insurance estimating conference process.



---

# Health, Aging and Long-Term Care

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Review of Statutes Regulating Hospitals*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-139

**BACKGROUND and DESCRIPTION:**

More than 500 statutes contain references to hospitals, and while not all of these are regulatory, many are. The last legislative review of hospital and ambulatory surgical center licensure was conducted in the 1991 interim. The delivery of health care has changed significantly in the past decade, and a review of Florida Statutes that regulate hospitals could identify obsolete or duplicative requirements as well as requirements that should be updated.

**PROJECT OBJECTIVE(S):**

To review the statutes that regulate hospitals and recommend amendments and repeals as necessary to reduce unnecessary regulation and to bring the statutes up to date.

**METHODOLOGY:**

Staff will establish a list of the statutes that regulate hospitals. Staff will consult with staff from the Agency for Health Care Administration, the Department of Health, and the Florida Hospital Association to identify hospital regulatory statutes that should be changed or repealed and to assemble documents and data to support proposed statutory changes. Staff will make site visits to selected hospitals as an additional means of gathering information from hospital personnel regarding the effect of statutory requirements.

**INTERIM PROJECT TITLE:**

*Review of Nursing Shortages in Hospitals and Nursing Homes*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-140

**BACKGROUND AND DESCRIPTION:**

This project would review the nursing shortage in hospitals and nursing homes in Florida. Researchers and health care providers are reporting a current shortage of nurses, partly as a result of individuals' increasingly complex care needs as life expectancy increases. The population aged 65 years and older will double from 2000 to 2030. Moreover, the population aged 85 and older is the fastest growing age group in the U.S. and in Florida. While comprehensive data are lacking on the nature and extent of the shortage, it is expected to become more serious in the future as the aging of the population substantially increases the demand for nurses.

It has been estimated that there will be a need for an additional 640,000 nurses nationwide by 2010. Like the general population, the nurse workforce is aging, and the average age of a registered nurse (RN) increased from 37 years in 1983 to 42 years in 1998. Estimates of the current average age is 52 years. Enrollments in nursing programs have declined over the past 5 years, shrinking the pool of new workers to replace those who are retiring. There has also been a shortage of nursing faculty to oversee clinical experience by nurses in training. In addition, a number of studies have reported decreased levels of job satisfaction among nurses, potentially leading to their pursuing other occupations.

State nursing home staffing standards are established in s. 400.23(3), Florida Statutes, and in rule 59A-4.108, F.A.C. A nursing home must provide minimum certified nursing assistant (CNA) staffing of 2.6 hours of direct care per resident per day, and the staffing requirement will increase to 2.9 hours of direct care per resident per day on July 1, 2005. Because of funding constraints, the 2004 Appropriations Act delayed the implementation of the third-year staffing increase from January 1, 2004, to July 1, 2005. In addition, a nursing home must provide minimum licensed nursing staffing of 1.0 hour of direct care per resident per day.

In 2001 the Legislature created the Florida Center for Nursing to address issues of supply and demand for nursing and to develop a statewide plan for nursing manpower in Florida. The 2004 Legislature passed SB 1604 to permit nurses who are military spouses relocating to Florida to be eligible for licensure by endorsement without completing an equivalent exam. The 2003 and 2004 Legislatures considered legislation to create a special program to train CNAs working in nursing homes in the skills of geriatric nursing; however, the bills failed in part because of opposition by the nursing profession to the creation of a new license or certificate.

**PROJECT OBJECTIVE(S):**

The purpose of this project is to keep the Senate informed about the nursing shortage and its impact in hospitals and nursing homes and to suggest any proposed changes to law.

**METHODOLOGY:**

Staff will review relevant law and data on nursing staffing and work with the staff of the Florida Center for Nursing, Department of Health, Agency for Health Care Administration, Agency for Workforce Innovation, and Department of Education and other interested stakeholders.

**INTERIM PROJECT TITLE:**

*Review of Medicaid Prescription Drug Pricing*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-141

**BACKGROUND and DESCRIPTION:**

All state Medicaid programs include outpatient prescription drug coverage for their categorically eligible beneficiaries, even though prescription drugs are an optional benefit under Federal law. A 2001 survey of state Medicaid officials found that pharmacy costs were one of the top two or three Medicaid cost drivers in 48 states, and 36 listed pharmacy costs as the top expense. Florida Medicaid drug expenditures grew at an average annual rate of 14.7 percent between FY 1999-2000 and FY 2002-2003,

and drug spending is estimated to account for almost 20 percent of overall Medicaid spending in FY 2003-2004.

The way that prescription drugs are priced has become a central issue for state Medicaid programs. The “true” cost of prescription drugs has grown increasingly ambiguous due to the inclusion of new stakeholders, more diverse incentive systems, greater competition, and more complicated benefit structures. Drug prices are subject to various types of discounts and rebates, seen and unseen, on both the public and private side. Each drug sold by a manufacturer, therefore, is subject to multiple prices, and little is known publicly about this pricing information. The reimbursement of prescription drugs under the Florida Medicaid program was revised during the 2004 Legislative Session to the lower of: Average Wholesale Price (AWP) minus 15.4 percent; Wholesaler Acquisition Cost plus 5.75 percent; the Federal Upper Limit; the State Maximum Allowable Cost; or the Usual and Customary charge billed the provider. Medicaid providers are also required to dispense generic drugs if they are available at a lower cost than branded products, and if the prescriber has not received approval to require the branded product.

Over the last several years, the AWP has been the subject of investigations, litigation, and legislative proposals. The AWP has come to represent a starting point for determining prescription drug reimbursement for both public and private payers. As it has evolved, however, many argue that it has moved so far from the actual acquisition prices for prescription drugs that it fails to serve as a meaningful benchmark.

In accordance with the Omnibus Budget Reconciliation Act of 1990, the states and the federal government receive rebates from manufacturers based on the amount of drugs each state Medicaid program buys. The rebate program has been an important source of cost savings to state Medicaid programs. In exchange for agreeing to give rebates, drug manufacturers are guaranteed that state Medicaid programs will cover their products, with the exception of federally allowable exclusions. States also negotiate supplemental rebates that are collected at the state level.

**PROJECT OBJECTIVE(S):**

The interim project will look at how prescription drugs are priced for state Medicaid programs and at state drug reimbursement methodologies. The project will look specifically at the AWP, its various uses in the pricing of prescription drugs, and some of the problems that have emerged as a result of how it is used. The project will explore possible alternatives to the current prescription drug pricing scheme under the Florida Medicaid program

**METHODOLOGY:**

Committee staff, with the assistance of staff of the Appropriations Subcommittee on Health and Human Services, will review the literature on Medicaid prescription drug pricing and the AWP as well as the different reimbursement methodologies used by the states to control prescription drug prices in their Medicaid programs. Staff will hold meetings with the appropriate agency staff to discuss Medicaid prescription drug pricing and reimbursement as well as possible changes or improvements to the drug pricing system.

**INTERIM PROJECT TITLE:**

*Review of Statutes Regulating Access to Patient Medical Records*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-142

**BACKGROUND AND DESCRIPTION:**

The 1996 Health Insurance Portability and Accountability Act (HIPAA) required the Administration to issue regulations protecting the privacy of health information. The United States Department of Health and Human Services issued Standards for Privacy of Individually Identifiable Health Information on December 28, 2000, which were originally scheduled to go into effect on February 26, 2001. The effective date for the regulations was delayed and the regulations took effect on April 14, 2003. The regulations only apply to health plans, health care clearinghouses and certain health care providers. The regulations permit states to afford greater privacy protections to health information. Exceptions for state law are provided for public health (authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention) and state regulatory reporting (the ability of a state to require a health plan to report, or to provided access to, information for management audits, financial audits, program monitoring and evaluation, facility licensure or certification, or individual licensure or certification).

In addition to privacy protection, HIPPA regulation provides patients the right to inspect and obtain a copy of health information about themselves that is maintained by a covered entity or its business associate in specified records. With some exceptions, such records include records which a covered entity uses to make decisions about individuals, and includes a health care provider's medical records and billing records, and a health plan's enrollment, payment, claims adjudication, and case or medical management record systems. The HIPPA regulation permits uses and disclosures of protected health information for research under specified circumstances. The HIPPA regulation gives research participants the right to inspect and obtain health information contained in research records and results, with some exceptions.

**PROJECT OBJECTIVE(S):**

To review the federal and state laws that regulate privacy and access to individual health records and recommend any changes necessary to update state law.

**METHODOLOGY:**

Staff will research applicable federal and state laws that regulate privacy and access to individual health records. Staff will consult with staff from the State Technology Office, Department of Health, Agency for Health Care Administration, and other state agencies, and interested stakeholders to identify the current laws and to determine the need for any modifications to conform state law with federal requirements for privacy and access to health records.

## MANDATORY REVIEWS

(None)

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Changes to the Certificate-of-Need Program*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-384

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature revised certificate-of-need (CON) laws to decrease the regulation of certain health care services. Provisions in HB 329 allow most hospitals to add acute care beds without CON review and make adult cardiac services a licensed activity. The bill requires the Agency for Health Care Administration (AHCA) to adopt rules for licensure of adult cardiac services, with the goal of eliminating CON review for such services once the rules are in effect. The current requirement that percutaneous coronary intervention services must be performed in a facility with an open-heart surgery program is repealed and an exemption is authorized for such services. The bill permits nursing homes to add beds, build a replacement facility, or consolidate or combine beds under certain circumstances, and provides exceptions to the moratorium on nursing homes under two specified circumstances. The bill requires AHCA to establish an advisory group to study the issue of replacing CON review of organ transplant programs with licensure and a work group to study CON regulation and changing market conditions.

**PROJECT OBJECTIVE(S):**

To monitor implementation of the revisions to the certificate of-need laws contained in HB 329.

**METHODOLOGY:**

Staff will monitor rule development by AHCA; applications for exemptions and expedited reviews; and activities of the advisory group and work group required by the bill.

**INTERIM MONITOR PROJECT TITLE:**

*Electronic Tracking System for Continuing Education of Licensed Health Care Practitioners by the Department of Health*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-385

**BACKGROUND AND DESCRIPTION:**

This project would monitor the Department of Health's efforts to implement an electronic system to track continuing education of licensed health care practitioners regulated in the Division of Medical

Quality Assurance. In 2001, the Legislature amended s. 456.025(7), Florida Statutes, to require the Department of Health to integrate the electronic tracking system for continuing education into the licensure and renewal system. The law also requires all approved continuing education providers to provide information on course attendance to the Department of Health that is necessary to implement the electronic tracking system. The department must, by rule, specify the form and procedures by which the information is to be submitted.

