LOCAL GOVERNMENT FINANCE AND COMPLIANCE

SB 258 — Public Funds
by Senator Geller

This bill authorizes local governments to pay certain expenses by means of electronic funds transfer.

This bill amends s. 215.85, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 112-0

CS/SB 1024 — Non-Ad Valorem Assessments
by Comprehensive Planning Committee and Senator Atwater

This committee substitute expands the time frame for holding a public hearing to adopt a non-ad valorem assessment roll, and authorizes an alternative notice process for certain changes to non-ad valorem assessments.

This bill amends s. 197.3632, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

CS/SB 1126 — Local Government Half-cent Sales Tax
by Comprehensive Planning Committee and Senator Atwater

This committee substitute allows the Department of Revenue to adjust county and municipal distributions of the Half-cent Sales Surtax proceeds when errors are made in the calculations, retroactive to October 1, 2000.

This bill amends s. 218.62, F.S.

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

SB 1162 — Taxation

by Senator Pruitt

This bill revives and reenacts provisions relating to the tourist development tax and the Florida Taxpayer's Bill of Rights which are otherwise scheduled to be repealed October 1, 2005.

This bill revives and readopts ss. 125.0104(7) and 192.0105, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

CS/SB 1426 — Governmental Per Diem and Travel Expenses

by Governmental Oversight and Productivity Committee and Senators Posey and Dawson

The bill permits a municipality, or agency thereof, to exempt itself from the provisions of s. 112.061, F.S., which sets forth a comprehensive, uniform system for the reimbursement of public travel expenses by state and local government entities. Under the bill, s. 166.021, F.S., is amended to permit the governing board of a municipality or an agency thereof to provide its own policy regarding the per diem and travel expenses of its travelers. Further, the bill specifies that in the event such policy is provided that the municipality or agency thereof is no longer subject to s. 112.061, F.S. A municipality or agency thereof, which does not provide for a per diem and travel expense policy, remains subject to s. 112.061, F.S. These provisions apply retroactively to January 1, 2003. The bill also provides that fraudulent travel claim offenses are second degree misdemeanors and those persons receiving an allowance or reimbursement by means of a false claim are civilly liable for the amount of overpayment.

This bill allows a county, county officer, district school board, or special district to provide reimbursement rates that exceed the maximum travel reimbursement rates for nonstate travelers if adopted by the entity's governing body, or established as a written policy for a county constitutional officer. These rates must apply uniformly to all travel by the entity. An entity that is not governed by this provision or s. 166.021, F.S., remains subject to s. 112.061, F.S.

The bill amends ss. 112.061 and 166.021, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-6; House 117-0

CS/SB 1566 — Tourist Development Taxes

by Finance and Taxation Committee and Senator Jones

This committee substitute limits the use of tourist development tax monies which are specifically designated by a county for beach improvement, maintenance, re-nourishment, restoration, or erosion control from being used for any other purposes.

This bill amends s. 125.0104, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 109-0

SB 1632 — County Governments

by Senator Fasano

This bill specifies additional services for which counties may create municipal service taxing or benefit units.

This bill amends s. 125.01(1)(q), F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 113-0

HB 267 — Unpaid Taxes/Sale of Certificate

by Rep. Zapata and others (SB 1860 by Senator Diaz de la Portilla)

This bill authorizes counties to conduct the sale of tax certificates for unpaid taxes by electronic means.

This bill amends s. 197.432, F.S.

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

CONDOMINIUMS AND HOMEOWNERS' ASSOCIATIONS

CS/SB 260 — Condominiums/Armed Services Flags

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee; and Senators Fasano and Crist

This bill allows condominium owners to fly flags representing branches of the U.S. Armed Services on military and patriotic holidays.

This bill amends s. 718.113, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 114-1

HB 861 — Homeowners' Associations

by Rep. Bilirakis and others (CS/SB 1410 by Commerce, Economic Opportunities, and Consumer Services Committee and Senators Fasano and Crist)

This bill allows the board of directors of an incorporated homeowners' association to preserve a covenant or restriction, or a portion of such covenant or restriction, if the action is approved by a two-thirds vote of the board of directors of the association. The bill contains requirements for a homeowners' association that is filing the notice to preserve covenants and restrictions under the marketable record title act.

The bill also allows a homeowners' association to institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members. The association is also authorized to defend actions in eminent domain or bring inverse condemnation actions. Before commencing litigation for an amount in controversy in excess of $100,000, the association must obtain the approval of a majority of voting interests at a meeting where a quorum is present. However, this provision in the bill does not limit the statutory or common-law right of an individual or class to bring any action without participation from the association.

In addition, the bill states that, unless otherwise provided in the governing documents of an association, an amendment may not materially or adversely alter the voting interest of a parcel or increase the percentage by which a parcel shares in the common expenses of a homeowners' association unless the record parcel owner and all record owners of liens join in the execution of the amendment. The bill states that a change in quorum requirements is not an alteration of voting interests. However, this provision does not affect any vested right recognized by a court order or judgment in any action commenced prior to July 1, 2003, and such vested right may not be subsequently altered without the consent of the affected parcel owner(s).

This bill amends the following sections of the Florida Statutes: 712.05, 712.06, 720.303, and 720.306.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 108-0

PUBLIC RECORD EXEMPTIONS

HB 1027 — Department of Community Affairs/Public Records

by State Administration Committee and others (SB 252 by Comprehensive Planning Committee)

This bill amends and reenacts the public records exemption for information, other than release or emissions data, that constitutes a trade secret and is submitted as part of a risk management plan or found in records or reports obtained during an investigation, inspection, or audit under the Accidental Release Prevention Program. The objective of the program is to prevent accidental chemical releases and minimize the consequences of such releases if they do occur.

In addition, the bill includes editorial changes for clarification.

The bill amends s. 252.943, F.S.

If approved by the Governor, these provisions take effect on October 1, 2003.
Vote: Senate 37-0; House 111-0

HB 1025 — Municipal Employees/Public Records

by State Administration Committee (SB 254 by Comprehensive Planning Committee)

This bill amends and reenacts the public records exemption for personnel records of a municipal employee's participation in certain alcohol, drug, or mental health programs.

This bill substantially amends s. 166.0444, F.S.

If approved by the Governor, these provisions take effect on October 1, 2003.
Vote: Senate 40-0; House 114-0

HB 1023 — County Employees/Public Records

by State Administration Committee and others (SB 256 by Comprehensive Planning Committee)

This bill amends and reenacts the public records exemption for personnel records of a county employee's participation in certain alcohol, drug, or mental health programs.

This bill substantially amends s. 125.585, F.S.

If approved by the Governor, these provisions take effect 0ctober 1, 2003.
Vote: Senate 39-0; House 115-0

HB 1785 — Medical Information/Public Records

by State Administration Committee and others (CS/SB 1664 by Governmental Oversight and Productivity Committee and Senator Wise)

The bill makes confidential and exempt all personal identifying information in records relating to a person's health held by local government entities or their service providers for the purpose of determining eligibility for paratransit services under Title II of the Americans with Disabilities Act or eligibility for the Transportation Disadvantaged Program as provided in part I of ch. 427, F.S. Such information may be released with the express written consent of the individual or the individual's legally authorized representative; in a medical emergency, if necessary to protect the health or life of the individual; by court order upon a showing of good cause; or for purposes of determining eligibility for paratransit services, if the individual or the individual's legally authorized representative has filed an appeal or petition before an administrative body of a local government or a court.

This bill creates s. 119.07(3)(gg), F.S.

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

PUBLIC LIBRARIES

CS/SB 726 — Libraries

by Appropriations Committee and Senators Fasano and Argenziano

This committee substitute establishes the Community Libraries In Caring program, subject to legislative appropriation, to assist libraries in specified rural communities.

This bill creates s. 257.193, F.S.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 38-0; House 111-1

CS/CS/SB 1434 — Public Libraries

by Appropriations Committee; Governmental Oversight and Productivity Committee; and Senators Garcia and Villalobos

This committee substitute amends s. 257.17, F.S., to make all municipalities eligible to participate in the state aid program and to directly receive state funds, including municipalities that provide or receive free library service by contract with a nonprofit library corporation or association within the municipality. Eligibility requirements are changed in the following ways:

- Political subdivisions are required to employ a professional librarian who has completed a library education program accredited by the American Library Association with at least 2 years of full-time paid professional experience after completing the library education program in a public library that is open to the public for a minimum of 40 hours per week.
- The requirement that a library have an annual operating budget of at least $20,000 from local sources is eliminated.
- A political subdivision in a county that offers library service and receives operating grants must provide the same level of service to the residents of any other political subdivision in the county receiving grants.
- At least one library or branch library be open for 40 hours or more each week.
- Libraries must have a long-range plan, annual plan of service, and an annual budget as conditions for grant eligibility.
- Libraries must engage in joint planning for coordination of services within a county or counties that receive operating grants.

The committee substitute revises provisions relating to construction grants, and specifies that initiation of a library construction project 12 months or less prior to the grant award under this section does not affect the eligibility of an applicant to receive a library construction grant.

The committee substitute also clarifies the public records exemption for library registration and circulation records and expands exceptions to it. This is identical with CS/SB 192, which passed both chambers. Specifically, s. 257.261, F.S., is amended to clarify that a parent or guardian of a child under the age of 16 can be granted access to that child's registration or circulation records for the purpose of recovering overdue books or collecting fines. The committee substitute does not, however, grant a parent or guardian access to his or her child's library records for the purpose of monitoring or discovering what books that child checks out at the library. The committee substitute also clarifies that a patron may have access to his or her exempt information. Finally, the committee substitute does not expand the exemption to public records requirements and, therefore, does not create a new exemption.

This bill amends the following sections of the Florida Statutes: 257.17, 257.191, 257.22, 257.23, and 257.261, and repeals section 257.19.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 115-0

MOBILE HOMES

HB 1431 — Mobile Homes

by Rep. Jordan (CS/CS/SB 2550 by Transportation Committee; Comprehensive Planning Committee; and Senator Sebesta)

This committee substitute provides a mechanism by which the owner of a mobile home which is permanently affixed to real property owned by that same person may permanently retire the title to the mobile home.

This committee substitute creates s. 319.261, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 114-0

CS/CS/SB 1944 — Mobile Home Owners

by Appropriations Committee; Finance and Taxation Committee; and Senators Dockery and Bullard

This bill amends a number of provisions in ch. 723, F.S., relating to mobile home owners. Specifically, the bill provides for a $1 per mobile home lot surcharge on mobile home park owners and $1 tax surcharge on mobile home licenses to fund the Florida Mobile Home Relocation Trust Fund. Also, the bill increases park owner payments into the Florida Mobile Home Relocation Trust Fund (trust fund), and reduces the amount of money mobile home owners can receive from the Florida Mobile Home Relocation Corporation (corporation).

This bill provides for the placement, by a home owner or park owner, of a home on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the initial approval and creation of the mobile home park. The bill requires notice to tenants and occupants, in addition to the mobile home owner, as parties who may become subject to eviction by the park owner.

Further, the bill prohibits a mobile home owner from bringing a cause of action against a park owner if the owner has already received compensation from the corporation or park owner. In addition, the bill prohibits a home owner with a pending eviction action from collecting from the

corporation. This bill requires submission of additional documentation by home owners that apply for funds when it is necessary to abandon their home. Finally, the bill appropriates $500,000 from the trust fund to the corporation for fiscal year 2003-2004.

This bill substantially amends the following sections of the Florida Statutes: 48.183, 320.081, 715.101, 723.007, 723.041, 723.061, 723.0611, 723.06115, 723.06116, and 723.0612; and creates s. 320.08015.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-3

WATER SUPPLY AND WATER UTILITIES

CS/CS/SB's 140, 998, and 1060 — Utilities

by Communication and Public Utilities Committee; Comprehensive Planning Committee; and Senators Argenziano, Cowin, Constantine, Fasano, and Lynn

The bill implements the recommendations of an OPPAGA report and makes conforming changes. The bill requires a separate legal entity seeking to acquire a utility provide written notice of the proposed acquisition to the relevant local government or "host government". The host government may adopt a resolution to become a member of the separate legal entity; adopt a resolution approving the acquisition; adopt a resolution prohibiting the acquisition based on a determination that the acquisition is not in the public interest; request in writing an automatic 45-day extension of the 90-day period to allow sufficient time for the host government to evaluate the proposed acquisition; or take no action, which is to be construed as a denial of the acquisition. If the host government adopts a prohibition resolution, the separate legal entity is prohibited from acquiring the utility without the host government's consent by subsequent resolution.

The bill gives a host government the right to review and approve as fair and reasonable any proposed changes to rates and terms of service and changes to the financing of the utilities which may result in increased costs to customers. The right of review and approval is subject to the obligation of the separate legal entity to establish rates that allow it to comply with bond requirements and to pay debts. If the host government reviews the proposed changes and determines that they are in the public interest, it may approve the changes. If the host government determines that the proposed changes are not in the public interest, it may negotiate with the separate legal entity to resolve the host government's concerns. If the parties are unable to reach agreement within 30 days of the determination that the proposed changes are not in the public interest, the host government may request binding arbitration through the Public Service Commission (PSC).

Further, the bill guarantees the right of a host government to acquire any separate-legal-entity-owned utility within its boundaries. If the parties cannot agree to the terms and conditions of the acquisition, the host government may request binding arbitration through the PSC. The PSC is authorized to develop and adopt administrative rules governing the arbitration processes contained in this bill and establish fees.

In addition, the bill amends the definition of "agency" for purposes of the Administrative Procedure Act to include a separate legal entity created under s. 163.01(7)(g)1., F.S. This bill excludes a separate legal entity created under s. 163.01(7)(g)1., F.S., from the definition of "governmental authority" as used in ch. 367, F.S. Finally, the bill deletes a provision in s. 367.071, F.S., that allows a utility to be sold or transferred contingent upon the approval of the PSC.

The bill substantially amends the following sections of the Florida Statutes: 163.01, 120.52, 367.021, and 367.071.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provided.
Vote: Senate 37-0; House 94-5

CS/SB 1044 — Water Use Permits

by Natural Resources Committee and Senators Argenziano, Fasano, and Lynn

The bill provides that a water management district must provide written notice of an application for a consumptive use permit to the county and appropriate city government. The bill specifies that notice of an application for such permit may be sent by electronic mail to any person who has filed a written request for notification of pending applications for that particular area. Further, the bill requires that all permits for consumptive water use, dam and reservoir construction, and dredge and fill activities for stormwater management systems must contain certain specified language stating the permittee is not relieved from complying with any other applicable rule, law, or ordinance.

