
2002 Special Session “E” Summary of Legislation Passed



*Compiled and Edited by
Office of the Senate Secretary*

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HB 27-E — General Appropriations

by Fiscal Responsibility Council and Rep. Lacasa (SB 2-E by Appropriations Committee)

This bill is the General Appropriations Act, which provides moneys for the annual period beginning July 1, 2002 and ending June 30, 2003, to pay salaries, expenses, capital outlay – buildings, and other improvements, and for other specified purposes of the various agencies of State government.

Total funds appropriated in the General Appropriations Act: \$50.4 Billion

Education

Public Schools

- Provides \$1,101.4 million increase (6 percent) in FEFP total potential state/local funds, including a \$14.4 million increase in Instructional Materials workload, a restoration of \$62.4 million in Public School Technology, a restoration of \$10.4 million in Teacher Training, and a \$11.8 million increase in Student Transportation workload.
- Provides an increase of \$18.5 million in Assessment and Evaluation.
- Provides an Exceptional Student Education Guaranteed Allocation including workload of \$25.4 million.
- Provides an increase of \$17.2 million in the Excellent Teaching Program, which provides bonus payments to all eligible nationally-board certified teachers.
- Provides state and federal funding of \$61.1 million for new Reading Initiatives.
- Provides \$5.5 million in assistance to Low Performing Schools partially restoring prior year funding.
- Provides \$13.1 million for Mentoring Initiatives.
- Provides \$2.6 million for Learning Gateways.

Community Colleges

- Provides for an overall increase in the Community College Program Fund of \$60.4 million.

- Transfers Workforce Development Funding of \$297.2 million to the Community Colleges budget.
- Provides \$8.4 million in Lottery funding for New Information Technology Grants.
- Provides for a tuition increase of 3 percent (\$9.5 million).

Workforce Development

- Provides \$8.2 million for increased Funding for Workforce Development Grants to Public Schools and Community Colleges.
- Transfers funding for Community College Workforce Development (\$297.2 million) to the Community Colleges budget.

State University System

- Provides \$45 million for an additional 10,510 students.
- Provides \$16.3 million to increase access to Baccalaureate Degrees on Branch Campuses and Centers.
- Provides an additional \$2 million for expanded baccalaureate degree opportunities at St. Petersburg College as a part of the emphasis on College and University Centers.
- Provides \$1 million to continue to expand access and infrastructure at New College.
- Provides funding for FAMU and FIU Law Schools (\$4.6 million) to be divided evenly.
- Provides \$5.3 million to continue the development of the FSU Medical School.
- Provides \$34.5 million for Discretionary Funding for Local University Boards of Trustees, in addition to \$ 49.3 million in discretionary tuition increase funds made available to the Local Boards of Trustees as listed below.
- Provides additional discretionary funding for university boards of trustees funded from tuition increases. Provides for a total potential increase of \$49.3 million as follows: 5 percent Undergraduate, 5 percent Graduate/out-of-state and medical. Boards of Trustees are also authorized to increase all out of state fees by up to another 10 percent.
- Provides \$9 million for universities funded under the average per student funding.
- Provides funding for targeted High Technology Research in Nanoscience and Space (\$3 million), I-4 Corridor Sales Tax Rebate Matching Program (\$5 million), and newly created University Centers of Excellence (\$30 million).

- Provides \$5 million for a newly-created center in Alzheimer's Medical Research at the University of South Florida and \$1 million for Alzheimer's Medical Research at the University of Florida.

Student Financial Aid

- Provides \$28.9 million additional funding for the Florida Bright Futures Scholarships.
- Provides an increase of \$11.8 million for the need-based Student Assistance Grant Program, including \$2.9 million for part-time students.

Health and Human Services

Agency for Health Care Administration

- Overall the Agency for Health Care Administration was allocated \$12.1 billion to cover health care needs of Floridians and to address regulatory and program management responsibilities.
- Provides \$1,304.3 million for Medicaid workload and price level increases which includes: \$765.9 million for workload because of changes in caseloads and utilization of services and \$538.4 million related to price level increases in reimbursement rates for institutional facilities, rural health clinics, and prescribed medicine providers. The Medicaid caseload for FY 2002-03 is projected to be 2,082,295 individuals.
- Provides \$255.3 million for the restoration of the optional Medically Needy Program for adults effective July 1, 2002. The program is modified, effective May 1, 2003, to increase the Medically Needy Income Limit by \$270 (from \$180 to \$450) per person per month and prohibit Medicaid reimbursement of expenses used to meet the spend-down liability for a family or person. An estimated average monthly caseload of 20,604 adults would continue to receive medical services under the Medically Needy Program.
- Provides \$95.8 million for the Ron Silver Senior Drug Program that provides prescription drug benefits to seniors aged 65 or older who have incomes below 120 percent of the federal poverty level and are also eligible for Medicare. Through approval of a federal Medicaid waiver, it is estimated that an additional 68,700 seniors would receive prescription drugs with an estimated average benefit of \$1,859 per recipient.
- Provides \$135.3 million for the Florida Kidcare program that provides health insurance for eligible children. It is estimated that the program will serve an additional 45,000 children by June 30, 2003.
- Provides \$17.4 million to provide emergency dental services for adults and restoration of Medicaid visual and hearing services for adults, effective July 1, 2002.

- Provides \$31.9 million for funding the second of three annual payments for the settlement of the Savona et al. lawsuit relating to physician payments for qualified Medicare beneficiaries dually enrolled in Medicare and Medicaid programs.
- Provides for a reduction of \$20.8 million in the Medicaid Prescribed Drug program: \$11.9 million relates to expanded implementation of state maximum allowable cost limits and further reducing medications on the preferred Drug List for particular therapeutic categories; \$8.9 million relates to implementation of a diverted pharmaceuticals pilot project.
- Provides for a reduction of \$3.6 million to increase enrollment in managed care plans to achieve a goal of 55 percent managed care and 45 percent in MediPass. An estimated 23,158 individuals would be shifted from MediPass to managed care plans under this policy change.

Department of Children and Family Services

- Overall the Department of Children and Family Services was allocated \$3.8 billion to cover health and social service needs of Floridians and to address regulatory and program management responsibilities.
- Provides \$54.1 million for continuation funding for Child Welfare Initiatives, expands services in residential group care settings, enhances child protection, provides new legal services to children, covers information technology needs and separates the Sheriff's funding into a unique category.
- Provides \$29.9 million to continue funding for the G. Pierce Wood conversion initiative and expands the service model to other counties, covers some workload in the Sexually Violent Predator Program and handles increased forensic caseloads.
- Provides \$136.7 million for improvements in current services in the Developmental Services Program, for new services to clients on the waiting list, and handles increased caseloads in the Mentally Retarded Defendant Program.

Department of Health

- Overall the Department of Health was allocated \$2.2 billion to cover health care needs of Floridians and to address regulatory and program management responsibilities.
- Provides for the transfer of the Medical Quality Assurance program activities from the Agency for Health Care Administration to the Department of Health.
- Provides \$2.5 million for the Rural Hospital Grant Program.

- Provides \$7 million to improve primary care services by enhancing the utilization of federal matching funds.
- Provides \$39.1 million in tobacco funds to continue the highly successful Florida Tobacco Pilot Program.

Department of Elder Affairs

- Overall the Department of Elder Affairs was allocated \$329.7 million to cover long-term care and community based care needs of elderly Floridians and to address program management responsibilities.
- Provides \$7.3 million increases in the Home and Community Based Programs in Elder Affairs and a significant increase for Alzheimer's respite services.

Department of Veterans' Affairs

- Overall the Department of Veterans' Affairs was allocated \$32.8 million to cover service and long term care needs of Florida's veterans and to address program management responsibilities.
- Provides \$2.1 million to cover the opening of new Veteran's Nursing Homes and the staffing requirements in SB 1202.

General Government

- \$360 million for acquisition of recreational, conservation, and environmentally sensitive lands (using the third series of bonds for Florida Forever and Save Our Rivers funds).
- \$150 million for Everglades Restoration using \$100 million in bond proceeds and \$50 million from the Save Our Everglades Trust Fund balance.
- \$167 million to continue our efforts in funding wastewater and drinking water projects through the Wastewater Treatment Facilities and Drinking Water Facilities Revolving Loan programs. Funds are derived from state, federal, interest earning and loan repayments.
- \$30 million in state funds to continue restoration and renourishment of Florida's pristine beaches. Federal and local governments provide an additional \$51.2 million.
- \$118.1 million to continue the state's efforts in funding wastewater, stormwater and surface water projects.
- Citrus canker eradication funds are provided at \$38.4 million (state and federal), and compensation for destroyed residential trees is provided at \$17 million.

- Renovations and expansions of agricultural fair and livestock pavilion facilities are funded at \$2.7 million.
- \$34.2 million provided to continue the state’s aquatic and invasive plant control efforts.
- \$27.1 million to fund the entire Florida Recreation Development Assistance Program (FRDAP).
- Increase of \$2.5 million for the Mosquito Control Program in the Department of Agriculture and Consumer Services.
- \$2.2 million for aquaculture development projects.
- Law enforcement overtime for the Florida Highway Patrol was provided at \$2 million.
- Transportation Outreach Program (TOP) – provided \$91.1 million for priority projects that preserve Florida’s transportation infrastructure and enhance mobility across the state.
- Economic Development - \$129.8 million reauthorized for the various programs, with an increase in funding for military base infrastructure improvements (\$4 million).
- Continued the state’s commitment of providing affordable housing to our residents – \$63.2 million.
- Historic Preservation and Cultural Facilities Projects – funded the entire project lists (\$27.4 million).
- \$6.6 million for Library Construction and Cooperative Grant programs administered by the Department of State.
- Election Reform – grants to counties for voting systems assistance is funded at \$16.4 million.
- \$34.2 million for the State Aid to Libraries program that provides operational grants to local libraries.
- \$4.3 million for the Department of Military Affairs Forward March and About Face programs.
- Provided \$131 million for the Regional Workforce Boards in the Agency for Workforce Innovation.

- Increased the Child Care category by \$4.2 million in the School Readiness program.

