

# Interim Work Plan 2006 Session



Tom Lee, President



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# Agriculture

## INTERIM PROJECTS

*(None)*

## MANDATORY REVIEWS

<b>INTERIM MANDATORY REVIEW TITLE:</b>
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<i>Open Government Sunset Review of s. 403.067(7)(d)2, F.S., Agricultural Records</i>
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**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-201

**BACKGROUND and DESCRIPTION:**

Section 403.067(7)(d)2, F.S., provides for the confidentiality of individual agricultural records that are otherwise not public records when such records are submitted to the Department of Agriculture and Consumer Services as part of Best Management Practices (BMP) implementation. Given the competitive nature of agriculture, it is important for producers to have confidence that their participation in a BMP program will not compromise their competitiveness by revealing unique aspects of their operation.

**PROJECT OBJECTIVE(S):**

A review will be made of subparagraph 403.067(7)(d)2, F.S., which is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, F.S., for the purpose of making a recommendation to the Legislature as to whether the subparagraph should be repealed or saved from repeal through reenactment or amended.

**METHODOLOGY:**

Staff will review the statutory history of the subparagraph, as well as its application since legislative enactment. The relevance of the statute will be reviewed with both governmental agencies and private entities affected by the statute.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*HB 1712 Relating to the Powers and Duties of the Department of Agriculture*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-301

**BACKGROUND and DESCRIPTION:**

HB 1712, 2<sup>nd</sup> Engrossed, addresses the following issues related to agriculture and the powers and duties of the Department of Agriculture and Consumer Services (department):

- Clarifies the department’s jurisdiction over bison raised on farm operations and the Fish and Wildlife Conservation Commission’s jurisdiction regarding the exhibition or display of bison;
- Clarifies that property leased or subleased by the department, which is used for citrus inspections, shall have salvage value for ad valorem tax purposes;
- Amends the definition of “material safety data sheet” to allow dissemination of information through electronic means;
- Removes or changes outdated references;
- Establishes an environmental stewardship program which agricultural producers could voluntarily join;
- Amends the membership of the Florida Agriculture Center and Horse Park Authority;
- Standardizes procedures statewide regarding the inspection of consumer products and exempts the department from any on-line procurement program;
- Requires the department to investigate complaints relating to the Florida Agricultural Worker Safety Act;
- Requires special permits for persons wishing to engage in biomass plantings;
- Revises provisions regarding civil liability for prescribed burns; and
- Defines the term “invasive plant.”

**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 pertaining to implementation of the newly enacted provisions of the bill.

**INTERIM MONITOR PROJECT TITLE:**

*Agriculture Products Dealers*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-302

**BACKGROUND and DESCRIPTION:**

House Bill 1231, 1<sup>st</sup> Engrossed, makes changes to the Florida License and Bond Law to enable the license and bond program to better serve Florida's agricultural industry and to make the program more self-sufficient. A review was conducted jointly by the House Agriculture Committee staff, the Department of Agriculture and Consumer Services (department), and representatives of Florida's largest agricultural associations. They recommended the following changes to the program which passed in HB 1231, 1<sup>st</sup> Engrossed:

- Remove tropical foliage from the list of exemptions and adds timber and timber by-products;
- Require a surety company to give the department a 30-day written notice of cancellation by certified mail before a bond can be cancelled;
- Increase the maximum license fee from \$300 to \$500;
- Increase the maximum license fee for additional locations from \$50 to \$100;
- Clarify that no bond or certificate of deposit may be in an amount less than \$5,000 and that the bond or certificate of deposit becomes the property of the department;
- Allow the department to issue a conditional license to an applicant who is unable to provide a single bond or certificate of deposit in the full amount required;
- Clarify the conditions under which a complaint may be filed against a dealer in agricultural products;
- Increase the minimum amount for filing a complaint from \$250 to \$500 and requires the complainant to pay a \$50 filing fee to the department. If the complainant is successful in proving the claim, the \$50 is reimbursed;
- Increase the maximum fine for violation of any of the law's provisions from \$1,000 to \$2,500;
- Increases the continuing violation fine from \$50 to \$100 per day; and
- Increase the late payment penalty from "not to exceed \$35" to "not to exceed \$100."
- Appropriate \$285,000 to the department for four full-time-equivalent positions.

**PROJECT OBJECTIVE(S):**

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

**METHODOLOGY:**

Staff will monitor the activities of the Department of Agriculture and Consumer Services pertaining to implementation of the newly enacted provisions of the bill.

**INTERIM MONITOR PROJECT TITLE:**  
***Beef Market Development Program***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-303

**BACKGROUND and DESCRIPTION:**

The Legislature established the Florida Beef Council, Inc. (Council) in order to provide Florida beef producers with a program to promote 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.

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. A challenge to the constitutionality of the federal program was upheld by lower federal courts and an appeal was granted and argued before the U.S. Supreme Court on December 8, 2004. A decision is expected before the 2006 Regular Session of the Legislature is convened.

**INTERIM MONITOR PROJECT TITLE:**  
***Citrus Canker Eradication and Compensation***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-304

**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 survey showed that an area of about 50 square miles contained many citrus canker infected trees. Since that time, much has transpired in the Citrus Canker Eradication Program's (CCEP) effort to protect Florida citrus from this disease. The size and scope of the CCEP has expanded as the disease has spread to significant portions of South Florida, in part due to the 2004 Hurricane Season.

In addition to the eradication effort, the state has provided compensation to homeowners that have had their trees removed under the CCEP. Lawsuits have been filed regarding the issue of compensation, with the State Supreme Court ruling that the amount of compensation is a judicial function and not a legislative function, and the amount set by statute does not limit what a court may order. This case (*Patchen v. State of Florida, Department of Agriculture and Consumer Services, Florida Supreme Court Case No. SC02-1291*) was decided on April 14, 2005 and is not final until a motion for rehearing is disposed of.

**PROJECT OBJECTIVE(S):**

Monitor continued CCEP implementation and compensation to property owners that lose trees under the program.

**METHODOLOGY:**

Staff will monitor the activities of the Department of Agriculture and Consumer Services and its responsibility to eradicate citrus canker from the state and to compensate property owners that lose trees under the program. This monitor activity will be conducted jointly with staff of the General Government Appropriations Committee.

**INTERIM MONITOR PROJECT TITLE:**

*Citrus Department/Districts*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-305

**BACKGROUND and DESCRIPTION:**

The legislature customarily redistricts the Florida Citrus Commission every 5 years, based on the total number of boxes of citrus produced from each of the districts during the prior 5-year period (s. 601.04, F.S.).

Senate Bill 516, 1<sup>st</sup> Engrossed, reorganizes the citrus districts of the state, assigning counties within the citrus production area to one of four separate citrus districts. Under prior law, the citrus producing counties of the state were divided into three citrus districts.

The Florida Department of Citrus is governed by a board designated as the “Florida Citrus Commission.” The commission is composed of 12 members, three from each of the four citrus fruit districts. Members are appointed by the Governor and confirmed by the Senate.

**PROJECT OBJECTIVE(S):**

Monitor the activities of the Florida Citrus Commission as implementation of the newly aligned citrus districts proceed.

**METHODOLOGY:**

Staff will monitor meetings and reports of the Florida Citrus Commission as it implements newly aligned citrus districts.

**INTERIM MONITOR PROJECT TITLE:**  
*Sales Tax Exemption/Farm Equipment*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-306

**BACKGROUND and DESCRIPTION:**

Florida's sales and use tax is a 6 percent levy on retail sales of most tangible personal property, admission, transient lodgings, commercial rentals, and motor vehicles. The statutes currently provide more than 200 exemptions from the sales tax.

House Bill 1643, 1<sup>st</sup> Engrossed, eliminates the 2.5 percent sales tax that is imposed on purchases of power farm equipment that is used exclusively in agricultural production on a farm or in forestry and fire prevention work.

**PROJECT OBJECTIVE(S):**

Monitor the implementation of the provisions of the bill to determine its impact on governmental tax collections and the benefits to the private sector.

**METHODOLOGY:**

Staff will monitor sales tax collected on sales of exempt farm equipment and will monitor the actions by organizations that represent agriculture to inform farmers of the revised exemption.

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# Banking and Insurance

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Florida's Workers' Compensation Insurance Rating System*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-101

**BACKGROUND and DESCRIPTION:**

Due to growing concerns regarding the availability and affordability of workers' compensation insurance in Florida, the Legislature substantially revised many aspects of the workers' compensation law in 2003. Because of this legislation, rates for new and renewal policies were reduced by 14.0 percent, effective October 1, 2003. Despite these reforms, Florida still ranks as having the third highest premiums of all of the states. Prior to the 2003 reforms, Florida was ranked second in the nation.

Florida is one of only eight states that continues to use what is known as an "administered pricing" system under which a rating bureau or statistical agency files the full workers' compensation rate, subject to the prior approval of the insurance regulatory agency. In contrast, 37 states have adopted a "loss cost" system under which a rating bureau or statistical agency files the portion of the rate that is needed to pay losses, while each insurer must independently file a "loss cost multiplier" that reflects the insurer's general expense and profit portion of the rate. In recent years, the trend among states has been to move from an administered pricing system to a loss cost system and similar variations intended to rely more heavily on competitive market forces in the setting of workers' compensation rates. Greater competition in the workers' compensation insurance market could ultimately increase the availability and affordability of coverage.

Availability and affordability issues continue to exist in the voluntary market particularly for small firms, new firms, and firms engaged in construction. If employers are unable to secure coverage in the voluntary market, they must purchase coverage from the Florida Workers' Compensation Joint Underwriting Association (JUA), the insurer of last resort. As expected, rates in the JUA are higher than rates in the voluntary market; however, premiums in Florida's JUA are significantly higher than residual markets or JUAs in other states.

**PROJECT OBJECTIVE(S):**

The interim project will:

- Evaluate whether Florida's current administered pricing rating system promotes competition among insurers compared to loss cost systems used in 37 other states; and
- Compare rate regulation and the administration of the Florida's Workers' Compensation Joint Underwriting Association (JUAs) to JUAs or residual markets in other states.

**METHODOLOGY:**

Committee staff will review and compare laws and rules relating to rate regulation in the voluntary market and the residual market in Florida and other states. Staff, in consultation with independent actuaries and other experts, will interview regulators and other stakeholders, gather premium data, and

evaluate economic data and trends regarding market conditions in order to compare Florida's rate regulation, level of competition in the marketplace, and affordability of coverage with other states.

**INTERIM PROJECT TITLE:**

*Florida's Motor Vehicle No-Fault Law*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-102

**BACKGROUND and DESCRIPTION:**

In 2003, legislation was passed in Special Session A (SB 32-A; ch. 2003-411, L.O.F.) which provided that effective October 1, 2007, the Motor Vehicle No-Fault Law is repealed, unless reenacted by the Legislature during the 2006 Regular Session and such reenactment becomes law to take effect for policies issued or renewed on or after October 1, 2006. The law authorized insurers to provide, in all policies issued or renewed after October 1, 2006, that such policies may terminate on or after October 1, 2007.

The Florida Motor Vehicle No-Fault Law (No-Fault) was enacted 34 years ago and has provided valuable benefits over the years to consumers in this state. The principle underlying the no-fault or personal injury protection (PIP) automobile insurance system is a trade-off of one benefit for another, by assuring payment of medical and wage loss benefits, regardless of fault, in return for a limitation on the right to sue for non-economic damages for non-permanent injuries. However, as stated in the legislative intent language of SB 32-A, "the goals behind the adoption of the no-fault law in 1971, which were to quickly and efficiently compensate accident victims regardless of fault, to reduce the volume of lawsuits by eliminating minor injuries from the tort system, and to reduce overall motor vehicle insurance costs, have been significantly compromised due to the fraud and abuse that has permeated the PIP insurance market."

In 1998, 2001, and 2003, the Legislature enacted significant PIP insurance reforms. However, according to many stakeholders in the automobile insurance industry, these reforms have not gone far enough in resolving the problems of fraud, abuse, and the proliferation of litigation occurring within the No-Fault system.

**PROJECT OBJECTIVE(S):**

This project will assess how well the Motor Vehicle No-Fault Law is working in Florida, compared to automobile insurance systems in other states, according to specified criteria including, but not limited to, affordability; availability; provision of benefits (including litigation costs); adequacy of coverage; and loss costs.

**METHODOLOGY:**

Staff will analyze premium and loss cost data on automobile insurance in Florida, compared to countrywide data, obtained from the Office of Insurance Regulation. Staff will review automobile insurance information and interview representatives from national and state research institutions, medical and attorney associations, insurance companies, universities, government agencies, and constituent groups. Information will be collected from other states that have a No-Fault automobile insurance system as well as states that have a traditional fault system. Staff will also survey insurers

representing over 50 percent of the market (premium volume) writing private passenger automobile insurance in Florida, plus insurers that are representative of nonstandard companies that write higher-risk drivers.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 560.4041, F.S., Deferred Presentment Providers*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-202

**BACKGROUND and DESCRIPTION:**

Section 560.4041, F.S., provides that the identifying information contained in the database maintained by the Office of Financial Regulation (OFR) for deferred presentment providers is confidential and exempt from the Public Records Law, except that such information may be accessed by deferred presentment providers to verify whether any deferred presentment transactions are outstanding for a particular person and by the OFR for the purpose of maintaining the database. This section is repealed October 2, 2006, unless reviewed and reenacted by the Legislature pursuant to the Open Government Sunset Review Act.

The “Deferred Presentment Act” (part IV of ch. 560, F.S), enacted in 2001, provides for the regulation of “deferred presentment transactions,” often referred to as “payday loans,” by which a person provides cash in exchange for another person’s check and agrees to hold that check for a specified period of time prior to depositing or redeeming the check. The act prohibits a deferred presentment provider (provider) from entering into a transaction with someone who has an outstanding transaction with any provider or who had a previous transaction closed for less than 24 hours. [s. 560.404(19), F.S.] To verify this information, the provider must access a centralized database maintained by OFR. As currently provided, the identifying information contained in the database is confidential and exempt from the Public Records Law, except that it may be accessed by deferred presentment providers to verify whether any transactions are outstanding and by OFR for maintaining the database. When first enacted in 2001, the Legislature found that the exemption was necessary to prevent identity theft and related crimes and to prevent borrowers from being put at risk from the threat of fraud. The Legislature also found that the availability of such information would be an unwarranted invasion of the privacy of the individual.

**PROJECT OBJECTIVE(S):**

To review the public records exemption for identifying information contained in the database maintained by the Office of Financial Regulation for deferred presentment providers, using the criteria specified in the Open Government Sunset Review Act, and to determine whether the exemption should be retained, repealed, or revised.

**METHODOLOGY:**

Staff will review prior legislation related to this exemption, interview representatives of the Office of Financial Regulation, deferred presentment providers, and the First Amendment Foundation, and apply the criteria of the Open Government Sunset Review Act.

**INTERIM MANDATORY REVIEW TITLE:**

***Open Government Sunset Review of s. 626.921, F.S., Surplus Lines***

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-203

**BACKGROUND and DESCRIPTION:**

Subsection 626.921(8), F.S., provides that information furnished by a surplus lines insurance agent to the Department of Financial Services (“department”), or contained in the records of the agent subject to examination by the department, is confidential and exempt from the Public Records Law if the disclosure would reveal information specific to a particular policy or policyholder. The section further provides that information furnished to the Florida Surplus Lines Service Office (i.e., from a surplus lines insurer or agent) is confidential, and exempt from the Public Records Law if the disclosure would reveal information specific to a particular policy or policyholder. This subsection is repealed October 2, 2006, unless reviewed, and reenacted by the Legislature pursuant to the Open Government Sunset Review Act.

The purpose of the Florida Surplus Lines Law is to provide access to insurance coverage that cannot be obtained from insurers authorized to sell insurance in Florida. The law establishes requirements for approval of eligible surplus lines insurers, licensure of surplus lines agents, and conditions for “exporting” insurance coverage to a surplus lines insurer. The Florida Surplus Lines Service Office (“Service Office”) is a statutorily established association that acts as a “self-regulating organization” to permit better access by consumers to surplus lines insurers. The Chief Financial Officer appoints the board of the Service Office, and the department must approve its plan of operation. All surplus lines agents are required to be members of the association.

The Service Office is required to receive, record, and review all surplus lines insurance policies; prepare monthly reports for the department; deliver to each surplus lines agent quarterly reports of the agent’s business; and collect and remit to the department the surplus lines tax. Surplus lines agents are required to submit to the Service Office such information on each surplus lines insurance policy as required in the plan of operation. [s. 626.921(2), F.S.] By order of the department, surplus lines agents are required to submit specific information to the Service Office on each policy written. If requested by the department or the Service Office, surplus lines agents are required to submit copies of policies, applications, and other specified information related to surplus lines policies written.

**PROJECT OBJECTIVE(S):**

To review the public records exemption for information specific to a particular surplus lines policy or policyholder that is submitted to the Department of Financial Services or to the Florida Surplus Lines Service Office, using the criteria specified in the Open Government Sunset Review Act, and to determine whether the exemption should be retained, repealed, or revised.

**METHODOLOGY:**

Staff will review prior legislation related to this exemption, interview representatives of the Department of Financial Services, surplus lines insurers and agents, the Surplus Lines Service Office, and, the First Amendment Foundation, and apply the criteria of the Open Government Sunset Review Act.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Citizens Property Insurance Corporation and the Task Force on Long-Term Solutions for Florida's Hurricane Insurance Market*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-307

**BACKGROUND and DESCRIPTION:**

Citizens Property Insurance Corporation (“Citizens”), the state-created insurer of last resort for windstorm coverage and residential property insurance coverage, has over 825,000 policies in force, with over \$200 billion in insured value, as of April 30, 2005, making it the second largest homeowners insurer in the state. Policy growth in Citizens is a reflection of the inability or unwillingness of insurers in the private (or “voluntary”) market to provide adequate insurance capacity in the state. The 2004 hurricanes resulted in a deficit to Citizens of about \$516 million, which is expected to result in an assessment equal to about a 7 percent premium surcharge on all property insurance policyholders in the state. Citizens’ problems in securing sufficient numbers of adjusters caused delays in settling its 118,000 hurricane claims and resulted in about 4,000 complaints to the Department of Financial Services, nearly double the number filed against the largest carrier in the state.

In the 2004 Session, the Legislature enacted significant property insurance reforms, including changes to the board of governors of Citizens (CS/SB 1486). Currently, a 7-member board is appointed by the Chief Financial Officer (CFO); but, effective August 1, 2005, the Governor, CFO, President of the Senate, and Speaker of the House will each appoint 2 members of a new 8-member board. The legislation also requires the Auditor General to conduct an operational audit of Citizens by February 1, 2006, including an analysis of its infrastructure, customer service, claims handling, take-out bonus programs, and financing arrangements, among other issues. The act also requires the board of Citizens to submit a report to the Legislature by February 1, 2006, regarding its policy growth, depopulation efforts, and actions to improve the availability of coverage in the voluntary market.

The 2004 act also creates the Task Force on Long-Term Solutions for Florida’s Hurricane Insurance Market, to make recommendations relating to the creation and maintenance of insurance capacity in the private sector and public sector which is sufficient to ensure that all property owners in this state are able to obtain appropriate insurance coverage for hurricane losses. The Task Force is required to research particular issues related to this purpose, including issues specific to the operation and role of Citizens, with a final report due April 1, 2006.

**PROJECT OBJECTIVE(S):**

To monitor and review: 1) the operational audit of Citizens by the Auditor General, 2) the report and recommendations of the board of governors of Citizens, and 3) the Task Force for Long-Term Solutions for Florida’s Hurricane Insurance Market.

**METHODOLOGY:**

Staff will attend meetings of the Task Force and board meetings of Citizens, and review and analyze the operational audit of Citizens by the Auditor General, the report and recommendations of the board of

governors of Citizens, and the report and recommendations of the Task Force. Reports will be presented to the committee during the interim as the work of each of these groups' progresses.

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# Children and Families

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Clarifying the Baker Act Requirements as they Relate to Children's Receiving and Crisis Stabilization Units*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-103

**BACKGROUND and DESCRIPTION:**

A report provided by the Florida Mental Health Institute (*Special Report of Repeated Baker Act Examinations Statewide, March 2004*), indicates that on an annual basis, there is an increasing number of children who experience involuntary psychiatric evaluations, which may result in the child being admitted for mental health crisis treatment. This report indicates that during fiscal year 2000- 2001 approximately 8,000 children were evaluated, but by fiscal year 2002-2003, this number had increased to over 11,500 children.

*During* fiscal year 2002-2003, more than 6,000 children receiving involuntary examinations were admitted to children's crisis stabilization units (CCSUs). Twenty-nine percent (1,752), of these children experienced multiple admissions, and of those children admitted to CCSUs, nine percent (543) were admitted three or more times.

Concerns have been raised regarding the increasing utilization of children's crisis services. As a result of the concerns, the Department of Children and Families developed the capacity to track and monitor the utilization of these CCSUs and convened a workgroup in October 2004, to further examine the issues around them. One of the workgroup's findings indicated that statutory provisions relating to children's mental health services, particularly relating to CCSUs, are unclear and may be open to interpretation. The provisions applicable to CCSUs are located in various sections of ch. 394, F.S., and ch. 39, F.S. The requirements for children are frequently intermingled with those for adults, and there are no rules that provide clarification of these provisions.

**PROJECT OBJECTIVE(S):**

Identify the ambiguities in the current laws governing the utilization of children's receiving and crisis *stabilization* units and make recommendations for clarifying language.

**METHODOLOGY:**

Committee staff will:

- Review current applicable statutes and rules;
- Examine current practices with particular attention to variation across districts;
- Review available data to determine utilization and trends;
- Attend meetings related to topic; and
- Conduct interviews with relevant stakeholders.

**INTERIM PROJECT TITLE:**

*Comparison of Florida's Permanency Provisions for Foster Children to Federal Requirements*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-104

**BACKGROUND and DESCRIPTION:**

The federal Adoptions and Safe Families Act (ASFA), 42 U.S.C. ss. 620-679, was signed into law on November 19, 1997. However, the regulations implementing ASFA were not effective until March of 2000. Florida's permanency provisions for foster children were in place long before the enactment of ASFA and were, for the most part, last amended in the 2000 legislative session (Chapter 2000-139, Laws of Florida). The provisions are designed to meet the same goals as ASFA but differ in the details in ways which have caused confusion among practitioners and which may have affected federal funding for foster care. Compliance with the provisions of ASFA and its regulations is a factor in determining federal funding for foster care programs.

**PROJECT OBJECTIVE(S):**

To determine whether changes need to be made to conform Florida law to federal law regarding permanency for children in foster care and, if changes need to be made, to recommend what those changes are.

**METHODOLOGY:**

Review relevant federal statutes and regulations and compare these to Florida law. Engage stakeholders in evaluating recommendations to change Florida law. If needed, draft amendments to Florida law to conform to relevant federal law.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 61.1827, F.S., Child Support Services*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-204

**BACKGROUND and DESCRIPTION:**

Section 61.1827, F.S., exempts from public disclosure identifying information relating to applicants for or recipients of child support services in the possession of a non-Title IV-D county child support enforcement agency except for the purposes specified in that section.

**PROJECT OBJECTIVE(S):**

Under s. 119.15, F.S., the Open Government Sunset Review Act, exemptions to s. 24, Art. I of the State Constitution are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature pursuant to the standards established in the act. The project objective is to review s. 61.1827, F.S., to determine if it meets the standards established in the Open Government Sunset Review Act and to recommend whether the exemption should be saved from repeal or permitted to sunset.

**METHODOLOGY:**

Staff will review the standards established in the Open Government Sunset Review Act, review relevant case law, and survey county child support enforcement agencies to determine whether the exemption should be retained, retained with amendments, or allowed to sunset.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Continued Implementation of Community Based Care*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-308

**BACKGROUND and DESCRIPTION:**

As of April 2005, the entire State of Florida is covered by community-based care (CBC) providers for services to children who have been abused, neglected, or abandoned and are under the supervision of the Department of Children and Families (DCF). The move to community-based care has, according to DCF, improved performance in the areas of adoption, foster home recruitment, volunteers, and community support. At the same time, however, two lead agencies have had to be replaced and at least two others are considered “fragile” by the department. OPPAGA has done a series of studies of the implementation of community based care.

**PROJECT OBJECTIVE(S):**

To keep abreast of the continuing development of CBC agencies and the transfer of service responsibilities to these agencies statewide.

**METHODOLOGY:**

Review documents, meet with stakeholders, meet with DCF officials, attend DCIP Summit (if held this year).

**INTERIM MONITOR PROJECT TITLE:**

*Continued Issues Related to the Independent Living Program, Including 2005 Legislative Changes and IRS Interpretation of the Nature of the Road to Independence Scholarship*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-309

**BACKGROUND and DESCRIPTION:**

With the expansion of the Chafee Foster Care Independent Living Program and funding available, the 2002 Legislature created s. 409.1451, F.S., which established the framework for Florida’s independent living transition services for foster care youth and young adults formerly in foster care. As this new system of services has been implemented and more youth served, the needs of the youth who are aging out of foster care has received greater attention, as has the manner in which the current independent living transition services program has addressed these needs. The 2005 Legislature made several changes (CS/CS/CS/SB 1314) which will affect the Independent Living Program. These include

authorizing a child in foster care to petition the court to retain jurisdiction until the child's 19<sup>th</sup> birthday, encouraging the statewide Guardian ad Litem program to provide more representation of teenagers in foster care, requiring the Department of Children and Families (DCF) to enroll former foster children in the Florida KidCare program if they do not otherwise have health insurance or not eligible for Medicaid and requiring the Independent Living Services Advisory Council to make recommendations about health insurance coverage for young adults in the independent living program who are not eligible for Medicaid. Additionally, during the 2005 legislative session, advocates raised the issue of the taxability of funds paid to recipients of the Road to Independency Scholarship Program.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of the program revisions contained in CS/CS/CS/SB 1314 and to determine whether the federal Internal Revenue Service (IRS) considers the funds paid to recipients of the Road to Independence Scholarship Programs to be income, taxable under federal law.

**METHODOLOGY:**

The methodology will include:

- Meeting with staff of the Department of Children and Families;
- Meeting with the Independent Living Services Advisory Council;
- Reviewing pertinent documents relative to the implementation of the program revisions and performance of the required reviews; and
- Requesting information from the IRS as to the tax status of funds paid to recipients of the Road to Independence Scholarship Program.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of Economic Self-Sufficiency Modernization*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-310

**BACKGROUND and DESCRIPTION:**

The Department of Children and Families (DCF) has proposed and has begun implementation of "re-engineering" its delivery of services in the Economic Self-Sufficiency (ESS) program. This re-engineering involves staff reductions, partnerships with private non-profit agencies to deliver services formerly provided by DCF staff, and the extensive use of technology in new ways. The department has reported savings of \$36.8 million in FY 2003-2004 and FY 2004-2005 while at the same time improving or maintaining services delivery levels.

**PROJECT OBJECTIVE(S):**

To observe and evaluate the progress of the ESS re-engineering, focusing primarily on the maintenance of service delivery.

**METHODOLOGY:**

Review of documents, interviews with stakeholders, local field visits.

**INTERIM MONITOR PROJECT TITLE:**

***Implementation of New Funding for the Statewide Guardian Ad Litem Program***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-311

**BACKGROUND and DESCRIPTION:**

On January 1, 2004, the Guardian ad Litem Program was transferred out of the state court system and established as a statewide office to oversee the 21 local programs currently involving almost 5,000 volunteer guardians. Although progress has already been experienced by the program under its new structure and leadership, one of the program's critical goals continues to be to more closely meet its statutory direction to serve all children in the dependency system at the earliest possible time in the process [s. 39.822(1), F.S.]. According to the program's 2004 Progress Report, only about 50 percent of children who need a guardian ad litem are appointed one, a statistic that has remained fairly constant for a number of years.

In addition to volunteer guardians, attorneys are critical to the program and the children it serves and are involved in several ways: as legal support to program volunteers, as volunteer guardians ad litem, and as attorneys ad litem who are appointed by the court, if available, when a child's legal circumstances are such that an attorney ad litem could best serve the child's best interests.

In addition to two local projects, the 2005-2006 General Appropriations Act appropriated \$3.1 million in new funding for workload growth for the Statewide Guardian ad Litem Program, the largest single-year increase in the program's funding since its inception.

**PROJECT OBJECTIVE(S):**

To monitor the use of the new funding by the Statewide Guardian ad Litem Program, including the program's ability to increase the number of children represented by volunteer guardians and by attorneys ad litem.

To monitor the effect of the program's increased funding on outcomes for children in the dependency program, including such outcomes as reduced length of stay, increased educational achievement, and improvements in successful transition to adulthood for those children aging out of the system.

**METHODOLOGY:**

Committee staff will meet with staff of the Statewide Guardian ad Litem Program, judges, Community-Based Care organizations, advocacy attorneys and others to assess the perceived impact of the program's increased funding and will review data, reports and other information to gauge the effect of the new funding on numbers of children served and on various desired program goals.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Involuntary Outpatient Commitment Process and its Impact on the Publicly Funded Mental Health System*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-312

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature amended ch. 394, Part I, F.S., to include provisions for an involuntary outpatient commitment process (ch. 2004-385, L.O.F.). These provisions authorize the court to order involuntary outpatient treatment 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.

As a part of this legislation, the Department of Children and Families (DCF) was provided rulemaking authority in order to manage the involuntary outpatient commitment process, licensed mental health counselors were added to the list of professionals authorized to initiate involuntary examinations, and DCF was directed to coordinate a Baker Act Pilot project evaluation. To date, the department has developed a rule governing the involuntary process that became effective April 4, 2005 and provided for related training. Eighteen training sessions have been provided to 875 individuals across the state that specifically addressed the outpatient commitment process. Additionally, the pilot evaluation has been completed.

The involuntary outpatient commitment process is in an early stage of implementation and has been utilized only on three occasions. During the statewide training sessions, a number of issues were noted that are associated with the current language. However, it is unknown if these issues will present significant operational problems as the practice increases.

**PROJECT OBJECTIVE(S):**

The objective of this interim monitoring project is to track the implementation of the involuntary outpatient commitment process and identify issues associated with its utilization and the impact this process has on the current mental health system.

**METHODOLOGY:**

Committee staff will attend meetings with appropriate persons whenever possible. Staff will also review action plans, contracts, reports, data, and other documentation pertaining to involuntary outpatient treatment.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of a Single Managing Entity to Provide Substance Abuse Services to Child Protective Services Recipients in Department of Children and Families Districts 4 and 12*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-313

**BACKGROUND and DESCRIPTION:**

In 2003, legislation was passed amending s. 394.9082(8) and (9), F.S., to provide for the development of a behavioral health service delivery strategy in Districts 4 and 12 (ch. 2003-769, L.O.F.) which, unlike the other behavioral health strategies, included only substance abuse services. The Department of Children and Family Services (DCF or the department) was directed to work with community agencies to establish a single managing entity for these districts to be accountable for the delivery of substance abuse services to child protective services recipients. The purpose of this initiative was to enhance the coordination of substance abuse services with community-based care agencies and the department [s. 394.9082(8), F.S.].

The department was directed to work with stakeholders to develop a phase-in of services, provide technical assistance to assure district and provider readiness, contract with a managing entity, and fully implement the project within two years of its initiation. North East Florida Addictions Network (NEFAN) was selected as the single managing entity, and a first year implementation contract was in place by October 2004.