This bill amends s. 373.116, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-0

MISCELLANEOUS LOCAL GOVERNMENT

CS/SB 54 — Local Government Minimum Wage

by Comprehensive Planning Committee and Senators Constantine, Fasano, Cowin, Wise, and Lynn

This committee substitute prohibits the political subdivisions of the state from requiring employers to pay a minimum wage other than a federal minimum wage, or from requiring employers to apply a federal minimum wage to wages that are exempt under federal law. However, political subdivisions may establish a minimum wage for their employees, for employees of contractors and subcontractors under contract with the political subdivision, and for employees of employers receiving direct tax abatements or subsidies from the political subdivision.

This committee substitute creates an unnumbered section of the Florida Statutes.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 22-13; House 84-32

SB 732 — Miami River Commission

by Senator Villalobos

This bill removes language that would sunset the Miami River Commission on July 1, 2003 and, therefore, effectively establishes a permanent commission.

This bill repeals section 7 of chapter 98-402, Laws of Florida.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

HB 1721 — Subdivision Property

by Rep. Bilirakis and others (CS/SB 1824 by Comprehensive Planning Committee and Senators Sebesta, Crist, and Fasano)

This bill increases the tax deed application fee from $15 to $75; requires that before property is sold under an outstanding tax certificate on land that is either submerged land or common elements in a subdivision, each owner of property contiguous to the property subject to sale must be notified; requires that a county notify each owner of such property within 90 days after property is placed on the list of lands available for taxes if the county holds the tax certificate and does not purchase the property; and requires that the value of taxes and non-ad valorem assessments against common elements of a subdivision be prorated by the property appraiser and included within the value of the lots within the subdivision.

This bill amends ss. 197.502, 197.522 and 197.582, F.S., and creates an unspecified section of Florida Law.

If approved by the Governor, these provisions take effect January 1, 2004.
Vote: Senate 37-0; House 114-0

CS/SB 1842 — Municipal Parking Facility Surcharge

by Comprehensive Planning Committee and Senator Diaz de la Portilla

This committee substitute provides qualifying municipalities, subject to referendum approval, authority to impose a per-vehicle surcharge for the sale, lease or rental of space at certain parking facilities, within the municipality, that are open for use to the general public. Funds generated from the surcharge are to be used for reduction of ad valorem millage, reduction or elimination of non-ad valorem assessments, and improvements to transportation services.

This bill creates s. 166.271, F.S.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

SB 1862 — Community Development Districts

by Senator Diaz de la Portilla

The bill expands the powers of a community development district to include the authority to collect any ground rent due on behalf of a governmental entity pursuant to a contract with a governmental entity that owns real property in the district. The bill also allows a community development district to contract with the county tax collector for the collection of ground rent using the procedures authorized in s. 197.3631, F.S., other than the uniform method of collection found in s. 197.3632, F.S.

This bill amends s. 190.011, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 116-1

CS/SB 2248 — Charitable Youth Organizations

by Governmental Oversight and Productivity Committee and Senators Wasserman Schultz, Bennett, Lawson, Miller, Diaz de la Portilla, Jones, and Posey

The bill provides that the state, or the governing body of any political subdivision of the state, is authorized, but not required, to contract for public service work, such as highway and park maintenance, notwithstanding any competitive bid procedures contained in chapters 255 and 287, F.S. In order to receive a no-bid public service contract, the contractor must satisfy certain criteria, including, but not limited to, the following: the contractor must hold exempt status under section 501(a) of the Internal Revenue Code, as an organization described in s. 501 (c)(3); the corporate charter of the contractor must state it is organized as a charitable youth organization exclusively for at-risk youths enrolled in a work-study program; a contract must be production-based and may not exceed $250,000 annually; the contractor may not subcontract the work; and the administrative salaries and benefits of the contractor may not exceed 15 percent of gross revenues, excluding field supervisors' salaries and benefits.

In addition, the contract must be approved by state agency personnel or the governing body of a political subdivision as appropriate. Finally, the contractor must agree to be subject to review and audit at the discretion of the Auditor General.

This bill creates a new section of the Florida Statutes.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 117-0

CS/SB 2334 — Municipal Police and Firefighter Pensions

by Comprehensive Planning Committee and Senator Lynn

This committee substitute authorizes municipalities providing pension plans to firefighters and police officers pursuant to chs. 175 and 185, F.S., to "prefund" extra benefits and be reimbursed from future premium tax receipts.

This committee substitute amends the following sections of the Florida Statutes: 175.351 and 185.35.

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

CONTROLLED SUBSTANCES AND DRUG CONTROL

CS/SB 160 — Industrial Use Exceptions to Controlled Substance Scheduling

by Criminal Justice Committee and Senators Wise and Fasano

This bill (Chapter 2003-10, L.O.F.) creates s. 893.031, F.S., which provides that for purposes of certain industrial uses, 1,4-Butanediol (BDO) and gamma-butyrolactone (GBL) are excepted from scheduling as Schedule I controlled substances when in the possession of authorized manufacturers and distributors of BD or GBL, authorized manufacturers and distributors of industrial products, and authorized persons who possess finished products. Key terms are defined and the bill reenacts s. 893.03(1)(d), F.S.

The bill also amends s. 893.13(1)(c), F.S., to clarify the hours during which it is unlawful to sell, manufacture, deliver, or possess a controlled substance within 1,000 feet of the real property comprising a child care facility or public or private elementary, middle, or secondary school. The bill provides that the hours applicable to the offense are 6:00 a.m. to 12 midnight.

These provisions became law upon approval by the Governor on May 2, 2003.
Vote: Senate 38-0; House 115-0

SB 1080 — Anhydrous Ammonia

by Senators Smith and Aronberg

This bill amends s. 812.104(1)(c), F.S., to provide that it is grand theft of the third degree, a third-degree felony, to steal anhydrous ammonia.

The bill also amends s. 893.033, F.S., to designate or list anhydrous ammonia as a listed precursor chemical, which is a chemical that may be used in the manufacture of a controlled substance. This designation or listing does not bar, prohibit, or punish legitimate use of anhydrous ammonia.

Pursuant to s. 893.149, F.S., which the bill reenacts and which applies to any listed chemical, it is a second degree felony to knowingly and intentionally possess anhydrous ammonia with the intent to unlawfully manufacture a controlled substance, or possess or distribute anhydrous ammonia knowing, or having reasonable cause to believe, that the anhydrous ammonia will be used to manufacture a controlled substance.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

CS/SB 1588 — Drug Abuse Prevention and Control

by Criminal Justice Committee and Senators Aronberg, Wilson, Atwater, Crist, Fasano, and Bullard

This bill amends s. 893.13, F.S., to increase penalties for controlled substance offenses (such offenses include sale, manufacture, and delivery, but do not include purchase or possession) committed, at any time, within 1,000 feet of a park. The bill clarifies that the term "park" includes state, county, and municipal parks.

The bill also provides for enhanced penalties for controlled substance offenses committed, at anytime, within 1,000 feet of a community center or a publicly owned recreational facility. The bill defines the term "community center" as a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services.

The bill also provides for enhanced penalties for controlled substance offenses committed within 1,000 feet of a public or private college, university, or other postsecondary education institution, and within 1,000 feet of a public housing facility.

Finally, the bill amends s. 921.0022, F.S., the offense ranking chart of the Criminal Punishment Code, to amend descriptions and rankings of offenses to conform to amendments of the controlled substance offenses amended by the bill.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 116-0

CORRECTIONS

SB 278 — Transportation of Inmates

by Senator Villalobos

This bill amends s. 945.0913, F.S., to prohibit state inmates from driving a state-owned vehicle to transport work release inmates to their places of employment. It also amends s. 945.091, F.S., to specify that work release inmates must get to their job, classes, or training by walking, bicycling, riding public transportation, or riding transportation provided by a family member or employer. The Department of Corrections is allowed to transport work release inmates in a state-owned vehicle for these purposes if it is given a specific appropriation and the inmate is unable to obtain other transportation.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 36-3; House 119-0

CS/CS/SB 428 — Community Control

by Judiciary Committee; Criminal Justice Committee; and Senators Smith, Crist, Villalobos, Diaz de la Portilla, Geller, Siplin, Lynn, Dockery, Fasano, Lee, Sebesta, Jones, Constantine, Miller, Bullard, Pruitt, Bennett, Dawson, Argenziano, Wilson, Alexander, and Cowin

This bill amends s. 948.10, F.S., to require the Department of Corrections to notify the sentencing judge, state attorney, and Attorney General within 30 days of receipt of a sentencing order if a statutorily ineligible offender is placed on community control supervision. New reporting requirements are established to notify the judiciary and prosecutors about the placement of offenders on community control and to provide the Governor, the President of the Senate, the Speaker of the House, and the Chief Justice of the Supreme Court with information about the community control program and the department's efforts to protect the public from offenders on community control. The department is also required to develop and maintain a caseload equalization strategy to ensure that high-risk offenders receive the highest level of supervision, and to develop and implement a risk assessment classification system for community control offenders.

The bill amends s. 921.187, F.S., to replicate a provision found in s. 948.10(10), F.S., that restricts certain repeat forcible felons from being placed on community control and probation.

The bill also directs the department to study the use of electronic monitoring and its effectiveness for community control, and allows the department to suspend the caseload ratio requirement found in s. 948.10(2), F.S., during the period from July 1, 2003, until February 1, 2004. Findings must be reported to the Governor, the President of the Senate, and the Speaker of the House by February 1, 2004.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 118-0

HB 465 — Unclaimed Court-Ordered Payments

by Rep. Dean and others (CS/SB 1910 by Criminal Justice Committee and Senators Fasano, Lynn, and Crist)

This bill amends s. 945.31, F.S., to authorize the Department of Corrections to deposit the following funds into the General Revenue Fund: (1) offender overpayments remaining at the end of an offender's supervision if the amount is less than $10; (2) offender funds, victim's restitution payments, and unidentified payments that are not claimed within one year after an

offender's supervision terminates; and (3) interest earned on balances in COPS (Court Ordered Payment System) bank accounts.

This bill also repeals s. 960.0025, F.S., which directs the department to allocate unclaimed restitution or other court-ordered payments to a direct-support organization that assists in addressing the needs of crime victims.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 113-0

SB 488 — Probation or Community Control

by Senators Villalobos, Lynn, and Cowin

This bill amends s. 948.03, F.S, which provides mandatory conditions of probation for offenders who are on probation or community control for committing certain sexual offenses. If the crime was committed after September 30, 1995, and the victim was under 18 years of age, the offender is prohibited from living within 1000 feet of a school, day care center, park, playground, or other place where children regularly congregate. This bill specifies that the distance must be measured in a straight line from the boundary of the property to the offender's residence, without considering the distance that an automobile or pedestrian would travel.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-1

HB 1203 — Department of Corrections/Personnel

by Rep. Zapata and others (CS/SB 2228 by Criminal Justice Committee and Senator Cowin)

This bill amends s. 110.205, F.S., to move Correctional Officer Majors and Correctional Officer Colonels from the Career Service class to the Select Exempt Service class. It also deletes obsolete references to the Correctional Education Program and to superintendents and assistant superintendents.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 115-0

HB 1553 — Health Care Practitioners/Complaints

by Rep. Llorente and others (CS/SB 1928 by Criminal Justice Committee and Senators Geller and Argenziano)

This bill amends s. 456.073, F.S., to require that a state prisoner exhaust administrative remedies within the Department of Corrections before filing a complaint with the Department of Health

against a health care practitioner who is employed by or providing health care within a department facility. However, the Department of Health may determine legal sufficiency of any prisoner complaint and proceed with discipline if it makes a preliminary determination that the practitioner poses a serious threat to the health or safety of any individual who is not a prisoner.

The bill also requires the Department of Corrections to notify the Department of Health within fifteen days of disciplining or allowing the resignation of a health care practitioner for a practice-related offense.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 113-0

HB 1717 — Identity of the Executioner/Public Record

by State Administration Committee and others (SB 1028 by Criminal Justice Committee)

This bill amends s. 945.10(g), F.S., reenacting the public records exemption for information that identifies any person who prescribes, prepares, compounds, dispenses or administers the lethal injection used to carry out a death sentence pursuant to ch. 922, F.S. The bill repeals s. 922.106, F.S., which is duplicative, and also amends s. 922.10, F.S., to eliminate a duplicative exemption for the identity of an executioner.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 118-0

CRIMINAL PROCEDURE

HB 747 — Sexual Battery Time Limitations

by Rep. Kallinger and others (CS/SB 1734 by Judiciary Committee and Senators Webster, Fasano, and Lynn)

This bill would extend the time limitation on commencing the prosecution of first degree felony sexual battery offenses proscribed in s. 794.011, F.S., so that the crime could be prosecuted at any time, if the victim was under the age of 18 at the time of the offense.

The extended time limitation on prosecuting a first-degree felony sexual battery applies in cases except those where the time limitation has run on or before the effective date of the bill.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 39-0; House 115-0

CRIMINAL OFFENSES AND PENALTIES

HB 479 — Offense of Stalking

by Rep. Stargel and others (SB 82 by Senator Geller)

This bill amends s. 784.048, F.S., which defines and prohibits the criminal offense of stalking. The bill specifically includes cyberstalking as an activity that can be an element of the crime. Cyberstalking is defined as harassment by communicating or causing the communication of words, images, or language by the use of electronic mail or electronic communication. The bill also expands the definition of aggravated stalking to include the making of a threat that places a person in reasonable fear of death or bodily injury of the person's child, sibling, spouse, parent, or dependent. Currently, only a threat against a person's own life or body is included in aggravated stalking.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 39-0; House 116-0

CS/CS/SB 1072 — Identity Theft/Internet Fraud

by Appropriations Committee; Criminal Justice Committee; and Senators Crist, Aronberg, and Cowin

This bill amends ss. 817.568 and 921.022, F.S., to provide that it is a second degree felony, ranked in Level 5 of the offense severity chart of the Criminal Punishment Code, with a mandatory minimum sentence of 3-years imprisonment, for a person to willfully and without authorization fraudulently use personal identification information of an individual without first obtaining that individual's consent. This penalty applies if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud is $5,000 or more or if the person fraudulently uses the personal identification information of 10 or more individuals without their consent. The definition of "personal identification information" is amended to include a bank account or credit card number.

If the amount is $50,000 or more or if the person fraudulently uses the personal identification information of 20 or more individuals without their consent, it is a first degree felony. A mandatory sentence of 5 years applies if the amount is $50,000 to less than $100,000. A mandatory minimum sentence of 10 years applies if the amount is $100,000 or more or if the person fraudulently uses the personal identification information of 30 or more individuals without their consent. If the unlawfully used personal information concerns a person less than 18 years of age, it is a second degree felony, ranked in Level 8. If the person unlawfully using such information of a minor is a parent or legal guardian of that minor, it is a second degree felony, ranked in Level 9.