Public Safety and Judiciary

- The Public Safety and Judiciary budget includes an increase of \$132.7 million for the coming fiscal year reflecting a 4.8 percent increase above FY 2001-2002 expenditures. The new funding provided builds upon last year's improvements to criminal justice and judiciary programs by adequately funding those agencies charged with protecting our state and local communities.
- The budget contains more than \$25 million for Florida's correctional institutions to address the forecasted prison population increase and to provide for inmate health service needs. The Department of Correction's budget also contains an additional \$10.4 million to implement a close management plan within the prison system to enhance physical and mental health care services provided to inmates under close supervision as well as to protect the safety and well-being of Florida's correctional officers.
- To reduce the incidence of juvenile crime and delinquency, the budget provides \$10.5 million for juvenile crime prevention services and more than \$14 million in new funds for commitment and treatment programs to rehabilitate juvenile offenders.
- Over \$4 million in new funding and 75 new positions are provided to restore last year's cuts to the juvenile probation program and also to provide funding for probation and detention officer training and purchase staff uniforms.
- The budget for juvenile delinquency programs and services includes nearly \$12 million in state and federal funds for both state-operated and private contractor-operated programs for critical facility maintenance and repairs, price level increases, and funds to construct new classrooms for education and delinquency rehabilitation purposes.
- The budget provides a significant funding increase totaling nearly \$31 million for Justice Administration and includes additional funding for the State Court System, the Offices of the Public Defenders and State Attorneys, and the Capital Collateral Regional Counsels.
- Over \$7.5 million dollars have been added to expand and enhance the Guardian Ad Litem program and to provide legal support when a judge determines that it is in the best interests of a child to be represented by an attorney in dependency proceedings. The new funding will also support at least 100 additional professional guardians and will more than double the current amount of resources devoted to the Guardian Ad Litem program which protects our most vulnerable citizens, Florida's children in foster care, by providing "best interests" representation and support.

- Over \$1.7 million is provided for 18 additional circuit court judges and support staff in our State Court System. These new judges will work to address civil, family and criminal court caseload increases due to Florida's continued growth. One-half of the new judges will be elected in November and shall take office January 1, 2003; the Governor shall appoint the remainder, for terms beginning May 1, 2003.
- The budget for the State Court System also increases funding by over \$15 million for several critical operations and capital outlay issues identified by the court. One of these critical issues includes \$3.3 million to integrate Florida's justice-related databases and information systems to enhance courtroom efficiency by improving the flow of information needed by judges to more effectively and efficiently process court cases of all types. The information systems integration project will be accomplished through a unique partnership between the Courts and the Governor's State Technology Office (STO) with the STO providing critical project planning, development and implementation support.
- And finally, the budget for Justice Administration restores all but \$500,000 of last year's \$15.1 million funding reduction to the State Attorney's and Public Defender's Offices.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 25-11; House 81-35

HB 29-E — Appropriations Implementing

by Fiscal Responsibility Council and Rep. Lacasa (SB 4-E by Appropriations Committee)

This bill provides temporary changes in statutory provisions and additional instructions to agencies of government for funds appropriated in order to implement the General Appropriations Act.

Section 1: Provides legislative intent.

Education Provisions

Section 2: Requires the State University System to use the state accounting system during FY 2002-2003.

Section 3: Delays until July 1, 2003 the requirement that Department of Education employees funded by certain contracts and grants be appropriated by the Legislature.

Section 4: Delays until July 1, 2003 the requirement that Department of Education employees funded by federal grants be appropriated by the Legislature.

Section 5: Delays until July 1, 2003, the requirement that federal funds and the Knott Data Center be appropriated by the Legislature.

Section 6: Extends the time new recipients of Florida Bright Future Scholarships have to take required College Level Examination Program (CLEP) exams. These exams allow students to obtain college credit before entering state universities and community colleges.

Section 7: Requires that 75% of community college financial aid fees be used for need-based financial aid.

Sections 8-9: Expands the scope of School District Land Acquisition Advisory Boards to include school maintenance, transportation, and purchasing functions. These boards are appointed after the Auditor General or OPPAGA finds deficiencies in the operations of school districts.

Health and Human Services Provisions

Sections 10-11: Requires that certain large counties have more than one community care for the elderly service system to foster competition among service providers.

Section 12: Allows the Department of Children and Families to transfer funds within the Family Safety Program.

Section 13: Allows the Emergency Medical Services Trust Fund to be used for rural hospital capital improvements.

Section 14: Allows the World War II Veterans Memorial to receive donations from local governments.

Section 15: Allows the Children and Adolescents Substance Abuse Trust fund to be used for adults.

Section 16: Extends the fee on new septic tank systems in order to fund research and training activities through the Department of Health.

Section 17: Allows Department of Children and Families to combine community-based care lead agency contracts for Sarasota, Manatee, and DeSoto Counties into a single contract.

Section 18: Allows funds from the Epilepsy Services Trust Fund to be used for case management services.

Public Safety and Judiciary Provisions

Section 19: Allows the Florida Department of Law Enforcement to provide bonuses for employees for meritorious performance under a plan to be provided to the Legislature.

Section 20: Allows the Florida Department of Law Enforcement to transfer a limited number of positions and salary rate with notification of the Legislature.

Section 21: Allows the Correctional Privatization Commission to compensate local governments for certain costs associated with opening new private prisons or juvenile justice facilities.

Section 22: Allows funds from the Crime Stoppers Trust Fund to be used for expenses of the Department of Legal Affairs.

Section 23: Allows funds from the Florida Motor Vehicle Theft Prevention Trust Fund to be used for expenses of the Department of Legal Affairs.

Section 24: Clarifies the law to prohibit the Department of Juvenile Justice from using operational funds for fixed capital outlay.

Section 25: Allows the establishment of additional positions in the Department of Corrections if the inmate population exceeds the forecast by a certain amount.

Section 26: Allows local government law enforcement trust funds to be used to reimburse local government's general fund.

General Government Provisions

Section 27: Allows funds in the Land Acquisition Trust Fund to be used for certain environmental projects.

Section 28: Allows funds in the Conservation and Recreation Lands Trust Fund (CARL) to be used for certain environmental projects.

Section 29: Allows the Florida Hurricane Catastrophe Fund to be used for certain flood mitigation projects.

Section 30: Amends legislation passed during the 2002 session regarding citrus canker to require that the Department of Agriculture provide final orders to individuals whose citrus trees are to be removed.

Section 31: Specifies that to be eligible for compensation for residential citrus trees removed as part of the state's citrus canker eradication program, individuals must be the homeowners at the time the trees are removed, and reduces the amount of compensation provided for each tree from \$100 to \$55.

Section 32: Provides that if legislation passed during the 2002 regular session on Everglades restoration fails to become law, the \$25 million from the South Florida Water Management District's share of Florida Forever proceeds will not be deposited in the Save Our Everglades Trust Fund.

Sections 33-34: Provides that regardless of whether the legislation passed during the 2002 regular session on solid waste management becomes law, the Department of Environmental Protection is limited to providing solid waste recycling grants only to counties with a population of less than 100,000.

Section 35: Waives the requirement that citizen support organizations supporting the state parks that have less than \$100,000 in expenditures have an independent financial audit.

Section 36: Requires the Department of Management Services to operate the executive aircraft pool on a full cost recovery basis, less available funds.

Section 37: Allows the Department of Environmental Protection to waive the requirement for a reserve for certain small county sewer construction loans if the reserve is used to pay outstanding obligations.

Sections 38-39: Prohibits a fine or suspension of thoroughbred permit if the permit holder fails to operate all performances or fails to pay certain taxes.

Section 40: Requires the Department of Management Services to implement the Human Resource Outsourcing project.

Section 41: Allows the Department of Management Services to pay for adoptions benefits for state employees through a lump sum rather than monthly installments.

Sections 42-43: Requires the Department of Management Services to implement a new state employee classification and compensation program as proposed by the department under Service First ("broadbanding").

Section 44: Maintains the state employee prescription drug co-payments at the current level.

Section 45: Requires that the Department of Management Services and the Governor recommend the premiums for the state group health insurance program needed to cover its costs.

Section 46: Prohibits the payment of certain Class C travel expenses for state employees. Class C travel is that which takes place within one working day.

Section 47: Requires that the state actuary recognize and use available excess assets in the Florida Retirement System to offset the difference between the costs of the retirement system and the statutory contribution rates.

Section 48: Allows disabled applicants for certification as a registered contractor to take an oral rather than written examination.

Section 49: Limits the number of positions and resources the Department of Business and Professional Regulation can transfer from the Division of Alcoholic Beverages and Tobacco to implement the department's on-line licensing project during FY 2002-2003.

Section 50: Limits the number of positions and resources the Department of Business and Professional Regulation can transfer from the Division of Florida Land Sales, Condominiums, and Mobile Homes to implement the department's on-line licensing project during FY 2002-2003.

Section 51: Limits the number of positions and resources the Department of Business and Professional Regulation can transfer from the Division of Hotels and Restaurants to implement the department's on-line licensing project during FY 2002-2003.

Section 52: Clarifies that the Governor and Legislature are the responsible parties for the submission of information relating to the federal review of congressional and state legislative apportionment or districting plans.

Section 53: Allows funds from the Emergency Management, Preparedness, and Assistance Trust Fund to be used as provided in the General Appropriations Act and that unspent funds can be used as state match for federally approved Hazard Mitigation Grant Program projects.

Section 54: Specifies that transportation projects funded through the Office of Tourism, Trade, and Economic Development by the Legislature are necessary to economic development.

Section 55: Allows the Agency for Workforce Innovation to administer the Teacher Education and Compensation Helps (TEACH) program.

Section 56: Allows leasing of certain property to attract certain businesses related to the empowerment zone in Miami-Dade County.

Section 57: Amends legislation passed during the 2002 regular session to allow certain toll collectors to remain in the Career Service System.

Section 58: Amends legislation passed during the 2002 regular session to delay the effective date of certain preferences for county transportation grants until July 1, 2003.

Section 59: Provides that school readiness programs provide priority for placement of children from TANF families and subject to federal work requirements.

General Provisions

Sections 60-61: Increases the General Revenue service charge on various agency trust funds.

Sections 62-63: Removes exemption from the General Revenue service charge for certain trust funds.

Sections 64-65: Amends s. 18.10, F.S., related to appropriations of interest earned on certain trust fund balances to the General Revenue Fund, to correct a cross reference.

Sections 66-67: Limit the trust funds that can retain interest earned, requiring instead that such interest be deposited into the General Revenue Fund.

Sections 68-69: Removes references relating to the interest earned by two trust funds in the Executive Office of the Governor, resulting in such earnings going into General Revenue.

Sections 70-71: Removes references relating to the interest earned by a trust fund in the Department of Health, resulting in such earnings going into General Revenue.

Sections 72-73: Removes references relating to the interest earned by a trust fund in the Department of Health, resulting in such earnings going into General Revenue.

Sections 74-75: Removes references relating to the interest earned by a trust fund in the Department of Legal Affairs, resulting in such earnings going into General Revenue.

Sections 76-77: Removes references relating to the interest earned by two trust funds in the Department of Law Enforcement, resulting in such earnings going into General Revenue.

Section 78: Prohibits state agencies or entities that receive funds from the General Appropriations Act from using such funds to advertise in support of, or in opposition to, any candidate or issue appearing on the ballot. The Comptroller or Chief Financial Officer will enforce this policy and violations will result in a forfeiture and reversion of 5% of the funds appropriated to that agency or entity from the state.

Section 79: Provides that if a portion of the budget is vetoed that the respective provision in the implementing bill is void.

Section 80: Provides that any other act passed in 2002 with substantially the same provisions of this act will take precedence and will continue to operate.