To date, the predominant activities of the network have been focused on organizing substance abuse providers and addressing system issues. Although the first status report has been completed by the department, the statutorily required evaluation to be conducted by the Florida Mental Health Institute has not yet been conducted. The success of this pilot has not yet been determined. Despite the brief amount of time that this strategy has been underway, legislation was presented during the 2005 session directing its expansion to Districts 2, 3, and 13.

**PROJECT OBJECTIVE(S):**

- To monitor the continued implementation of the District 4 and 12 project and of any evaluations of its success in meeting the substance abuse needs of families in the child protection system.
- To assess the advantages and disadvantages of expanding the current pilot.

**METHODOLOGY:**

Committee staff will track the implementation of this project by meeting with involved parties periodically and by reviewing documentation and reports that are generated as a result of this project. Data will be obtained as available relating to the provision of services and improved outcomes for recipients of child protective services.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of Senate Bill 1476 Relating to Contracting Practices in the Department of Children and Families*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-314

**BACKGROUND and DESCRIPTION:**

Senate Bill 1476, enacted during the 2005 legislative session, contains a number of provisions designed to improve accountability within the Department of Children and Families (DCF) contracting process. This legislation includes new requirements for contract monitoring and management which are expected to be put in place during 2005-2006.

**PROJECT OBJECTIVE(S):**

To determine the extent of the implementation process for the provisions of Senate Bill 1476.

**METHODOLOGY:**

Review on-line reports by DCF, attend implementation meetings, review contracting documents, and meet with DCF (and, possibly, vendor) staff.

**INTERIM MONITOR PROJECT TITLE:**

*Initiatives Taken by the Department of Children and Families Relating to the Use of Psychotropic Medication, and Implementation of Senate Bill 1090.*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-315

**BACKGROUND and DESCRIPTION:**

In 2004, the department studied the use of psychotropic medication with children in its custody over a specified period of time. As a result of this study, it was determined that 13 percent of all children in state custody were receiving at least one psychotropic medication. Further analysis indicated that of the children receiving at least one psychotropic medication, eight percent were being treated with three or more medications concurrently. Findings also indicated that three and one-half percent of the children in state custody who were age five and under received at least one psychotropic medication. A surprising finding was that 25 percent of the children living in a foster care setting were being treated with psychotropic medications, a rate five times higher than that for the general population of Medicaid eligible children.

During the past year, the department has engaged in several initiatives to better identify children in its care who are on psychotropic medications and to determine the appropriateness of this treatment. These initiatives include:

- Partnering with the Agency for Health Care Administration, the Florida Mental Health Institute and Comprehensive NeuroScience, Inc.(CNS), to assess psychotropic medication usage with children against defined quality indicators;
- Updating the HomeSafenet database to include information about the types of medications that children are receiving;

- Implementing targeted in-depth reviews of certain child-welfare settings across the state to assess the appropriateness and effectiveness of current medication practices; and
- Providing feedback to practitioners when medication practices exceed certain parameters.

During the 2005 session, the Legislature passed SB 1090 which specified the requirements the department must follow when a child in its custody is placed on psychotropic medications as well as provided other safeguards for children who are prescribed psychotropic medications.

**PROJECT OBJECTIVE(S):**

The objectives of this interim monitoring project:

- Track the implementation of initiatives relating to the use of psychotropic medication;
- Determine the impact of these initiatives on the provision of psychotropic medications to children in state custody; and
- Examine the department's implementation of SB 1090.

**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 Florida Mental Health Institute, and the CNS to determine the status of these initiatives and determine their impact. Whenever possible, committee staff will attend, as an observer, any meetings convened relating to these initiatives.

**INTERIM MONITOR PROJECT TITLE:**

*Ongoing Implementation of the Florida Substance Abuse and Mental Health Corporation, Inc.*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-316

**BACKGROUND and DESCRIPTION:**

The Legislature created the Florida Substance Abuse and Mental Health Corporation, Inc., in 2003 to oversee the publicly funded substance abuse and mental health systems (ch. 2003-279, L.O.F.). This corporation was directed to provide oversight and policy recommendations for the substance abuse and mental health systems. The corporation was also directed to work cooperatively with the Department of Children and Family Services (DCF or 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.

Further direction was provided by the Legislature in 2004 instructing the corporation to analyze the transition of Medicaid recipients to a managed care system for the provision of behavioral health care services. Chapter 2004-269, L.O.F., directed the corporation to analyze managed care contracts, the impact of these contracts on the state's publicly funded mental health service delivery system and to include this information in its 2004 report to the Legislature. As a result of this direction, the corporation focused much of its work in 2004 on addressing the impact of pending managed care contracts.

The corporation completed its required annual report in December 2004, addressing findings pertaining to the implementation of a managed care system and a number of the mandates originating during the 2003 legislative session. The Office of Program Policy Analysis and Government Accountability (OPPAGA), in conjunction with the Auditor General, recently provided a report evaluating the corporation's success in meeting its mandates (*The Substance Abuse and Mental Health Corporation Has Not Addressed Its Responsibilities Fully*, Report No. 05-17, March, 2005). Although the corporation has made some progress in addressing its statutory responsibilities, the report by OPPAGA indicates that most of the corporation's objectives have not been satisfactorily met.

The section of law authorizing the corporation expires on October 1, 2006, unless it is reviewed and re-enacted by the Legislature prior to that date. A final report providing an evaluation of the corporation must be submitted from OPPAGA to the Governor and Legislature by February 1, 2006. The final report must include recommendations concerning the future of the corporation and the structure of the state's mental health and substance abuse authority and their placement.

**PROJECT OBJECTIVE(S):**

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 to oversee whether the implementation of this corporation result in increased integration and effectiveness for the substance abuse and mental health systems.

To monitor the impact of the reorganization of the substance abuse and mental health programs on the service delivery system.

**METHODOLOGY:**

Committee staff will meet with members of the corporation and with department and other agency staff periodically 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 work with OPPAGA and attend as an observer, any meetings that are scheduled by the corporation including those with the department and other agencies.

**INTERIM MONITOR PROJECT TITLE:**

*Revision of Child Support Guidelines*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-317

**BACKGROUND and DESCRIPTION:**

Federal and state law (s. 61.30(16), F.S.) requires that the child support guidelines be reviewed every four years. During the last five 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 the revision was not undertaken during the 2005 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 will 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:**

*The Sexually Violent Predator Program*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-318

**BACKGROUND and DESCRIPTION:**

The Florida Civil Commitment Center houses 475 sex offenders who have finished their prison sentences but are deemed too dangerous to release. These offenders are held for "care and treatment" under ch. 394, Part V, F.S., (Involuntary Civil Commitment of Sexually Violent Predators) which allows for civil confinement of sexual predators until their mental conditions change to the point that they are no longer a danger to society. This program is known as the Sexually Violent Predator (SVP) program.

The Department of Children and Family Services contracts with Liberty Behavioral Healthcare to operate the SVP program. Due to a number of concerns regarding the operation of this program, the department has called for immediate corrective actions and has indicated that when the current contract expires on June 30, 2005, the program will be rebid. During the 2005 Legislative session \$2.8 million was appropriated to provide additional security and treatment staff for the SVP program, and the department was authorized under SB 1476 to enter into a contract to establish a new facility.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of contractual and programmatic changes to the Sexually Violent Predator Program.

**METHODOLOGY:**

Committee staff will attend meetings with appropriate persons whenever possible. Staff will also review action plans, contracts, reports, data, and other documentation pertaining to the SVP program.

**INTERIM MONITOR PROJECT TITLE:**

*Transitioning the Program Serving Persons with Disabilities to the Agency for Persons with Disabilities*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-319

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature passed legislation that removed the Developmental Disabilities Program from the Department of Children and Family Services (the department or DCF) and established the Agency for Persons with Disabilities (the agency or APD). Effective October 1, 2004, the Developmental Disabilities Program and the Developmental Disabilities Institutions Program of the department were transferred to APD. The agency is administratively housed within the department but is established as a separate budget entity and is not subject to the control, supervision, or the direction of the department.

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

In order to accomplish the transition, a plan was developed by APD with input from partners and stakeholders and submitted to the Executive Office of the Governor and the Legislature. As a component of the transfer, APD entered 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 determine the current status of the transfer of the Developmental Disabilities Program paying particular attention to fiscal management issues and constituent concerns.

**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, and the Agency for Persons with Disabilities to determine the status of activities that are required by law. 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.

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# Commerce and Consumer Services

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Review of the Florida Black Business Investment Board and the Black Business Investments Corporations*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-105

**BACKGROUND and DESCRIPTION:**

In 1985, the Legislature enacted the Florida Small and Minority Business Assistance Act. (Part IV, ch. 288, F.S.) This act created the Florida Black Business Investment Board (BBIB) to: establish a partnership between the public and private sector to leverage state funds resources from private sector; increase opportunities for employment of blacks, as well as the population in general; provide role models and establish business networks for aspiring black entrepreneurs; increase the number of qualified black business enterprises and improve the welfare of economically depressed neighborhoods; and take measures to increase access of black businesses to both debt and equity capital.

This mission was implemented through the BBIB, eight regional Black Business Investment Corporations (BBIC) and one Statewide BBIC. Between 1985 and 2001, \$8,975,000 in state funds were distributed to BBICs for investment in local black business enterprises.

In 1994, the Legislature mandated the BBIB establish, among other things, certification criteria for new or existing BBICs. (s. 288.7091, F.S., as created by s. 1, ch. 94-274, L.O.F.) In 2003, the Legislature required the BBIB to certify each BBIC at least every 5 years. (s. 2, ch. 2003-268, L.O.F.)

In 2004, budget proviso required that release of appropriated funds to the BBICs was contingent on certification by the Office of Tourism, Trade and Economic Development (OTTED) that the corporation is meeting contractual obligations required to carry out its statutory mission. (s. 2480H of ch. 2004-268, L.O.F.) A similar provision is included in the 2005 budget. (s. 2496 of SB 2600er.) Additionally, OTTED reports that because the BBICs have failed to comply with statutory reporting requirements relating to loan valuations and job creation, appropriated funds have not been released from the BBIB to the BBICs for the last three years.

In October 2003, the Office of Chief Inspector General (IG) issued an audit of the BBIB and BBICs. The purpose of the audit was to assess the overall effectiveness and efficiency of the operations of the board and corporations and to determine whether they were operating in accordance with the purposes for which they were statutorily created. The audit “revealed a breakdown in accountability” and found that the BBICs were not meeting program objectives. Audit findings included, in part, that the organizational structure of the BBIB and BBICs should be restructured; that the BBICs performance measurement data was not reliable, properly collected, documented, verified, and reported; that BBIC portfolios could not be accurately determined; and that the BBIB and BBICs did not adequately monitor sub-recipient auditing and reporting activities.

In response to the IG report and the statutory recertification requirement, the BBIB formed a special task force review each of the BBICs to determine whether to recommend each BBIC for recertification.

The task force, which included accountants, bankers, economic developers, consultants, and BBIB members, met throughout 2004. At this time, the task force recommendations have not been issued and none of the eight BBICs have been recertified.

Concurrent with the recertification process, the BBIB and BBICs discussed termination of the BBIB/BBIC Membership Agreements. The BBICs requested that they be allowed to operate independent of the BBIB. The BBICs also requested that they continue to use previously appropriated funds for legislatively-mandated purposes. The agreements between the BBIB and the eight BBICs were formally terminated by the BBIB on March 10, 2005, with the intent of attempting to negotiate new agreements with the BBICs individually.

At this time, no renegotiated contracts have been executed, nor has any consensus been reached between the BBIB and the BBICs regarding the requirements for certification of the BBICs pursuant to the law. However, OTTED and the BBIB are again pursuing a strategy to recertify the BBICs and develop a new organization relationship to execute the program objectives.

**PROJECT OBJECTIVE(S):**

To review and evaluate the responsibilities of OTTED, the BBIB and the BBICs in implementing program objectives; to identify the impediments to successful operation of the program pursuant to the current statutory framework; and to develop strategies to improve the program.

**METHODOLOGY:**

To accomplish these objections, staff of the Committees on Commerce and Consumer Services and Transportation and Economic Development will review BBIB and BBIC program audits (or similar reports), and documents relating to the past two years' reporting and communications between the BBIB and the BBICs, along with all relevant documentation provided by OTTED. Staff will also interview OTTED, BBIB and BBIC representatives. In addition, staff will consult with staff with the Office of the Auditor General.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 288.075(2), F.S., Economic Development Agencies*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-205

**BACKGROUND and DESCRIPTION:**

Section 288.075, F.S., provides that, upon request, certain business records provided to economic development agencies are exempt 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 business records include plans, intentions, or interests of private businesses to locate, relocate, or expand any business activity in the state. This public records exemption is subject to review by the Legislature under the Open Government Sunset Review Act, as it expires on October 2, 2006, unless reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

The purpose of this project is to review the public records exemption for certain business records provided to economic development agencies, using the criteria established in the Open Government Sunset Review Act, and recommend whether the exemption should be reenacted.

**METHODOLOGY:**

Through communications with businesses and economic development agencies, determine the types of materials covered by this public records exemption, issues related to the administration of the exemption, the effect and significance of the exemption, any public purposes or goals of the exemption, and whether the information in the records can be obtained by alternative means.

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of ss. 414.106, 414.295 & 445.007(9), F.S., Temporary Cash Assistance and Work Force Meetings*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-206

**BACKGROUND and DESCRIPTION:**

Chapter 2001-160, L.O.F., created three sections of the Florida Statutes to exempt meetings and records relating to temporary cash assistance (TCA) from the requirements of the Public Records Law (s. 119.07, F.S.), the Public Meetings Law (s. 286.011, F.S.), and from s. 24, Art. I of the State Constitution. These public records and meetings exemptions are subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and will be repealed on October 2, 2006 unless reviewed and saved from repeal through reenactment by the Legislature.

Section 414.106, F.S., exempts any meeting or portion of a meeting held by the Department of Children and Families, Workforce Florida, Inc., (WFI) or a regional workforce board or local committee created under s. 445.007, F.S., (regional workforce board meetings exemption) where personal identifying information contained in records related to TCA is discussed from the requirements of the Public Meetings Law if the information identifies a participant, a participant's family, or a participant's family or household member.

Section 414.295, F.S., specifically declares all information that would identify a TCA participant, the participant's family, or a participant's family or household member confidential and exempt from the Public Records Law when held by: the Department of Children and Families; the Agency for Workforce Innovation; WFI; the Department of Management Services; the Department of Health; the Department of Revenue; the Department of Education; a regional workforce board or local committee created under s. 445.007, F.S. This section allows release of TCA-related records only for specific purposes.

Section 445.007, F.S., exempts any meeting or portion of a meeting held by WFI or a regional workforce board or local committee created under that statutory section where personal identifying information contained in TCA-related records is discussed from the requirements of the Public Meetings Law.

**PROJECT OBJECTIVE(S):**

Determine whether the exemptions from the Public Records and Public Meetings Laws contained in ss. 414.106, 414.295 and 445.007(12), F.S., should be continued or modified under the criteria specified in the Open Government Sunset Review Act of 1995.

**METHODOLOGY:**

Through communications with affected entities, determine the types of materials covered by these public records and public meetings exemptions, issues related to the administration of the exemption, the effect and significance of the exemption, any public purposes or goals of the exemption, and whether the information in the records can be obtained by alternative means.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Governor's Initiatives Related to Emerging Space-Related Economic Development*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-320

**BACKGROUND and DESCRIPTION:**

In 2004, President Bush unveiled a new national Vision for Space. Part of this plan calls for retiring the Space Shuttle (located at Kennedy Space Station) in 2010, which will be replaced by the Crew Exploration Vehicle (CEV). The Florida Space Authority has teamed with the Economic Development Commission of Florida's Space Coast and Enterprise Florida, Inc., to create a CEV Capture Team, to ensure Florida is well positioned to capture the research, development, manufacturing, launch, and maintenance of the CEV and its related activities. The FY 2005-06 budget includes funds for research, development, and production activities associated with NASA's CEV, Systems Engineering and Integration activities, and other space exploration initiatives.

**PROJECT OBJECTIVE(S):**

To monitor space related economic development projects in general, and specifically the progress of the CEV capture team.

**METHODOLOGY:**

Communicate with the Office of Tourism, Trade, and Economic Development and the state's space organizations to monitor the progress of space-related economic development. Attend meetings of the CEV capture team, statewide space organizations, and, if created, the Governor's space commission.

**INTERIM MONITOR PROJECT TITLE:**

*Establishment of a Consumer Service Hyperlink on MyFlorida.com*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-321

**BACKGROUND and DESCRIPTION:**

If approved by the Governor, CS/CS/CS/SB 1520 directs the State Technology Office (STO) to provide a link to the Department of Agriculture and Consumer Services (DACS) website regarding state government consumer services and a link to the Florida 2-1-1 Network, into the state's official Internet website.

**PROJECT OBJECTIVE(S):**

Monitor the establishment of the consumer services and the Florida 2-1-1 Network hyper-links on myflorida.com to identify any issues that may require legislative action.

**METHODOLOGY:**

Communicate with staff in STO and DACS to identify issues related to the establishment of the hyper-links.

**INTERIM MONITOR PROJECT TITLE:**

*Reenactment of the Florida Enterprise Zone Act*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-322

**BACKGROUND and DESCRIPTION:**

If approved by the Governor, CS/CS/SB 1725 will reenact and extend the Florida Enterprise Zone program, and it's related various state and local enterprise zone incentives, until 2015. Additionally, this legislation will:

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

**PROJECT OBJECTIVE(S):**

Monitor the implementation of the reenacted Enterprise Zone Program and identify issues related to implementation of the legislation.

**METHODOLOGY:**

Communicate with staff in the Governor's Office of Tourism, Trade and Economic Development to identify issues related to implementation of the legislation.

**INTERIM MONITOR PROJECT TITLE:**

*Scripps Biomedical Research Institute and Campus*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-323

**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 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 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.

**INTERIM MONITOR PROJECT TITLE:**

*The Statewide Implementation of the Passport to Economic Progress Program*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-324

**BACKGROUND and DESCRIPTION:**

During the 2005 Legislative Session, Florida lawmakers approved CS/CS/SB 1910, which allows for the expansion statewide of a welfare transition pilot program, the Passport to Economic Progress Program. The pilot program was created in 2001 to serve Hillsborough, Manatee and Sarasota counties.

The program was designed to assist individuals receiving temporary cash assistance (TCA) or temporary assistance for needy families (TANF) to move from dependence on state funding to financial independence and self-sufficiency. The program provided transitional childcare, transportation, educational and employment training as well as incentive bonuses to participants.

A January 2005 Workforce Florida, Inc., report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, contained preliminary data showing that Passport Program participants were obtaining more substantial gains in income and employment retention than others who were also transitioning from welfare to work.

**PROJECT OBJECTIVE(S):**

Monitor the statewide implementation of the Passport to Economic Progress Program by Workforce Florida, Inc. (WFI), the Agency for Workforce Innovation (AWI) and regional workforce boards to determine if there are any issues that require legislative action.

**METHODOLOGY:**

Communicate with staff of AWI and the regional workforce boards to identify implementation issues.



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# Communications and Public Utilities

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Review of Access by Communications Companies to Customers in Multitenant Environments*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-106

**BACKGROUND and DESCRIPTION:**

Telephone service was deregulated in Florida, in 1995, and nationally, in 1996, to allow for competition in that market and for further development in the communications markets resulting from emerging technologies and innovation. In February 1999, the Florida Public Service Commission issued its Report on Access by Telecommunications companies in Multitenant Environments. The report considered the promotion of a competitive telecommunications market to end users, consistency with any applicable federal requirements, landlord property rights and other considerations relevant to multitenant environments. Legislation has not been adopted to address issues raised in the report.

**PROJECT OBJECTIVE(S):**

The objective of this project is to determine which issues are relevant in today's market, identify other issues, and recommend any needed statutory changes.

**METHODOLOGY:**

Staff will review the Public Service Commission's February 1999 Report on Access by Telecommunications Companies to Customers in Multitenant Environments, prior legislation, and legislation from other states. Staff will review relevant case law and will also meet with affected industry representatives and commission staff.

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Electric Utility Storm Infrastructure Recovery Statute*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-325

**BACKGROUND and DESCRIPTION:**

During August and September 2004, Hurricanes Charley, Frances, Ivan, and Jeanne struck Florida, causing power outages and damage throughout the state. In order to restore power, the utilities were required to expend significantly more than their respective storm damage reserves. In the 2005 Regular

Session, legislation was passed to give the utilities and the Public Service Commission a new method of recovering costs of restoring electric generation and transmission systems after a hurricane or named tropical storm.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor implementation of this legislation and determine how well the statute works and whether any revisions to the statute are necessary.

**METHODOLOGY:**

Monitor the Public Service Commission proceedings.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Revised Statutes on Lifeline Assistance*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-326

**BACKGROUND and DESCRIPTION:**

During the 2005 Regular Session, legislation was passed relating to Lifeline Assistance. Eligible Telecommunications Carriers are required to provide Lifeline Assistance subscribers certain features and services to insure that qualified customers retain service. The federal poverty income guideline eligibility criterion was raised to 135 percent from 125 percent. The Public Service Commission is required to adopt rules implementing the provisions of the legislation.

**PROJECT OBJECTIVE(S):**

The objective of this project is to determine the affects of the legislation on Lifeline Assistance enrollment.

**METHODOLOGY:**

Monitor the Public Service Commission's rulemaking proceedings and review its Report on Lifeline Assistance.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Revised Statutes on Public Service Commission Ethics and Selection of Commissioners*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-327

**BACKGROUND and DESCRIPTION:**

During the 2005 Regular Session, legislation was passed revising the standards of conduct for Public Service Commissioners and modifying the process for selection of commissioners. Pending events will have bearing on these statutes. In 2004, complaints were filed with the Commission on Ethics concerning alleged violations of the standard of conduct statute by several Public Service Commissioners. The Commission on Ethics found probable cause to believe that the commissioners had

committed a violation and should soon hold a hearing for a final determination in each of these cases. Additionally, the terms of two Public Service Commissioners end in January 2006, and the selection process to fill these vacancies will begin soon.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor the proceedings of the Commission on Ethics, any additional complaints alleging a violation of the commissioner standard of conduct, and the selection of the two commissioners and determine whether any further statutory revisions are necessary.

**METHODOLOGY:**

Monitor the Commission on Ethics hearings, any further complaints against commissioners, and the meetings of the Public Service Commission Nominating Council and the Committee on Public Service Commission Oversight.

**INTERIM MONITOR PROJECT TITLE:**

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

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-328

**BACKGROUND and DESCRIPTION:**

On May 23, 2003, the Tele-Competition Innovation and Infrastructure Enhancement Act (ch. 2003-32) 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. Oral argument was held on March 11, 2005. A decision is expected at any time.

On March 2, 2004, the District of Columbia Circuit Court of Appeals (DC Circuit) vacated rules of the Federal Communications Commission (FCC) relating to impairment determinations of certain network elements. The DC Circuit temporarily stated 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. On February 4, 2005, the FCC released its Order on Remand (TRRO) which included its Final Unbundling Rules responding to the DC Circuit's opinion.

This project will monitor the implementation of the Act at the state level and 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.

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# Community Affairs

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Land Use Board of Appeals*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-107

**BACKGROUND and DESCRIPTION:**

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 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).

During the 2004-2005 Legislative Interim, the Senate Comprehensive Planning Committee staff conducted an interim study on land use decisions in Florida, and the possibility of developing a specialized land use board of appeals. 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. However, no action was taken on this issue during the 2005 Legislative Session.

**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. The project objectives shall 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.

**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.

<b>INTERIM PROJECT TITLE:</b> <i>Growth Management Glitch Bill</i>
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**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-108

**BACKGROUND and DESCRIPTION:**

With more than 1,000 new residents moving to Florida daily, the state’s population is projected to grow by over 5 million in the next 17 years. To address the critical infrastructure and planning needed to accommodate this new growth as it relates to roads, schools and water, the 2005 Legislature enacted (CS/CS/CS for SB 360). The bill creates and amends numerous provisions relating to school, water and transportation concurrency, the development of regional impact program and other significant portions of the local government comprehensive planning process. The bill also provides \$1.5 billion in fiscal year 2005-2006 for infrastructure funding for transportation, water and schools, with recurring funding of \$750 million annually thereafter. Unfortunately, because of the timing and magnitude of these growth management legislative changes several technical errors have been identified.

**PROJECT OBJECTIVE(S):**

The objective of the project is to review and assess the legislation and to identify and specify any issues that may need to be addressed in the 2006 legislative session.

**METHODOLOGY:**

Committee staff will consult with interested parties and the Departments of Community Affairs, Transportation, and Environmental Protection to determine what changes need to be implemented.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 119.07(6)(i)2., F.S., Human Resource Directors*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-207

**BACKGROUND and DESCRIPTION:**

This is a mandatory Open Government Sunset Review of section 119.07(6)(i)2., F.S. That section exempts home addresses, social security numbers, and photographs or current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel.

**PROJECT OBJECTIVE(S):**

The objective of the project is to determine if the exemption meets the requirements established in s. 119.15, F.S., which outlines the standards that exemptions to open government requirements must meet in order to be reenacted.

**METHODOLOGY:**

A survey of local governments and water management districts will be conducted to determine the need for the exemption. Further, the exemption will be tested under the specific standards set forth in s. 119.15, F.S., to determine if the exemption meets the requirements.

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 119.07(6)(i)5., F.S., Code Enforcement Officers*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-208

**BACKGROUND and DESCRIPTION:**

This is a mandatory Open Government Sunset Review of s. 119.07(6)(i)5., F.S. That section exempts home addresses, social security numbers, and photographs or current or former code

enforcement officers from subsection (1) and s. 24(a), Art. 1 of the State Constitution. This section extends the same exemption to the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel.

**PROJECT OBJECTIVE(S):**

The objective of the project is to determine if the exemption meets the requirements established in s. 119.15, F.S., which outlines the standards that exemptions to open government requirements must meet in order to be reenacted.

**METHODOLOGY:**

A survey of local governments will be conducted to determine the need for the exemption. Further, the exemption will be tested under the specific standards set forth in s. 119.15, F.S., to determine if the exemption meets the requirements.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Base Realignment and Closure (2005 BRAC)*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-329

**BACKGROUND and DESCRIPTION:**

Only tourism and agriculture contribute more to Florida's economy than the 21 military installations and three unified commands that are situated in 13 counties throughout this state. That contribution, including associated defense industries, recently estimated at \$44 billion statewide, has a significant impact on the economic well being of each local military community and the state as a whole.

The Department of Defense officially began the present base realignment and closure (BRAC) process in January 2002. On May 13, 2005, Defense Secretary Donald Rumsfeld submitted to the Federal BRAC Commission a list of bases, installations, and missions throughout the United States recommended for closure or realignment. The Department's recommendations reflect a net gain of 2,757 military and civilian positions for Florida. Eglin Air Force Base and Naval Air Station Jacksonville are well positioned to benefit from the proposed realignment. However, the Department's recommendations included a significant net reduction of positions in Pensacola. During the next four months the Federal BRAC Commission will conduct hearings throughout the nation before making its final recommendations to the President in September 2005.

**PROJECT OBJECTIVE(S):**

Monitor the deliberations of the Federal BRAC Commission and Florida's efforts to ensure that the state's military installations are not adversely impacted. Depending on the final outcome of the BRAC process, staff will identify potential policy issues to be addressed during the 2006 Legislative Session.

**METHODOLOGY:**

Staff will maintain contact with the Office of Tourism, Trade, and Economic Development and other interested parties, attend relevant meetings of the Governor's BRAC Advisory Council, and review reports or similar documents related to the 2005 BRAC process.

**INTERIM MONITOR PROJECT TITLE:**

*Century Commission for a Sustainable Florida*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-330

**BACKGROUND and DESCRIPTION:**

CS/CS/CS for SB 360 created s. 163.3247, F.S., establishing the Century Commission as a standing body to help Florida's citizens envision and plan their collective future with an eye towards both 25-year and 50-year horizons. The purpose of the commission is to develop and recommend policies, plans, action steps and strategies to assist in achieving the vision. The commission must also address the increasing population while maintaining the natural, historical, cultural and manmade qualities that comprise Florida.

**PROJECT OBJECTIVE(S):**

The objective is to monitor the meetings of the Century Commission, and to determine if any specific issues need to be addressed in the 2006 legislative session.

**METHODOLOGY:**

Staff will monitor the Century Commission meetings, including all data prepared by state and private agencies.

**INTERIM MONITOR PROJECT TITLE:**

*Florida Building Code*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-331

**BACKGROUND and DESCRIPTION:**

Building codes establish minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity, mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, exit systems, safe materials, energy efficiency, and accessibility by persons with physical disabilities. In doing so, these regulations protect lives and property, promote innovation and new technology, and help to ensure economic viability through the availability of safe and affordable buildings and structures.

During the 2005 Legislative Session, the Legislature enacted CS/CS/CS/CS for SB 442, which would implement a number of significant changes to the Florida Building Code and related building safety requirements. Most notably, the bill revises Code adoption and amendment procedures, modified Code-related education and training initiatives, and established programs to expedite the review of

decisions by local building code officials. The bill incorporates numerous recommendations proposed by industry, the Building Code Commission, and key governmental stakeholders.

The bill also directs the Building Code Commission and interested parties to address several issues of continuing concern. For example, the bill requires the Commission to review proposed modifications to the Code which would mandate the use of certain plywood for roofing. Similarly, the bill directs the Commission to convene a workgroup composed of specified stakeholders to study the validation process for state product approval. Finally, the bill directs the Commission to review the damage resulting from Hurricane Ivan and make recommendations to the Legislature regarding changes to the Code.

**PROJECT OBJECTIVE(S):**

Monitor the efforts of the Commission and the various groups and identify any specific issues which need to be addressed during the 2006 Legislative Session.

**METHODOLOGY:**

Staff will follow the deliberations of the Commission and the associated working groups, attend relevant meetings of those entities; and examine the resulting reports or similar documents.

**INTERIM MONITOR PROJECT TITLE:**

*Florida Impact Fee Review Task Force*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-332

**BACKGROUND and DESCRIPTION:**

CS/CS/CS for SB 360 created the Florida Impact Fee Review Task Force to survey and review current use of impact fees as a method of financing local infrastructure. Generally speaking, “impact fees” are financial contributions (i.e., money, land, etc.) imposed by communities on developers or builders to pay for capital improvements within the community which are necessary to service/accommodate the new development. Impact fees, however, must be reasonable. To ensure fairness, impact fees can only be assessed (1) for capital improvements that are a direct consequence of the new development and (2) in an amount not exceed an the proportionate share required to serve the new development. In other words, a developer cannot be required to pay a disproportionate share of improvements that also benefit other persons (i.e., a bridge on the other side of the county).

The Legislative Committee on Intergovernmental Relations will serve as staff for the task force, and a report must be issued by February 1, 2006.

**PROJECT OBJECTIVE(S):**

The objective is to monitor the meetings of the Florida Impact Fee Review Task Force.

**METHODOLOGY:**

Staff will monitor the meetings of the Florida Impact Fee Review Task Force, and review other information related to impact fees.

