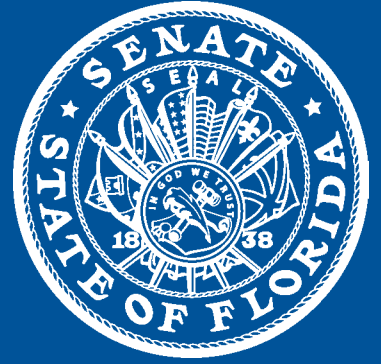


Senate Interim Work Plan 2012 Session



Mike Haridopolos
President of the Senate

Michael S. "Mike" Bennett
President Pro Tempore

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AGRICULTURE

Interim Projects

(None)

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

<i>Status of Health-related Consequences to Muck Farm Workers in the Lake Apopka Region</i>

DATE DUE: September 15, 2011

PROJECT NUMBER: 2012-201

ISSUE DESCRIPTION and BACKGROUND:

Lake Apopka, located 15 miles northwest of Orlando, is Florida's third largest lake. Fertile and highly-productive "muck farms" were created for vegetable farming in the 1940s by dyking and draining the marshes that once formed the northern third of the lake. Destroying these marshes reduced the lake's natural cleansing capacity, while at the same time vastly increasing its pollution load as billions of gallons of excess water, laden with nutrients, fertilizers and pesticides, flowed back into the lake. By the 1990s, 12 major farming companies worked the north-shore muck, employing 2,000 workers at peak season. For years, farmers relied on regular applications of pesticides to fight insects and fertilizers to maintain productivity.

In 1996, Governor Lawton Chiles signed the Lake Apopka Restoration Act that provided funding to purchase the farmland responsible for the discharges. The state implemented a program to buy out the farm owners and take possession of the land to restore it to the marsh it once was. In 1998, the St. Johns River Water Management District began reflooding the former marshes, anticipating a successful restoration to this area that had always attracted massive bird migrations. In the winter of 1998-1999, there was unprecedented bird mortality on Lake Apopka. The bird deaths were eventually linked to organochlorine pesticides found on the farm fields; the same chemicals to which the former farmworkers themselves had been exposed to during the length of their working careers.

Staff of the Farmworker Association of Florida began noticing health conditions among the workers even before the muck farms closed. The association conducted a health survey in 2006 and issued a report entitled "Lake Apopka Farmworkers Environmental Health Project." It found that 92 percent of the participants surveyed indicated that they were exposed to pesticides in the workplace, exposed to environmental toxins through consumption of potentially contaminated fish/wildlife in and around Lake Apopka, and through a variety of exposures from neighboring polluting industries and hazardous sites located in the surrounding community. When asked to characterize the current state of their health, 83 percent of respondents stated that they were in either "fair" or "poor" health. The most common problems are rheumatoid arthritis and lupus, crippling diseases that result when the body attacks its own tissues. Other complaints include cancers, asthma, respiratory problems and rashes.

OBJECTIVE:

This issue brief will provide information concerning the health issues being experienced by former farm workers from the Lake Apopka area and possible assistance.

METHODOLOGY:

Agriculture Committee professional staff will review reports of farm worker health issues and consult with state and private entities.

INTERIM ISSUE BRIEF TITLE:

Local and Organic Food Production

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-202

ISSUE DESCRIPTION and BACKGROUND:

Buying and eating food produced locally rather than shipped from thousands of miles away, keeps money in the local community, saves energy, and helps farms and ranches remain economically viable. The "local" movement has been gaining steam with the steady growth of farmers markets and a phenomenon called community-supported agriculture (CSA). CSA members purchase shares of a farmer's crop for the season. The government doesn't track the numbers, but Local Harvest, a nationwide directory of small farms, farmers markets and other local food sources, estimates that tens of thousands of American families belong to CSAs, and supply trails demand. The number registered with Local Harvest alone indicates how quickly CSAs have multiplied over the past decade: The directory's listing has increased from 374 farms in 2000 to 3,660 today. By direct sales to community members, who have provided the farmer with working capital in advance, growers receive better prices for their crops, gain some financial security, and are relieved of much of the burden of marketing.

In 1990, Congress passed the Organic Foods Production Act, which directed the United States Department of Agriculture to create a set of national regulations to define "organic" agriculture. The rapid, consistent growth of the organic movement over the previous decades had created the need for a set of national organic standards that would serve as clear guidelines for the industry and its customers as to what can be considered organic.

The United States Department of Agriculture National Organic Standards Board, defines organic agriculture as "an ecological production management system that promotes and enhances biodiversity, biological cycles, and soil biological activity." It is based on minimal use of off-farm inputs and on management practices that restore, maintain, or enhance ecological harmony. The primary goal of organic agriculture is to optimize the health and productivity of interdependent communities of soil life, plants, animals and people.

If a Florida grower wants to label their produce as "organic," they must be certified by an approved certifying agency but, they are exempt from organic certification if they grow or handle less than \$5,000 gross sales from organic produce. The grower must still be in full compliance with the National Organic Program's rules and regulations. Florida Organic Growers is the state's approved certifying agency in Gainesville, Florida.

OBJECTIVE:

This issue brief will provide information about the state’s activities regarding locally produced food and organic farming.

METHODOLOGY:

Agriculture Committee professional staff will conduct interviews with the Department of Agriculture and Consumer Services and affected entities.

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Cottage Food Operation Laws and Local Ordinances

DATE DUE: N/A

PROJECT NUMBER: 2012-401

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature enacted legislation in CS/HB 7209 that creates a new regulatory structure relating to “Cottage Food Operations.” There are currently 28 states that allow some form of home-based baking and sales either to the general public or at state farmers’ markets only. Currently, the Department of Agriculture and Consumer Services has general authority to inspect all food processing operations in the state. The department has adopted by reference the following 2001 FDA food Code prohibition on the sale of homemade food products:

6-202.111 Private Home and Living or Sleeping Quarters, Use Prohibition.

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting food establishment operations.

Therefore, in Florida, it has been illegal to sell homemade foods, except for not potentially hazardous foods, which may only be sold at functions, such as bake sales.

The new provisions exempt home-based, cottage food operations from licensure and regulatory requirements of the department permitting requirements. This law:

- authorizes the direct sale of homemade foods, labeled “cottage foods;”
- exempts cottage food operations from food permits required in s. 500.12, F.S.;
- defines the terms cottage food operation and cottage food product;
- outlines requirements with which a cottage food operation must comply;
- requires cottage food products to be prepackaged and labeled with specified information;
- authorizes the department to investigate consumer complaints against cottage food operations; and
- provides for disciplinary action against persons who violate provisions of this law.

Senate and House professional staff as well as the department have recommended a change to this new law in the next legislative session. CS/HB 7209 requires labels to include the following statement: “Made in a cottage food operation that is not subject to Florida’s food safety regulations.” It is recommended that this be changed to: “Made in a home kitchen that is not subject to routine inspection by the Department of Agriculture and Consumer Services.”

OBJECTIVE:

The purpose of this monitor project is to keep apprised of the implementation of this new regulatory structure by the Department of Agriculture and Consumer Services.

METHODOLOGY:

Staff will periodically contact the department to determine if any other changes need to be made to implement the new law.

INTERIM MONITOR PROJECT TITLE:

State and Local Regulation of Fertilizer

DATE DUE: N/A

PROJECT NUMBER: 2012-402

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature enacted legislation in CS/CS/HB 7215 that authorizes the Department of Agriculture and Consumer Services to enforce laws relating to the sale, composition, packaging, labeling, wholesale and retail distribution, and formulation of fertilizer. This legislation expressly preempts regulation of fertilizer to the state. However, a limited exception is provided to counties or municipal governments that have existing fertilizer ordinances that were adopted before July 1, 2011.

In 2009, the Legislature directed the Department of Environmental Protection to adopt and enforce a Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. Adoption of the ordinance by local governments that are located in an area where water is impaired by certain nutrients was required and local governments were allowed to adopt more stringent standards if needed through a “comprehensive program” which term is not defined or further explained. Approximately 40 counties and cities adopted rules to limit the use of fertilizers which contain phosphorous and nitrogen, most of them in line with the model ordinance. This resulted in varied and numerous local regulations that made it difficult for retailers to keep track of when doing business. In order to bring uniformity to the process, Senator Evers sponsored Senate Bill 606 which deleted a local government’s authority to adopt additional or more stringent standards than the model ordinance and preempted the regulation of fertilizer to the state, voiding regulations by local governments regardless of when adopted. Opponents of this legislation believed that local governments have a better grasp of what is necessary to protect the bays, rivers and lakes in their communities. As a result, a compromise was reached in CS/CS/HB 7215 that limits the varied fertilizer sales bans and ensures that all previously adopted rules stay in place exactly as they were adopted but also makes certain sales bans are excluded from any future local rules.

OBJECTIVE:

The purpose of the project is to monitor the progress and implementation of this legislation.

METHODOLOGY:

Agriculture Committee professional staff will jointly monitor the outcome of this legislation with professional staff of the Environmental Protection Committee and continue discussions with the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and entities that are impacted by the legislation.

BANKING AND INSURANCE

Interim Projects

INTERIM PROJECT TITLE:

Review Florida's Medical Malpractice Insurance Market

DATE DUE: December 1, 2011

PROJECT NUMBER: 2012-101

ISSUE DESCRIPTION and BACKGROUND:

The 2003 Legislature enacted a comprehensive medical malpractice reform package that revised the procedures for litigating medical malpractice claims and limited the noneconomic damages that can be recovered in an action alleging medical malpractice. The Legislature required that premiums for medical malpractice insurance reflect the savings related to the reforms through the use of a “presumed savings factor” that takes into account the savings achieved by the legislation.

The Legislature enacted the reforms after identifying numerous deleterious effects of high premiums including that many physicians and specialists were leaving the state or refusing to perform higher risk procedures, which threatened access to high quality health care services and treatment in the state. The reforms were intended to solve the medical malpractice insurance crisis of large yearly increases in medical malpractice premiums that resulted in Florida physicians paying among the highest coverage costs in the nation. In the years following the 2003 reforms, medical malpractice insurance rates generally decreased over time. However, premium costs for medical malpractice insurance in Florida remain among the highest in the nation. The persistence of high rates for medical malpractice insurance indicates that though the 2003 reforms have been effective in preventing further premium increases, the medical malpractice market may still be in need of additional reforms.

OBJECTIVE:

The proposed interim project report will analyze the effectiveness of the 2003 reforms in eliminating the medical malpractice insurance crisis. The report will review the extent to which the reforms have reduced medical malpractice losses and associated costs and attempt to determine whether the full value of the reforms has been passed on to physicians in the form of lower premiums. The report will also investigate whether medical malpractice premiums and the litigation environment in Florida are continuing to create barriers to access to care and placing the state at a disadvantage when attempting to attract highly competent medical providers.

METHODOLOGY:

The report will thoroughly review medical malpractice insurance rates in Florida through obtaining and analyzing data obtained from the Office of Insurance Regulation, insurers, medical providers, and other interested parties. Florida's medical malpractice laws will be compared with laws enacted in other states similar in size to Florida and analyze the current litigation environment in Florida. The report will seek information to determine whether medical malpractice insurance costs are reducing the availability of high quality health care from medical providers, insurers, and regulatory agencies.

INTERIM PROJECT TITLE:

Community-based Care Lead Agency Liability Insurance Coverage

DATE DUE: December 15, 2011

PROJECT NUMBER: 2012-103

ISSUE DESCRIPTION and BACKGROUND:

The Legislature created the community-based care (CBC) system to strengthen community support and increase accountability for the child welfare program. Pursuant to s. 409.1671, F.S., the Department of Children and Families is required to contract with a single “eligible lead community-based provider,” for the provision of child protective services in a community. Most lead agencies use subcontractors to deliver services. There are currently 20 lead agencies responsible for providing foster care and other services through a network of approximately 670 subcontractors.

Section 409.1671, F.S., also requires CBCs and their subcontractors to provide general liability insurance coverage and automobile insurance coverage. Lead agencies and subcontractors must maintain general liability insurance of at least \$1 million per claim and \$3 million per incident. Economic damages per claimant are capped at \$1,550,000, and noneconomic damages per claimant are capped at \$310,000.

In recent years, concerns have been raised regarding the affordability and availability of this mandatory liability insurance coverage. In 2011, legislation was filed that would have reduced the general liability insurance coverage requirements for CBCs and subcontractors to \$500,000 per claim and a policy limit aggregate of \$1.5 million and would have revised other coverage requirements.

OBJECTIVE:

This project will address the following issues related to liability insurance coverage requirements of community-based care lead agencies:

- Access and availability of liability insurance coverage through authorized insurance companies, surplus lines companies, and self-insurance funds;
- Factors affecting the ability of CBCs to obtain and maintain liability insurance;
- Appropriateness and adequacy of the statutory insurance requirements;
- Cost of general liability insurance based on CBC insurance premium documentation;
- Impact of the cost of insurance on the financial condition of CBCs;
- Consistency of the statutory insurance requirements with the insurance market; and
- Potential fiscal impact to the state if coverage requirements are revised.

METHODOLOGY:

Senate professional staff of the Banking and Insurance Committee will:

- Interview key stakeholders regarding liability insurance coverage requirements and representatives of the insurance industry;
- Survey CBCs and subcontractors regarding claims data, premium expenses, operating budget information, and audited financial statements for the prior 5 years;
- Interview staff of the Division of Risk Management and other stakeholders concerning coverage requirements and the fiscal impact on the state; and
- Interview staff of the Department of Children and Families regarding contract compliance and monitoring procedures.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Citizens Property Insurance

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-226

ISSUE DESCRIPTION and BACKGROUND:

Created in 2002, Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt, governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. Citizen's financial resources include insurance premiums, investment income, operating surpluses from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, policyholder surcharges, regular and emergency assessments and recently approved private reinsurance.

OBJECTIVE:

This issue brief will examine Citizens current amount of assets available to meet potential obligations. The issue brief will examine the amount of claims Citizens could currently absorb without the need to issue bonds. The brief will also address the expected effects to all policyholders should Citizens need to cover a 1-in-50 year storm and a 1-in-100 year storm.

METHODOLOGY:

Professional committee staff will compile a quantitative analysis of all capital sources available to Citizens necessary to meet their obligations. To further analyze the potential effects on all policyholders in Florida, professional committee staff will solicit comments from Citizens Property Insurance, the Office of Insurance Regulation, industry groups, and policyholders.

INTERIM ISSUE BRIEF TITLE:

Personal Injury Protection (PIP)

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-203

ISSUE DESCRIPTION and BACKGROUND:

Under the state's no-fault law, owners or registrants of motor vehicles are required to purchase \$10,000 of personal injury protection (PIP) insurance which compensates persons injured in accidents regardless of fault. In 2007, the Legislature re-enacted and revised the Florida Motor Vehicle No-Fault Law (ss. 627.730-627.7405, F.S.) effective January 1, 2008. The re-enactment maintained personal injury protection (PIP) coverage at 80 percent of medical expenses up to \$10,000. However, insurers may limit reimbursement for benefits payable from PIP coverage to 80 percent of statutorily specified maximum charges.

Recently, Florida has experienced an increase in motor vehicle related insurance fraud and the costs associated with PIP coverage. The number of staged motor vehicle accidents received by the Division of Insurance Fraud nearly doubled from fiscal year 2008/2009 (776) to fiscal year 2009/2010 (1,461). On April 11, 2011, the Office of Insurance Regulation released the *Report on Review of the 2011 Personal Injury Protection Data Call*, containing data from companies representing approximately 80 percent of the motor vehicle insurance marketplace in Florida. The OIR report provides evidence that costs in the PIP system are rising rapidly as PIP payouts have increased from approximately \$1.5 billion in 2008 to approximately \$2.5 billion in 2010. Florida PIP claims involve approximately 100 medical treatments at an average total cost of \$12,000, well above the national average (excluding Florida) of approximately 50 treatments at an average total cost of \$8,000.

OBJECTIVE:

The objective of the issue brief is to outline issues related to motor vehicle insurance fraud and rising costs in the PIP system. The project will analyze the motor vehicle insurance market according to specified criteria including, but not limited to, affordability; availability; and the provision of benefits.

METHODOLOGY:

Committee professional staff will analyze premium and loss cost data on personal injury protection automobile insurance in Florida obtained from the Office of Insurance Regulation and data on PIP fraud from the Department of Financial Services. Committee professional staff will review automobile insurance information and interview representatives from medical and attorney associations, insurance companies, universities, government agencies, and constituent groups.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 324.242, F.S., Personal Identifying Information in Insurance Policy Personal Injury Protection (PIP) and Property Damage Liability Insurance Policies

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-312

ISSUE DESCRIPTION and BACKGROUND:

The Open Government Sunset Review Act provides for the review of exemptions to open records and meetings requirements 5 years after enactment. Section 324.242, F.S., is an exemption for personal identifying information of an insured or former insured and the insurance policy number contained in personal injury protection and property damage liability insurance policies held by the Department of Highway Safety and Motor Vehicles, and provides for release of such records under certain circumstances. The public records and meeting exemption will repeal on October 2, 2012, unless reviewed and saved from repeal.

OBJECTIVE:

The exemption for personal identifying information held by the Department of Highway Safety and Motor Vehicles will be reviewed using the standards provided in s. 119.15, F.S., the Open Government Sunset Review Act, to determine if they meet those standards and to determine if a recommendation

should be made to save the exemption from repeal. The review will focus on the exemption and application of the exemption by the department.

METHODOLOGY:

The Department of Highway Safety and Motor Vehicles will be surveyed to determine its practices regarding the exemption. Other private and public stakeholders also will be surveyed.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 624.23, F.S., Consumer Complaints and Inquiries Received by the Department of Financial Services

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-313

ISSUE DESCRIPTION and BACKGROUND:

Consumers may file complaints or make inquiries to the Department of Financial Services (DFS) regarding an insurance company or other person or entity regulated by the DFS or the Office of Insurance Regulation (OIR). In 2002, legislation was enacted to provide that specified personal and financial information of a consumer held by the DFS or the OIR relating to a consumer's complaint or inquiry regarding a matter regulated under the Florida Insurance Code is confidential and exempt from the public records law. Subsequently, in 2007, legislation was enacted that expanded the current exemption to include the same personal financial and medical information provided by consumers to the Division of Workers' Compensation of the DFS for the purpose of resolving disputes and complaints of employees.