Section 81: Adopts the agency performance measures and standards contained in a separate document.

Section 82: Provides that any provision that is held invalid is severable and the remaining provisions will be valid.

Section 83: Provides that this act shall take effect July 1, 2002 or in the event that the act fails to become law by July 1, 2002, it will operate retroactively.

If approved by the Governor, these provisions take effect July 1, 2002

Vote: Senate 26-10; House 75-42

SB 32-E — Circuit Judges/Numbers Increased

by Senator Burt

The bill authorizes the creation of 18 new circuit court judgeships. Half of the new judicial offices will be filled by election and the other half through gubernatorial appointment. The judges filling the new offices would take office March 1, 2003.

CIRCUIT COURT JUDGESHIPS

Circuit	Judgeships	Elected/Appointed
Fifth	2	Appointed
Sixth	1	Elected
Seventh	1	Elected
Eighth	1	Elected
Ninth	2	1 Elected/1 Appointed
Tenth	2	1 Elected/1 Appointed
Eleventh	2	Appointed
Twelfth	1	Elected
Thirteenth	1	Elected
Fifteenth	1	Elected
Seventeenth	2	1 Elected/1 Appointed
Eighteenth	1	Appointed
Twentieth	1	Appointed
TOTALS	18	9 Elected/9 Appointed

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 35-4; House 110-0

HB 41-E — The James L. Stevens Act/Cigarette Taxes/H. Lee Moffitt

by Reps. Byrd, Fasano, and others (SB 66-E by Senators Sullivan, King, Lee, Sebesta, Miller, and Campbell)

This bill amends s. 210.20, F.S., and s. 210.201, F.S., increasing revenues to the H. Lee Moffitt Cancer Center and Research Institute on a recurring basis over the next 14 years by requiring a portion of net cigarette tax to be paid monthly to the Board of Directors of the facility for use in financing the construction, furnishing, and equipping of a cancer research facility at the University of South Florida. This bill also changes a requirement that cigarette tax dollars pledged to the facility under s. 210.20, F.S., must be replaced with tobacco litigation settlement proceeds. The bill makes that optional.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 108-0

HB 53-E — Department of Children and Family Services

by Fiscal Responsibility Council and Rep. Murman (SB 36-E by Senator Silver)

The bill makes a number of changes to the Department of Children and Family Services that are required in order to implement the General Appropriations Act for FY 2002-03. Specifically, the bill:

- Authorizes the Department of Children and Family Services and the Department of Health to advance money to contract providers that were approved for advancement by the Comptroller in FY 1993-94.
- Requires substance abuse and mental health services contracts to include a provision that client demographic, services, and outcome information must be submitted to the Department of Children and Family Services for inclusion in the department's Mental Health and Substance Abuse Data System and prohibits payment to the provider unless the information has been submitted by the specified date.
- Requires all new funds received in FY 2002-03 for substance abuse and mental health services in excess of FY 2001-02 recurring appropriations to be allocated in accordance with the General Appropriations Act and prohibits a district from receiving an allocation of recurring funds that is less than the FY 2001-02 appropriation.

- Provides that state funds determined to meet the maintenance-of-effort requirement for the Temporary Assistance for Needy Families block grant must be spent in accordance with Part A of Title IV of the Social Security Act.
- Removes the July 1, 2002 expiration date related to the community partnership matching grant program operated by the Department of Children and Families.
- Provides for the sale, subject to certain approvals, of the former W.T. Edwards Hospital complex located in Hillsborough County and the remaining Sunland complex located in Leon County and provides that the proceeds of the sale must be deposited into the Department of Children and Family Services' Administrative Trust Fund and, subject to legislative appropriation, must be used to construct, renovate, equip, maintain, and improve the department's facilities.

If approved by the Governor, these provisions take effect July 1, 2002

Vote: Senate 35-3; House 118-0

HB 55-E — Workers' Compensation Administration Trust Fund within the Department of Education

by Fiscal Responsibility Council and Rep. Johnson (SB 10-E by Senator Clary)

This bill creates the Workers' Compensation Administration Trust Fund within the Department of Education. The Workers' Compensation Administration Trust Fund will be used to pay expenses related to the administration of programs for rehabilitation and reemployment of injured workers.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 39-0; House 116-0

HB 57-E — Workers' Compensation Administration Trust Fund within the Department of Business and Professional Regulation

by Fiscal Responsibility Council and Rep. Johnson (SB 8-E by Senator Clary)

This bill creates the Workers' Compensation Administration Trust Fund within the Department of Business and Professional Regulation. The Workers' Compensation Administration Trust Fund will be used to pay program expenses of the child labor program.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 39-0; House 117-0

HB 59-E — Health Care/Medicaid

by Fiscal Responsibility Council and Rep. Murman (SB 38-E by Senator Silver)

Recoveries of Medicaid Overpayments

The bill contains provisions to enhance the effectiveness of the state's efforts to control fraud, abuse, and overpayments in the Medicaid system. The bill requires that the offices of the Medicaid Fraud Control Unit (MFCU) and the offices of the Agency for Health Care Administrations (AHCA) Medicaid program integrity program be collocated to the extent possible, and that the agency and the Department of Legal Affairs conduct joint training and other activities designed to increase communication and coordination in recovering overpayments.

Whistleblower protection is extended to employees of Medicaid providers who report suspected or actual Medicaid fraud or abuse through the whistle-blower's hotline or the hotline of the Medicaid Fraud Control Unit of the Department of Legal Affairs.

AHCA is allowed to deny, suspend, or revoke a license, registration, or certificate if the applicant or licensee, registrant or certificate holder has failed to pay or has failed to comply with a repayment plan for all outstanding fines, liens, or overpayments assessed by final order of the agency or the Centers for Medicare and Medicaid Services, unless a repayment plan is approved by the agency. The agency may take these same actions in the instance of a corporation, partnership, or other business entity if any officer, director, agent, managing employee, or affiliated person, partner or shareholder having an ownership interest of 5 percent or greater has failed to pay fines, liens or overpayments; does not have an approved repayment plan; or has failed to comply with a repayment plan. This section is applicable to all entities licensed or regulated by the agency and controls in the event of a conflict with specified regulatory chapters.

The bill requires that AHCA and the Department of Children and Family Services ensure that each recipient of Medicaid, as a condition of Medicaid eligibility, consents to release of his or her medical records to AHCA and the Medicaid Fraud Control unit of the Department of Legal Affairs.

AHCA is required to perform a random onsite inspection of a new provider applicant's service location, within 60 days after the receipt of the application, to determine the applicant's ability to provide the services the applicant is proposing to provide for Medicaid reimbursement. AHCA is not required to perform an onsite inspection of a provider or program which is licensed by the agency. The bill allows AHCA to consider the applicant's ability to provide services, conduct business, and operate a financially viable concern as a factor (in addition to other factors currently in statute) when determining whether or not to enroll a provider. With respect to providers who primarily provide emergency medical services transportation or emergency services, the effective date of an approved application is the date the agency receives the provider application.

The agency is required to deny a provider application when it determines that the applicant has failed to pay all outstanding fines or overpayments assessed by final order of the agency or the Centers for Medicare and Medicaid Services which are not subject to further appeal, unless the provider agrees to a repayment plan that includes withholding Medicaid reimbursement until the amount is paid in full. This restriction also applies in the instance of a corporation, partnership, or other business entity if any officer, director, agent, managing employee, or affiliated person, partner or shareholder having an ownership interest of 5 percent or greater has failed to pay these fines or liens.

In the instance of a cost-reimbursed provider which submits a cost report late, and that cost report would have been used to set a lower reimbursement rate, the provider's cost is to be calculated retroactively and payment is to be made retroactively at the recalculated rate. Medicare-granted extensions shall also apply to Medicaid cost reports.

Beginning January 1, 2003, AHCA and the Medicaid Fraud Control Unit of the Department of Legal Affairs are required to submit a joint annual report on the effectiveness of the state's efforts to control Medicaid fraud and abuse and to recover Medicaid overpayments. The report must include specified information.

AHCA is allowed to impose penalties on a Medicaid provider who have failed to comply with an agreed-upon repayment schedule or failed to timely file cost reports as are deemed necessary to set or adjust payment rates.

The agency is required, to impose a variety of sanctions or disincentives in the instance of providers who have committed certain acts, and the list of sanctions which may be imposed is expanded to include prepayment reviews of claims for a specified period of time, comprehensive follow-up reviews every 6 months, and corrective action plans of up to 3 years duration which would be monitored every 6 months. The Secretary may make a determination that imposition of a sanction or disincentive is not in the best interests of Medicaid, in which case a sanction or disincentive is not to be imposed.

AHCA is allowed to terminate a provider who does not enter into an agreed-upon repayment schedule.

AHCA and MFCU are allowed to review a provider's Medicaid-related records in order to reconcile quantities of goods or services billed to Medicaid against quantities of goods and services used in the provider's total practice.

AHCA may terminate a provider's participation in Medicaid for failure to reimburse an overpayment which has been determined by final order within 35 days unless the provider and the agency have entered into a repayment agreement. Reinstatement is required if the final order is overturned on appeal.

Administrative hearings pursuant to chapter 120, F.S., must be conducted within 90 days following assignment of an administrative law judge and specifying that upon issuance of a final order that the balance outstanding becomes due. The agency may withhold medical assistance payments to a provider until the amount due is repaid in full, if a provider fails to make payments in full or comply with the terms of a repayment plan or settlement agreement.

Agents and employees of the agency and MFCU are allowed to inspect the facility, inventory, and records of a pharmacy, wholesale establishment, manufacturer, or other place in the state where drugs and medical supplies are manufactured, packed, stored, sold, or kept for sale, for the purpose of verifying the amount of drugs and medical supplies ordered, delivered or purchased by a provider. Two days notice is to be provided, and the agency must identify the provider whose records are to be inspected. The inspection is to include only records specifically related to that provider.

The bill deletes a requirement that the Attorney General refer to AHCA all cases of suspected abuse of the Medicaid program that are not criminal in nature and each instance of Medicaid overpayments to a provider which is discovered in the course of an investigation. The Attorney General is permitted to seek any civil remedy, including, but not limited to, those in the Florida False Claims Act, the civil recovery section of the Florida Anti-Fencing Act, and is permitted to refer to the agency for collection in any case of overpayment to a provider discovered during the course of an investigation.

The Attorney General is to publicize the ability of persons to bring suit under the provisions of the Florida False Claims Act and the potential for the persons bringing a civil suit under that act to obtain a monetary award.

The bill repeals subsection (5) of s. 414.41, F.S., correcting a statutory conflict. Section 414.41(5), F.S., required AHCA to make a motion for interest from the date of the final order. Section 409.913(24)(b), F.S., requires the agency to apply interest from the date the agency determines there is an overpayment.