**INTERIM MONITOR PROJECT TITLE:**

*School Concurrency Task Force*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-333

**BACKGROUND and DESCRIPTION:**

By December 2005, the 11-member School Concurrency Task Force must issue a report recommending policies to ensure that schools are built and available when the expected demands of growth produce the need for new schools. The task force must review the new requirements for school concurrency and make recommendations to streamline the process and procedures for implementation. Additionally, the task force will examine the methodology and processes for funding construction of public schools.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to monitor the meetings of the School Concurrency Task Force and to identify any specific issues that may need to be addressed in the 2006 legislative session.

**METHODOLOGY:**

Staff will monitor the meetings of the School Concurrency Task Force, and review other information related to school concurrency.

**INTERIM MONITOR PROJECT TITLE:**

*Working Waterfronts*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-334

**BACKGROUND and DESCRIPTION:**

A diversified waterfront industry, both commercial and recreational, is an important component of the state economy. The recreational marine industry represents a total economic output of over \$14.1 billion and is responsible for over 180,000 jobs in the state. Commercial fishing remains a \$1.1 billion industry employing more than 13,000 Floridians. However, changes in Florida's economy and land use are affecting the economic viability of many recreational and commercial working waterfronts. Public access to marinas and boat ramps may be diminishing due to the fact that the capacity to launch and moor boats has not kept pace with increases in annual vessel registrations. In addition, there is evidence that, for both commercial-fishing and recreational working waterfronts, conversion of waterfront property from public to private use is contributing to this loss of public access to waterways.

During the 2005 Regular Session the Legislature enacted HB 955 (SB 1316) which addressed a range of issues relating to recreational and commercial waterfront property and the preservation of public boating access to waterways. More specifically, the bill: requires counties to include strategies for preserving recreational and commercial working waterfronts within their comprehensive plans; directs agencies to adopt programs to expedite the processing of certain permits for marina projects that reserve a portion of the boat slips for public access; provides technical assistance and support to waterfront communities through the creation of the Waterfronts Florida Program within the Department

of Community Affairs; directs DEP to evaluate the current use of state parks for recreational boating and identify appropriate locations for the future expansion of public boating access; and authorizes local governments to establish a property tax deferral program for qualifying recreational and commercial working waterfront properties.

**PROJECT OBJECTIVE(S):**

Monitor the implementation of this legislation and its impact on Florida's working waterfronts and identify potential follow-up issues for the 2006 Legislative Session.

**METHODOLOGY:**

Staff will conduct meetings with governmental entities and other interested stakeholders. In addition, staff will review reports and related documents generated in connection with working waterfronts and public access to waterways.

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# Criminal Justice

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Review of Sanctions Ordered for Violations of Probation*

**DATE DUE:** January 15, 2006

**PROJECT NUMBER:** 2006-109

**BACKGROUND and DESCRIPTION:**

In the 2004 and 2005 Legislative Sessions, the Attorney General sought legislation (HB 1801 and SB 608 respectively) which would have enhanced penalties for probation violators. Both pieces of legislation, which ultimately failed to pass, were principally in response to the tragic death of 11 year old Carlie Brucia in February of 2004. The main theme of the legislation was to detain more probation violators by denying bail, to require the court to add points to the probation violator's criminal punishment score sheet, and to require the court to hold a newly created "dangerousness hearing" to determine if a violator posed a risk to the community. The proposed legislation was estimated to generate the need for thousands of new prison and jail beds. The projected costs of the legislation resulted from some offenders serving substantially longer sentences and from some offenders going to prison on a probation violation who otherwise would not have gone to prison.

The Jessica Lunsford Act (Chapter 2005-28, Laws of Florida) passed in the 2005 Session which strengthened penalties and surveillance of sexual predators and sex offenders on probation, required certain probation violators to be electronically monitored in the community, required a dangerousness hearing for bail determination in certain circumstances, and required the Department of Corrections to develop by December 1, 2005, a graduated risk assessment for high risk sex offenders on probation. These provisions, although not identical to the provisions in legislation advocated by the Office of the Attorney General, were designed to remedy potential public safety lapses in handling high risk offenders on probation.

**PROJECT OBJECTIVE(S):**

Staff will examine the failed legislation, the estimated fiscal impact, and the bills' legislative history. Staff will also review agency rules, policies, and legislative changes, including the probation related provisions of the Jessica Lunsford Act, which have impacted the handling of probation violators.

Staff will further analyze how violations of probation are handled by the Department of Corrections and the courts and the extent to which public safety is possibly being compromised.

Finally, staff will make recommendations on possible alternatives to the proposals set forth in the Attorney General's recommended legislation.

**METHODOLOGY:**

Staff will interview administrators, program directors, judges, and other stakeholders to identify potential weaknesses in the current law and practice and to determine their views on the provisions contained in the failed legislation. Further, staff will review documents, statistics, case law, and reports. Finally, staff will attend violation of probation hearings, first appearance hearings, any newly required

public dangerousness hearings, and review documents used at court hearings to obtain more first hand knowledge of the violation of probation process.

**INTERIM PROJECT TITLE:**  
*Dart-firing Stun Guns*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-110

**BACKGROUND and DESCRIPTION:**

Law enforcement agencies have begun utilizing dart-firing stun guns with more frequency in the recent past. With increased use has come criticism and concern expressed by the public relating to the safety and deployment of these devices. Staff will track and report on the studies being undertaken by the Criminal Justice Standards and Training Commission, other local law enforcement agencies, and national studies that are on-going concerning the use of stun gun devices.

**PROJECT OBJECTIVE(S):**

The primary objective will be to assimilate and report the various data, opinions, and study results. Secondly, staff will report on what other states are doing regarding regulation of the sale of the devices to the general public and law enforcement usage policies.

**METHODOLOGY:**

Staff will attend local agency meetings on the topic of dart-firing stun guns, research and report on studies being conducted both statewide and nationwide, and conduct legal research concerning the regulation of these devices.

**INTERIM PROJECT TITLE:**  
*The Quality of the Education Programming for Juveniles Residing in Department of Juvenile Justice Facilities*

**DATE DUE:** January 15, 2006

**PROJECT NUMBER:** 2006-111

**BACKGROUND and DESCRIPTION:**

The goal of educational services in Florida's juvenile justice facilities is to ensure that all youths transitioning back into their local communities are prepared to return to community, home, school, or work settings as successful, law-abiding and well-educated citizens. Section 1003.52, F.S., governs the delivery of education services in the Department of Juvenile Justice programs. Under current law, sixty-seven different school districts provide education services to these youth throughout the state.

Recently, Senators have expressed concern over the variable quality of education programming and the quality of teachers assigned to juvenile justice facilities.

**PROJECT OBJECTIVE(S):**

This project will examine the quality of programming and possible alternative delivery systems that could improve educational services to juveniles residing in juvenile justice facilities.

**METHODOLOGY:**

Staff will review relevant studies and reports, quality assurance data and district funding information, compile legislative history information, and interview relevant officials and interested parties.

**INTERIM PROJECT TITLE:**

*Review the Criminal Punishment Code and Sentencing Judges' Assessment*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-112

**BACKGROUND and DESCRIPTION:**

In 1998, the Florida Legislature created the Criminal Punishment Code (the Code), which replaced the former sentencing guidelines. The passage of the Code constituted a significant change in Florida's sentencing policy. The Code provides judges with substantially more discretion in determining appropriate sentencing than under the former sentencing guidelines.

**PROJECT OBJECTIVE(S):**

This interim project will inform legislators about how the Code works and apprise legislators of the views of sentencing judges about the Code as sentencing policy; possible technical problems, anomalies, and potential legal issues regarding the Code; and sentencing practices under the Code.

**METHODOLOGY:**

Staff will seek the assistance of the Legislative Committee on Intergovernmental Relations, the chief judges of each judicial circuit, and the Florida Conference of Circuit Court Judges in preparing, disseminating, and completing the survey, and may seek the assistance of the Economic and Demographic Research Division for sentencing data, if required.

**INTERIM PROJECT TITLE:**

*Resentencing Youthful Offenders Who Violate the Terms of Probation*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-113

**BACKGROUND and DESCRIPTION:**

Under the current law a judge has very limited options available for resentencing youthful offenders who violate the terms of their probation. Changes to the statutes over the years have reduced the four sentencing options originally available to the courts as a penalty for violation of probation down to one option – a 364 day sentence. Appellate courts have noted they have no alternative but to uphold the one available sentencing option. Because time served by the defendant might further reduce any sentence for

violation of probation, a person sentenced as a youthful offender who chooses to violate his or her probation serves very little time under the current statutes.

**PROJECT OBJECTIVE(S):**

Interview judges, prosecutors, and defense counsel to determine how widespread this problem is and how it might best be remedied.

**METHODOLOGY:**

To better understand the scope of the problem, staff will study data available from courts to determine how much of the sentence is actually served by youthful offenders who violate the terms of their probation. Staff would also like to interview different judges, attorneys, and staff from the Department of Corrections involved in the youthful offender sentencing process to see how the problem might best be corrected and provide the committee with recommendations for resolving this problem.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 406.135, F.S., Autopsy Records*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-209

**BACKGROUND and DESCRIPTION:**

Section 406.135, F.S., makes confidential and exempt photographs and video and audio recordings of an autopsy in the custody of a medical examiner. A surviving spouse is authorized access to these records, which includes the ability to view, listen to, and copy. If there is no surviving spouse, then the surviving parents have access. If there is no surviving parent, then an adult child has access. A local governmental entity, or a state or federal agency, in furtherance of its official duties, and upon written request, may view, listen to, or copy such records. Unless otherwise required in the performance of their duties, these governmental agencies must ensure the confidential and exempt status of the identity of the deceased. Other persons may have access to the autopsy photos and recordings only upon court order upon a showing good cause, and limited by any restrictions or stipulations that the court deems appropriate.

**PROJECT OBJECTIVE(S):**

Under s. 119.15, F.S., the Open Government Sunset Review Act, exemptions to s. 24, Art. I of the State Constitution, are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature pursuant to the standards established in the act. The project objective is to review s. 406.135, F.S., to determine if it meets the standards established in the Open Government Sunset Review Act and to recommend whether the exemption should be saved from repeal or permitted to sunset.

**METHODOLOGY:**

Staff will conduct the necessary sunset review by gathering information from interested parties and reviewing relevant case law.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Juvenile's Right to Consult with Attorney Prior to Waiving Right to Counsel*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-335

**BACKGROUND and DESCRIPTION:**

In January, 2005, the Supreme Court of Florida considered the biennial report of the Juvenile Rules Committee, and elected at that time not to adopt a rule change requiring a juvenile to consult with an attorney prior to waiving his or her right to counsel. The Court observed that there was a potential financial impact with regard to requiring juveniles to consult with an attorney prior to waiving their right to counsel, and suggested the Legislature consider statutory revisions instead. The Court did not reject the proposed Rule change, but rather deferred its consideration until after the Legislature had an opportunity to act. *Amendments to the Florida Rules of Juvenile Procedure*, \_\_\_So.2d \_\_\_\_, (Fla. 2005), WL 170713 (Fla.), 30 Fla.L.Weekly S59. The CS/SB 1218, which encompassed these proposed statutory revisions, was heard and passed favorably by the Senate Criminal Justice Committee on April 7, 2005, but died in the Senate Judiciary Committee during the Regular Legislative Session.

**PROJECT OBJECTIVE(S):**

Staff will monitor the actions of the Florida Supreme Court with regard to this issue and be prepared if any legislative changes are necessary.

**METHODOLOGY:**

Attend any court hearings or scheduled arguments before the Court on this issue.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Predisposition Detention Cost Shift to the Counties*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-336

**BACKGROUND and DESCRIPTION:**

The Legislature voted during the 2004 Regular Session to require counties to begin paying predisposition detention costs effective October 1, 2004. (CS/SB 2564, ch. 2004-263, L.O.F.) Fifteen counties and the Association of Counties challenged the constitutionality of the newly enacted law shifting funding responsibility. The law was found to be an unconstitutional unfunded mandate by a Leon County circuit judge.

During the 2004 Special Session, the Legislature passed a bill by the constitutionally required two-thirds vote and appropriated \$65.1 million of nonrecurring general revenue funds for FY 2004-05 to the Department of Juvenile Justice (DJJ) to operate detention centers. In addition to providing emergency detention funding to the DJJ, the Legislature reenacted, with amendments, the law requiring counties to pay these detention costs beginning July 1, 2005. (CS/SB 4-A, ch. 2004-473, L.O.F.)

During the 2005 Regular Session, the Criminal Justice Committee discussed this issue at length and no changes were made to the policy of requiring the counties to pay these predisposition detention costs.

**PROJECT OBJECTIVE(S):**

Staff will monitor the implementation of this issue by the DJJ and the counties so that committee members will be well informed and prepared if any clarifying legislative changes become necessary.

**METHODOLOGY:**

Staff will attend any relevant meetings as well as maintain communications with the DJJ, counties, and other relevant interested parties.

**INTERIM MONITOR PROJECT TITLE:**

*Developments in the Clemency Process and the Restoration of Civil Rights to Convicted Felons*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-337

**BACKGROUND and DESCRIPTION:**

The issues of clemency and the restoration of civil rights surfaced several times during the 2005 Legislative Session. In recent years the process of restoring civil rights has come under public criticism because of the length of time required to restore a felon's civil rights. In 2004 the First District Court of Appeal issued a decision, *Florida Caucus of Black State Legislators, Inc. v. Crosby*, 877 So2d 861 (Fla. 1st DCA 2004), addressing the need for the Department of Corrections to aid felons in completing this application process. As a result of that decision, the Clemency Board has enacted changes to streamline the process and reduce the amount of time involved in restoring felons' civil rights. It appears, however, that more work remains for the process to operate as efficiently as it once did.

**PROJECT OBJECTIVE(S):**

The four objectives of this monitoring project are: to review the broader issue of clemency; to review the process by which civil rights are restored to convicted felons; to review the constitutional authority of the Parole Commission and the Office of Executive Clemency; and to review the appropriateness of the Parole Commission's current name given the fact that its responsibilities are expanding into other areas and the number of people on parole is diminishing. By reviewing the specific issue of clemency, staff will have a better understanding of the broader legal issues surrounding the process, the progress made, and the issues that remain to be addressed.

**METHODOLOGY:**

Staff will review the constitutional and statutory provisions of Florida law which establish the restoration process as well as case law construing those provisions. Staff will meet with the support staff of the Clemency Board to determine what steps they have taken to improve the restoration process and the measurable effect it is having on reducing the backlog of felons seeking the restoration of their civil rights. Staff will attend clemency meetings and assess the clemency process. A review of other state's clemency processes will also be conducted.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Florida Integrated Criminal History System (FALCON)*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-338

**BACKGROUND and DESCRIPTION:**

Currently, the Florida Department of Law Enforcement (FDLE) relies on two aging and mostly non-integrated computer systems to capture, store, and disseminate criminal history records, including fingerprints and images. These systems are the Computerized Criminal History System and the Automated Fingerprint Identification System. FDLE is replacing these systems with the Florida Integrated Criminal History System (FALCON). According to FDLE, FALCON, once implemented, will provide FDLE with the ability to handle the increasing demands for criminal history information and provide faster and more accurate access to and delivery of that information.

**PROJECT OBJECTIVE(S):**

Staff will monitor implementation of the FALCON.

**METHODOLOGY:**

Staff will meet with FDLE representatives responsible for the implementation of FALCON and conduct site visits to FDLE as appropriate.

**INTERIM MONITOR PROJECT TITLE:**

*Review Implementation of the Jessica Lunsford Act and Sexual Predators/Sexual Offenders Registry Policies*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-339

**BACKGROUND and DESCRIPTION:**

The 2005 Legislature passed the Jessica Lunsford Act, Chapter 2005-28, Laws of Florida, which provides for a number of statutory changes to address high risk offenders. The bill enhances sentencing for certain sexual offenders, and it provides intensive monitoring through GPS tracking of high risk sexual offenders. In addition, it modifies the sexual predator and offender registries and creates a new 3rd degree felony for harboring a registered sex offender or predator.

As part of the Jessica Lunsford Act, the Legislature funded implementation of the Judicial Inquiry System. The system will allow the judges and specified court employees to better access information held in state agency records for probation violators and other criminal defendants. The project has been demonstrated on a pilot basis during the 2004-2005 fiscal year. With funding in the Jessica Lunsford Act, the court system will be able to electronically connect all criminal court rooms to data in the Department of Corrections.

A question has arisen in the context of recent press accounts regarding whether the registry sweeps too broadly to include sexual offenders who, arguably, may not present a future risk to public safety.

The type of sexual offender almost invariably cited when this question is raised is the first-time, young adult sexual offender whose victim was a teenager when the offender committed the sexual offense.

**PROJECT OBJECTIVE(S):**

Staff will review the implementation of the Jessica Lunsford Act by the Department of Corrections, Department of Law Enforcement, and the State Court System.

Staff will also monitor issues relating to Florida's registry of sexual predators and sexual offenders, including, but not limited to, implementation of provisions of the Jessica Lunsford Act relevant to the registry and the OPPAGA's findings and recommendations from its study of the registry and public notification requirements.

Staff will present members with information regarding the views of some professionals in the legal, law enforcement, and treatment fields regarding the question of retaining the current registry population or narrowing that population, and some of the potential policy implications of either course of action.

**METHODOLOGY:**

Staff will interview administrators, program directors, and judges in the Department of Corrections, Department of Law Enforcement, and State Court System. Staff will review documents and reports that will be generated with the implementation of this act. Staff will interview selected court staff and review plans and quarterly reports on the progress of implementation of the Judicial Inquiry System.

**INTERIM MONITOR PROJECT TITLE:**

*Postconviction DNA*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-340

**BACKGROUND and DESCRIPTION:**

Section 925.11, F.S., the postconviction DNA testing statute contains an October 1, 2005, deadline for petitions to be filed on those cases that were in the pipeline upon the enactment of the law in 2001. The original deadline in the law was two years. It was extended to four years during the 2004 Legislative Session (retroactive to October 2003). Advocates for the inmates seeking the testing have sought another extension of time to file these pipeline petitions.

**PROJECT OBJECTIVE(S):**

This issue is one of great public interest which staff will follow during the interim. Consequently, staff will examine the process through the October 1 deadline to determine if legislative remedies are necessary.

**METHODOLOGY:**

Staff will monitor the progress made by inmates and their advocates during the interim and attempt to quantify the existence of any cases that may miss the filing deadline.

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# Domestic Security

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Review of Federally Funded, Multi-discipline Domestic Security Training and Exercise Activities*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-114

**BACKGROUND and DESCRIPTION:**

The State of Florida has received millions of dollars in annual grant awards from the Department of Homeland Security (and its predecessor agencies), the Department of Health and Human Services and other federal agencies for training and exercise activities since 2002. These funds have been disbursed at the local, regional and state levels to support training activities for all-discipline first responders. In addition, certain urban areas in the state have received additional funding since 2003. The federal government has recently established national goals and guidelines that will be used to assess future preparedness needs and determine federal domestic security funding levels.

Due to the large amount of money expended on these activities, an appropriate accountability process needs to be developed to determine progress and performance improvements as a result of the training provided. Gap analysis of the training to date, a review of needs based on that analysis, an inventory of available state resources, i.e., equipment, staff, training facilities, etc., and a forward reaching strategy for future training and exercise activities across all affected disciplines will better prepare Florida to maximize future federal funding opportunities. Such actions will keep Florida ready to approach and manage any domestic security events.

**PROJECT OBJECTIVE(S):**

- Track all training and exercise activities that have been completed with federal domestic security funding, the after-action reports on those activities and what changes have been adopted from one cycle to the next to improve performance and address identified gaps in the state's domestic security readiness.
- Create a catalog of gap analyses and needs assessments that would then be available for use by domestic security planners in designing future exercise strategies.
- Assess ongoing planning methods and strategies for future training and exercise activities in relation to the new national requirements, including a focus on maximizing the utilization of existing training methods, resources, mechanisms and facilities.

**METHODOLOGY:**

As needed, staff may collect data from and/or conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Staff may request documents from agencies involved in training and exercise activities, and attend training and exercise events. 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 s. 119.071, F.S., Security System Plans*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-210

**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. 119.071, F.S., is due to the fact that the original exemption was created in 2001 (see s. 1, ch. 2001-361, L.O.F.)

Section 119.071, F.S., was created to provide public records exemptions for security system plans for any property owned or leased to the state or any of its political subdivisions or for any privately owned or leased property security plan held by any agency defined in s. 119.011, F.S. These plans are confidential and exempt from the provisions of s. 119.071(1), F.S., and s. 24(a), Art. I of the State Constitution and include records and other documents such as: photographs, audio and visual presentations, schematic diagrams, surveys, recommendations or consultations relating directly to the physical security of a facility as well as threat assessments, threat response plans, emergency evacuation plans, sheltering arrangements, and manuals for security personnel, emergency equipment, or security training.

The purpose of s. 119.071, F.S., is to be able to prevent, detect, respond to, or manage the consequences of attempted or actual acts of terrorism. Since the creation of the section, Florida has continued to improve its ability to meet the threat of terrorism. In this regard, protecting security system plans and documents from open disclosure in order to preserve their effectiveness has provided a public safety and security purpose.

**PROJECT OBJECTIVE(S):**

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

**METHODOLOGY:**

Work with the Florida Department of Law Enforcement, the Department of Management Services, and other affected entities to determine the original cause for the exemption and to determine if conditions remain the same, or have changed in such a way as to warrant repeal of the exemption. In addition, staff may consult with the federal Department of Homeland Security to determine the impact of any federal regulations on the state exemption. As needed, staff may collect data from and/or 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.

**INTERIM MANDATORY REVIEW TITLE:**

***Open Government Sunset Review of s. 286.0113, F.S., Security System Plans***

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-211

**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. 286.0113, F.S., is due to the fact that the original exemption was created in 2001 (see s. 2, ch. 2001-361, L.O.F.)

Section 286.0113, F.S., was created to provide a public meeting exemption for portions of any meeting that would reveal a security system plan or any portion thereof made exempt and confidential by s. 119.071, F.S. Meetings covered under s. 286.0113, F.S., are exempt from the provisions of s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution.

Since the creation of s. 286.0113, F.S., Florida has continued to improve its ability to meet the threat of terrorism by focusing on being able to prevent, detect, respond to, or manage the consequences of attempted or actual acts of terrorism. In this regard, protecting security system plans and documents from open disclosure in order to preserve their effectiveness has provided a public safety and security purpose.

**PROJECT OBJECTIVE(S):**

Review s. 286.0113, F.S., its uses and applications to determine if it continues to serve a public purpose.

**METHODOLOGY:**

Work with the Florida Department of Law Enforcement, the Department of Management Services, and other affected entities to determine the original cause for the exemption and to determine if conditions remain the same, or have changed in such a way as to warrant repeal of the exemption. In addition, staff may consult with the federal Department of Homeland Security to determine the impact of any federal regulations on the state exemption. As needed, staff may collect data from and/or 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.

**INTERIM MANDATORY REVIEW TITLE:**

***Open Government Sunset Review of s. 381.95, F.S., Terrorism Response and Medical Facilities***

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-212

**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. 381.95, F.S., is due to the fact that the original exemption was created in 2001 (see s. 1, ch. 2001-363, L.O.F.)

Section 381.95, F.S., was created to provide a public records exemption for medical facility information maintained for terrorism response purposes. This includes any information identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained, or regulated by the Department of Health as part of the state’s plan to defend against any act of terrorism as defined in s. 775.30, F.S. This information is exempt from the requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

**PROJECT OBJECTIVE(S):**

Review s. 381.95, F.S., its uses and applications to determine if it continues to serve a public purpose.

**METHODOLOGY:**

Work with the Florida Department of Law Enforcement, the Department of Health, the Department of Community Affairs, the Florida Hospital Association, and other affected entities to determine the original cause for the exemption and to determine if conditions remain the same, or have changed in such a way as to warrant repeal of the exemption. As needed, staff may collect data from and/or 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.

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 395.1056(1)(2)(3), F.S., Emergency Management Plans*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-213

**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. 395.1056, F.S., is due to the fact that the original exemption was created in 2001 (see s. 1, ch. 2001-362, L.O.F.)

Section 395.1056, F.S., was created to provide a public records and public meetings exemption for plan components addressing a public hospital’s response to terrorism or similar components of a private hospital’s response plan that are filed with public agencies. Those portions of a comprehensive emergency management plan which address the response of a public or private hospital to an act of terrorism are confidential and exempt from the provisions of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The purpose of s. 395.1056, F.S., is to be able to prevent, detect, respond to, or manage the consequences of attempted or actual acts of terrorism. Plan components covered by the section include

security systems or plans; vulnerability analyses; emergency evacuation transportation; sheltering arrangements; post-disaster activities including provisions for emergency power, communications, food, and water; drug caches; staffing; emergency equipment; and patient records, identification, and family services.

**PROJECT OBJECTIVE(S):**

Review s. 395.1056, F.S., its uses and applications to determine if it continues to serve a public purpose.

**METHODOLOGY:**

Work with the Florida Department of Law Enforcement, the Department of Health, the Department of Community Affairs, the Florida Hospital Association, and other affected entities to determine the original cause for the exemption and to determine if conditions remain the same, or have changed in such a way as to warrant repeal of the exemption. As needed, staff may collect data from and/or 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.

**INTERIM MANDATORY REVIEW TITLE:**

*Seaport Security Standards, s. 311.12(4)(e), F.S.*

**DATE DUE:** December 31, 2005

**PROJECT NUMBER:** 2006-214

**BACKGROUND and DESCRIPTION:**

Pursuant to s. 311.12(4)(e), F.S., all active, public seaports in Florida are required to be designated by the Department of Law Enforcement as “substantially compliant” with the state seaport security law, s. 311.12, F.S., by November 2005. Failure to obtain the designation may result in a legislative review of the public seaport’s security operations and could result in legislative sanctions.

The State of Florida has worked very closely with its federal partners, including the U.S. Coast Guard and U. S. Department of Homeland Security - Transportation Security Administration, to assure that state and federal laws and regulations work together to provide layered and properly balanced security on Florida’s active seaports. This cooperative effort is unique in the nation and provides a model for security planners and government agencies.

Currently, there are twelve seaports which are recognized as active, public seaports. There are two additional seaports that are designated as “inactive” by statutory authority of FDLE. As of the 2004 Annual Seaport Security Report by FDLE to the Legislature, eight of the twelve active seaports had received the designation of “substantially compliant.” While this report is a benchmark, and represents the best statewide performance since the implementation of the law in 2001, there is no guarantee that these ports will maintain that designation in 2005. From year to year there have been slight fluctuations in compliance for some seaports. Indications are that almost all seaports should be able to be designated “substantially compliant” for 2005, but final results will not be known until all inspections are complete and FDLE submits its report to the Legislature.

**PROJECT OBJECTIVE(S):**

- Review Department of Law Enforcement Annual Seaport Security Report findings.

- Review activities, operations and mitigating circumstances of any active public seaports failing to reach “substantial compliance” with s. 311.12, F.S. by November 2005.
- If one or more seaports fail to comply, recommend actions necessary to assure “substantial compliance,” up to and including management guidance, and or financial sanctions for consideration by Legislature for seaports failing to meet the deadline.

**METHODOLOGY:**

Staff will review FDLE findings and work with affected seaports, the Florida Seaport Transportation and Economic Development Council, and any other interested parties to ascertain the nature and magnitude of the seaports’ failure to comply with state law. As needed, staff may collect data from and/or conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops or meetings may be held to obtain and review information related to this project.

## MONITOR PROJECTS

**MONITOR PROJECT TITLE:**

*Review Phase 2 of State Hospital Response Plan for Development of Regional Annexes to State Plan for Mass Casualty Surge*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-341

**BACKGROUND and DESCRIPTION:**

The Florida Department of Health has entered into a contract with the Florida State University to develop a State Hospital Response Plan and seven Regional Annexes to the State Plan to identify hospital and pre-hospital resources and methods for responding to mass casualty events. The first year of the project has produced a State Plan for hospital surge capacity response to burn, blast, bomb and crush injuries. The second year of the project is focused on taking the state plan out into each of the seven Regional Domestic Security Task Force (RDSTF) regions and applying the state plan at designated hospital facilities in each region.

The focus of Phase 2 is critical to the success of the overall state plan because it will identify issues that remain to be completed, equipment, training, and staffing that still need to be provided and methodologies for local and regional hospital responses in conjunction with other medical professionals and first responders within each community and RDSTF region. The state plan and its annexes are being developed using federal grant awards and represent a key component of the state’s domestic security response capability.

**PROJECT OBJECTIVE(S):**

- Attend regional and hospital meetings with Department of Health or contractors to observe interaction between local first responders and state planners.
- Review ongoing needs for equipment purchases and training for hospitals and other medical first responders such as pre-hospital (Emergency Medical Services) and surge facilities (Nursing Homes, Ambulatory Care Centers, Primary Care Centers, etc.)

- Review DOH procurement procedures, including decision-making process, for equipment and training purchased for use by hospital, pre-hospital and surge capacity facilities.
- Review FTE salaried positions funded by federal bioterrorism and hospital preparedness grants related to the support of this effort.
- Review roles of Agency for Health Care Administration, Department of Health, Department of Community Affairs and Department of Law Enforcement in assuring preparedness and response capabilities for medical first responders in RDSTF regions, including interaction and participation with regional Domestic Security Oversight Council subcommittees on health and medical issues.

**METHODOLOGY:**

Work with the Department of Health, Agency for Health Care Administration, Department of Community Affairs, Department of Law Enforcement, and their contractors, the Florida Hospital Association, and individual participating hospitals to assure that the State Hospital Response Plan and its Annexes are complete and deployed in a manner that will provide hospital surge capacity throughout the state. As needed, staff may collect information and/or conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

<p><b>INTERIM MONITOR PROJECT TITLE:</b> <i>Cyber Security for State Agencies</i></p>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-342

**BACKGROUND and DESCRIPTION:**

An attack against one or more computer systems has been identified as a terrorism methodology which is possible and hard to protect against. Such an attack against various types of computer systems would accomplish three goals of terrorism, to attack visible, “high-value” targets that are considered to be vulnerable. Such attacks could be direct, as in the example of an attack against a specific software program, or systemic, causing the shutdown of electric grids, banking systems or phone systems. Compound or multiple simultaneous attacks must be expected and could have far-reaching effects on security, the economy and governmental functionality.

State agencies have many computer systems that manage and contain the ongoing business activities of the state. Over the past several years, the State Technology Office (STO), in conjunction with the Department of Law Enforcement, has been responsible for the identification of vulnerabilities within state agency computer systems and for recommending protective actions against those vulnerabilities.

In light of the possible reassignment of STO tasks, there is a need to monitor what new and ongoing actions are to be taken to protect the state’s agency computer systems from cyber attacks.

**PROJECT OBJECTIVE(S):**

Monitor new and ongoing actions by designated state agency responsible for cyber-security based on the realignment of State Technology Office functions.

**METHODOLOGY:**

As needed, staff may collect data from, and/or conduct interviews, by phone, electronic mail or in person, with participants, experts, 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:**

*Federal Funding and Program Guidelines*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-343

**BACKGROUND and DESCRIPTION:**

This committee is responsible for monitoring federal funding and program guidelines for domestic security prevention, preparedness and response, and the integration of the Domestic Security Oversight Council (DSOC), Regional Domestic Security Task Force (RDSTF), State Working Group (SWG), and Urban Area Security Initiative (UASI) planning and operations activities funded by those resources.