The bill amends s. 934.23, F.S., to define that a "court of competent jurisdiction" means a court having jurisdiction over the investigation or otherwise authorized by law.

The bill creates s. 92.605, F.S., which requires out-of-state corporations who provide electronic communication services or remote computing services to comply with subpoenas or other court orders issued by a Florida court and also requires Florida providers of electronic communication services or remote computing services to comply with subpoenas or other court orders issued by a court of another state.

In a criminal court proceeding, out-of-state records of regularly conducted business activity or a copy of those records are not excluded as hearsay evidence if an out-of-state certification makes specified attestations.

In a criminal case, the content of any electronic communication may be obtained under the section only by court order or by the issuance of a search warrant, unless otherwise provided under the Electronic Communications Privacy Act or other provision of law.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 118-0

HB 1227 — Self-Propelled Knives

by Rep. Evers and others (SB 2256 by Senator Bennett)

This bill refined the statutory description of self-propelled knives to include the term "ballistic" and to specify that the law refers to a device which physically separates the blade from the device. It further clarified that s. 790.225, F.S, does not apply to any device from which a knifelike blade opens where such blade remains physically integrated with the device when open. This bill should rectify any ambiguity in the statutory language.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

CS/CS/SB 1480 — Breaking or Damaging Fences

by Judiciary Committee; Criminal Justice Committee; and Senators Alexander and Lynn

This bill creates a third-degree felony offense consisting of the lesser included offense of breaking or injuring a fence if the fence or part thereof is used to contain animals at the time of the offense.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

HB 1675 — Facilitating or Furthering Burglary

by Rep. Prieguez and others (SB 158 by Senator Villalobos)

This bill creates s. 810.061, F.S., which provides that a person who, for the purpose of facilitating or furthering the commission or attempted commission of a burglary of a dwelling, damages a wire or line that transmits or conveys telephone or power to that dwelling, impairs any other equipment necessary for telephone or power transmission or conveyance, or otherwise impairs or impedes such telephone or power transmission or conveyance commits a third-degree felony, ranked in Level 2 of the Criminal Punishment Code's offense severity ranking chart.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 117-0

HB 1683 — Leaving Scene of Accident/Penalty

by Rep. Kyle and others (SB 246 by Senators Saunders, Fasano, and Crist)

This bill amends s. 921.0022, F.S., to change the ranking of the offense of leaving the scene of an accident involving death from a Level 6 offense to a Level 7 offense in the offense severity ranking chart of the Criminal Punishment Code. This change will result in a scored lowest permissible sentence of imprisonment of this offense.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 117-0

CS/SB 2046 — Sentencing

by Appropriations Committee and Senators Smith and Argenziano

This bill amends s. 921.16, F.S., to prohibit a county court or circuit court from directing that a sentence imposed by that court be served coterminously with a sentence imposed by another court of this state or imposed by a court of another state. The prohibition has prospective application, applying to offenses committed on or after October 1, 2003.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 38-0; House 118-0

CS/CS/SB 2172 — Dangerous Sexual Felony Offender Act

by Appropriations Committee; Criminal Justice Committee; and Senator Cowin

This bill substantially amends s. 794.0115, F.S., which, prior to this amendment, provided for a 10-year mandatory minimum term of imprisonment for certain recidivist sexual offenders designated "repeat sexual batterers."

The bill changes the mandatory minimum term to 25 years to life. This term must be imposed or included in sentencing of a person as a "dangerous sexual felony offender." A "dangerous sexual felony offender" is a person who is convicted of any one of several designated sexual battery offenses, or lewd battery or lewd molestation, or the selling or buying of minors, which the person committed when he or she was 18 years of age or older; and any of the following factors apply to the offense committed:

- Caused serious personal injury to the victim as a result of the offense.
- Used or threatened to use a deadly weapon during the commission of the offense.
- Victimized more than one person during the course of the criminal episode applicable to the offense.
- Committed the offense while under the jurisdiction of a court for a felony offense in Florida or another jurisdiction or for an offense that would be a felony if that offense were committed in Florida.
- Has previously been convicted of any of the same designated sexual offenses.

The bill provides that it is irrelevant that a factor for sentencing is an element of the offense or that such offense was reclassified to a higher felony degree.

Finally, the bill provides that a person sentenced to a mandatory minimum term under this section is not eligible for statutory gain-time or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release before serving the minimum sentence.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

CS/SB 2366 —Aggravated Child Abuse

by Criminal Justice Committee and Senators Fasano and Argenziano

The Committee Substitute for Senate Bill 2366 defines "maliciously" as it is used to modify "punishes" in the aggravated child abuse statute to mean "wrongfully, intentionally, without legal justification or excuse." The CS also specifies that maliciousness may be established by circumstances from which one could conclude that a reasonable parent would not have engaged in the damaging acts toward the child for any valid reason and that the primary purpose of the acts was to cause the victim unjustifiable pain or injury.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-6; House 119-0

JUVENILE JUSTICE

SB 312 — Department of Juvenile Justice

by Senators Smith and Lynn

The bill amends s. 985.407, F.S., to require the Department of Juvenile Justice to adopt a rule pursuant to ch. 120, F.S., establishing a procedure to provide notice of policy changes that affect contracted delinquency services and programs. In other words, this rule provides notice of how the department will adopt policies affecting private juvenile justice providers. A "policy" is defined under the bill as an operational requirement applying to only the specified contracted delinquency service or program. The procedure to provide notice of policy changes will be required to include the following components: public notice, opportunity for public comment, assessment of fiscal impact upon the department and the providers, and the department's response to any comments received.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 117-1

DUI

HB 947 — Blood Alcohol Content/Tests

by Rep. Planas and others (CS/SB 2430 by Criminal Justice Committee and Senator Saunders)

This bill separates the urine testing provisions in the implied consent law for driving under the influence of alcohol or drugs while impaired (DUI--s. 316.1932, F.S.) and boating under the influence of alcohol or drugs while impaired (BUI--s. 327.352, F.S.) from the provisions relating to breath and blood tests to detect the alcoholic content of the blood or breath. The urine testing provisions will be placed in a new subsection of each statute.

Moving the urine testing provisions from the breath and blood testing provisions that must be approved by the Florida Department of Law Enforcement (FDLE) should clarify the Legislature's intent that urine tests do not have to be "approved" by FDLE through administrative rule (contrary to a recent holding by the Second District Court of Appeal in which it construed the statute as requiring approval by FDLE for urine tests). Instead, the current rules of evidence governing the admissibility of scientific evidence will continue to be in place. Additionally, urine tests will still have to be administered in a reasonable manner ensuring the accuracy of the specimen and maintaining the privacy of the suspect.

The bill will also clarify that a law enforcement officer may order a urine test upon a reasonable belief the suspect was driving a vehicle or vessel under the influence of chemical substances or controlled substances.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 111-3

LAW ENFORCEMENT

SB 1648 — FDLE/Blood Collecting

by Criminal Justice Committee

This bill requires that the local sheriff or his or her designee be responsible for the collection of DNA specimens from those offenders who are required to provide a sample and who are not sentenced to incarceration by the court.

The bill also clarifies that approved biological specimens, other than blood, can be provided in the case of juvenile offenders and adult sex offenders currently required to give the specimen. These clarifications make the statute consistent throughout.

This bill substantially amends ss. 943.325 and 948.03, F.S.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 115-0

CS/SB 1650 — Criminal Justice Standards and Training Commission

by Criminal Justice Committee and Senator Smith

This bill amends portions of ch. 943, F.S., relating to certification of law enforcement officers and correctional officers. It authorizes the Criminal Justice Standards and Training Commission (CJSTC) to certify and revoke certification of law enforcement agency in-service training instructors. It also provides that a person may only be temporarily employed or appointed under s. 943.131, F.S., once per law enforcement discipline and for a maximum period of thirty months. A person is allowed 180 days from employment to begin the basic recruit training class and 180 days from completion of basic recruit training to pass the officer certification examination. A person who becomes employed after completion of the basic recruit training class is allowed 180 days from the date of employment to pass the certification examination. Persons employed under a temporary employment authorization are prohibited from transferring to another employer and persons whose certification has been revoked pursuant to s. 943.1395, F.S., are prohibited from being employed under a temporary employment authorization.

The bill specifies that a person cannot exempt the requirement for completion of a basic recruit training program unless he or she has been employed as a sworn law enforcement officer within eight years of submitting the application for exemption.

The bill provides the CJSTC with authority to discipline persons who are temporarily employed or appointed, and requires investigation of offenses and development of disciplinary guidelines and penalties. A person whose certification is revoked is ineligible for employment under a temporary employment authorization. The bill exempts basic recruit training program students from testing for mastery of basic skills that is required of technical-vocational students by s. 1004.91, F.S.

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

CS/CS/SB 1856 — Law Enforcement/Correctional Officer

by Judiciary Committee; Criminal Justice Committee; and Senators Diaz de la Portilla and Argenziano

This bill amends s. 112.532(1), F.S., with regard to the interrogation of law enforcement or correctional officers. The bill limits the total number of interrogating officers asking questions during the interrogation to one officer, unless the officer subject to the interrogation specifically waives the requirement.

The bill also amends s. 112.532(3), F.S., to specifically provide for the right of an officer to file suit against a person who files a false complaint against the officer. However, this subsection is amended to provide that it does not create a separate cause of action against an officer's employing agency for the investigations and processing of a complaint filed under this part.

The bill requires the investigating agency to give the officer a copy of the complete investigative report and supporting documents, upon request, and provide the officer an opportunity to address the findings of the report before the imposition of a disciplinary action consisting of a suspension with loss of pay, demotion or dismissal. However, the contents of the complaint and investigations are to remain confidential until the employing agency makes a final determination to issue a notice of disciplinary action. Additionally, the bill provides that the provisions should not be construed to provide a law enforcement officer with property interest in the position or with an expectation of employment as a sworn officer.

Section 112.533(1), F.S., is amended by the bill to specify that the law enforcement or correctional agency's system for processing complaints is the exclusive means of investigating and making determinations regarding disciplinary actions. The Criminal Justice Standards and Training Commission is not precluded from exercising its authority under this provision of the bill.

The officer who is the subject of the complaint has the right, under s. 112.533(2)(a), F.S., to review the complaint and all statements made by the complainant and witnesses immediately prior to the beginning of the investigative interview. The bill extends the right to review complaints and statements made by the complainant and witnesses against a law enforcement or correctional officer to his or her legal counsel or designated representative, immediately prior to the beginning of an investigative interview whenever the interview relates to the officer's continued fitness for law enforcement or correctional service. The attorney or other representative would also be subject to a misdemeanor prosecution if he or she willfully disclosed information obtained pursuant to the investigation before it becomes available to the public.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

SB 2488 — Law Enforcement Mutual Aid Agreement

by Senators Dockery and Lynn

This bill clarifies language in s. 23.1225, F.S., which authorizes law enforcement agencies to enter into mutual aid agreements. The bill defines "law enforcement agency" as "any agency or unit of government that has authority to employ or appoint law enforcement officers, as defined in s. 943.10(1), F.S.

A law enforcement agency may enter into a mutual aid agreement through a written agreement executed by the chief executive officer of the agency, who is authorized to contractually bind the agency.

The bill amends s. 282.1095, F.S., to authorize the State Technology Office (STO) to plan, manage, and administer the State Law Enforcement Radio System mutual aid channels and to make the channels available to federal, state, and local agencies for the purpose of public safety and domestic security. The STO is required to act in consultation with the Florida Department of Law Enforcement (FDLE) and the Division of Emergency Management (DEM) within the Department of Community Affairs to administer the mutual aid channels to address the needs of law enforcement agencies and emergency response agencies involved with the system. The STO is furthered required, in conjunction with the FDLE and the DEM to establish policies and procedures which must be incorporated into a comprehensive management plan for the use and operation of the statewide radio communications system.

The STO is authorized to create and implement an interoperability network for enabling interoperability between various radio communications technologies to serve federal, state, and local agencies. The STO must work in conjunction with the FDLE and DEM to administer the interoperability network. The STO may enter into mutual aid agreements, establish the cost of

maintenance and operation of the network, and charge subscribing federal and local law enforcement agencies for access and use of the network. Participating state agencies cannot be charged to use the network. The statewide radio communications system may be enhanced and amended as necessary for implementation. Policies and procedures must be established for inclusion in a comprehensive management plan for network operation.

A board member of the Joint Task Force on State Agency Law Enforcement Communications may, upon notifying the chairman prior to the beginning of a meeting, appoint an alternate to represent the member on the board and to vote on board business in the member's absence.

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

SB 2002 — Law Enforcement Officer Training

by Senators Crist and Lynn

This bill amends s. 943.16, F.S., to require law enforcement officers and correctional officers to remain employed with their agency for a minimum of two years if the agency paid the costs of their basic recruit training program. Officers who voluntarily terminate employment within two years would be required to reimburse their employing agencies for the full cost of tuition and other expenses of the course, and to make a pro-rata reimbursement of wages and benefits earned while enrolled in the basic recruit training program. The reimbursement requirements do not apply to officers who terminate employment and resign their officer certification to take a job for which such certification is not required. The employing agency is permitted to waive reimbursement if the officer terminates employment due to hardship or extenuating circumstances. These requirements are applicable to trainees in basic recruit training classes commencing after July 1, 2003.

The bill authorizes the employing agency to file a civil collection action if it is not reimbursed in accordance with the statute. However, such authorization is contingent upon the agency having given written notification of the two-year obligation to the employee during the employment screening process.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 114-0

VICTIMS AND PUBLIC PROTECTION

CS/CS/SB 144 — Sexual Battery Victims/Services

by Appropriations Committee; Criminal Justice Committee; and Senators Cowin, Fasano, Sebesta, Argenziano, and Crist

This bill creates s. 938.085, F.S., requiring a sentencing court to impose an additional $151 surcharge against offenders who plead guilty or nolo contendere to, or are found guilty of, regardless of adjudication, specified statutes concerning assault, battery, stalking or sexual battery. Collected costs (less a $1 court clerk fee) are to be deposited in the Rape Crisis Program Trust Fund which is created by SB 146. The trust fund is to be used to provide sexual battery recovery services to victims and their families, and the bill defines eight services and programs that meet the definition of "sexual battery recovery services." The bill includes an appropriation of $917,000 from the trust fund to the Department of Health for purposes of implementing the act during Fiscal Year 2003-2004.

The bill also requires that the Department of Health contract with a statewide not-for-profit association whose primary purpose is to represent and provide assistance to rape crisis centers. This association is to receive 95 percent of the Rape Crisis Program Trust Fund. Funds must be allocated and distributed by county, taking into account population and rural characteristics. No more than 15 percent may be used for statewide initiatives and no more than 5 percent may be used for administrative costs.