Nursing Student Loan Forgiveness

The bill revises the procedure for awarding loans from the funds in the Nursing Student Loan Forgiveness Trust Fund. The bill requires an estimate of the annual trust fund dollars to be made at the beginning of the fiscal year based on historic expenditures from the trust fund. Applicant requests must be reviewed on a quarterly basis and awards must be based on the following priority of employer until all the estimated funds have been awarded: state operated medical and health care facilities; public schools; county health departments; federally-sponsored community health centers; teaching hospitals under s. 408.07, F.S., family practice teaching hospitals under s. 395.805, F.S.; specialty hospitals for children under s. 409.9119, F.S.; and other hospitals, birth centers, and nursing homes.

Re-definition of “premises” for Teaching Hospitals

The bill modifies the definition of “premises” for hospitals, ambulatory surgical centers, and mobile surgical facilities. Under the bill, the definition of “reasonable proximity” for a licensee that is a teaching hospital under s. 408.07(44), F.S., would include buildings, beds, services, programs and equipment under the control of the licensee located at a site within one mile of the main address of the licensed facility, and those buildings, beds, and equipment may be included on the facility license as a single premises. AHCA is required to issue a single license, at the request of a licensee, to a teaching hospital, as defined in s. 408.07(44), F.S., to operate facilities that have previously operated as separate premises. Thus the teaching hospital and facilities in reasonable proximity could operate as a single integrated hospital without reducing the number of beds, services or programs operated by the licensee.

Nursing Homes

The bill modifies the requirement that all nursing homes maintain liability insurance to specify that this must be general and professional liability insurance. For the period from June 30, 2001 through June 30, 2005, AHCA is to submit a detailed report every 6 months regarding liability actions and deficiencies against nursing homes, the dates of injury forming the basis of the suit, information regarding deficiencies. Nursing facilities are to report to AHCA by the 10th of each month of presuit notices and complaints filed with the court, the date of the injury, detailed information about the resident, and copies of the presuit notice received and the complaint filed with the clerk of the court.

The bill requires AHCA, subject to appropriations, to advance \$6 million for the purpose of capitalizing the risk retention group (self insurance pool), with repayment required within 3 years. The agency’s claim is to be considered a class 3 claim.

In order to offset the cost of general and professional liability insurance, the agency is to amend the long-term care reimbursement plan to allow rate adjustments to reflect the cost of general and professional liability insurance for nursing homes. A restriction on this increase exceeding the class ceiling for the facility is removed.

This bill allows nursing homes which are transferred under a lease arrangement to meet the requirement for a 30-month bond to meet the bond requirement by paying into an AHCA nursing home overpayment account in the amount of 2 percent to the total of 3 months’ Medicaid payments. AHCA may then use the account to recoup overpayments. If the fund becomes less than outstanding overpayments, it ceases and participants are required to obtain bonds. If it goes into deficit AHCA assesses contributions. AHCA is to study and make recommendations, in consultation with the Florida Health Care Association and the Florida Association of Homes for the Aging, on the minimum amounts to be held in reserve to protect against overpayments to leasehold licensees and on the issue of successor liability for Medicaid overpayments upon sale

or transfer of ownership of a nursing facility. Findings and recommendations are to be submitted by January 1, 2003. The agency is granted authority to promulgate rules pertaining to lease bond arrangements.

Home Medical Equipment

The bill modifies the definition of home medical equipment to clarify that manual or motorized wheelchairs are such equipment. Deleted from the definition of home medical equipment are voice-synthesized computer modules, optical scanners, talking software, Braille printers, environmental control devices for use by persons with quadriplegia, motor vehicle adaptive transportation aides, and devices that enable persons with severe speech disabilities to in effect speak.

Kidcare Provisions

AHCA, in consultation with the Department of Health (DOH), the Department of Children and Family Services, and the Florida Healthy Kids Corporation is to contract for an evaluation of the Florida Kidcare program.

The bill amends provisions relating to the Healthy Kids Corporation to state the intent of the Legislature that state and local funds be used to expand coverage, within available appropriations, to children not eligible for federal matching funds under Title XXI, to delete obsolete language regarding the duties of the corporation, and to revise provisions relating to local matching funds.

Local contributions are voluntary and are to be used to pay premiums for children who are not eligible for Title XXI. Annually, the Corporation is to establish a local match policy for the enrollment of non-Title XXI children in the program, and is to provide notification of the amount of local match to be remitted to the Corporation by May 1 of each year.

Entities that may provide local match include, but are not limited to municipalities, counties, school boards, hospitals, health care providers, charitable organizations, special taxing districts, and private organizations.

The minimum amount of local match cash contributions and local-match credits are to be determined by the General Appropriations Act. The Corporation is to calculate a county's local match rate based on that county's percentage of the state's total non-Title XXI expenditures as reported in the Corporation's most recently audited financial statement.

Factors the Corporation may consider in awarding local match credits include, but are not limited to, population density, per-capita income, existing child-health-related expenditures, and services. The corporation is allowed to accept supplemental local match contributions which

comply with the requirements of Title XXI in order to provide coverage for additional children, in contributing counties, which would be matched under Title XXI.

The Corporation is to establish procedures for providers of local match to have reviews of grievances by an impartial body, and to establish disenrollment criteria in the event local matching funds are insufficient to cover enrollments.

The bill deletes language pertaining to the current local match requirements and adds two members to the Florida Healthy Kids Corporation board of directors. One of the new members is to be appointed by the Insurance Commissioner from a list of three members nominated by the Florida Association of Counties representing rural counties; the other new member is appointed by the Governor from a list of three members nominated by the Florida Association of Counties representing urban counties.

Medicaid Changes

The bill modifies eligibility for the Medically Needy program to include families or persons who are a caretaker relative or parent, a pregnant woman, a child under 19 who would otherwise qualify for Kidcare Medicaid, a child up to 21 who would otherwise be categorically eligible for Medicaid, a person 65 or older, or a blind or disabled person. Medical expenses used to meet spend-down requirements are not reimbursable by Medicaid. Effective May 1, 2003, the amount deducted from countable income is \$270 per month, except in the instance of determining eligibility of the parent or caretaker relative as defined by Title XIX of the Social Security Act.

The bill amends provisions related to eligibility of women for cancer treatment pursuant to the federal Breast and Cervical Cancer and Prevention and Treatment Act of 2000 who are screened through the Mary Brogan Breast and Cervical Cancer Early Detection Program.

The bill provides that a hospital located in a county that has five or fewer hospitals, that began offering obstetrical services on or after September 1999, and has submitted a request in writing to the Agency for a rate adjustment after July 1, 2000, but before September 30, 2000, shall have their Medicaid hospital inpatient per diem rate adjusted to cost, effective July 1, 2002.

The bill provides, effective July 1, 2002, Medicaid coverage of medically necessary emergency dental services for adults to alleviate pain or infection. Emergency dental care is limited to emergency oral examinations, necessary radiographs, extractions, and incision and drainage of abscess. The bill also restores Medicaid coverage for visual and hearing services for adults.

The bill names the pharmaceutical expense assistance program the “Ron Silver Senior Drug Program,” and revises eligibility for the program to include individuals between 88 percent and 120 percent of the federal poverty level (FPL), individuals between 88 and 150 percent of the FPL if the federal government increases the federal match for persons between 100 and 150 percent of FPL, or individuals between 88 percent of the FPL and a level supported with funds

provided in the General Appropriations Act under a federal waiver. The Agency is to design a pharmacy benefit that includes annual per-member benefit limits and cost-sharing provisions and limits enrollment to available appropriations and federal matching funds. The Agency is required, prior to implementation, to submit a budget amendment under chapter 216, F.S.

The bill allows other governmental entities as well as state entities to serve as the source of the state share of Medicaid payments.

The definitions used in s. 409.911, F.S., are applied to the Florida Uniform Reporting System Manual, the date used to qualify a hospital for participation in the disproportionate share program. The disproportionate share/financial assistance program for rural hospitals is changed from July 1, 1998 to January 1, 2001, unless additional funds are appropriated specifically to prevent any hospital eligible for the program from incurring a reduction in payments because of the eligibility of an additional hospital to participate. Eligibility is provided only to hospitals that were defined as statutory teaching hospitals, or their successor-in-interest hospital, prior to January 1, 2001, unless sufficient additional funds are appropriated.

The bill requires that the Medicaid Pharmaceutical and Therapeutics Committee ensure that interested parties agreeing to provide supplemental rebates have an opportunity to present public testimony, which is to occur prior to recommendations made by the committee for inclusion or exclusion from the preferred drug list.

The bill modifies standards pertaining to capitated Medicaid behavioral health services to require that 80 percent of the capitation rate paid to the managed care plan, including health maintenance organizations, be expended for the provision of behavioral health care services. If less than this amount is expended, the difference is to be returned to the agency.

The agency is required to contract to implement a wireless handheld clinical pharmacology drug information database for practitioners. The initiative is to be designed to reduce fraud, abuse and errors in the prescription drug benefit program.

The agency's authority to contract with children's provider networks providing care coordination and care management for Medicaid eligible pediatric patients is expanded to include pediatric emergency departments' diversion programs and a Children's Medical Services network, as defined in s. 391.021, F.S.

The agency is required to submit quarterly reports on the progress made in implementing cost-effective purchasing of health care and the Medicaid prescribed drug program.

The bill changes the assignment of Medicaid recipients subject to mandatory assignment, including children, who fail to make a choice to 55 percent in managed care and 45 percent in MediPass (formerly this requirement was for an equal ratio of 50/50 respectively). Beginning January 1, 2002, the agency is to assign all children in families who have not made a choice of a

managed care plan or Medipass to a pediatric emergency room diversion program that has executed a contract with the agency as of July 1, 2002 until such program has reached an enrollment of 15,000 children, at which time the agency is to assign these children to maintain a minimum enrollment in the program at not less than 15,000 children. To the extent practicable, all eligible children in the same family are to be assigned to such program. In areas where the agency is contracting for comprehensive behavioral health care services through a capitated prepaid arrangement, recipients who fail to make a choice of managed care plan or Medipass are to be assigned equally to these two provider types. The definition of managed care plans is expanded to include exclusive provider networks, provider service networks, Children's Medical Service Networks minority physician networks and pediatric emergency department diversion programs.

AHCA is allowed, at its discretion, notwithstanding the provisions of chapter 287, F.S., to renew cost-effective contracts for choice counseling once or more for such periods as the agency may decide; however, all such renewals are not to combine to exceed a total period longer than the term of the original contract.

The bill removes the prohibition against billing Medicaid for the federal 340B Drug Pricing Program to enable the Medicaid program to take advantage of prices below market costs.

Health Insurance

The bill permits an insurer to non-renew or discontinue health insurance coverage of an individual in the individual market if the person fails to make required co-payments to the insurer. When the unpaid co-payment exceeds \$300, the insurer must allow the insured 90 days after the date of the procedure to pay the required co-payment. The declaration-of-benefits page of the contract must notify the insured of this provision in 10-point type.