This public records exemption is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature. Under this act, exemptions from s. 24, Art. I of the State Constitution are subject to repeal 5 years after their enactment unless reviewed and saved from repeal by the Legislature pursuant to the standards established under the act.

OBJECTIVE:

To review s. 624.23, F.S., to determine if it meets the standards established in the Open Government Sunset Review Act and to recommend whether the exemption should be saved from repeal, revised, or allowed to sunset.

METHODOLOGY:

Senate professional staff will review the standards established in the Open Government Sunset Review Act, review relevant case law, and survey the Department of Financial Services, the Office of Insurance Regulation, and other stakeholders.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 717.117(8), F.S., Unclaimed or Abandoned Property

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-314

ISSUE DESCRIPTION and BACKGROUND:

The Open Government Sunset Review Act provides for the review of exemptions to open records and meetings requirements 5 years after enactment. Section 717.117(8), F.S., is an exemption for property identifiers such as social security numbers and other descriptors used to identify the property holder of any unclaimed or abandoned property held by the Department of Financial Services. This public records exemption will repeal on October 2, 2012, unless reviewed and saved from repeal.

OBJECTIVE:

The exemption of property identifiers with relations to unclaimed or abandoned property held by the Department of Financial Services will be reviewed using the standards provided in s. 119.15, F.S., the Open Government Sunset Review Act, to determine if they meet those standards and to determine if a recommendation should be made to save the exemption from repeal. The review will focus on the exemption and application of the exemption by the department.

METHODOLOGY:

The Department of Financial Services will be surveyed to determine its practices regarding the exemption. Other private and public stakeholders will also be surveyed.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Property Insurance

DATE DUE: N/A

PROJECT NUMBER: 2012-403

ISSUE DESCRIPTION and BACKGROUND:

CS/CS/CS/SB 408 was a multi-faceted property insurance bill with numerous provisions that will have significant impact on the property insurance market and regulation. The bill made significant changes to a wide range of areas, most notably:

Public Adjusters

Public adjuster fees related to reopened or supplemental claims are limited to a maximum of 20 percent of the reopened or supplemental claim payment.

A public adjuster fee related to a policy issued by Citizens Property Insurance Corporation may not exceed 10 percent of the additional amount actually paid in excess of the amount originally offered by Citizens on the claim.

Public adjusters are prohibited from making deceptive or misleading advertisements or solicitations.

Public adjusters must ensure that the insurer has access to inspect the property, can interview the insured directly about the loss and claim, and allow the insurer to obtain information necessary to investigate and respond to the claim.

Surplus Requirements

For new residential property insurers that are not a wholly owned subsidiary of an insurer domiciled in another state, the surplus requirement is increased from \$5 million to \$15 million.

Insurance Capital Build-Up Incentive Program

The State Board of Administration and private market insurers are authorized to renegotiate the terms of a surplus note issued pursuant to the Insurance Capital Build-Up Incentive Program before January 1, 2011, possibly amending the premium-to-surplus ratios required by statute.

Rate Standards

Residential property insurers are authorized to make a separate rate filing limited solely to reinsurance cost increases and related financing costs. This limited rate filing must be approved or disapproved by the OIR within 45 days, and is not allowed to result in an increase of more than 15 percent for an individual policyholder.

Citizens Property Insurance Corporation

Citizens' agents are required to obtain from insurance applicants a signed Acknowledgment of Potential Surcharge and Assessment Liability form that details that Citizens' policyholders are subject to a Citizens policyholder surcharge of up to 45 percent.

After January 1, 2012, Citizens policies may not include sinkhole coverage for appurtenant structures, sidewalks, decks, or patios.

The Citizens Board of Governors is required to commission an independent third-party consultant with insurance company management expertise to prepare a report and make recommendations on the costs and benefits of outsourcing policy issuance and service functions to private servicing carriers.

Procedures are created for board members who have a conflict of interest regarding a particular matter to recuse themselves from voting.

Multi-line Coverage

Insurers are authorized to nonrenew a policy that covers both a home and a motor vehicle for any reason applicable to either the property or motor vehicle insurance. This is intended to attract into Florida insurers whose business plan is to write only multi-line coverages.

Replacement Cost Coverage

For a dwelling loss, insurers must initially pay the actual cash value, and subsequently must pay any amounts necessary as work is performed.

For personal property (contents coverage) that is insured on a replacement cost basis, the insured can have two claim payment options. The insurer must offer an option under which the insurer pays the

replacement cost up front, regardless of whether the insured replaces the property. The insurer may offer a second option that allows the insurer to limit the initial payment to the actual cash value of the personal property to be replaced, and pay the remaining replacement cost as the contents are replaced. This option requires the insurer to provide a premium discount.

Sinkhole Insurance

Insurers are allowed to restrict catastrophic ground cover collapse and sinkhole loss coverage to the principal building, and are allowed to require a property inspection prior to issuing sinkhole loss coverage.

A detailed definition of “structural damage” is provided for purposes of determining whether a sinkhole loss has occurred. The definition specifies five distinct types of damage that constitute structural damage, with each type of damage tied to standards contained in the Florida Building Code or used in the construction industry.

The process for an insurer’s investigation of sinkhole claims has been changed.

A policyholder may demand sinkhole testing, but if sinkhole damage is not found, the policyholder must pay the insurer 50 percent of the sinkhole testing costs up to \$2,500.

The insured must repair sinkhole damage in accordance with the insurer’s professional engineer’s recommended repairs.

The insurer must file the neutral evaluator’s report, a copy of the certification indicating that stabilization has been completed, and the amount of the claim payment with the Clerk of Court. The policyholder must file a copy of any sinkhole report prepared on behalf of the policyholder as a precondition to accepting a sinkhole loss payment.

The neutral evaluation process has been changed.

OBJECTIVE:

Professional committee staff will evaluate the provisions imposed by the Legislature through the passage of CS/CS/CS/SB 408 to determine the effects on the property insurance marketplace and the regulation of property insurance.

METHODOLOGY:

Professional committee staff will review and gather data where available, and interview personnel from the Department of Financial Services, the Office of Insurance Regulation, consumer representatives, property insurance representatives, and other stakeholders.

INTERIM MONITOR PROJECT TITLE:

Commercial Lines Insurance Rate Setting Process

DATE DUE: N/A

PROJECT NUMBER: 2012-404

ISSUE DESCRIPTION and BACKGROUND:

With the passage of CS/CS/HB 99, the Legislature expanded the number of specified types of commercial lines insurance that are exempt from certain rate filing and review requirements. An insurer or rating organization that implements a rate change under this exemption must notify the Office of Insurance Regulation (OIR) of any changes to rates for these exempted types of insurance within 30 days after the effective date of the change, and must maintain the relevant actuarial data for 2 years. Rates implemented under these provisions are still subject to the rate standards that apply to all property and casualty insurance rates, which “shall not be excessive, inadequate, or unfairly discriminatory.”

OBJECTIVE:

Professional committee staff will evaluate the regulatory and marketplace impact of the expansion of the types of commercial lines insurance that are subject to the filing and review exemptions specified in CS/CS/CS/HB 99.

METHODOLOGY:

Professional committee staff will review and gather data, and interview personnel from the Office of Insurance Regulation, commercial property insurance representatives, and other stakeholders.

BUDGET

Interim Projects

INTERIM PROJECT TITLE:

State Contract Management Review of Mental Health and Substance Abuse Services

DATE DUE: 10/1/11

PROJECT NUMBER: 2012-104

ISSUE DESCRIPTION and BACKGROUND:

Conduct a contract management review for Mental Health and Substance Abuse Services. Currently, the Senate Budget Office has identified the following:

Mental Health Services

- 372 contracts for Mental Health Services totaling over \$841 million annually.

Substance Abuse Services

- 287 contracts for Substance Abuse Services totaling over \$451 million annually.

Additional findings are:

- Many of DCF's substance abuse and mental health providers have multiple contracts with the department for these services; one for each type of service, rather than a comprehensive contract. The result is about 144 Vendors with over 300 contracts. Each of these contracts, in turn, has a separate contract manager, lawyer, and procurement officer.
- DOC and DCF contract with many of the same providers for substance abuse and mental health services but are charged different rates for the same services, not to mention separate contract managers in each department.
- Annual increases in the prices ranged from no increase to 2-5% for these services.
- In total there are 738 contracts totaling \$1.2 billion annually for both Mental Health and Substance Abuse services. These contracts could be consolidated to provide greater savings through economics of scale, less bureaucracy through duplication of effort, and ensure greater service delivery to our citizens by providing tighter standards.

OBJECTIVE:

- Consolidation of Mental Health and Substance Abuse contracts into State Term Contracts.
- Legislatively mandating that as contracts for mental health and substance abuse expire that they enter onto a state term contract.
- Remove escalators from these contracts to flatten the growth curb within these services. Estimated direct annual savings is \$36-60 million.
- Utilize the services of Jeffery Lewis to develop a contract template for mental health and substance abuse services.

METHODOLOGY:

Utilize data analysis techniques to identify contracts within the State Contract Management System to inventory Mental Health and Substance Abuse projects by agency.

INTERIM PROJECT TITLE:

Development of the Long-range Financial Outlook

DATE DUE: 9/1/11

PROJECT NUMBER: 2012-105

ISSUE DESCRIPTION and BACKGROUND:

Amendment No. 1, approved in the November 7, 2006 general election, made a number of changes to the Constitution, including adding a requirement that the Legislative Budget Commission issue a long-range financial outlook each year by September 15th. The outlook is to be based on current consensus estimates for workload and revenues and is to set forth fiscal strategies for the state budget. Also, the long range outlook must include input from the public, the executive and the judicial branches in developing and adopting the outlook. The plan due September 15, 2011 will be the fifth long-range financial outlook prepared consistent with Constitutional requirements.

OBJECTIVE:

The objective of this project will be to update the long-range financial outlook which is useful as a reference point in developing the state budget and which accelerates understanding of pending budget or revenue issues.

METHODOLOGY:

Staff of the appropriations committees of the House and Senate will jointly staff the development of the long-range financial outlook under the direction of the Legislative Budget Commission. Implementation decisions need to be made prior to development of the outlook. The tentative schedule for developing the outlook is as follows:

- June – Identify initial decisions required for plan development.
- July – Conduct estimating conference process.
- August – Develop plans in early August incorporating workload and revenue projections and approve the final plan by late August, 2011 to accommodate the accelerated estimating conference schedule necessitated by the 2012 session on reapportionment starting in January.

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

(None)

BUDGET SUBCOMMITTEE ON CRIMINAL AND CIVIL JUSTICE APPROPRIATIONS

Interim Projects

(None)

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

<i>Clerk of Courts Trust Fund Revenues and Expenditures</i>

DATE DUE: N/A

PROJECT NUMBER: 2012-405

ISSUE DESCRIPTION and BACKGROUND:

The 2009 Legislature passed legislation (2009-204, Laws of Florida) to require the 67 clerks of court to be funded based on unit costs for specified services. The clerks unit cost budgets are funded by fees, fines, service charges, and court costs. These revenues are deposited into the Clerks of Court Trust Fund. During both the 2009-10 and 2010-2011 fiscal years, the trust fund did not receive adequate revenue to meet the funding needs of the clerk and pay the statutorily required service charge to the General Revenue Fund. The trust fund was in deficit in FY 2010-2011 and an appropriation of nonrecurring general revenue was needed in the 2011-2012 General Appropriations Act to resolve the deficit. In addition, funds are often not adequate in the first month of the year to support clerk expenditures. In the past, the clerks have needed a trust fund loan, pursuant to s. 215.18, F.S., to begin the fiscal year. For the 2011-2012 fiscal year, the Legislature passed legislation (SB 2002) that allows the clerks to retain any balances left in the trust fund at the end of the 2010-2011 fiscal year to remain in the fund for 2011-2012 expenditures.

OBJECTIVE:

To monitor the revenues and expenditures in the Clerks of Court Trust Fund to enable the Legislature to plan for any projected deficits or surpluses in the trust fund.

METHODOLOGY:

Senate Professional Staff will review monthly revenue collections by the 67 clerks of court during the year. Staff will also monitor monthly expenditures by the clerks of court from the Clerks of Court Trust Fund. Staff will interview representatives from the clerks of court, the Department of Revenue, and the Legislature's Economic and Demographic Research Office to understand the deposit of revenue into the trust fund.

INTERIM MONITOR PROJECT TITLE:

State Courts Revenue Trust Fund Revenues and Expenditures

DATE DUE: N/A

PROJECT NUMBER: 2012-406

ISSUE DESCRIPTION and BACKGROUND:

The 2009 Legislature passed legislation (2009-7, Laws of Florida) to create the State Courts Revenue Trust Fund to provide funding to the state court system. The trust fund receives court filing fees. The state courts are primarily funded from the State Courts Revenue Trust Fund. The majority of the revenue going into the fund is from foreclosure fees. During the 2010-2011 fiscal year the number of filed foreclosure cases slowed and the trust fund did not have adequate revenue to meet the funding needs of the court and pay the statutorily required service charge to the General Revenue Fund. The Legislature made an appropriation of nonrecurring general revenue in the 2011-2012 General Appropriations Act to resolve the deficit. In addition, funds may not be sufficient in the first quarter of the year to support court expenditures. To address this cash flow issue, the Legislature authorized trust fund loan of up to \$54 million for the 2011-2012 fiscal year (see section 21 of SB 2002).

OBJECTIVE:

To monitor the revenues and expenditures in the State Courts Revenue Trust Fund to enable the Legislature to plan for any projected deficits or surpluses in the trust fund. To review the cost of the judiciary in Florida compared to other states to provide the Legislature with an assessment of judicial costs in Florida relative to other states.

METHODOLOGY:

Senate Professional Staff will review monthly revenue deposits into the State Courts Revenue Trust Fund during the 2011-2012 fiscal year. Staff will also monitor monthly expenditures by the state court system from the State Courts Revenue Trust Fund. Staff will interview representatives from the state court system, the Department of Revenue, and the Legislature's Economic and Demographic Research Office to understand the deposit of revenue into the trust fund. Senate Professional Staff will interview experts on court administration and review documents on other state court system costs from the National Conference of State Legislatures, the National Center for State Courts, and other sources.

INTERIM MONITOR PROJECT TITLE:

Department of Juvenile Justice Reduction of Residential Beds

DATE DUE: N/A

PROJECT NUMBER: 2012-407

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature reduced the number of residential treatment beds in the Department of Juvenile Justice (DJJ). The department currently has a significant waiting list of juveniles who need to be placed in all types of residential beds. Staff will monitor the impact of these reductions on the department's detention centers to determine if juveniles are staying longer in these facilities, which is more costly for the department.

OBJECTIVE:

Monitoring the bed reductions in DJJ will allow the Legislature to determine if funding adjustments should be considered during the 2012 legislative session.

METHODOLOGY:

Senate Professional Staff will monitor the progress of the implementation of the bed reductions to make sure DJJ has sufficient beds to meet the requirements for placing youth in residential commitment programs.

INTERIM MONITOR PROJECT TITLE:

Department of Corrections Prison Health Services Privatization

DATE DUE: N/A

PROJECT NUMBER: 2012-408

ISSUE DESCRIPTION and BACKGROUND:

The 2009 Legislature authorized the Department of Corrections (DOC) to privatize the medical, mental and dental care of the inmates in DOC's regions I, II, and III, which consist of northwest, northeast, and central Florida. This initiative is outlined in proviso, which requires the department to competitively procure the services of private contractors and must provide for an overall cost savings of at least 7 percent.

The privatization of prison health services is scheduled to take place during the 2011-12 fiscal year. The department is directed to issue requests for proposal (RFP) for each region individually and one for all three regions. In each case, the department shall solicit bids for comprehensive health services (physical, mental and dental health services).

Benchmarks for this project are as follows:

- Develop requests for proposal;
- Initiate bid process;
- Develop cost-benefit analysis and business plan;
- Develop contract and performance measures;
- Develop plan to transition staff and resources from state to privately operated facilities;

- Submit budget amendment to Legislative Budget Commission (LBC) by December 1, 2011;
- Execute contract (upon LBC approval); and
- Work with vendor(s) to transition staff and resources.

OBJECTIVE:

The objective of this project is to monitor the Department of Corrections' vendor solicitation, transition, and cost savings achieved for the privatization of inmate health care for regions I, II and III.

METHODOLOGY:

Senate Professional Staff will monitor operational changes and decisions made by the department to assist in a smooth and successful transition for each outsourcing initiative.

INTERIM MONITOR PROJECT TITLE:

Department of Corrections Prison Privatization

DATE DUE: N/A

PROJECT NUMBER: 2012-409

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature authorized the Department of Corrections to privatize the day-to-day management and operations of the state prisons located in the southern region of the state. This initiative which is outlined in proviso, requires the department to competitively procure the services of private contractors and must provide for an overall cost savings of at least 7 percent.

The privatization of prison operations in the area formerly referred to as "region IV" is scheduled to be effective by January 1, 2012. With the exception of Glades and Hendry correctional institutions, which the Secretary of the department plans to close in Fiscal Year 2011-12, all department-operated prisons, annexes, work camps, road prisons and work release centers located in the following counties are included: Manatee, Hardee, Indian River, Okeechobee, Highlands, St. Lucie, DeSoto, Sarasota, Charlotte, Martin, Palm Beach, Broward, Miami-Dade and Monroe. The Legislature reduced the department's operating budget by \$10.9 million in Fiscal Year 2011-12 to reflect a partial year's savings.

Benchmarks for this project are as follows:

- Develop requests for proposal;
- Initiate bid process;
- Develop cost-benefit analysis and business plan;
- Develop contract and performance measures;
- Develop plan to transition staff and resources from state to privately operated facilities;
- Submit budget amendment to Legislative Budget Commission (LBC) by December 1, 2011;
- Execute contract (upon LBC approval); and
- Work with vendor(s) to transition staff and resources.

OBJECTIVE:

The objective of this project is to monitor the Department of Corrections' vendor solicitation, transition, and cost savings achieved for the privatization of region IV prison operations.

METHODOLOGY:

Senate Professional Staff will monitor operational changes and decisions made by the department to assist in a smooth and successful transition for each outsourcing initiative.