Federal requirements have changed since the last budget cycle and will cause states and their security partners to shift focus away from generalized preparedness and towards threat and risk-based strategies in order to be eligible for continued funding. These new requirements are evident in grant guidance's already issued this year including the Seaport Security Grant, the CDC/HRSA Bioterrorism and Hospital Preparedness Grants, and portions of the Department of Homeland Security Office of Domestic Preparedness grants related to UASI transit grants and critical infrastructure Buffer Zone Protection grants. Florida may have to make adjustments to its Statewide Security Strategy to accommodate the shift in federal directives and to continue to maximize the availability of and eligibility for federal domestic security grant awards.

**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. Work with the Florida Washington Office, the Department of Law Enforcement (designated as State Homeland Security lead by title), Department of Community Affairs (designated as State Administering Agency for all federal Department of Homeland Security funding), Department of Health (designated as receiving agency for CDC/HRSA grants), the Florida Seaport Transportation and Economic Development Council (coordinates public seaport grant requests in conjunction with FDLE and individual, eligible ports) and any other agencies receiving federal funds for domestic security programs.

**METHODOLOGY:**

Monitor federal legislation, congressional activities and federal agency guidance relative to domestic security funding through our working partnerships with the Florida Washington Office, FDLE, DCA, DOH, FSTED and other state agencies. As needed, staff may collect data from and/or conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this review. Workshops and meetings may be held to obtain and review information related to this project.

**INTERIM MONITOR PROJECT TITLE:**

*State Domestic Security Oversight Council, Regional Domestic Security Task Forces, and State Working Groups*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-344

**BACKGROUND and DESCRIPTION:**

This committee is responsible for monitoring ongoing activities of the State Domestic Security Oversight Council, the Regional Domestic Security Task Forces, and the State Working Groups which provide the strategic planning and operational capabilities for domestic security in Florida. It is the responsibility of these entities to ensure that Florida has and can implement a domestic security strategy that is capable of detecting, preventing, protecting, responding, and recovering from acts of terrorism.

**PROJECT OBJECTIVE(S):**

Monitor planning and operational activities of various state and local agencies to assure security measures are being taken and coordinated at all levels of government to prepare for possible terrorist activities.

**METHODOLOGY:**

As needed, staff may collect data from and/or 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.



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# Education

## INTERIM PROJECTS

<b>INTERIM PROJECT TITLE:</b>
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<i>High School Reform</i>
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**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-115

**BACKGROUND and DESCRIPTION:**

Data clearly support Florida's success in increasing student achievement. Reading has taken justified priority at the early grades and the state recognizes the importance of continuing the emphasis on reading in the middle grades. The state must now focus on improvement at the high school for all learners in order to prepare our students for the demands of postsecondary education and the needs of a dynamic workforce. Preparing our students for postsecondary education, an ever-changing labor market, the dynamic demands of technology and solid citizenry are but a few of the challenges confronted when implementing high school reform.

High school students are expected to expand literacy skills to include an emphasis on research, reference, and informational type text. These increased literacy demands create an opportunity for our high schools to establish authentic connections between academic expectations, individual areas of interest, and the skills needed to pursue those interests beyond graduation from high school.

**PROJECT OBJECTIVE:**

- Identify areas of focus for effective high school reform based on substantiated research and recent high school reform initiatives, with an emphasis on literacy skills and learning that is authentic to the world beyond high school.

**METHODOLOGY:**

Committee staff activities include the following:

- Review and highlight research on high school reform initiatives with supporting data that reflects both increased student achievement and effective decision-making with regard to postsecondary plans;
- Review similar initiatives in other states and identify schools and districts that, as a result of this research, have initiated and successfully implemented effective comprehensive high school reform; and
- Consult with the Florida Department of Education, the Southern Regional Education Board, the Annenberg Institute, the National Association of Secondary Schools, Florida school districts, and other stakeholders in reviewing and evaluating high school reform research and initiatives.

**INTERIM PROJECT TITLE:**

*Integration of Reading Instruction and Career Exploration at the Middle Grades*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-116

**BACKGROUND and DESCRIPTION:**

Florida has taken monumental steps in addressing the need for consistent and systematic reading instruction at all levels K-12. The primary focus, however, has been concentrated at the elementary level. Emphasis on reading instruction and the need to strengthen and expand literacy skills at the secondary level continues to be discussed and examined. Some of the debate centers on the appropriate amount of emphasis on core content as compared to electives such as career exploration. In addition, the debate continues on the need to expose students at the middle grades to the world of work and an authentic connection between academic choices and career opportunities and aspirations.

One legislative proposal would have required the implementation of varying levels of reading instruction for middle grades students based on their FCAT reading scores. Instruction at the middle grades can and should encompass the entire literacy spectrum, from Level 1 students who are basically non-readers, to Level 4 students who, while reading above grade level, have difficulty transitioning to informational text and the demands of research skills expected at the high school and postsecondary levels. The challenge to integrate or even combine reading instruction with career exploration warrants review.

**PROJECT OBJECTIVE(S):**

- Determine the efficacy of accommodating and promoting career exploration integrated with reading and research skills in middle schools.

**METHODOLOGY:**

Committee staff activities include the following:

- Review and highlight research on the incorporation of reading, specifically research and reference skills, as part of career exploration;
- Identify schools and districts that, as a result of this research, have implemented effective reading and literacy enhancement integrated with career exploration;
- Review similar initiatives in other states and evaluate their effectiveness; and
- Consult with the Florida Department of Education, the U.S. Department of Education, and other stakeholders in reviewing and evaluating research.

**INTERIM PROJECT TITLE:**

***Private Schools Participating in Educational Scholarship Programs and Criminal Background Checks of Personnel with Direct Student Contact***

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-117

**BACKGROUND and DESCRIPTION:**

A major issue in the 2005 legislative debate on scholarship program accountability was the mandatory Level 2 criminal background screening of personnel in private schools that participate 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 meet Level 2 background screening standards as a condition of participating in scholarship programs. Private school representatives do not agree on the need for this requirement. Proponents of background screening consider it a valid practice to protect scholarship students and a necessary requirement for establishing accountability in the scholarship programs. Those opposed contend that many schools currently participate in a voluntary background screening process and that it unnecessary to mandate screening of personnel. There is also concern that the cost for screening is a burden on small private schools.

**PROJECT OBJECTIVE(S):**

- Determine the degree to which participating private school owners are meeting the background screening requirements in s. 1002.42, F.S.
- Determine the extent to which owners of participating private schools require personnel to undergo background screening as a condition of employment, as well as the type of screening required and the consequences for failing to meet screening requirements.
- Determine the benefit and impact of mandatory Level 2 background screening on scholarship program participation by private schools, including the fiscal implications.
- Determine the benefits of background screening to the public.

**METHODOLOGY:**

Committee staff activities include the following:

- Identify and review the private schools participating in the Volunteer And Employee Criminal History System (VECHS).
- Review and analyze the number of personnel screened through the VECHS process, as well as the schedule and costs for these screenings.
- Compare the VECHS procedures and costs to the Level 2 screening requirements and costs.
- Review and analyze the standards and procedures for conducting the screening process and enforcing the standards for school personnel.
- Review the requirements in other states for background screening of private school personnel.
- Consult with the Florida Department of Education, the Florida Department of Law Enforcement, and private sector stakeholders in reviewing research.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 1004.445(9), F.S., Johnnie B. Byrd, Sr., Alzheimer's Center*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-215

**BACKGROUND and DESCRIPTION:**

The 2002 Legislature (s. 1, ch. 2002-396, L.O.F.) enacted a public records disclosure exemption for personal identifying information relating to clients of programs created or funded through the Alzheimer's Center and Research Institute or to persons who provide services to clients of these programs; medical records relating to patients of the institute; trade secrets and other proprietary information; the identities of donors; or any information otherwise confidential and exempt by Florida law, federal law, or the laws of other states or nations. 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, 2006, unless saved from repeal through reenactment by the Legislature.

**PROJECT OBJECTIVE(S):**

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

**METHODOLOGY:**

The committee activities shall include:

- Review of the public records exemption under the Open Government Sunset Review Act to determine if the exemption meets the retention criteria;
- Examination of the use of the public records exemption; and
- Evaluation of the records protected from public disclosure.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Board of Governors of the State University System*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-345

**BACKGROUND and DESCRIPTION:**

In the 2002 General Election, the voters of this state amended the State Constitution to create a Statewide Board of Governors (BOG) to govern, operate, regulate, control, and be fully responsible for the management of the State University System. The BOG's responsibilities include defining university missions, defining articulation with public schools and community colleges, coordinating and operating the State University System, and avoiding wasteful duplication of facilities or programs. In addition, BOG must establish the powers and duties of the university boards of trustees. The BOG's management

of the state university system is subject to the power of the Legislature to appropriate for the expenditure of funds. The BOG must account for the expenditure of funds as provided by law.

A lawsuit was filed on December 21, 2004, against BOG and the State Board of Education seeking a declaratory action, among other things, regarding BOG's powers and duties with respect to the state university system.

The 2005 Legislature passed legislation (HB 1001), which clarifies the lines of authority and constitutional duties of the Board of Governors and the Legislature with regard to the State University System.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to monitor court proceedings related to the State University System and the delineation of the BOG's powers and duties with respect to the system.

**METHODOLOGY:**

Committee staff will monitor court proceedings and review official records for actions related to the litigation.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Voluntary Prekindergarten Education Program*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-346

**BACKGROUND and DESCRIPTION:**

Florida voters approved Amendment #8 on the 2002 ballot to require the creation of free, universal, voluntary prekindergarten for all 4-year-olds in the state. In December 2004, the Florida Legislature enacted legislation to implement the Voluntary Prekindergarten Education Program (VPK), ch. 2004-484, L.O.F., in accordance with ss. 1(b) and 1(c), Art. IX of the Florida Constitution. The law assigns day-to-day management of VPK to the Agency for Workforce Innovation (AWI). Early learning coalitions are required to manage the program on the local level and provide access to VPK services through public and private providers with which they contract. The Department of Education (DOE) is required to create standards, curricula, and accountability for the VPK program, while the Department of Children and Families oversees licensing and credentialing for the program.

**PROJECT OBJECTIVE(S):**

In conjunction with the Senate Commerce and Consumer Services Committee, monitor the implementation of the Voluntary Prekindergarten Education Program to identify any issues that may require legislative action.

**METHODOLOGY:**

In conjunction with the Senate Commerce and Consumer Services Committee, monitor rule development by AWI. In addition, committee staff will communicate with representatives from AWI's Office of Early Learning and DOE regarding the implementation of the program.

**INTERIM MONITOR PROJECT TITLE:**

*Tuition, Excess Hours, and Resident Status for Tuition Purposes*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-347

**BACKGROUND and DESCRIPTION:**

The 2005 Legislature passed legislation (CS/CS/SB 2236) to establish an excess credit hour policy that requires students to pay 75 percent over the in-state tuition rate for credit hours a student takes in excess of 120 percent of the credit hours required for their associate or baccalaureate degree requirements. The legislation also authorizes university boards of trustees to set tuition and fees for graduate, graduate professional, and nonresident students, under certain conditions. At least 20 percent of any tuition increase authorized by a university board of trustees must be allocated for need-based financial aid for students.

The 2005 Legislature also passed legislation (CS/CS/SB 2264) to revise the determination of residency for tuition purposes at the state universities and community colleges by requiring a student or his or her parent, if the student is a dependent child, to establish and maintain legal residency for at least 12 consecutive months immediately before the student's initial enrollment at a public postsecondary institution. Additionally, the legislation establishes reclassification requirements for those students who want to change their classification from nonresident to resident for tuition purposes. To meet reclassification requirements, a student, or his or her parent if the student is a dependent child, must provide documentation of non-temporary, full-time employment and domicile in the state for 12 consecutive months while not enrolled at an institution of higher education.

**PROJECT OBJECTIVE(S):**

- The purpose of the project is to monitor the impact of the changes made by the Legislature for tuition, excess hours, and the determination of residency for tuition purposes.

**METHODOLOGY:**

Committee staff activities include the following:

- Consult with university and community college personnel to obtain information regarding student enrollment and residency classification.
- Monitor the adoption of related administrative rules, if any, and review other related information as available.

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# Education Appropriations

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

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

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-118

**BACKGROUND and DESCRIPTION:**

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

**PROJECT OBJECTIVE(S):**

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

**METHODOLOGY:**

A review of 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 of state appropriations to various institutions and/or school districts are made. These allocations will be checked for consistency with the General Appropriations Act as the post-session book is prepared.

**INTERIM PROJECT TITLE:**

*Workforce Education Funding Review*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-119

**BACKGROUND and DESCRIPTION:**

Workforce Education includes adult basic & general education, vocational or career education, job skills training, apprenticeship programs, citizenship training, and continuing education. Historically, Workforce Education programs delivered by public school districts and community colleges have been allocated state funds for operations based on full-time equivalent (FTE) enrollment. Continuous problems with this funding methodology led to legislative reforms, instituted in 1997, which resulted in a funding model which allocates state support based on prior year funding and performance points. Performance points are earned based on factors such as program completers, job placements, and targeted attributes of program completers and job placements. Performance points are also weighted

based on varying program costs and levels of importance assigned to targeted attributes of program completers and job placements by the Department of Education.

This new funding allocation model has resulted in improved performance by program providers. These improvements include the elimination of low demand programs and programs which resulted in few job placements, a greater concentration on programs which qualify completers for placement in high paying jobs, and more emphasis on timely program completions. However, it fails to adjust for changes in demands for service. Additionally, the manner in which performance points are weighted on factors other than cost may result funding advantages to some programs.

**PROJECT OBJECTIVE(S):**

The purpose of this project is to examine the current allocation model for Workforce Education funding to determine its strengths and weaknesses, and to provide recommendations for potential revisions to the funding model based upon the findings of this review.

**METHODOLOGY:**

A thorough review of each of the components of the current funding model will be conducted to analyze their interrelationships. Funding allocations produced by the model will be compared to demographic data to determine how per-capita funding varies among educational regions of the state. Recommendations will be provided to address funding inequities which may be identified by the review.

**MANDATORY REVIEWS**

*(None)*

**MONITOR PROJECTS**

*(None)*

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# Environmental Preservation

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Land Acquisition – Florida Forever Mid-Term Review*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-120

**BACKGROUND and DESCRIPTION:**

Section 259.105, F.S., created in 1999, provides for the Florida Forever program. This program, the successor to Preservation 2000, is a 10-year, \$300 million per year, land acquisition effort, and has reached the half-way point. The cornerstone of the Florida Forever program is the annual Conservation and Recreational Lands priority acquisition list. Over the past few years the Governor and Cabinet have directed that the list be modified to better reflect the state's priorities in acquiring conservation lands.

**PROJECT OBJECTIVE(S):**

The project will review the progress made under the Florida Forever program, evaluate its effectiveness in meeting statutory goals and objectives, and review the evolution of the acquisition list during the past several years. Additional objectives include a review of the state's land surplusing process with an emphasis on the sale of surplus lands to local governments.

**METHODOLOGY:**

Staff of the committee will review and analyze activities related to the development of the Florida Forever acquisition list and the changing priorities established by the Governor and Cabinet. In addition, staff will review the acquisition history under Florida Forever to determine the classifications of lands being purchased with the goal of assisting the Department of Environmental Protection in moving forward with an inventory of state-owned lands. As part of the project, staff will develop a survey to be submitted to all of the state's land acquisition agencies to determine the acreage, categories and purchase price of lands purchased at the mid-point; the purposes for which the acquired lands are being used, the number of local government surplusing requests received and processed, and how much land each agency has identified as available to be surplused.

**INTERIM PROJECT TITLE:**

*Review of Solid Waste Management Act*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-121

**BACKGROUND and DESCRIPTION:**

In 1988, the Legislature enacted the Solid Waste Management Act. This comprehensive act mandated waste minimization, conservation of landfill space, litter control, and recycling. In 1992, the Senate Natural Resources Committee conducted an interim project study to review the 1988 act and recommended comprehensive changes. The act was substantially rewritten in 1993. Since that time, there have been several amendments to the statutory provisions relating to solid waste management;

however, these amendments have been piecemeal and the issues were not addressed in a comprehensive manner. The act needs to be updated to remove obsolete provisions and address concerns that have arisen in the past few years regarding recycling and disposal of vegetative and construction and demolition debris.

**PROJECT OBJECTIVE(S):**

The project will review the act's provisions to remove the obsolete and outdated provisions and determine if legislative changes are needed to address current recycling concerns and disposal of certain debris in a manner other than placing such materials in a landfill. The problem was exacerbated last year when Florida was hit by four major hurricanes and counties became overwhelmed by the amount of debris and materials that required disposal.

**METHODOLOGY:**

Staff will review past interim project reports on the various aspects of the Solid Waste Management Act, and will work with staff of the Department of Environmental Protection, local solid waste management officials, the League of Cities, the Association of Counties, recyclers, waste haulers, the environmental community, and other interested persons to identify the obsolete provisions and develop any needed legislation.

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b> <i>Everglades Restoration Progress</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-348

**BACKGROUND and DESCRIPTION:**

The state is currently partnering with the Federal government and the South Florida Water Management District in a multi-billion dollar restoration of the Everglades. A critical component of this restoration effort is the achievement of certain pollutant loading standards. There are numerous lawsuits on-going as a result of these standards and the efforts of the South Florida Water Management District, state of Florida, and federal government to attain them.

**PROJECT OBJECTIVE(S):**

To monitor various legal decisions and activities as they relate to the state's responsibilities under the Everglades Forever Act.

**METHODOLOGY:**

Staff of the committee will continue discussions with the Department of Environmental Protection and the South Florida Water Management District concerning legal and legislative efforts.

**INTERIM MONITOR PROJECT TITLE:**

*Infrastructure Planning and Funding for Water Supplies, Protection, and Sustainability*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-349

**BACKGROUND and DESCRIPTION:**

The 2005 Legislature passed CS/CS/CS/SB 444 (SB 444) which made numerous changes to laws governing statewide water supply and restoration programs. In addition, the Legislature passed CS/CS/CS/SB 360 which provides \$100 million in recurring and \$100 million in non-recurring funds for the programs created or amended in SB 444. The water programs are currently administered by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and the state's five water management districts.

SB 444 creates the Water Protection and Sustainability Program to provide funding for a new alternative water supply program and to also fund existing state water programs. These programs include surface water improvement and management, total maximum daily loads, and the disadvantaged small community wastewater grant program. In addition, SB 444 makes substantial changes to guide the development of alternative water supplies and establishes a goal for the water management districts to match state funds 100 percent. The bill allocates state funds to the water management districts on a percentage basis.

**PROJECT OBJECTIVE(S):**

The objective of the project will be to monitor the implementation of the new alternative water supply program and changes to the existing program required by the legislation and to ensure the timely allocation of the \$200 million in state resources provided in the 2005-06 fiscal year for the various water programs.

**METHODOLOGY:**

Staff of the committee along with staff of the General Government Appropriations committee will monitor agency and water management districts on the allocation of funds provided in FY 2005-2006 for the various water programs. A quarterly progress report will be initiated by the Department of Environmental Protection and the Department of Agriculture and Consumer Services for the review of program criteria, specific projects to be funded, match requirements, and federal funds maximization. An October/November progress report from the water management districts will be requested to coincide with their annual budget submission to the Governor.



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# Ethics and Elections

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*The Future of State Elections Administration in Florida*

**DATE DUE:** March 1, 2006

**PROJECT NUMBER:** 2006-122

**BACKGROUND and DESCRIPTION:**

The Secretary of State is the chief elections officer for the state of Florida, charged with a host of statutory responsibilities aimed at ensuring the fair, impartial, and efficient administration of elections. Partnered with the Secretary are 67 county supervisors of elections who are responsible for the day-to-day administration of elections in their respective counties. All but one of these local supervisors, the supervisor for Miami-Dade County, is an *elected* official.

Historically, Florida's executive branch was modeled on the *weak* governor concept, collegial, decentralized leadership through the Governor and a six-member group of elected executive officials comprising the Cabinet. The Cabinet included an *independently-elected* Secretary of State. The Secretary, as the sole officer charged with administering the Department of State, exercised direct supervision over the agency and did not have to answer to the Governor in exercising that power: the Governor had virtually no authority over the Department of State (and the Division of Elections housed therein).

In 1998, the Constitution Revision Commission recommended and the voters of the State approved a restructuring of Florida's Cabinet, reducing its membership from six elected officials to three. One of the main purposes and effects of this Cabinet restructuring was to further empower the governor's office, by among other things, transforming the secretary of state's office from an independently-elected one to one appointed by, and serving "at the pleasure of," the governor.

Having the State's chief elections officer responsive to the governor, the titular head and standard bearer of the political party to which he or she belongs, instead of the people at the ballot box creates an environment ripe for the introduction of partisanship in the administration of elections. Further, by authorizing the governor's office to effect *indirect* control over the state administration of elections, the governor's office can appear to distance itself from any *direct* involvement.

**PROJECT OBJECTIVE(S):**

To explore alternatives to the current elections administration system in Florida, with an emphasis on the potential to use a nonpartisan elections board to oversee elections.

**METHODOLOGY:**

Committee staff will research the various systems for administering elections in other states, with an emphasis on the use of nonpartisan election boards. Where necessary, staff will contact election administrators and staff in other states to discuss the benefits, drawbacks, and specific components of these various systems.

**INTERIM PROJECT TITLE:**

***Proposed Concurrent Resolution to Amend Joint Rule 1 of the Joint Rule of the Florida Legislature***

**DATE DUE:** March 1, 2006

**PROJECT NUMBER:** 2006-123

**BACKGROUND and DESCRIPTION:**

Section 11.045, Florida Statutes, establishes registration and reporting requirements for persons employed as lobbyists who seek to influence or attempt to influence legislative action or inaction on behalf of a principal. Joint Rule 1 of the Joint Rules of the Florida Legislature, entitled, "Lobbyist Registration and Reporting," is adopted pursuant to the directives in s. 11.045, F.S. "The Lobbying Disclosure Act," considered and passed by the Florida Senate during the 2005 regular session amends Section 11.045, Florida Statutes, to require, among other things:

- Lobbyist reporting of *individual* lobbying expenditures;
- Compensation reporting;
- Electronic reporting of expenditures and compensation; and,
- Quarterly, as opposed to semiannual, reporting.

Joint Rule 1 must be amended as provided in Section 11.045, Florida Statutes, to incorporate the changes in the "Lobbying Disclosure Act" should it pass during the 2006 legislative session. If Joint Rule 1 is not amended, the Florida Statutes and Joint Rules of the Legislature will conflict.

**PROJECT OBJECTIVE(S):**

To draft a proposed concurrent resolution to incorporate the full range of modifications of the laws relating to lobbyist registration and reporting embodied in legislation adopted by the Florida Senate during the 2005 regular session of the Legislature.

**METHODOLOGY:**

Committee staff, in conjunction with staff of the Rules and Calendar Committee, will examine the existing statutes and Joint Rules of the Florida Legislature and the proposed statutory modifications to the registration and reporting requirements embodied in "The Lobbying Disclosure Act." Committee staff will confer with personnel in the Lobbyist Registration Office in the Division of Legislative Information Services of the Office of Legislative Services and the Office of the Auditor General to incorporate the full-range of necessary modifications in a proposed concurrent resolution to amend Joint Rule 1 of the Joint Rules of the Florida Legislature relating to lobbyist registration and reporting.

**INTERIM PROJECT TITLE:**

***Review of Early Voting in 2004 Election Cycle***

**DATE DUE:** October 7, 2005

**PROJECT NUMBER:** 2006-124

**BACKGROUND and DESCRIPTION:**

In 2004, Florida required early voting in statewide elections for the first time. While the concept proved popular with voters, many counties experienced chronic long lines for voters at early voting

sites. A number of causes were attributed to the lengthy waits, including an inadequate number of early voting sites, insufficient hours and days allotted for early voting, and a paucity of voting machines and staff. In addition, election laws and rules regulating the conduct of elections, which apply to precinct voting on election day, did not apply to early voting sites; however, an attempt was made during the 2005 legislative session (HB 1567) to apply election day procedures to early voting and to bring uniformity to statewide early voting.

**PROJECT OBJECTIVE(S):**

The purpose of the project is to assess the implementation of early voting during the 2004 election cycle, and to identify and examine specific issues that should be addressed in the upcoming legislative session.

**METHODOLOGY:**

The Committee staff will meet with the Division of Elections, the supervisors of elections, and other interested parties to discuss the problems that arose in connection with early voting during the 2004 elections. Staff will review media reports and post-election reports of county canvassing boards, supervisors of elections, and the Division of Elections to identify areas of problem and concern. Finally, staff will draft a report discussing the implementation of early voting, and identify any additional measures for consideration by the 2006 Legislature.

**MANDATORY REVIEWS**

*(None)*

**MONITOR PROJECTS**

*(None)*



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# General Government Appropriations

## INTERIM PROJECTS

*(None)*

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b>
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<i>Condominium Complaints</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-350

**BACKGROUND and DESCRIPTION:**

The 2004-2005 General Appropriations Act (GAA) included proviso language for the Department of Business and Professional Regulation (DBPR) that required specific data to be collected and reported for condominium complaints. The agency was 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 quarterly report contained data on condominium training programs, complaints, and investigations. This proviso language was continued in the 2005-2006 General Appropriations Act.

The 2004-2005 GAA also provided 14 additional positions to assist the Division of Land Sales, Condominiums, and Mobile Homes in resolving condominium complaints. Ten of the 14 positions were held in reserve subject to a needs assessment by the division. In April 2005, the division requested that six of the positions held in reserve be released in order to support improvement efforts in the areas of timely complaint response and the division's enhanced enforcement and compliance plan. The 2005-2006 GAA provides an additional two positions to the division for workload increases related to condominium development filings.

The Office of the Condominium Ombudsman was created by the 2004 Legislature (Chapter 2004-345, L.O.F.). During FY 2004-2005, two positions were allocated to the newly created Office of the Condominium Ombudsman from the ten positions held in reserve. The 2005-2006 GAA provides an additional four positions to the office and includes proviso language that requires quarterly expenditure reports.

OPPAGA conducted an audit of the Division of Land Sales, Condominiums, and Mobile Homes and reported findings in April 2005. OPPAGA recommended that the division and the Legislature take several actions to improve the timeliness and effectiveness of services. These include: (1) clarify

statutory timeliness standards; (2) strengthen enforcement action; (3) improve business processes; (4) increase use of mediation; and (5) continue the requirement that the division submit quarterly reports.

**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, and to monitor expenditure reports from the new Office of the Condominium Ombudsman.

**METHODOLOGY:**

Staff of the General Government Appropriations and the Regulated Industries committees will collect and analyze quarterly report data provided by the agency and the Ombudsman's office, and review OPPAGA recommendations in order to make recommendations for the 2006 session for improving condominium complaint response time.

**INTERIM MONITOR PROJECT TITLE:**

*Department of Citrus Box Tax Litigation*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-351

**BACKGROUND and DESCRIPTION:**

The Florida Department of Citrus (FDOC) imposes a box tax on growers of oranges and grapefruit within the State of Florida. Revenues generated by the tax are used primarily to fund the marketing activities of the FDOC. Citrus growers pay 16.5 cents per box on oranges and 24 cents per box on grapefruit. The box tax provides approximately two-thirds of the department's budget.

Eight Florida citrus growers have joined together in a lawsuit aimed at preventing the FDOC from collecting the box tax to fund generic advertising. The growers claim that the tax violates their first amendment rights by forcing them to support advertising programs to which they object. The litigation is currently before the Florida Supreme Court with a ruling expected before the start of the 2006 Legislative Session.

**PROJECT OBJECTIVE(S):**

The objective of this project is to monitor the activities associated with the lawsuit in the event that the Florida Supreme Court issues an unfavorable ruling against the Department of Citrus in the box tax litigation prior to the next legislative session.

**METHODOLOGY:**

Staff of the General Government Appropriations Committee will work with staff of the Department of Citrus and the Senate Agriculture Committee to monitor rulings of the court and actions by the department in the event that the court alters the department's taxing authority.

**INTERIM MONITOR PROJECT TITLE:**

*Financial Review of the Florida Facilities Pool*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-352

**BACKGROUND and DESCRIPTION:**

The Department of Management Services is responsible for the operation and maintenance of state-owned facilities as defined in s. 255.506, F.S. Approximately 188 parcels, consisting of 7.9 million square feet of office and warehouse space, are managed by the department and commonly referred to as the Florida Facilities Pool<sup>1</sup>.

Agencies occupying space within the Florida Facilities Pool are charged rent based on the amount of square footage occupied. The department sets the rental rate at an amount sufficient to cover the operational costs of the facilities pool. The types of costs incurred by the facilities pool include operations, maintenance, interior refurbishment, debt service, and capital depreciation.

The FY 2005-2006 General Appropriations Act provides \$3,152,114 in general revenue and \$3,152,115 in trust funds on a recurring basis for the department to increase the current rental rate of \$14.69 per square foot. This appropriation includes proviso requiring the department to submit a detailed report by August 15, 2005, on the facilities pool and the department's Workspace Management Initiative. The current rate of \$14.69 was implemented in FY 2003-2004. The rate charged for FY 2000-2001 through FY 2002-2003 was \$15.39.

For long-term planning purposes, numerous factors, such as facilities pool assets, outstanding debt, debt structure, capital deficiencies, rental revenues, operations and maintenance costs, vacancy percentage, and the impact of the department's Workspace Management Initiative, must be reviewed periodically to determine the strategic management direction for the facilities pool.

**PROJECT OBJECTIVE(S):**

The objective of the project is to perform a fiscal review of the factors affecting the long-term strategic management of the facilities pool, in order to determine funding deficiencies or potential operational efficiencies.

**METHODOLOGY:**

Staff of the General Government Appropriations Committee will work with the department, the Office of Program Policy Analysis and Government Accountability (OPPAGA), the Government Efficiency Committee staff, and the State Board of Administration to make recommendations for the 2006 Legislative Session, to ensure that the rental rate charged for facilities pool space is sufficient to meet outstanding obligations of the facilities pool and bond coverage requirements. OPPAGA is currently reviewing the department's centralized leasing initiative and its impact on the facilities pool. Additionally, OPPAGA plans to review the costs associated with state-owned properties, such as operations and maintenance, to determine whether or not it is in the state's best interest to continue ownership of the properties.

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<sup>1</sup> Tallahassee Pool Facilities Plan presentation by the Department of Management Services dated March 17, 2005.



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# Government Efficiency Appropriations

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*2006 Florida Tax Handbook Including Fiscal Impact of Potential Changes*

**DATE DUE:** March 1, 2006

**PROJECT NUMBER:** 2006-125

**BACKGROUND and DESCRIPTION:**

The Florida Tax Handbook Including Fiscal Impact of Potential Changes is published annually by the Senate Government Efficiency Appropriations Committee, with assistance from the House Committee on Finance and Tax, the Office of Economic and Demographic Research, and the Office of Tax Research 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.

**PROJECT OBJECTIVE(S):**

The main objective of this project is to publish, prior to the 2006 Legislative Session, the 2006 Florida Tax Handbook Including Fiscal Impact of Potential Changes.

**METHODOLOGY:**

Coordinate the publication of the 2006 Florida Tax Handbook Including Fiscal Impact of Potential Changes by assigning tax sources to the staff of the Senate Government Efficiency Appropriations Committee, House Committee on Finance and Tax, the Office of Economic and Demographic Research, and the Office of Tax Research of the Department of Revenue. 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.