The Department of Health is required to ensure that funds are properly expended and to provide an annual report to the Legislature. It is also authorized to require an annual audit of expenditures.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 113-0

SB 146 — Rape Crisis Program Trust Fund

by Senators Cowin, Argenziano, Wilson, and Crist

Senate Bill 146 creates the Rape Crisis Program Trust Fund for the purpose of providing funds to rape crisis centers for services to victims of sexual assault. The trust fund is established within the Department of Health, which is directed by the bill to establish rules for the distribution of the trust fund moneys to the rape crisis centers. The source of the moneys to be credited to the trust fund are court assessments collected from individuals who plead guilty or nolo contendere to or are found guilty of, regardless of adjudication, specified statutes concerning assault, battery, stalking or sexual battery. The bill provides for the termination of the trust fund on July 1, 2007, and for the statutorily required review prior to the scheduled termination.

If approved by the Governor, these provisions take effect July 1, 2003, if SB 144 (Sexual Battery Victims/Services) also becomes law.
Vote: Senate 40-0; House 113-0

HB 453 — Victim of Sex Offense/Public Record

by Rep. Adams and others (CS/SB 126 by Criminal Justice Committee and Senators Campbell, Lynn, and Argenziano)

This bill amends s. 119.07(3)(f), F.S., to create a public records exemption for any criminal intelligence information or criminal investigative information that is a photograph, videotape, or image of any part of the body of the victim of designated sexual offenses. Such photograph, videotape, or image is confidential and exempt regardless of whether or not it identifies the victim.

The bill provides for retroactive application and future review and repeal on October 2, 2008, unless reviewed and saved from repeal through reenactment.

The bill also provides for a statement of public necessity for the exemption.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 116-0

HB 1019 — Videotaped Statement of Minor/Public Record

by State Administration Committee and others (SB 1026 by Criminal Justice Committee and Senator Lynn)

This bill amends s. 119.07, F.S., and reenacts a public records exemption that makes confidential and exempt from public inspection information contained in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery and other specified sexual offenses, if that information identifies the victim.

The bill designates law enforcement agencies as the custodian of such statements. Only law enforcement agencies and Department of Health child protection teams are responsible for videotaping such minor's statement, but Department of Health child protection teams already have an agency-specific exemption for such minor's videotaped statement.

The bill removes the sentence that requires repeal of the public records exemption as well as superfluous language.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 37-0; House 112-0

SCHOLARSHIP/FINANCIAL AID

CS/SB 354 — Bright Futures Scholarship Program

by Appropriations Committee and Senators Carlton, Lynn, and Crist

The bill repeals s. 1009.539, F.S., the law requiring recipients of a Bright Futures Academic Scholars or Medallion Scholars award to complete the CLEP examination in the following five areas: English, humanities, mathematics, natural sciences, and social sciences. These examinations must be taken prior to enrolling in any course for which credit may be earned through the CLEP examinations. Each community college and each university must pay for the cost of each CLEP examination required by the law, not to exceed $46 per examination. The cost is approximately $8 million annually. The CLEP pass rate declined from over 60% to about 22% after this law was enacted. This resulted in an estimated cost of $80 per credit hour earned through CLEP examinations.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-0

CS/SB 638 — Student Tuition Assistance

by Appropriations Committee and Senators Clary, Hill, Campbell, Bennett, Webster, Bullard, Atwater, and Fasano

This bill creates the Access to Better Learning and Education Grant Program. The grant program is limited to full-time Florida resident students seeking a baccalaureate degree from a for-profit college or university that is located in the state and accredited by SACS, or a nonprofit college or university, chartered out of state yet located in the state for 10 years or more and accredited by a region accrediting agency. The schools should not be a state university or community college and should have a secular purpose.

The annual amount of the grant is to be established in the General Appropriations Act and the program is to be implemented only to the extent it is specifically funded and authorized by law.

The grant program is not related to a student's need for financial assistance.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-2; House 104-7

STATE UNIVERSITIES

CS/SB 680 — Florida Gulf Coast University

by Education Committee and Senators Saunders and Aronberg

The bill authorizes Florida Gulf Coast University to offer a Bachelor of Science in Human Performance degree program with a concentration in athletic training.

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

PUBLIC SCHOOLS

CS/SB 162 – American Sign Language

by Education Committee and Senators Wise and Fasano

This bill establishes statutory authority for all public schools to offer American Sign Language (ASL) for foreign language credit. It also requires school boards to advise students taking ASL as a foreign language that postsecondary schools outside of Florida may not accept these course credits as satisfying foreign language entrance requirements.

Florida ASL teachers will be required to be certified by the Florida American Sign Language Teachers Association and may also be certified by the Department of Education. A task force established by the bill will prepare a report for the Commissioner of Education on developing and maintaining ASL courses as a part of a school curriculum. The Commissioner of Education will encourage postsecondary institutions to offer ASL courses and to implement a plan for accepting secondary school credits in ASL as credits in a foreign language.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 117-0

HB 915 — K-20 Education Accountability

by Rep. Pickens and others (CS/SB 2296 by Education Committee and Senators Carlton and Wilson)

Accountability

This bill amends s. 1008.31, F.S., by establishing a unified system of accountability, which will be used to measure the K-20 education system's performance. The bill revises the performance-based funding requirements to provide that the State Board of Education must adopt a

performance-based budgeting system for all education delivery systems by the following schedule:

By December 1, 2003:

- The State Board of Education must adopt common definitions, measures, standards, and performance improvement targets. The State Board of Education must use the state core and sector-specific measures to evaluate the progress of each sector in meeting the systemwide goals, and advise the delivery systems of their progress so the systems may develop plans and implement the performance-based budgeting system. The implementation of performance-based budgeting must allow a delivery system one year to demonstrate achievement of specified performance standards prior to a performance-related reduction in appropriations.

By July 1, 2004:

- The Department of Education must collect data required to establish progress, rewards, and sanctions during the 2003-2004 fiscal year.

By December 1, 2004:

- The Department of Education must recommend to the Legislature a formula for performance-based funding that applies accountability standards for the individual components of the public education system at every level.

Effective FY 2004-2005:

- If approved by the Legislature, performance-based funds shall be allocated based on progress in meeting specified standards.

Concordance Study on Equivalent Scores for High School Graduation

The bill requires the State Board of Education to conduct a study to determine if equivalent scores can be ascertained on certain national standardized examinations in lieu of passing scores on the Florida Comprehensive Assessment Test (FCAT) for high school graduation. At a minimum, the State Board of Education must analyze the PSAT, PLAN, SAT, ACT, and the College Placement Test to determine if equivalent scores can be ascertained. If equivalent scores can be determined, the State Board of Education may adopt the scores with students who are eligible to graduate in the 2003-2004 academic year and thereafter being eligible to use the equivalent scores in lieu of the FCAT for high school graduation purposes.

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

CS/SB 1522 — Student's Education/Parent and Family Involvement

by Education Committee and Senators Constantine and Bullard

The bill creates the "Family and School Partnership for Student Achievement Act" in s. 1002.23, F.S., to provide parents with information about their child's educational progress and opportunities for parental involvement, as well as to provide a framework for building and strengthening partnerships between parents, teachers, principals, district school superintendents, and other personnel.

The Department of Education must develop guidelines for a parent guide and a specific checklist and must establish a parent response center to help parents and families. District school boards must: adopt rules to strengthen family involvement and family empowerment; submit a copy of the rules to the Department of Education; and develop and disseminate a parent guide to successful student achievement, as well as a checklist of parental actions to strengthen parental involvement. The State Board of Education must annually review each district's compliance with the requirements in the act and must use all appropriate enforcement action.

District school superintendents and principals must fully support and cooperate in implementing the new law. The bill requires that parents of public school students receive accurate and timely information about their children's schools, as well as information on ways to help their child to succeed in school, including help with reading proficiency. Report cards must include a designation of a student's performance or nonperformance at grade level.

Teachers who receive certain bonuses under the Dale Hickam Excellent Teaching Program must provide instruction to help other teachers work more effectively with the families of their students. Inservice activities for instructional personnel under the School Community Professional Development Act must include parent involvement.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 82-35

HB 1739 — Access to Postsecondary Education

by Education K-20 Committee and others (SB 2576 by Senators Wise and Lynn)

The bill (Chapter 2003-8, L.O.F.) creates the "Enhanced New Needed Opportunity for Better Life and Education for Students with Disabilities (ENNOBLES) Act" and defines the term "student with a disability." The bill also eliminates the requirement that students complete the credit for life management skills in grade 9 or grade 10. District school boards must provide

instruction to prepare students with disabilities to demonstrate proficiency in the skills and competencies needed for successful grade-to-grade progression and high school graduation.

The bill provides for waiving the requirement to earn a passing score on the Florida Comprehensive Assessment Test (FCAT) in order to receive a standard high school diploma. This waiver applies to a student with a disability, as defined in s. 1007.02(2), F.S., for whom the individual educational plan (IEP) committee determines that the FCAT cannot accurately measure the student's abilities, taking into consideration all allowable accommodations. The bill provides the criteria for the waiver to be granted. Students who have been awarded a special diploma or a certificate of completion are eligible to enroll in certificate career education programs. Students with disabilities may be eligible for reasonable substitution for admission, graduation, and upper-level division requirements of public postsecondary educational institutions, in accordance with the newly created provisions of law.

The rules of the community college boards of trustees must include admissions counseling for all students entering career credit programs and requires counseling to include the option of using tests to measure achievement of basic skills for career programs, as prescribed in s. 1004.91, F.S. Under the bill, the State Board of Education must:

- Adopt rules, including those for test accommodations and modifications of procedures, as needed for students with disabilities.
- Develop substitute admission requirements where appropriate.
- Conduct a review of the extent to which authorized acceleration mechanisms are currently used by school districts and public postsecondary educational institutions.
- Submit a report to the Governor and the Legislature by December 31, 2003.

These provisions became law upon approval by the Governor on April 24, 2003.
Vote: Senate 38-0; House 116-0

CS/SB 1838 — Instructional Materials

by Education Committee and Senator Aronberg

The bill requires publishers to provide and price adopted instructional materials on an individual basis in order for school districts to buy individual materials in core subject areas, rather than as a part of an adopted package or bundle.

The bill makes changes to the following deadlines: appointing members of the state instructional materials committees; advertising bids for instructional materials; receiving sealed bids by the Department of Education; notifying the department about the materials that will be used in the school district; and beginning the adoption term for instructional materials. Specified sections of the bill affect only new adoptions, beginning with the 2004-2005 adoption cycle.

Also, the bill deletes the existing purchase order schedule. District school boards may issue purchase orders subsequent to February 1 in an aggregate amount that does not exceed 90 percent of the current year's allocation. Districts are responsible for any amount of money that is committed in purchase orders in excess of the district's allocation for the next year.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 119-0

EXTRACURRICULAR ACTIVITIES

CS/SB 2156 — Florida High School Activities Association

by Education Committee and Senator Diaz de la Portilla

The bill amends ss. 1006.18 and 1006.20, F.S., relating to the Florida High School Activities Association. The bill renames the Association as the Florida High School Athletic Association and increases membership on the Board of Directors. Any entity appointing a member to the Board is required to examine the ethnic and demographic composition of the board when selecting a candidate and make appointments that reflect state demographic and population trends. Language relating to medical examinations of students prior to participation in athletic competition is clarified.

Statutory cross references relating to cheerleader safety standards are amended.

The bill repeals obsolete language relating to an examination and resultant report.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 109-5

OFFENSES BY PUBLIC SERVANTS

HB 847 — Offenses by Public Servants

by Rep. Goodlette and others (CS/SB 2030 by Ethics and Elections Committee and Senator Sebesta)

The bill rewrites and modifies criminal provisions governing offenses by public servants. It incorporates several recommendations embodied in the Public Corruption Study Commission's Report to the Governor (December 15, 1999).

Specifically, the bill amends definitions and increases a number of existing criminal penalties from a third-degree to a second-degree felony, and creates a number of new crimes for the following offenses: bribery; unlawful compensation; official misconduct; disclosure or use of confidential criminal justice information; and bid tampering in connection with public contracts.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 37-0; House 116-0

ELECTION VACANCIES

HB 1051 — Elections; Vacancies

by Rep. Goodlette and others (SB 2318 by Senator Lee)

The bill clarifies an ambiguity created by conflicting provisions in the State Constitution which currently provide that, upon a vacancy in the office of Lieutenant Governor, the Governor shall appoint a successor unless there are more than 28 months remaining in the term, in which case the appointee serves until the first Tuesday following the next general election (s. 1(f), Art. IV, State Constitution) and the provision which requires the Governor and Lieutenant Governor to run jointly (s. 5, Art. IV, State Constitution).

Specifically, the bill provides that upon a vacancy in the office of Lieutenant Governor, the Governor shall appoint a successor for the remainder of the term. If, following such appointment, a vacancy in the office of Governor should occur and there are more than 28 months left in that term of office, electors shall select a Governor and Lieutenant Governor at the next general election.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 26-12; House 115-2

CORPORATE INCOME TAX

HB 1839 – Corporate Income Tax

by Finance and Tax Committee and others (SB 1002 by Senator Campbell)

This bill updates the Florida Income Tax Code to reflect changes in the U.S. Internal Revenue Code enacted by Congress since January 1, 2002. This definition provides for "piggybacking" each change made during 2002 in the Internal Revenue Code.

This bill ensures current administration of the corporate income tax and provides that corporations that are subject to Florida corporate income tax can base their tax calculations on current IRS rules. Failure to pass this bill would result in increased bookkeeping burdens for these entities.

Since Florida's corporate income tax is based upon a taxpayer's income as calculated for federal tax purposes, this bill allows Florida to rely on the efforts of the IRS to ensure the accuracy of the starting point for determining tax liability. Passage of this bill helps keep down the cost of enforcing Florida's income tax law.

If approved by the Governor, these provisions take effect upon becoming law and operate retroactively to January 1, 2003.
Vote: Senate 40-0; House 113-0

GROSS RECEIPTS TAX

SB 1430 — Gross Receipts Tax/Manufactured Gas

by Senator Alexander

This bill provides an exemption for the sales of manufactured gas to a public or private utility for resale or for use as a fuel in the generation of electricity. Current law provides a similar exemption for sales of natural gas.