In December, 2003, the Department of Health noticed proposed administrative rules to implement the electronic tracking system for continuing education. The rules were subject to an administrative challenge and were held in abeyance on March 29, 2004. On June 11, 2004, the rules to implement the electronic tracking system for continuing education were withdrawn. The 2004 Legislature considered, but did not pass, legislation to eliminate requirements for the Department of Health to implement the electronic tracking system.

**PROJECT OBJECTIVE(S):**

The purpose of this project is to keep the Senate informed about the implementation of the electronic tracking system for continuing education and to suggest any proposed changes to law that may become necessary.

**METHODOLOGY:**

Staff will attend meetings and communicate with the staff of the Department of Health regarding activities to implement the electronic continuing education tracking system for licensed health care practitioners and communicate with continuing education providers, professional associations, and other interested stakeholders.

**INTERIM MONITOR PROJECT TITLE:**

*Long-Term Care Service Delivery System*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-386

**BACKGROUND and DESCRIPTION:**

This project would monitor the implementation of CS/SB 1226, 2<sup>nd</sup> Eng., which implements the recommendations contained in Senate Interim Project Report 2004-144, "Model Long-Term Care System/Analyzing Long-Term Care Initiatives in Florida." The bill makes changes to the long-term care service delivery system administered through the Department of Elderly Affairs (DOEA) and the Agency for Health Care Administration (AHCA).

**PROJECT OBJECTIVE(S):**

This project will monitor implementation by AHCA and DOEA of the changes required by CS/SB 1226, 2<sup>nd</sup> Eng., in FY 2004-2005. Specifically, staff will monitor:

AHCA development of an implementation plan to integrate the Frail Elder Option into the Nursing Home Diversion pilot project and each program's funds into one capitated program serving the aged.

The integration, by AHCA, of the Aged and Disabled Adult Medicaid waiver program and the Assisted Living for the Elderly Medicaid waiver program and each program's funds into one fee-for-service Medicaid waiver program serving the aged and disabled.

The development, by DOEA, of a demonstration project in which existing Community Care for the Elderly lead agencies are assisted in transferring their business model to enable assumption over a period of time, of full risk as a community diversion pilot project contractor providing long-term care services in the areas of operation.

The development, by DOEA, of a plan to integrate the database systems for the CARES program and the Client Information and Referral Tracking System (CIRTS).

Progress made by the Office of Long-Term Care Policy and its newly created inter-agency coordinating team.

The enrollment of new Nursing Home Diversion Program providers.

The process by which Area Agencies on Aging are transitioned by DOEA into aging resource centers.

**METHODOLOGY:**

Staff will attend meetings conducted by AHCA and DOEA as well as rule development workshops related to implementation of the bill and review agency data regarding provisions contained in the bill.

**INTERIM MONITOR PROJECT TITLE:**

*Medicaid Reform Efforts*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-387

**BACKGROUND and DESCRIPTION:**

Faced with sharp declines in revenues and growing Medicaid budgets, states are expressing a strong interest in even greater "flexibility" under their Medicaid programs, particularly associated with benefits and cost-sharing. This flexibility has been called for as part of larger efforts to reform the Medicaid program. There is much support for shifting items for which the states must now seek waivers to options the states may select as part of their state Medicaid plans. States are looking for the authority to implement these changes rather than seeking federal approval, which many believe will reduce delays, uncertainty, and the administrative burden involved.

States may apply for section 1115 research and demonstration waivers to gain greater flexibility. These waivers allow the Secretary of Health and Human Services to waive provisions of Medicaid law for demonstration projects that test a program improvement or develop a new idea of interest to the Federal Centers for Medicare and Medicaid Services (CMS). For example, under an 1115 waiver, a state may be exempt from compliance with usual requirements or may receive federal matching funds for expenditures not ordinarily eligible under Medicaid. All 1115 waiver demonstration projects must be budget neutral; that is, they cannot result in greater federal expenditures than would have otherwise occurred in the absence of the waiver. The Secretary's ability to waive federal cost-sharing requirements is more constrained than his ability to waive federal benefits requirements. As of May 2003, 24 states were operating section 1115 demonstration waivers. Most of these demonstration waivers exempt states from federal rules regarding eligibility or delivery systems. An increasing number, however, affect benefits and cost-sharing or use private models of coverage for Medicaid beneficiaries. Since August

2001, the Secretary of HHS has granted waivers to New Jersey, New Mexico, Oregon, Tennessee, and Utah reducing benefits or increasing cost-sharing for some groups of Medicaid beneficiaries. Florida's Agency for Health Care Administration is currently in the process of applying for an 1115 waiver in order to implement Medicaid reforms.

**PROJECT OBJECTIVE(S):**

Objectives include monitoring the process by which the 1115 research and demonstration waiver application is developed by AHCA, and the changes to the Medicaid program that are proposed in the waiver application.

**METHODOLOGY:**

Staff will attend meetings conducted by AHCA and any public meetings held with stakeholders relating to the development of the 1115 waiver application and proposed changes to the Medicaid program. Monitoring of Medicaid reform efforts will be coordinated with the Health and Human Services Subcommittee of the Senate Appropriations Committee.

**INTERIM MONITOR PROJECT TITLE:**

*Patient Safety and Cost-Saving Initiatives*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-388

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature enacted several provisions aimed at improving patient safety. In response to issues brought forth during the 2003 Special Sessions on Medical Malpractice Reform, the 2004 Legislature created the Florida Patient Safety Corporation as a not-for-profit corporation to assist health care providers to improve the quality and safety of health care that is rendered and to reduce harm to patients. By December 1, 2004, the corporation must submit a report on its initial activities to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and must submit an annual report thereafter. The Office of Program Policy Analysis and Government Accountability (OPPAGA) must develop performance standards by which to measure the implementation and activities of the corporation and must conduct a performance audit of the corporation, using the performance standards, during 2006.

In order to give health care consumers better information upon which to make choices, a practice of disclosure that is popularly referred to as "transparency," HB 1629 requires health care facilities not operated by the state, to make available on their websites a description of, and a link to, the performance outcome and financial data that is published by the Agency for Health Care Administration (AHCA); and to provide a written estimate of reasonably anticipated charges for nonemergency medical services, within 7 business days of a written request of a prospective patient. In addition, all health care facilities must make available to a patient, in the facility's offices, all records necessary for verification of the accuracy of the patient's bill, and must establish a method for responding within 30 days to questions concerning the itemized bill. Health care facilities, providers, and health insurers must submit data to AHCA, and AHCA must make performance outcome and financial data available to consumers, including retail prices for the 50 most frequently prescribed medicines for licensed pharmacies, and patient charge and outcome data for inpatient and outpatient procedures provided in facilities.

Pharmacies must make available on their websites a link to the financial data published by AHCA and to post notice of such information where prescriptions are filled.

AHCA must develop and implement a strategy for the adoption and use of electronic health records and must report to the Governor and the Legislature with recommendations for legislation necessary to protect the confidentiality of electronic health records.

Hospitals and federally qualified health centers are authorized to develop emergency room diversion programs and a "Fast Track" program for nonemergency patients to be treated at alternative sites. The duties of the federally qualified health centers are expanded to include urgent care services and emergency room diversion programs. Health insurers and health maintenance organizations must also develop community emergency department diversion programs.

**PROJECT OBJECTIVE(S):**

To monitor the establishment of the Florida Patient Safety Corporation and the corporation's initial activities; the provision of performance outcomes and financial data about health care facilities to consumers; the development of electronic health records; and the development of emergency room diversion programs.

**METHODOLOGY:**

Staff will monitor the establishment of the Patient Safety Corporation and its initial activities. To the extent possible, staff will attend meetings of the board of directors and advisory committees of the Corporation. Staff will review the corporation's initial report. Staff will attend meetings conducted by AHCA regarding consumer information, electronic health records, and emergency room diversion programs.

**INTERIM MONITOR PROJECT TITLE:**

*Department of Health's Activities to Assess the State's Trauma System and Update the State Trauma System Plan*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-389

**BACKGROUND AND DESCRIPTION:**

This project would monitor the Department of Health's efforts to complete a comprehensive assessment of the State's trauma system and update the state trauma system plan as required by CS/SB 1762 (2004). CS/SB 1762 requires the Department of Health (DOH) to update the state trauma system plan by February 2005, and annually thereafter. DOH is required to complete an assessment of the trauma system in Florida and report its findings to the Governor and the Legislature by February 1, 2005. The department must review the existing trauma system and determine whether it is effective in providing trauma care uniformly throughout Florida. The department's comprehensive assessment must include specified elements, including a continued revenue source.

CS/SB 1762 also requires the boundaries of trauma regions administered by DOH to be coterminous with the boundaries of the regional domestic security task forces established within the

Florida Department of Law Enforcement. Exceptions are provided for the delivery of trauma services by or in coordination with a trauma agency established before July 1, 2004, which may continue in accordance with public and private agreements and operational procedures entered into as provided in s. 395.401, F.S.

**PROJECT OBJECTIVE(S):**

The purpose of monitoring the Department of Health's activities to assess the state trauma system and update the state trauma system plan is to keep the Senate informed about the preparedness of the state trauma system, the maximization of federal funds for domestic security, sources of recurring funding for trauma care, and any proposed changes to law that may become necessary.

**METHODOLOGY:**

Staff will attend meetings and communicate with the staff of DOH regarding its implementation of activities to implement the trauma legislation as passed by the Legislature.

---

# Home Defense, Public Security, and Ports

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*State Domestic Security Operational Structure*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-143

**BACKGROUND and DESCRIPTION:**

Review of Florida's domestic security operational structure, including state agencies' responsibilities, soundness of regional response structure, organization of the structure across state and local agencies, and ability to interact with federal counterparts:

1. Review various state agencies' roles and responsibilities related to domestic security preparedness and response.
2. Review other states' domestic security operational structures to compare effectiveness with Florida structure. In addition, review domestic security structures at the federal level to ensure that individual components of the state structure are properly aligned with respective federal counterparts.
3. Review the soundness of the state's regional response structure, training levels and ability to respond, pursuant to the statewide strategic plan, and the state's ability to interact with local and federal agencies in prevention and response situations.
4. Review the statutory structure of the state domestic security operations and organization.

**PROJECT OBJECTIVE(S):**

Work with Department of Law Enforcement, Department of Community Affairs, Department of Health, Department of Agriculture and Consumer Services, State Fire Marshal, Department of Management Services, Florida National Guard, Office of the Governor, Office of the Attorney General, and other involved state agencies to determine appropriate organizational structure for domestic security operations.