**INTERIM PROJECT TITLE:**

*Assessment of Homestead Property Damaged or Destroyed by Misfortune or Calamity*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-126

**BACKGROUND and DESCRIPTION:**

Art. VII, sec. 4 of the Florida Constitution requires that homestead property be assessed at just value as of January 1 of the year following the establishment of a new homestead, or after any change in

ownership. Existing homesteads are assessed based on the prior year's assessment, adjusted by 3 percent or the Consumer Price Index, whichever is lower. (This limitation on the increase in assessed value is popularly known as "Save Our Homes." It was adopted by the voters in 1992 and first effective for January 1, 1995 assessments.) Paragraph (5) of this section provides that changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law, and in the event of a termination of homestead status, the property shall be assessed as provided by general law.

Section 193.455, F.S., implements the provisions of the Save Our Homes constitutional amendment. Subsection (4) provides for the assessment of changes, additions, or improvements to homestead property, which are generally assessed at just value as of the first January 1 after they are substantially completed. Paragraph (4)(b) provides an exception when the property is being rebuilt due to misfortune or calamity. That paragraph begins by saying that "Changes, additions, or improvements do not include replacement of a portion of real property damaged or destroyed by misfortune or calamity when the just value of the damaged or destroyed portion as replaced is not more than 125 percent of the just value of the damaged or destroyed portion. The value of any replaced real property, or portion thereof, which is in excess of 125 percent of the just value of the damaged or destroyed property shall be deemed to be a change, addition, or improvement." This passage has caused confusion because it does not specify the time frames to be used to determine the 125% threshold. Is the value of the destroyed or damaged portion to be determined as of the previous January 1<sup>st</sup>, just before the damage, or as would have been assessed on the January 1<sup>st</sup> following the damage? If the date is different than the date of assessment for the replaced portion, how should appreciation be handled?

Paragraph (5) of s. 193.155, F.S., states that "When property is destroyed or removed and not replaced, the assessed value of the parcel shall be reduced by the assessed value attributable to the destroyed or removed portion." The statute currently provides no direction as to how a property appraiser is to attribute value to the destroyed property.

A third issue not currently addressed by statute is how to apply the Save Our Homes assessment limitation in the event that reconstruction is not complete as of January 1<sup>st</sup> following the damage. Is the property still considered a homestead? Do the provisions applying to "substantially complete" construction apply? How is the assessment cap to be calculated both for the January 1<sup>st</sup> when reconstruction is not complete and the following January 1<sup>st</sup> when it is?

During 2004, four hurricanes made landfall in Florida. It has been estimated that over 12,000 homesteads were destroyed by storm activity, and over 28,000 suffered major damage. The Legislature enacted CS for SB 1194, which provides that notwithstanding s. 193.155(4), F.S., the assessment at just value for changes, additions, or improvements to homestead property rendered uninhabitable in one or more of the named storms of 2004 shall be limited to the square footage exceeding 110 percent of the homestead property's total square footage. In addition, homes having square footage less than 1,350 square feet may rebuild up to 1,500 square feet without incurring additional assessment at just value. These provisions apply to homestead properties in which repairs are completed by January 1, 2008, and apply retroactively to January 1, 2005.

**PROJECT OBJECTIVE(S):**

This project will examine the issue of assessing changes, additions, or improvements to homestead property that has been damaged or destroyed by misfortune or calamity. The 2004 hurricane season caused the Legislature and property appraisers to look at the existing statutory treatment of this situation, and several potential problems came to light, including:

- The lack of clarity in the statutory language, including:
  - Calculation of the 125% applicable to reconstructed property damaged or destroyed by misfortune;
  - Determination of assessed value “attributable” to non-reconstructed property;
  - Application of the assessment cap when damaged property is not repaired prior to January 1<sup>st</sup>.
- The uncertainty facing homestead property owners about how repairs or additions to their damaged property will be assessed;

**METHODOLOGY:**

This project will require Government Efficiency Appropriations Committee staff to collaborate with the property appraisers and Department of Revenue Property Tax Administration staff. The property appraisers will be canvassed to determine how they have been treating individual properties damaged or destroyed by misfortune or calamity, and what difficulties have been presented by the current law. Also, challenges to their assessment of these properties, through the Value Adjustment Board process or the courts, will be reviewed. A working group comprising Department of Revenue staff, representatives of both property appraiser organizations, and legislative staff will be organized to identify specific problems that have arisen from current law (s. 193.455, F.S., and CS/SB 1194, if it becomes a law) and suggest legislation to address these problems.

**INTERIM PROJECT TITLE:**

*Government Efficiency Initiative*

**DATE DUE:** March 1, 2006

**PROJECT NUMBER:** 2006-127

**BACKGROUND and DESCRIPTION:**

This project will address seven issues identified by the Government Efficiency Appropriations Committee for consideration during the 2006 Session. These issues offer several opportunities to improve government operations and generate potential cost savings. The selected issues will be reviewed by OPPAGA during the interim, which will develop policy options for consideration by the legislature. The committee on Government Efficiency Appropriations will then address OPPAGA’s recommendations as part of its ‘efficiency’ charge when interim committee meetings resume in the fall. Specifically, these reviews will focus on:

- Regulatory Fees - Which state regulatory programs’ fee collections are insufficient to cover the direct and indirect costs of its regulatory programs? For those programs that are not self-supporting, have agencies assessed the program’s business processes to ensure they are efficient and cost-effective and established criteria for setting fees sufficient to cover the cost of regulation? Have all program administrative activities/costs been reviewed to ensure only essential, value-add administrative activities are being coordinated. Which programs require changes in legislation to allow the program to become self-sufficient?
- Hard Copy Publications - What are the implications and cost savings associated with limiting state agencies’ distribution of hard copies of unsolicited reports or newsletters? How can state agencies be held accountable for limiting the distribution of hard copy reports and newsletters?

- State-Owned Property - What are the costs associated with properties owned by the state, in terms of purchase, operations, and maintenance? What criteria could be used to consider whether it is in the best interest of the state to continue ownership? What options are available to the state for divesting those state properties for which it is determined that the state is unwilling or unable to continue to hold title? [Coordinate with General Government Appropriations.]
- Right-of-Way Costs - What options are available to the state for reducing the current incentives for landowners to litigate rather than negotiate? What additional options are available for reducing the state's expenses associated with right-of-way acquisition?
- Postsecondary Remediation - How do students requiring remediation services in community colleges and universities compare to students who do not require remediation (e.g., course work, FCAT scores, graduation requirements, number of years out of school)? What options are available to reduce the need for and thus the cost of remediation courses?
- Education Facilities Planning and Utilization - What can the state do to assist school districts to be more efficient in their facilities construction and maintenance practices? How well do universities and community colleges classroom utilization rates compare to the institutions' plans for construction?
- Agency Unit Cost Summaries - Are agencies submitting the unit cost summary required by sections 216.1826 and 216.023(4)(b), F.S., and is the information comparable and of good quality? Are agencies using unit cost information and are there ways the reported information could be improved? Will the Department of Financial Services' Project Aspire capture unit cost data?

**PROJECT OBJECTIVE(S):**

This interim project will serve as a "Test Run" for the Government Efficiency Task Force created in Senate Joint Resolution 2144 (if approved by the electors of this state at the next general election). The reviews should also offer several opportunities to improve government operations and generate potential cost savings.

**METHODOLOGY:**

The selected issues will be reviewed by OPPAGA during the interim. Government Efficiency Appropriations Committee members will be joined by several subject matter experts from the public and private sectors to form an efficiency task force. The efficiency task force will meet intermittently in the fall to receive updates from OPPAGA on project research and provide strategic direction and review of OPPAGA policy options and recommendations. Before ending in January, the task force will provide a final report of recommendations to the Government Efficiency Appropriations Committee as to proposed legislation to be sponsored by the committee during the 2006 session.

**INTERIM PROJECT TITLE:**

***Rewrite of Section 212.20(6)(d), F.S. – Sales Tax Distributions***

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-128

**BACKGROUND and DESCRIPTION:**

Chapter 212, F.S., governs taxes on sales, use and other transactions. Section 212.20(6)(d), F.S., governs distributions of most of those funds collected by the Department of Revenue. These distributions are many and difficult to follow. Sales tax distributions are made in the following manner:

- 0.2% to the Ecosystem and Restoration Management Trust Fund;
- 8.814% to the Local Government Half-cent Sales Tax Clearing Trust Fund;
- 0.095% to certain counties pursuant to s. 218.65, F.S., the Emergency Distributions;
- 2.044% to the County Revenue Sharing Trust Fund;
- 1.3409% to the Municipal Revenue Sharing Trust Fund;
- \$29,915,500 to counties in equal shares of \$446,500 annually;
- \$1,666,667 distributed monthly (\$2 million annually) to each applicant who qualifies as a “facility for a new or retained professional sports franchise.” Distributions are made to the following franchises:
  - Pro Player Stadium, home of the Florida Marlins;
  - Alltel Stadium, home of the Jacksonville Jaguars;
  - Tropicana Field, home of the Tampa Bay Devil Rays;
  - St. Pete Times Forum, home of the Tampa Bay Lightning;
  - Home Depot Stadium, home of the Florida Panthers;
  - Raymond James Stadium, home of the Tampa Bay Buccaneers; and
  - American Airlines Arena, home of the Miami Heat.
- \$41,667 distributed monthly (\$0.5 million annually) to each applicant who qualifies as a “retained spring training franchise.” Distributions are made to the following franchises:
  - Philadelphia Phillies, Clearwater;
  - L.A. Dodgers, Indian River County;
  - Toronto Blue Jays, Dunedin;
  - Detroit Tigers, Lakeland; and
  - Houston Astros, Osceola County.
- \$1,666,667 distributed monthly (\$2 million annually) to the Professional Golf Hall of Fame;
- \$83,333 distributed monthly (\$1 million annually) to the International Game Fish Association World Center; and
- The remainder to the General Revenue Fund.

During the 2005 Legislative Session, SB 2132 and HB 1257 provided additional sales tax distributions to “fiscally constrained counties,” as defined in s. 985.2155, F.S. Both bills died in committee, but the issue may resurface during the 2006 Legislative Session and will be considered as part of this project.

**PROJECT OBJECTIVE(S):**

The objective of this interim project is to re-write s. 212.20(6)(d), F.S., in order to simplify calculation and administration of current sales tax distributions. In addition, the feasibility and

advisability of incorporating provisions of SB 2132 and HB 1257, 2005 legislation providing assistance to fiscally constrained counties, into the current emergency distribution will be analyzed.

**METHODOLOGY:**

Review the legislative history of each distribution and propose changes to the sales tax distributions in order to simplify s. 212.20(6)(d), F.S. The multiple sales tax distributions made to cities and counties under current law will be analyzed. The project will include a review 2005 proposals to distribute additional sales tax to fiscally constrained counties and will propose statutory distribution options under s. 212.20(6)(d), F.S., if the 2006 legislature chooses to fund additional need-based assistance to counties.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 213.053, F.S., Communications Services Tax Simplification Law*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-216

**BACKGROUND and DESCRIPTION:**

Paragraph (b) of subsection (1) of s. 213.053, F.S., makes all information contained in returns, reports, accounts, or declarations received by the Department of Revenue relating to chapter 202, the Communications Services Tax Simplification Law, confidential and exempt from the public records provisions of s. 119.07(1), F.S., the paragraph is subject to the Open Government Sunset Review Act of 1995 and stands repealed on October 2, 2006, unless review and saved from repeal through reenactment by the Legislature.

**PROJECT OBJECTIVE(S):**

The objective of this project is to review the public records exemption contained in paragraph (b) of subsection (1) of s. 213.053, F.S., and recommend reenactment, repeal, or revision.

**METHODOLOGY:**

Staff will analyze the types of information received by the department that is covered by the exemption, review the legislative history of the exemption, and discuss the exemption with department personnel and other potentially affected persons.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Activities of the Communication Services Task Force*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-353

**BACKGROUND and DESCRIPTION:**

CS for SB 2070 appropriates \$500,000 to the Department of Revenue to hire consultants and expert witnesses in the areas of communications technology and computer telephony. These experts will provide information, technical consulting, analysis, and testimony regarding the current and future development of network and telecommunications architecture, products, and services, and they will also help identify issues regarding taxation of those products and services.

Information and analysis provided by these consultants and expert witnesses will be used by the Communications Services Task Force, which is also created by CS for SB 2070. This task force, which will hold its organizational meeting by July 15, 2006, will study:

- The national and state regulatory and tax policies relating to the communications industry, including the Internet Tax Freedom Act;
- The levels of tax revenue that have been generated by the communications services taxes imposed or administered pursuant to chapter 202, Florida Statutes, in the past and that are expected to be generated in the future, and their adequacy in funding government services and bonded indebtedness that rely on them;
- The impact of the communications services taxes on Florida's competitiveness;
- The impact of the diversity of communications technology and of changes in such technology on the state's ability to design tax laws, the applicability of which is reasonably clear to communications service providers and state administrators, and which are susceptible to efficient and fair administration by the state;
- The administrative burdens imposed on communications services providers; and
- To the extent that future revenues from the communications services tax are expected to be inadequate to fund government services and bonded indebtedness that rely on them, the options that are available for funding these services and bonded indebtedness.

**PROJECT OBJECTIVE(S):**

This project will monitor the Department of Revenue's activities in hiring consultants and expert witnesses in the areas of communications technology and telephony and ensure that the products delivered by them will serve the needs of the Communications Services Task Force.

**METHODOLOGY:**

Government Efficiency Appropriations Committee staff will review the Department of Revenue's hiring of consultants and expert witnesses, and will work with the department to ensure that the Communications Services Task Force will have appropriate and high-quality information and analysis on which to base its recommendations.

**INTERIM MONITOR PROJECT TITLE:**

*Streamlined Sales and Use Tax Project*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-354

**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 42 states and the District of Columbia 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. During the 2005 Legislative Session, CS/SB 56 was reported favorably by the Government Efficiency Appropriations and Commerce and Consumer Services Committee but died in Ways and Means. As of January, 2005, twenty-one 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 2006 Legislative Session.

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# Governmental Oversight and Productivity

## INTERIM PROJECTS

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**INTERIM PROJECT TITLE:**

*Review of Joint Legislative Committees and Operations*

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**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-129

**BACKGROUND and DESCRIPTION:**

Interim Report 2005-136 discussed the organization of the Legislative Branch with particular focus on the joint standing committees reporting to both the President of the Senate and Speaker of the House of Representatives. That report proposed several issues areas for legislative attention but the principal recommendation was to move the authority for creation of the joint operations from the Florida Statutes to joint rules promulgated by the Senate and House of Representatives.

**PROJECT OBJECTIVE(S):**

This project seeks to implement that recommendation of the 2005 Interim Report by proposing an amended statutory and rule framework for the codification of legislative organization within the Legislative Branch itself.

**METHODOLOGY:**

The project will propose draft changes to ch. 11, Florida Statutes, and migrate those statutory provisions on internal legislative organization to a joint rule for adoption by both chambers.

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**INTERIM PROJECT TITLE:**

*Reorganization of Chapter 121, F. S., the Florida Retirement System*

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**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-130

**BACKGROUND and DESCRIPTION:**

The Florida Retirement System (FRS) was created in 1970 as the successor system to four separately created pension plans for state and local government employers: ch. 122, F.S., State and County Officers and Employees' Retirement System; ch. 123, F.S., the Judicial Retirement System; ch. 238, F.S., Teachers' Retirement System; and ch. 321, F.S., Highway Patrol Pension Plan. The FRS was created at a time of financial urgency in which the largest single pension component, the Teachers' Retirement System, was fast approaching financial insolvency. Through the intervening thirty-five years the FRS has become one of the Nation's largest multi-employer plans and has been one of the few state pension plans to have created and maintained a significant surplus of assets over liabilities.

Successive legislative changes from 1971 on have layered different provisions on ch. 121, F.S., to the point that the chapter is now difficult to read and even more difficult to interpret by the very personnel and benefit managers who must respond to employee information inquiries.

**PROJECT OBJECTIVE(S):**

The project has as its objective a reorganization of the provisions in Part I, General Provisions, for the defined benefit plan administered by the Division of Retirement. It seeks to organize the material in a similar fashion to other chapters in the Florida Statutes with topical subheadings that segment related subject matter. Less significant for change are provisions in Part II, the defined contribution Public Employees Optional Retirement Program, and Part III, FRS Contribution Rates. The project does not seek to make policy changes to Part I; it is designed only to organize the material that has successively accumulated over the years.

**METHODOLOGY:**

The project will involve work with the Division of Retirement in the Department of Management Services on the development of a drafting outline and, ultimately, manuscript, for the reorganization of Part I. Because the FRS is a multi-employer plan it will be essential to work closely with the component employer members and participant employees, three-quarters of who are non-state agencies.

**INTERIM PROJECT TITLE:**

*Employer Payroll Contribution Rates for the Florida Retirement System*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-131

**BACKGROUND and DESCRIPTION:**

It has been the recent custom to enact legislation each year that fixes the employer payroll contribution rates for the funding of the multi-employer Florida Retirement System. House Bill 1907 (Senate Bill 1152) set those rates for the fiscal year ending June 30, 2006. The legislation also enacts “default” rates, that is, the rates for the normal costs of the FRS exclusive of the recognition of any excess actuarial assets.

**PROJECT OBJECTIVE(S):**

This project will draft the implementing legislation to set the rates for the FRS for the fiscal year beginning July 1, 2006.

**METHODOLOGY:**

The project will examine the rates recommended by the division’s consulting actuary prepared as a part of the annual plan valuation and submitted at the end of Calendar Year 2005.

**INTERIM PROJECT TITLE:**

*The Supplemental Retirement Program of the Institute of Food and Agricultural Sciences at the University of Florida*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-132

**BACKGROUND and DESCRIPTION:**

Since 1984 the Division of Retirement in the Department of Management Services has administered the supplemental pension plan for eligible retirees from the federal civil service who are employed as cooperative extension personnel at the University of Florida's Institute of Food and Agricultural Sciences (IFAS). This supplemental plan acts to bridge the gap between the federal civil service benefit and the benefit otherwise payable to an FRS retiree.

This is a closed plan and as such it is experiencing no new hires and an accelerating ratio of beneficiaries to active employees. The result places extraordinary pressure on the employer payroll contribution rate to maintain full legal funding status. The 2005 Legislature increased the payroll contribution rate by almost fifty percent in light of this funding difficulty and provided an additional \$500,000 to IFAS to help cushion these adverse financial effects.

**PROJECT OBJECTIVE(S):**

The project seeks to provide a permanent solution to the progressive funding difficulties being experienced by IFAS. The consulting actuaries to the division indicated prior to the 2005 Session that there were several solutions available ranging from temporary biennial funding increases to a permanent assimilation of IFAS into the FRS. The short time frame from the receipt of the actuarial report to the end of session did not permit a thorough review of anything more than the most immediate solution.

**METHODOLOGY:**

The project will work with the division and IFAS on providing a durable statutory solution to this persistent funding problem, which will only become more serious as time passes.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 119.084, F.S., Data Processing Software*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-217

**BACKGROUND and DESCRIPTION:**

Section 119.084, F.S., permits an agency to acquire and hold copyrights for data processing software created by that agency and to enforce its rights pertaining to such copyrights, provided that the agency complies with certain requirements. The section permits an agency that acquires a copyright for data processing software to sell or license the copyrighted data processing software to any public agency or private person and may establish a price for the sale and a license fee for the use of such software.

**PROJECT OBJECTIVE(S):**

Under s. 119.15, F.S., the Open Government Sunset Review Act, exemptions to s. 24, Art. I of the State Constitution, are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature pursuant to the standards established in the act. The project objective is to review s. 119.084, F.S., to determine if it meets the standards established in the Open Government Sunset Review Act and to recommend whether the exemption should be saved from repeal or permitted to sunset.

**METHODOLOGY:**

Staff will review the standards established in the Open Government Sunset Review Act, review relevant case law, as well as survey agencies, to determine whether agencies have acquired copyrights for data processing software.

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 267.135, F.S., Division of Historical Resources*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-218

**BACKGROUND and DESCRIPTION:**

Section 267.135, F.S., exempts information identifying the location of archaeological sites contained in site files or other records maintained by the Division of Historical Resources of the Department of State if the department finds that disclosure creates a substantial risk of harm, theft, or destruction at the site.

**PROJECT OBJECTIVE(S):**

Under s. 119.15, F.S., the Open Government Sunset Review Act, exemptions to s. 24, Art. I of the State Constitution, are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature pursuant to the standards established in the act. The project objective is to review s. 267.135, F.S., to determine if it meets the standards established in the Open Government Sunset Review Act and to recommend whether the exemption should be saved from repeal or permitted to sunset.

**METHODOLOGY:**

Staff will review the standards established in the Open Government Sunset Review Act, review relevant case law, as well as survey the Division of Historical Resources, Department of State, to determine whether the department has found that any of its site files create a substantial risk of harm, theft, or destruction at the site, and whether the exemption should be retained.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Information Technology Management*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-355

**BACKGROUND and DESCRIPTION:**

The 2005 Legislature enacted legislation transforming the operations and management structure for information technology management in the Executive Branch. That legislation, CS/SB 1494 (HB 1927), however, left unchanged the technology responsibilities assigned to Cabinet officers in the discharge of their constitutional and statutory duties. Consequently, the legislation did not provided a governance structure that can coordinate major policy initiatives across all of the plural executive agencies.

**PROJECT OBJECTIVE(S):**

The project will monitor the implementation of CS/SB 1494. It will also include working with key Executive Branch personnel to determine how a durable governance strategy for information technology can be extended to involve Cabinet officers and their agencies.

**METHODOLOGY:**

The project will begin with a review of the final provisions contained in CS/SB 1494 and proposals suggested by Executive Branch agency personnel to provide greater policy integration among Cabinet officials.

**INTERIM MONITOR PROJECT TITLE:**

*Activities of the Center for Efficient Government*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-356

**BACKGROUND and DESCRIPTION:**

CS/CS/SB 1146 codifies the existence of the Center for Efficient Government, and provides it with specific duties in the oversight over and approval of agency procurements and contracting. The Center has existed to this point by virtue of Executive Order, to review agency procurements over \$10 million “to validate that a project has gone through appropriate measures to comply with Center standards.”

The Center will be involved in large scale procurements for which the Legislature has appropriated or will appropriate funds.

**PROJECT OBJECTIVE(S):**

The project will monitor the implementation of CS/CS/SB 1146 and specifically will review how the Center’s involvement in agency procurements and contracts produces effective and efficient contracts in compliance with state law.

**METHODOLOGY:**

Attend public meetings of the Center, review proposed solicitation for compliance with state law and Center gate process, public hearings as necessary.

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# Health Care

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Identification and Prevention of Fraud and Abuse in Medicaid Managed Care*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-133

**BACKGROUND and DESCRIPTION:**

Studies estimate that between 5 percent and 10 percent of Medicaid expenditures are lost to fraud and abuse. During the recent Medicaid reform debate, some argued that transferring the fee-for-service program into a managed care system would eliminate, or, at least, transfer the risk of fraud and abuse from the state to private managed care plans. Whether managed care is more effective at reducing Medicaid fraud and abuse than fee-for-service is debatable. Some argue that fraud and abuse are still present, but simply change form in managed care systems.

Both the federal government and the Florida Medicaid program have recognized the fact that Medicaid fraud and abuse can occur in a managed care system. In 2001, the Centers for Medicare and Medicaid Services established guidelines for states that identified aspects of managed care that are most vulnerable to fraud and abuse. In Florida, the Agency for Health Care Administration (AHCA) addresses managed care fraud and abuse through the monitoring of its contracts with Medicaid health maintenance organizations (HMOs) and by a designated team in AHCA's Bureau of Program Integrity. In addition, the Office of the Attorney General's Medicaid Fraud Control Unit has expressed interest in greater oversight of managed care.

Under the direction of the Legislature, the Office of Program Policy Analysis and Government Accountability (OPPAGA) conducted a preliminary review of fraud and abuse prevention and detection activities in five Medicaid HMOs in Florida. OPPAGA also looked at these activities in states with only managed care systems (Arizona and Tennessee). OPPAGA raised several issues in their brief about the agency's monitoring of Medicaid HMO contracts, the variation in prevention and detection activities in current Medicaid HMOs, and tools that could be adopted from other states.

**PROJECT OBJECTIVE(S):**

This interim project will expand on the preliminary evaluation conducted by OPPAGA. The project will: 1) examine ways to improve monitoring of Medicaid HMO contracts; 2) examine the fraud and abuse prevention and detection activities in all the Medicaid HMOs in Florida; 3) examine how fraud and abuse is addressed in the existing Medicaid provider service networks (PSNs), since they will be a critical component of the Governor's Medicaid reform initiative; and 4) identify best practices to prevent and detect Medicaid managed care fraud and abuse from federal, state, and private sector experiences.

**METHODOLOGY:**

Staff will review AHCA's contract monitoring process through interviews with agency personnel. Staff will also interview the program integrity staff at AHCA to determine ways that the two bureaus can better coordinate their activities. Staff will interview appropriate staff in all of Florida's Medicaid HMOs and the PSNs, and review their contracts as they relate to fraud and abuse prevention and

detection. Staff will coordinate with OPPAGA on the information obtained from other states and determine if additional interviews are necessary to identify critical issues based on the experience of other states.

**INTERIM PROJECT TITLE:**

***Medicaid Provider Rate Setting***

**DATE DUE:** March 1, 2006

**PROJECT NUMBER:** 2006-134

**BACKGROUND and DESCRIPTION:**

Medicaid provider reimbursement rates are developed based on appropriations and put into rule by the Agency for Health Care Administration (AHCA). Once rates are approved, they are included in provider contracts. Under current law, providers have the ability to challenge rate changes through ch. 120, F.S. This process has created a situation that limits that state's ability to adjust provider rates, even resulting in litigation by providers against the state to prevent rate reductions.

Section 21 of CS/CS/SB 838 (Medicaid) requires the Senate Select Committee on Medicaid Reform to study this process and recommend any changes to the Governor and the Legislature in a report by March 1, 2006.

**PROJECT OBJECTIVE(S):**

The Senate Select Committee on Medicaid Reform shall study: 1) how provider rates are established and modified; 2) how provider agreements and administrative rulemaking affect those rates; 3) the discretion allowed by federal law for the setting of rates by the state; and 4) the impact of litigation on provider rates.

**METHODOLOGY:**

Senate Health Care Committee, Senate Ways and Means Committee, and Senate Health and Human Services Appropriations Committee staff will interview appropriate provider representatives and appropriate persons in AHCA regarding the rate setting process. Staff will also interview individuals in the Office of the Attorney General, AHCA, the Agency for Persons with Disabilities, and the Department of Elderly Affairs regarding litigation on this issue. Staff will review case law and federal laws and rules related to states' flexibility in modifying rates.

**INTERIM PROJECT TITLE:**

***Review of Issues Relating to Electronic Prescribing***

**DATE DUE:** October 1, 2005

**PROJECT NUMBER:** 2006-135

**BACKGROUND and DESCRIPTION:**

Electronic communication between health care providers is being recognized as a new standard of practice and many pharmacies are connected to electronic prescribing networks. The electronic transmission of written prescriptions has the potential to improve patient care and reduce medication

errors and prescription fraud. Unsecured electronic prescriptions could lead to prescription forgery, fraud, the introduction of errors, or the loss of confidentiality. Breaches of privacy and fraud may be difficult to monitor and detect in electronic prescriptions in contrast to a paper-based prescription. The Florida pharmacy practice act defines “prescription” to mean any order for drugs or medicinal supplies written or transmitted by any means of communication by a licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist. Florida pharmacy regulations and applicable federal law provide requirements for confidentiality, recordkeeping, validation, and format for prescriptions of medicinal drugs. State law requirements for the prescription of controlled substances must conform to requirements for the prescription of controlled substances issued by the United States Drug Enforcement Agency (DEA). The DEA allows only limited use of electronic prescriptions for controlled substances and imposes specific validation requirements.

The DEA is considering whether to revise its regulations to allow prescribers who are registered with the DEA to electronically write, sign, and transmit prescriptions for controlled substances. The DEA has indicated that the new regulations will not preempt existing state law on electronic transmission of prescriptions for controlled substances. Such regulations would be an addition to, not a replacement of, the existing rules governing controlled substances. Practitioners, pharmacies, and hospitals could then use modern technology for controlled substance prescriptions to potentially reduce paperwork, reduce the number of prescription errors caused by illegible handwriting and misunderstood oral prescriptions. In a separate and related action, on April 1, 2005, the DEA adopted regulations to provide the option of ordering Schedule I and II controlled substances electronically. Such regulations would give manufacturers, distributors, importers, exporters, pharmacies, and hospitals the option to use modern technology for controlled substance transactions.

As part of the regulation of pharmacy, states may impose requirements on prescriptions to ensure privacy, and to maintain that such prescriptions are valid and authenticated to protect consumers. Other federal regulations also may preempt state law requirements for prescriptions. Complex legal issues arise under state and federal law relating to privacy, security and transmission of prescriptions.

**PROJECT OBJECTIVE(S):**

This project would review current law providing standards and requirements for electronic prescribing and identify any needed changes in the law.

**METHODOLOGY:**

Staff will review the effectiveness and implementation of the current law and applicable industry standards for the authentication and validation of electronic prescriptions. Staff will seek input from the Department of Health, professional regulatory boards, other relevant state and federal agencies, associations representing health care providers, and other interested stakeholders to determine if the current law should be revised.

**INTERIM PROJECT TITLE:**

***Review of Medical and Osteopathic Physician Licensure***

**DATE DUE:** October 1, 2005

**PROJECT NUMBER:** 2006-136

**BACKGROUND and DESCRIPTION:**

The costs of medical malpractice insurance, the recent adoption of a constitutional amendment that prohibits licensure or continued licensure of physicians who have committed three or more incidents of malpractice, and other variables may have an effect on the number of students applying to medical schools in the state and the number of medical and osteopathic physicians applying for licensure and practicing in Florida. It has been reported that, because of these conditions, physicians are leaving Florida, discontinuing their practices, or reducing the scope of their practices.

Chapter 456, F.S., contains the general regulatory provisions for health care professions and occupations under the Division of Medical Quality Assurance in the Department of Health (DOH). Section 456.013, F.S., outlines general licensing procedures to be used by DOH and appropriate boards to issue an initial license to practice a profession. Chapter 458, F.S., provides for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., provides for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. In addition to the general regulatory provisions within ch. 456, F.S., the practice acts provide licensing requirements that medical and osteopathic physicians must meet in order to become licensed to practice in Florida. The department or appropriate board, as any other state agency, must follow procedures outlined in ch. 120, F.S., to issue a license.

**PROJECT OBJECTIVE(S):**

This interim project will review the procedures for medical and osteopathic physician licensure and licensure renewal; identify any trends in the physician workforce supply in Florida; and determine if there is a need to revise the collection of physician workforce data. The project will identify whether current law and procedures used for physician licensure should be revised.

**METHODOLOGY:**

Staff will review the history, implementation, and effectiveness of the current law governing medical and osteopathic physician licensure and relevant data on physician workforce trends. Staff will seek input from DOH, professional regulatory boards, other relevant state agencies, associations representing health care providers, and other interested stakeholders to determine if the current law should be revised.