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

TAX ADMINISTRATION

CS/SB 1176 — Tax Administration

by Finance and Taxation Committee and Senator Campbell

The bill adopts numerous improvements to the administration and enforcement of Florida's revenue laws. Specifically, the bill does the following:

Communications Services Tax

- Specifies what the service address shall be in the case of third-number and calling-card calls.
- Provides an exemption for the sale of communications services to a home for the aged.
- Creates penalties for providers who improperly situs customers and fail to make corrections when customers are assigned to the incorrect local jurisdiction.
- Authorizes that the penalty for a communications services dealer failing to respond to a notice from the Department of Revenue or request an extension may be compromised pursuant to s. 213.21, F.S.
- Provides a mechanism for correcting possible errors in situsing of local communications services tax revenues.
- Requires that each person selling communications services in more than one jurisdiction within Florida assist the Department of Revenue by providing necessary data in an electronic format specified by the department. The bill imposes a penalty for failure to comply.

Fuel Taxes

- Inclusion of a definition of the new fuel "bio-diesel" and licensing requirements consistent with other fuels.
- Imposes a $5,000 penalty for retailers who refuse to provide required reports.
- Requires wholesalers or terminal suppliers who divert a load of Florida fuel to pay the Florida tax on the return and establish limits to the number of loads that may be diverted to Florida before an importer license is required.
- Imposes a flat $5,000 penalty for taxpayers required to file electronically but fail to do so.
- Changes the requirement for corporations from having to provide certified copies of corporate documents to simply providing the Department of Revenue with a statement that the corporation is in good standing with the Florida Department of State.

- Authorizes, by statute, the Department of Revenue to obtain fingerprints and personal data from persons applying for certain fuel licenses.

Unemployment Compensation Tax

- Provides that, for unemployment compensation tax purposes, a limited liability company will be treated the same as it is for federal income tax purposes.
- Provides that an employer may not be considered a successor under this section if the employer purchases a company with a lower rate into which employees with job functions unrelated to the business endeavors of the predecessor are transferred for the purpose of acquiring the low rate and avoiding payment of contributions.
- Authorizes the Department of Revenue to charge no more than 10 percent of the total cost of the interagency agreement for the overhead or indirect costs of providing unemployment compensation tax collections.

Other Tax Administration Issues

- Provides authority for the Department to require dealers to report rental car surcharge collections on a county-by-county basis in order to facilitate the allocation of surcharge revenues to each Department of Transportation district.
- Authorizes carriers to prorate the tax on their purchases of motor fuel and diesel fuel used in a railroad locomotive or vessel when the carrier has been in business for less than a year.
- Permits the Department of Revenue to allow a taxpayer with a perfect tax return filing record for at least 12 consecutive months to retain his or her collection allowance, under certain circumstances.
- Specifies that only one penalty of 10 percent, which may not be less than $50, shall be imposed for failure to timely file a sales and use tax return and to timely pay the tax shown due on the return.
- Permits the Department of Revenue to establish new tax brackets when necessary without requiring rulemaking when the Legislature changes a tax rate.
- For voluntary self-disclosure of tax liability, the bill changes the time period that the Department of Revenue may settle and compromise tax and interest due. The time period is changed from 5 years to 3 years immediately preceding the date the taxpayer contacted the Department of Revenue.
- Provides that failure to make an electronic funds transfer payment will be subject to the same prosecution as payment with a worthless check, bank draft, or debit card.

- Eliminates the requirement that the annual intangible tax return include language permitting a voluntary contribution of $5 for the Election Campaign Financing Trust Fund, because the trust fund expired November 4, 1996.
- Authorizes an affiliate group of corporations that created a service company with an affiliated group on July 30, 2002, to receive the salary credits for Insurance Premium Tax purposes.
- Repeals the restriction on the use of Local Government Infrastructure Surtax revenue to supplant or replace user fees or reduce ad valorem taxes.
- Repeals the repeal of the certified audits pilot project, making it permanent.
- Expands the sales and use tax exemption for building materials used in a designated brownfield area of affordable housing.
- Expands the use, by a charter county, of the Charter County Transit System Surtax to include planning, development, construction, operation and maintenance of, as well as the payment of principal and interest on bonds issued for, roads and bridges in the county and bus and fixed guideway systems.
- Provides that local governments that collect a municipal resort tax may participate in the RISE (Registration Information Sharing and Exchange) Program.
- Corrects an unintended consequence of last year's legislation by restoring the automatic renewal of lands classified as agricultural under s. 193.461, F.S., if the county waives the requirement for annual applications. It also declares that, for January 1, 2003, failure of a property owner to return the agricultural classification form or card in a county that waived the annual application process shall constitute an extenuating circumstance.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 37-0; House 107-0

PUBLIC EMPLOYEE BENEFITS AND RECOGNITION

CS/CS/SB 1006 — State Employee Health Insurance

by Appropriations Committee and Governmental Oversight and Productivity Committee

During the previous two interim periods, the Committee on Governmental Oversight and Productivity examined the financial and policy difficulties affecting the financial solvency of the health and prescription drug benefits provided state employees and their dependents. This act begins a process that will change both the nature of the benefits delivered and the means through which they are funded. The act authorizes the Department of Management Services, as the workplace benefit manager for state employees, to develop more than one indemnity plan within its preferred provider organization. The revised offering, if funded by the Legislature, could involve more than the two current tiers of coverage (individual and family) and provide choices that permit employees to select different exposure levels. In keeping with an agency consultant report received prior to the start of the Session, any revised offering would include the potential for greater cost participation by employees, a setting of premiums charged based upon fixed dollar amounts rather than percentages, the incorporation of specific age- and gender-based wellness programs now unavailable, and the incorporation of peer employer and market-based levels in assigning state reimbursement levels. A major provision of the bill is its change in the medium for the setting of benefit policy from the current practice of general law in the Florida Statutes to the annual appropriations process.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 114-2

CS/CS/SB 958 — Florida Retirement System

by Appropriations Committee and Governmental Oversight and Productivity Committee

Beginning with the 2003 fiscal year, the Legislature initiated a practice of passing annual bills to implement changes to the employer-paid payroll contribution rate structure of the multi-employer Florida Retirement System (FRS). Its defined benefit component assures an annuitized monthly income to retirees of state, education, and local government employers expressed as a percentage of final pay and thus requires annual adjustments in light of the underlying value of its assets and liabilities. The act represents the revised rates necessary to fund this pension plan in line with its actuarial cost parameters.

Generally, the act continues the use of the accrued pension surplus which stood at $12.9 billion as of June 30, 2002. While the effect of the rate adjustment is to nominally increase costs to the employers for FY 2004, when measured against the normal costs of the system the rates are

discounted more than 34 percent. The revised rates, when approved by the Governor, will be transmitted electronically to the member employers. As part of the rate adjustment, the payroll contribution rates charged to the Institute of Food and Agricultural Sciences at the University of Florida are amended to align its costs with its specific actuarial experience. Finally, the information and education expenses charged by the State Board of Administration for participants in the Public Employees' Optional Retirement Program (PEORP) are reduced by one-third following the completion of the full cycle of its initial implementation and open enrollment.

The bill contains a number of other provisions related to the use of the benefit features of the FRS. Foremost among these is the reassessment of existing retirement provisions for addressing the attrition of instructional personnel in the public school K-12 grades. The act allows instructional personnel retirees from the FRS to be reemployed without the nominal one-year suspension of benefits after the first 31 days of termination of employment. It also permits instructional personnel participating in the Deferred Retirement Option Program to enjoy participation for an additional three years, beyond the initial five years. That additional increment of participation would be voluntary on the employee's part and subject to the concurrence of the employer.

The 2002 Legislature gave university personnel participating in their own optional annuity program outside of the FRS the same distribution options as in PEORP. In addition to a monthly annuity, the revisions permitted a full or partial roll-over to a successor tax-qualified plan or a full cash distribution. These provisions are extended by the act to community college personnel who are similarly situated in their own optional plan. It also permits the employees to transfer their plan assets to PEORP in the same fashion as university personnel.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise provided.
Vote: Senate 38-0; House: 117-0

HB 1869 — Government Employment

by State Administration Committee and others (CS/SB 1528 by Governmental Oversight and Productivity Committee and Senator Wise)

This act places in general law provisions now contained in expiring appropriations act proviso language authorizing the development of a substantially changed state personnel infrastructure. Two acts of the legislature during the past two years significantly altered the methods and means of administrative services and personnel administration. The first of these, initially entitled *Service First,* changed the scope of civil service coverage while the second, *HR Outsourcing*, moved portions of the state agency administrative apparatus from direct to indirect administration. The effect of HB 1869 is to make the necessary nomenclature changes in the Florida Statutes to permit the changes to employee classification and pay to reflect the new

system and its revised labels as they appear throughout chapter 110 and other sections of the Florida Statutes. A central feature of the redeployed personnel infrastructure is the development of broad pay bands as the successor system to the narrow and department-specific classification actions undertaken by agencies.

The act also provides for the development of a negotiated procurement by the Department of Management Services for the examination of state agency service contracts.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 78-29

CS/SB 1992 — Medal of Heroism

by Governmental Oversight and Productivity Committee and Senators Argenziano, Crist, Miller, Fasano, and Atwater

This act creates an undesignated section of law that permits the Governor to award a Medal of Heroism to: (a) a law enforcement, correctional, or correctional probation officer; (b) a firefighter; (c) an emergency medical technician; or (d) a paramedic. In order to be eligible for the award, a person must have distinguished himself or herself conspicuously by gallantry and intrepidity; must have risked his or her life deliberately above and beyond the call of duty while performing duty in his or her respective position; and must have engaged in hazardous or perilous activities to preserve lives with the knowledge that such activities might result in great personal harm.

The act provides that a nomination for the medal must be made by written application to the Governor. The Governor may refer an application to any public or private entity for advice and recommendations regarding the application.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 117-0

HB 803 — Florida Jewish History Month

by Rep. Barreiro and others (SB 2412 by Senators Margolis, Klein, Geller, Wasserman Schultz, and Fasano)

This bill (Chapter 2003-7, L.O.F.) creates s. 683.195, F.S., to designate January of each year as "Florida Jewish History Month." Further, the bill provides that the Governor may annually issue a proclamation designating the month of January as "Florida Jewish History Month," and may call upon the citizens of the state to observe the occasion.

These provisions became law upon approval by the Governor on April 17, 2003.
Vote: Senate 39-0; House 114-0

OPEN GOVERNMENT SUNSET REVIEW

HB 1021 — Housing Assistance Program Public Records Exemption

by State Administration Committee and others (CS/SB 290 by Governmental Oversight and Productivity Committee)

This bill is the result of an Open Government Sunset Review of s. 119.07(3)(bb), F.S. That section makes medical history records, bank account numbers, credit card numbers, telephone numbers, and information related to health or property insurance furnished to an agency pursuant to a federal, state, or local housing assistance program confidential and exempt. The bill continues the exemption, with amendments to clarify and narrow it, based upon a review conducted pursuant to the requirements of s. 119.15, F.S. Specifically, the bill amends the section to:

- Identify the state agencies that implement housing assistance programs.
- Remove references to bank account and credit card numbers as the general exemption in s. 119.07(3)(bb), F.S., applies and is more comprehensive.
- Eliminate telephone numbers from the exemption as they are readily available from other sources and, in the case of victims of domestic violence, other statutes provide protection for telephone numbers, as well as addresses.
- Remove language regarding the source of the information, i.e., an "individual" who furnishes information to an agency.
- Delete a provision that states that any other information that is received is subject to open government requirements because that provision reiterates the current state of the law and, as drafted, is confusing and unnecessary.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 38-0; House 114-0

HB 1591 — Employee Assistance Programs

by State Administration Committee and others (SB 288 by Governmental Oversight and Productivity Committee)

The State of Florida, like many other public and private employers, operates programs to assist employees who cope with the effects of alcohol, substance abuse, and other behavioral problems. These employee assistance programs give affected employees the professional assistance they

need and the hope of returning to the workplace, without the stigmatizing fear of producing a public record that could chill their participation and worsen their condition.

This act reauthorizes such programs, as required by the Open Government Sunset Review Act of 1995, as operated by agencies of the State of Florida and maintains as confidential and exempt the personal identifying information of a participating employee. The exemption is also saved from further periodic review unless the records exemption is expanded.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 38-0; House 112-0

AGENCY MANAGEMENT AND ADMINISTRATIVE PRACTICES

HB 365 — Direct and Citizen Support Organizations

by Rep. Ross and others (CS/SB 1036 by Appropriations Committee and Senators Dockery, Lynn, Posey, Sebesta, Jones, Argenziano, Constantine, and Alexander)

The bill amends the audit requirements established in s. 215.981, F.S., for direct-support organizations (DSOs) and citizen support organizations (CSOs). Specifically, the bill establishes an annual expenditure threshold of more than $100,000 for non-educational DSOs and CSOs, excluding those of the Department of Environmental Protection, prior to requiring an annual financial audit of its accounts and records by an independent certified public accountant.

For those DSOs and CSOs of the Department of Environmental Protection, this bill establishes a $300,000 annual expenditure threshold before an independent audit is required. The department is required to establish accounting and financial management guidelines and conduct reviews of those with expenditures below the threshold.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 115-0

CS/SB 1374 — Administrative Procedures

by Governmental Oversight and Productivity Committee and Senator Peaden

This bill amends s. 120.551, F.S., which was enacted during the 2001 Legislative Session (Chapter 2001-278, L.O.F.) to authorize the Department of Environmental Protection (DEP) to establish a pilot project to determine the cost effectiveness of publishing administrative notices on the Internet, rather than in the Florida Administrative Weekly (FAW). This project began on December 31, 2001, and is scheduled to end under current law on July 1, 2003. A report, submitted by the DEP to the Legislature in January 2003, indicated that the project had been well

received by the public and had resulted in annually saving the DEP $32,100 in FAW publication line charges.

This bill extends the DEP's authority to publish administrative notices on the Internet and also provides that the Board of Trustees for the Internal Improvement Trust Fund, which is staffed by the DEP, may likewise publish administrative notices on the Internet. The bill requires that the Internet website be: (a) centralized; (b) established and maintained by the DEP; and (c) provided to the public without charge. Further, the website must allow the public to: (a) search for notices by type, publication date, program area, or rule number; (b) search a permanent database that archives all notices published on the website; and (c) subscribe to an automated e-mail notification of selected notice types. Notices published on the website must clearly state the date the notice was first published and may only be published on the same days as the FAW is published.

The authority for the DEP and the board to publish on the Internet is repealed on July 1, 2004, unless the Legislature reviews and reenacts s. 120.551, F.S., before that date.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 37-0; House 106-11

CS/CS/SB 1584 — Administrative Procedures

by Judiciary Committee; Governmental Oversight and Productivity Committee; and Senators Aronberg and Bullard

This bill amends numerous provisions of ch. 120, F.S., entitled the Administrative Procedure Act, relating to definitions, procedural and evidentiary matters, administrative and appellate review, unadopted rule challenges, licensing, and attorney's fees and costs awards.