Trauma Center Self-Insurance

The bill removes a restriction on hospitals' offering self-insurance to their medical staffs to those hospitals which were verified trauma centers as of July 1, 1990.

Developmental Disabilities

The bill allows assignment of a comprehensive transitional education program license under certain circumstances.

The definition of an "intermediate care facility for the developmentally disabled" is modified to provide that a facility no longer has to be state-owned and operated to meet the definition of an intermediate care facility for the developmentally disabled. The definition is changed to require that the facility be state certified.

The bill modifies provisions relating to action by the agency against a licensee if the agency has a reasonable belief that conditions specified in s. 409.965(1), F.S., exist to provide that the agency must take administrative action as provided in s. 400.968, F.S., or s. 400.969, F.S., or injunctive action as authorized by s. 400.963, F.S.

The bill provides penalties for violation of part XI of chapter 400 relating to intermediate care facilities for developmentally disabled persons.

The bill requires the Department of Children and Families to develop and implement a comprehensive redesign of the home and community-based services delivery system for persons with developmental disabilities. Minimum redesign criteria are specified. Prior to the release of funds in the lump-sum appropriation, a plan must be submitted to fully implement the redesign by July 1, 2003. The bill specifies certain minimum criteria that must be included in the plan.

Services for Medically Fragile Children

The bill requires a study by AHCA of the health care services provided to medically fragile or medical-technology-dependent children in the state. A pilot program in Miami-Dade County is created to provide subacute pediatric transitional care to enable children to successfully make a transition from acute care to home.

The agency, in cooperation with the Children's Medical Services program in the DOH, must conduct a study of health care services provided to medically fragile or medical-technology-dependent children, from birth through age 21. By January 1, 2003, AHCA must report to the Legislature regarding the children's ages, where they are served, types of services received, costs of the services, and the sources of funding that pay for the services. The study must include information regarding medically fragile or medical-technology-dependent children residing in hospitals, nursing homes, and medical foster care, those who live with their parents, and those served in prescribed pediatric extended care centers. The report must also identify the number of such children who could, if appropriate transitional services were available, return home or move to a less institutional setting.

The agency will establish minimum staffing standards and quality requirements for a subacute pediatric transitional care center to be operated as a two-year pilot program in Miami-Dade County. The pilot program is limited to a maximum of 30 children at any one time. The pilot program must operate under the license of a hospital licensed under ch. 395, F.S., or a nursing home licensed under ch. 400, F.S., and shall utilize existing beds in the hospital or nursing home. The agency must amend the state Medicaid plan and request any federal waivers necessary to implement and fund the pilot program.

The pilot program must have an advisory board, and the membership must include a physician and advanced registered nurse practitioner, a registered nurse, a child development specialist, a

social worker, and a parent of a child placed in the center. The advisory board must review policy and provide consultation to the center.

By January 1, 2003, the agency must report to the Legislature concerning the progress of the pilot program. By January 1, 2004, the agency must submit a final report on the success of the pilot program

Disproportionate Share Hospital Program

For FY 2002-03 only, AHCA is to distribute disproportionate share payments only to hospitals that meet the federal minimum requirements and to public hospitals. The bill provides a formula for distributing payments. The bill requires AHCA to distribute payments in the same proportion as those payments made in FY 2001-02 to regional perinatal intensive care centers and primary care disproportionate share payments. No disproportionate share payments are to be made in FY 2002-03 to the children's hospital disproportionate share program. The bill provides that if the Centers for Medicare and Medicaid Services does not approve Florida's inpatient hospital state plan amendment for a public disproportionate share program by November 1, 2002, the Agency may make disproportionate share payments under the regular, regional perinatal intensive care center, primary care, and the children's hospital disproportionate share programs using the same methodologies distributing payments in FY 2001-02.

Overnight Stays in Ambulatory Surgical Centers

AHCA may conduct a 2-year pilot study to authorize overnight stays by patients at one ambulatory surgical center in the Vero Beach area. The overnight stay would be for plastic and reconstructive surgeries only. The bill requires AHCA to establish minimum standards for the health, safety, and welfare of patients. If AHCA implements the pilot program, the agency must recommend to the Legislature whether or not to expand the pilot statewide.

County Contributions to Medicaid Nursing Home Costs

The Office of Program Policy Analysis and Governmental Accountability (OPPAGA), assisted by AHCA and the Florida Association of Counties, is directed to perform a study to determine the fair share of county contributions to Medicaid nursing home costs. OPPAGA is to submit a report by January 1, 2003, which is to set out at least two options and make recommendations as to what would be a fair share of these costs for counties in FY 2003-04. No recommendation is to be less than the current county share.

Transfer of Consumer Complaint Services, Investigations, and Prosecutorial Services currently provided by AHCA

The bill provides that all powers, duties, functions, records, personnel, property, and unexpended balances or appropriations, allocations, and other funds of AHCA which relate to consumer

complaint services, investigations, and prosecutorial services currently provided by AHCA under a contract with the DOH are transferred to DOH by a type two transfer as defined in s. 20.06(2), F.S. The transfer of funds must include all advance payments made from the Medical Quality Assurance Trust Fund to AHCA.

Two hundred fifty-nine full-time equivalent positions are eliminated from AHCA's authorized positions and are transferred to DOH. The interagency agreement between DOH and AHCA must terminate on June 30, 2002. DOH is authorized to contract with the Department of Legal Affairs for the investigative and prosecutorial services transferred to DOH from AHCA. Authorization for DOH to contract with AHCA to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards is deleted.

The bill repeals s. 456.047, F.S., relating to standardized credentialing for certain health care practitioners.

If approved by the Governor, these provisions take effect upon becoming law except as otherwise provided.

Vote: Senate 39-0; House 116-0

HB 3-E — Governmental Reorganization (Chief Financial Officer)

by Reps. Alexander, Flanagan, Brummer, and others (CS/SB's 42-E & 26-E by Banking and Insurance Committee and Senators Latvala, Geller, and Campbell)

CFO/Cabinet Reorganization Issues

This bill is in response to the amendment to the State Constitution approved by the voters in 1998 that merges two Cabinet positions, the Comptroller and the Treasurer, into one Chief Financial Officer (CFO), effective January 7, 2003. As a result of these modifications, the new state Cabinet will consist of the CFO, the Attorney General, and the Commissioner of Agriculture.

The constitutional amendment provides that the CFO serves as the chief fiscal officer of the state, and shall settle and approve accounts against the state, and shall keep all state funds and securities. In addition to the constitutional duties of the Comptroller, the Legislature had designated the Comptroller as head of the Department of Banking and Finance and had designated the Treasurer as head of the Department of Insurance, as well as State Fire Marshal. Therefore, the status of these departments must be determined legislatively, which this bill addresses. The bill:

- Creates a Department of Financial Services headed by the Chief Financial Officer, consisting of the following divisions:
 - Accounting and Auditing (which includes unclaimed property)
 - State Fire Marshal
 - Risk Management
 - Treasury (which includes State Employee Deferred Compensation)
 - Insurance Fraud
 - Insurance Agents and Agencies Services
 - Consumer Services (which includes Funeral and Cemetery Services)
 - Workers' Compensation
 - Administration
 - Legal Services
 - Information Systems
 - Insurance Consumer Advocate

- Creates the Financial Services Commission as an independent agency housed within the department. The Commission consists of the Governor and Cabinet. Three votes are required for any commission action.
 - Two "Offices" are created under the commission: the Office of Insurance Regulation and the Office of Financial Institutions and Securities Regulation.

- The Office of Insurance Regulation is responsible for regulation of insurance companies and other risk bearing entities, including licensing, rates, policy forms, solvency, claims, adjusters, market conduct, viatical settlements, and premium financing, and administrative supervision of insurers, as provided under the Insurance Code or Chapter 636.
- The Office of Financial Institutions and Securities Regulation is responsible for banks, credit unions, other financial institutions, finance companies, and the securities industry.
- The Director of each Office is appointed by, and serves at the pleasure of, the commission, with a requirement that both the Governor and the CFO must concur in appointment and removal.
- Qualifications of directors: 5 years' relevant public sector or private sector experience.
- The Governor and Cabinet, sitting as the Financial Services Commission, sets policy through rulemaking and oversight, and the appointed Directors are responsible for final agency action under the Administrative Procedure Act in individual cases.
- A Transition Committee is created to oversee the transition and make recommendations. Committee consists of appointees of the Comptroller, Treasurer, Governor, and House and Senate fiscal chairs.
- Legislative staff are required to prepare a bill to conform the statutes to the policy decisions reflected in the bill. These policy decisions include legislative intent that the CFO will make appointments to the Citizens Property Insurance Corp. as provided in CS/SB 1418 as enacted in 2002, and that until June 1, 2003, the appointment powers of the Comptroller, Treasurer, Insurance Commissioner, and Fire Marshal will become powers of the CFO.

Other issues

- Creates the Firefighter Occupational Health and Safety Act, which authorizes the Division of State Fire Marshal (under the new Department of Financial Services headed by the CFO) to adopt rules regarding firefighter workplace safety applicable to cities and counties and other firefighter employers, and related requirements for such employers to provide a safe place of employment (as contained in CS/SB 1408, by Banking and Insurance Committee and Senators Posey and Smith, considered during the Regular Session).
- Provides that when the Commissioner of Agriculture declares an agricultural emergency, no county or municipal ordinance relating to any action intended to end the emergency shall be enforced.

- Clarifies the medical-related duties and positions that were assigned to the Agency for Health Care Administration as part of the Department of Labor and Employment Security transfer bill (CS/HB 1643; Chapter 2002-194, L.O.F.).
- Provides for appointments to the board of the Florida Healthy Kids Corporation by the CFO, and adds two members appointed from recommendations of the Florida Association of Counties, one appointed by the CFO to represent rural counties and one appointed by the Governor to represent urban counties.
- Moves the Small County Technical Assistance Program from the Comptroller to the Commissioner of Agriculture; updates provisions to reflect the 2000 census, expands the scope to address economic and community development issues, and eliminates the role of the Legislative Committee on Intergovernmental Relations.
- Creates a new program for Certified Capital Companies (CAPCOs) by providing insurance premium tax credits to insurers for investments by a CAPCO in qualified businesses, which would be implemented if certain insurance premium tax collection benchmarks are met. The new program (“Program Two”), like the current program, would provide annual tax credits of up to \$15 million and an aggregate amount of \$150 million over the life of the program to insurance companies that invest in CAPCOs. (These provisions are similar to CS/SB 1296 by Banking and Insurance Committee and Senator Latvala considered during the Regular Session.) In addition, the bill:
 - Establishes investment milestones for the second pool of funds;
 - Adds the requirement for a CAPCO to raise money from two or more unaffiliated certified investors;
 - Revises the definition of a “qualified business” that is an allowable investment for a CAPCO;
 - Revises the definition of a “qualified distribution” to exclude the payment of costs or expenses to a certified investor, with certain exceptions and to limit allowable management costs;
 - Revises the definition of an affiliate of an insurance company;
 - Allows the department to make an initial analysis of the CAPCO’s business plan prior to its certification;
 - Allows an insurance company to have less than 15 percent of a CAPCO’s equity ownership;
 - Sets forth the formula for allocation in the event that Program Two is over-subscribed, and caps the premium tax allocation at \$22.5 million for each Program Two certified investor and its affiliates; and
 - Authorizes the department to impose a late fee on renewal applications.
- Authorizes insurance agents to sell certain securities (investment contracts) without registering as securities dealers.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.