**INTERIM PROJECT TITLE:**

*Review Procedures for Substantiating and Safeguarding Written and Oral Advance Directives and Propose Methods for Increasing Floridians' Use of Written Advance Directives*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-137

**BACKGROUND and DESCRIPTION:**

Florida's Health Care Advance Directives law provides for a written or an oral advance directive to express a person's wishes regarding medical treatment in the event that he or she experiences physical or mental incapacity. Florida's advance directive law is considered to be among the best in the nation because it: provides for a single, comprehensive advance directive while avoiding mandatory medical forms or specific language; authorizes default surrogates (next of kin) if the patient has not named a surrogate; includes close friends in the list of permissible surrogates; and establishes a state-wide do-not-resuscitate order protocol for emergency medical services personnel. Despite these strengths, which permit the law to serve most families, the law has come under criticism and has been extensively debated in recent years. The questions raised in this debate included how oral directives should be substantiated and how more Floridians could be encouraged to execute written directives. In addition, some Floridians expressed an apprehension that government officials might be able to negate a written directive if they disagreed with it.

**PROJECT OBJECTIVE(S):**

To examine the substantiation of oral advance directives and the safeguarding of written directives and to investigate ways to increase the use of written advance directives by Floridians.

**METHODOLOGY:**

Staff will examine how oral advance directives are substantiated and how written directives are safeguarded in Florida and other states and in medical practice. Staff will consult with groups that are interested in advance directives to gather information relevant to the substantiation of oral advance directives and the safeguarding of written directives and will make recommendations regarding possible changes to Florida's advance directives law.

Staff will consult with groups interested in advance directives and with representatives of the Florida Hospital Association, Florida Medical Association, Agency for Health Care Administration, Department of Health, Department of Elderly Affairs, and Department of Highway Safety and Motor Vehicles to investigate ways to increase the number of Floridians who have written directives.

**INTERIM PROJECT TITLE:**

*Review the Moratorium on Certificates of Need for Nursing Homes*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-138

**BACKGROUND and DESCRIPTION:**

The 2001 Legislature imposed a moratorium on certificates of need (CONs) for additional community nursing home beds until July 1, 2006. The purpose of this moratorium is to slow the increase

of nursing home placements and to encourage other forms of assistance to elderly individuals who need assistance. Limiting the number of nursing home beds limits the state's obligation to fund nursing home bed days for Medicaid recipients, thereby freeing state funds to pay for other types of non-institutional community support for the elderly. If the 2006 Legislature does not extend the moratorium on CONs for nursing homes, the moratorium will expire on July 1, 2006.

**PROJECT OBJECTIVE(S):**

This project will provide Senators information they may use when deciding whether to allow the moratorium to expire, renew the moratorium, or alter the application of the moratorium.

**METHODOLOGY:**

Committee staff will review national trends in nursing home placement, indicators and correlates of nursing home quality, and occupancy rates and trends for nursing homes in Florida during the moratorium. Staff will consult with staff of the Agency for Health Care Administration concerning nursing home quality indicators, demographic characteristics of nursing home residents, and costs and methods of payment for nursing home care. Staff will review other types of assistance to the elderly that the state has provided during the years the moratorium has been in effect. Staff will examine whether the moratorium has led to reduced access to needed nursing home care and whether it has impeded the replacement of old facilities. Staff will address whether expiration of the moratorium could possibly limit access for Medicaid recipients and, if the moratorium expired, whether current market conditions would be likely to limit or encourage the construction of new nursing homes.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 409.91196, F.S., AHCA/Trade Secrets*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-219

**BACKGROUND and DESCRIPTION:**

Title XIX, Section 1927 of the Social Security Act requires drug manufacturers participating in state Medicaid programs to participate in the federal Medicaid rebate program. The minimum rebate for brand-name drugs must be at least 15.1 percent of the average manufacturer price nationwide; the minimum rebate for generic drugs must be 11 percent of the average manufacturer price nationwide. The 2001 Legislature authorized the Agency for Health Care Administration (AHCA) to establish a mandatory preferred drug list in Medicaid and to negotiate supplemental rebates in addition to those required by federal law.

Section 409.912, F.S., implements the preferred drug list and specifies supplemental rebates above those required under federal law. For generic pharmaceuticals, manufacturers must provide supplemental rebates equal to the difference between the federal rebate requirement and 15.1 percent of the average manufacturer price. For brand-name pharmaceuticals, manufacturers must provide supplemental rebates equal to the difference between the federal rebate requirement and 29 percent of the average manufacturer price.

Section 409.91196, F.S., specifies that trade secrets, rebate amounts, percent of rebate, manufacturer's pricing, and supplemental rebates which are contained in AHCA's records as part of the negotiations for supplemental rebates are confidential and exempt from s. 119.07, F.S., and s. 24(a), Art. I of the State Constitution. The section also specifies that meetings of the Pharmaceutical and Therapeutics Committee where this information is discussed are exempt from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution. These provisions are 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, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

**PROJECT OBJECTIVE(S):**

To determine if the provisions of s. 409.91196, F.S., making specified records and meetings associated with negotiations of supplemental rebates exempt from the Public Records and Meetings Laws, should be continued or modified pursuant to the criteria specified in the Open Government Sunset Review Act of 1995.

**METHODOLOGY:**

Staff will review the provisions and applicable law pursuant to the criteria specified in the Open Government Sunset Review Act of 1995. Staff will seek input from AHCA, and other interested stakeholders, to determine if any aspects of s. 409.91196, F.S., should be revised.

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 400.119, F.S., Long-Term Care Facilities*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-220

**BACKGROUND and DESCRIPTION:**

The 2001 Legislature required nursing homes to implement an internal risk-management and quality-assurance program to investigate and analyze the frequency and causes of specific types of adverse incidents. Assisted living facilities may institute an internal risk management program. The 2001 Legislature also enacted a public records and public meetings exemption for nursing home and assisted living facility risk management and quality assurance committees' meetings and records related to their work. Under s. 400.119, F.S., records of committee meetings, incident reports filed with the facility's risk manager, notifications of the occurrence of an adverse incident, and adverse incident reports from the facility are confidential and exempt from the provisions of s. 119.07, F.S., and s. 24(a), Art. I of the State Constitution. The meetings of an internal risk management and quality assurance committee are exempt from public meetings requirements of s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution.

**PROJECT OBJECTIVE(S):**

To determine if the provisions of s. 400.119, F.S., making meetings and specified records of nursing home and assisted living facility internal risk-management and quality-assurance programs exempt from the Public Meetings Law and Public Records Law, should be continued or modified pursuant to the criteria specified in the Open Government Sunset Review Act of 1995.

**METHODOLOGY:**

Staff will review the provisions and applicable law pursuant to the criteria specified in the Open Government Sunset Review Act of 1995. Staff will consult with staff of the Agency for Health Care Administration, representatives of nursing home providers and assisted living facilities, and other interested parties to determine if any aspect of s. 400.119, F.S., should be revised.

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 119.07(6)(cc), F.S., Personal Health Information*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-221

**BACKGROUND and DESCRIPTION:**

The Department of Health promotes and protects the health of Florida residents and visitors through organized state and community efforts, including cooperative agreements with counties. The Department of Health provides leadership in establishing statewide and community public health delivery systems; provides health care and early intervention services to infants, toddlers, children, adolescents, and high-risk perinatal patients who are at risk for disabling conditions or have chronic diseases; provides services to abused and neglected children through child protection teams and sexual abuse treatment programs; serves as the statewide repository of all aggregate data accumulated by state agencies related to health care; and regulates health care practitioners.

Section 119.07(6)(cc), Florida Statutes, makes all personal identifying information; bank account numbers; and debit, charge, and credit card numbers contained in records relating to an individual's personal health or eligibility for health-related services made or received by the Department of Health confidential and exempt from the Public Records Law. Such information must be disclosed under the following circumstances: with the express written consent of the individual or the individual's legal representative; by court order upon a showing of good cause; to a health research entity, if the entity seeks the records or data pursuant to a research protocol, and enters into a purchase and data-use agreement with the Department of Health.

Section 119.07(6)(cc), F.S., requires the purchase or data-use agreement to restrict the release of any information which would permit the identification of persons, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data. Copies of records or data containing information made confidential and exempt under s. 119.07(6)(cc), F.S., and disclosed by the Department of Health to a health research entity under a research protocol remains the property of the department. The Department of Health may deny a request for records or data if the protocol provides for intrusive follow-back contacts, has not been approved by a human studies institutional review board, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit.

**PROJECT OBJECTIVE(S):**

To determine if s. 119.07(6)(cc), F.S., which makes specified records held by the Department of Health confidential and exempt from the Public Records Law, should be continued or modified pursuant to the criteria specified in the Open Government Sunset Review Act of 1995.

**METHODOLOGY:**

Staff will review the provisions and applicable law pursuant to the criteria specified in the Open Government Sunset Review Act of 1995. Staff will seek input from the Department of Health, and other interested stakeholders, to determine if any aspects of s. 119.07(6)(cc), F.S., should be revised.

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 430.105, F.S., Elder Care/Long-Term Care*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-222

**BACKGROUND and DESCRIPTION:**

Chapter 430, F.S., embodies the responsibilities and functions of the Department of Elderly Affairs and its programs. The department provides funding for programs ranging from Alzheimer's disease clinics, day care, and respite services to long-term care diversion waivers. Most of these programs produce records that contain medical and other confidential personal information that require an exemption from the Public Records Law.

Section 430.105, F.S., specifies that personal identifying language relating to an individual's health or eligibility for or receipt of health-related, elder care, or long-term care services received as a result of services rendered under any program administered or funded by the department is confidential and exempt from the provisions of s. 119.07, F.S., and s. 24(a), Art. I of the State Constitution.

**PROJECT OBJECTIVE(S):**

To determine if the provisions of s. 430.105, F.S., making specified records held by the Department of Elderly Affairs exempt from the Public Records Law, should be continued or modified pursuant to the criteria specified in the Open Government Sunset Review Act of 1995.

**METHODOLOGY:**

Staff will review the provisions and applicable law pursuant to the criteria specified in the Open Government Sunset Review Act of 1995. Staff will seek input from the Department of Elderly Affairs, and other interested stakeholders, to determine if any aspects of s. 430.105, F.S., should be revised.

**INTERIM MANDATORY REVIEW TITLE:**

*Pharmacy Licensure by Endorsement Requirements, s. 465.0075, F.S.*

**DATE DUE:** October 1, 2005

**PROJECT NUMBER:** 2006-223

**BACKGROUND and DESCRIPTION:**

Chapter 2001-166, Laws of Florida, requires the appropriate committee of each house of the Legislature to review, during the 2006 Regular Session of the Legislature, the effect of this act and make recommendations to the presiding officer of that house regarding such review. The Legislature enacted pharmacy licensure by endorsement requirements in ch. 2001-166, L.O.F., which is currently codified in s. 465.0075, F.S. Section 465.0075, F.S., provides licensure by endorsement requirements for a

pharmacist who is licensed in another jurisdiction who has met certain other requirements to practice pharmacy in Florida.

The Florida Board of Pharmacy must certify that licensure by endorsement applicants have met the specified requirements. The opportunity to obtain licensure by endorsement is limited to a pharmacist who has actively practiced as a pharmacist in another jurisdiction for at least two of the preceding five years before application to practice in Florida, has successfully completed a board-approved postgraduate training or board-approved clinical competency examination within the year before application, or has completed an internship meeting existing statutory internship requirements within the two years immediately preceding application.

The Board of Pharmacy must certify that the licensure by endorsement applicant has obtained a passing score on the licensure examination of the National Association of Boards of Pharmacy (NABPLEX) or a similar national organization not more than 12 years prior to applying for a license by endorsement in Florida. The Department of Health may not issue a license to any applicant who is being investigated for acts that would violate regulations applicable to Florida-licensed pharmacists until the investigation is complete, or to any pharmacist whose license has been suspended or revoked in another state, or to any applicant whose license to practice pharmacy is currently the subject of any disciplinary proceeding.

**PROJECT OBJECTIVE(S):**

This project would review the pharmacy licensure by endorsement requirements that have been implemented by the Department of Health and the Florida Board of Pharmacy and make recommendations to reenact, modify, or repeal s. 465.0075, F.S.

**METHODOLOGY:**

Staff will review the law, applicable administrative rules, and licensing procedures used by the Department of Health. Staff will examine the extent to which s. 465.0075, F.S., has been used by pharmacists and seek input from the Department of Health, the Board of Pharmacy, and interested stakeholders to determine whether s. 465.0075, F.S., should be reenacted, modified, or repealed.

## MONITOR PROJECTS

<p><b>INTERIM MONITOR PROJECT TITLE:</b> <i>Medicaid Reform Implementation</i></p>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-357

**BACKGROUND and DESCRIPTION:**

CS/CS/SB 838 contains both short and long-term Medicaid reform activities, demonstration projects, and studies designed to improve efficiency and achieve sustainable growth in Florida's Medicaid program.

The bill contains the recommendations developed by the Senate Select Committee on Medicaid Reform which can be divided into four major categories including: 1) provisions related to improving

the efficiency and effectiveness of the current Medicaid fee-for-service and MediPass programs; 2) provisions requiring the development of an integrated, fixed-payment delivery system to provide services to Medicaid recipients 60 years of age or older, to be tested in two areas of the state; 3) provisions creating a demonstration program to assess the statewide phase-in of managed care networks as a replacement for the current Medicaid program; and 4) provisions requiring evaluations and studies to examine additional ways to improve the efficiency and effectiveness of Florida's Medicaid program.

**PROJECT OBJECTIVE(S):**

This project will monitor implementation by the Governor's Office of Policy and Budget, the Agency for Health Care Administration (AHCA), and the Department of Elderly Affairs of the provisions in CS/CS/SB 838, in order to keep the Senate Select Committee on Medicaid Reform fully informed as implementation progresses.

**METHODOLOGY:**

Senate Health Care Committee and Senate Health and Human Services Appropriations Committee staff will work in conjunction with the Office of Program Policy Analysis and Government Accountability (OPPAGA) to support oversight of implementation activities by the Senate Select Committee on Medicaid Reform.

Committee staff will hold meetings with executive agency staff, consultants, and other interested stakeholders involved in the implementation of CS/CS/SB 838. Staff will review applications for waivers of applicable federal laws and rules related to changing the Medicaid system and implementation plans developed by the executive agencies for both the short and long-term reform activities. Committee staff will review the use of funds appropriated in this act for the development of infrastructure and programs to improve the current system and to facilitate the implementation of the pilot/demonstration programs. Committee staff will also meet with OPPAGA and AHCA to review the implementation plans for the various studies and evaluations required in the bill.

Staff will submit status reports at least once a month, and when appropriate, recommendations to the Senate Select Committee on Medicaid Reform.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of s. 26, Art. X, Relating to Repeated Medical Malpractice*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-358

**BACKGROUND and DESCRIPTION:**

Constitutional Amendment 8, entitled "Public Protection from Repeated Medical Malpractice," was filed with the Secretary of State on April 7, 2003, and proposed through the citizens' initiative process. Amendment 8 is codified in s. 26, Art. X of the State Constitution. The 2005 Legislature enacted CS/SB 940 to implement the constitutional amendment. CS/SB 940 implements s. 26, Art. X of the State Constitution, which provides that "[n]o person who has been found to have committed three or more incidents of medical malpractice shall be licensed or continue to be licensed by the State of Florida to provide health care services as a medical doctor." The bill applies the constitutional provision to allopathic and osteopathic physicians. Only incidents that occurred on or after November 2, 2004, may

be considered for purposes of the prohibition on licensure for repeated medical malpractice. The Board of Medicine and the Board of Osteopathic Medicine, when revoking a license, or granting or denying a license must review the facts supporting an incident of medical malpractice using a clear and convincing standard of evidence. The time for the boards to review physician licensure applications is extended from 90 to 180 days. Acts of medical malpractice, gross medical malpractice, or repeated malpractice, as grounds for which an allopathic or osteopathic physician may be disciplined, are redefined to implement s. 26, Art. X of the State Constitution. Incident is defined to include a single act of medical malpractice, regardless of the number of claimants. Multiple findings of medical malpractice arising from the same act or acts associated with the treatment of the same patient must count as only one incident.

Beginning July 1, 2005, the Department of Health must verify each physician's disciplinary history and medical malpractice claims at initial licensure and licensure renewal using the National Practitioner Data Bank. The physician profiles must reflect the disciplinary action and medical malpractice claims as reported by the National Practitioner Data Bank.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of CS/SB 940 to determine if changes to the law are needed.

**METHODOLOGY:**

Staff will monitor any litigation concerning s. 26, Art. X of the State Constitution and CS/SB 940, any implementation of the legislation and the constitutional amendment by the appropriate state agencies, and gather input from interested stakeholders.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Parental Notice of Abortion Act*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-359

**BACKGROUND and DESCRIPTION:**

The 2004 Legislature passed HJR 1 proposing an amendment to be placed on the ballot for the creation of s. 22 in Art. X of the State Constitution, to create an exception to the right of privacy for a minor who seeks an abortion. The amendment which was passed by the voters in November 2004 authorizes the Legislature to require by general law for notification to a parent or guardian of a minor before the termination of the minor's pregnancy. The amendment requires the Legislature to provide exceptions to the requirement for notification and to create a process for judicial waiver of the notification. The 2005 Legislature passed the "Parental Notice of Abortion Act" to implement s. 22, Art. X of the State Constitution. The act requests the Supreme Court to adopt rules and forms for petitions to implement the judicial waiver process established in the bill. The act will take effect upon adoption of rules and forms by the Supreme Court but no later than July 1, 2005.

**PROJECT OBJECTIVE(S):**

To monitor implementation of the "Parental Notice of Abortion Act."

**METHODOLOGY:**

Committee staff will monitor the adoption of rules and forms by the Supreme Court and the implementation of the act.

**INTERIM MONITOR PROJECT TITLE:**

***Implementation of the Patients' Right to Know about Adverse Medical Incidents Act***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-360

**BACKGROUND and DESCRIPTION:**

Constitutional Amendment 7, which had the ballot title "Patients' Right to Know about Adverse Medical Incidents," was proposed through the citizens' initiative process and was approved by the voters in November 2004. The 2005 Legislature passed CS/SB 938, the "Patients' Right to Know about Adverse Medical Incidents Act," to implement the constitutional amendment. The act requires hospitals, ambulatory surgical centers, mobile surgical facilities, medical physicians, osteopathic physicians, and podiatric physicians to provide access to records of adverse medical incidents that occurred on or after November 2, 2004.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of the "Patients' Right to Know about Adverse Medical Incidents Act" to determine if changes to the law are needed.

**METHODOLOGY:**

Staff will consult with representatives of the health care facilities and physician groups concerning implementation of the act and will monitor any litigation concerning the act.



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# Health and Human Services Appropriations

## INTERIM PROJECTS

*(None)*

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b> <i>Agency for Persons with Disabilities</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-361

**BACKGROUND and DESCRIPTION:**

The Agency for Persons with Disabilities is responsible for administering developmental disabilities services in community settings, in the four developmental services institutions, and in the mentally retarded defendant program. The agency has implemented three new systems to correct inequities in the determination of medically necessary services, inaccurate billings, and an inconsistent and cost ineffective rate structure. The agency has 1) increased prior service authorizations to include all service plans, 2) is completing the first year of using the Gatekeeper billing control system, and 3) continues to use the revised Mercer uniform rate structure. There is considerable debate regarding the effectiveness of each of the new systems.

**PROJECT OBJECTIVE(S):**

The project will monitor the implementation of the three systems and staff will provide briefing materials and formal presentations to the legislators on staff observation.

**METHODOLOGY:**

Staff will meet with APD and review documents and agency prepared reports to access the progress towards accurate medically necessary determinations, billing, and rate computations.

**INTERIM MONITOR PROJECT TITLE:**

***Florida KidCare – Continuous Open Enrollment***

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-362

**BACKGROUND and DESCRIPTION:**

The Florida KidCare program was created by the 1998 Legislature in response to the enactment by Congress of Title XXI of the Social Security Act and the large number of uninsured children in the state. The components of KidCare include: Medicaid for children; the Medikids program; Florida Healthy Kids; and the Children’s Medical Services (CMS) Network.

Initially, the program continuously enrolled recipients throughout each year; however, in 2003, enrollment reached a level that potentially could exhaust the state’s allotment of federal funds. In response to these concerns the Legislature adopted a “no growth” enrollment policy for fiscal year 2003-2004, thereby creating waiting lists for the program. By January 2004, the cumulative Title XXI waiting list had grown to over 90,000 children. To address this waiting list, the 2004 Legislature passed SB 2000 (chapter 2004-270, Laws of Florida) which provided funding to eliminate the waiting list. The law also eliminated continuous enrollment and replaced it with no more than two 30-day open enrollment periods per fiscal year and added additional documentation requirements for proof of family income.

Although SB 2000 successfully eliminated the waiting list, enrollment levels in the program continued to decline. Enrollment declined from a high of 336,689 enrollees in April 2004 to 208,018 in May of 2005. Limited open enrollments and increased documentation requirements may have attributed to this enrollment decline. The Legislature revisited documentation requirements through SB 28A (chapter 2004-478, Laws of Florida) during the November 2004 special session reducing the number of required documents for proof of family income from three to one. Most recently, the 2005 Legislature passed HB 569, which reinstated continuous open enrollment.

**PROJECT OBJECTIVE(S):**

This interim project will focus on monitoring the enrollment levels of the KidCare program as the continuous open enrollment policy is implemented. Emphasis will be on a review of enrollment trends as compared to the budgeted funds, and on ensuring that proper administrative rules are being developed by the Agency for Health Care Administration.

**METHODOLOGY:**

Staff will review and monitor monthly enrollment levels and program expenditures as the continuous open enrollment policy is implemented as well as monitor the development of administrative rules. Staff will interview appropriate staff at AHCA and the Florida Healthy Kids Corporation regarding program policy and rules and review program administration.

**INTERIM MONITOR PROJECT TITLE:**

*Medicare Part D Implementation – State Medicaid Program Impact*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-363

**BACKGROUND and DESCRIPTION:**

Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), a prescription drug benefit will be provided for the Medicare eligible population. There are currently over 350,000 Medicare eligible recipients in the Medicaid program. Each of these recipients will be eligible for the Medicare Part D benefit beginning January 1, 2006. The Agency for Health Care Administration (AHCA), through its partnership with the Centers for Medicare and Medicaid (CMS), is responsible for assisting in the transferring of these individuals prescription drug benefits from Medicaid to Medicare Part D.

Although dual eligible recipients will receive their prescription drug benefits through Medicare Part D, Medicaid's involvement in the recipients benefit is not eliminated. Under the guidelines of MMA, state Medicaid programs are required to provide Medicare Part D eligibility information during the Medicaid eligibility determination process. The Medicaid program will also be responsible for subsidizing a large portion of the recipients prescription expenditures under Medicare Part D, through the "clawback" provision.

**PROJECT OBJECTIVE(S):**

Objectives include monitoring the process by which AHCA begins assisting with the enrollment of Medicare eligible Medicaid recipients into Medicare Part D, monitoring the process and the impact of additional administrative duties during the eligibility process, and monitoring the negotiations for the "clawback" payments between AHCA and CMS.

**METHODOLOGY:**

Staff will attend meetings conducted by AHCA and the Department of Children and Families with CMS relating to the implementation of Medicare Part D and review other documents and reports.

**INTERIM MONITOR PROJECT TITLE:**

*Department of Legal Affairs - Medicaid Fraud Initiative Progress*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-364

**BACKGROUND and DESCRIPTION:**

The FY 2005-06 General Appropriations Act included an increase of 50 FTE and approximately \$4.3 million to the Department of Legal Affairs to increase Medicaid Fraud investigations in the State of Florida. Because the Medicaid budget makes up almost 1/4 of Florida's budget, it is in the state's best interest to control and aggressively pursue fraud and abuse in the Medicaid Program.

**PROJECT OBJECTIVE(S):**

The purpose of this project is to determine whether this law enforcement program is adequately funded; whether its presence deters fraud; and to determine the rate of return on investment this program produces.

**METHODOLOGY:**

Staff will work with the Department of Legal Affairs to obtain financial recoupment data relative to increased spending on Medicaid Fraud Control Unit investigation teams, and to determine program needs for FY 2006-07.

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# Judiciary

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Legal Issues and Policy Considerations Raised by the Challenge to the Opportunity Scholarship Program*

**DATE DUE:** December 1, 2005

**PROJECT NUMBER:** 2006-139

**BACKGROUND and DESCRIPTION:**

“Blaine Amendment” is a term for provisions in state constitutions which prohibit public money from flowing to religious institutions. The term traces back to the administration of President Ulysses S. Grant. President Grant recommended an amendment to the U.S. Constitution denying all direct or indirect public support to sectarian institutions. Congressman James Blaine introduced a proposal to effectuate the President’s idea. The proposal, however, failed to receive the super-majority needed in the U.S. Senate. In the aftermath, multiple states began to incorporate comparable provisions into their state constitutions, which were labeled as “Blaine Amendments.”

Florida’s Blaine Amendment, or “No-Aid” provision, was initiated in 1885. Revised slightly in 1968, it now reads: No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

The language is part of section 3 of Article I of the State Constitution. It follows the “establishment clause,” which prohibits laws respecting the establishment of religion or prohibiting the free exercise of religion. *Bush v. Holmes*, which is pending before the Florida Supreme Court, has focused attention on the Blaine Amendment. In that case, a trial court ruled that the Opportunity Scholarship Program violated the Blaine Amendment and was therefore unconstitutional. The District Court of Appeal affirmed, finding the scholarship program “unconstitutional under the no-aid provision to the extent that the [program] authorizes state funds to be paid to sectarian schools” (*Holmes*, 886 So. 2d 340, 344 (Fla. 1st DCA 2004)). Some have expressed concerns that if the *Holmes* decision is upheld, the Blaine Amendment could raise questions about other government-funded programs that may be implemented in conjunction with organizations that have a religious affiliation.

**PROJECT OBJECTIVE(S):**

The purpose of this interim project is to evaluate legal issues raised in *Bush v. Holmes* and other cases interpreting Blaine Amendments or no-aid provisions and to identify policy responses available to the Legislature if the Florida Supreme Court upholds the lower courts’ rulings that the Opportunity Scholarship Program is unconstitutional under the Florida Constitution’s no-aid provision because it authorizes state funds to be paid to sectarian schools.

**METHODOLOGY:**

Research for this interim project will include: evaluating court decisions interpreting Florida’s and other state’s Blaine Amendments or no-aid provisions; reviewing the opinion of the District Court of Appeal in *Bush v. Holmes*; monitoring developments in the Florida Supreme Court’s review of *Bush v.*

*Holmes*; and identifying policy considerations raised by, and potential responses related to, the constitutional challenge to the Opportunity Scholarship Program. This project will be conducted in coordination and consultation with the Committee on Education.

**INTERIM PROJECT TITLE:**

*Compensation for Wrongful Incarceration*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-140

**BACKGROUND and DESCRIPTION:**

Innocent persons who have been wrongfully convicted of crimes in this state generally have no certain method to obtain compensation for their loss of liberty. The Legislature previously has authorized compensation to wrongfully incarcerated persons through the legislative claim bill process. However, the claim bill process as a method to obtain compensation for wrongful incarceration is rarely used.

During the 2005 Regular Session, both the House of Representatives and the Senate proposed legislation addressing compensation for wrongfully incarcerated persons. Under House Bill 1879, compensation would be dependent upon an act of the Legislature. Under Senate Bill 1964, a wrongfully incarcerated person could apply to the Attorney General for compensation. The Senate proposal would have also permitted lawsuits against the state in the event that the wrongfully incarcerated person and the Attorney General fail to agree on the amount of compensation. Neither bill addressing wrongful incarceration became law.

**PROJECT OBJECTIVE(S):**

The purpose of this interim project is to identify potential methods to provide compensation for wrongful incarceration and procedures to obtain compensation, as well as to identify options to determine innocence and eligibility for compensation, methods to measure the amount and type of compensation, and needs of innocent persons released from wrongful incarceration which could be addressed by the Legislature as part of a compensation program.

**METHODOLOGY:**

As part of this interim project, committee staff will conduct research to identify all methods for compensation for wrongful incarceration currently in existence in this state and methods available in other jurisdictions; examine mechanisms providing compensation for takings of property by government to aid in the identification of additional methods to provide compensation for wrongful incarceration; interview wrongfully incarcerated persons and their representatives; and consult with prosecutors, public defenders, judges, and potential agencies that may administer a compensation program on matters related to the project objectives.

**INTERIM PROJECT TITLE:*****Options for Streamlining the State Constitution*****DATE DUE:** January 16, 2006**PROJECT NUMBER:** 2006-141**BACKGROUND and DESCRIPTION:**

The five methods by which proposed amendments to the State Constitution may be presented to the voters for approval are through proposal by the Legislature, Constitutional Revision Commission, citizens' initiative, Constitutional Convention, and Taxation and Budget Reform Commission. Concerns have been raised about the nature of revisions to Florida's Constitution, in particular whether some of the issues added to the Constitution are appropriate for inclusion in a constitution through the amendment process or are better suited for codification in the Florida Statutes through the legislative process. During recent sessions, the Legislature has explored reforms to the process, by which the State Constitution is amended, including, for example, adoption during the 2005 Regular Session of a joint resolution that increases the affirmative passage requirement for proposed constitutional amendments from a simple majority of those voting on the measure to 60 percent of those voting on the measure. Questions remain, however, whether the content of the State Constitution, as the document has been amended over time, is appropriate.

**PROJECT OBJECTIVE(S):**

This interim project will examine the content of the State Constitution with the goal of providing options for streamlining the Constitution to a limited number of core provisions relating to the articulation of citizens' rights and the operation of government and for potentially transferring provisions from the Constitution to the Florida Statutes or otherwise phasing out provisions.

**METHODOLOGY:**

Elements of the methodology for this interim project will include: identifying the specific methods by which individual provisions in the State Constitution were included in the document; reviewing research and academic literature on the principles of state constitutions; examining constitutions from other states; obtaining input from the public and legal scholars on the appropriate content for the Constitution; evaluating the potential ramifications of removing provisions from the Constitution; and identifying options for phasing out or preserving in statute provisions from the Constitution.

**INTERIM PROJECT TITLE:*****Review of Application of Defense in Interference with Custody Cases, s. 787.03, F.S., and Associated Open Government Sunset Review*****DATE DUE:** September 1, 2005**PROJECT NUMBER:** 2006-142**BACKGROUND and DESCRIPTION:**

The Legislature passed a law in 1974 which provided for a third-degree felony for the offense of interference with custody of a child or an incompetent person (s. 787.03, F.S.). A defense is available, provided that the spouse who takes the child files a report with the sheriff's or state attorney's office within 10 days of the taking. The report must contain the name of the person taking the child, the current

address and phone number of the person and child, and the reason that the child was taken (ch. 2000-231, L.O.F.). The Legislature also enacted a public records exemption for the information contained in the report (ch. 2000-357, L.O.F.). In 2005, the Legislature conducted an Open Government Sunset Review of the public records exemption available in the interference with custody law (HB 1699; ch. 2005-89, L.O.F.). The Legislature reenacted the public records exemption, but narrowed it. The Legislature also extended the public records exemption only until October 2, 2006; therefore, a mandatory review of the interference with custody public records exemption is required. Additionally, during the review of the public records exemption in 2005, committee staff noted that terms included in the exemption, when compared to the law upon which it is based, are somewhat inconsistent and confusing. Specifically:

- What appears to be a defense to an interference with custody charge is identified as an exemption;
- The exemption only applies to instances in which a child is taken, although the substantive law includes incompetent persons; and
- References are alternately made to a “spouse” and to a “person,” regarding the individual to whom a defense is available.