Definitions: The bill amends ss. 120.52(8)(e) and 120.57(1)(e)1.d., F.S., to provide that a rule is "arbitrary" if it is not supported by logic or the necessary facts, and that a rule is "capricious" if it is "adopted without thought or reason or is irrational." These changes define the terms in a manner consistent with case law.

Procedural matters: The bill amends s. 120.54(5)(b)4., F.S., to provide that petitions for administrative hearings must include a statement explaining how the facts of a case relate to the rules or statutes alleged in the petition to require reversal or modification of an agency's proposed action.

The bill amends s. 120.569(2), F.S., to require an administrative law judge, when requested by any party, to enter an initial scheduling order that includes discovery and joint report deadlines.

The bill amends s. 120.57(1)(i), F.S., to require, rather than permit as is provided in current law, an administrative law judge to relinquish jurisdiction to an agency when it is determined by the administrative law judge that no genuine issue as to any material fact exists.

Finally, the bill amends s. 120.57(1)(k), F.S., to provide that an agency need not rule on exceptions to a recommended order if the exception does not: (1) clearly identify the disputed portion of the recommended order by page number or paragraph; (2) identify the legal basis for the exception; or (3) include appropriate and specific citations to the record.

Burdens of proof: The bill amends s. 120.56(1)(e), F.S., to specify that the standard of proof to be used in a rule challenge hearing is a preponderance of the evidence. Further, the bill provides in s. 120.56(3), F.S., that a petitioner, who challenges the validity of an existing rule, has the burden to prove by a preponderance of the evidence that the existing rule is an invalid exercise of delegated legislative authority.

Administrative and appellate review: The bill amends ss. 120.52(8)(f), 120.56(1)(e), and 120.57(1)(e)1., F.S., to provide that an administrative law judge's review of a petition challenging a proposed or existing rule is de novo, rather than "competent and substantial evidence," as is currently provided by case law. "Competent and substantial evidence" remains the appellate court's standard of review, under the bill, for appeals of administrative final orders in rule challenges. Further, the bill clarifies in s. 120.68, F.S., that an agency's findings of immediate danger, necessity, and procedural fairness in justification of an emergency rule are subject to appellate review. This clarification is repetitive of existing s. 120.54(4)(a)3., F.S.

Unadopted rule challenges: The bill amends s. 120.56(4)(e), F.S., to create new time frames and legal impacts for agency responses in challenges alleging that an agency statement is an unadopted rule. Under the bill, if an agency, prior to the final hearing on the unadopted rule challenge, publishes: (1) a notice of rule development, then a stay of the proceedings may be granted for 30 days during which time the agency may publish proposed rules; or (2) a proposed rule addressing the statement, then a presumption is created that the agency is acting expeditiously and in good faith to adopt rules and the agency may rely on the statement as a basis for agency action. Further, the bill clarifies in s. 120.56(4)(e)5., F.S., that an agency may not continue to rely on a statement underlying an unadopted rule challenge when the statement has been found to be an invalid exercise of delegated legislative authority pursuant to s. 120.52(8), F.S.

Licensing: The bill amends s. 120.60, F.S., to provide that if an agency fails to approve or deny a license within the time frame specified in the section that the application is "considered approved" and the license must be issued, unless a recommended order recommends denial of the license. Further, if an examination is a prerequisite to licensure, the bill provides that issuance of the license is subject to satisfactory completion of that examination.

Attorney's fee awards: The bill amends s. 120.595(1), F.S., which requires an award of costs and attorney's fees where a non-prevailing party has participated in a s. 120.57(1), F.S., proceeding for an "improper purpose." The definition of this term is expanded by the bill to include needlessly increasing the cost of litigation. The bill also eliminates the subsection's reference to s. 120.569(2)(e), F.S., in defining "improper purpose," so that filing pleadings for an improper purpose is not a condition precedent to an award of attorney's fees under the section.

Further, the bill amends ss. 120.595(6) and 57.105(5), F.S., to provide that attorney's fee awards available pursuant to s. 57.105, F.S., for frivolous actions apply in administrative proceedings. Case law currently holds that such attorney's fee awards are only applicable to judicial proceedings.

Finally, the bill amends s. 57.111, F.S., to increase the attorney's fee awards available under the section in judicial and administrative proceedings to prevailing small business parties in state initiated actions from a maximum of $15,000 to a maximum of $50,000.

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

HB 1609 — State Planning and Budgeting

by Rep. Quinones and others (SB 1808 by Senator Posey)

This act requires each agency of the executive branch and the judicial branch to provide an annual one-page summary of its preceding budget year's financial data. Among the additional data reporting elements are total funds appropriated from all sources, performance incentives and disincentives, and expenditures and costs aggregated by unit cost as well as activity level. The submission date is changed to be identical with that established in the annual budget instructions.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 116-0

HB 315 — Florida Institute of Human and Machine Cognition

by Rep. Benson and others (CS/CS/CS/SB 2328 by Finance and Taxation Committee; Comprehensive Planning Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Saunders, Miller, and Siplin)

The Institute of Human and Machine Cognition (Institute) is currently an interdisciplinary research unit of the University of West Florida (UWF). The Institute investigates a broad range of topics related to understanding cognition in both humans and machines, with an emphasis on building computational tools to leverage and amplify human cognitive and perceptual capacities. The Institute, which currently has a staff of over 100 people, was established in 1990 as an interdisciplinary research unit of the UWF. While it was originally housed on the campus of

UWF, it is now located primarily in downtown Pensacola, Florida in two leased buildings (one of which is owned by UWF, and one of which is owned by a private party). It also has a small office at NASA ARC in Mountain View, California, which is operated on leased property. Furnishings, equipment, and other personal property used in the operation of the Institute are generally owned by UWF. The Institute currently receives annual funding from the state.

The bill establishes the Florida Institute of Human and Machine Cognition in law as a not-for-profit corporation. The Institute is designated as an instrumentality of the state for purposes of sovereign immunity, but it is not an agency as that term is defined in s. 20.03(11), F.S. The Institute is subject to open meetings and records requirements.

The affairs of the Institute are managed by a board of directors who serve without compensation. The board consists of the chair of the Board of Governors, the chair of the Board of Trustees of the UWF, the President of the UWF, three state university representatives, and nine public representatives. The board is required to employ a chief executive officer to administer the affairs of the Institute.

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

PUBLIC RECORDS/CONFIDENTIALITY

CS/SB 192 — Public Library Records

by Governmental Oversight and Productivity Committee and Senator Lynn

Section 257.261, F.S., makes library registration records and circulation records confidential and exempt from the requirements of s. 24, Art. I, State Constitution, except in accordance with a proper judicial order. That section defines "library registration records" to mean "…any information that a library requires a patron to provide in order to become eligible to borrow books and other materials…." Section 257.261, F.S., defines "circulation records" to include "…all information that identifies the patrons who borrow particular books and other materials."

Statistical reports of registration and circulation are expressly excluded from the exemption.

Under the exemption, library registration records and circulation records may be made available to any business, municipal or county law enforcement officials, or to judicial officials for the purpose of "…recovering overdue books, documents, films, or other items or materials owned or otherwise belonging to the library." Further, those officials are permitted access to the records for the purpose of "…collecting fines or overdue books, documents, films, or other items of materials." If a patron is under the age of 16, confidential information can be released "…relating to the minor's parent or guardian." According to the Department of State (DOS),

s. 257.261, F.S., is interpreted differently among local communities. The DOS states that currently some libraries allow parental access to their children's records and some prohibit this access.

The committee substitute maintains exceptions to the exemption, but revises the statutory language in order to clarify the exceptions. Further, subsections and paragraphs are added to the section, like-concepts are grouped together, redundant provisions are removed, and extraneous words are eliminated.

The committee substitute clarifies that a parent or guardian of a child under the age of 16 can be granted access to that child's registration or circulation records for the purpose of recovering overdue books or collecting fines. The committee substitute does not, however, grant a parent or guardian access to his or her child's library records for the purpose of monitoring or discovering what books that child checks out at the library. The committee substitute also clarifies that a patron may have access to his or her exempt information.

The committee substitute does not expand the exemption to public records requirements and, therefore, does not create a new exemption.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 115-1

ELDERLY SERVICES

CS/SB 642 — Elderly Services

by Appropriations Committee and Senator Fasano

This bill removes the Director of the Office of Long-Term Care Policy from the office's advisory council and provides that the council must elect a chair from among its membership to serve for a one-year term. The chair may not serve more than two consecutive terms.

This bill authorizes the Office of Volunteer Community Service to provide direct payment of lodging and transportation expenses to a volunteer or a vendor on behalf of a volunteer.

This bill provides guidelines for prioritizing services under the Community Care for the Elderly program that include the recipient's frailty level, risk of institutional placement, and their ability to pay for services. Should there be a need for further prioritization, a factor that must be considered is the potential recipient's ability to pay. Those who are less able to pay must receive a higher priority than those who are better able to pay.

This bill allows the Office of State Long-Term Care Ombudsman to collocate with the office of the Department of Elderly Affairs.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise provided.
Vote: Senate 40-0; House 117-0

MEDICAID

CS/CS/SB 1428 — Medicaid Audits of Pharmacies

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senator Peaden

The bill establishes requirements for audits of the Medicaid-related records of a pharmacy licensed in Florida. The audit must be conducted according to the following requirements:

- The pharmacist must be given at least one week's prior notice of the audit.
- Audits must be conducted by a Florida licensed pharmacist.

- Clerical, recordkeeping, or computer errors regarding records required by Medicaid must not be considered a willful violation and such errors must not be subject to criminal penalties without proof of intent to commit fraud.
- A pharmacist is permitted to use documentation written or transmitted by any means of communication for purposes of validating records with respect to orders or refills of a legend or narcotic drug.
- Findings of overpayment or underpayment must be based on actual overpayment or underpayment, not on projections based on the number of patients with a similar diagnosis or the number of similar orders or refills for similar drugs.
- All types of pharmacies must be audited under the same standards and parameters.
- A pharmacist must be allowed at least 10 days to produce documentation to address any discrepancy found during an audit.
- The period covered by an audit may not exceed one calendar year.
- An audit may not be scheduled during the first five days of any month.
- The audit report must be delivered to the pharmacist within 90 days after conclusion of the audit.

The Agency for Health Care Administration must establish a process for a preliminary review and appeal of an audit report. A final audit report shall be delivered to the pharmacist within six months after receipt of the preliminary audit report or final appeal, whichever is later. Investigative audits conducted by the Medicaid Fraud Control Unit of the Department of Legal Affairs are excluded from these requirements.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 119-0

CS/SB 2322 — Medically Needy Program

by Appropriations Committee and Senators Peaden, King, Alexander, Argenziano, Aronberg, Atwater, Bennett, Bullard, Campbell, Carlton, Clary, Constantine, Cowin, Crist, Dawson, Diaz de la Portilla, Dockery, Fasano, Garcia, Geller, Haridopolos, Hill, Jones, Klein, Lawson, Lee, Lynn, Margolis, Miller, Posey, Pruitt, Saunders, Sebesta, Siplin, Smith, Villalobos, Wasserman Schultz, Webster, Wilson, and Wise

This bill (Chapter 2003-9, L.O.F.) postpones the date for the implementation of a $270 income deductible for individuals enrolled in the Medicaid Medically Needy program from May 1, 2003 to July 1, 2003. The non-recurring sums of $8,265,777 from the General Revenue Fund, $2,505,224 from the Grants and Donations Trust Fund, and $11,727,287 from the Medical Care

Trust Fund were appropriated to the Agency for Health Care Administration to implement this provision during the 2002-2003 fiscal year.

This provision was approved by the Governor and took effect May 1, 2003.
Vote: Senate 40-0; House 118-0

CS/SB 2568 (Section 26) — Services to Persons who are Disabled, Vulnerable, or Elderly

by Children and Families Committee and Senator Lynn

Please refer to the Regulation of Health Care Facilities part in this section, as well as the Children and Families Committee section, for further discussion of this bill.

This section requires the Agency for Health Care Administration and the Department of Elderly Affairs to seek federal approval to implement a Medicaid home and community-based waiver targeted to people with Alzheimer's disease. The waiver will be used to test the effectiveness of Alzheimer's specific interventions in delaying or avoiding institutional placement of individuals with Alzheimer's disease.

This section provides that the agency and the department shall ensure that providers are selected that have a history of successfully serving persons with Alzheimer's disease, and that specialized standards for providers and services tailored to persons in the early, middle, and late stages of Alzheimer's disease are developed.

During the waiver design process, the agency and the department must consult with the President of the Senate and the Speaker of the House of Representatives. Waiver authority ends at the end of the 2008 Regular Session of the Legislature.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

PHARMACY/PRESCRIPTION DRUGS

CS/SB 320 — Medicaid/Wholesale Drug Prices

by Health, Aging, and Long-Term Care Committee and Senators Aronberg and Crist

This bill requires the Agency for Health Care Administration to publish on a free web site, available to the public, the most recent average wholesale price for the 200 drugs most frequently dispensed to the elderly, and to the extent possible, provide a mechanism that consumers may use to calculate the retail price that should be paid after the discount required under the Medicare

prescription discount program is applied. The bill also requires the Agency for Health Care Administration to submit a report to the Legislature by January 1, 2004, regarding the cost-effectiveness of and alternatives to the use of average wholesale price in the pricing of pharmaceutical products purchased by the Medicaid program.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 111-0

CS/SB 2084 — Drug Prescriptions

by Health, Aging, and Long-Term Care Committee and Senator Wasserman Schultz

The bill requires a written prescription for a medicinal drug issued by a health care practitioner licensed by law to prescribe such drug to be legibly printed or typed so as to be capable of being understood by the pharmacist filling the prescription. The prescription must also contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity in both textual and numerical formats, and directions for use. The prescription must be dated with the month written out in textual letters and signed by the prescribing practitioner on the day when issued.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 113-1

CS/CS/SB 2312 — Prescription Drug Protection Act

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senators Peaden and Campbell

The bill revises the Florida Drug and Cosmetic Act to impose more stringent regulations on prescription drug wholesalers. The list of prohibited acts relating to drugs, devices, and cosmetics is expanded to include additional prohibitions relating to prescription drugs. The bill creates criminal offenses relating to illicit activities involving diversion from the wholesale distribution of prescription drugs. Effective January 1, 2004, the permitting requirements for drug wholesalers are overhauled to require extensive information upon application for a permit, including a criminal history background check, and to require that permits expire annually rather than biennially.

Reciprocity for out-of-state drug wholesalers who are already licensed in another jurisdiction is eliminated and such establishments must seek a Florida permit. The bill distinguishes “primary drug wholesalers” from “secondary drug wholesalers.” The bill specifies factors that the Department of Health must consider in reviewing the qualifications of persons seeking a permit to engage in prescription drug wholesale activities in Florida. The department is authorized to adopt rules for the annual renewal of permits for prescription drug wholesalers.