Vote: Senate 39-0; House 110-0

SB 40-E — Economic Development

by Senators Clary and Peadar

This bill makes several changes to state economic development programs and incentives. These changes include:

- Broadening the eligibility criteria for receiving grants from the Rural Infrastructure Fund by eliminating a requirement that grant recipients be applicants to federal programs for infrastructure funding. The bill also expands the purposes for which grants from the Rural Infrastructure Fund may be used to include: fostering job-retention; improving existing infrastructure that has resulted in regulatory action prohibiting economic growth; and reducing the costs to community users of proposed infrastructure improvements that exceed such costs in other comparable communities.
- Providing that a business in the Qualified Defense Contractor Tax Refund Program (QDC Program) or the Qualified Target Industry Tax Refund Program (QTI Program) which does not fulfill its agreed-upon performance requirements because of negative economic conditions in the business's industry or specific acts of terrorism may request an "economic-stimulus exemption" from the Governor's Office of Tourism, Trade, and Economic Development (OTTED) in lieu of any tax refund claim scheduled to be submitted after January 1, 2001, but before July 1, 2003. (Under current law, a business's failure to meet performance targets would result in its termination from the program unless the business qualified for a prorated tax refund.) If granted an economic stimulus exemption, a business must agree to renegotiate its tax refund agreement with OTTED to, at a minimum, ensure that the terms of the agreement comply with current law and relevant OTTED procedures. When amending the agreement of a business receiving an economic-stimulus exemption, OTTED may extend the duration of the agreement for no more than one year. A business that receives an economic-stimulus exemption may not receive a tax refund for the period covered by the exemption.
- Expanding the conditions for approving a prorated tax refund to a QDC Program or QTI Program business by allowing a business to receive a prorated refund for achieving at least 90 percent of the average wage specified in its tax refund agreement with the state (but not less than the minimum average wage required by statute) if it has achieved at least 80 percent of its projected employment and satisfied all other contractual requirements. A business qualifying and opting for a prorated refund would also have to agree to renegotiate its tax refund agreement with OTTED to, at a minimum, ensure that the terms of the agreement comply with current law and relevant OTTED procedures.

- Revising the eligibility criteria for the QDC Program, under which tax refunds are provided to a certified contractor that has secured a new Department of Defense (DOD) contract, consolidated an existing DOD contract in Florida, converted defense production jobs to non-defense production, or contracted for the reuse of a defense-related facility. Changes made by this bill to the QDC Program eligibility criteria are substantially similar to those made by ch. 2002-225, L.O.F.
- Revising the content of the annual economic development incentives report and re-assigning responsibility for the report from OTTED to Enterprise Florida, Inc.
- Making several administrative revisions to the QDC Program and the QTI Program, including altering the timeframe for seeking tax refunds, so that the Legislature is able to make a more accurate appropriation each year to these programs.
- Eliminating a requirement that certain individuals applying to sit for a state construction-contracting licensure examination must have taken college-level coursework in the fields of engineering, architecture, or building construction.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 36-0; House 107-1

HB 71-E — Records Falsification

by Reps. Murman, Detert, and others (CS/SB 76-E by Criminal Justice Committee and Senators Villalobos, Peaden, Campbell, and Cowin)

The bill creates a third degree felony offense, ranked in level 4, for any person who knowingly falsifies by altering, destroying, defacing, overwriting, removing, or discarding an official record relating to an individual in the care and custody of a state agency, which act has the potential to detrimentally affect the health, safety, or welfare of that individual.

The bill also creates a second degree felony offense, ranked in level 5, for any person who commits the above-described offense if the violation contributes to great bodily harm to or the death of an individual in the care and custody of a state agency.

Further, the bill provides that, the term “care and custody” includes, but is not limited to, a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapters 39, 409, or 415, F.S.

Finally, the bill creates a third degree felony, ranked in level 4, for any person who knowingly falsifies by altering, destroying, defacing, overwriting, removing, or discarding an *official record of the Department of Children and Family Services* or its contract provider with the intent to conceal a fact material to a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapters 39, 409, or 415, F.S.

These provisions became law upon approval by the Governor on May 15, 2002.

Vote: Senate 38-0; House 113-0

SB 6-E — Dale Hickam Excellent Teaching Program

by Senator Sullivan, co-sponsored by every other member of the Senate

Senate Bill 6-E names the Excellent Teaching Program and Trust Fund in memory of the late R. Dale Hickam, Deputy Director of the Senate Appropriations Committee. Mr. Hickam's sudden death on April 4, 2002, ended 22 years of dedicated service to the Florida Senate.

Based on his research, the 1998 Legislature created and funded the Excellent Teaching Program to motivate teachers to undergo rigorous preparation for recognition by the National Board of Professional Teaching Standards and to reward those who earn the prestigious certificate. Under this program, the state pays 90 percent of the application fee and rewards successful applicants with an annual bonus of 10 percent of the statewide average teacher's salary. An additional annual 10 percent bonus is provided to teachers who hold NBPTS certification, have a satisfactory annual performance appraisal, and provide the equivalent of 12 workdays of mentoring services outside the 196 regular service days. In 1998, only 22 teachers in Florida held national board certification. Since the initiation of the Excellent Teaching Program, that number has increased to 2,260 in 2001-2002.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 34-0; House 115-0

SB 20-E — Florida K-20 Education Code

by Senators Villalobos and Sullivan

This bill recreates the Florida School Code and reorganizes the sections into a different format. This extensive restructuring responds to a directive in ch. 2001-170, L.O.F., that the Florida Board of Education should recommend revisions to the education laws to reflect changes made in governance by the Constitutional amendments of 1998 and by the mandatory repeal of many of the sections of the code, effective January 7, 2003. In most cases, the bill reenacts laws under the new format with little or no changes. The following summary is of *major changes* made by the bill.

State Universities:

- Universities are removed from state agency status and designated as public corporations.
- Universities may establish their own personnel and pay programs in accordance with law and state board rule.
- University boards are the public employers and will collectively bargain locally.

- Universities may establish their own purchasing and contracting systems in accordance with law and state board rule.
- Universities will deposit funds outside the State Treasury and invest funds locally.
- University boards will exercise the right of eminent domain with approval of State Board of Education.
- Universities may hold title to lands purchased from non-state appropriated funds.
- Universities' continuing contracting authority and small construction project cap are increased from \$500,000 to \$1 million.
- The President of the University of Florida or his or her designee serves as chair of the nonprofit board of directors of Shands.
- Jurisdiction of university police is expanded to property and facilities of a university direct-support organization.
- An Alzheimer's Institute is created at the University of South Florida.
- The 5-percent cap on university carry forward of funds is eliminated. Universities are required to report when the 5-percent operating fund threshold is eclipsed.
- The bill establishes a process for each university to prepare a plan to move off the FFMS and FLAIR systems.
- The bill changes the responsibility of the approval of student government association internal procedures from the authority of the university president to the university board of trustees.
- The bill requires students who live in campus housing at a university or community college to have or refuse certain vaccinations. The institution is not required to pay for the vaccinations.

Community Colleges:

- Each community college will be required to submit an institutional budget request to the Florida Department of Education.
- The bill eliminates the 4 percent to 10 percent unencumbered fund balance requirement along with the penalty for having such a balance over 10 percent for more than two years. The bill only requires that community colleges notify the State Board of Education in writing if the fund balance falls below 5 percent.
- Community colleges that border another state may charge differential out-of-state fees.
- Community college matching fund programs are combined to allow greater administrative flexibility.
- The community college funding formula is amended to allow for the consideration of additional economic factors.
- Community colleges' law enforcement will have authority over direct-support property.
- In making determinations of admissions or employment, a community college will be able to take into consideration any past actions of a candidate.

School Districts:

Religious Rights

- The Florida Department of Education shall forward a copy of the United States Department of Education publication of religious rights in public schools to district school boards, superintendents, principals, and teachers.

McKay Scholarship Program

- The bill requires school districts to notify the parent of a student with a disability within 10 school days of the parent's application for a McKay scholarship, if a matrix of services is not available on the student.
- The school district must give the parent a date for completion of the matrix of services and notify the parent within 10 school days upon completion of the matrix of services.
- Until a district completes a matrix of services for the student, the student's McKay scholarship award will be calculated based upon Support Level I (lowest weighted level).
- The bill eliminates the specific date for a private school to notify the Department of Education of its intent to participate in the program. The requirement is removed that the parent notify the school district in writing of intent to participate in the program.
- A parent may electronically notify the school district through the Florida Department of Education of intent to participate in the program.

Charter Schools

- Charter school purposes are revised to include both mandatory and permissive objectives.
- Charter schools are exempt from fees for building permits as well as impact and service availability fees.
- The Commissioner of Education is authorized to identify in writing a dedicated funding source for charter school capital outlay.
- A Charter School Appeals Commission is created.
- Final appeal decision is vested with State Board of Education.

Florida School for the Deaf and the Blind

- The school may carry forward funds in the same manner as universities.

Curriculum/Diplomas/FCAT/Bright Futures Report Cards

- The State Board of Education will adopt rules for an assessment through which GED recipients may earn a standard high school diploma.
- The bill requires a plan to implement a foreign language curriculum.
- The bill requires a student to earn the score on the Grade 10 Florida Comprehensive Assessment Test (FCAT) that was required for high school graduation at the time the student first attempted the test.
- The bill requires school districts to notify parents of students with disabilities when classroom accommodations cannot be made on the FCAT. The bill requires parental consent for these accommodations to be made in the classroom.

- The bill allows students who complete one semester with a grade of “C” or better in a marching band class or in a physical activity class that requires participation in marching band activities as an extracurricular activity to satisfy a one-half credit requirement in physical education.
- The bill expands required character education to grades 7-12.
- School districts will assist high school students in determining their progress towards eligibility for a Bright Futures Scholarship. The district must annually provide to each high school student a complete Florida Bright Futures Scholarship report and key and must notify students that their report card grade-point average may differ from the Bright Futures grade-point average.

FEFP/Categorical Funds

- The Florida Education Finance Program will not be repealed, and reports of average daily attendance will not be required for the FEFP.
- For 2002–2003 only, school districts will have flexibility over their categorical funds.