**METHODOLOGY:**

As needed, staff may conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

**INTERIM PROJECT TITLE:**

*Seaport Security*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-144

**BACKGROUND and DESCRIPTION:**

Review of ongoing costs of operational security on public seaports, the impacts of ss.311.12 and 311.125, F.S., on these costs, mitigating factors that may reduce costs without reducing security and methods by which public seaports may implement operational security using a combination of sworn law enforcement officers and private security services.

**PROJECT OBJECTIVE(S):**

- Determine what additional operational security costs have been created on each of Florida's active public seaports as a result of the implementation of ss. 311.12 and 311.125, F.S., what costs are not directly related to the statutory requirements; and how the services provided are affecting the physical security of the seaport.
- Review options, such as increased community policing and use of private security services in conjunction with sworn law enforcement presence, for reducing costs without reducing security.
- Review types of training and certification processes and programs that might be necessary to assure proper knowledge of unique seaport security requirements for non-sworn personnel.

**METHODOLOGY:**

Work with the Florida Department of Law Enforcement, the Florida Ports Council, representatives of the public seaports and other interested parties to find answers and recommended solutions. As needed, staff may conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of Certain Information Exempt From Disclosure, s. 311.13, F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-216

**BACKGROUND and DESCRIPTION:**

Pursuant to s. 119.15, F.S., "in the fifth year after enactment of a new (public meetings or public records) exemption or substantial amendment to an existing exemption, the exemption shall repeal on October 2 of the fifth year, unless the Legislature acts to reenact the exemption." This review of s. 311.13, F.S., is due to the fact that the original exemption was created in 2000 (see s. 1, ch. 2000-292, L.O.F.).

Section 311.13, F.S., was created in conjunction with s. 311.12, F.S., which requires public seaport authorities, as defined in s. 311.09, F.S., to create and maintain security plans for their respective seaports. In addition to the plan itself, s. 311.13, F.S., exempts any photographs, maps, blueprints, drawings, and materials that depict critical seaport operating facilities from s. 119.07(1) and s.24(a), Article 1 of the State Constitution, to the extent that a seaport reasonably determines that such items contain information that is not general and that could jeopardize the security of the seaport. Information related to leases, layout plans, blueprints or information relevant thereto, is not to be included in the exemption.

Since the creation of s. 311.12 and s. 311.13, F.S., the federal government has implemented the Marine Transportation Security Act of 2002, which requires the U.S. Coast Guard (USCG) to develop Area Maritime Security Plans for all coastal areas of the United States. The Coast Guard has developed a series of regulations (33 CFR, Parts 101-106) to address federal maritime security issues. Florida's public seaports are actively participating in the implementation of the federal regulations and, in most cases, the seaports' security plans created under s. 311.12, F.S., are adopted as part of the USCG Area Maritime Security Plans by Florida's four USCG Captains of the Port, pursuant to their powers under 33 CFR.

**PROJECT OBJECTIVE(S):**

- Review s. 311.13, F.S., its uses and applications to determine if it serves a public purpose.
- Review the federal Code of Federal Regulation relative to its application to public seaport security plans created under s. 311.12, F.S., which have been adopted as segments of various Area Maritime Security Plans to determine if federal exemptions now apply, and if so, if those exemptions supersede the state exemption.
- Review any meetings or conferences which occur in relation to public seaports' security plans, or meetings in which the plans may be discussed, to determine if there is a need for an expansion of s. 311.13, F.S., to create an exemption for meetings related to the plans.

**METHODOLOGY:**

Work with Florida Department of Law Enforcement, the Florida Ports Council and Florida's public seaport authorities to determine the original cause for the exemption and to determine if conditions remain the same, or have changed in such a way as to warrant repeal of the exemption. In addition, staff will consult with USCG legal staff to determine the impact of the federal regulations generated by the Maritime Transportation Security Act on the state exemption. As needed, staff may conduct interviews, by phone, electronic mail, or in person, with persons affected by or pertaining to this review. Workshops and meetings may be held to obtain and review information related to the project.

## **MONITOR PROJECTS**

<b>INTERIM MONITOR PROJECT TITLE:</b>
---------------------------------------

<i>State Hospital Response Plan Strategy</i>
--

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-390

**BACKGROUND and DESCRIPTION:**

Monitor continued development and implementation of statewide Hospital Response Plan Strategy including mass casualty surge preparedness. This strategic plan will allow for a more standardized approach to hospital response across the state and will assist in the state's ability to quantify levels of preparedness for various types of mass casualty incidents throughout the state. This plan is part of a concerted effort to coordinate response capabilities and is, in part, a result of last year's interim project on hospital surge capacity.

**PROJECT OBJECTIVE(S):**

Continue to monitor progress of statewide working group, Department of Health, Florida Hospital Association, Florida College of Trauma Surgeons and other interested groups working to complete and implement this plan.

**METHODOLOGY:**

As needed, staff may conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project. The Committee on Health, Aging, and Long Term Care will provide assistance, as needed, with this project.

**INTERIM MONITOR PROJECT TITLE:**

*Federal Funding and Program Guidelines*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-391

**BACKGROUND and DESCRIPTION:**

Continue to monitor federal funding and program guidelines for domestic security prevention, preparedness and response including integration of Regional Domestic Security Task Force and Urban Area Security Initiative planning and operations. There has been a philosophical shift in the federal government away from statewide strategic funding and towards targeted urban area/high threat area funding. As a result, Florida will need to work very closely with affected local governments to assure that dollars sent directly to those areas complement and integrate with the state and regional response strategies. In addition, projected reductions in CDC/HRSA funding for bioterrorism and hospital response may require some re-prioritization of needs in the state strategic plan.

**PROJECT OBJECTIVE(S):**

Continue to monitor congressional funding and federal agency program guidelines for domestic security grants and allocations coming to state and local governments.

**METHODOLOGY:**

Continue to work with federal, state and local agencies to maximize effectiveness of available funding sources according to statewide strategic plan. As needed, staff may conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

**INTERIM MONITOR PROJECT TITLE:**

*Security Planning and Operations*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-392

**BACKGROUND and DESCRIPTION:**

Monitor security planning and operations for ongoing and special events (presidential elections, Super Bowl) pursuant to Department of Homeland Security guidance and state strategy. DHS has indicated that the remaining months of this year represent a period of heightened threat risk due to a number of events, activities and factors. The possibility of attack prior to fall elections has increased based on the perceived effect of the Madrid bombings on the outcome of Spanish national elections. Florida hosts many large scale events, and has many large venue locations. Planning preparation for security at these events has taken on a renewed importance based on the concerns raised by DHS. In addition to college and professional sports activities, NASCAR racing events, political gatherings and holidays over the next few months, Florida faces the challenge of preparing for and hosting the Super Bowl in February 2005. Security Planning and preparations are underway for this national event at the local and state level.

**PROJECT OBJECTIVE(S):**

Monitor planning and operational activities of various local and state agencies to assure security measures are being taken and coordinated at all levels of government to prepare for possible terrorist activities over the coming months.

**METHODOLOGY:**

As needed, staff may conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of Transportation Worker Identification Card (TWIC) Prototype*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-393

**BACKGROUND and DESCRIPTION:**

Monitor implementation of Transportation Worker Identification Card system at Florida's public seaports. In 2003, the legislature passed a law requiring a uniform ports access credentialing system to be used by all of Florida's public seaports. The Department of Highway Safety and Motor Vehicles (HSMV) was charged with implementation of this system.

The U.S. Transportation Security administration (TSA) has now entered into a Memorandum of Agreement with HSMV to have Florida's seaport access credentialing system developed as a prototype for the federally mandated national Transportation Worker Identification Card (TWIC). HSMV and TSA are currently working together on the design and installation of this prototype system.

**PROJECT OBJECTIVE(S):**

Continue to monitor project progress to assure implementation of s. 311.125, F.S., in a timely manner.

**METHODOLOGY:**

As needed, staff may conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

**INTERIM MONITOR PROJECT TITLE:**

*Regional Domestic Security Task Forces (RDSTF) Exercises and Activities and Domestic Security Oversight Board (DSOB) Activities*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-394

**BACKGROUND and DESCRIPTION:**

Monitor Regional Domestic Security Task Forces (RDSTF) exercises/activities and Domestic Security Oversight Board activities. Regional Domestic Security Task Forces form the backbone of Florida's domestic security prevention and response structure. The RDSTFs must be prepared at all times to react to terrorist activity. Training and education are keys to the RDSTF capability. Each RDSTF is required to perform one regional tabletop exercise and one full field exercise per year. These exercises, along with "lessons learned" after-action reports and other discipline specific training activities provide performance based testing of the state's readiness for an attack.

The Domestic Security Oversight Board (DSOB) is the body which makes policy recommendations and budget recommendations regarding the state's domestic security structure and operations.

**PROJECT OBJECTIVE(S):**

1. Monitor RDSTF exercise activities and outcome reports to assure that goals are being met and corrective actions are occurring based on "lessons learned" from the training.
2. Monitor meetings and activities of the DSOB to assure continuity and conformance with state plan and legislative intent.

**METHODOLOGY:**

Observe RDSTF training/exercise events, review after-action reports, observe DSOB meetings and review DSOB actions through observation, discussions, etc. As needed, staff may conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

---

# Judiciary

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Parenting Coordinators and Domestic Violence*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-145

**BACKGROUND and DESCRIPTION:**

Currently, there are several judicial circuits in Florida which use “parenting coordinators.” Parenting coordinators assist divorcing parents in the implementation of a “parenting plan.” A parenting plan generally is that part of a temporary or final court order setting out the residence, parental responsibility, visitation and other parental responsibility issues in dissolution of marriage or child custody proceedings.

The concept of parenting coordinators is relatively new in Florida and nationally. There may be some concerns that the use of parenting coordinators may not adequately protect one or both parents from potential domestic violence.

**PROJECT OBJECTIVE(S):**

- Review the use of parenting coordinators in other states.
- Examine the relationship, if any, between the use of parenting coordinators and the risk of domestic violence to one or both parents and what bearing, if any, the qualifications, education or training of parenting coordinators may have on the risk of domestic violence.
- Make recommendations for legislation regarding parenting coordinators.

**METHODOLOGY:**

Committee staff will:

- Review current law and practice in Florida and other states with respect to the use of parenting coordinators and their qualifications, education and training.
- Seek testimony from stakeholders including judges, parenting coordinators, domestic violence prevention advocates and others.