BUDGET SUBCOMMITTEE ON EDUCATION PRE-K – 12 APPROPRIATIONS

Interim Projects

INTERIM PROJECT TITLE:

Report on the Impact of the General Appropriations Act on Pre-K – 12 Education

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-102

ISSUE DESCRIPTION and BACKGROUND:

This report is a summary of the impact of the General Appropriations Act showing allocations of appropriations and other fiscal information for each school district. The report is produced annually by the Senate Education Appropriations Subcommittee professional staff as a resource to members, aides, agency staff, and the general public.

OBJECTIVE:

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

METHODOLOGY:

Last year's Senate post-session education publication will be reviewed to determine whether all types of information previously included are still useful or should be modified or enhanced. Professional staff will collaborate with Department of Education staff to incorporate and update historical fiscal information and allocations of appropriations for school districts. These allocations will be verified for consistency with the General Appropriations Act.

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

(None)

BUDGET SUBCOMMITTEE ON FINANCE AND TAX

Interim Projects

INTERIM PROJECT TITLE:

Application of Florida's Sales Tax to Sales by Out-of-state Retailers

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-107

ISSUE DESCRIPTION and BACKGROUND:

Under Florida law, retailers are required to collect sales tax on the sale of taxable items. However, federal constitutional constraints prohibit the applicability of this requirement to out-of-state retailers that do not have “nexus,” or presence, in Florida. Purchases of taxable items from out-of-state retailers continue to grow each year. A number of states have explored, and some have enacted, laws to require out-of-state retailers to collect and remit sales tax or to comply with other reporting requirements.

OBJECTIVE:

The project will examine the current state of the law regarding the collection and remittance of state sales taxes by out-of-state retailers, including recent enactments by other states.

METHODOLOGY:

Staff of the Budget Subcommittee on Finance and Tax will describe the legal issues affecting the collection of taxes by out-of-state retailers, identify other states' efforts in this area, and describe and evaluate those efforts.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Review Capital Tax Investment Tax Credit

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-204

ISSUE DESCRIPTION and BACKGROUND:

The Capital Investment Tax Credit (CITC) is a credit against corporate income taxes available to companies that make large capital investments in Florida. The statute authorizing the credit was enacted in 1998 and has been amended a number of times since then, including in 2011.

OBJECTIVE:

The project will examine how the credit has been used over the years, and compare the growth in the amount of credits awarded to the growth in the amount of credits applied against corporate tax liability.

METHODOLOGY:

Staff of the Budget Subcommittee on Finance and Tax will research the legal and financial history of the credit and seek information from the executive agencies that administer the credit with a view towards preparing a comprehensive examination of the credit's operations.

INTERIM ISSUE BRIEF TITLE:

Taxation of Delivery Charges

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-205

ISSUE DESCRIPTION and BACKGROUND:

Section 212.08(7)(eee), F.S., was created in 2007 to address the sales tax treatment of amounts paid for the delivery of appliances and furniture.

OBJECTIVE:

The project will examine how the statute has been applied to different situations involving the delivery of appliances and furniture.

METHODOLOGY:

Staff of the Budget Subcommittee on Finance and Tax will review how the Department of Revenue has administered the statute and will request comments from the department and affected taxpayers.

INTERIM ISSUE BRIEF TITLE:

Excise Tax on Other Tobacco Products

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-206

ISSUE DESCRIPTION and BACKGROUND:

Florida imposes an excise tax and surcharge on other tobacco products (tobacco products other than cigarettes and cigars). The excise tax and surcharge are applied against the wholesale price of the product. The tax and surcharge are collected and administered by the Department of Business and Professional Regulation (DBPR). In 2005, DBPR entered into a settlement agreement with a taxpayer that had challenged the methodology used to calculate the tax. The methodology agreed to in the settlement agreement gave rise to refunds to the taxpayer that was a party to the settlement. Also, the methodology has been used to calculate the tax for that taxpayer and others in similar situations since 2005.

OBJECTIVE:

To examine the situation that gave rise to the settlement and the effect on tax collections of the use of the methodology approved in the settlement.

METHODOLOGY:

Staff of the Budget Subcommittee on Finance and Tax will review the legal documents that gave rise to the settlement, and the extent to which the tax calculation approved in the settlement has been

applied to other taxpayers. Also, other states with a similar tax will be contacted to determine how they have responded to the situation that gave rise to the Florida settlement. Finally, staff will examine the effect on tax collections from the use of the methodology approved in the settlement

INTERIM ISSUE BRIEF TITLE:

Property Tax Update

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-207

ISSUE DESCRIPTION and BACKGROUND:

In 2007, the Legislature passed major legislation and proposed constitutional amendments, which were approved by the voters, dealing with property taxes. In addition, the Tax and Budget Reform Commission also proposed constitutional amendments dealing with property taxes which were approved by the voters. Finally, for the past few years property values have declined substantially.

OBJECTIVE:

The reforms enacted in the 2007 and 2008 have been in place for 4 years. Also, property values have declined for 4 years in a row due to the recent recession. The project will examine the effect of the reforms and the decline in values on Florida's property tax structure.

METHODOLOGY:

Staff of the Budget Subcommittee on Finance and Tax will compare the current property tax structure to the structure existing prior to 2007, including the effect on millage rates and the tax burden applicable to different types of property.

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Deepwater Horizon Oil Spill Damage Claims

DATE DUE: N/A

PROJECT NUMBER: 2012-410

ISSUE DESCRIPTION and BACKGROUND:

The federal Oil Pollution Act (OPA) provides for private and government claims against the company responsible for an oil spill. OPA specifically identifies seven categories of claims: removal costs, damage to real and personal property, loss of subsistence use of natural resources, **loss of government revenue**, loss of profits and earning capacity, increased cost of providing public services,

and natural resource damages. The April, 2010, Deepwater Horizon oil spill caused damages for which Florida governments are entitled to recover. Government recoveries for claims for removal costs and for the increased cost of providing public services have been ongoing, and the process for recovery of natural resource damages has begun. The Governor's Office, the Attorney General's Office and other state agencies are now actively developing the claims for loss of government revenues. This process will include the participation of the Revenue Estimating Conference to develop the state's claim for loss of government revenues.

OBJECTIVE:

The project will include monitoring the activities of the executive branch and providing assistance in developing the claims.

METHODOLOGY:

Staff of the Budget Subcommittee on Finance and Tax will participate in meetings and activities related to developing the government claims and will represent the Senate in the Revenue Estimating Conference process.

BUDGET SUBCOMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Interim Projects

(None)

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

<i>Department of Agriculture and Consumer Services School Food and Nutrition Programs</i>

DATE DUE: N/A

PROJECT NUMBER: 2012-411

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature passed Senate Bill 1312, which transfers the school food and nutrition programs from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (DACS). The bill creates the “Healthy Schools for Healthy Lives Act” and provides for a type two transfer of functions, personnel, and funds for the administration of the nutrition programs to the DACS, as defined in s. 20.06(2), F.S.

The administration of school nutrition programs by an agency other than the state education agency requires a waiver from the secretary of the U.S. Department of Agriculture (USDA). The USDA will not recognize the state law without a waiver. Senate Bill 1312 requires the DOE, in consultation with the DACS, to develop and submit the request for a waiver, within 30 days of the bill becoming a law, and to notify in writing to the Governor, the President of the Senate, and the Speaker of the House of Representatives, the decision of the USDA.

OBJECTIVE:

The objective of this project is to monitor the development of the request for a waiver to the USDA and the transfer of functions, staff, and funding associated with the transition of the school nutrition programs to the Department of Agriculture and Consumer Protection.

METHODOLOGY:

Senate Professional Staff of the Budget Subcommittee on General Government Appropriations and the Agriculture Committee will work with staff of the Department of Agriculture and Consumer Services and Executive Office of the Governor to monitor the development of the waiver and the technical implementation of the transfer of the school food and nutrition programs from the DOE to the DACS.

INTERIM MONITOR PROJECT TITLE:

Water Management Districts

DATE DUE: N/A

PROJECT NUMBER: 2012-412

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature passed SB 2142, relating to the five water management districts (districts), to provide increased legislative oversight and financial accountability of the districts. This bill revises provisions relating to the review of each district's budget to authorize the Legislative Budget Commission, in addition to the Executive Office of the Governor, to disapprove in whole or in part the budget of each district. This bill also allows the Legislature to annually review the preliminary budget for each district and set the maximum amount of ad valorem tax revenue a district may raise in the next fiscal year. For Fiscal Year 2011-2012, the bill limits the total ad valorem taxes that may be levied by each district as follows: \$3,946,969 for the Northwest Florida Water Management District; \$5,412,674 for the Suwannee River Water Management District; \$85,335,619 for the St. Johns Water Management District; \$107,766,957 for the Southwest Florida Water Management District; and \$284,901,967 for the South Florida Water Management District.

OBJECTIVE:

The objective of this project is to monitor and review the progress of each district in preparing a tentative budget proposal for Fiscal Year 2011-2012, based upon revenue limitations specified in SB 2142. The project also aims to ensure that each district prepares a preliminary budget for Fiscal Year 2012-2013 for review and consideration by the 2012 Legislature.

METHODOLOGY:

Senate Professional Staff of the Budget Subcommittee on General Government Appropriations and the Environmental Preservation and Conservation Committee will work with the staff of the water management districts, the House of Representatives Agriculture and Natural Resources Appropriation Subcommittee, and the Executive Office of the Governor to develop the format, procedures, and process for reviewing each district's budget for Fiscal Years 2011-2012 and 2012-2013.

INTERIM MONITOR PROJECT TITLE:

Department of Management Services Lease Renegotiations

DATE DUE: N/A

PROJECT NUMBER: 2012-414

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature passed Senate Bill 2002 (Implementing Bill) which includes sections 76 and 77 relating to the renegotiation of private leased space. Section 76 requires the Department of Management Services (department) to use the services of a tenant broker to assist in renegotiation efforts of all private leases of more than 150,000 square feet. Section 77 requires the department, with the cooperation of the agencies holding the leases, to assist in renegotiation efforts of all private leases with more than 2,000 square feet expiring before June 30, 2013.

By September 30, 2011, the department is required to report to the Legislative Budget Commission the results of the renegotiation efforts for the leases more than 150,000 square feet. The report must include the details relating to the savings, costs, lease agreements out of compliance with law, and any recommendations to terminate leases. Any cost savings derived from the renegotiations shall be placed into reserve via the budget amendment process. In addition, the Executive Office of the Governor may transfer savings between agencies via the budget amendment process in order to generate additional savings.

For existing leases over 2,000 square feet and scheduled to expire before June 30, 2013, the department is required to report on the status of the renegotiations and savings by March 1, 2012, and to include the results from the lease renegotiations in its 2011 Master Leasing Report. The annual leasing report is due in October of each year.

OBJECTIVE:

The objective of this project is to monitor agency leased space costs and agencies' efforts to consolidate, co-locate, restack, etc., to ensure cost savings are achieved during the leased space renegotiation process.

METHODOLOGY:

Senate Professional Staff of the Budget Subcommittee on General Government Appropriations will work with staff of the Department of Management Services to monitor the progress of the lease renegotiations to ensure that savings are generated for the state.

INTERIM MONITOR PROJECT TITLE:

Department of Management Services MyFloridaMarketPlace

DATE DUE: N/A

PROJECT NUMBER: 2012-415

ISSUE DESCRIPTION and BACKGROUND:

In October 2002, the Department of Management Services (department) contracted with Accenture, LLP, to build, implement, and maintain a statewide web-based electronic procurement system that

enables the state to buy and sell goods and services electronically. This system is known as MyFloridaMarketPlace. In July of 2009, the department renegotiated and extended the contract through December 2012. When the contract expires in December 2012, the state will have expended a total of about \$134 million for the system.

In order to prepare for the expiration of this contract and to determine the options and alternatives available to the state, the Fiscal Year 2010-2011 General Appropriations Act included proviso language that required the department to develop a business case plan for the competitive solicitation for the state's purchasing system. The business case plan submitted by the department was incomplete and did not meet the requirements of s. 287.0574 (4), F.S.

The Fiscal Year 2011-2012 General Appropriations Act continued proviso language that requires the department to develop a business case plan for the competitive solicitation of the state purchasing system. The plan is due August 15, 2011, and must include a detailed cost benefit analysis of options as defined in s. 287.0574 (4), F.S., as well as a transition plan in the event a new vendor is selected. Upon approval of the business case plan by the Legislative Budget Commission, the department must competitively solicit a contract for operation of the state purchasing system pursuant to s. 287.057, F.S.

OBJECTIVE:

The objective of this project is to monitor the development and submission of the department's business case plan for the review and approval of the Legislative Budget Commission for the future procurement of the state's purchasing system, MyFloridaMarketPlace.

METHODOLOGY:

The Senate Professional Staff of the Budget Subcommittee on General Government Appropriations and the Senate Governmental Oversight and Accountability Committee will work with staff of the Department of Management Services to monitor the development and review the business case plan for the future competitive solicitation of the MyFloridaMarketPlace system.

INTERIM MONITOR PROJECT TITLE:

Office of Insurance Regulation - Florida Public Hurricane Loss Projection Model

DATE DUE: NA

PROJECT NUMBER: 2011-416

ISSUE DESCRIPTION and BACKGROUND:

Based on the need to more accurately predict hurricane losses for an estimated \$2.0 trillion worth of residential properties, the 2000 Legislature appropriated funds to develop a public hurricane loss projection model for the state. Chapter 2000-166, Laws of Florida, the FY 2000-2001 General Appropriations Act, provided \$1,211,178 to the former Department of Insurance to contract with the International Research Center at Florida International University (FIU) to develop a Public Hurricane Loss Projection Model (public model). The proviso language associated with line item 2226 provided that the public model would determine hurricane risks and projected losses to "guarantee appropriate insurance regulation." Currently, the public model allows the Office of Insurance Regulation (OIR) to use the data as a baseline for comparison to the private hurricane loss projection models utilized by insurers for rate filings purposes. According to the OIR, the public model provides a check on the

assumptions, analysis, and results generated by the proprietary models. The public model's assumptions, methodologies, designs, and theories are open to the public.

The proviso language that authorized the development of the public model also required that it be designed in accordance with standards set by the Florida Commission on Hurricane Loss Projection Methodology (commission). The commission found the Public Hurricane Loss Projection Model in compliance with its standards on August 17, 2007, and it has been recertified subsequently. In addition to the public model, there are four private models that have been certified by the commission. They are: (1) AIR Worldwide, Atlantic Tropical Cyclone Model V11.0; (2) Applied Research Associates, HurLoss Version 4.2.a; (3) EQECAT; (4) Risk Management Solutions, RiskLink Version 8.0.1a; and (5) Florida Public Hurricane Loss Projection Model 2009.

The 2008 Legislature expanded the use of the public model. Section 627.06281 (3) (a), F.S., permits residential property insurers access and use of the public model, including all assumptions and factors and all detailed loss results, for the purpose of calculating rate indications in a rate filing and for analytical purposes, including any analysis or evaluation of the model required under actuarial standards of practice. Insurers, however, are only responsible for paying the actual cost associated with access to and use of the model. OIR Rule 690-170.144 outlines the procedure and fee schedule applicable to residential property insurers for access and use of the model. Additionally, s. 627.315, F.S., requires Citizens Property Insurance Corporation to use the public model to serve as the minimum benchmark for determining the windstorm portion of its rates.

The public model must be periodically updated as new meteorological and insurance claims data become available and as new scientific methodologies are available. To date, the state has provided a total of \$ 8,115,471 for the development, operations, and maintenance of the public model.

OBJECTIVE:

The objective of this project is to facilitate a comprehensive analysis and review of Florida's Public Hurricane Loss Projection Model to determine its costs and benefits, including the current and future anticipated expenditures, current revenues generated from use of the model, and to explore opportunities for the model to become self sufficient.

METHODOLOGY:

It is requested that the Office of Program Policy Analysis and Governmental Accountability conduct the review, with assistance from the Senate Professional Staff of the Budget Subcommittee on General Government Appropriations and the Banking and Insurance Committee. Data will be provided from the Office of Insurance Regulation and the Florida International University. The data includes historical and future anticipated expenditures including projected costs associated with future operations, maintenance, and enhancements, and the revenues currently generated. The analysis will also include the exploration of opportunities for potential partnerships with the private sector that could be established to fund the operations and maintenance of the model.

INTERIM MONITOR PROJECT TITLE:

Department of Financial Services Risk Management Program Costs

DATE DUE: N/A

PROJECT NUMBER: 2012-417

ISSUE DESCRIPTION and BACKGROUND:

The Division of Risk Management (division) within the Department of Financial Services is responsible for ensuring that participating state agencies and universities receive quality coverage for workers' compensation, general liability, federal civil rights, auto liability, and property insurance at reasonable rates through the state's self insurance program. The division's operations and the insurance coverage for the state are funded from agency annual assessments. This revenue is deposited into the State Risk Management Trust Fund. The premiums or assessments are based on each agency's loss experience and exposure and a prorated share of the division's operating budget. Projected costs are derived from actuarial studies of the division's cash flow needs for claims and program expenses.

As part of the state's Three Year Financial Outlook, the Revenue Estimating Conference (REC) utilizes the actuarial information to determine the future resource requirements for the program. These requirements are based on the state's typical claims loss experience, program operating expenses, and current and projected risk assessments. For the 2009-2010 through the 2011-2012 fiscal years, the REC projected significant deficits within the Risk Management Trust Fund. The Fiscal Year 2010-2011 General Appropriations Act provided \$17.1 million for the 2009-2010 fiscal year, and \$39.1 million for the 2010-2011 fiscal year to cover the costs for estimated program fund deficits. While there are not estimated deficits through the 2012-2013 fiscal year, the REC has projected a \$12.3 million fund deficit for the 2013-2014 fiscal year.

A January 2010 report prepared by the division identified four primary cost drivers to which the increased program costs are attributed: (1) increasing workers' compensation medical costs, including the escalating cost of prescription medications; (2) the annual cost of living supplements paid on claims involving total and permanent disability; (3) the increasing cost of civil rights claim settlements; and (4) the increasing number of presumption claims involving correctional officers. According to the division, the fund will continue to experience unending cost increases until loss prevention measures designed to reduce claims and program costs are implemented.