Personnel/Certification

- School boards will have more time to act on personnel nominations when the Legislature adjourns earlier than May 31.
- School districts may develop their own alternative teacher certification program.
- School board members will set their own salaries at a public meeting, rather than having their pay ranges established in law.
- School boards may employ principals who are not certified educators, if the district uses an alternative route for certifying the principal.
- The bill eliminates from current law the collective bargaining limitation on awarding equivalent teaching service.
- The bill also requires the full-credit for teaching service to apply to experience in charter schools, either in-state or out-of-state.

Facilities

- School districts must include a plan for using existing relocatable facilities within a district 5-year program. The plan must be reviewed and approved by the Commissioner of Education by January 1, 2003. Relocatables that do not meet state standards at the end of the work program may no longer be used as classrooms. This does not negate the statutory requirement that relocatable classrooms over 20 years of age that were used as classrooms during the FY 1998-1999 must be removed from service by July 1, 2003.
- More school districts will qualify for awards from the school infrastructure thrift program because the space counted will not include hurricane shelters.

Liability/Medical Evaluations

- The bill narrows the liability exemption related to student athletes who opt out of medical examinations. The district will not be liable if the injury arises directly from the student’s

participation in interscholastic athletics, if the proximate cause of the injury or death is a condition that would have been revealed in the medical examination.

Audits

- The audit threshold for annual audits by the Auditor General of the school districts is increased from 125,000 in population to 150,000.
- The number of school districts undergoing annual audits is increased by 5.

CLEP/AP/IB Testing

- The bill deletes a provision that penalizes a student for using part of Bright Futures eligibility if the student succeeds in earning college credit through an acceleration mechanism. This requirement applies only to Medallion and Academic Scholars and only to students who enroll in public colleges or universities.
- The bill provides an incentive for passing a CLEP test or earning college credit through AP or IB credit by authorizing an exemption from the requirement to enroll in summer session for at least 9 credit hours.
- The bill retains the requirement that all Bright Futures Medallion and Gold Seal Scholarship recipients must take 5 CLEP tests, if they enroll in a public community college or state university. It does not authorize a penalty if students do not obey this requirement.
- The bill retains the requirement that the community college or university must pay for the CLEP tests, and does not authorize the use of any other college equivalency testing program.

Student Progression/Reading Requirements

- The bill requires retention of students whose reading deficiency is not remedied by the third grade, as demonstrated by scoring at Level 2 or higher on the third grade reading portion of the FCAT. Before third grade, students identified as having a substantial reading deficiency must be given intensive reading instruction.
- The bill requires that academic improvement plans describe specific areas of reading deficiency, desired levels of performance in these areas, and necessary support services.
- The bill requires written parental notification of a substantial reading disability, current services, proposed remediation, and a mandatory third grade retention requirement.
- The bill outlines good cause exemptions: Limited English Proficient Students who have had less than two years of instruction in an English for Speakers of Other Languages program; those with disabilities whose individual education plan (IEP) indicates that participation in the statewide assessments is not appropriate; those who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education; those who demonstrate, through a student portfolio, the mastery of the Sunshine State Standards in reading equal to a Level 2 performance on the FCAT; students with disabilities who were previously retained in kindergarten, first, or second grade, who participate in the FCAT and whose IEP or 504 plan shows a remaining deficiency after intensive remediation in reading for more than

two years; and students who have received the intensive remediation in reading for two or more years but still demonstrate a deficiency or who were previously retained in kindergarten, grade one, or grade two for a total of two years.

- The bill requires the teacher to document and report any good cause exemption to the principal. The principal reviews and reports a recommendation to the superintendent who makes the final decision. Each step of this process must be in writing.
- The bill gives the State Board of Education authority to enforce these provisions by requiring that districts submit relevant data, allowing the Commissioner of Education to investigate noncompliance, ordering compliance within a specified timeframe, and withholding funds in the event of continued noncompliance.

Florida Virtual School

- The name of the Florida Virtual High School is changed to the Florida Virtual School.
- The school districts are required to provide access for students to take courses with the school and to inform the public about educational opportunities in the school.
- The school is allowed to use patent and trademark revenue for marketing, in addition to research and development.

Florida School Recognition Program

- The bill conforms the Florida School Recognition Program to current practice of administering the program based upon the school grading system. Schools are eligible to receive a bonus if they receive an “A” or improve a letter grade.
- If school staff and the school advisory council cannot decide how to use the school recognition award by November 1, the award will be divided equally among all classroom teachers in the school.

Florida High School Activities Association

- The bill requires the board of directors of the Florida High School Activities Association (FHSAA) to examine alternative criteria for establishing administrative regions. The examination will include population; procedures to ensure appropriate diversity in the membership of the board; and opportunities to secure corporate financial support for high school athletic programs. By March 1, 2003, the board will report its findings to the Commissioner of Education, President of the Senate, and Speaker of the House.

Discipline/Zero-tolerance

- The possession of a firearm at school is included as a ground for required expulsion.
- A school district zero-tolerance policy is required to include referral to the criminal or juvenile justice system.
- A report of sexual battery committed on a student on school grounds is required.

Independent Postsecondary Institutions:

- The State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education are merged into one 7-member board to oversee both sectors.
- All colleges and schools will be licensed, except those under the jurisdiction of the Department of Education and religious colleges that verify their compliance with law.
- Accredited colleges will receive a license by means of accreditation.

State Board of Education:

- The appointed State Board of Education is the head of the Department of Education.
- The appointed Commissioner of Education is the Executive Director for the Department of Education.
- Three divisions are created within the Department of Education:
 - Division of Public Schools
 - Division of Community Colleges
 - Division of Colleges and Universities
- The Division of Independent Education is eliminated.
- The bill creates an Office of Private Schools and Home Education Programs within the Department of Education.
- The bill provides for the state board to be the entity responsible for ensuring that school districts and public postsecondary institutions comply with law and state board rule and authorizes a number of options to enforce compliance.
- The bill eliminates the Commissioner's waiver authority over law. However, it authorizes the Commissioner to waive state board rule, if the state board delegates to him that authority.
- The bill establishes the Office of Inspector General within the State Board of Education to be responsible for promoting accountability, efficiency, and effectiveness and detecting fraud and abuse within school districts, community colleges, and universities in Florida.

This bill repeals the following sections of the Florida School Code, chapters 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 239, 240, 241, 242, part I of chapter 243, 244, and 246, F.S. It creates chapters 1000 through 1013, F.S.

If approved by the Governor, these provisions take effect January 7, 2003, except as otherwise provided in the bill.

Vote: Senate 27-7; House 76-39

HB 65-E — Constitution/Amendments/Initiatives

by Reps. Goodlette, Pickens, and others (CS/SB 68-E by Ethics and Elections Committee and Senators Pruitt and Sanderson)

The bill requires a fiscal-impact statement to be placed on the ballot for all proposed amendments to the State Constitution, with exceptions for certain joint resolutions and citizen-sponsored initiatives for the 2002 election. The State Revenue Estimating Conference is charged with drafting a short, clear, and unambiguous fiscal-impact statement for each proposed constitutional amendment. A majority of the conference must agree on the fiscal-impact statement. If a majority of the conference cannot agree, the following statement is placed on the ballot: “The fiscal impact of this measure, if any, cannot be reasonably determined at this time.” Beginning in July 2003, the Florida Supreme Court is vested with original jurisdiction to review all fiscal-impact statements. If the Court strikes down the statement, it must remand to the Revenue Estimating Conference for re-drafting within 15 days.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise noted.

Vote: Senate 26-12; House 75-39

SB 18-E — Corporate Income Tax

by Senators Clary, Pruitt, Sebesta, Burt, Brown-Waite, Villalobos, Sanderson, Peaden, Wise, Futch, Lee, Cowin, King, Saunders, Crist, Webster, Posey, Silver, Laurent, and Constantine

Senate Bill 18-E updates references to the federal Internal Revenue Code (IRC) in Chapter 220, F.S., the Florida Income Tax Code, to reflect changes in the U.S. IRC in effect on January 1, 2002. It also specifically adopts the provisions of the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, codified in the Internal Revenue Code.

If approved by the Governor, these provisions take effect upon becoming law and the amendments to s. 220.03, F.S., apply retroactively to January 1, 2002.

Vote: Senate 22-18; House 73-41

HB 69-E — Transportation Disadvantaged

by Reps. Brummer, Johnson, and others (SB 70-E by Senators Dyer, Webster, and Constantine)

Section 1 of SB 100, which was enacted during the 2002 Regular Session, amended s. 343.64, F.S., to prohibit the Central Florida Regional Transportation Authority from serving as the community transportation coordinator for purposes of the Transportation Disadvantaged Program, effective July 1, 2002. This bill repeals section 1 of SB 100, 2002 Regular Session, and provides that the Central Florida Regional Transportation Authority may not serve as a community transportation coordinator after June 30, 2003, unless the Legislature finds the authority to be in compliance with the standards set in rule 41-2.006(4), Florida Administrative Code.

The bill also provides that the Commission for the Transportation Disadvantaged shall evaluate the performance of the Central Florida Regional Transportation Authority as a community transportation coordinator and provide a report of its evaluation to the President of the Senate and the Speaker of the House of Representatives by February 1, 2003.

In addition, the bill authorizes toll revenues of certain facilities to be used as security for funds issued to finance transportation projects in the county in which the facility is located and increases the amount of money local governments may advance to Florida Department of Transportation to expedite a road project from \$100 million to \$150 million.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 110-0

Senate Committee on Governmental Oversight and Productivity

SB 24-E — Records and Official Records

by Senators Brown-Waite and Cowin

Military separation forms are given to military personnel upon their release from active duty. Historically, the military recommended that veterans file these forms with the clerk of the court to ensure a record of their service in the United States Armed Forces. Since these forms contain a great deal of information about the individual, the military no longer recommends filing military separation forms with the clerk. This bill attempts to minimize the potential for identity theft that results from forms that were filed in the past.

This bill permits veterans or certain representatives to request the county recorder to remove military separation forms from official records that were filed before, on, or after the effective date of the bill. The requestor must identify the page number of the record to assist the clerk in the location of the record. No fee is permitted to be charged for the removal of this information.

The bill also provides an exception to the general public records exemption for social security numbers and financial account numbers included in court files by authorizing the holder of such number or the holder's representative to request the removal of that number from the file. As in the case of military separation forms, the requestor must identify the page number of the information to assist the clerk in the location of the record. No fee is permitted to be charged for the removal of this information.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 35-0; House 108-0

HB 43-E — Public Records Exemption for Florida Alzheimer's Center

by Rep. Byrd (CS/SB 78-E by Governmental Oversight and Productivity Committee and Senator Lee)

This bill creates an exemption from public records requirements for personal identifying information relating to clients of programs created or funded through the Florida Alzheimer's Center and Research Institute (the "institute"). Exempt information may be held by the institute, the University of South Florida, the State Board of Education or by service providers. Additionally, the bill makes exempt any medical or health records relating to patients that are created or received by the institute. Further, the bill exempts methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, or proprietary information. The identities of donors to the institute who wish to remain anonymous are also made exempt under the bill. Finally, any information that is confidential or exempt by

law or by another state, nation or the Federal Government, when in the possession of the institute, is also exempt.