**INTERIM PROJECT TITLE:**

*Review of Alimony Payments*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-146

**BACKGROUND and DESCRIPTION:**

In a dissolution of marriage proceeding, section 61.08(1), F.S., authorizes the court to award alimony that is rehabilitative or permanent in nature. For any award, the court may order periodic payments, lump sum payments, or both. Section 61.08(2), F.S., provides that alimony awards are to be based on a variety of economic factors, to include the standard of living established during marriage, the

length of the marriage, the age, physical and emotional condition of the parties, the financial resources of each party, contributions made, and any other factor necessary to do equity and justice between the parties. Unless otherwise specified in the final order, alimony that is awarded by a court typically continues until the party receiving alimony dies or remarries. Although Florida courts award alimony based on current and actual needs, sometimes situations arise later which may affect the continued necessity for payment of alimony.

**PROJECT OBJECTIVE(S):**

- The objective of this project is to determine the need, if any, for legislation to address the continued payment of alimony depending upon the circumstances.

**METHODOLOGY:**

Committee staff will:

- Review Florida law relating to the payments of alimony.
- Additionally, staff will review the law in other states with respect to the modification or termination of alimony.

**INTERIM PROJECT TITLE:**

*Sovereign Immunity and the Claim Bill Process*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-147

**BACKGROUND and DESCRIPTION:**

Historically, some legislators have been concerned about claim bills and the claim bill process for various policy reasons. This interim project will review the evolution of the doctrine of sovereign immunity and the claim bill process, including the \$100,000 per person and \$200,000 per incident limitation on the recovery of damages from the state and fees paid to attorneys and lobbyists.

**PROJECT OBJECTIVE(S):**

- Examine the policy reasons for and the evolution of the doctrine of sovereign immunity and the development of the claim bill process;
- Review the dollar amount of tort judgments or settlements; and
- Identify and evaluate potential alternatives or modifications to sovereign immunity and the claim bill process.

**METHODOLOGY:**

Committee staff will:

- Review the law establishing the doctrine of sovereign immunity;
- Review of the Florida statutes and associated legislative history creating the claim bill process and similar procedures in other states; and
- Seek input from stakeholders and other interested parties.

**INTERIM PROJECT TITLE:*****Duty to Maintain Streetlights*****DATE DUE:** November 30, 2004**PROJECT NUMBER:** 2005-148**BACKGROUND and DESCRIPTION:**

*Clay Electric Cooperative, Inc., v. Johnson*, 2003 WL 22966277 (Fla. 2003), involved a negligence action against the party responsible for streetlight maintenance. The issue in the case was whether Clay Electric Cooperative, Inc., (Clay Electric) had a duty to maintain an existing streetlight in an area where a child, walking in darkness to his school bus stop early in the morning, was struck and killed by a truck. Clay Electric, the defendant, moved for summary judgment on the basis that it did not have an obligation to maintain the streetlight for the benefit of the decedent because the decedent was no worse off with an inoperative streetlight than he would have been with no light at all. The trial court granted the motion, the plaintiff appealed, and the case eventually came before the Florida Supreme Court.

The Supreme Court of Florida found the plaintiffs had adequately shown that Clay Electric owed a duty to act with due care in maintaining streetlights it had contracted to maintain. The dissenting opinion, however, warned of various adverse impacts, economic and otherwise. The Supreme Court sent the case back to the trial court where the case may go to trial.

**PROJECT OBJECTIVE(S):**

- Examine the policy implications of the Supreme Court opinion.

**METHODOLOGY:**

Committee staff will:

- Review case law, statutes, and other authorities on the issue of whether a streetlight maintenance company or government entity that maintains streetlights owes a duty to the public to act with due care in maintaining streetlights; and
- Seek input from stakeholders and other interested parties.

**INTERIM MANDATORY REVIEW TITLE:*****Florida Unfair and Deceptive Trade Practices Act relating to Motor Vehicles*****DATE DUE:** November 30, 2004**PROJECT NUMBER:** 2005-149**BACKGROUND and DESCRIPTION:**

Part II of ch. 501, F.S., is the Florida Deceptive and Unfair Trade Practices Act (FDUTPA). FDUTPA became law in 1973 and declares as unlawful unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce. Section 501.204, F.S. Under FDUTPA, the office of a State Attorney or the Department of Legal Affairs is the enforcing authority. Section 501.203(2), F.S. Irrespective of action by an enforcing authority, a person aggrieved by a violation of this law may recover actual damages plus attorney's fees and court costs. Section 501.211, F.S.

In 2001 the Legislature enacted Part VI of ch. 501, F.S., relating specifically to unfair and deceptive acts or practices with respect to motor vehicles. These laws declared as unfair and deceptive certain acts or practices by a motor vehicle dealer. In civil litigation resulting from a violation of these laws, the trial courts consider the amount of actual damages in relation to the time spent when evaluating the reasonableness of an award of attorney's fees to a private person.

Legislation was introduced during the 2004 Session which would have added a new section to Part VI of ch. 501, F.S., relating to motor vehicles. The legislation would have provided a procedure for written demand to the motor vehicle dealer by those seeking private enforcement of Part VI. No action for damages could be brought against the dealer if the demand was paid within 30 days. Under certain circumstances, a claimant could not recover attorney's fees when a dealer rejects the claimant's demand and the case goes to court. The bill also provided a mechanism for a dealer to consent to some or all of a claimant's claims. The legislation did not become law.

**PROJECT OBJECTIVE(S):**

- Analyze the nature and extent of the problem which the 2004 legislation sought to address.
- Draft any legislation the committee determines is necessary to address the problem.

**METHODOLOGY:**

- Seek input from stakeholders and other interested parties.
- Review relevant material including statutes and case law in Florida and other jurisdictions.

**INTERIM PROJECT TITLE:**

*Lawyer Advertising*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-150

**BACKGROUND and DESCRIPTION:**

Section 15, Art. V, State Const., states that "The Supreme Court shall have exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted." Under this constitutional provision, the Supreme Court of Florida has adopted rules regulating attorney advertising. These rules are enforced by The Florida Bar, the Court's investigative and prosecutorial authority in the lawyer regulatory process.

Notwithstanding the Supreme Court's exclusive jurisdiction to regulate the practice of law under Section 15, Art. V, State Const., the Legislature under its police power, may enact penal statutes that affect the legal profession, including the current anti-solicitation statute in s. 877.02, F.S. The word "solicit" as used in s. 877.02, F.S., is not defined in statute, and courts have only construed the statute in cases where an attorney or an agent of the attorney has made a personal solicitation to a specific person.

During the 2004 Session, the House of Representatives passed legislation that would have made it unlawful to advertise, in any form of electronic or other media, in a manner that entreats, requests, or incites legal business for profit by urging a person to consider bringing legal action against another. The bill specified that certain statements contained in an advertisement for legal business would not be prohibited.

**PROJECT OBJECTIVE(S):**

- Analyze the nature and extent of lawyer advertising and the authority for legislative regulation in this area.
- Draft any legislation the committee deems necessary to address the problem.

**METHODOLOGY:**

- Seek input from stakeholders and other interested parties.
- Review the relevant legal materials in Florida and other jurisdictions relating to lawyer advertising.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Review of Public Records Exemption for Certain Sheriff and State Attorney Records Relating to Interference With Custody (s. 787.03, F.S.)*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-217

**BACKGROUND and DESCRIPTION:**

Section 787.03, F.S., creates the crime of interference with custody. A person who without lawful authority takes a child 17 or under or an incompetent person from that person's parent or guardian commits the offense of interference with custody which is a third degree felony. Without a court order determining custody or visitation, a parent who takes, detains, conceals or entices away the child or incompetent person in state or out of state with the malicious intent to deprive the other parent of that parent's right to custody commits a third degree felony. Defenses are provided in the law.

The statute does not apply when a spouse is the victim of domestic violence, or when the spouse reasonably so believes, or the spouse believes taking the child was necessary to preserve the child or incompetent person from danger and seeks shelter with the child or incompetent person. In order to gain any of these exemptions, a person who takes the child must do three things:

- Within 10 days after taking the child, report to the sheriff's office or state attorney's office for the county where the child resided the name of the person taking the child, the current address and telephone number of the person and child, and the reasons for taking the child.
- Within a reasonable time after taking the child, commence a custody proceeding consistent with federal or state law.
- Inform the sheriff's office or state attorney's office for the county where the child resided of any subsequent change of address or telephone number.

The information provided to the sheriff or state attorney is confidential and exempt.

**PROJECT OBJECTIVE(S):**

- Determine if the exemption from the Public Records and Meetings Laws contained in s. 787.03, F.S., should be continued or modified under the criteria specified in the Open Government Sunset Review Act of 1995.

**METHODOLOGY:**

Committee staff will:

- Review the provisions and applicable law according to the criteria specified in the Open Government Sunset Review Act of 1995.
- Seek input from the relevant state and local agencies, and other interested stakeholders to determine if any aspects of s. 787.03, F.S., should be revised and saved from repeal through reenactment.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of Revision 7 to Article V of the State Constitution*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-395

**BACKGROUND and DESCRIPTION:**

In 1998, a proposal by the Constitution Revision Commission to amend Article V of the Florida Constitution was adopted by the voters. The essence of Revision 7 to Article V provides for a funding reallocation and cost-shifting of the state court system and related entities among the state, the 67 counties and users of the system.

Article XII, section 25 of the Florida Constitution directed the Legislature to commence funding Revision 7 beginning in the 2000-2001 fiscal year and required Revision 7 to be fully effectuated by July 1, 2004. Thus, Revision 7 was required to be fully implemented coincident with the July 1, 2004, state fiscal year. Consistent with this requirement, the Legislature passed laws in 2003 and 2004 to effectuate implementation of the amendment to the state constitution.

**PROJECT OBJECTIVE(S):**

- This project will monitor the implementation of Revision 7 to Article V, including the submission of reports, recommendations and data required to be submitted under law.

**METHODOLOGY:**

Committee staff will:

- Continue to work with the stakeholders, including: the Office of the State Court Administrator, the Trial Court Budget Commission, the State Attorneys, the Public Defenders, and the Clerks of the Circuit Court, the counties, the Justice Administrative Commission and the entities created in the legislation.

---

# Military and Veterans' Affairs, Base Protection, and Spaceports

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Florida Space Industry*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-151

**BACKGROUND and DESCRIPTION:**

Florida has always been known as the premier launch state. In October of 1949, President Harry S. Truman established the Joint Long Range Proving Grounds at Cape Canaveral. That primitive spaceport was inaugurated on July 19, 1950 when a modified V-2 rocket, called Bumper 7, sputtered and fizzled on count down, a victim of the corroding effects of the salt laden ocean air. Five days later, Bumper 8 was successfully launched.

As the world knows, Alan Shepard's suborbital flight started at "the Cape." That successful flight was followed by the Army's historic Redstone missile program, the Navy's Vanguard missile project for placing satellites in orbit, and the ambitious Apollo project to take men to the moon and back. The Cape was renamed the John F. Kennedy Space Center (KSC) in December of 1963 to honor the recently assassinated president.