The recordkeeping requirements for prescription drug wholesalers are revised for a wholesaler that is an authorized distributor of record (ADR) of a drug manufacturer. Each person who is engaged in wholesale drug distribution and who is not an ADR must provide to each wholesale drug distributor of such drug, before the sale is made, a written statement under oath *identifying each previous sale of the drug back to the last ADR*, the lot number of the drug, and the sales invoice number of the invoice evidencing the sale of the drug. The written statement must accompany the drug to the next wholesale drug distributor and *no longer needs to identify all sales of such drug* in the "pedigree papers." Effective March 1, 2004, an ongoing relationship is defined to exist between a manufacturer and a wholesaler when:

- The wholesaler is on the manufacturer's list of ADRs.
  or
- The wholesaler buys at least 90 percent of all of the manufacturer's products handled by the wholesaler directly from the manufacturer and has total annual prescription drug sales of $100 million or more.
  or
- The wholesaler has a verified account issued to the wholesaler by the manufacturer and makes twelve purchases from the manufacturer using the account and the wholesaler has more than $100 million in total annual prescription drug sales. The bill limits the definition of an authorized distributor to those wholesalers who have a verified account with a manufacturer, if the manufacturer fails to provide the department with a list of authorized distributors. The requirement for an ongoing relationship expires July 1, 2006.

Until July 1, 2006 wholesale prescription drug distributors of "specified drugs" must identify sales as required by the bill.

Each person who is engaged in the wholesale distribution of a "specified drug" (high-risk prescription drug) must provide to each wholesale drug distributor of such drug, before any sale of such high-risk drug is made to such wholesale distributor, a written statement under oath identifying each previous sale of the specified drug back to the manufacturer, the lot number of the high-risk prescription drug, and the sales invoice number of the invoice evidencing each previous sale of the high-risk prescription drug. The written statement must accompany the high-risk prescription drug at each subsequent wholesale distribution to a wholesale distributor. "High-risk prescription drug" is a specific drug on the list of drugs adopted by the department by rule, each of which is a specific drug seized by the department on at least five separate occasions because such drug was adulterated, counterfeited, or diverted from legal prescription drug distribution channels and the department has begun an administrative action to revoke the permits of two or more wholesale distributors that engaged in the illegal distribution of that specific drug.

Each wholesale distributor must annually provide the department with a written list of all prescription drug wholesalers and out-of-state prescription drug wholesalers from whom the

wholesale distributor purchases drugs. The term "authorized distributor of record" is revised to mean those distributors with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's products, without regard to whether the wholesale distributor acquired the products directly from the manufacturer. A wholesale distributor may not pay for any drug with cash.

The bill creates an 11-member Drug Wholesaler Advisory Council within the Department of Health. The council must annually review rules adopted to enforce the Florida Drug and Cosmetic Act, provide input to the department, and make recommendations regarding all proposed rules and matters to improve coordination with other state regulatory agencies and the Federal government.

The bill increases the statutory fee caps: for a prescription drug manufacturer's permit from $600 to $750 annually; for a prescription drug wholesaler's permit from $400 to $800 annually; and for an out-of-state prescription drug wholesaler's permit no less than $300 (previously $200) and no greater than $800 (previously $300) annually.

The Department of Health is authorized to inspect and copy financial documents or records related to the distribution of a drug in order to determine compliance with the Florida Drug and Cosmetic Act. A new cease and desist enforcement remedy is established, and the bill authorizes procedures for the department to issue an order to remove key personnel of a prescription drug wholesaler if she or he is engaged in specified prohibited acts.

The enforcement authority of the Statewide Grand Jury and the Office of the Statewide Prosecutor is expanded to investigate and prosecute criminal violations of the Florida Drug and Cosmetic Act. The criminal offenses relating to violations of the act which involve contraband or adulterated drugs may be prosecuted as racketeering. The Criminal Punishment Code is revised to include certain violations under the Florida Drug and Cosmetic Act.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise expressly provided.
Vote: Senate 39-0; House 118-0

HB 207 — Pharmacy

by Rep. Mealor and others (SB 2670 by Senator Campbell)

The bill requires the Board of Pharmacy to adopt rules to establish practice guidelines for pharmacies to follow in disposing of records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs. Such rules must be consistent with the duty to preserve the confidentiality of such records in accordance with applicable state and federal law.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 105-0

PUBLIC HEALTH

SB 530 — Nick Oelrich Gift of Life Act

by Senator Smith

The bill creates the "Nick Oelrich Gift of Life Act" in honor of Alachua County Sheriff Stephen M. Oelrich's deceased son. The bill amends ch. 765, F.S., to revise procedures relating to anatomical gifts. Amendments to s. 765.512, F.S., prohibit a family member, guardian, representative ad litem, or health care surrogate of an adult donor from modifying "a decedent's wishes" or denying or preventing an anatomical gift from being made. In the absence of contrary indications by the decedent, the organ donation document would be a legally sufficient document of informed consent and would be legally binding. The bill adds an authorization for informational requests concerning the decedent's medical and social history to be directed to the decedent's family member or medical provider, or to third parties when a decedent's body or part thereof is donated.

The bill amends s. 765.516, F.S., relating to the ways to revoke or amend an anatomical gift. A donor may no longer amend or revoke an anatomical gift by making an oral statement to his or her spouse. Additionally, of the two persons to whom an oral amendment or revocation can be made regarding an anatomical gift, one must not be a family member. The bill also deletes the acceptability of a signed amendment or revocation found in the donor's effects versus on or about a person's body.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 91-24

CS/SB 2078 — Medical Practice/Temporary Certificates

by Health, Aging, and Long-Term Care Committee and Senator Villalobos

The bill authorizes issuance of a temporary certificate to practice medicine to visiting physicians who meet certain requirements, for educational purposes to help teach plastic surgery residents of a Florida medical school in conjunction with a nationally sponsored educational symposium. The certificate is valid for no more than 3 days per year and the certificate expires one year after issuance. The Department of Health may not issue more than six temporary certificates per calendar year under this provision. The physician must meet requirements specified in the bill to get the temporary certificate, including specified financial responsibility requirements for

malpractice. A physician applying for the temporary certificate is exempt from the practitioner profiling requirements, but all other regulatory provisions under chs. 456 and 458, F.S., apply.

If a physician is a graduate of a foreign medical school and holds a valid and unencumbered license to practice medicine in another country but is not licensed to practice medicine in another state within the United States, the educational symposium must pay for any medical judgments incurred by that physician by obtaining a surety bond, letter of credit, or certificate of deposit in an amount not less than $250,000.

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

SB 2082 — Saboor Grieving Parents Act

by Senators Webster, Cowin, and Campbell

This bill may be cited as the "Stephanie Saboor Grieving Parents Act." The bill creates s. 383.33625, F.S., to require a physician licensed under ch. 458 or ch. 459, F.S., a nurse licensed under ch. 464, F.S., or a midwife licensed under ch. 467, F.S., who has custody of fetal remains following a spontaneous fetal demise, i.e., a miscarriage, after a gestation period of less than 20 weeks to notify the mother of her option to arrange for the burial or cremation of the fetal remains as well as the procedures provided by general law. Notification may also include other options, such as a ceremony, a certificate, or common burial of the fetal remains.

The Department of Health must adopt rules for the development of forms to be used by the health care practitioner for notification and election. The forms must be provided to the mother by the health care practitioner.

A birth center licensed under ch. 383, F.S., or a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S., having custody of fetal remains following a spontaneous fetal demise after a gestation period of less than 20 weeks must notify the mother of her option to arrange for the burial or cremation of the fetal remains as well as the procedures provided by general law. Notification may also include other options, such as a ceremony, a certificate, or common burial of the fetal remains.

The Agency for Health Care Administration must adopt rules for the development of forms to be used by the facility for notifications and elections, and the hospital must provide the forms to the mother.

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

CS/SB 2348 — Advisory Council for a Fit Florida

by Health, Aging, and Long-Term Care Committee and Senator Pruitt

The bill creates the Advisory Council for a Fit Florida consisting of ten members. The council must advise the Governor, the Legislature, and the direct support organization of the Office of Tourism, Trade, and Economic Development and provide expertise relating to physical fitness and nutrition in the state. The council must submit to the Governor, the Legislature, the Office of Tourism, Trade, and Economic Development, and the direct support organization an annual report that includes recommendations for the furtherance of the physical fitness of Florida residents. Provisions creating the council stand repealed on July 1, 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

HB 457 — Indigent Care and Trauma Center Tax

by Rep. Culp and others (CS/SB 2148 by Health, Aging, and Long-Term Care Committee and Senator Sebesta)

The bill continues the authorization for qualifying counties under s. 212.055(4), F. S., to impose and collect an indigent care and trauma center surtax by repealing the scheduled October 1, 2005 repeal of this subsection. The clerk of the circuit court, as an ex officio custodian of the funds of the authorizing county, must prepare on a biennial basis an audit of the indigent care trust fund. Commencing February 1, 2004, the audit must be delivered to the governing body and to the chair of the legislative delegation of each authorizing county.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-1

HB 953 — Weight-Loss Pills

by Rep. Roberson and others (CS/CS/SB 1626 by Criminal Justice Committee; Health, Aging, and Long-Term Care Committee; and Senators Margolis, Dawson, Bullard, Posey, Fasano, Miller, Garcia, Campbell, Peaden, Hill, and Klein)

The bill makes it unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, a weight-loss pill to a person under 18 years of age. The bill defines “weight-loss pill” to mean a pill that is available without a prescription, the marketing, advertising, or packaging of which indicates that its primary purpose is for facilitating or causing weight loss. The term includes, but is not limited to, a pill that contains at least one of the following ingredients: ephedra species; ephedrine alkaloid containing dietary supplements; or Sida cordifelia. However, the term does not include a pill containing one or more of such ingredients which is marketed or intended for a primary purpose other than weight loss.

It is a defense to a charge of violating this prohibition if the buyer or recipient displays valid identification that indicated that the buyer or recipient was 18 years of age or older and the appearance of the buyer or recipient was such that a prudent person would reasonably believe that the buyer or recipient was not under 18 years of age.

A first violation of the offense created in the bill is punishable by a fine of $100; a second violation is punishable by a fine of $250; a third violation is punishable by a fine of $500; and a fourth or subsequent violation is punishable by a fine as determined by the Department of Agriculture and Consumer Services, not to exceed $1,000.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 111-4

REGULATION OF HEALTH CARE FACILITIES

CS/SB 56 — Certificate-of-Need Exemption/Open-Heart Surgery

by Health, Aging, and Long-Term Care Committee and Senator Wise

This bill amends s. 408.036, F.S., to create an exemption for an adult open-heart-surgery program to be located in a new hospital that is being established in the location of an existing hospital when the existing hospital and existing adult open-heart-surgery program are being relocated to a replacement hospital that will use a closed-staff model. The Agency for Health Care Administration (AHCA) may grant the exemption provided the applicant:

- Meets and maintains current requirements of Florida rules, any future licensing requirements governing adult open-heart surgery adopted by AHCA, and the most current guidelines of the American College of Cardiology and American Heart Association Guidelines for Adult Open Heart Programs.
- Certifies that it will maintain the appropriate equipment and personnel.
- Certifies that it will maintain appropriate times of operation and protocols to ensure appropriate referrals.
- Is a newly licensed hospital in a physical location previously owned and licensed to a hospital that performed more than 300 open-heart surgeries per year, including heart transplants.
- Certifies that it can perform more than 300 diagnostic cardiac catheterization procedures per year, combined inpatient and outpatient, by the end of its third year of operation.
- Has a payor mix that reflects the community average for Medicaid, charity care, and self-pay patients or certifies that it will provide a minimum of 5 percent Medicaid, charity care, and self-pay services to open-heart-surgery patients.

If the applicant fails to meet these criteria or fails to reach 300 surgeries per year by the end of its third year of operation, the applicant must show cause why its exemption should not be revoked.

The bill provides that the applicant of the newly licensed hospital may apply for the certificate of need before taking possession of the facility, and the effective date of the certificate of need will be concurrent with the effective date of the newly issued hospital license.

AHCA must report to the Legislature by December 31, 2004, and annually thereafter concerning the number of requests for exemptions granted or denied.

The provision is repealed January 1, 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-1; House 97-21

CS/CS/SB 250 — Rural Hospitals

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senators Peaden, Jones, Klein, Saunders, Fasano, and Argenziano

The bill changes the definition of rural hospital to provide that a hospital that received funding under the Medicaid disproportionate share/financial assistance program for rural hospitals prior to July 1, 2002, is deemed to have been a rural hospital and will continue to be a rural hospital through June 30, 2012, as long as the hospital continues to meet certain criteria. An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria established in the bill may apply to the Agency for Health Care Administration for that designation.

The bill permits a rural hospital, or a not-for-profit operator of a rural hospital, to construct a new hospital located in a county with a population of at least 15,000 but no more than 18,000 and a density of less than 30 persons per square mile, or a replacement facility, without obtaining a certificate of need, provided certain conditions are met.

The bill expands the definition of the term "infant delivered," for the purpose of payment of an initial assessment for each infant delivered in a hospital, to finance the Florida Birth-Related Neurological Injury Compensation Plan to exclude infants born in a teaching hospital that have been deemed by the Florida Birth-Related Neurological Injury Compensation Association as being exempt from assessments since fiscal year 1997 to fiscal year 2001.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 37-0; House 112-0

CS/CS/SB 296 — Retirement Communities

by Banking and Insurance Committee; Health, Aging, and Long-Term Care Committee; and Senators Saunders, Lynn, Atwater, and Crist

The bill specifies that a nursing home that is part of a Continuing Care Retirement Community (CCRC) that is accredited by a recognized accrediting organization and that meets the minimum liquid reserve requirements established by the Office of Insurance Regulation satisfies the financial criteria for the Gold Seal Program, as long as the accreditation is not provisional. The Governor's Panel on Excellence in Long-term Care, in conjunction with the Agency for Health Care Administration, administers the award program, known as the Gold Seal Program, which recognizes nursing facilities that demonstrate excellence in long-term care over a sustained period of time.

The bill revises nursing home staffing standards to permit a nursing home that has a standard license or is a Gold Seal facility, exceeds minimum staffing requirements, and is a part of a CCRC or retirement community to share programming and staff with their assisted living, home health, and adult day care services. The bill establishes additional criteria for the sharing of staff and authorizes the Agency for Health Care Administration to adopt rules for documentation necessary to determine compliance with staffing requirements.