If approved by the Governor, contingent upon the adoption of Senate Bill 20-E or similar legislation, these provisions take effect July 1, 2002.

Vote: Senate 36-3; House 116-0

SB 46-E — Health Care/Health Flex Plans

by Senators Saunders, Pruitt, and Lee

Health Flex Plans

The bill creates a pilot program to provide health care coverage, referred to as health flex plans, for uninsured persons who have a family income equal to or less than 200 percent of the federal poverty level. The Agency for Health Care Administration (AHCA) and the Department of Insurance (DOI) may approve health flex plans in the three areas of the state having the highest number of uninsured persons and in Indian River County. As determined by the Florida Health Insurance Study, the three areas of the state having the highest number of uninsured persons are District 1 (Bay, Escambia, Gadsden, Leon, Okaloosa, and Santa Rosa Counties), District 16 (Broward County), and District 17 (Dade County).

The health flex plans would be exempt from the requirements of the Florida Insurance Code. The health flex plans are authorized to:

- Limit or exclude mandated benefits;
- Cap the total amount of claims paid per year per enrollee;
- Limit the number of enrollees; or
- Take any combination of the above actions.

The approved plans will not be subject to the licensing requirements of the Insurance Code or ch. 641, F.S., relating to health maintenance organizations (HMOs), unless expressly made applicable. The bill provides that for the purposes of prohibiting unfair trade practices, plans are considered insurance subject to the applicable provisions of part IX of ch. 626 (Unfair Trade Practices), F.S., except as otherwise provided in the bill.

AHCA must develop guidelines for reviewing health flex plan applications and must disapprove or withdraw approval of plans that do not meet minimum standards for quality of care and access to care. DOI must also develop guidelines for reviewing health flex plan applications and must disapprove or withdraw approval of plans that contain any ambiguous, inconsistent, or misleading provisions; that provide benefits that are unreasonable in relation to the premium charged; or that cannot demonstrate that the health flex plan is financially sound.

Eligibility to enroll in an approved health flex plan is limited to residents of this state who:

- Are 64 years of age or younger;
- Have a family income equal to or less than 200 percent of the federal poverty level (\$35,300 annual income for a family of four);
- Are not covered by a private insurance policy and are not eligible for coverage through a public health insurance program, such as Medicare or Medicaid, or other public health

care program, such as Kidcare, and have not been covered at any time during the past 6 months; and

- Have applied for health care coverage through an approved plan and agree to make any payments required for participation, including periodic payments or payments due at the time health care services are provided.

AHCA and DOI must evaluate the pilot program and must assess the plans and their potential applicability in other settings and by January 1, 2004, jointly submit a report to the Governor, President of the Senate and Speaker of the House of Representatives. The portion of the bill governing health-flex plans expires on July 1, 2004.

Alzheimer's Disease Research

The bill establishes the Florida Alzheimer's Center and Research Institute at the University of South Florida. The center and institute will be governed and operated by a not-for-profit corporation, under an agreement with the State Board of Education. The affairs of the corporation are to be managed by a board of directors which must appoint a chief executive officer of the institute to serve at the pleasure of the board. The board of directors must also establish a council of scientific advisors.

The members of the board of directors will be the President of the University of South Florida and the chair of the State Board of Education, or their designees, together with 5 representatives of the state universities and no more than 14 or fewer than 9 representatives of the public who are not medical doctors or state employees. The university and public representatives will be appointed initially by the Governor, the President of the Senate, and the Speaker of the House of Representatives to serve 3-year terms. Thereafter, when a 3-year term of a university or public representative expires, the vacancy will be filled by a majority vote of the directors.

The chief executive officer of the institute may establish programs that fulfill the mission of the institute in research, education, treatment, prevention, and early detection of Alzheimer's disease, but must have approval by the State board of Education before any academic program is established that confers academic credit or awards degrees. The chief executive officer has a reporting relationship to the Commissioner of Education and is required to provide a copy of the institute's annual report to the Governor and Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the chair of the State Board of Education.

The council of scientific advisors will review programs and recommend research priorities and initiatives to maximize the state's investment in the institute. The State Board of Education will appoint five of the members of the council of scientific advisors and the board of directors will appoint the others. Members of the council will serve 2-year terms.

Prompt Payment of Health Insurance Claims

The bill substantially revises requirements and procedures for the payment of claims by health insurers and HMOs and standardizes all time periods for such entities to pay, deny, or contest any claim, or portion of a claim, to 20 days for “electronic” submitted claims and 40 days for “nonelectronic” submitted claims. Failure to pay or deny a claim within 120 days for electronic or 140 days for nonelectronic claims creates an “uncontestable obligation” for the insurer or HMO to pay the claim. The bill limits the applicability of the prompt pay provisions to major medical expense health insurance policies offered by an individual or group health insurer, including preferred providers and exclusive provider organizations, or an individual or group contract that provides direct payments to dentists for enumerated dental services.

The bill provides separate prompt pay time frames for claims to be submitted to a “primary” and “secondary” health insurer or HMO. It allows a permissible error ratio of 5 percent of an insurer’s or HMO’s claims’ payments violations under which no fines could be assessed by DOI for the noted violations during an audit period and specifies how the error ratio is determined. If the ratio exceeds 5 percent, a fine may be assessed by DOI, however, the department could still levy a fine, notwithstanding the error ratio, under the prompt pay provisions pertaining to the “uncontestable obligation” to pay a claim. Also, the bill provides time frames for pharmacy claims.

The bill provides procedures and time frames for “overpayment” claims by insurers and increases the interest rate penalties for “overdue” payments of claims from 10 to 12 percent a year. The bill mandates that the prompt pay provisions apply to HMO subscribers who submit claims under an HMO contract and provides that the prompt pay provisions may not be waived, voided, or nullified by contract.

The bill specifies time frames and procedures for the Statewide Provider and Managed Care Organization Claim Dispute Resolution Program (Program) under AHCA, redesignates the Program title to reflect “health plan” rather than “managed care organization,” and expands the Program to include major medical expense health insurance policies offered by an individual or group health insurer, including preferred provider organizations. The bill further provides sanctions for health plans which fail to comply with the time frames and requires AHCA to determine if there is a “pattern of noncompliance” by health plans or providers as to claims payments and to report such findings to licensure or certification entities.

The bill provides that if an HMO, through a health care risk contract, transfers to any entity the obligations to pay a provider for any claim arising from services provided to a subscriber, the HMO remains responsible for any violations of the claims’ payment, treatment authorization, and adverse determination provisions of law and for specified violations under the insurance code. A “health care risk contract” means a contract in which an entity receives compensation in exchange for providing to the HMO a provider network or other services, which may include administrative services. The term “entity” is defined to mean a person licensed as an

administrator, but it does not include any provider or group practice under the patient-self referral law, that provides services under the scope of the license of the provider or members of the group practice, nor does it include a hospital providing billing, claims, and collection services solely on its own and its physicians' behalf and providing services under the scope of its license.

Ophthalmology Services/HMOs

The bill deletes the requirement that the HMO (in addition to the primary care physician) must determine that a subscriber requires examination by an ophthalmologist for medically necessary, contractually covered services, in order for the subscriber to be referred to a contracted ophthalmologist.

Patient Self-Referral

The bill removes referrals for diagnostic clinical laboratory services related to renal dialysis from the list of orders, recommendations, or plans of care that are excluded from the definition of referral for purposes of the prohibitions contained in the "Patient Self-Referral Act of 1992." Thus, a health care provider would be prohibited from referring patients for diagnostic laboratory services related to renal dialysis to a clinical laboratory in which the referring provider had a financial interest. The bill adds an exclusion from the definition of referral for a health care provider whose principal professional practice consists of treating patients in their private residences for services to be rendered in the private residence. This exclusion does not apply to a home health agency licensed under ch. 400, F.S.

Small Group Insurance

The bill allows, for rating purposes, the experience of small employer groups of less than two employees (i.e., one employee, sole proprietors, and self-employed individuals) to be separated from the rating experience of small employer groups of 2 to 50 employees. Thus, the rates for one-life groups would be solely based on the claims experience of the one-life group rating pool. However, the rate charged to one-life groups would be subject to a rate cap of 150 percent above the small employer carrier's approved rate for groups of 2-50 employees. The rate cap would be 125 percent for policies in effect on July 1, 2002, for the first annual renewal, and 150 percent for subsequent annual renewals. The carrier would be permitted to charge any excess losses of the one-life group pool to the experience pool of the 2-50 employees.

The bill provides that any law restricting or limiting deductibles, co-insurance, co-payments, or annual or lifetime maximum benefits would not apply to any health plan policy offered to a small employer, including the standard or basic health benefit plan, unless such law is made expressly applicable to such policy or contract. This would primarily affect HMO contracts, for which current DOI rules limit co-payments and out-of-pocket expenses. For health insurance policies, the current law does not generally limit deductibles, co-payments, or lifetime or annual benefits.

If approved by the Governor, these provisions take effect October 1, 2002, except that sections 1, 2, 16, and 17 of the bill take effect July 1, 2002.

Vote: Senate 39-0; House 80-28

HB 67-E — State Universities/Trustees

by Rep. Byrd and others (SB 72-E by Senators Smith, Peaden, Cowin, Pruitt, Campbell, King, and Mitchell)

In conjunction with a major education governance reorganization bill passed during 2002 Special Session E, in which individual state university boards of trustees will assume specified powers from the defunct Board of Regents, this bill defines the scope and limit of liability in tort actions involving state universities. This bill also focuses particularly on the scope and limit of liability in specified medical malpractice actions. Specifically, the bill:

- Makes the doctrine of comparative fault (in lieu of the doctrine of joint and severable liability) applicable to the individual university board of trustees (as was previously accorded the Board of Regents in similar actions) in medical malpractice actions accruing on or after January 7, 2003;
- Creates specified venue options for tort actions against a university board of trustees arising on or after January 7, 2003, such that these actions must be filed either in the county where the university's main campus is located, or in the county where the cause arose if the university has a substantial presence for its customary business in that county;
- Clarifies that a university board of trustees is a state agency or subdivision for purposes of applying the sovereign immunity provisions in tort actions arising on or after January 7, 2003;
- Exempts someone who is providing services for the university's self-insurance program from the insurance adjuster provisions in part VI of chapter 626, F.S., beginning on or after January 7, 2003;
- Defines a physician's scope of "supervision" over a medical or hospital resident for purposes of insurance by reference to the supervision standards established by the Accreditation Council for Graduate Medical Education or by the American Osteopathic Association for purposes of liability coverage under the Neurological Injury Compensation Act (NICA);
- Permits a family to recover expenses for the personal provision of professional residential or custodial care of a severely brain-injured child in a NICA action; and
- Provides a severability clause.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise specified.

Vote: Senate 36-1; House 114-1

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