Since that time, KCS has experienced tremendous successes, the ultimate failures, and competition from other states and countries. To help address competition and enable the state to maintain its position as the world's premier location for space enterprise, the Florida Space Authority was statutorily created in 1989 (see ch. 331, F.S.). The Authority is dedicated to providing economic development for the state through space-related businesses and educational opportunities including, but not limited to, technology, research, education, finance, tourism, and launch.

Ten years later, the Florida Space Research Institute (see s. 331.368, F.S.) and the Florida Aerospace Finance Corporation (see s. 331.401 – 331.419, F.S.) were also statutorily created to add to the state's emphasis on the space industry. The Florida Space Research Institute is a public/private partnership which serves as an industry driven center for research to support Florida's space industry, its expansion, diversification, and transition to commercialization. It also plays a major role in developing opportunities for Florida's public and private universities to support NASA, military and industry space technology programs, and to coordinate the multi-disciplinary capabilities of Florida's universities to pursue major research and technology development opportunities. The Florida Aerospace Finance Corporation's mission is to expand the employment opportunities of Florida residents and increase development of the commercial space and aerospace industry in Florida by providing financial and technical assistance to space related businesses.

These three entities reflect the state's effort, past and present, to keep Florida the place for manned and unmanned space flight, and in doing so, receive the economic benefits that come from a well established space and aerospace industry in what is otherwise, at this time, a depressed space market.

**PROJECT OBJECTIVE(S):**

President Bush's new national space policy will have a dramatic impact on Florida's space economy. The space shuttle, which is the predominant element of NASA programs in Florida, will be retired in 2010. A new, smaller vehicle will be developed to return Americans back to the moon by 2020 and to prepare for human exploration of Mars and other destinations.

Given this changing environment, it seems appropriate to review Florida's space effort to ensure that it is compatible with, and capable of supporting, the needs of the new national space policy. The interim project would attempt to determine what changes, if any, will be necessary as a result of this new national space policy. Just as important, it should review existing policies to determine if they are sufficient to address the workforce and concurrent business climate that must be transformed as existing programs are eliminated and new programs created to realize the new exploratory vision.

**METHODOLOGY:**

The initial approach will be to determine the existing infrastructure, staff, and mission of the three entities dedicated to Florida's space mission; the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation. An understanding of how they fit into the national space effort must be achieved. Then, extensive discussions should be held with the heads of these three entities to better understand their needs under the new national space policy. Areas to be emphasized are those that can be readily captured and those in which the state needs rapid improvement. Part of these discussions will focus on how best to handle the workforce so that jobs can be maintained and expertise retained in Florida as the transition is made to new programs. How best to maintain an overall healthy aerospace business climate during such a transition will also be explored. These same questions must be asked of the major, and minor, space manufacturers doing business in Florida.

Finally, site visits to all three entities should be planned for a first hand review of their facilities and the opportunity to personally meet and discuss relevant issues with their leadership staff.

## **MANDATORY REVIEWS**

*(None)*

## **MONITOR PROJECTS**

**INTERIM MONITOR PROJECT TITLE:**

*Base Protection and Military Families Legislation Passed by the 2004 Legislature*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-396

**BACKGROUND and DESCRIPTION:**

CS/CS/SB 1604 was passed by the 2004 Legislature as the 21 bases and three unified commands situated in Florida, like all other bases across the nation, prepared for the current base realignment and closure process, commonly referred to as "BRAC." The BRAC process reflects a desire to eliminate excess capacity, experience the savings from that reduction in capacity, and fund higher priority weapon platforms and troop training. Capacity reductions may reach as high as 20-25%. There have been four

BRAC rounds between 1988 and 1995. During the 1993 round, four Florida bases were closed. This legislation is aimed at supporting military installations and military families so that Florida will continue to be viewed as a military friendly state during the current BRAC round.

The committee substitute provides for the compatibility of land development around military installations and the necessity for an exchange of information between local governments and military installations. Under the bill, each county that contains a military installation or other affected local government must transmit certain information to that military installation regarding proposed changes to its comprehensive plan or land development regulations which, if approved, could affect the intensity, density, or use of land adjacent to or in close proximity to that installation. Upon receiving this information, a commanding officer or his or her designee may comment on the effect that the proposed change would have on the mission of the military installation. The local government must consider the comments of the commanding officer in making its decision as well as transmit those comments to the Department of Community Affairs.

Under the bill local governments are to include as part of the future land use element of their existing comprehensive plan the compatibility of uses on lands adjacent to or closely proximate to a military installation with the respective military installation. In addition, the future land use plan element must contain the criteria to be used in achieving the compatibility of adjacent or closely proximate lands with military installations.

The committee substitute also creates the Military Base Protection Grant Program which is to be implemented and coordinated by the Office of Tourism, Trade, and Economic Development (OTTED). The purpose of the program is to support local infrastructure projects that would have a positive impact on military installations within the state. Infrastructure projects to be funded by this program include, but are not limited to, those projects related to: encroachment, transportation and access, utilities, communications, housing, environment, and security. This program had been previously created and funded on an annual basis in the general appropriations bill.

A major goal of the committee substitute is to strengthen Florida's existing programs that support military personnel and their families by addressing three critical quality of life concerns. First, the committee substitute enhances educational services for military dependents by enacting a number of provisions that support military students transitioning to Florida schools. In addition, the committee substitute revises requirements for certain military-dependent scholarships and special academic programs. Second, the committee substitute improves employment assistance for military spouses by tailoring job services to meet the unique needs of military spouses and streamlining certain professional licensing requirements. Finally, the committee substitute directs the Florida Housing Finance Corporation to undertake an assessment of the housing needs of Florida's military families.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor the progress, and success, of the respective agencies charged with the responsibility of implementing this legislation. The agencies involved will be the Department of Community Affairs, the Office of Tourism, Trade, and Economic Development, the Department of Education, the Florida Housing Finance Corporation, the Department of Health, and Workforce Florida, Inc.

**METHODOLOGY:**

Committee staff will request periodic updates from the respective agencies on the degree and success of implementing this legislation. Periodic contacts will also be made with the intended recipients of the services to determine if the benefits of the legislation are being realized. Ultimately, the above various groups will be requested to make presentations to the committee.

---

# Natural Resources

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Brownfields Redevelopment Act Review*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-152

**BACKGROUND and DESCRIPTION:**

The Brownfields Redevelopment Act was created in 1997 to encourage the redevelopment of abandoned, idled, or underused industrial and commercial properties where such expansion or redevelopment is complicated by actual or perceived environmental contamination. It has been 7 years since the Act was created and there have been few amendments or refinements to update the Act to increase its effectiveness. Interest in redeveloping brownfield sites across the state has increased steadily since 1997. However, local government incentives to encourage brownfield redevelopment have not been used to the extent that the original Act envisioned. Also, there appears to be several impediments and barriers that exist which tend to discourage investment in redevelopment. These include liability issues and the availability of capital from the lending community.

**PROJECT OBJECTIVE(S):**

The project will examine the 1997 Brownfields Redevelopment Act to determine what revisions are needed to encourage local and private investment in the redevelopment of brownfield areas in the state. The project will look at expanding or redefining the tax incentives and credits available for the redevelopment of these areas and also will look to redefining the term “brownfield” to include other blighted or underused areas.

**METHODOLOGY:**

Committee staff will be meeting with the Department of Environmental Protection, the Office of Tourism, Trade and Economic Development, local governments, and other interested parties to determine the weaknesses and strengths of the program. Staff will also look at what is being done nationally regarding brownfields redevelopment. From this, staff will provide any recommendations that may be needed to statutorily enhance the brownfields program.

**INTERIM PROJECT TITLE:**

*Underground Petroleum Storage Tank Cleanup Program*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-153

**BACKGROUND and DESCRIPTION:**

In 1995, the state’s underground petroleum storage cleanup program experienced a severe financial problem because of the mounting claims for reimbursement for which funds were not available for payment. At the time, the program was in arrears for approximately \$400 million. The Legislature placed a moratorium on most of the cleanup activities. Certain tasks were allowed to continue to

completion; however, new work had to receive prior approval from the Department of Environmental Protection.

In 1996, the Legislature totally revised the underground petroleum storage cleanup program in Florida. The Legislature required that the program be conducted on a prior approval basis instead of a reimbursement basis and created the Inland Protection Financing Corporation to finance the rehabilitation of petroleum contaminated sites and to pay, purchase, and settle reimbursement obligations of the DEP, i.e. the backlog. The 1996 legislation also provided for a voluntary cleanup program to allow for cleanup of sites out of priority order to accommodate certain real estate transactions; allowed the use of risk-based-corrective-action clean-up principles, and provided that contaminated sites be cleaned-up in priority order.

It has been 8 years since the Legislature reviewed this program. There have been some issues that have arisen that may need legislative direction. Those issues include: the availability and cost of liability insurance; setting aside a portion of the annual cleanup revenues for activities related to the required scheduled replacement of tanks; and providing a priority ranking system to be used for sites that have the same priority ranking number.

**PROJECT OBJECTIVE(S):**

The project will examine the state's underground petroleum storage tank cleanup program to determine what revisions are needed to enhance the effectiveness of the program and to address concerns and issues that may have arisen since the program was totally revised in 1996.

**METHODOLOGY:**

Committee staff will be meeting with the Department of Environmental Protection, cleanup contractors and contaminated site owners, and local governments to determine if there are actions that need to be taken by the Legislature.

**INTERIM PROJECT TITLE:**

*Activities Related to the Closure of Phosphate Mining Operations and the Uses of Phosphate Mining Byproducts and Closed Phosphate Lands*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-154

**BACKGROUND and DESCRIPTION:**

Phosphate mining operations are currently required to have in place reclamation plans for their operations when the life of the mine has expired. The Florida Institute of Phosphate Research was created to study alternative reclamation alternatives and technologies and to study the disposal and utilization of phosphate clay. Also, the Legislature in 2003 provided for the creation of a nonprofit corporation to assist in developing recreational opportunities on phosphate lands. That entity is incorporated as Florida Mining-Recreation, Inc.

The Environmental Protection Agency has essentially regulated the byproducts of phosphate mining, specifically phosphogypsum, as a waste product but has approved limited uses for such byproducts.