**PROJECT OBJECTIVE(S):**

The purpose of this project is to review the underlying law on interference with custody, including as it correlates to the public records exemption, and recommend whether changes are needed to substantive law, as well as to review the public records exemption itself, in accordance with the Open Government Sunset Review Act of 1995.

**METHODOLOGY:**

Under this project, committee staff will contact various entities for input, including the Florida Sheriff’s Association, Florida Prosecuting Attorneys Association, Florida Public Defenders Association, Florida Coalition Against Domestic Violence, and The Florida Bar; and review the provisions of the public records exemption under the Open Government Sunset Review Act (s. 119.15, F.S.).

**INTERIM PROJECT TITLE:**

*Eminent Domain*

**DATE DUE:** December 1, 2005

**PROJECT NUMBER:** 2006-151

**BACKGROUND and DESCRIPTION:**

In a recently issued opinion, the United States Supreme Court held in the case of *Kelo v. City of New London, Connecticut*, that the city’s exercise of eminent domain in furtherance of an economic development plan satisfied the federal constitution’s public use requirement. The Court declined to adopt a rule that economic development does not qualify as a public use, instead finding no basis for excluding economic development from its traditionally broad understanding of public purpose. In doing so, the Court noted its long-standing policy of deferring to legislative judgments as to which public needs justify the use of the takings power. The case has attracted attention in part because the condemned land would not be open to the general public. Much has been written about the 5-4 opinion and about the potential for similar use of eminent domain in other states, including Florida. The decision is being widely cited as one having significant implications in the arena of development versus private

property rights. The Florida Statutes currently contain multiple and disparate grants of eminent domain power to a wide range of organizations.

**PROJECT OBJECTIVE(S):**

The purpose of this interim project is to review the current breadth of eminent domain authority in this state, the safeguards in place for property owners, and the potential implications of the U.S. Supreme Court's decision, as well as to identify potential policy responses available to the Florida Legislature if it wishes to provide additional parameters on the use of eminent domain in an economic development/community development context.

**METHODOLOGY:**

Research for this interim project will include: identifying and reviewing existing statutory provisions conferring eminent domain authority and prescribing eminent domain procedures; analyzing the U.S. Supreme Court's decision in *Kelo v. City of New London, Connecticut*, as well as other relevant judicial opinions; communicating with local governments, economic development/community development professionals, property rights organizations, and other interested parties regarding eminent domain practices; sampling eminent domain laws in other states; and identifying potential policy responses for providing additional parameters on the use of eminent domain in an economic development/community development context.

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Ongoing Implementation of Revision 7 to Article V of the State Constitution*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-365

**BACKGROUND and DESCRIPTION:**

In November 1998, voters approved Revision 7 to Article V of the Florida Constitution. Article V establishes the judicial branch of government. According to the ballot summary, Revision 7 "allocates state court system funding among the state, counties, and users of courts." The essence of Revision 7 to Article V provides for a funding reallocation among the 67 counties, the state, and users for the state court system. Article XII, section 25 of the State 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.

During the 2005 Regular Session, the Legislature enacted HB 1935 (CS/CS/SB 2542), which addresses the state's continued implementation of Revision 7 to Article V of the State Constitution. In addition to making technical or administrative refinements to the state judicial system, the bill includes several substantive provisions. For example, the bill revises the existing statutory determination of

indigency provisions under s. 27.52, F.S., to focus the provisions principally on criminal cases, and creates a new, separate section (s. 57.082, F.S.) relating to determinations of indigent status in eligible civil cases. The bill also authorizes the Legislative Budget Commission to approve an increase to a clerk of court's maximum annual budget under certain circumstances.

**PROJECT OBJECTIVE(S):**

The purpose of this monitor project is to track implementation of HB 1935, if it becomes law, in order to identify any further legislative action that may be necessary to effectively address Revision 7 to Article V of the State Constitution.

**METHODOLOGY:**

This monitor project will entail maintaining communication with the courts, the clerks of court, the Justice Administrative Commission, public defenders, state attorneys, local governments, and other organizations in order to identify any problems in implementing the various components of HB 1935.

**INTERIM MONITOR PROJECT TITLE:**

*Review of the Impact of ch. 2005-168, L.O.F., Relating to Alimony*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-387

**BACKGROUND and DESCRIPTION:**

Alimony is a court-ordered allowance that one spouse pays to another while they are separated or after they are divorced. Traditionally, alimony was more often awarded to a woman based on the premise that she was the dependent spouse, having foregone or sacrificed career opportunities to fulfill the dual roles of homemaking and child-rearing. Today, alimony is viewed as gender-neutral. In cases where alimony is considered, the amount is assessed by balancing the dependent spouse's needs with the supporting spouse's ability to pay, in light of the standard of living enjoyed during the marriage. Courts now favor rehabilitative or transitional alimony over permanent periodic alimony, as it encourages self-sufficiency.

During the 2005 Regular Session, the Legislature enacted Committee Substitute for Senate Bill 152 (ch. 2005-168, L.O.F.), which authorizes a court to reduce or terminate an alimony award upon specific written findings that a supportive relationship exists between the recipient and a third party. These provisions apply to relationships between a recipient of alimony and a third party who are not related but live together. The court is required to consider certain factors, including the extent to which:

- The obligee and the other person hold themselves out as a married couple;
- Assets or income are pooled or financial interdependence exists;
- The obligee and the other person have supported each other;
- Valuable services are performed for each other, or the other's company or employer;
- The obligee and the other person have created or enhanced something of value; and
- An express or implied agreement exists regarding property sharing or support.

Additional factors for the court to consider are the length of time that the obligee and the other person have lived together in a permanent place of abode; whether property has been jointly purchased; and whether the obligee and the other person have provided support to the children of one another,

regardless of whether legally obligated to do so. Evidence that a conjugal relationship exists is relevant, though not dispositive, to a modification of alimony.

**PROJECT OBJECTIVE(S):**

The purpose of this monitor project is to track implementation of CS/SB 152 and to identify impacts of the policy authorizing a court to reduce or terminate alimony upon finding that a supportive relationship exists between the recipient and a third party.

**METHODOLOGY:**

This monitor project will entail reviewing, to the extent feasible, cases in which courts exercise the authority provided under CS/SB 152 to reduce or terminate alimony; soliciting input from those with experience and expertise in the family law arena on impacts of the policy; and identifying any technical or administrative problems related to implementation of the policy.



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# Justice Appropriations

## INTERIM PROJECTS

<b>INTERIM PROJECT TITLE:</b>
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<i>Sheriff Costs – Service of Process</i>
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**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-144

**BACKGROUND and DESCRIPTION:**

United States legal procedure requires that each party in a case be notified if actions are taken against them in a court of law. Process serving is an important aspect of the due process of law. When service of process was first instituted, it was performed by sheriffs or deputies, and agents of the court. This became a burden on law enforcement so the legislation was changed. Section 48.021, F.S., provides that all process shall be served by the sheriff of the county where the person to be served is found, except initial nonenforceable civil process may be served by a special process server appointed by the sheriff as provided for or by certified process server. There currently is no information available to determine whether the cost of service is adequately covered through the fee charged. The sheriffs charge \$20 for this service.

**PROJECT OBJECTIVE(S):**

The purpose of this project is to determine: the service of process costs to Sheriffs; who pays the fee; if all sheriffs offices charge \$20; when the last increase in fee occurred; if the fee is adequate, or should the fee be increased; who collects the fee and where these funds go; and how Florida's service of process fees compare with those of other states.

**METHODOLOGY:**

Staff will work with the Florida Department of Law Enforcement and Sheriff's offices to ascertain this information as it relates to Florida, and will contact other states to determine the costs for those sheriff's offices.

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Comprehensive Reviews of the Florida Department of Law Enforcement and Parole Commission*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-366

**BACKGROUND and DESCRIPTION:**

Proviso was included in the FY 2005-06 General Appropriations Act which requires the Office of Program Policy and Governmental Accountability (OPPAGA) to conduct a comprehensive review of the Florida Department of Law Enforcement and the Florida Parole Commission to examine the departments' mission, purpose, programs and service delivery; to identify programs that fall outside the departments' mission; to determine whether organizational, or programmatic deficiencies exist; to review salary and benefit data; and to make recommendations on restructuring functions of the Parole Commission should the Commission be abolished in the future. It requires OPPAGA to submit a report to the chairs of the Senate Ways and Means Committee and the House Fiscal Council by January 1, 2006. Staff will monitor the progress of the review.

**PROJECT OBJECTIVE(S):**

The project will ensure that the provisions in the FY 2005-06 General Appropriations Act are carried out by January 1, 2006. Information obtained will be relevant for budgetary decisions during the 2006 Legislative Session.

**METHODOLOGY:**

Staff will work with OPPAGA to review methodologies, policies and procedures for conducting the reviews.

**INTERIM MONITOR PROJECT TITLE:**

*Article V Technology Board Implementation*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-367

**BACKGROUND and DESCRIPTION:**

Revision 7 to Article V of the Florida Constitution required the state to pay, with some exceptions, all the costs of the trial courts. One of the responsibilities that counties retained was to provide information technology services to the trial courts. The Legislature, however, required that by July 1, 2006, the information technology provided by the counties be integrated. The 2004 Legislature passed Chapter 2004-265, Laws of Florida, to create a statewide board to make recommendations to the Legislature on how to integrate information in the state court system. The board submitted its first report to the Legislature on January 15, 2005, and is currently developing its second report which is due January 15, 2006.

**PROJECT OBJECTIVE(S):**

Review the progress and activities of the Article V Technology Board and its second report to the Legislature.

**METHODOLOGY:**

Staff will attend meetings of the board and review its work products.

**INTERIM MONITOR PROJECT TITLE:**

*Florida Department of Law Enforcement Integrated Criminal History System (FALCON)*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-368

**BACKGROUND and DESCRIPTION:**

On April 29, 2003, the Florida Department of Law Enforcement (FDLE) signed a \$37.5 million contract with Science Applications International Corporation (SAIC) as the prime contractor to design and build the Integrated Criminal History System (ICHS). The estimated maximum cost of the ICHS project is \$55.6 million for development of the system. The goal of the Integrated Criminal History System (ICHS) development project is to replace the core information systems at FDLE, namely, the Automated Fingerprint Identification System (AFIS) and the Computerized Criminal History (CCH) System, and add new capabilities by closely integrating the fingerprinting and criminal history applications. The phases of the ICHS project are:

Phase 1

- System Design (completed);

Phase 2

- (Build 1) - Working Model – deployment of a working model, or proof-of-concept of basic functionality for the completed system. In addition, a “Bridge AFIS” development and deployment to mitigate risk of failure of existing AFIS due to capacity limitations (completed);

Phase 3

- (Build 2) - Initial Operational Capability (IOC) of ICHS - will allow FDLE customers to begin transitioning their legacy information systems, while simultaneously providing an increase in throughput capacity. This is split into two builds, Build 2A and Build 2B. Build 2A includes Falcon hardware and database infrastructure to support features of the system such as criminal search of retained applicant fingerprints, retained applicant print management, arrest notifications for designated retained applicants, Rapid ID (two finger) check and response, and DNA status check via Rapid ID process. Build 2B enables the department to support public/commercial entities in applicant search of criminals and retained print search of criminals on the new database, financial management, billing of retained prints, website portal presentation, hard-card applicant processing, and image and palm capture;

Phase 4

- (Build 3) - Transition – remaining ICHS core business functionality will be added to the IOC. This phase represents the bridge from current legacy systems to the new ICHS; and,

Phase 5

- (Build 4) - Final Operational Capability (FOC) - will have established interfaces to other systems, and implement a number of additional functions in the areas of billing, security, system administration and usage, and overall system capability.

In a letter dated October 8, 2004, the vendor notified the department that due to the nature of uncertainty relative to the Build 3 functionality, SAIC couldn't adequately estimate Build 3 development; therefore, no fixed priced estimate was submitted. The department placed a stop order due to the change in "fixed price." SAIC, the system integrator gave no absolute cost figures but stated that the cost was more than originally proposed. In February 2005, FDLE canceled the contract with SAIC.

In the FY 2005-06 General Appropriations Act, \$2.5 million in trust fund authority was appropriated and placed in reserve for continued development of the system. Funds will be released upon submission of budget amendments through the Legislative Budget Commission. The department will hire a vendor to assist with procurement of software development contracts and with technical and management oversight of contracts for the specific builds.

**PROJECT OBJECTIVE(S):**

Monitoring this project will ensure that goals and objectives of the project are met. The Legislature's intent for use of funds appropriated in FY 2005-06 is for Build 2A functionality to be completed prior to development of Build 2B functionality.

**METHODOLOGY:**

Staff will monitor the progress of the Integrated Criminal History System / Falcon Project through monthly meetings held with FDLE and the Technology Review Workgroup. Staff will review budget amendments requesting release of appropriated funds for this project. These amendments will be submitted to the Legislative Budget Commission for approval.

**INTERIM MONITOR PROJECT TITLE:**

*Monitor Case Proposal Development Comparing the Operation Cost of State vs. Privately Operated Prison Beds*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-369

**BACKGROUND and DESCRIPTION:**

The 2005 Legislature through proviso in the FY 2005-2006 General Appropriations Act (GAA) directed the Department of Management Services to contract with a private entity to develop a business case proposal that compares the operating costs of state and privately operated prison beds in the Department of Corrections (DOC).

**PROJECT OBJECTIVE(S):**

The project will ensure that the requirements in the FY 2005-2006 GAA are completed and reported back to the Committee on Justice Appropriations during committee meetings before the start of the 2006 Legislative Session. Information obtained will be relevant for making budgetary decisions in DOC during the 2006 session.

**METHODOLOGY:**

Staff will interview administrators and program directors in the Department of Management Services and private consultants to ensure that they develop a business case proposal that accurately compares the operating costs of state and privately operated prison beds. Staff will review documents and reports that will be generated with the development of this report.

**INTERIM MONITOR PROJECT TITLE:**

*Review of Due Process Services Costs*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-370

**BACKGROUND and DESCRIPTION:**

Revision 7 to Article V of the Florida Constitution required the state to pay, with some exceptions, all the costs of the trial courts. The major new cost the state is paying is the cost of due process, whereby defendants are given a fair hearing before the state deprives them of their liberty. Due process costs that are now a state responsibility to fund include private counsel when the public defender has a conflict, representation for parents under child dependency proceedings, court reporting and transcription services, ordinary and expert witnesses, mental health professionals, and pre-trial consultations. Overall costs in the court system have increased an average of 8 percent per year for the last 14 years. The state has an interest in controlling due process costs, as it would for any state expenditure. In addition to the statutory caps on certain fees, the 2003 and 2004 Legislature codified the circuit indigent service committees, charged them with setting rates for due process services, and provided additional responsibilities of the Justice Administrative Commission to review bills prior to payment.

**PROJECT OBJECTIVE(S):**

To monitor the expenditures for due process costs.

**METHODOLOGY:**

Staff will review procedures established for the payment of due process payments and analyze expenditure data. In addition, staff will attend meetings of the circuit indigent service committees.

**INTERIM MONITOR PROJECT TITLE:**

*Review of the Florida Clerk of Court Operations Corporation*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-371

**BACKGROUND and DESCRIPTION:**

The Legislature created the Clerk of Court Operations Corporation to approve the projected revenues and budgets for the state's 67 clerks. The corporation operates through a contract with the Department of Financial Services, which has oversight responsibilities. Excess revenues from the clerks are deposited in the Clerk of Courts Trust Fund in the Department of Revenue. Every January, the excess revenues from the trust fund are deposited into the General Revenue Fund. The corporation has reviewed and approved budgets, and is currently monitoring the implementation of the clerk budgets.

**PROJECT OBJECTIVE(S):**

To review the work of the Florida Clerk of Court Operations Corporation and its impact on state revenues.

**METHODOLOGY:**

Staff will review the results of the Department of Financial Services audits of the clerks as well as review statewide data on the clerks' expenditures and revenue collection.

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# Regulated Industries

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Deregulation of Intertrack and Simulcast Wagering at Florida's Pari-mutuel Facilities*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-145

**BACKGROUND and DESCRIPTION:**

Intertrack and Simulcast wagering at Florida's pari-mutuel facilities is regulated by ch. 550, F.S. Over the years, the regulations have been a frequent subject of litigation as well as lobbying efforts by Florida's pari-mutuel industry. The regulations place restrictions and prohibitions on broadcasting and rebroadcasting in-state and out of state signals. These restrictions are based on location and the type of racing that is conducted.

Simulcasting is defined as broadcasting events occurring live at an in-state location to an out-of-state location, or receiving at an in-state location events occurring live at an out-of-state location by the transmittal, retransmittal, reception, and rebroadcast of television or radio signals by wire, cable, satellite, microwave, or other electrical or electronic means for receiving or rebroadcasting the events.

Simulcasting may only be accepted between facilities with the same class of pari-mutuel wagering permit, e.g., horseracing permitholders may only receive and broadcast signals from other horseracing permitholders. However, simulcasting also includes the rebroadcast of the signal to in-state permitholders and certain exceptions apply. Simulcast signals must be made available to all permitholders eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, F.S.

Intertrack wagering occurs between in-state tracks only and occurs when wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel.

Currently, there is a case pending in the First District Court of Appeal (DBPR, et al. v. Gulfstream Park Racing Ass., et al., Case No. 1 D-04-4094) that is challenging a lower court ruling that declared s.550.615(6), F.S., a portion of the intertrack wagering laws, to be an unconstitutional special law. Oral argument is set for July 19, 2005. The lower court stated that the mile restrictions provided in the statute carved out a Miami-Dade and Broward market area. The court found that the carve-out was consistent with the parties' description of a "negotiated legislative process prior to the enactment of the statute." The court further provided that the inability of the parties to provide any legislative history to explain the public purpose for the carve-out is "the sort of local interest horse trading specifically prohibited by Art. III, s. 10, Fla. Const."

If the First District Court of Appeals affirms the lower court holding, this could have significant implication for all of ch. 550, F.S., since many of the intertrack and simulcast provisions carve out market areas and may also be construed as an unconstitutional special law

**PROJECT OBJECTIVE(S):**

The project will evaluate the current statutory requirements and offer recommendations on statutory changes for deregulation of intertrack and simulcast wagering in ch. 550, F.S., if appropriate

**METHODOLOGY:**

Staff will review and analyze the intertrack and simulcasting provisions of ch. 550, F.S., as well as summarize the litigation that has taken place over the years. Staff will review selected other racing state statutes. Staff will also meet with the Department of Business and Professional Regulation and industry representatives to understand and document the different perspectives on how deregulation can best serve the State and the industry as a whole.

**INTERIM PROJECT TITLE:**

*Direct Shipment of Wine to Florida Consumers*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-146

**BACKGROUND and DESCRIPTION:**

The project will review the effect of the U.S. Supreme Court's decision in *Granholm v. Heald*, which held that a state cannot allow in-state wineries to sell wine directly to consumers in that state while simultaneously prohibiting out-of-state wineries from also selling wine directly to consumers. The decision invalidated laws in Michigan and New York that discriminated between in-state and out-of-state wine manufactures in this manner and thus violated the Commerce Clause, Art. s. 8, cl.3 of the U.S. Constitution.

The regulatory scheme in Michigan and New York that was invalidated by the Court is comparable to Florida's regulatory scheme that permits in-state wine manufacturers to sell their wines directly to consumers under certain circumstances. Section 561.54, F.S., also prohibits the direct-shipment of all alcoholic beverages to consumers from out-of-state. The effect of the *Granholm v. Heald* decision on Florida's direct-shipping prohibition is unclear at this time. It appears that under this decision, the Florida law allowing in-state wineries to sell directly to consumers, while prohibiting out-of-state wineries from shipping directly to Florida consumers would violate the Commerce Clause under the rationale of this decision.

Florida's prohibition has also been challenged in the case of *Bainbridge v. Turner*, where wine consumers and out-of-state wineries brought an action challenging Florida's statutory scheme prohibiting out-of-state wineries from shipping their products directly to Florida consumers while permitting in-state wineries to do so. The Eleventh Circuit Court of Appeals sent the case back to the Federal District Court to determine if the statute was necessary for raising revenue and protected by the Twenty-first Amendment or was just a pretext for mere protectionism and violated the Commerce Clause. This case has been stayed pending the Supreme Court's decision in *Granholm v. Heald*. Another issue that is pending in this case is whether Florida can prohibit all manufacturers, including in-state and out-of-state from delivering wine directly to consumers using a common carrier and thereby creating an undue burden on interstate commerce.

A preliminary analysis presents the following possible options regarding changes in Florida law:

- Eliminate the ability of in-state wine manufacturers to sell wine directly to Florida consumers. This would treat both in-state and out-of-state wineries the same. This would be opposed by the Florida wineries and would cost them sales revenue and the state tax revenue.
- Repeal the prohibition against the direct-shipment of alcoholic beverages to consumers from out-of-state, and regulate that activity. This would be opposed by the industry.

There were several bills introduced during the 2005 Legislative Session allowing direct shipment of wine to consumers in Florida. (SB 480 by Senators Saunders and Dockery, SB 906 by Senators Dockery, Campbell and Argenziano, SB 2552 by Senator Geller, and HB 975 by Representative Bogdanoff and others.)

The study will review the issues associated with the direct shipment of wine to consumers from out-of-state and in-state wine manufactures, including concerns regarding underage alcohol use and tax collection. The proposed study will review the possible options and discuss how each option could affect the interested parties, which includes the wine producers, other alcoholic beverage manufactures, distributors, retailers, consumers, and state and Federal regulators.

**PROJECT OBJECTIVE(S):**

The project will discuss the relevant case law and state and Federal statutory provisions. The project will attempt to identify the interests affected by the issue of direct shipment of wine to consumers, and attempt to identify the concerns of the affected interests. The project will address possible legislative options, and make recommendations for a legislative response in the context of the decision and issues presented in *Granholm v. Heald*.

**METHODOLOGY:**

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

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 569.215, F.S., Tobacco Settlement*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-224

**BACKGROUND and DESCRIPTION:**

Section 569.215, F.S., provides an exemption from the public records requirements in s. 119.07(1), F.S., and s. 24(a) of Art. I of the State Constitution for information used to calculate the annual tobacco-settlement payments. The exemption applies to proprietary confidential business information received by the Governor, the Attorney General, or outside counsel representing the State of Florida in negotiations for settlement payments pursuant to the tobacco settlement agreement. Sections

215.56005(1)(f), and 569.215, F.S., define the tobacco settlement agreement to mean *State v. American Tobacco Co. et al.*, Case no. 95-1466AH (Fla. 15th Cir. Ct. 1996).

Section 569.215, F.S., also exempts from public records requirements proprietary confidential business information of the tobacco industry received by the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, or received by the Chief Financial Officer or the Auditor General for the purpose of verifying annual settlement payments.

These public records exemptions are subject to the Open Government Sunset Review Act of 1995 and stand repealed on October 2, 2006, unless reviewed and reenacted by the Legislature.

**PROJECT OBJECTIVE(S):**

The objective of this interim review project is to review the public records exemption provided for proprietary confidential business information received by the state for negotiations related to the tobacco settlement agreement and for verification of tobacco settlement payments. This project will use the criteria established in the Open Government Sunset Review Act and recommend whether the exemptions should be reenacted or revised.

**METHODOLOGY:**

Committee staff will interview agency stakeholders, including representatives from the Office of the Attorney General, the Office of the Chief Financial Officer, and the Office of the Auditor General, 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, and whether the exemption continues to serve an identifiable public purpose.

## MONITOR PROJECTS

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Slot Machine Amendment #4*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-372

**BACKGROUND and DESCRIPTION:**

During the 2004 General Election, the electors approved Amendment 4 to the State Constitution, codified as s.23, Art. X, Florida Constitution, which authorized slot machines at existing pari-mutuel facilities in Miami-Dade and Broward Counties upon an affirmative vote of the electors in those counties. Both Miami-Dade and Broward Counties held referenda elections on March 8, 2005. The electors approved slot machines at the pari-mutuel facilities in Broward County, but the measure was defeated in Miami-Dade County. Under the provisions of the amendment, four pari-mutuel facilities are eligible to conduct slot machine gaming in Broward County – Gulfstream Park Racing Association – thoroughbred permitholder, Pompano Park Racing – a harness racing permitholder, Dania Jai Alai – a jai alai permitholder, and Hollywood Greyhound Track – a greyhound permitholder.

Legislation was introduced in both the Florida Senate and the House of Representatives to implement Amendment 4. Senator Jones introduced SB 1174 in the Senate and the Committee on

Business Regulation and Representative Attkisson introduced HB 1901 in the House. There were other implementing bills that did not get a committee hearing. No legislation passed during the 2005 Regular Legislative Session.

**PROJECT OBJECTIVE(S):**

To monitor any activity during the interim regarding the attempted implementation of s. 23, Art. X, Florida Constitution.

**METHODOLOGY:**

Staff will contact the interested parties in the pari-mutuel industry, as well as the Office of the Attorney General, the Department of Business and Professional Regulation, anti-gaming interests, representatives from the Indian tribes, representatives from local governments, and representatives from national organizations regarding activity related to the implementation of the Amendment. Staff will review any court documents filed and will continue to monitor media reports on this issue.



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# Transportation

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Examination of the Need for a Statewide Organization to Plan and Develop Passenger and Freight Rail Transportation*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-147

**BACKGROUND and DESCRIPTION:**

Florida has long relied on rail transportation. Rail has had a lasting impact in Florida, from its role in the development of many major urban areas to the transportation of commodities vital to today's economy. As the state continues to grow, all methods of maximizing the efficiency of Florida's existing transportation infrastructure are being scrutinized. There is great interest in encouraging more and better use of rail for the movement of both passengers and freight to maximize utility of the transportation system. Currently, there is no one organization or authority overseeing the planning, development, and preservation of the rail systems in the state.

**PROJECT OBJECTIVE(S):**

The project will provide an assessment of the state's existing rail infrastructure and identify potential organizational improvements in planning and development of passenger and freight rail transportation. The functions of a statewide organization for planning and development purposes will be examined and the need for a single oversight body for all facets of rail transportation including commuter and light rail, high speed rail, and freight service will be assessed.

**METHODOLOGY:**

Staff will:

- Examine current and historical rail development as it relates to other modal systems.
- Review other states' efforts in statewide rail system oversight.
- Make recommendations for legislation regarding a statewide rail organization.
- Conduct interviews, by phone, electronic mail or in person, with participants, affected parties or others pertaining to this project.

## MANDATORY REVIEWS

**INTERIM MANDATORY REVIEW TITLE:**

*Open Government Sunset Review of s. 316.066(3)(c), F.S., Crash Reports*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-225

**BACKGROUND and DESCRIPTION:**

Section 316.066(3)(c), F.S., provides crash reports revealing the identity, the home or employment telephone number, the home or employment address, or other personal information concerning parties involved in a crash, received or prepared by any agency which regularly receives or prepares information concerning the parties to motor vehicle crashes is confidential and exempt from public disclosure. This information is to remain confidential and exempt for 60 days after the date the report is filed. 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, 2006, unless saved from repeal through reenactment by the Legislature.

**PROJECT OBJECTIVE(S):**

Determine if personal information on motor vehicle crash reports should continue to be exempted from the Public Records Law contained in s.119.07(1), F.S, and s. 24(a), Art. I of the State Constitution.

**METHODOLOGY:**

The Open Government Sunset Review Act of 1995 under s. 119.15, F.S., provides 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:**

*Implementation of the REAL ID Act of 2005*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-373

**BACKGROUND and DESCRIPTION:**

The REAL ID Act of 2005 (H.R. 1268, P.L. 109-13) was signed into law by President George W. Bush on May 11, 2005, and will substantially impact driver licensing services in the state of Florida. The Act repealed provisions establishing a cooperative state-federal process to create federal standards for driver's licenses and instead directly imposes prescriptive federal driver's license standards. Specifically, three years from the date of the bill's enactment, May 11, 2008, federal agencies will be prohibited from accepting for any official purpose a state-issued identification card or driver's license not meeting numerous minimum document requirements and issuance standards, including the verification of an individual's immigration status. The new provisions also require states to verify with the issuing agency the issuance, validity, and completeness of each document required. States will not be able to accept foreign documents (other than passports) to satisfy the minimum standards, including proof of identity, legal name, and date of birth. In addition, a state must provide electronic access to all other states to information contained in the motor vehicle database of the state.

The Department of Highway Safety and Motor Vehicles' (DHSMV) Division of Driver Licenses administers driver license-related activities, which are intended to increase consumer protection and promote public safety by licensing only those drivers who demonstrate the necessary knowledge, skills, and abilities to operate motor vehicles on Florida's roads; controlling and improving problem drivers by suspending and revoking the licenses of drivers who abuse their driving privileges; monitoring drivers to ensure they carry the required insurance to be financially responsible for their actions; and maintaining driver history records. According to DHSMV, there were 14,788,685 persons holding Florida drivers' licenses as of January 2004.

Driver license-related activities are divided into 4 service categories: (1) Driver Licensure Service Category which provides licensing services including issuing driver licenses and identification cards; answering customer inquiries over the telephone and Internet; maintaining comprehensive driver history; and maintaining the statewide traffic citation system; (2) Motorists Financial Responsibility Compliance Service Category which is responsible for ensuring licensed drivers comply with Florida automobile insurance laws and requirements to carry Personal Injury Protection (PIP) and Property Damage Liability (PDL) insurance coverage, and Bodily Injury Liability coverage if required; (3) Identification and Control of Problem Drivers Service Category which is responsible for identifying and controlling problem drivers through suspending, revoking, disqualifying, and canceling driving privileges, conducting administrative reviews for issuance of limited restricted licenses for offenders, and approving course curriculum and evaluating driver improvement-related course programs; and (4) Executive Direction and Support Services Service Category which administers general business functions, provides leadership and direction, and supports all driver license-related activities.

During fiscal year 2004-2005, the Division of Driver Licenses was appropriated \$83,861,515 and authorized 1,480 full-time positions. The division currently operates 100 field offices distributed throughout the state. Almost 1,000 of the division's positions are assigned to field operations.

Sections 322.02 and 322.135, F.S., respectively, provide DHSMV may authorize tax collectors to serve as exclusive agents for the purposes of issuing driver's licenses and other driver's licensing services. Currently, 27 tax collectors are providing driver license services at 56 locations. Services available through the tax collectors include new licenses, renewals, duplicates, learner's permits, and identification cards. In addition, tax collectors are authorized to provide commercial driver license (CDL) services. However, a number of the participating tax collectors have opted not to administer the skills (road) test. Tax collectors who serve as driver's license agents may charge an additional \$5.25 fee for driver license services they provide. One dollar of this fee must be deposited into the Highway Safety Operating Trust Fund and is used to meet technology requirements of the driver's licensing system.

**PROJECT OBJECTIVE(S):**

The project will monitor DHMSV as they begin implementation of the REAL ID Act of 2005. In addition, staff will monitor to determine whether future legislation is required to modify state law to comply with the federal law.

**METHODOLOGY:**

Staff will research applicable federal and state laws regulating driver license and identification card standards. Staff will meet periodically with appropriate agency staff and monitor the progress of all related DHSMV meetings. Staff will identify the current laws to determine the need for any modifications to conform state law with federal requirements.