The bill modifies requirements for residents' organizations in CCRCs and selection of a resident representative before the provider's governing body to specify the methods of election of representatives, requirements for notice to residents, minimum levels of participation, and the duration of the term of election, and requires that there shall be only one resident's organization which represents the residents before the governing body of a provider.

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

CS/SB 460 — Certificate-of-Need/Heart Surgery

by Health, Aging, and Long-Term Care Committee and Senators Pruitt and Klein

This bill amends s. 408.036, F.S., to authorize an exemption from certificate-of-need (CON) review for adult open-heart-surgery services in a hospital in Palm Beach, Polk, Martin, St. Lucie, and Indian River Counties. A hospital that meets the following criteria will be exempt from CON review for the establishment of an adult open-heart-surgery program:

- The hospital must certify that it will meet and continuously maintain the minimum licensure requirements adopted by the Agency for Health Care Administration for adult open-heart-surgery programs and the most current guidelines of the American College of Cardiology and the American Heart Association.

- The hospital must certify that it will maintain sufficient appropriate equipment and health personnel to ensure quality and safety.
- The hospital must certify that it will maintain appropriate times of operation and protocols to ensure availability and appropriate referrals in the event of emergencies.
- The hospital must demonstrate that it is referring 300 or more patients per year away from the hospital for cardiac services at a hospital with cardiac services, or that the average wait for transfer for 50 percent or more of the cardiac patients exceeds 4 hours.
- The hospital is a general acute care hospital that is in operation for three years or more.
- The hospital performs more than 300 diagnostic cardiac catheterization procedures per year (combined inpatient and outpatient).
- The hospital's payor mix, at a minimum, reflects the community average for Medicaid, charity care, and self-pay patients, or the facility must certify that it will provide a minimum of 5 percent of Medicaid, charity care, and self-pay to open-heart-surgery patients.
- If the hospital fails to meet the established criteria for open-heart programs or fails to perform 300 surgeries per year by the end of its third year of operation, it must show cause why its exemption should not be revoked.

By December 31, 2004, the Agency for Health Care Administration must report to the Legislature the number of requests for exemptions received under the provisions of this bill and the number granted or denied.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-6; House 72-38

SB 1568 — Acute Care Hospitals in High Growth Counties

by Senator Jones

This bill authorizes certain acute care hospitals in high growth counties to add up to 180 additional beds without certificate-of-need review by the Agency for Health Care Administration (Agency). A project authorized under the bill would not be subject to challenge under s. 408.039, F.S., or ch. 120, F.S., and the beds authorized would be excluded from the Agency inventory used to calculate future need for additional acute care beds.

To be eligible for this special provision created under s. 408.043, F.S., a hospital must be the sole acute care hospital in the county and be the only acute care hospital within a 10-mile radius of another hospital. A high growth county is one that has experienced at least a 60 percent growth rate for the most recent 10-year period for which data are available as determined by using the

most recent edition of the Florida Statistical Abstract. The hospital must provide written notice to the Agency that it qualifies under the subsection prior to the addition of the beds.

Four counties — Collier, Flagler, Sumter, and Wakulla — experienced a greater than 60 percent increase in population during the decade 1991-2001. Two of the four high-growth counties have a hospital with no other hospital within 10 miles of the eligible hospital. The two hospitals that currently would qualify for the bed addition allowable under the provisions of the bill are a 60-bed facility located in Sumter County, and an 81-bed facility located in Flagler County. In future years, other hospitals in high growth counties that met the criteria provided in the bill could add beds under this special provision.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 27-12; House 76-37

CS/SB 1582 — Blood Establishments

by Health, Aging, and Long-Term Care Committee and Senator Saunders

This bill defines blood establishment to be any person, entity, or organization operating in Florida that examines an individual for the purpose of blood donation; or that collects, processes, stores, tests, or distributes blood or blood components from the human body for the purpose of transfusion, for any other medical purpose, or for the production of any biological product. The bill prohibits any entity in Florida from conducting such activities unless it is operated in a manner consistent with the provisions of parts 211 and 600-640 of Title 21, C.F.R., which provide authority for the Food and Drug Administration's oversight of the nation's blood supply.

A blood establishment that operates in a manner that is not in accordance with those federal regulations and that constitutes a danger to the health or well-being of blood donors or recipients, as evidenced by the federal Food and Drug Administration's inspection process and the revocation of the blood establishment's license or registration, must cease all operation in Florida. The bill gives the Agency for Health Care Administration or any state attorney the power to enjoin such an entity from operating in the state of Florida.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 115-0

CS/SB 2036 — Uniform Commercial Code/Blood

by Health, Aging, and Long-Term Care Committee and Senator Smith

This bill amends s. 672.316(5), F.S., which specifies that the procurement, processing, transfusion, storage, distribution, and use of whole blood, plasma, blood products, and blood derivatives for the purpose of injecting or transfusing the same, or any of them, into the human body for any purpose is the rendering of a service. The bill expands the exclusion of these

activities from the implied warranties of merchantability and fitness for a particular purpose by removing the current limitation which states that the exclusion applies to a defect that cannot be detected or removed by a reasonable use of scientific procedures or techniques. With this change, the described warranties would be inapplicable to any defect in blood or a blood product.

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

CS/SB 2568 (Sections 18-25 and 27-33) — Services to Persons who are Disabled, Vulnerable, or Elderly

by Children and Families Committee and Senator Lynn

Please refer to the Medicaid part in this section, as well as the Children and Families Committee section, for further discussion of this bill.

The bill revises numerous sections in ch. 400, F.S., relating to the regulation of health care facilities, as follows:

- Requires nursing homes to provide proof of legal right to occupy the property as part of an application for licensure or change of ownership. Proof may include leases, deeds, or other legal documentation.
- Provides that grounds for denial, revocation, or suspension of an assisted living facility license include specified deficiencies cited on a single survey and not corrected within the time specified, instead of deficiencies that are similar to violations within the past two years.
- Eliminates the requirement that the Agency for Health Care Administration (Agency) send renewal notices by certified mail to assisted living facilities and adult family care homes and requires that the notice be sent electronically or by mail delivery. Similarly, the Department of Elderly Affairs will no longer be required to send renewal notices to adult day care centers by certified mail but may send them electronically or by mail delivery.
- Requires the Agency to impose administrative fines in the manner provided in ch. 120, F.S., for cited deficiencies in assisted living facilities.
- Allows federal civil monetary penalty revenues to be deposited in the Quality of Long-Term Care Facility Improvement Trust Fund and expands the programs that can be supported through the fund to include addressing areas of deficient practice identified through regulation or state monitoring, evaluation of special resident needs, initiatives authorized by the federal Centers for Medicare and Medicaid Services, and projects recommended through the Medicaid Up-or-Out demonstration program.

- Provides flexibility in staffing standards for a nursing home that does not have a conditional license by permitting it to staff below the minimum for one day as long as the staffing does not fall below 97 percent of the standards on any one day.
- Permits a nursing home seeking to be designated as a Gold Seal Program facility to provide evidence of financial soundness by the use of financial statements that are reviewed or audited by a certified public accountant.
- Requires the Department of Elderly Affairs to ensure that assisted living facility administrators and staff have met training requirements, but does not require the department to provide the training, and deletes the requirement that certain facilities must pay a fee for the training.
- Reinstates background screening for applicants who want to register Health Care Services Pools. The requirement was previously repealed by a sunset provision.

Other changes to health care regulation include:

- Repealing requirements for nursing homes and continuing care facilities to submit to the Agency financial data that largely duplicates the data submitted under the Medicaid cost reporting system for nursing homes.
- Requiring all providers regulated by the Agency to pay fines before a change of ownerships can be approved.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

HB 761 — Fitting and Dispensing of Hearing Aids

by Rep. Justice and others (SB 2180 by Senators Wasserman Schultz and Crist)

The bill creates a criminal offense for the "seller" or "person selling a hearing aid" who fails to refund all moneys that must be refunded to a purchaser of a hearing aid within 30 days after the return or attempted return of a hearing aid as required by s. 484.0512, F.S. The bill defines "seller" or "person selling a hearing aid" for purposes of the offense. Violators are liable for a first-degree misdemeanor punishable by jail up to 1 year and a fine of up to $1,000.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 116-2

HB 1527 — Florida Alzheimer's Training Act

by Rep. Gibson and others (CS/SB 1116 by Health, Aging, and Long-Term Care Committee and Senators Saunders, Fasano, and Crist)

The bill amends ss. 400.4785, 400.5571, and 400.6045, F.S., to require home health agencies, hospices, and adult day care centers to provide written information to employees, upon their beginning employment, about interacting with patients or participants who have Alzheimer's disease or dementia-related disorders. Employees of these services must subsequently receive training in the care of individuals with Alzheimer's disease or related disorders.

Under amendments to s. 400.4785, F.S., all home health agency employees hired on or after July 1, 2005, and providing direct care to patients must complete two hours of training in Alzheimer's disease and dementia-related disorders within nine months after beginning employment with the agency. Newly hired hospice employees (under s. 400.6045, F.S.) and adult day care center personnel (under s. 400.5571, F.S.) who are expected to, or whose responsibilities require them to, have direct contact with participants who have Alzheimer's disease or dementia-related disorders must complete at least one hour of dementia training within the first three months after beginning employment. Newly hired hospice and adult day care center employees who will be providing direct care to participants who have Alzheimer's or dementia-related disorders must complete an additional three hours of training within nine months after beginning employment. An adult day care center employee who is hired on or after July 1, 2004, must complete the training. A hospice employee who is hired on or after July 1, 2003, must complete the required training by July 1, 2004, or by the deadline specified in the bill, whichever is later.

Employees who have received the Alzheimer's training will receive a certificate to document the training, and they will not be required to repeat the training if they change employment to another home health agency, hospice, adult day care center, nursing home, or assisted living facility. While home health agencies, hospices, and adult day care centers will be required to provide Alzheimer's disease information to all their employees, the bill makes it the responsibility of the employee as well as the provider to obtain the training.

The Department of Elderly Affairs or its designee must approve the training courses, and must develop rules to establish standards for employees who are subject to the training and for the trainers and the training. The bill mandates that the training required for home health agency, adult day care, and hospice employees must be part of the total hours of training required annually as a condition of certification for certified nursing assistants. Licensed health care practitioners' continuing education hours would be counted toward the two hours required by the bill. Universities, colleges, and postsecondary schools educating students for health professions, as described in ch. 456, F.S., are encouraged to include basic training about Alzheimer's disease and related disorders in their curricula.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 115-0

PUBLIC RECORDS EXEMPTIONS

HB 1031 — Public Records Exemption - Florida Kidcare Program

by State Administration Committee and others (CS/SB 298 by Governmental Oversight and Productivity Committee and Health, Aging, and Long-Term Care Committee)

This bill reenacts and expands an exemption from ch. 119, F.S., the Public Records Law, and s. 24(a), Art. I of the State Constitution, for information held by the Agency for Health Care Administration, the Department of Children and Family Services, the Department of Health, or the Florida Healthy Kids Corporation that identifies a Florida Kidcare program applicant or enrollee. The bill allows the disclosure of the confidential and exempt information to another governmental entity if such disclosure is necessary for the entity to perform its duties and responsibilities. The receiving entity must maintain the confidential and exempt status of the information, and is prohibited from releasing the information without the written consent of the program applicant. The bill provides that a violation of the section is a second-degree misdemeanor.

The bill makes the exemption subject to a future review and repeal date of October 2, 2008, as required by s. 119.15, F.S., the Open Government Sunset Review Act of 1995. The bill provides findings and statements of public necessity to justify the expansion of the public records exemption.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 113-0

HB 1033 — Public Records/Meetings Exemption - Statewide Provider and Subscriber Assistance Program

by State Administration Committee and others (CS/SB 306 by Governmental Oversight and Productivity Committee and Health, Aging, and Long-Term Care Committee)

The bill reenacts and amends the public records and meetings exemptions relating to the Statewide Provider and Subscriber Assistance Program contained in s. 408.7056, F. S. The bill consolidates and clarifies the exemptions for information held by the Agency for Health Care Administration and the Department of Insurance that identifies a subscriber, provides for the release of the records in a subscriber's grievance to the subscriber or the managed care entity involved in that grievance without redaction of identifying information about the subscriber, and

deletes the public meetings exemption when trade secrets are discussed in Statewide Provider and Subscriber Assistance Panel hearings.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 40-0; House 113-0

SEAPORT SECURITY

CS/CS/SB 1616 — Seaport Security

by Appropriations Committee; Home Defense, Public Security, and Ports Committee; and Senator Dockery

This bill amends s. 311.12, F.S., to revise provisions relating to statewide seaport security standards. A public port without maritime activity may be exempted from the minimum seaport security standards by the Department of Law Enforcement.

The bill provides additional offenses that prohibit an individual from gaining initial employment on a seaport or being granted access to restricted areas within the seaport. To qualify for employment or restricted area access, a person convicted for any listed offense must, after release from incarceration and any supervision imposed, remain free from any subsequent conviction for a period of at least 7 years. For purposes of employment and access, seaports are prohibited from exceeding statewide minimum requirements. An appeal process is authorized for individuals denied employment on a seaport based upon procedural inaccuracies or discrepancies regarding criminal history factors.

The bill provides for the implementation of a Uniform Port Access Credential System for use by all ports subject to the statewide minimum seaport security standards. The Department of Highway Safety and Motor Vehicles (DHSMV) must consult with other agencies and entities to develop the system and each seaport must operate and maintain the system to control access security within the boundaries of the seaport.

Specific requirements for the credential system address collection and storage of biometric identifiers, a methodology for granting and deactivating access permissions, and technology requirements for each gate on a seaport. A fingerprint-based criminal history check must be performed on each applicant and each credential card must include photographs, fingerprints, barcodes, scanning capability, and background color differentials.

DHSMV will set the price of the credential card to include the cost of fingerprint checks and production and issuance costs, and seaports may charge an additional administrative fee to cover the costs of issuing credentials.

Seaports must comply with technology improvement requirements necessary to activate the system no later than July 1, 2004. DHSMV must specify equipment and technology requirements no later than July 1, 2003. The system must be implemented at the earliest time that all ports have technology in place, but no later than July 1, 2004.

Provisions for the Uniform Port Access Credential System are contingent on the receipt of federal grant funds necessary to implement the system.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 113-3

SECURITY SYSTEM PLANS/PUBLIC RECORDS

CS/SB 1182 — Security System Plans/Public Records

by Governmental Oversight and Productivity Committee and Senator Dockery

This bill amends an existing exemption found in s. 119.071, F.S., to clarify that security system plans of a public or private entity, which plans are held by an agency, are confidential and exempt from the public record requirements. The bill creates an exception to the exemption to allow the disclosure of security system plans by a custodial agency to a property owner or leaseholder.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0