**PROJECT OBJECTIVE(S):**

Recent scientific research has indicated that phosphogypsum may not be a "waste" that is unusable and is a threat to the environment and human health. Rather, phosphogypsum may be a valuable product

that can be sold and reused. This project will explore the possible uses of phosphogypsum that may be environmentally safe and could potentially benefit taxpayers. The project will monitor the activities of the Florida Institute of Phosphate Research and Florida Mining-Recreation, Inc. in their efforts to find alternative uses of phosphate byproducts and gypsum. Also, staff will monitor the activities and progress of the efforts to convert Piney Point into a water reservoir for Florida.

**METHODOLOGY:**

Staff will meet with representatives of the Florida Institute of Phosphate Research, Florida Mining-Recreation, Inc., the Florida Phosphate Council, the Department of Environmental Protection and the Senate Appropriations Committee staff. Staff also intends to hold at least one workshop with interested parties to explore and identify possible beneficial uses of phosphogypsum and to identify barriers to such uses.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Fish and Wildlife Conservation 5-Year License and Fee Review, s. 372.5711, F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-218

**BACKGROUND and DESCRIPTION:**

Section 372.5711, Florida Statutes, requires that the Legislature perform a 5-year review of the fees for licenses and permits issued by the Fish and Wildlife Conservation Commission (FWC), and the exemptions thereto.

**PROJECT OBJECTIVE(S):**

The review is conducted to determine if license and permit fees cover the costs of issuing the licenses and permits, and provide an appropriate level of revenue to support the FWC's programs and activities.

**METHODOLOGY:**

The Florida Senate and the Florida House of Representatives conducted the first statutorily required fee review during the 2000 Regular Session to determine where Florida stood nationally and to determine how the Legislature could assist the FWC in the implementation of its constitutionally mandated activities to regulate wild animal life, freshwater aquatic life, and marine life. Prior to the start of session, committee staff of both houses conducted interim projects that compared Florida's fees for hunting and fishing permits and licenses with those of other coastal states, states of similar sizes and populations, and states having a heavy tourism base.

Overall, the interim projects reported that Florida ranked from the middle to the lower end of the states surveyed when factoring the costs of permits and licenses for hunting and fishing. In a state with a population of 15 million, and an annual visitor estimate of 46.9 million, licensed recreational hunting and fishing attracted less than 4 percent of residents and visitors. Approximately 42 percent of Florida's population were statutorily exempt from licensing requirements. Also, with license exemptions for persons fishing in saltwater from land, or from structures fixed to the land, and persons fishing with cane poles, the number of persons who hunt and fish in Florida for free could not be determined.

Staff of the Senate Natural Resources Committee will use the 1999 data provided by the interim project reports, current data provided by the FWC with regard to the cost and sales of hunting and fishing licenses and permits, and data provided by other coastal states, states of similar sizes and populations, and states having a heavy tourism base to determine if Florida's fees for hunting and fishing licenses and permits are established at a level that will ensure the FWC's self-sufficiency.

**INTERIM MANDATORY REVIEW TITLE:**

*Florida Forever Program Funds Used for Preacquisition Costs, s. 201.15(13), F.S.*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-219

**BACKGROUND and DESCRIPTION:**

Subsection (4) of section 201.15, Florida Statutes, provides for the distribution of documentary stamp tax revenues (about \$51.5 million annually) to the Water Management Lands Trust Fund to be used by the various water management districts for land management, maintenance, capital improvements for lands titled in the names of the districts, payments in lieu of taxes, preacquisition costs associated with land purchases, and debt service on land acquisition bonds. The funds are distributed to the districts under a statutory formula and the districts are not authorized to use these funds for purposes of land acquisition.

Subsection (5) of section 201.15, Florida Statutes, provides for the distribution of documentary stamp tax revenues (about \$51 million annually) to the Conservation and Recreation Lands Trust Fund (CARL TF). No more than \$20 million each year is transferred from the CARL TF to the Land Acquisition Trust Fund to be used for debt service on outstanding bonds. The State Game Trust Fund at the Fish and Wildlife Conservation Commission receives about \$4.9 million annually for land management activities. The remaining funds are to be used for land management of state lands, preacquisition costs, and to acquire fee or less than fee interest to lands as approved by the Board of Trustees of the Internal Improvement Trust Fund.

Subsection (13) of section 201.15, Florida Statutes, requires that the Acquisition and Restoration Council, created under the Florida Forever program and established to review and approve proposed acquisitions and land management plans, is required to review the use of funds deposited into the Water Management Lands Trust Fund and the CARL TF, and to make recommendations to the Legislature concerning the need to repeal the restrictions on the use of those funds.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to evaluate the review performed by the Acquisition and Restoration Council to determine if legislation to repeal certain restrictions on the use of funds transferred to the Water Management Lands Trust Fund or the CARL TF is necessary.

**METHODOLOGY:**

Committee staff will meet with staff of the Division of State Lands at the Department of Environmental Protection and will attend meetings of the Acquisition and Restoration Council to monitor how the Council performs the required review.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Environmental Permits for Dairies*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-397

**BACKGROUND and DESCRIPTION:**

On March 5, 2004, a circuit court judge in Leon County ruled that the Department of Environmental Protection had no authority to enter into agreements to implement best management practices for dairies, particularly those in the Suwannee River Basin. The judge ruled that the dairies should have been required to apply for National Pollutant Discharge Elimination System (NPDES) permits. In addition to administrative agreements with individual dairies, under its statutory authority in s. 403.061, F.S., the department has entered into partnership agreements with other state agencies (including the Department of Agriculture and Consumer Services), federal agencies (including EPA), industry, business associations and interested parties to address a range of water pollution issues throughout a watershed. An example of such an agreement is the Suwannee River Partnership Agreement of 1999.

Legislation to ratify the Suwannee River Partnership Agreement was considered last session but did not pass. The Department of Environmental Protection is appealing the lower court's decision and feels confident that the decision may be reversed.

**PROJECT OBJECTIVE(S):**

The objective is to monitor the outcome of the appeal and based on that outcome, determine what legislative action, if any, is needed.

**METHODOLOGY:**

Committee staff will periodically contact the Department of Environmental Protection on the status of the pending lawsuit.

**INTERIM MONITOR PROJECT TITLE:**

*Reorganization of the Fish and Wildlife Conservation Commission*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-398

**BACKGROUND and DESCRIPTION:**

During the 2004 Regular Session, the Legislature adopted CS/CS/SB 2820, to provide for the reorganization of the Fish and Wildlife Conservation Commission (FWC) in an effort to align and integrate similar functions within the agency, flatten the agency's organizational structure, and improve agency efficiency. The legislation renamed certain administrative units within the FWC and assigned duties, responsibilities and functions to those entities. No additional personnel and no additional funds were either required or provided to the agency to implement the reorganization.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor the agency to determine if the reorganization proposed by the FWC and adopted by the Legislature will actually result in improved agency efficiency and a flattening of the agency's organizational structure.

**METHODOLOGY:**

Substantive committee staff will work closely with appropriations committee staff and agency staff to monitor the implementation of the agency's approved reorganization proposal, and will track the agency's progress in reorganizing to determine if additional legislative changes to the structure of the agency are needed.

**INTERIM MONITOR PROJECT TITLE:**

*Wekiva Parkway and Protection Act*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-399

**BACKGROUND and DESCRIPTION:**

This past session, CS/CS/CS/SB 1214 was passed which implements the recommendations of the Wekiva River Basin Coordinating Committee's Final Report. The bill represented two years of work to come to an agreement to build a much needed parkway in Central Florida in a manner that will protect the environmentally sensitive Wekiva River Watershed.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of the bill and monitor the activities of the Wekiva River Basin Commission. Specifically, staff will be looking for any glitches in the implementation of the legislation that may need to be addressed in the 2005 legislative session.

**METHODOLOGY:**

Committee staff will be periodically meeting with representatives of the Department of Community Affairs, the Department of Environmental Protection, and the St. Johns River Water Management District on the progress of implementing this legislation.

---

# Regulated Industries

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Legalized Gambling in Florida – the Competition in the Marketplace*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-155

**BACKGROUND and DESCRIPTION:**

Horseracing and dogracing were legalized in Florida in 1931, overriding a veto of the legislation by Governor Carlton. The first year there were three horse tracks and six dog tracks that paid a total of \$737,301 in taxes to the state. The taxes were a three percent tax on betting and a 15 percent tax on admissions. Jai alai or pelota was legalized in 1935, harness racing was added in 1947 and quarterhorse racing was allowed in 1949. The State Racing Commission was established in 1931 to supervise, check, and license pari-mutuel betting activities. Its primary duties included checking the making and distribution of pari-mutuel pools and establishing racing dates. The current pari-mutuel industry is regulated by the Division of Pari-Mutuel Wagering in the Department of Business and Professional Regulation. The current tax rates vary by the type of industry. The state collected an estimated \$34.6 million in taxes for FY 2003-04.

The state operated lottery was authorized by amendment to the state constitution in 1986. The Public Education Lottery Act was enacted in 1987; it created the Department of the Lottery to administer the system and authorized the proceeds from the lottery to be distributed for educational purposes. The games began in January 1988. The Lottery transferred an estimated \$918 million to the Education Enhancement Trust Fund for FY 2003-04.

Cruises to Nowhere are gambling ships that depart from and return to a single port without stopping en route at any other port of call. These ships were authorized to begin operating by the federal Johnson Act of 1992. The Cruises to Nowhere industry pays prorated excise taxes on alcoholic beverages, pays sales and use taxes on purchase of tangible personal property, purchases of diesel fuel, admission charges, remits sales tax on the sale of tangible personal property while in Florida waters, and pays corporate income tax.

In 1987 the U.S. Supreme Court confirmed the authority of tribal governments to establish gaming operations independent of state regulation provided that the state in question permits some form of gaming. Congress took up the issue of tribal gaming ultimately culminating in the passage of the Indian Gaming Regulatory Act of 1988. The act allows tribes to participate in gaming activities on tribal land where a tribe meets the requirements of the act. The act divides gaming into three classes. Class I gaming is traditional, ceremonial tribal games, Class II gaming is bingo, keno, and games similar to bingo and keno, and Class III gaming is all other gambling such as casino gambling, pari-mutuel wagering, video games, and the lottery. The act requires a tribe to negotiate a tribal-state compact before participating in Class III gaming on tribal land. No compact has been entered into with the State of Florida. The state currently receives no taxes or fees from gambling on tribal land. The Seminole Indian Tribe and the Miccosukee Indian Tribes have gaming centers in Florida.

Casino gambling is authorized in the nearby states of Mississippi and Louisiana. Dockside gambling operations began in Mississippi in 1992 and at least one Indian tribe has negotiated a compact to conduct casino gambling in Mississippi. Louisiana has casino gambling in New Orleans which opened in 1993. At least three tribal casinos have been opened on tribal lands through compacts entered into with the State of Louisiana.