The 2010 Legislature passed HB 5603 that revised the requirements for determining the reimbursement amount for repackaged or relabeled prescription medications for workers' compensation claimants regardless of dispensing location or provider. This bill was vetoed by Governor Crist. According to a March 2010 study conducted by the Workers' Compensation Research Institute, Inc., (WCRI), the average payment per claim for prescription drugs in Florida is 38 percent higher than the median for the other 16 states in its study. The study further indicated that the dispensing of repackaged medications by physicians is the primary cause for the increased costs of prescription drugs which has become a common practice in Florida. Currently, prescription drugs are reimbursed at the average wholesale price (AWP) plus a \$4.18 dispensing fee, or a contract rate, whichever is lower. The AWP of a drug is set by its original manufacturer. Manufacturers obtain a National Drug Code for each drug produced, and the drug is then sold directly to a physician, pharmacy or repackager or relabeler. Repackagers or relabelers do not alter a drug; rather, they sell the drug in different quantities. As part of that process, a repackager or relabeler obtains a new National Drug Code, which allows the assignment

of a new, and often different, AWP. The National Council on Compensation Insurance (NCCI) estimates that a change in reimbursement methodology to require repackaged or relabeled drugs be limited to the average wholesale price set by the original manufacturer of the underlying drug plus a \$4.18 dispensing fee or the contracted negotiated rate will reduce total workers' compensation costs by 2.5 percent, which would equate to more than \$ 62 million to in savings to Florida employers in the first year of implementation.

In order to reduce claims and program costs, the 2011 Legislature passed HB 2132, which institutes several cost savings and efficiencies measures. The legislation required:

- The Department of Financial Services and all participating state agencies with 3,000 or more employees to establish and maintain a return to work program for injured workers, allowing them to remain at work or return to work with alternate work duties.
- The use of agency loss prevention results in addition to claims history as criteria for calculating agency risk management premiums to increase agency accountability.
- Evaluation of each agency's risk management programs at least once every five years and preparation of reports to agency heads recommending improvements.
- An annual report to the Legislature on the status of the state's loss prevention programs.

OBJECTIVE:

The objective of this project is to monitor current year program expenditures, agency activities implementing the program efficiencies and cost savings measures outlined in SB 2132, and to explore other opportunities to reduce program costs and claims to the state's Risk Management Program. Other opportunities include savings that may be realized by revising the requirements for determining the reimbursement amounts for repackaged or relabeled prescription medications for workers' compensation claimants.

METHODOLOGY:

The Senate Professional Staff of the Budget Subcommittee on General Government Appropriations and the Banking and Insurance Committee will work with staff from the Division of Risk Management to review program information provided by the division and the REC. Professional staff will work with participants on the Revenue Estimating Conference to monitor program costs and cash flow requirements.

INTERIM MONITOR PROJECT TITLE:

Transfer of the Florida Energy and Climate Commission Responsibilities to the Department of Agriculture and Consumer Services

DATE DUE: N/A

PROJECT NUMBER: 2012-418

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature passed Senate Bill 2106 and Senate Bill 2156, which transfer functions of the Florida Energy and Climate Commission from the Executive Office of the Governor to the Department of Agriculture and Consumer Services (department). Senate Bill 2106 was vetoed by the Governor. However, sections 500 through 526 of Senate Bill 2156 transfer all duties, personnel, and funds to the

department by a type two transfer, as defined in s. 20.06 (2), F.S. The department will administer all activities previously assigned to the commission relating to renewable energy and green government programs. These include the Renewable Energy and Energy-Efficient Technologies Grants Program, Energy-Efficient Appliance Rebate Program, the Solar Energy System Incentives Program, the Florida Green Government Grants Act, and the Energy Economic Zone Pilot Program. In addition, Senate Bill 2156 allows the department to submit a budget amendment to the Legislative Budget Commission for increased budget authority for federal energy grants, subject to the review and notice procedures provided in s. 216.177, F.S.

OBJECTIVE:

The objective of this project is to monitor the transfer of functions, staff, and funding associated with the Florida Energy and Climate Commission from the Executive Office of the Governor to the Department of Agriculture and Consumer Services.

METHODOLOGY:

Senate Professional Staff of the Budget Subcommittee on General Government Appropriations and the Commerce and Tourism Committee will work with staff of the Department of Agriculture and Consumer Services and Executive Office of the Governor to monitor the technical implementation of the transfer of the Florida Energy and Climate Commission to the Department of Agriculture and Consumer Services.

BUDGET SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES APPROPRIATIONS

Interim Projects

INTERIM PROJECT TITLE:

<i>Forensic Mental Health System</i>

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-108

ISSUE DESCRIPTION and BACKGROUND:

Florida's forensic system is a network of state facilities and community services for adults over the age of 18 and juveniles adjudicated as adults who have a mental illness and are involved with the criminal justice system. Forensic services provided include evaluations for competency to proceed with a criminal trial, treatment following a finding of not guilty by reason of insanity, and services to individuals on conditional release in the community.

Community mental health providers make available community services as a first level of treatment and assessment aimed at stabilization and reducing the need for admission into a state facility. Community services are also available to individuals released from state mental health treatment facilities, including monitoring of individuals on conditional release and community competency restoration services. Local county jails provide mental health services to individuals awaiting state facility admission, to individuals returning from state facilities, and to individuals who are able to proceed with disposition of their criminal charges without requiring facility admission.

The Department of Children and Family Services (DCF) operates the state's forensic treatment facilities through four state and privately operated maximum security commitment facilities: Florida State Hospital (state operated), North Florida Evaluation and Treatment Center (state operated), South Florida Evaluation the Treatment Center (privately operated), and Treasure Coast Treatment Center (privately operated). Individuals who no longer require a secure setting may be transferred into non-secure forensic step-down beds in one of three civil mental health treatment facilities (Florida State Hospital, Northeast Florida State Hospital, and South Florida State Hospital).

Stakeholders, including mental health professionals, advocates, judges, sheriffs, and legislators are seeking more effective and efficient means to treat individuals requiring competency restoration services in order to proceed with a criminal trial or found not guilty by reason of insanity. In October 2010, DCF issued the *Report of the State Mental Health Treatment Facilities Work Group*, which recommended:

- Expanding community-based competency restoration services through more effective and less expensive forensic hospital diversion programs, and
- Transferring appropriate hospital residents currently in forensic step-down beds to less expensive community settings.

To reduce the cost of forensic mental health treatment facilities, the 2011 Legislature reduced expenditures for state-operated forensic treatment facilities by seven percent and eliminated 82 surplus forensic beds for a savings of \$14.5 million. In addition, the Senate Committee on Children, Families,

and Elder Affairs introduced SB 2064 to expand the Miami-Dade Forensic Hospital Diversion Pilot Program to three additional sites around the state. While this bill passed the Senate, it died in House Messages.

OBJECTIVE:

This project will focus on addressing the following issues:

- The feasibility and potential cost savings in diverting forensic clients from hospital placements through community-based competency restoration programs;
- The feasibility and potential cost savings of serving clients currently in forensic step-down beds in community placements;
- The extent to which competency restoration clients cycle between state forensic treatment facilities and county jails and detention centers and the reasons for this; and
- A profile of case mix, patient characteristics and diagnoses comparing public and outsourced forensic commitment facilities.

METHODOLOGY:

Senate professional staff of the Budget Subcommittee on Health and Human Services Appropriations will interview key stakeholders regarding community-based treatment and placement of forensic clients; interview DCF mental health treatment facility staff, forensic coordinators, and sheriffs regarding the movement of competency restoration clients between county jails and forensic facilities; review available DCF data on the outcomes of community-based forensic services; and request, review, and synthesize DCF data from forensic facilities.

INTERIM PROJECT TITLE:

Crisis Stabilization Units

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-109

ISSUE DESCRIPTION and BACKGROUND:

Crisis Stabilization Units (CSUs) were created to provide a less intensive and less costly alternative to psychiatric inpatient hospital units for assessments, stabilization, and treatment of individuals experiencing acute mental health crisis. Individuals often enter the public mental health service system through public receiving facilities. These facilities admit persons for involuntary examination and are defined by statute as “any public or private facility designated by the department to receive and hold involuntary patients under emergency conditions or for psychiatric evaluation and to provide short-term treatment” (s. 394.455(26), F.S.). In many communities, the public receiving facility is a CSU.

The Department of Children and Family Services (DCF) is responsible for issuing a certificate of designation to a CSU as a Baker Act Receiving Facility. The Agency for Health Care Administration (AHCA) licenses CSUs, and the rules governing the operation of the CSU are promulgated by DCF. CSUs may serve adults or children as designated by DCF, and must provide services regardless of a client’s ability to pay (s. 394.875(1)(a), F.S.). Inpatient stays average 3 to 14 days, resulting in return to the patient’s own home or placement in a long-term mental health facility or other living arrangements.

As of March 2011, there were 45 adult crisis stabilization units statewide with 872 beds, and 21 children's crisis stabilization units with 219 beds. From Fiscal Year 2005-06 through Fiscal Year 2009-10, an average of 36,000 adults and 7,500 children were served in CSUs, with an average increase in the numbers served of 6 and 5 percent respectively. Section 394.875(1)(a), F.S., limits the maximum number of bed in CSUs to 30.

OBJECTIVE:

This project will focus on the following issues:

- The funding streams supporting CSUs, i.e., Medicaid, Medicare, DCF, or private pay;
- Whether DCF is the payor of last resort and how this is monitored; and
- Whether a funding model for CSUs can be created where funds follow the client, as exists in Broward County.

METHODOLOGY:

Senate professional staff of the Subcommittee on Health and Human Services Appropriations will interview a sample of key stakeholders, review relevant data and reports regarding CSUs from DCF and AHCA, and conduct site visits of public and private receiving facilities in proximity to Tallahassee.

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

(None)

BUDGET SUBCOMMITTEE ON HIGHER EDUCATION APPROPRIATIONS

Interim Projects

INTERIM PROJECT TITLE:

Report on the Impact of the General Appropriations Act on Public Post-secondary Education

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-131

ISSUE DESCRIPTION and BACKGROUND:

This report is an institutional level summary of the impact of the General Appropriations Act showing allocations of appropriations and other fiscal information for each state university and college. The report is produced annually by the Senate Education Appropriations Subcommittee professional staff as a resource to members, aides, agency staff, and the general public.

OBJECTIVE:

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

METHODOLOGY:

Last year's Senate post-session education publication will be reviewed to determine whether all types of information previously included are still useful or should be modified or enhanced. Professional staff will collaborate with Department of Education and Board of Governors to incorporate and update historical fiscal information and allocations for state universities and colleges. These allocations will be checked for consistency with the General Appropriations Act.

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

(None)

BUDGET SUBCOMMITTEE ON TRANSPORTATION, TOURISM, AND ECONOMIC DEVELOPMENT APPROPRIATIONS

Interim Projects

(None)

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

<i>Cost Effectiveness of Regional Expressway and Bridge Authorities</i>

DATE DUE: 9/1/11

PROJECT NUMBER: 2012-208

ISSUE DESCRIPTION and BACKGROUND:

The Florida Department of Transportation (FDOT) often enters into lease-purchase agreements with Florida expressway and bridge authorities as part of its responsibility to operate and maintain toll facilities. Under lease-purchase agreements, FDOT may loan monies to pay the annual operations and maintenance costs for an authority's toll facilities to enable the toll revenues collected by the authority to be primarily used to pay its facilities' bond debt. Reimbursement to FDOT is typically not made until the authority has met these debt service requirements. Upon completion of the lease-purchase agreement, ownership of the facility is transferred to the State and FDOT retains all operations and maintenance responsibility. Currently, Florida expressway and bridge authorities owe an estimated \$379,000,000 pursuant to the terms of various loans and lease-purchase agreements.

OBJECTIVE:

This project will compare and analyze the revenues and expenditures of the expressway and bridge authorities having lease purchase agreements with FDOT.

METHODOLOGY:

Senate professional staff of the Budget Subcommittee on Transportation, Tourism, and Economic Development will review revenues and expenditures for governance and support services of the expressway and bridge authorities including, but not limited to, executive management, legal, accounting, human resources, marketing, procurement and contracted services.

INTERIM ISSUE BRIEF TITLE:

Review Department of Transportation Highway Operations Program

DATE DUE: 9/1/11

PROJECT NUMBER: 2012-209

ISSUE DESCRIPTION and BACKGROUND:

The Florida Department of Transportation's (FDOT) Transportation Systems Operations Program: Highway Operations budget entity encompasses those agency functions that maintain the condition of State Highway System and expands its capacity. Specific resources contained in this service include:

- Adding capacity;
- Routine maintenance;
- Bridge inspection; and
- Enforcement of weight requirements of commercial motor vehicles.

OBJECTIVE:

This issue brief will examine the programs and functions funded by FDOT'S Transportation Systems Operations Program: Highway Operations budget entity.

METHODOLOGY:

Staff will identify all statutorily assigned duties and responsibilities of FDOT offices funded through the budget entity. Staff will review agency information submissions, all relevant OPPAGA reports and studies, all relevant Auditor General and agency inspector general reports, public testimony and submissions, and any other information deemed relevant.

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Implementation of ch. 2011-142, L.O.F., Governmental Reorganization

DATE DUE: N/A

PROJECT NUMBER: 2012-419

ISSUE DESCRIPTION and BACKGROUND:

Senate Bill 2156 provides for a major reorganization of state government land planning and community development, workforce development, and economic development functions. The bill creates the Department of Economic Opportunity (DEO) and transfers the Office of Tourism, Trade and Economic Development (OTTED), portions of the Department of Community Affairs (DCA), and portions of the Agency for Workforce Innovation (AWI) workforce functions to the new agency,

effective October 1, 2011. It also consolidates several public-private economic development partnerships (Enterprise Florida, Inc., (EFI), Black Business Investment Board (BBIB) and Florida Sports Foundation). Responsibilities of the DEO include:

- Oversight and coordination of economic development, housing, growth management, community development programs, and unemployment compensation;
- Developing a single, statewide 5-year strategic plan to address the promotion of business formation, expansion, recruitment, and retention;
- Submitting an annual report on the condition of the business climate and economic development in the state;
- Managing the activities of the public-private partnerships; and
- Establishing annual performance standards for Enterprise Florida, Inc., Workforce Florida, Inc., VISIT Florida, and Space Florida and reporting annually on how these performance measures are being met.

The bill requires the DEO to submit a transition report (due 8/15/11), a business plan (due 9/1/11) and recommendations for further reorganization and streamlining of economic development and workforce functions (due 1/1/12). The bill also changes the economic development incentive application and review process, the parameters for measuring the projected economic benefits of proposed projects, and expands the annual reporting requirements related to projects receiving incentives. These reports and recommendations could be used to evaluate the current funding of economic incentives and DEO program functions.

OBJECTIVE:

The objective of this project is to closely monitor the transfer of government functions, staff and funding to the new DEO as provided in law, and to review the implementation of these functions under the revised programmatic parameters specified in law.

METHODOLOGY:

In coordination with substantive committee staff, the Budget Subcommittee on Transportation, Tourism, and Economic Development staff will work closely with the Governor's Office and agency staff to monitor the technical execution of the transfers and the implementation of the new DEO. Senate staff will participate in the various transition meetings and activities ad hoc to validate that actions taken by the Executive Branch are consistent with legislative requirements and intent. Senate staff also will review and evaluate the required reports and recommendations. In addition, Senate staff will monitor the implementation of the "New Model" used by EFI to measure the economic benefits of economic development incentives.

INTERIM MONITOR PROJECT TITLE:

Department of Economic Opportunity Business Plan

DATE DUE: N/A

PROJECT NUMBER: 2012-421

ISSUE DESCRIPTION and BACKGROUND:

Section 8 of SB 2156 requires the Department of Economic Opportunity (the department), or its predecessor agencies, in conjunction with Enterprise Florida, Inc., or any predecessor public-private partnerships, and Workforce Florida, Inc., to prepare and submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a business plan for the use of the economic development funds appropriated for FY 2011-12 and administered by the department and Enterprise Florida, Inc. The plan should include any plans for attracting out-of-state industries to Florida, promoting the expansion of existing industries in this state, and encouraging the creation of businesses in this state by Florida residents. At a minimum, the business plan should include:

- Strategies to be used by the department and Enterprise Florida, Inc., to recruit out-of-state companies, promote existing businesses to expand, and encourage the creation of new businesses;
- Benchmarks related to:
 - Out-of-state business recruitment and in-state business creation and expansion by the department and Enterprise Florida, Inc.;
 - The numbers of jobs created or retained through the efforts of the department and Enterprise Florida, Inc.; and
 - The number of new international trade clients and new international sales, including a projected amount of contracts for Florida-based goods or services.
- The minimum amount of annual financial resources the department and Enterprise Florida, Inc., project will be necessary to achieve the benchmarks;
- The tools, financial and otherwise, necessary to achieve the benchmarks; and
Time-frames to achieve the benchmarks.

OBJECTIVE:

To monitor the development of the required business plan.

METHODOLOGY:

Senate professional staff of the Budget Subcommittee on Transportation, Tourism and Economic Development will attend any department meetings regarding the business plan and will monitor the development of the business plan to be received on September 1, 2011.

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Interim Projects

INTERIM PROJECT TITLE:

Review Management, Oversight, and Funding of Community-based Care

DATE DUE: December 1, 2011

PROJECT NUMBER: 2012-110

ISSUE DESCRIPTION and BACKGROUND:

The first major initiative to outsource or privatize administration of child welfare occurred in 1996 when the Legislature required the Department of Children and Families (DCF or department) to contract with community-based care (CBC) lead agencies to establish pilot projects to provide foster care and related services. The intent of this legislation was to strengthen the support and commitment of communities, promote the reunification of families and care of children and their families, and gain efficiencies and increased accountability.

The department established pilot projects in former Districts 1, 4, 8, and 13, spent \$27.5 million to support the pilots from 1997 to 2000, and evaluated each of the pilot projects annually to assess whether private providers did a better job providing services to children and families than the department. These evaluations were inconclusive about the effectiveness of the pilots. The 1998 Legislature expanded community-based care statewide by requiring the department to competitively outsource the provision of foster care and related services statewide to a local not for profit network of child welfare providers. The transition was completed in Fiscal Year 2004-05. As of May 2011, 20 lead agencies have contracts with DCF to assume responsibility for providing child welfare services statewide.

The Legislature and the department have made changes during the past ten years to increase lead agency autonomy and provide additional funding flexibility. Reports by the Office of Program Policy Analysis and Government Accountability (OPPAGA), the Auditor General, and other entities have noted opportunities for enhanced lead agency performance. Many of those findings and recommendations for improvement have never been addressed by either the department or the CBCs. Most recently DCF's Inspector General issued its findings in response to various allegations of lead agency mispending. The May 2011 report expressed concern about the operating relationship between the department and the CBC. In particular, the IG recommended that the department and the legislature examine and restate the desired policy on lead agency oversight and management bonuses and severance payments.