**INTERIM MONITOR PROJECT TITLE:**

*Manufactured Housing Regulatory Study Commission*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-374

**BACKGROUND and DESCRIPTION:**

The 2005 Legislature adopted legislation creating the Manufactured Housing Regulatory Study Commission (study commission). The study commission is to be composed of eleven appointed members, of which, three shall serve as ex officio, nonvoting members. The study commission is charged with reviewing the programs regulating manufactured and mobile homes currently within the Department of Highway Safety and Motor Vehicles (DHSMV) and also charged with considering the impact any changes in regulation may have on the industry and its consumers. In addition, the study commission must review the sources funding the programs to determine if the manufactured and mobile home programs are or can be self-sustaining. The study commission must submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before January 1, 2006.

The National Manufactured Housing Construction and Safety Standards Act of 1974 (act) established federal construction and safety standards for manufactured homes. The 2000 amendments to

this act provided this title may be cited as the “Manufactured Housing Improvement Act.” The Department of Housing and Urban Development (HUD) was directed to develop a federal standard building code for mobile homes. The intent of the program is to reduce personal injuries, deaths, property damage, insurance costs, and to improve the quality and durability of manufactured homes. These standards supersede any state standards regarding mobile home construction or safety. Thus, federal regulations preempt any state regulations to the extent the local or state regulations are governed by the federal act and the corresponding rules promulgated by HUD.

With the approval of the secretary of HUD, states may assume responsibility for enforcement of the federal standards established under the act. Florida entered into two contracts with HUD in 1976 to carry out the enforcement of the federal program. The Bureau of Mobile Home and Recreational Vehicle Construction (bureau) within DHSMV has since administered the contracts. The bureau includes the Bureau Chief’s Office (in-plant inspection and consumer complaint programs), Engineering, Seals, Labels, and Installer Licensing sections. The bureau is the “State Administrative Agency” (SAA) for monitoring all manufactured housing produced or installed in Florida. The bureau inspects manufacturer facilities and dealer lots for compliance with the federal code; investigates and resolves consumer complaints against manufacturers and dealers; monitors retail lots; approves alterations made by retailers; and monitors the installation of mobile homes. The state’s responsibilities for the installation program include regulating the installation of mobile homes by testing and licensing mobile home installers, testing and approving anchoring and tie-down products for use in Florida, and inspecting the actual installation of mobile homes. In addition, the bureau conducts training for city and county building officials on how to inspect for proper installation, and consults with these officials on a regular basis regarding installation issues.

Florida is one of 38 states approved by the secretary of HUD to perform these functions. Ten of those 38 states also perform as an in-plant primary inspection agency (IPIA) under a second contract. Florida is one of these states. According to the IPIA contract, DHSMV must certify a manufacturer is following approved quality control procedures and must provide on-going in-plant inspection of the manufacturing process to assure conformance with the federal code standards. If the manufacturer complies, a federal certification label is then issued and affixed to each newly completed mobile home manufactured in Florida.

According to DHSMV, Florida is one of the top three states receiving the largest number of manufactured homes. Florida is ranked in the top eight in the nation in the production of mobile homes. During FY 2003-04, the program registered 22,209 new mobile homes and inspected 14,581 mobile homes in 14 manufacturing plants. The program issued 2,882 manufacturer non-compliance notices. As of June 30, 2004, Florida licensed 471 manufactured home installers.

Inspection and monitoring activities are funded through fees. DHSMV estimates the program will generate \$1,327,256 in revenue for the 2004/05 fiscal year. Mobile Home Seal fees account for \$542,578 and Dealer License fees account for \$194,078, both of which are deposited in the General Revenue fund. Revenue deposited in the Highway Safety Operating Trust Fund totals \$491,000. DHSMV also estimates \$99,600 will be collected for additional dealer license and title fees for deposit in the Mobile Home and Recreational Vehicle Protection Trust Fund. Of this amount, \$79,680 relates to mobile home transactions and \$19,920 relates to recreational vehicle transactions. Program expenditures are estimated to be \$1,643,543 (excluding claims). The bureau currently has 38 FTEs.

**PROJECT OBJECTIVE(S):**

The legislation requires staff of the transportation committees of the Senate and the House of Representatives to administratively support the study commission. In addition, any report and recommendations will be monitored to determine whether future legislation is required.

**METHODOLOGY:**

Committee staff will monitor all meetings and provide administrative support to the study commission.

**INTERIM MONITOR PROJECT TITLE:**

*Review of the Actions of the Hillsborough County Public Transportation Commission*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-375

**BACKGROUND and DESCRIPTION:**

Section 125.01, F.S., and other special acts give authority to the counties or commissions to regulate limousines for hire. This has resulted in regulation inequities amongst the counties, such as unequal fee structures, multiple registrations, burdensome inspections and qualifications of operation, higher costs and less service to consumers and restraint of trade.

The Hillsborough County Legislative Delegation is conducting a review of the actions of the Hillsborough County Public Transportation Commission relating to its regulation of livery services, including limousines for hire. Senator Jim Sebesta has been assigned by the Chair of the Hillsborough County Legislative Delegation to lead this review.

**PROJECT OBJECTIVE(S):**

This project will monitor the review by the Hillsborough County Legislative Delegation in order to determine whether statewide preemption is required for limousines for hire.

**METHODOLOGY:**

Staff will review the progress of all related meetings during the interim and monitor recommendations made by Hillsborough County Legislative Delegation.

**INTERIM MONITOR PROJECT TITLE:**

*Transportation Equity Act - 21 Reauthorization*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-376

**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 May 30, 2005 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.

**INTERIM MONITOR PROJECT TITLE:**

*Update of the Long-range Component of the Florida Transportation Plan*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-377

**BACKGROUND and DESCRIPTION:**

The Florida Transportation Plan (FTP) establishes long-range goals that will guide the investment of over \$100 billion in Florida's transportation system over the next 20 years. The Florida Department of Transportation annually updates the short-range component of the FTP and Florida Statute requires the long-range component of the FTP be updated no less often than every five years. The department is currently updating the long-range component to respond to new trends and challenges to meet the future mobility needs of Florida's residents, visitors and businesses. Though the Florida Department of Transportation has principal responsibility for statewide movement of people and goods, it also shares responsibility with other public and private interests in addressing system safety, preservation, and local and metropolitan area mobility needs. As a result, the 2025 FTP development process will include a Steering Committee, which will comprise statewide partners representing diverse interests from throughout Florida. The Steering Committee will provide guidance and input throughout the development of the 2025 FTP. The goal of the Steering Committee will be to develop consensus and support among partners and the public for recommendations on goals, objectives and policies to be included in the 2025 FTP. This Plan will be adopted by the Secretary of the Department of Transportation in December 2005.

**PROJECT OBJECTIVE(S):**

This project will inform committee members of progress on the 2025 update to the FTP.

**METHODOLOGY:**

Staff will meet periodically with key agency staff and monitor scheduled meetings and workshops of the 2025 FTP Steering Committee.



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# Transportation and Economic Development Appropriations

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*Community Contribution Tax Credit Program Review*

**DATE DUE:** September 1, 2005

**PROJECT NUMBER:** 2006-148

**BACKGROUND and DESCRIPTION:**

Section 220.183, Florida Statutes, authorizes a community contribution tax credit for corporations, insurance companies, and persons who collect or remit sales or use taxes for making donations to certain low-income housing and community development projects. Applications to receive community contribution tax credits must be submitted to the Office of Tourism, Trade and Economic Development (OTTED) and are processed on a first-come, first-served basis. After approval for community contribution tax credits is received by an applicant, the applicant must also claim the credit from the Department of Revenue. Since creation of the program in 1980 through 1994 the tax credit was capped at \$3 million per year. In 1994 the program's expiration date was extended from that year until 2005, and the cap was decreased to \$2 million. In 1998 the Legislature increased the cap to \$5 million, and in 1999 it was raised again to \$10 million.

In the 2005 Legislative Session, Committee Substitute for Committee Substitute for Senate Bill 202 was passed. This bill extends the Community Contribution Tax Program through June 30, 2015, increases from \$10 million to \$12 million the total annual amount of tax credits that may be granted under the program, and reserves 80 percent of \$10 million of the available tax credits for businesses that contribute to home ownership opportunities for low-income and very-low-income households for the first 6 months of each fiscal year. For credits in excess of \$10 million, 70 percent is reserved for businesses that contribute to low income housing programs.

Despite these recent changes to the law, there remains concern that not enough of the tax credits are allocated to the community development projects which must be located in Enterprise Zones, such that matching private donations for such projects are reportedly being returned to donors. There is also concern that providing a disproportionate share of the tax credits for housing projects does not best achieve one goal of the program to attract and encourage private economic activity, including creating jobs. Beginning in Fiscal Year 1999-2000, the disparity between the amount of tax credits approved for housing projects versus community development projects began to grow significantly. This project will seek to determine the reason(s) for the growing disparity in tax credit approval for housing (e.g., Habitat for Humanity projects) and community development projects in the Enterprise Zones. (Tax credits for past community development projects in the Enterprise Zones have included contributions given to the Florida Holocaust Museum, Ringling School of Art and Design, Junior Achievement, The Victory Ship, Inc. Ship Rehab, Fresh Ministries, Inc. Incubator, and other projects by non-profit sponsors.) This project will make recommendations on what, if anything, should be done to address this disparity.

**PROJECT OBJECTIVE(S):**

To determine whether statutory changes should be made to the Community Contribution Tax Credit Program in order to more effectively achieve the original goals of the program “to renovate or construct new housing, water and sewer infrastructure, and transportation facilities, and to specifically provide mechanisms to attract and encourage private economic activity.” (s. 2, ch. 80-249, L.O.F.; emphasis added). The project will specifically evaluate the current disparity between tax credits approved and tax credits requested by businesses who contribute to homeownership opportunities for low-income and very low-income households and those businesses who contribute to community development project sponsors in the Enterprise Zones. The study will also address issues that have been raised by the Auditor General and others, including the determination of value for non-cash contributions.

**METHODOLOGY:**

Historical data will be obtained from various program sources, including OTTED. Interviews will be conducted with OTTED staff, selected community development sponsors, and other interested persons. Information previously compiled by the Auditor General for his July 2004 report will be reviewed and analyzed. Staff of the Auditor General and substantive legislative committee staff will be consulted.

**INTERIM PROJECT TITLE:**

*State Law Enforcement Radio System Enhancements*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-149

**BACKGROUND and DESCRIPTION:**

Section 282.1095(1), Florida Statutes authorizes the State Technology Office (STO) to "acquire and implement a statewide radio communications system to serve law enforcement units of state agencies, and to serve local law enforcement agencies through a mutual aid channel." This shared system provides an enterprise solution to facilitate communications among seventeen State law enforcement entities. The goal of the Statewide Law Enforcement Radio System (SLERS) project is to provide State law enforcement officers with a shared 800 MHz radio system. The STO manages this enterprise project along with the advisory Joint Task Force (JTF) on State Agency Law Enforcement Communications. The Joint Task Force on State Agency Law Enforcement Communications is called the JTF Board. The eight statutory agencies appoint board members.

Under the statute, the STO is responsible for the design, engineering, acquisition and implementation of the system. The State’s partner for SLERS is M/A-COM, a subsidiary of Tyco Electronics. The public/private partnership for the Statewide Law Enforcement Radio System has a unique funding strategy. For providing the services in the contract, M/A-COM was paid a \$40 million advance payment plus it receives the ongoing proceeds from a \$1.00 motor vehicle and vessel registration surcharge (approximately \$18.2 million for Fiscal Year 2004-2005), less certain stipulated expenses incurred by the State. This revenue stream to M/A-COM provides the system infrastructure (towers, antennas, system equipment, system maintenance, radio consoles for dispatch) and 800 MHz service. Agencies are included in the 800 MHz system by statutory reference (s. 282.1095, F.S.) or by acceptance into the Governor's Enterprise-wide Sharing of Resources Model. Both categories of members receive equipment and services as provided by the M/A-COM contract.

After the 2004 hurricanes, the JTF Board conducted a review of the SLERS operations and identified a number of enhancements to strengthen the system for future events. While the list of enhancements is not too difficult to address within the routine appropriations process, it does raise two questions. The first question is whether there is a need for a recurring funding mechanism for SLERS enhancements beyond what is provided through the service contract with M/A-COM. Both the rapid advancements in technology and the operational gaps that are highlighted by extraordinary events are likely to present on-going opportunities for improvements over the years. The second question is whether a more unified approach can be developed in the State budgeting process for addressing SLERS enhancements. Currently, each individual agency develops budget requests for the equipment and other costs they need beyond what is provided through the M/A-COM contract in order to use the SLERS. Many of the enhancements identified by the JTF Board affect all the agencies jointly, such that a combined request at the State enterprise level instead of agency by agency may provide a better venue for legislative review.

**PROJECT OBJECTIVE(S):**

To determine whether there is a need for a recurring funding mechanism for SLERS enhancements beyond what is provided through the service contract with M/A-COM, and whether a more unified approach can be developed in the State budgeting process for addressing SLERS enhancements.

**METHODOLOGY:**

This is a joint project with the General Government Appropriations Committee. The committee staff will work with OPPAGA, the JTF Board and STO/Department of Management Services' staff responsible for management of the SLERS system to make a recommendation on how the questions proposed above can be addressed.

## MANDATORY REVIEWS

*(None)*

## MONITOR PROJECTS

<b>INTERIM MONITOR PROJECT TITLE:</b> <i>Aerospace Economic Development</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-378

**BACKGROUND and DESCRIPTION:**

Proviso language in the Fiscal Year 2005-2006 General Appropriations Act reads:

“From the funds provided in Specific Appropriation 2495 for economic development tools, \$3,000,000 from non-recurring general revenue funds shall be used exclusively for aerospace businesses and industries, except that the projected balance of these funds that cannot be expended during Fiscal Year 2005-2006 for Qualified Targeted Industries and Qualified Defense Contractors refunds may also be used for the State of Florida’s efforts to help ensure

that research, development, and production activities associated with NASA's Crew Exploration Vehicle (CEV), Systems Engineering & Integration (SE&I) activities and other space exploration initiatives occur within Florida."

Since these funds may be used for a wide range of both specified and unspecified purposes, this monitoring project is needed to track and evaluate the decisions made by the Office of Tourism, Trade and Economic Development (OTTED) to spend these funds so that policy-makers can be well-informed in developing the Fiscal Year 2006-2007 budget.

**PROJECT OBJECTIVE(S):**

To track and evaluate the decisions made by the Office of Tourism, Trade and Economic Development to spend aerospace industry incentive funds provided in Specific Appropriation 2495.

**METHODOLOGY:**

Periodic meetings will be held with OTTED staff, and documentation on the expenditure detail for these funds will be compiled.

**INTERIM MONITOR PROJECT TITLE:**

*Growth Management Infrastructure Planning And Funding – Transportation Component*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-379

**BACKGROUND and DESCRIPTION:**

The Legislature adopted CS/CS/CS/SB 360 – Growth Management Infrastructure Planning and Funding (CS) appropriating \$1.5 billion in new funds for various transportation, water and school infrastructure programs, as well as making numerous changes to the laws governing growth management in Florida. Over \$1.0 billion dollars of this new funding is earmarked toward transportation related programs and projects. Below is a description of the programs and the associated funding:

- **Strategic Highway System (SIS) - \$520.4 Million** The CS amends Section 201.15(1)(d), F.S. to provide additional funds for the SIS, which is composed of transportation facilities and services of statewide and interregional significance. The SIS and Emerging SIS include three different types of facilities, each of which forms one component of an interconnected transportation system:
  - Hubs are ports and terminals that move goods or people between Florida regions or between Florida and other markets in the United States and the rest of the world;
  - Corridors are highways, rail lines and waterways that connect major markets within Florida or between Florida and other states or nations; and
  - Intermodal Connectors are highways, rail lines or waterways that connect hubs and corridors.
  
- **Transportation Regional Incentive Program (TRIP) - \$390.1 Million** The CS creates the TRIP to improve regionally significant facilities in regional transportation areas. Funding awarded for projects under this program require a 50-percent local match from funds other than a state-funded infrastructure bank loan. For a 2-year period, the bill allows the Florida Department of

Transportation to include right-of-way services as part of certain design-build contracts and to combine the design and construction phases of any project into a single contract.

- **State Infrastructure Bank (SIB) - \$100 Million** The CS appropriates funds to the SIB, created in Section 339.55, F.S., to provide loans to help fund transportation projects that otherwise might be delayed or not built. The loans are repaid from revenues generated by the project such as a toll road or other pledged resources. The repayments are then re-loaned to fund new transportation projects.
- **Small County Outreach Program (SCOP) - \$27.1 Million** The CS increases funding for the SCOP to assist small county governments in resurfacing or reconstructing county roads or in constructing capacity or safety improvements to county roads per section 339.2818, Florida Statutes.
- **County Incentive Grant Program (CIGP) - \$25 Million** The CS increases funding for the CIGP, which provides matching grants to counties to improve a transportation facility, including transit, which is located on the State Highway System or which relieves traffic congestion on the State Highway System per section 339.2817, Florida Statutes.
- **New Starts Program - \$54.2 Million** The CS amends Section 201.15(1)(d), F.S., to provide additional funding for the New Starts Program supporting public transit and intercity bus service including financial and technical assistance to transit, paratransit and ridesharing systems.

**PROJECT OBJECTIVE(S):**

The project will monitor the activities and work progress of the Florida Department of Transportation and their partners in the implementation and funding of the transportation projects. Staff will provide briefing materials for legislators as needed.

**METHODOLOGY:**

Appropriations staff, in coordination with staff from the Committee on Transportation and the Committee on Comprehensive Planning, will monitor meetings and work as needed with the Florida Department of Transportation, and other agencies involved in the development, implementation, and funding of the transportation programs outlined in the growth management legislation.

<b>INTERIM MONITOR PROJECT TITLE:</b> <i>Florida Voter Registration System</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-380

**BACKGROUND and DESCRIPTION:**

The Federal Help America Vote Act (HAVA) has had a dramatic impact on nearly every aspect of elections administration and has set new standards for states to meet. Each state, acting through the Chief State Election Official, must establish an official, uniform and nondiscriminatory statewide computerized voter registration system by January 2006 that is centralized and interactive. While the system must allow local election officials to enter information and have access to the list, states must

ensure that the Chief Election Official has overall responsibility and authority for the uniform voter registration list.

The Legislature adopted House Bills 1589 (Florida Voter Registration System) and 1591 (Public Records Exemption - Voter Registration Information) establishing requirements for the Florida Voter Registration System. In addition to this substantive legislation, the Legislature appropriated \$9.8 million in Section 42 of the General Appropriations Act for Fiscal Year 2005-2006 to enable the Department of State to complete the development and implementation and provide operational support for the Florida Voter Registration System.

**PROJECT OBJECTIVE(S):**

The project will monitor the activities and work progress of the Department of State, the Technology Review Workgroup, the State Technology Office and other interested parties in the design, development, and implementation of the Florida Voter Registration System and the allocation of funds contained in the General Appropriations Act for Fiscal Year 2005-2006. Staff will provide briefing materials for legislators as needed.

**METHODOLOGY:**

Staff will attend monthly meetings with the Department of State, Technology Review Workgroup, and State Technology Office and review all pertinent information associated with the design, development, and implementation of the Florida Voter Registration System.

**INTERIM MONITOR PROJECT TITLE:**

*Implementation of the Family Readiness Program in the Department of Military Affairs*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-381

**BACKGROUND and DESCRIPTION:**

The Family Readiness Program was created by HB 1069. The Department of Military Affairs (DMA) is to establish rules governing eligibility requirements and implementation of the program. The Adjutant General or his designee is to make final determinations on requests and is authorized to award funds for the program to the families requesting assistance.

The purpose of the program is to provide need-based assistance to family members of the Florida National Guard on active duty serving in the Global War on Terrorism and Homeland Defense operations. Funds may be used in emergency situations for critically needed services, such as reasonable living expenses, housing, vehicles, equipment or renovations necessary to meet disability needs, and health care. Monthly internal audits are to be conducted by the DMA inspector general and an annual report provided to the Governor and the Legislature.

**PROJECT OBJECTIVE(S):**

To monitor the implementation of the Family Readiness Program in the Department of Military Affairs and to determine if any program adjustments are needed.

**METHODOLOGY:**

Staff will work as needed with the Department of Military Affairs, substantive committees and other agencies and staff involved in the development and implementation of the Family Readiness Program.

**INTERIM MONITOR PROJECT TITLE:**

*Seaport Economic Development/Dredging Grant Program*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-382

**BACKGROUND and DESCRIPTION:**

The Legislature passed Committee Substitute for House Bill 1029 (CS), establishing a 50/50 matching grant program, between the state and local port authorities, to help fund projects for dredging or deepening channels, harbors and turning basins in counties with a population of less than 300,000. The Florida Seaport Transportation and Economic Development Council is responsible for developing program rules and criteria for evaluating the economic benefit of the proposed projects. The CS also establishes an administrative review process by Florida Department of Transportation, the Florida Department of Community Affairs, and the Office of Tourism, Trade, and Economic Development.

Specific Appropriation 1995, within the General Appropriations Act for Fiscal Year 2005-2006, provides \$5.0 million from the State Transportation Trust Fund as state match for the dredging grant program established in the CS.

**PROJECT OBJECTIVE(S):**

The project will monitor the activities and work progress of the Florida Seaport Transportation and Economic Development Council, the selection process for dredging projects, and the distribution of state matching funds. Staff will provide briefing materials for legislators as needed.

**METHODOLOGY:**

Staff will monitor meetings of the Florida Seaport Transportation and Economic Development Council, the administrative review process by the Departments of Transportation and Community Affairs, and the Office of Tourism, Trade, and Economic Development, and review all pertinent public documents.



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# Ways and Means

## INTERIM PROJECTS

**INTERIM PROJECT TITLE:**

*A Review of the Collective Bargaining Process for State Employees*

**DATE DUE:** November 1, 2005

**PROJECT NUMBER:** 2006-150

**BACKGROUND and DESCRIPTION:**

Collective bargaining is a constitutional right afforded employees in the State of Florida. For state employees, the Governor serves as the “public employer” and is charged with the duty and responsibility to negotiate in good faith with the agents of the bargaining units. When issues require funding or cannot be resolved timely, the Florida Legislature has the duty and responsibility to resolve the issues at impasse.

“Statutory impasse” is declared at the time the Governor issues the “Recommended Budget” to the Legislature. Within five days, each of the parties (the unions and the state) must submit its recommendations regarding the issues at impasse to the presiding officers of the legislature. The presiding officers will appoint a joint select committee to hear testimony and to make recommendations regarding the resolution of the issues. These recommendations are due at least 10 days prior to the beginning of the legislative session. During session, the Legislature has the responsibility to resolve all issues at impasse.

After the Legislature has resolved the issues at impasse, the parties are required to reduce to writing an agreement including those issues agreed to by the parties and the issues resolved by the Legislature. This agreement is supposed to be submitted to the union members for ratification. If the members ratify the contract (or issues) the contract is binding for the duration of the contract (up to three years normally). If the members fail to ratify the contract, the legislatively resolved issues are effective only for the remainder of the first fiscal year.

In recent years, at least one bargaining unit has failed to submit the agreement to its members for ratification. This has left open issues relating to the terms and conditions of employment for those employees in that bargaining unit, including whether those employees are entitled to any pay increases authorized by the legislature. On the other hand, the Department of Management Services has failed to seek the enforcement of the collective bargaining laws relating to ratification of the agreements. If these conditions continue, the legislative prerogative may be frustrated by the lack of action by the union representatives and the Department of Management Services.

**PROJECT OBJECTIVE(S):**

The purpose of this study is to review the current statutory processes for collective bargaining relating to state employees. The focus will be on the Legislature’s role in resolving issues at impasse as well as the execution of those decisions after the legislative resolution.

**METHODOLOGY:**

Staff will meet with the Department of Management Services, the Department of Lottery, the Executive Office of the Governor, the Public Relations Commission, and selected representatives of the collective bargaining units regarding the current process and recommendations for improving the current process.

Staff will review selected states' statutes and rules regarding the collective bargaining process and time tables.

**MANDATORY REVIEWS**

*(None)*

**MONITOR PROJECTS**

**INTERIM MONITOR PROJECT TITLE:**

*Cash Held Outside the State Treasury*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-383

**BACKGROUND and DESCRIPTION:**

Article VII of the Florida Constitution provides, in part:

SECTION 1. Taxation; appropriations; state expenses; state revenue limitation.—

(c) No money shall be drawn from the treasury except in pursuance of appropriation made by law.

(d) Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.

Thus state funds held in the State Treasury are subject to the Legislature's appropriations power. Funds held outside the State Treasury, whether pursuant to an act of the Legislature or due to an action taken by an agency or department or an entity under the control of an agency or department, may not be subject to the Legislature's appropriations power.

**PROJECT OBJECTIVE(S):**

This project will monitor the types and relative amounts of moneys held outside the State Treasury by branches of government, state agencies and departments, statutorily-created entities, and entities under the control of state agencies and departments. This may result in recommendations for more stringent controls, including bring moneys back into the State Treasury or within the purview of the appropriations process.

**METHODOLOGY:**

Research the statutes for entities created by law that operate outside the purview of the appropriations process. Query the state accounting system for moneys expended without current year appropriations. Identify state revenues not subject to the revenue limit imposed by Article VII, Section

(1)(e) of the Florida Constitution. Identify entities that "support" state agencies and departments by raising funds where any state resources are involved.

<b>INTERIM MONITOR PROJECT TITLE:</b> <i>Legislative Review of Agency Actions</i>
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**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-384

**BACKGROUND and DESCRIPTION:**

Section 216.177, Florida Statutes, creates a process for certain proposed agency actions to be subject to notice to the Legislature, review by the Legislature and objection by the Legislature. This process was designed primarily for proposed agency actions related to budget.

That section refers only to proposed actions under Chapter 216, Florida Statutes, yet it is directly referenced in over a dozen other chapters. Section 216.177, Florida Statutes, provides, in part:

(2)(a) Whenever notice of action to be taken by the Executive Office of the Governor or the Chief Justice of the Supreme Court is required by this chapter, such notice shall be given to the chair and vice chair of the Legislative Budget Commission in writing, and shall be delivered at least 14 days prior to the action referred to, unless a shorter period is approved in writing by the chair. If the action is solely for the release of funds appropriated by the Legislature, the notice shall be delivered at least 3 days before the effective date of the action. Action shall not be taken on any budget item for which this chapter requires notice to the Legislative Budget Commission or the appropriations committees without such notice having been provided, even though there may be good cause for considering such item.

(b) If the chair and vice chair of the Legislative Budget Commission or the President of the Senate and the Speaker of the House of Representatives timely advise, in writing, the Executive Office of the Governor or the Chief Justice of the Supreme Court that an action or a proposed action, whether subject to the notice and review requirements of this chapter or not, exceeds the delegated authority of the Executive Office of the Governor for the executive branch or the Chief Justice for the judicial branch, respectively, or is contrary to legislative policy and intent, the Governor or the Chief Justice of the Supreme Court shall void such action and instruct the affected state agency or entity of the judicial branch to change immediately its spending action or spending proposal until the Legislative Budget Commission or the Legislature addresses the issue. The written documentation shall indicate the specific reasons that an action or proposed action exceeds the delegated authority or is contrary to legislative policy and intent.

(c) The House of Representatives and the Senate shall provide by rule that any member of the House of Representatives or Senate may request, in writing, of either the President of the Senate or the Speaker of the House of Representatives to initiate the procedures of paragraph (b).

**PROJECT OBJECTIVE(S):**

This project will identify all the cross references to section 216.177, Florida Statutes, and monitor how the notice, review and objection process is actually being used. It may result in suggested changes to the process and to the use of the process to promote legislative goals.

**METHODOLOGY:**

Research Florida Statutes for all cross references (approximately 24) to section 216.177, Florida Statutes. Research Florida Statutes for all proposed agency actions subject to legislative notice review and objection. Interview House and Senate appropriations staff, along with OPB and agency staff as appropriate, to determine if the notice, review and objection process is working as intended in each case

**INTERIM MONITOR PROJECT TITLE:**

*Procurement of the Health Maintenance Organization Services for the State Employees Health Insurance Program*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-385

**BACKGROUND and DESCRIPTION:**

The State of Florida offers group health insurance benefits to its active employees and certain retirees. These benefits are offered either through a preferred provider network or through health maintenance organizations (HMOs) contracting with the Department of Management Services. The current HMO contracts expire December 31, 2005. The Department of Management Services will be procuring these services from April through mid-August 2005.

In addition, the Legislature has authorized the redesign of the overall state employees group health insurance program by allowing eligible members to choose between four health insurance plans. To assist members with these choices, the Legislature appropriated funds for an educational and awareness campaign.

**PROJECT OBJECTIVE(S):**

The project will monitor the process by which the Department of Management Services administers the HMO bids. The project will also review the educational and awareness materials and media provided to eligible members relating to open enrollment. Lastly, the project will review the enrollment data for the various plans and vendors in order to monitor the overall financial status of the health insurance program.

**METHODOLOGY:**

Staff will monitor the ITN process as well as the final contracts between the HMO's and the Department of Management Services. Staff will meet with the department staff regarding the educational and awareness campaign materials and media. Staff will also review enrollment and financial data from the plans.

**INTERIM MONITOR PROJECT TITLE:**

*Trust Funds*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2006-386

**BACKGROUND and DESCRIPTION:**

In 1992, the Florida Constitution was amended, as proposed by the Taxation and Budget Reform Commission, to limit the state's use of trust funds. Article III, Section 19(f) specifies several requirements:

- Only the Legislature may create a trust fund for the state "or other public body."
- Creating each trust fund requires a 3/5 vote in each house and "a separate bill for that purpose only."
- Each trust fund is terminated no more than 4 years after its creation.
- Specific funds and types of funds are exempted from automatic 4-year termination.
- The cash balance and all income of any fund terminated by the Constitution must be deposited in the General Revenue Fund. (Funds terminated by acts of the Legislature may be treated differently.)

If a trust fund is needed to operate state government and is not exempt from automatic termination by the Constitution, it must be re-created every 4 years by the Legislature. This results in a large number of bills that must be passed each year. From 1993 through 1996, the Legislature terminated more than one-half of the trust funds that existed when the Constitution was amended. Since then, more new trust funds have been created than existing trust funds have been terminated. To maintain the 430+ trust funds that were retained and have been newly created since then, roughly 100 trust fund bills will have to be passed during every legislative session (forever) in order to maintain current state operations.

The current process in the Legislature is for the House and Senate appropriations committees to schedule a review of about one-fourth of the state's trust funds each year as part of the budget review process. The Governor and agencies are required to submit information and recommendations about the funds. Bills are produced by the committees and differences between the two houses are resolved in the same manner as for other substantive bills. Senate Joint Resolution (SJR) 2144 places on the November 2006 ballot language that would require that only newly created trust funds be re-created, and this would only happen one time.

**PROJECT OBJECTIVE(S):**

This project will monitor the current legislative process for reviewing trust funds, in anticipation of voter approval of SJR 2144. Recommended changes may include modifications to the Legislative Budget Instructions and conforming changes to sections 215.3206, 215.3207, and 215.3208, Florida Statutes. It will be necessary to maintain the review process for newly-created trust funds in order to meet the requirements of SJR 2144. It will also be necessary to maintain current statutory requirements for agencies to identify their need for new trust funds to serve essential accounting principals of the state.

**METHODOLOGY:**

Review Florida Statutes related to trust funds, and monitor the implementation of that statutory process. Interview House and Senate appropriations staff and Governor's Office of Policy and Budget staff.