Cardrooms were authorized by the Legislature in 1996 by chapter 96-364, L.O.F., codified in s. 849.086, F.S., authorizing licensed pari-mutuel permitholders to conduct penny-ante games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game does not exceed \$10 in value. Cardrooms were authorized at licensed pari-mutuel permitholders, except that thoroughbred permitholders were required to choose between operating a cardroom or receiving and rebroadcasting out-of-state races after 7:00 p.m. The annual license fee is \$1000 for the first table and \$500 for each additional table. Each cardroom operator is required to pay a 10 percent tax on its monthly gross receipts and an admission tax of 15 percent of the charge for admission or 10 cents, whichever is greater. Chapter 2003-295, L.O.F., made several changes to the cardroom provisions in s. 849.086, F.S. The act limited the authorized games to games of poker, allowed cardrooms to operate between 12 noon and 12 midnight, and eliminated the requirement that thoroughbred permitholders had to choose between operating a cardroom or receiving and rebroadcasting out-of state races after 7:00 p.m.

The pari-mutuel industry was once the only legalized gambling in Florida, now there is competition for the gaming dollars from different sources, some sources pay taxes and fees to the state and others pay little or nothing to the state.

**PROJECT OBJECTIVE(S):**

The project will provide an overview of the gaming industry in Florida. It will determine the status of gaming industry regarding competition from within the industry in Florida and from other states. It will review and analyze revenue and attendance data over time for the gaming industry in Florida and other states. The project will also review tax and fee collections and disbursements over time for the gaming industry in Florida and compare it with other states, if the data is available. The impact of changes in authorized gaming will be analyzed, if the data is available. Changes to the existing statutes will be recommended, if warranted.

**METHODOLOGY:**

Committee staff will review state and federal statutes, legislative history, and case law on the gaming industry. Staff will meet with staff of the state agencies responsible for overseeing the various gaming provisions in the statutes. Staff will contact the Department of Interior and representatives from the Indian tribes to ascertain the status of Indian gaming in Florida. Other states will be contacted to gather data on the types legalized gaming in those areas and revenue obtained from those sources. Staff will review reports on gaming in Florida and contact national organizations.

**INTERIM PROJECT TITLE:**

*Evaluate the Implementation of the Smoking Ban*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-156

**BACKGROUND and DESCRIPTION:**

The project will review the implementation of ch. 2003-398, L.O.F., which implemented the constitutional amendment banning smoking in indoor work places. The Department of Business and Professional Regulation recently lost a rule challenge to validity of the department's determination of when an establishment is "predominantly" serving alcoholic beverages. Designation as a "stand-alone bar" permits smoking in the establishment. Since both the Department of Business and Professional Regulation and the Department of Health are charged with the implementation and enforcement of the smoking legislation, it is not clear whether the enforcement is consistent between the two agencies. It is also not clear whether local law enforcement agencies can be relied upon to enforce the provisions of the act or whether these agencies need more specific powers and duties. It is also not clear how the smoking prohibition has affected various public places and places of employment, including airport terminals, restaurants, private clubs, and membership associations. Finally, the issue of the accounting requirements for the establishments that are designated as a "stand-alone bar" needs to be reviewed.

**PROJECT OBJECTIVE(S):**

The project will review the status and requirements of the rules adopted to implement the act. It will determine any inconsistent or contradictory enforcement provisions and determine the need to clarify the act to provide necessary guidance to the agencies on meaning of terms. The project will attempt to identify any unintended consequences of the implementation of the act, including problems and costs to various businesses. The project will determine if additional legislative changes are necessary to correct any problems or ambiguity in the law.

**METHODOLOGY:**

Committee staff will review the rules adopted by the Department of Business and Professional Regulation and the Department of Health. Staff will meet with the staff of these agencies, representatives of the affected businesses, and other interested parties.

**INTERIM PROJECT TITLE:**

*Florida Tobacco Settlement and Nonsettling Manufacturers*

**DATE DUE:** November 30, 2004

**PROJECT NUMBER:** 2005-157

**BACKGROUND and DESCRIPTION:**

In 1996 and 1997 the state entered into a landmark \$368.5 billion tobacco settlement agreement in its law suit against several cigarette manufacturers. Subsequent to Florida's settlement, the major tobacco companies settled with 46 states, the District of Columbia, and five U.S. territories in November, 1998, by entering into the Master Settlement Agreement (MSA). Several other tobacco companies have also entered into the MSA, but have not reached a comparable settlement with Florida, while continuing to sell cigarettes in this state.

Because payments under both Florida's settlement agreements and the MSA the settling-manufacturer's agreements are based on market share, the amounts received under the tobacco settlements may be adversely affected by diversionary marketing practices that can supplant domestic tobacco product sales or divert market share to nonsettling tobacco product manufacturers. There is indication that the market share of the original settling manufacturers has been decreasing relative to the market share of the cigarette manufacturers that have not entered into a settlement agreement with Florida or the MSA. This loss in market share may adversely affect the state's revenue from the tobacco settlement agreement.

Two bills were introduced during the 2004 Regular Session to address concerns related to the sale and importation of cigarettes from nonsettling-manufacturers. SB 2112 by Senator Dockery would have imposed a \$5.00 per carton fee on cigarettes from nonsettling-manufacturers and would have imposed additional restrictions and requirements the importation and transportation of cigarettes. SB 2112 passed the Senate, but died without further action. SB 2676 by Senator Haridopolos also would have imposed restrictions and requirements the importation and transportation of cigarettes, provided for the destruction and confiscation of counterfeit cigarettes, and provided criminal penalties for violations involving counterfeit cigarettes. CS/CS/CS/SB 2676 passed the Senate, but died in messages.

**PROJECT OBJECTIVE(S):**

The project will determine if legislative action is necessary to protect the state's tobacco settlement revenue from diminution or significant loss. The project will review the status of Florida's Tobacco Settlement Agreement and the MSA. It will analyze the factors that may adversely affect the payments that Florida is entitled to receive under its settlement with the cigarette manufacturers, including increasing cigarette sales and market share by manufacturers that have not settled with Florida. The project will review the advantages and disadvantages of assessing a fee on cigarettes from the nonsettling-manufacturers. The project will also review the advantages and disadvantages of implementing importation, sales, shipment, and other restrictions on cigarettes.

**METHODOLOGY:**

Committee staff will review Florida's Tobacco Settlement Agreement and the Master Settlement Agreement. Review relevant statutory provisions and rules adopted by the Department of Business and Professional Regulation (DBPR) related to cigarette sales and taxation. Committee staff will meet with the staff of the DBPR, the Florida Attorney General's Office, National Association of Attorneys General, other states, the Department of Financial Services, and representatives of the affected businesses and other interested parties.

**MANDATORY REVIEWS**

*(None)*

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Condominium Complaints*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-3011

**BACKGROUND and DESCRIPTION:**

Prior to the 2004 Legislative Session, the House of Representatives created a Select Committee on Condominium Association Governance to review constituent concerns regarding condominium association practices. The select committee provided numerous recommendations to the Legislature to improve these practices. Recommended statutory changes included: requiring background checks on potential board members; requiring no less than three bids for all contracted work; and creating an Ombudsman's office in the Department of Business and Professional Regulation (DBPR) to monitor elections and meetings and settle disputes.

Numerous bills were introduced during the 2004 session as a result of condominium association practices. Senate Bill 666 by Senator Margolis focused on revising the time within which the Division of Land Sales, Condominiums and Mobile Homes must respond to and take action on complaints. Language was included in the Senate proposed budget to address this issue by reducing the complaint response time from 90 to 30 days. Additional staff was also recommended in the Senate budget to address the increased workload.

The General Appropriations Act for the 2004-05 fiscal year includes proviso language for the Department of Business and Professional Regulation regarding condominium complaints and 14 additional positions. Specifically, the agency is required to report quarterly to the Executive Office of the Governor, the chairs of the House and Senate appropriations committees, the Senate Regulated Industries Committee, the House Business Regulation Committee, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) on the responsibilities defined in s. 718.501, F.S. The report shall include the following data: number of training programs provided for condominium association board members and unit owners; number of complaints received by type; number and percent of complaints acknowledged in writing within 30 days as required by s. 718.501(1)(m), F.S.; number and percent of investigations closed within 90 days as required by s. 718.501(1)(m), F.S.; and the number of investigations that are in excess of the 90-day requirement with reasons that cases required more than 90 days to close.

In addition, the department must evaluate non-jurisdictional complaints to determine if any categories of complaints warrant statutory changes.

**PROJECT OBJECTIVE(S):**

The objective of the project is to improve the condominium complaint review process in order to reduce the number of days it takes to investigate, review and close cases.

**METHODOLOGY:**

Committee staff will collect information and analyze quarterly report data to be provided by the agency and work with the staff of the Appropriation Subcommittee on General Government and

OPPAGA in order to make recommendations for the 2005 session for improving condominium complaint response time.

**INTERIM MONITOR PROJECT TITLE:**

***Funeral and Cemetery Regulation Consolidation***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-3012

**BACKGROUND and DESCRIPTION:**

During the 2004 Regular Legislative Session, the Legislature passed CS/CS/SB 528 by Senator Pruitt that combined the regulation of the death care industry under one board. The death care industry is currently regulated by two boards. The Board of Funeral Directors and Embalmers is part of the Department of Business and Professional Regulation. This board regulates and licenses funeral directors, embalmers, direct disposal facilities, direct disposers, and cinerator facilities pursuant to chs. 455 and 470, F.S. The Board of Funeral and Cemetery Services is in the Department of Financial Services. This board regulates and licenses cemeteries, cemetery companies, monument establishments, and preneed contract sellers pursuant to ch. 497, F.S. Chapter 2004-301, L.O.F., abolishes both boards and creates a new Board of Funeral, Cemetery, and Consumer Services within Department of Financial Services (effective October 1, 2005). The new board will assume regulation and licensing of all individuals and facilities involved in the death care industry. The act transfers the duties and responsibilities relating to the death care industry from Department of Business and Professional Regulation to Department of Financial Services by a type-two transfer. Although the act provides some additional requirements and responsibilities for individuals and entities in the death care industry, the act is expected to have nominal fiscal impact on the private sector. The act also merges the provisions of chs. 470 and 497, F.S., and relevant provisions of ch. 455, F.S., into a single chapter consisting of parts I through VI of ch. 497, F.S.

The act also creates a regulatory scheme for monument establishments, an area of the death care industry left largely unregulated under current law. The act authorizes monument establishments to sell preneed contracts upon licensure. The act addresses several areas relating to consumer concerns in the regulation of funeral and cemetery activities. The act sets statutory standards for grave spaces and sizes, requires the creation of certified land surveys to map the location and identification of grave spaces, provides for the identification of human remains on the inside and outside of burial containers, and clarifies contract cancellation and refund provisions.