It has been 15 years since the Legislature first began the privatization of child welfare services. The community-based care model has now reached maturity, and it is appropriate for the Legislature to examine the current state of child welfare provision with an eye toward improvements and efficiency.

OBJECTIVE:

The purposes of this project are to:

- Examine the partnerships that exist between the community-based care lead agencies and their providers, the community alliances, and the broader community as a whole;
- Determine if the department has the ability to and exercises adequate oversight and control over the CBC lead agencies;
- Examine the financial management of the CBCs to determine whether changes need to be made to their funding and compensation structures; and
- Propose legislation as may be appropriate to address the findings.

METHODOLOGY:

Senate professional staff will review s. 409.1671, F.S., and its practice rules; review audits, reports, and reviews done by OPPAGA, the Auditor General, and other entities, related to the community-based care system as a whole and individual lead agencies; and meet with legislative and DCF appropriations staff, DCF contract managers, and other interested stakeholders.

INTERIM PROJECT TITLE:

Review Funding Mechanisms to Advance the Cure for Alzheimer's Disease

DATE DUE: October 1, 2011

PROJECT NUMBER: 2012-111

ISSUE DESCRIPTION and BACKGROUND:

Alzheimer's disease is a progressive, irreversible brain disorder with no known cause or cure. Symptoms of the disease include memory loss, confusion, impaired judgment, personality changes, disorientation, and loss of language skills. Always fatal, Alzheimer's disease is the most common form of irreversible dementia. How rapidly it advances varies from person to person, but it eventually causes confusion, personality and behavior changes and impaired judgment. Communication becomes difficult as the affected person struggles to find words, finish thoughts or follow directions. Most people with Alzheimer's disease become unable to care for themselves.

There is no known treatment that will cure Alzheimer's disease. For those who are currently suffering with the disease, medications can only help control symptoms and/or slow the progression of the disease. As many as 5.1 million Americans currently suffer from Alzheimer's, and it is estimated that by 2050, 16 million Americans will have this disease. In every nation where life expectancy has increased, so has the incidence of Alzheimer's disease.

The National Institute on Aging currently funds 30 Alzheimer's Disease Centers at major medical institutions across the nation, including the Florida Alzheimer's Disease Research Center/Byrd Alzheimer's Institute at the University of South Florida. Researchers at these centers are working to translate research advances into improved care and diagnosis for Alzheimer's disease patients, while at the same time focusing on the program's long-term goal — finding a way to cure and possibly prevent Alzheimer's disease.

The Florida Legislature put into place Florida's Alzheimer's Disease Initiative to establish memory disorder clinics at three medical schools in the state, plus 12 additional memory disorder clinics in other medical settings. The purpose of these clinics is to conduct research and training in a diagnostic and therapeutic setting for persons with Alzheimer's disease, conduct research and develop caregiver-training materials. Individuals diagnosed with or suspected of having Alzheimer's disease are eligible for memory disorder clinic services.

In addition, Florida has established an Alzheimer's disease brain bank at Mt. Sinai Medical Center in Miami Beach, which collects the brains of deceased individuals from around the state (often clients of memory disorder clinics) whose families have consented to participate in research. The brain bank provides a definitive diagnosis of the disease for families and referring physicians, and maintains a neuropathology database which contains information about the pathology of the tissue, and the demographics and history of the individual. The brain bank stores brain tissue for research purposes, and distributes tissue samples to researchers for ongoing studies.

The state has invested in a variety of Alzheimer's Disease research programs. It is not known, however, whether the funding for that research has been awarded in a manner designed to advance the projects most likely to lead to a cure.

OBJECTIVE:

The objective of this Interim Project will be to identify and examine the various mechanisms used in Florida to award grants for research on Alzheimer's Disease. In particular, staff will seek to identify funding mechanisms which will result in expansion of Alzheimer's disease research capacity in the state through a peer-reviewed competitive grant process; lead to improvements in research and treatment; and foster collaborations among institutions, researchers, and community practitioners. Legislation to implement promising funding models to advance the cure for Alzheimer's disease will be proposed.

METHODOLOGY:

Senate professional staff will survey existing Alzheimer's disease research programs in the state and identify, through literature review and examination of annual reports, funding sources for these projects. Interviews with key management of the programs will be conducted to determine how research funding is garnered — whether by competitive award; direct appropriation from federal, state, or private sources; or other mechanism. In addition, staff will survey these programs and other disease research models in the state to identify those which award research funding based on a peer-reviewed competitive grant process and how that process is carried out.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Review Federal Fostering Connections Implementation in Florida

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-210

ISSUE DESCRIPTION and BACKGROUND:

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351 or the Act) was enacted to improve outcomes for children and young adults in foster care by promoting permanency through relative guardianship and adoption, and improving education and health care. Title IV-E funds will be available to states to implement provisions of the Act. Generally, the Act requires states to:

- Provide educational stability to children in foster care by ensuring regular school attendance, enabling children to remain in the same school where appropriate, or, when a move is necessary, ensuring that transfers occur promptly. Increased federal support is available to assist with school-related transportation costs; and

- Improve health care for children in foster care by requiring the state child welfare agency to work with the state Medicaid agency to create a plan to better coordinate health care for these children.

In addition, the Act provides states with the option of:

- Allowing children who turn 18 in foster care without permanent families to remain in care, at state option, to age 19, 20, or 21 with continued federal support to increase their opportunities for success as they transition to adulthood;
- Receiving federal funds to assist with subsidized guardianship payments to enable children in foster care to live in permanent guardianships with grandparents or other relatives. Under certain circumstances, families may continue to receive guardianship assistance until the child reaches age 21. The Act also clarifies that states may waive non-safety related licensing standards for relatives on a case-by-case basis; and
- Continuing maintenance adoption subsidy payments to families for children who were adopted from foster care after the age of 16 and who meet certain criteria for continued payments.

The Act also expands the availability of federal training dollars, on a phased-in basis, to reach more of those caring for and working with children in the child welfare system, including relative guardians, staff of private child welfare agencies, court personnel, attorneys, guardians ad litem, and court appointed special advocates.

In partnership with Casey Family Programs, the National Association of Public Child Welfare Administrators has surveyed all 50 states and the District of Columbia on their implementation of Fostering Connections. States have reported varying degrees of progress in implementation of the Act.

OBJECTIVE:

This issue brief will analyze issues related to the implementation of the provisions of the Fostering Connection Act in Florida. Specifically, this brief will include:

- A detailed summary of the provisions of the Act that Florida is either required to adopt, or has the option of adopting;
- An analysis of the federal funding available to implement provisions of the act;
- An examination of implementation practices in other states that might be beneficial to Florida; and
- Recommendations for implementation of the provisions of Fostering Connections in Florida.

METHODOLOGY:

Senate professional staff will develop a detailed summary of both the optional and required provisions of the Fostering Connections Act that are applicable to Florida; will survey the statutes and administrative rules to determine which of those provisions have been partially or fully implemented; and will work with child welfare stakeholders to determine statutory and other changes that are necessary to implement the remaining provisions.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 409.25661, F.S., Insurance Claim Data Exchange Information

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-301

ISSUE DESCRIPTION and BACKGROUND:

Section 409.25659, F.S., requires the Department of Revenue (DOR or department) to develop and operate a data match system in which an insurer may voluntarily provide DOR with the name, address, and, if known, date of birth and Social Security number or other taxpayer identification number for each noncustodial parent who has a claim with the insurer and who owes past-due child support. Section 409.25661, F.S., provides that specified information regarding a noncustodial parent who owes past-due child support, collected by DOR pursuant to s. 409.25659, F.S., is confidential and exempt from public records.

This public-records exemption was created in 2004 and during the 2009 and 2010 Regular Sessions, the Legislature extended the repeal date of the exemption in order to provide DOR ample time to determine the success of the federal Deficit Reduction Act of 2005. This exemption stands repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

Under the Open Government Sunset Review Act, s. 119.15, F.S., public-records exemptions are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature under the standards prescribed in the act. The objective of this mandatory review is to evaluate the public-records exemption for insurance claim data exchange information under those standards and recommend whether the Legislature should retain the exemption.

METHODOLOGY:

Senate professional staff will review the public-records exemption under the standards of the Open Government Sunset Review Act based on input solicited from the Department of Revenue, the First Amendment Foundation, and other interested parties.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Interagency Background Screening Workgroup

DATE DUE: N/A

PROJECT NUMBER: 2012-422

ISSUE DESCRIPTION and BACKGROUND:

The Florida Legislature in 1995 created standard procedures for the criminal history background screening of prospective employees in order to protect vulnerable persons, including children, the

elderly, and the disabled. Over time, implementation and coordination issues arose as technology changed and agencies were reorganized. To address these issues, Chapter 2010-114, L.O.F., substantially rewrote the requirements and procedures for background screening of the persons employed by entities that deal primarily with vulnerable populations.

In the 2011 session, the legislature addressed specific screening issues associated with those serving elders in SB 1992. (If signed by the Governor, the law becomes effective July 1, 2011.) The legislation also requires the Department of Children and Family Services, the Agency for Health Care Administration (AHCA), the Department of Elderly Affairs, the Department of Health, the Agency for Persons with Disabilities, the Department of Juvenile Justice, and the Department of Law Enforcement to create a statewide interagency background screening workgroup. The workgroup will develop a plan to implement a statewide system for streamlined background screening processes, and to share background screening results among state agencies.

The interagency workgroup will be coordinated through AHCA, which was awarded a \$3 million dollar federal grant for a two-year project to expand background screening initiatives. The workgroup is required to submit its work plan to the President of the Senate and the Speaker of the House of Representatives by November 1, 2011.

OBJECTIVE:

Staff will monitor the progress of the workgroup over the 2011 interim.

METHODOLOGY:

Staff will attend workgroup meetings, review any documents generated, and communicate with workgroup members and other stakeholders, as necessary.

INTERIM MONITOR PROJECT TITLE:

Review Child Support Guidelines

DATE DUE: N/A

PROJECT NUMBER: 2012-423

ISSUE DESCRIPTION and BACKGROUND:

Pursuant to 42 USCA s. 667, each state must review its guidelines for child support, at least once every four years, to ensure that the application of these guidelines results in the determination of appropriate child support award amounts.

During the 2011 Regular Session, the Legislature appropriated up to \$68,000 from the Child Support Enforcement Application and Program Revenue Trust Fund and \$132,000 from the Federal Grants Trust Fund to be used by the Department of Revenue (DOR) to fund the child support guideline review, to be conducted by the Office of Economic and Demographic Research (EDR). From the funds provided for this purpose, DOR shall reimburse EDR for contractual costs incurred to conduct the review of the child support guidelines schedule in accordance with the federal Family Support Act of 1988 and submit a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2011.

The Office of Economic and Demographic Research is authorized by the Legislature to contract with a state university or a nationally recognized organization for the purpose of collecting and analyzing the economic data necessary for the review. In the past, EDR has contracted with the Florida State University for this purpose.

OBJECTIVE:

The objective of this project is to monitor the child support guideline review conducted by EDR, in connection with FSU, and review the final report in preparation for the 2012 Interim where committee staff will compile a list of recommendations stemming from the review in preparation for proposed legislation for the 2013 Regular Session.

METHODOLOGY:

Senate professional staff will attend meetings and communicate with EDR and FSU staff regarding the review and final report.

INTERIM MONITOR PROJECT TITLE: <i>Review iBudget Florida Plan</i>

DATE DUE: N/A

PROJECT NUMBER: 2012-424

ISSUE DESCRIPTION and BACKGROUND:

In an effort to control funding deficits and reduce the growing waitlist for home and community-based services, the Legislature included proviso language in the 2009 General Appropriations Act requiring the Agency for Persons with Disabilities (APD or agency), in consultation with the Agency for Health Care Administration (AHCA), to develop a plan to establish individual budgets for persons receiving home and community-based services. This plan was submitted to the Governor and the Legislature on February 1, 2010.

During the 2010 Regular Session, the Legislature created s. 393.0662, F.S. (ch. 2010-157, Laws of Florida), which required APD to establish an individual budget (iBudget) for each individual served by the home and community-based services Medicaid waiver program. The iBudget system had to provide for:

- Enhanced client choice within a specified service package;
- Appropriate assessment strategies;
- An efficient consumer budgeting and billing process that includes reconciliation and monitoring components;
- A redefined role for support coordinators that avoids potential conflicts of interest;
- A flexible and streamlined service review process; and
- A methodology and process that ensures the equitable allocation of available funds to each client based on the client's level of need.

Additionally, AHCA was mandated to seek federal approval to amend current waivers, request a new waiver, and amend contracts as necessary to implement the iBudget system. The Legislature required APD to transition all eligible, enrolled clients to the iBudget system; however, APD could continue to serve clients under the four-tiered waiver system while it gradually phased in the iBudget

system. The agency was directed to collect data to evaluate the implementation and outcomes of the iBudget system.

OBJECTIVE:

The objective of this project is to monitor APD's transition from the four-tiered waiver system to the iBudget system for individuals served by the home and community-based services Medicaid waiver program.

METHODOLOGY:

Senate professional staff will meet with APD and AHCA staff to discuss and review data collected by APD that evaluates the implementation and outcomes of the iBudget system.

COMMERCE AND TOURISM

Interim Projects

INTERIM PROJECT TITLE:

Identification, Review, and Recommendation Relating to Statutory Changes Necessary to Implement the Governmental Reorganization Required by ch. 2011-142, L.O.F.

DATE DUE: October 1, 2011

PROJECT NUMBER: 2012-112

ISSUE DESCRIPTION and BACKGROUND:

Chapter 2011-142, L.O.F., (SB 2156) provided for reorganization of land planning and community development, workforce development, and economic development functions of state government. It abolished the Department of Community Affairs, the Agency for Workforce Innovation, and the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor and transferred their functions and responsibilities to other existing agencies and to a newly created entity called the Department of Economic Opportunity. The Florida Sports Foundation and the Black Business Investment Board were merged into Enterprise Florida, Inc.; the Florida Commission on Tourism was abolished, and the Florida Tourism Industry Marketing Corporation was directed to contract with Enterprise Florida, Inc. Additionally, the Florida Energy and Climate Commission was abolished and its functions and responsibilities were transferred to the Department of Agriculture and Consumer Services, the Department of Environmental Protection, or the Division of Emergency Management.

The Division of Statutory Revision of the Office of Legislative Services reviews Florida Statutes, in part, to remove inconsistencies and otherwise improve their clarity and facilitate their correct and proper interpretation. Any revision the division makes to a statute, either complete, partial, or topical, is accompanied by revision and history notes relating to the same, showing the changes made therein and the reason for such recommended change.

While ch. 2011-142, L.O.F., sought to amend as many cross-references and programs as possible in order to update the Florida Statutes with the governmental reorganization, there are likely to be many additional changes necessary.

OBJECTIVE:

This project will identify appropriate references in the Florida Statutes, verify the application or status of current law, and make recommendations for statutory “clean-up.” Duties of the above mentioned agencies, corporations, and programs were transferred to other agencies or were discontinued. References should be updated to reflect the general requirements of current law.

METHODOLOGY:

Committee staff will identify references, verify the current application of the law, and determine the appropriate remedy for such references in statute. Committee staff will consult with appropriate staff of substantive committees, the Division of Statutory Revision, and appropriate agencies.

Issue Briefs

(None)

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 288.075, F.S., Public Records Exemption for Information Held by Economic Development Agencies

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-302

ISSUE DESCRIPTION and BACKGROUND:

Chapter 77-75, L.O.F., created the general economic development exemption from Florida's public records requirements in s. 288.075, F.S. This section of law has been amended several times over the years, but its last significant modification was in 2007, when a new category of business information was added to the exemption and relevant provisions of a related public-records exemption, s. 288.1067, F.S., were added.

Briefly, s. 288.075, F.S., identifies several categories of economic development agencies, and makes confidential and exempt the following information held by such agencies:

- Plans, intentions, or interests of a private company or individual considering locating, relocating, or expanding its business operations in Florida;
- Proprietary confidential business information;
- Trade secrets; and
- Sales, employee wage and tax information related to businesses receiving state economic development incentives.

The length of time the above-mentioned categories of information are shielded from the public, and the conditions for publicly releasing such information vary.

The law also provides criminal penalties for any person who fails to maintain the confidentiality of this information.

This exemption is repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

Committee staff will review s. 288.075, F.S., which is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. The purpose of the review is to make recommendations to the Legislature on whether the exemption should be repealed, amended, or saved from repeal through reenactment.

METHODOLOGY:

Committee staff will review the statutory history of s. 288.075, F.S., as well as its application and its continued relevance, since the Legislature last substantively amended the statute in 2007. Staff also will interview representatives of the Department of Economic Opportunity, Enterprise Florida, Inc., local economic development organizations, and other entities impacted by the exemption.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 288.9626, F.S., Public Records Exemption for Information Held by the Florida Opportunity Fund and the Institute for the Commercialization of Public Research

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-303

ISSUE DESCRIPTION and BACKGROUND:

The Legislature in 2007 passed the Capital Formation Act, designed to promote development and financing of new, entrepreneurial Florida-based companies by creating entities that could collect or steer venture-capital investment to them. Created were the Florida Opportunity Fund (the fund), in s. 288.9624, F.S., and the Institute for the Commercialization of Public Research (the institute), in s. 288.9625, F.S.

The fund is managed by Enterprise Florida, Inc. (EFI), and has a 5-member board of directors drawn from the private sector. It is a venture-capital fund that originally received \$29.5 million in state funds to be matched, on a 2-to-1 basis, by private-sector investments in portfolios that invest in mostly Florida-based companies in specified industry sectors. More recently, the fund's responsibilities have been amended to allow for direct investments in Florida companies, and to access \$36 million in federal funds to provide investment capital for Florida businesses engaged in developing or producing energy-efficient or renewable energy products or services.

The institute acts as a clearinghouse for small, young Florida start-up companies that may need funds to further develop their research idea or product, or that need investment capital to take the product to market. Governed by a 5-member board of directors that includes representatives of the state university system and EFI, the institute recently concluded its first round of funding, awarding \$10 million in Florida Research Commercialization Matching Grants to eligible companies. These state grants are intended to assist these companies in drawing down similar federal grants and private-sector funds to make their products commercially viable. The institute received an additional \$10 million in state funding for FY 11-12.

Section 288.9626, F.S., provides public records and public meetings exemptions for both the fund and the institute. Specifically, the statute defines the type of information held by these entities that is "confidential and exempt" and thus may not be released to the public except pursuant to law, or by a court or administrative ruling:

- Materials relating to methods of manufacture or production, trade secrets, or patentable materials received, generated, ascertained, or discovered in the course of research conducted by universities or other publicly supported entities in Florida;
- Information that would identify investors or potential investors who request anonymity;

- Any information received from a person from another state or nation, or from the U.S. government, which is confidential and exempt under their laws; and
- Proprietary confidential business information regarding certain investments, which is exempt for 10 years after termination of the investment.

“Proprietary confidential business information” is further defined as to what it includes and what it does not include.

Additionally, those portions of meetings by the boards of the fund and the institute, where confidential and exempt information is discussed, also are closed to the public. Minutes of the discussions during these closed portions must be recorded and transcribed, and are treated as confidential and exempt documents.

The law also provides criminal penalties for any person who fails to maintain the confidentiality of this information.

Section 288.9626, F.S., is repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

Committee staff will review s. 288.9626, F.S., which is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. The purpose of the review is to make recommendations to the Legislature on whether the records and meetings exemptions should be repealed, amended, or saved from repeal through reenactment.

METHODOLOGY:

Committee staff will review the statutory history of s. 288.9626, F.S., as well as its application and its continued relevance, since the Legislature created the statute. Staff also will survey and interview representatives of the institute, the fund, and their boards of directors, as well as their industry partners, interest groups, and other interested parties.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Implementation of ch. 2011-235, L.O.F., Reforms to the Unemployment Compensation System and Integration of the System into the Department of Economic Opportunity

DATE DUE: N/A

PROJECT NUMBER: 2012-425

ISSUE DESCRIPTION and BACKGROUND:

CS/CS/HB 7005, made several changes to the unemployment compensation system in Florida, including changes to the qualifying criteria and tax calculations. In addition to such reforms, the Agency for Workforce Innovation was abolished and its responsibilities and functions were transferred to the new Department of Economic Opportunity (ch. 2011-142, L.O.F., (SB 2156)).

Further, the federal unemployment compensation tax is set to decrease from 6.2 percent to 6.0 percent in June 2011. However, there have been several bills filed in Congress that would delay this decrease, as it has been delayed for almost 20 years, and would have additional impacts on the current unemployment system administered by the states.

OBJECTIVE:

Monitor the implementation of the provisions including:

- Implementation of initial skills review and Regional Workforce Board plans (August 1);
- Implementation of work search requirements (August 1);
- Effect of venue choice on appeals (August 1);
- Implementation of provisions related to contracting with consumer reporting agencies;
- Implementation and administrative savings of eliminating paper checks and requiring internet only claims (August 1);
- Implementation of tax relief (November – December 2011); and
- Implementation of the reduction in benefit-weeks (January 2012).

Additionally, the integration of the transfer of the program to the new Department of Economic Opportunity and any changes made by CS/CS/HB 7005, would be monitored.

At the federal level, the progress and implementation of any reforms or changes proposed or passed by Congress will be monitored.

METHODOLOGY:

Committee staff will work with staff from the Agency for Workforce Innovation who will be implementing the reforms as well as coordinating the transition process. Committee staff will also work with staff of the U.S. Department of Labor to monitor any Congressional action and implementation of changes to the program. Committee staff will monitor the progress of proposed federal legislation through available online resources, such as the Library of Congress.

INTERIM MONITOR PROJECT TITLE:

Florida’s Limited Liability Company (LLC) Laws as Revised by Florida Bar Business Law Section

DATE DUE: N/A

PROJECT NUMBER: 2012-426

ISSUE DESCRIPTION and BACKGROUND:

The Florida Bar Business Law Section has created a “LLC Drafting Task Force” (task force) to propose and perform a major rewrite of Florida’s Limited Liability Company (LLC) laws under ch. 608, F.S. The task force intends to draft legislation, to be introduced during the 2012 regular session, which would significantly change current laws pertaining to LLCs.

OBJECTIVE:

The purpose of this monitor project is to keep apprised of the task force’s proposed rewrite of ch. 608, F.S., and to review the draft legislation.

METHODOLOGY:

Staff will periodically contact the task force to be updated on the proposed changes to ch. 608, F.S., and will attend meetings conducted by the task force. In addition, staff will contact agency representatives of the Division of Corporations to garner their response to any proposed changes.

INTERIM MONITOR PROJECT TITLE:

Implementation of ch. 2011-142, L.O.F., Relating to Governmental Reorganization

DATE DUE: N/A

PROJECT NUMBER: 2012-427

ISSUE DESCRIPTION and BACKGROUND:

Chapter 2011-142, L.O.F., (SB 2156) provides for a major reorganization of state government land planning and community development, workforce development, and economic development functions. The legislation creates the Department of Economic Opportunity (DEO) and transfers the Office of Tourism, Trade and Economic Development (OTTED), portions of the Department of Community Affairs (DCA), and portions of the Agency for Workforce Innovation (AWI) workforce functions to the new agency, effective October 1, 2011. It also consolidates several public-private economic development partnerships (Enterprise Florida, Inc., (EFI), Black Business Investment Board (BBIB), and Florida Sports Foundation). Responsibilities of the DEO include:

- Oversight and coordination of economic development, housing, growth management, community development programs, and unemployment compensation;
- Developing a single, statewide 5-year strategic plan to address the promotion of business formation, expansion, recruitment, and retention;
- Submitting an annual report on the condition of the business climate and economic development in the state;
- Managing the activities of the public-private partnerships; and
- Establishing annual performance standards for Enterprise Florida, Inc., Workforce Florida, Inc., VISIT Florida, and Space Florida and reporting annually on how these performance measures are being met.

The legislation requires the DEO to submit a transition report (due August 15, 2011), a business plan (due September 1, 2011) and recommendations for further reorganization and streamlining of economic development and workforce functions (due January 1, 2012). The legislation also changes the economic development incentive application and review process, the parameters for measuring the projected economic benefits of proposed projects, and expands the annual reporting requirements related to projects receiving incentives. These reports and recommendations could be used to evaluate the current funding of economic incentives and DEO program functions.

OBJECTIVE:

The objective of this project is to monitor the transfer of government functions, staff and funding to the new DEO as provided in law, and to review the implementation of these functions under the revised programmatic parameters specified in law.

METHODOLOGY:

In coordination with budget and other substantive committee staff, Commerce and Tourism Committee staff will work with the Governor’s Office and agency staff to monitor the technical execution of the transfers and the implementation of the new DEO. Senate staff will participate in the various transition meetings and activities ad hoc to validate that actions taken by the Executive Branch are consistent with legislative requirements and intent. Senate staff also will review and evaluate the required reports and recommendations. In addition, Senate staff will monitor the implementation of the “New Model” used by EFI to measure the economic benefits of economic development incentives.

INTERIM MONITOR PROJECT TITLE:

Implementation of ss. 500-526, ch. 2011-142, L.O.F., Transfer of the Florida Energy and Climate Commission Responsibilities

DATE DUE: N/A

PROJECT NUMBER: 2012-428

ISSUE DESCRIPTION and BACKGROUND:

Sections 500-526 of SB 2156 abolish the Florida Energy and Climate Commission (commission) and transfer its functions and duties to the Department of Agriculture and Consumer Services (DACS), Department of Environmental Protection, or the Division of Emergency Management. These provisions also allow for the creation of the Office of Energy and Water within DACS.

These provisions abolish the commission and transfer the majority of the commission’s duties to the Department of Agriculture and Consumer Services. DACS will be required to:

- Administer the provisions of the Florida Energy and Climate Protection Act, which includes:
 - The Florida Renewable Energy and Energy-Efficient Technologies Grants Program;
 - The Solar Energy System Incentives Program; and
 - The Energy-efficient Appliance Rebate Program.
- Administer the Florida Green Government Program;
- Administer the Florida Renewable Energy Technologies Investment Tax Credit program;
- Develop policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant;
- Represent Florida in the Southern States Energy Compact;
- Advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state’s academic institutions; and
- Be a party in the proceedings to adopt goals and submit comments to the Public Service Commission regarding the requirements of the Florida Energy Efficiency and Conservation Act (ss. 366.80 - .85 and s. 403.519, F.S.).

These provisions also transfer from the commission:

- Duties related to petroleum allocation and conservation to the Division of Emergency Management;
- Responsibility for development of an energy emergency contingency plan to the Division of Emergency Management;
- Responsibility for coordination of energy conservation programs of all state agencies to the Department of Management Services; and

- Administration of the Coastal Energy Impact Program to the Department of Environmental Protection.

These provisions also delete the current requirement that there be an annual assessment of the efficacy of Florida's Energy and Climate Change Action Plan, and related annual recommendations to improve results.

OBJECTIVE:

The objective of this project is to monitor and review the transfer of government functions, staff and funding from the Florida Energy and Climate Commission to the departments listed above.

METHODOLOGY:

Staff will periodically contact DACS, the Department of Environment Protection, and the Division of Emergency Management to determine what changes have been made to implement the new law.

INTERIM MONITOR PROJECT TITLE:

Status of the Economic Gardening Loan and Technical Assistance Programs

DATE DUE: N/A

PROJECT NUMBER: 2012-429

ISSUE DESCRIPTION and BACKGROUND:

In 2009, the Legislature created the Economic Gardening Business Loan Pilot Program (s. 288.1081, F.S.) and the Economic Gardening Technical Assistance Program (s. 288.1082, F.S.) to assist young businesses with the potential for quick growth in revenues and job creation. Such businesses are commonly referred to as "gazelles." The Department of Economic Opportunity (DEO) is now responsible for managing the initiatives, with the passage of SB 2156.

Capitalized with \$8.5 million in 2009, the loan pilot program is designed to provide low-interest, short-term loans to eligible businesses for working-capital expenses, employee training, and salaries of new employees. The state has entered into an agreement with a qualified loan administrator (currently the Black Business Investment Fund of Orlando) to administer the loan pilot program. As of its last annual report, dated through Sept. 30, 2010, the pilot program had made 29 loans totaling \$5.735 million.

Under the technical assistance pilot program, housed at the University of Central Florida's Economic Gardening Institute, staff with expertise in business outreach and development is assisting eligible businesses with their infrastructure, networking, and mentoring needs. The initial appropriation for this program was \$1.5 million, and the Legislature also appropriated \$2 million each in FY 10-11 and FY 11-12 to the program. As of its last annual report, dated through Oct. 31, 2010, a total of 159 businesses have received technical assistance, and 95 networking events and seminars have been held, attracting 1,041 attendees.

Eligibility requirements are identical for both programs. Eligible businesses must be Florida-based, for-profit companies that:

- Employ between 10 and 50 people;

- Generate between \$1 million and \$25 million annual revenues;
- Have experienced steady growth in gross revenues and employment during 3 of the last 5 years; and
- Be eligible for the Qualified Targeted Industry tax refund program, which means the business represents a target industry sector and pays its employees at least 115 percent of the annual average private-sector wage in the region in which the business is located.

OBJECTIVE:

Committee staff will monitor the activities of these two Economic Gardening pilot programs.

METHODOLOGY:

Committee staff will interview the managers and staff involved in the two programs, DEO staff, and economic development entities involved in the programs, and review the periodic reports the programs' administrators must submit to DEO.

INTERIM MONITOR PROJECT TITLE:

Issues Related to Florida's Enterprise Zone Program and Energy Economic Zone Pilot Program

DATE DUE: N/A

PROJECT NUMBER: 2012-430

ISSUE DESCRIPTION and BACKGROUND:

The Legislature created the Florida Enterprise Zone (EZ) program in 1982 to encourage economic development in economically distressed areas of the state by providing tax incentives designed to induce private investment that creates jobs and increases property values (ch. 290, F.S.). There currently are 59 operating EZs. In 2011, the Legislature created opportunities for three more communities to submit EZ implementation plans to the newly created Department of Economic Opportunity for review and approval.

In the nearly 30 years since it was authorized, Florida's EZ program has evolved in significant ways. Research indicates that, increasingly, the financial incentives function as a general subsidy for commercial construction or renovation rather than an inducement for job creation and community redevelopment. In addition, a January 2011 report¹ by the Office of Program Policy Analysis and Government Accountability (OPPAGA) concluded that in the past 5 years, the state EZ incentives were concentrated in a few county zones and, likewise, a small percentage of businesses within those zones took advantage of the incentives. The low percentage of business participation statewide in the EZ program, and the overemphasis on one incentive – the sales tax refund for building materials – led OPPAGA to note that the program appears not to be making progress toward achieving legislative goals of revitalizing distressed areas and increasing employment of area residents.

Businesses located in designated EZ are also eligible for a higher level of per-unit funding from the state Qualified Target Industry and the Qualified Defense and Space Flight Business Tax Refund programs. In addition, contributions to eligible community development projects located in an EZ may qualify for corporate income or sales and use tax credits.

¹ Report No. 11-01, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf>.

Tax credits and refunds offered through the EZ program are also available for additional purposes. In 2009, the Legislature created the Energy Economic Zone (EEZ) Pilot Program, in s. 377.809, F.S., to develop a model area that incorporates energy-efficient land-use patterns, encourages the generation of renewable electricity, and promotes green manufacturing. Two pilot projects were selected: Sarasota County and the City of Miami Beach. During the 2011 session, the Legislature passed CS/CS/HB 879, which authorized eligible businesses in the two pilot EEZs access to the same state economic development incentives offered through the EZ program in ch. 290, F.S., and to other general economic development incentives offered in ch. 288, F.S. Eligible businesses may begin claiming EEZ incentives on or after July 1, 2012. The incentives are capped at \$300,000 annually for each pilot area. Additionally, EEZ business projects will be exempt from development of regional impact requirements.

It is expected that the governing boards of Sarasota County and Miami Beach will enact the required local ordinances detailing business eligibility and local incentives, so that businesses can initiate their projects and prepare to claim EEZ incentives beginning in FY 12-13.

The 2011 regular session also included nine Senate bills proposing a variety of changes – some significant, such as creating sales-tax increment financing districts in urban zones – to the existing EZ statutes.

OBJECTIVE:

Over the interim, committee staff will monitor the following issues:

- The extent that EZ incentives awarded for commercial construction or renovation rather than an inducement for job creation and community redevelopment;
- The extent that EZ incentives are used by property owners for non-commercial rehabilitation projects;
- The extent that most incentives are granted to relatively few businesses in relatively few county EZs;
- The extent that other state economic-development incentives are granted to businesses within an EZ;
- The annual reporting required of local EZ coordinators and the Department of Revenue;
- The implementation of the EEZ pilot program, to include the expansion of EZ incentives to businesses in the EEZs;
- Legislation filed relating to the EZ program for the 2012 regular session; and
- Evaluations of EZ programs in other states.

METHODOLOGY:

Committee staff will review material related to the objectives; interview state and local officials who administer the EZ and EEZ programs and its incentives; and review related Legislation filed for the 2012 regular session.

INTERIM MONITOR PROJECT TITLE:

Revisions to Section 288.1254, F.S., Film and Entertainment Tax Credit Program

DATE DUE: N/A

PROJECT NUMBER: 2012-431

ISSUE DESCRIPTION and BACKGROUND:

In 2010, the Legislature significantly revamped the state's film and entertainment incentive program, in s. 288.1254, F.S. The most significant change was transforming what had been a cash-rebate program subject to annual appropriation into a \$242 million tax credit program, with credits against corporate or sales tax liability available over a 5-year period and based on a percentage of qualified production expenditures. Also, the amount of the incentive was increased from 15 percent to 20 percent of qualified expenditures, and the categories of eligible productions were modified.

As of May 1, 2011, about \$198 million of the \$242 million in available tax credits has been awarded. This is a constantly changing number, however, since some productions drop out (because they couldn't get financing, or decide to film in another state), freeing up their Florida credits to be awarded to the next project on the waiting list. Also, the amount of credits awarded up front by the state Office of Film and Entertainment (OFE) may be greater than the final amount that can be claimed, once OFE reviews a production's audited expenditures.

In 2011, the Legislature in CS/HB 143, made several significant changes to the incentive program. The key changes were:

- Authorizing \$12 million total in additional tax credits available in FY 12-13, FY 13-14, and FY 14-15;
- Capping the percentage share of credits available to television productions;
- Creating a preference for digital media projects to access unused credits;
- Created a bonus for productions that film in so-called "underutilized regions" of the state, which is every geographic region except for South Florida; and
- Removing the one-time limit on the transfer of credits, and creating opportunities for brokers to buy and sell the entertainment tax credits to other Florida taxpayers with corporate or sales tax liability.

OBJECTIVE:

Committee staff will monitor the implementation of those provisions in CS/HB 143 that modified s. 288.1254, F.S., to determine their impact on: the program's attractiveness to out-of-state productions; projected job-creation and other economic benefits associated with industry participation in Florida; and the state's ability to track the tax credits.

METHODOLOGY:

Committee staff will interview representatives of the Department of Economic Opportunity, OFE, the Department of Revenue, and industry representatives on the implementation of the new provisions, and attend relevant meetings, either in person or telephonically. Staff also will review the status of other states' film and entertainment tax credits.

INTERIM MONITOR PROJECT TITLE:

Implementation of the Florida Small Business Credit Assistance Program

DATE DUE: N/A

PROJECT NUMBER: 2012-432

ISSUE DESCRIPTION and BACKGROUND:

The federal “Small Business Jobs and Credit Act of 2010,” H.R. 5297, was a comprehensive package of tax credits, expansion of SBA loan programs, export financing grants, and other financing initiatives intended to provide small businesses access to capital.

One component of the package was the “State Small Business Credit Initiative.” Under this initiative, the federal government will match a state’s support for a state-run program to benefit small businesses and small manufacturers. These state programs can be traditional loan guarantee programs, collateral support programs, or capital access programs.

States are required to demonstrate a minimum of \$10 in new private lending for every \$1 in federal funding made available.

Florida’s share of the \$1.5 billion federal appropriation is approximately \$97.6 million.