**PROJECT OBJECTIVE(S):**

Review the provisions of the act to identify any problems or conflicts with the provisions combining the regulation under the Department of Financial Services.

**METHODOLOGY:**

Committee staff will review the legislation and meet with the staff of the Department of Business and Professional Regulation and the Department of Financial Services, industry representatives, and other interested parties.

**INTERIM MONITOR PROJECT TITLE:**

*Agriculture and Migrant Labor*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-3013

**BACKGROUND and DESCRIPTION:**

Committee Substitute for House Bill 1307 creates the Alfredo Bahena Act, which revises the framework for the regulation of farm labor contractors. It also revises the employer-employee relationship between farm labor contractors and migrant farmworkers, by, among other things, providing a migrant farmworker with certain protections from retaliation by a farm labor contractor. It revises the duties of the Department of Business and Professional Regulation with respect to the certification of registration for farm labor contractors and strengthens its enforcement powers. It sets up a best practices incentive program for farm labor contractors, which would enable the public to identify farm labor contractors who have demonstrated a firm commitment to responsible and safe labor practices. The bill renames and reactivates the Legislative Commission on Migrant and Seasonal Labor, which has not been active for several years. In addition, it renames part III of ch. 450, F.S., currently cited as the “Farm Labor Registration Law,” to the “Farm Labor Contractor Registration Law.” The bill revises the penalties imposed for violations of part III of ch. 450, F.S. For a major violation, a penalty of up to \$2,500 will be assessed. For a minor violation, a warning will be issued for the first violation, and a penalty in increments of \$250 will be assessed for each successive violation up to a maximum of \$2,500.

The bill also creates the “Florida Agricultural Worker Safety Act” to be administered by the Department of Agriculture and Consumer Services (DACS). The intent of the act is to ensure that agricultural workers are protected from and receive information about agricultural pesticides. It specifies that DACS shall continue to operate under the regulations established by the United States Environmental Protection Agency Labeling Requirement for Pesticides and Devices and the Worker Protection Standards, which DACS adopted by rule during the 1995-1996 fiscal year. It requires an agricultural employer to provide agricultural workers and others with specific written information concerning agricultural pesticides within two working days after being requested. It is unlawful for the employer to fail to provide the required pesticide information or to take any retaliatory action against any agricultural worker. The bill requires DACS to monitor all complaints of retaliation and to report its findings to the Legislature on or before October 1, 2008.

There is also provided an appropriation of \$300,000 from the General Revenue Fund for the 2004-2005 fiscal year and four positions to DACS for the purpose of conducting regulatory, training, and outreach activities related to migrant labor.

**PROJECT OBJECTIVE(S):**

Monitor implementation of the regulatory functions of the “Farm Labor Contractor Registration Law” by the Department of Business and Professional Regulation and, in conjunction with the staff of Committee on Agriculture, the implementation of the “Florida Agricultural Worker Safety Act” by the Department of Agriculture and Consumer Services.

**METHODOLOGY:**

Committee staff will monitor meetings and reports of the Department of Business and Professional Regulation pertaining to responsibilities of the department and will coordinate with the staff of the

Committee on Agriculture to monitor meetings and reports by Department of Agriculture and Consumer Services pertaining to responsibilities of that agency.

---

# Transportation

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Points Deduction for Convictions and Review of Driver Improvement Courses*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-158

**BACKGROUND and DESCRIPTION:**

Florida law establishes a point system for evaluation of convictions of violations of motor vehicle laws or ordinances to be used for the determination of the continuing qualification of any person to operate a motor vehicle. The Department of Highway Safety and Motor Vehicles (DHSMV) is authorized to suspend the license of any person upon showing of its records or other good and sufficient evidence the licensee has been convicted of violations of motor vehicle laws or ordinances amounting to 12 or more points as determined by the point system. The suspension must be for a period of not more than one year.

Section 318.14(9), F.S., permits a person cited for certain traffic infractions in Florida to elect to attend a basic driver improvement course in lieu of a court appearance; however, this opportunity is not offered to a person convicted of violations of motor vehicle laws or ordinances. If a person attends a driver improvement course in Florida, adjudication is withheld, points are not assessed on the offender's driving record, and the civil penalty is reduced by 18 percent (provided the person has not made such an election in the previous twelve months). A person may only elect to attend a driver improvement course in lieu of court appearance five times in a lifetime.

**PROJECT OBJECTIVE(S):**

This project will examine the feasibility of allowing persons cited and convicted for certain traffic infractions to receive points deduction by attending a driver improvement course. If necessary, proposed legislation will be offered for consideration by the Senate.

**METHODOLOGY:**

Staff will meet periodically with representatives from DHSMV and other stakeholders for input. In addition, staff will review current laws and agency rules, statutory provisions from other jurisdictions, departmental reports, and other relevant data.

**INTERIM PROJECT TITLE:**

*Creating Regional Approaches to Transportation Infrastructure Development*

**DATE DUE:** October 31, 2004

**PROJECT NUMBER:** 2005-159

**BACKGROUND and DESCRIPTION:**

Virtually every aspect of Florida's economy and quality of life is affected by the efficient movement of people, goods, and services. The planning and construction of Florida's transportation

system is largely conducted by various public bodies at the local, county, and state levels, often resulting in a parochial view of the transportation network with little deference paid to influences outside of a given planning body's boundaries. The Legislature has, in recent years, acknowledged the need for an increased regional approach to the planning and construction of the state's transportation system.

**PROJECT OBJECTIVE(S):**

This report will investigate how the Legislature may enhance Florida's economy and quality of life by creating incentives for regional coordination in planning and constructing transportation projects.

**METHODOLOGY:**

Staff will review existing transportation programs and practices through research and interviews with local, state, and federal agencies.

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b>
---------------------------------------

<i>Florida High Speed Rail Authority</i>
--

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-3014

**BACKGROUND and DESCRIPTION:**

Sections 341.8201 – 341.842, F.S., also known as the Florida High Speed Rail Authority Act, provides for the creation of the Florida High Speed Rail Authority for the purpose of planning, designing, financing, constructing, maintaining, owning, operating, administering, and managing a high speed rail system in the state. The authority consists of nine voting members, three members each appointed by the President of the Senate, The Speaker of the House of Representatives, and the Governor.

**PROJECT OBJECTIVE(S):**

This project will update the members on the progress of the Florida High Speed Rail Authority.

**METHODOLOGY:**

Committee staff will monitor the progress of all authority meetings during the interim.

**INTERIM MONITOR PROJECT TITLE:**

*Direct to Customer Delivery of Specialty License Plates*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-3015

**BACKGROUND and DESCRIPTION:**

During the 2004 Session, the Legislature adopted CS/CS/SB 2020, 2<sup>nd</sup> Engrossed, which, in part, revises the specialty license plate requirements. Specifically, the Department of Highway Safety and Motor Vehicles (DHSMV) is required, in cooperation with representatives of local tax collectors and Prison Rehabilitative Industries and Diversified Enterprises, Inc., at Union Correctional Facility, to study the feasibility of using direct-to-customer distribution of specialty license plates. The study is to include an analysis of the potential operations and economic impact of various manufacturing, inventory control and product distribution technologies on the specialty license plate program. The DHSMV is required to report the results of the study to the President of the Senate and the Speaker of the House of Representatives no later than December 31, 2004.

**PROJECT OBJECTIVE(S):**

This project will monitor the progress of DHSMV's study on the practicability of using a direct-to-customer distribution of specialty license plates, identify potential policy options and report the findings to the Senate.

**METHODOLOGY:**

Committee staff will meet periodically with appropriate agency staff and monitor the progress of all related DHSMV meetings during the interim.

**INTERIM MONITOR PROJECT TITLE:**

*Strategic Intermodal System*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-3016

**BACKGROUND and DESCRIPTION:**

In the 2003 session, the Florida Legislature established Florida's Strategic Intermodal System (SIS) representing a fundamental shift in the way Florida views the development of – and makes investments in – its transportation system. During the past two years, the Florida Department of Transportation (FDOT) and its partners recommended, and the Legislature and Governor adopted, objective criteria for designating the SIS. In the 2004 session, the Legislature reiterated its transportation funding prerogative by authorizing the funding of SIS projects.

**PROJECT OBJECTIVE(S):**

This project will monitor the FDOT's efforts in developing the Initial SIS Strategic Plan.

**METHODOLOGY:**

Staff will meet periodically with key agency staff and monitor scheduled meetings and workshops of the Statewide Intermodal Transportation Advisory Council (SITAC), FDOT, and other partners. The

Appropriations Subcommittee on Transportation and Economic Development will be assisting with this project.

**INTERIM MONITOR PROJECT TITLE:**  
*Transportation Equity Act - 21 Reauthorization*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-3017

**BACKGROUND and DESCRIPTION:**

The Transportation Equity Act for the 21st Century (TEA-21) was enacted June 9, 1998. TEA-21 authorizes the Federal surface transportation programs for highways, highway safety, and transit for the 6-year period 1998-2003. This act was scheduled to expire on October 30, 2003. However, the bill has been extended until July 31, 2004 and the reauthorization of this act is currently under review.

**PROJECT OBJECTIVE(S):**

This project will inform committee members of proposed changes to TEA-21, and inform the members of any necessary changes to Florida Statutes to conform to federal law.

**METHODOLOGY:**

Staff will review proposed changes to TEA-21 and review recommendations made by Florida's TEA-21 Reauthorization Working Group. The Appropriations Subcommittee on Transportation and Economic Development will be assisting with this project.

**INTERIM MONITOR PROJECT TITLE:**  
*Continued Revenue Source for Trauma Care*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2005-3018

**BACKGROUND and DESCRIPTION:**

During the 2004 Session, the Legislature enacted SB 1762, which requires the Department of Health (DOH) to complete an assessment of the trauma system in Florida and report its findings to the Governor, the President of the Senate, the Speaker of the House or Representatives and the substantive legislative committees by February 1, 2005. The DOH must review the existing trauma system and determine whether it is effective in providing trauma care uniformly throughout Florida. The comprehensive assessment must contain specified elements, which includes making recommendations regarding a continued revenue source which must include a local participation requirement.

**PROJECT OBJECTIVE(S):**

This project will monitor the progress and recommendations required to be submitted to the Legislature pursuant to SB 1762 relating to the possibility of increasing fines for traffic violations as a continued revenue source for trauma care.

**METHODOLOGY:**

Staff will review the progress of all related DOH meetings during the interim and monitor recommendations made by DOH.