The new Department of Economic Opportunity (DEO) is completing its federal application and developing a program to access this federal funding. DEO staff expects to submit its application to the federal government before the June 27, 2011, deadline, and if approved, will have access to one-third of the funding by autumn. At that time, DEO will seek approval from the Legislative Budget Commission to be able to accept and spend the federal funding.

Details of exactly what Florida’s program will include are still being drafted by DEO staff.

OBJECTIVE:

Over the interim, committee staff will monitor DEO’s progress in developing Florida’s Small Business Credit Initiative, and review the federal application forms and other pertinent documentation. Committee staff also will research how other states, which already have received their shares of the federal funding, are spending the money and what types of businesses are benefiting.

METHODOLOGY:

Committee staff will interview DEO staff and representatives of lenders or other entities, such as the Florida Small Business Development Network, that may be participating, and attend any meetings on the topic.

COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES

Interim Projects

INTERIM PROJECT TITLE:

Review Mechanisms to Reduce Costs to Regulate Electric Utilities' Ratepayers

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-113

ISSUE DESCRIPTION and BACKGROUND:

Electricity rates have increased in recent years and are likely to continue to do so. With that in mind, the purpose of this project is to determine the most effective ways to lower energy costs to the states ratepayers.

OBJECTIVE:

To determine cost-effective methods of lowering costs to regulated electric utilities' ratepayers.

METHODOLOGY:

Senate professional staff will work with staff from the Public Service Commission, the Office of Public Counsel, regulated utilities, consumer groups, and other interested parties to determine what is being done in Florida and in other states to lower ratepayer costs and what can be done in Florida to further decrease costs.

Issue Briefs

(None)

Mandatory Reviews

MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 556.113, F.S., Sunshine State One-Call

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-304

ISSUE DESCRIPTION and BACKGROUND:

Chapter 556, F.S., provides for underground facility damage prevention and safety. Sunshine State One-Call of Florida, Inc., is as a not-for-profit corporation. Any person who furnishes or transports materials or services by means of an underground facility in this state must be a member of the corporation and must use and participate in the system. The corporation maintains and operates a free-access notification system, the purpose of which is to receive notification of planned excavation or demolition activities and to notify member operators so they may mark underground facilities to avoid damage to those underground facilities.

Section 556.113, F.S., provides that proprietary confidential business information held by Sunshine State One-Call of Florida, Inc., for the purpose of a member either using the member ticket management software system or describing the extent and root cause of damage to an underground facility is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The term “proprietary confidential business information” means information provided by:

- A member operator which is a map, plan, facility location diagram, internal damage investigation report or analysis, dispatch methodology, or trade secret as defined in s. 688.002, F.S., or which describes the exact location of a utility underground facility or the protection, repair, or restoration thereof, or
- An excavator in an internal damage investigation report or analysis relating to damage to underground utility facilities, and:
 - Is intended to be and is treated by the member operator or the excavator as confidential;
 - The disclosure of which would likely be, or reasonably likely be, respectively, used by a competitor to harm the business interests of the member operator or excavator or could be used for the purpose of inflicting damage on underground facilities; and
 - Is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as provided to Sunshine State One-Call of Florida, Inc.

This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and stands repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

To review the exemption and determine whether it should be maintained.

METHODOLOGY:

Obtain information from interested parties, analyze the information, and make a determination.

Monitor Projects

(None)

COMMUNITY AFFAIRS

Interim Projects

INTERIM PROJECT TITLE:

The Development of Regional Impact Process

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-114

ISSUE DESCRIPTION and BACKGROUND:

Section 380.06, F.S., provides for state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one local government. These developments, which meet certain specified statutory criteria, are known as developments of regional impact (DRIs). Over the years, the statutory criteria have been changed and numerous exemptions have been created. During the 2011 session, HB 7129 again expanded these exemptions and provided for DRI permit extensions. This interim report proposes to review the DRI process and examine whether it continues to serve its intended purpose or whether it is a duplicative process that the state may want to reduce or eliminate.

OBJECTIVE:

The objective of this interim project is to review the DRI process and to assess the strengths and weakness of the program.

METHODOLOGY:

Professional staff will summarize the laws and regulations in place for DRIs, meet with stakeholders and the state land planning agency, and research information regarding the number and type of DRI permits currently in place. Using this information, professional staff will make recommendations to the Legislature regarding the modification or elimination of the DRI process.

INTERIM PROJECT TITLE:

Insignificant Fiscal Impact

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-115

ISSUE DESCRIPTION and BACKGROUND:

In Florida, state “mandates” on local governments are generally defined in the State Constitution as general laws requiring counties or municipalities to spend funds, limit their ability to raise revenue, or to receive state tax revenue. Article VII, Section 18 of the Florida Constitution limits the ability of the Florida Legislature to enact laws that are mandates. Any law passed by the legislature that has such a fiscal impact would require at least a two thirds vote and, for a mandate that requires a local government to expend funds, a finding of important state interest. Paragraph (d), however, provides a number of exemptions:

Laws adopted to require funding of pension benefits existing on the effective date of this section, criminal laws, election laws, the general appropriations act, special appropriations acts, laws reauthorizing but not expanding then-existing statutory authority, laws having insignificant fiscal impact, and laws creating, modifying, or repealing noncriminal infractions, are exempt from the requirements of this section.

The Legislature interprets insignificant fiscal impact to mean an amount not greater than the average statewide population for the applicable fiscal year times ten cents; the average fiscal impact, including any offsetting effects over the long term, is also considered. However, in 2010, a lower court decision indicated that there may be a need to clarify the phrase “insignificant fiscal impact” statutorily.

OBJECTIVE:

The objective of this interim project is to suggest statutory language to clarify the meaning of “insignificant fiscal impact.”

METHODOLOGY:

Professional staff will review the case law on mandates and summarize the Florida Legislature’s past approach to quantifying an insignificant fiscal impact. Professional staff will create proposed bill language to clarify the meaning of “insignificant fiscal impact.”

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Hardest Hit Fund

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-211

ISSUE DESCRIPTION and BACKGROUND:

In 2010, the U.S. Treasury created the “Housing Finance Agency Innovation Fund for the Hardest-Hit Housing Markets,” also known as the Hardest Hit Fund (HHF) Program, to allocate funding to qualified homeowners who are unemployed or underemployed in order to provide assistance with mortgage payments. The federal government allocated a total of \$7.6 billion dollars under the HHF program to 18 states and the District of Columbia. The state of Florida received a total of \$1 billion dollars under the HHF program. In October 2010, the Florida Housing and Finance Corporation launched a private HHF program in Lee County to monitor the impact of the program. Allocations under the HHF program became available to all 67 counties in the state on April 18, 2011.

OBJECTIVE:

The purpose of this issue brief is to evaluate how well the HHF program is working in Florida.

METHODOLOGY:

The professional staff of the Senate Committee on Community Affairs will work with the professional staff of the Florida Housing and Finance Corporation and local government entities to monitor the distribution of HHF program funds. Professional committee staff will also collect data on

the amount of money received and distributed by each county and the number and types of eligible homeowners served by each county receiving HHF program funds.

INTERIM ISSUE BRIEF TITLE:
Vexatious Litigation

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-212

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 legislative session, concern was raised that land use laws, regulations, and local land use ordinances were being abused by individuals or organizations that file lawsuits in bad faith for financial gain. Although s. 163.3184, F.S., requires good faith filing, there was interest in finding out whether the protections already in place for landowners could be strengthened without harming affected citizens' access to courts.

OBJECTIVE:

The objective of this issue brief is to review the legal issues related to deterring vexatious litigation in the land use arena.

METHODOLOGY:

Professional staff will research case law on vexatious litigation as well as access to the courts. Professional staff will review other states' approaches to vexatious litigation and summarize these findings for the Florida Senate highlighting the strengths and weaknesses of various approaches.

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:
Value Adjustment Boards

DATE DUE: N/A

PROJECT NUMBER: 2012-433

ISSUE DESCRIPTION and BACKGROUND:

Chapter 194, F.S., provides taxpayers with the right to appeal a property appraiser's assessment, or the denial of a classification, tax exemption, and tax deferral by filing a petition to the value adjustment board. In December 2010, the Office of Program Policy Analysis and Government Accountability issued a report discussing the increased time and costs associated with county value adjustment board procedures. The report indicated that the number of petitions filed has increased significantly over the

years, lengthening the value adjustment board process. These delays have created problems for both taxpayers awaiting tax refunds and local governments waiting to certify their tax rolls, which in some counties is taking up to two years. According to the report, Miami-Dade counties did not complete value adjustment board hearings for the 2008 tax year until 2010. These delays have also created local government budget concerns for entities, such as school districts, waiting for funding.

During the 2011 Legislative Session, House Bill 281 was passed in order to minimize the backlog and increased expenses currently associated with the value adjustment board process. This legislation requires:

- A value adjustment board petitioner that is challenging an assessment to pay all non-ad valorem assessments and make a partial payment of at least 75 percent of taxes due before the taxes become delinquent on April 1.
- Taxpayers that challenge the denial of a classification or exemption, or argue that the property was not substantially complete on the date of assessment, to pay the non-ad valorem assessments and make a “good faith” payment of the tax.
- A value adjustment board petitioner to pay a 10 percent penalty if the value adjustment board determines that the payment was grossly disproportionate to what was owed and was not made in good faith.
- The value adjustment board to deny the petition by April 20, if the required payment is not timely made.
- Any unpaid amounts or excess amounts paid to accrue interest at the rate of 12 percent per year.

OBJECTIVE:

The object of this project is to monitor local value adjustment board proceedings to evaluate changes resulting from House Bill 281.

METHODOLOGY:

The professional staff of the Senate Community Affairs Committee will work with the professional staff of the Office of Program Policy Analysis and Government Accountability and with representatives from various local Value Adjustment Boards to monitor any changes that may occur in value adjustment board proceedings as a result of House Bill 281.

INTERIM MONITOR PROJECT TITLE:

Economic Development

DATE DUE: N/A

PROJECT NUMBER: 2012-434

ISSUE DESCRIPTION and BACKGROUND:

Article VII, section 3(c) of the Florida Constitution, allows counties and municipalities to grant economic development ad valorem tax exemptions to new businesses and expansions of existing businesses through a county or municipal ordinance that is previously approved by the electors of the participating county or municipality.

During the 2011 Legislative Session, the Legislature passed House Bill 287 to provide greater flexibility for counties and municipalities to grant economic development ad valorem tax exemptions by:

- Revising the definitions of “new business” and “expansion of an existing business” to include qualifying organizations and requiring eligible businesses and organizations to pay a wage above the average wage of the locality;
- Expanding eligibility for the exemption to include target industry businesses and allowing the board of county commissioners of a charter county to hold a referendum to grant such exemption upon receiving a petition in a charter county signed by the requisite number of electors prescribed in the county charter, including charters that require the signatures of less than 10 percent of the electors;
- Amending the current ballot language required in a referendum to determine whether an entity may grant an economic development exemption to address whether the new or existing business is expected to create new, full-time jobs in a county or municipality;
- Providing additional criteria for counties and municipalities to consider when reviewing applications for such exemption; and
- Allowing local governments to enter into a written agreement with an applicant applying for an economic development exemption which may include performance criteria consistent with applicable laws and must require the applicant to report the actual number of new, full-time jobs created and their actual average wage.

House Bill 287 only applies to economic development exemptions from ad valorem taxation granted pursuant to referenda held on or after July 1, 2011, under section 196.1995(1), F.S.

OBJECTIVE:

The purpose of this monitor report is to evaluate whether more counties and municipalities grant economic development ad valorem tax exemptions on or after July 1, 2011, as a result of the increased flexibility provided to local entities in House Bill 287.

METHODOLOGY:

The professional staff of the Senate Committee on Community Affairs will communicate with the Florida League of Cities, the Florida Association of Counties and various county commissioners and municipal governing board members to monitor local government activity and determine if there is an increase in economic development ad valorem taxation exemptions as a result of House Bill 287.

INTERIM MONITOR PROJECT TITLE:

Florida Building Code

DATE DUE: N/A

PROJECT NUMBER: 2012-435

ISSUE DESCRIPTION and BACKGROUND:

Pursuant to ss. 553.73, 120.536(1), and 120.54, F.S., the Florida Building Commission is authorized to approve amendments to the Florida Building Code and the Florida Accessibility Code for Building Construction through its rulemaking authority. Section 553.73(1)(c), F.S., requires any amendments to

the Florida Fire Prevention Code and the Life Safety Code to be adopted by rule of the Department of Financial Services and referenced in the Florida Building Code.

During the 2011 Legislative Session, House Bill 849 was passed to amend the Florida Building Code, the Florida Accessibility Code, and the Florida Fire Prevention and Life Safety Code.

OBJECTIVE:

The purpose of this report is to monitor the implementation of amendments into the Florida Building Code, the Florida Accessibility Code, and the Florida Fire Prevention and Life Safety Code that are made as a result of the statutory changes passed during the 2011 Legislative Session.

METHODOLOGY:

The professional staff of the Senate Committee on Community Affairs will work with the professional staff from the Florida Building Commission and the Florida Department of Financial Services to monitor amendments implemented into the Florida Building Code, the Florida Accessibility Code, and the Florida Fire Prevention and Life Safety Code.

INTERIM MONITOR PROJECT TITLE:

Revision of the Growth Management Act

DATE DUE: N/A

PROJECT NUMBER: 2012-436

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 legislative session, House Bill 7207 substantially rewrote Florida's growth management laws, renaming part II of ch. 163 the "Community Planning Act." Among other things, the bill:

- Makes concurrency for parks and recreation, schools, and transportation facilities optional for local governments;
- Applies an expedited comprehensive plan amendment process statewide;
- Deletes the requirement that comprehensive plans be financially feasible;
- Deletes the twice a year limitation on comprehensive plan amendments;
- Revises the small scale amendment process;
- Specifies that population projections should be a floor for requisite development except for areas of critical state concern (eliminating the "needs test");
- Allows additional planning periods for specific parts of the comprehensive plan;
- Abolishes 9J-5 and incorporates certain provisions into the bill;
- Expands and revises the optional sector plan process;
- Reduces the requirements of the evaluation and appraisal process; and
- Revises the rural land stewardship program.

It will be important to see how these significant policy changes will be implemented. If there are provisions that are problematic, they may need to be revisited during a future legislative session.

OBJECTIVE:

The objective of this monitor project is to evaluate the revisions to Florida's growth management laws, so that any problematic provisions can be revised during a future session.

METHODOLOGY:

Professional staff will meet with stakeholders, local government representatives, and staff from the state land planning agency and other interested agencies to monitor the implementation of House Bill 7207.

INTERIM MONITOR PROJECT TITLE:

Neighborhood Stabilization Program

DATE DUE: N/A

PROJECT NUMBER: 2012-437

ISSUE DESCRIPTION and BACKGROUND:

The Neighborhood Stabilization Program (NSP) is a component of the Community Development Block Grant that was established by the federal government to stabilize communities affected by foreclosed and abandoned properties. NSP grantees are required to use at least 25 percent of appropriated funds to purchase and redevelop foreclosed and abandoned properties for families and individuals whose incomes do not exceed 50 percent of the area median income. NSP-funded activities are required to benefit both low- and moderate-income individuals whose incomes do not exceed 120 percent of the area median income.

There are three types of NSP funds: NSP1, NSP 2, and NSP 3.

- NSP 1 funds derive from the Housing and Economic Recovery Act of 2008. NSP 1 grantees are selected based on statutory criteria and a greatest need formula. NSP 1 grantees are required to obligate NSP 1 funds within 18 months of signing their grant agreements and must expend allocations within 4 years. As of May 2011, there were 55 NSP 1 grantees in Florida.
- NSP 2 funds derive from the American Recovery and Reinvestment Act of 2009. NSP 2 grantees are selected based on foreclosure needs in selected target areas, recent past experience, and NSP 2 program design and compliance. The federal government selected 56 NSP 2 grantees which have different program designs. As of May 2011, there were 6 NSP 2 grantees in Florida.
- NSP 3 funds derive from the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. NSP 3 grantees are selected based upon the number of foreclosures and vacancies in the 20 percent of U.S. neighborhoods (Census Tracts) with the highest rates of homes financed by a subprime mortgage, which are either delinquent, or are in foreclosure. The non-state grantee minimum grant amount is \$1 million and allocation is adjusted to ensure each state receives a minimum of \$5 million. NSP 3 grantees must expend 50% of their NSP 3 funds within two years of signing their grant agreement and must expend allocations within three years. As of May 2011, there were 76 NSP 3 grantees in Florida.

OBJECTIVE:

The purpose of this project is to monitor the NSP and federal distribution of NSP 1, NSP 2 and NSP 3 funds to Florida and to analyze the utilization of these funds by Florida grantees.

METHODOLOGY:

The professional staff of the Senate Committee on Community Affairs will work with the Department of Community Affairs until July 1, 2011, and thereafter with the Department of Economic Opportunity to collect data on the distribution of NSP funds and analyze how these funds are used by grantees. Professional staff will also monitor NSP activities within the U.S. Department of Housing and Urban Development to track the amount of available NSP funds.

INTERIM MONITOR PROJECT TITLE:

Department of Community Affairs Reorganization

DATE DUE: N/A

PROJECT NUMBER: 2012-438

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 session, the Department of Community Affairs was abolished and its Divisions were transferred to other state Departments. Specifically:

- The Division of Community Planning was transferred to the Department of Economic Opportunity. Planning staff needed by the state land planning agency to implement Part II of Chapter 163, F.S., has been significantly reduced.
- The Florida Communities Trust program was transferred to the Department of Environmental Protection.
- The Florida Building Commission was transferred to the Department of Business and Professional Regulation.
- The Stan Mayfield Working Waterfronts Program was transferred to the Department of Environmental Protection.
- The Florida Housing Finance Corporation and the Division of Housing and Community Development were transferred to the Department of Economic Opportunity.

OBJECTIVE:

The purpose of this project is to monitor the reorganization of the Department of Community Affairs.

METHODOLOGY:

Professional staff will confer with staff from the Department of Community Affairs (prior to July 1, 2011) and the staff of the Department of Economic Opportunity, the Department of Environmental Protection, and the Department of Business and Professional Regulation (after July 1, 2011) about the effects of the transition on the programs implemented by these agencies. Professional staff will also confer with the League of Cities, the Association of Counties, and the Florida Housing Finance Corporation about the impacts to local governments due to the reorganization of these programs.

CRIMINAL JUSTICE

Interim Projects

INTERIM PROJECT TITLE:

Review Penalties for Drug-Free Zone Violations

DATE DUE: October 1, 2011

PROJECT NUMBER: 2012-116

ISSUE DESCRIPTION and BACKGROUND:

Currently, s. 893.13, F.S., punishes certain controlled substance violations more severely when those violations are committed within 1,000 feet of schools, child care facilities, public housing facilities, convenience businesses, and other specified locations (sometimes referred to as “drug-free zone” violations). Drug-free zone violations have been advocated as a valuable drug enforcement tool but also criticized as being unfair, ineffective, and costly.

OBJECTIVE:

Staff will discuss drug-free zone violations in current Florida law, their history, their impact on prison admissions, the debate over drug-free zone violations, and actions in some states to modify or eliminate similar provisions. Staff will also present the viewpoints of prosecutors, public defenders, private defense attorneys, sheriffs, and several police agencies regarding punishment of drug-free zone violations, and will provide several sentencing options for legislators to consider, including retention, modification, and elimination of current penalties.

METHODOLOGY:

Staff will review current law and legislative history, legislation and laws in several states, case law, and other relevant materials. Staff will also survey state attorneys, public defenders, the Florida Association of Criminal Defense Lawyers, Inc., sheriffs, and several police agencies. Staff will also request information on the prison admissions impact of drug-free zone violations from the Office of Economic and Demographic Research.

INTERIM PROJECT TITLE:

Examine Technological Advances and Other Issues In Electronic Monitoring of Probationers

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-117

ISSUE DESCRIPTION and BACKGROUND:

Electronic monitoring by location tracking devices can be used as an aid in supervising pre-trial releasees and sentenced offenders who are not incarcerated. In Florida, electronic monitoring is primarily used by the Department of Corrections to provide an extra measure of security for high-risk offenders who are under some form of community supervision. In recent years there have been calls for increased use of community supervision with electronic monitoring to replace all or part of a term of incarceration. The primary reason given in support of this idea is that it will reduce the amount of money

that is spent on incarcerating low-risk offenders. In addition, some believe that use of electronic monitoring in lieu of the last part of a period of incarceration would support successful reentry into the community by providing for a period of supervision before release from custody.

OBJECTIVE:

The object of this project is to describe the current use of electronic monitoring in the state correctional system and to examine the potential for cost savings through increasing its use. This will include an examination of the available technology and support systems, as well as the realistic capabilities of electronic monitoring to protect the safety of the public. An inherent part of this examination will be consideration of the impact that an increase in the use of electronic monitoring would have on the workload of correctional probation officers.

METHODOLOGY:

Staff will obtain statistical information from the department and review published literature concerning the effectiveness of electronic monitoring and the current state of technology. An understanding of the monitoring process and the possibilities and limitations of its use will be gained through the literature review and communications with correctional officials, correctional probation officers, service providers, and other knowledgeable persons. Finally, the impact of increased monitoring on workload will be assessed through examination of any available documentations and discussions with corrections officials and correctional probation officers.

INTERIM PROJECT TITLE:

Examine Florida TaxWatch Proposal to Reduce Lengths of Stay in Department of Juvenile Justice Residential Commitment Facilities

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-118

ISSUE DESCRIPTION and BACKGROUND:

Prior to the 2011 Regular Legislative Session, Florida TaxWatch presented numerous cost saving reforms in the criminal and juvenile justice systems. One of these reforms was that the Legislature examine average lengths of stay by juvenile offenders in residential facilities within the Department of Juvenile Justice (DJJ). According to TaxWatch, the average length of stay within DJJ residential commitment facilities has increased during the last several years, resulting in increased costs to the State and a possible reduction in public safety.

OBJECTIVE:

This project will examine whether there is a need to legislatively reduce the length of stay within DJJ residential commitment facilities. If the need is found, then the project will provide options for accomplishing this reduction.

METHODOLOGY:

Staff will examine the relevant laws, rules, and current practices relating to lengths of stay in DJJ residential commitment facilities in Florida. As part of this examination, staff will confer with the DJJ as well as the other involved entities associated with this issue.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Use of Telemedicine in Inmate Health Care

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-213

ISSUE DESCRIPTION and BACKGROUND:

The Department of Corrections is responsible for providing health care services for Florida inmates. Correctional health care includes physical, dental, mental health, and pharmacy services. Health care staff at each major institution provide primary health care services to inmates. Inmates who require consultations with medical specialists or care not available within the department are transported to community physicians or hospitals for treatment. In some cases, the department has contracted with specialists to provide services within the facility. In Fiscal Year 2008-09, the department spent approximately \$400 million for health services.

Telemedicine has been used by some correctional systems and large corporations as a way to provide medical services through the use of communications technology. Telemedicine has the potential to save money and, in the correctional context, to reduce security risks associated with transporting inmates outside of the prison. Both Texas and Ohio have made extensive use of telemedicine.

OBJECTIVE:

The issue brief will provide an overview of telemedicine and assess the benefits and detriments of using it in providing health care to Florida inmates. Issues to be addressed include a description of current uses of telemedicine in correctional and non-correctional settings, the types of treatment for which it is appropriate and viable, the technological infrastructure needed to support a telemedicine system, and the potential for cost savings through its use. In addition, the project will consider legal implications of using telemedicine in treating the inmate population.

METHODOLOGY:

Staff will review information concerning telemedicine, with particular attention to its use in correctional settings. This will include media reports and academic papers to the extent available. Information will be sought from correctional officials and medical providers in other states that make use of telemedicine, as well as those from any state that has considered and rejected its use. Statistical information regarding the provision of inmate health care will be obtained from the department, and the department and private entities that provide medical services for inmates will be consulted regarding the potential for use of telemedicine in Florida. In addition, staff will review case law and journal articles to identify any legal issues that have arisen.

INTERIM ISSUE BRIEF TITLE:

Examine Florida's "Romeo and Juliet" Law

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-214

ISSUE DESCRIPTION and BACKGROUND:

During the 2007 Legislative Session, legislation passed as part of CS/CS/SB 1604 allowing certain sex offenders to petition the court for removal of the requirement to register as a sexual offender or sexual predator if the person met specific criteria and the removal of the requirement to register would not conflict with federal law requirements established in the Adam Walsh Act. It also provided a mechanism for qualifying offenders to have the requirement to register as a sexual offender or sexual predator removed to avoid registration altogether.

Concerns were raised about young offenders who are near in age and participating in consensual relationships being labeled as sexual offenders or sexual predators thus being subject to registry requirements and the stigma and consequences that come with that classification. Section 943.04354, F.S., was created in an attempt to address the concerns about registration requirements for what is commonly referred to as the "Romeo and Juliet" group of young offenders and to provide a mechanism for those currently required to register to be able to be removed from the registration requirements if they meet certain criteria. Further, this mechanism complies with federal law, thereby ensuring that certain federal grant funding is not jeopardized.

OBJECTIVE:

Staff will examine the history of Florida's "Romeo and Juliet" law (s. 943.04354, F.S.) and any changes made to the law subsequent to its enactment. Staff will compare Florida's mechanism for removal from the registry with that of some other states and discuss how public defenders and prosecutors are using the law and the general profile of the offenders it serves.

METHODOLOGY:

Staff will review Florida's current "Romeo and Juliet" law comparing Florida's provisions with that of some other states. Staff will confer with state attorneys, public defenders, and the Florida Department of Law Enforcement to obtain information and relevant statistical data.

INTERIM ISSUE BRIEF TITLE:

Victims of Wrongful Incarceration Act Implementation and Claims

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-215

ISSUE DESCRIPTION and BACKGROUND:

In 2008, the Legislature passed Chapter 2008-39, L.O.F., the "Victims of Wrongful Incarceration Compensation Act." The Office of Financial Services, the Office of the Attorney General, and others have reported some implementation issues with the Act soon after it became law. These issues are unresolved.

Despite the existing law which provides a method by which persons who have been wrongfully incarcerated may seek compensation at least two persons have sought compensation through the legislative claim bill process rather than the existing law. Because claim bills are rarely passed by the Legislature and therefore should not be the preferred method for seeking compensation, it appears that one or more elements of the Wrongful Incarceration Compensation Act has been a barrier for persons who otherwise could be compensated due to their wrongful incarceration.

OBJECTIVE:

Staff will report on:

- Explanations of procedural problems and issues in the Victims of Wrongful Incarceration Compensation Act as identified by practitioners and agencies and their suggested solutions for those issues.
- Evidence of persons who may have sought compensation but could not do so because they did not meet the statutory qualifications to file a petition under the Act.
- The outcomes of any petitions that have been filed seeking compensation under the Act.
- The number, circumstances, and success of the alternative method of seeking compensation since the Act became effective.
- The compensation methods utilized in other states.

METHODOLOGY:

Staff will meet with practitioners and agencies regarding any procedural issues with the Act and seek solutions to those issues. Inquiries will be made of the state attorneys, the criminal defense bar, and the Innocence Project of Florida to determine whether persons who may have been wrongfully incarcerated have been barred from seeking compensation under the current law, and why. Staff will also request information from those entities, and conduct legal research, regarding any claims made under the Act. Research of other states' wrongful incarceration compensation procedures will be conducted.

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Incarceration by the Department of Corrections of Aliens Sentenced for Criminal Offenses

DATE DUE: N/A

PROJECT NUMBER: 2012-439

ISSUE DESCRIPTION and BACKGROUND:

More than 5000 aliens (both legal and illegal) are incarcerated in Florida's prisons, with more than 1,000 released each year. An unknown number of these releasees are removed from the United States by federal United States Immigration and Customs Enforcement (ICE). For the past several years, bills have been introduced to return non-violent alien offenders to their country of origin in lieu of

completing their prison sentence. Most recently, Senate Bill 2040 included a requirement for the Department of Corrections to enter into an cooperative agreement with ICE to remove unauthorized alien inmates through the federal Rapid REPAT program. The bill passed the Senate but was not passed by the House.

OBJECTIVE:

This monitor project will focus on the issue of aliens in Department of Corrections' custody, examining the process from the time they are admitted through post-release. The purpose is to obtain a comprehensive understanding of the issue, including aspects such as the process by which an inmate is identified as an alien, the degree of cooperation and division of responsibilities between the department and ICE, and the disposition of aliens who are released to the custody of ICE. In addition, the project will lead to a thorough understanding of the Rapid REPAT program and the potential benefits and detriments of participating in the program.

METHODOLOGY:

Staff will examine available literature and case law with regard to the issue of incarcerated aliens and, in particular, removal of aliens from the United States. Statistical information from the department and ICE will be examined to determine the extent of the incarcerated alien population and the numbers of inmates and ex-inmates who are removed from Florida and other states. Staff will discuss issues regarding removal of alien inmates with representatives of the department, ICE, and state correctional systems that participate in Rapid REPAT or other removal programs. In addition, staff will seek input from other interested parties in order to understand their perspective on the issue.

INTERIM MONITOR PROJECT TITLE:

The Florida Innocence Commission

DATE DUE: N/A

PROJECT NUMBER: 2012-440

ISSUE DESCRIPTION and BACKGROUND:

The Florida Legislature has passed measures providing for postconviction DNA testing and for compensation to be awarded to the wrongfully incarcerated through a petition process in the courts. It has also passed claim bills to compensate individuals who were wrongfully incarcerated. During the 2010 Legislative Session, \$200,000 was appropriated to the Supreme Court of Florida for the purpose of creating an Innocence Commission to study the causes of wrongful conviction and subsequent incarceration. Additional funds were provided during the 2011 Session so that the Commission could complete its work by June 30, 2012.

The Florida Innocence Commission was established by Administrative Order of the Florida Supreme Court on July 2, 2010 to "conduct a comprehensive study of the causes of wrongful conviction and of measures to prevent such convictions." To date the Commission has primarily researched and discussed eyewitness identification issues and potential solutions the Commission may pursue or suggest to address the causal relationship between misidentification and wrongful convictions the Commission has agreed exists. The Commission has just begun its consideration of false confessions.

OBJECTIVE:

The meetings of the Innocence Commission and any findings or recommendations that may require legislation will be monitored.

METHODOLOGY:

Staff will continue to follow the Innocence Commission's meetings throughout the Interim and review the Commission's June 30, 2011 Interim Report when it becomes available.

INTERIM MONITOR PROJECT TITLE:

Implementation of Legislation Prohibiting Certain Juvenile Misdemeanants from Residential Commitment Programs

DATE DUE: N/A

PROJECT NUMBER: 2012-441

ISSUE DESCRIPTION and BACKGROUND:

SB 2114 passed during the 2011 Regular Session. This legislation prohibits a juvenile court judge from committing a juvenile misdemeanor (a youth adjudicated delinquent solely for a misdemeanor or for a misdemeanor probation violation) to a restrictiveness level other than minimum-risk nonresidential, except under certain circumstances. The court may commit a youth to a low-risk or moderate-risk residential placement if the youth:

- Has previously been adjudicated for a felony;
- Has previously been adjudicated or had adjudication withheld for three or more misdemeanors;
- Is before the court for disposition of the misdemeanor offense of animal cruelty, arson, or exposure of sexual organs; or
- If the court finds by a preponderance of the evidence that public safety requires such placement or if the needs of the children are best served by such placement. (Findings must be written.)

Similarly, the bill specifies that the Department of Juvenile Justice may not administratively transfer a youth adjudicated solely for a misdemeanor to a residential program except as provided above.

OBJECTIVE:

Staff will monitor the implementation of this legislation in an effort to keep members apprised of the progress being made by the courts and the department.

METHODOLOGY:

Staff will maintain contact with the department in an attempt to monitor the implementation of this legislation.

INTERIM MONITOR PROJECT TITLE:

Privatization of Prison Operations in South Florida

DATE DUE: N/A

PROJECT NUMBER: 2012-442

ISSUE DESCRIPTION and BACKGROUND:

The Fiscal Year 2011-2012 General Appropriations Act requires the Department of Corrections to issue one or more requests for proposals (RFP) for a private entity to assume operation of state correctional facilities in 18 counties in South Florida by January 1, 2012. If adequate proposals are received, the department must submit a transition plan to the Legislative Budget Commission by December 1, 2011, and may award the contract or contracts after approval by the commission. This is the largest privatization effort ever undertaken in the Florida correctional system. It is also the first time in Florida that private correctional companies have been given the opportunity to assume the operation of a functioning state correctional facility.

OBJECTIVE:

This monitor project will provide situational awareness of the RFP process as well as the department's development of a transition plan if acceptable proposals are received. The project also includes monitoring the implementation of any contracts that are awarded after approval of the transition plan.

METHODOLOGY:

Staff will coordinate with staff of the Budget Subcommittee on Criminal and Civil Justice Appropriations in interacting with department staff and officials during the RFP solicitation process and development of the transition plan. Staff will review relevant documents pertaining to the solicitation and the transition plan. Staff will also maintain contact with other interested parties, such as representatives of employees, in order to understand their perspective on the RFP and solicitation plan. In addition, staff will maintain contact with and seek information from private providers to the extent allowed by procurement laws.

INTERIM MONITOR PROJECT TITLE:

Privatization of the Department of Corrections' Statewide Health Care System for Inmates

DATE DUE: N/A

PROJECT NUMBER: 2012-443

ISSUE DESCRIPTION and BACKGROUND:

The Fiscal Year 2011-2012 General Appropriations Act requires the Department of Corrections to issue a request for proposals (RFP) for a private entity to provide comprehensive health care services to all inmates in the department's custody in Regions 1, 2 and 3. In addition, the department may issue individual RFPs for each region. The RFP will not include inmates in privately-operated institutions in the three regions or in Region 4, which is to be privately-operated. By December 1, 2011, the department must submit a cost/benefit analysis and a transition plan for the intended winning proposal(s) to the Legislative Budget Commission for review. If approved by the commission, the contract or contracts will take effect during the 2011-2012 fiscal year.

OBJECTIVE:

This monitor project will provide situational awareness of the RFP process as well as the department's development of the transition plan and cost/benefit analysis. The project will also monitor implementation of any contracts that are awarded.

METHODOLOGY:

Staff will coordinate with staff of the Budget Subcommittee on Criminal and Civil Justice Appropriations in interacting with department staff and officials during the RFP solicitation process, development of the transition plan and cost/benefit analysis, and implementation of any contracts. Staff will review relevant documents pertaining to these stages of the process. Staff will also maintain contact with other interested parties, such as representatives of employees, in order to understand their perspective on the RFP and transition plan. In addition, staff will maintain contact with and seek information from private providers to the extent allowed by procurement laws.

INTERIM MONITOR PROJECT TITLE:

Implementation of Juvenile Civil Citation Legislation

DATE DUE: N/A

PROJECT NUMBER: 2012-444

ISSUE DESCRIPTION and BACKGROUND:

CS/HB 997 passed during the 2011 Regular Session. This legislation requires juvenile civil citation programs or other similar diversion programs to be established at the local level. (Currently, these local diversion programs are discretionary.) The Department of Juvenile Justice (DJJ) is required to encourage and assist with the implementation and improvement of civil citation programs or other similar diversion programs around the state. The DJJ must also develop guidelines for the civil citation program which include intervention services. The guidelines must be based on proven civil citation programs or other similar diversion programs within Florida.

OBJECTIVE:

Staff will monitor the implementation of this legislation in an effort to keep members apprised of the progress being made by the department and local entities creating civil citation programs.

METHODOLOGY:

Staff will maintain contact with the department and other affected entities in an attempt to monitor the implementation of this legislation.

INTERIM MONITOR PROJECT TITLE:

Transfer of the Cybercrime Office to the Florida Department of Law Enforcement

DATE DUE: N/A

PROJECT NUMBER: 2012-445

ISSUE DESCRIPTION and BACKGROUND:

In 2006, the Legislature created the Cybercrime Office in the Department of Legal Affairs to investigate violations of state law pertaining to the sexual exploitation of children that are facilitated by or connected to the use of any device capable of storing electronic data. Section 16.61, F.S., as created by ch. 2006-308, L.O.F.

In the 2011 Legislative Session, the Legislature repealed s. 16.61, F.S., and created s. 943.0415, F.S., which created the Cybercrime Office in the Florida Department of Law Enforcement. HB 5401, 1st Eng. (2011). This legislation also transferred all powers, duties, personnel, etc., of the Cybercrime Office in the Department of Legal Affairs to the Florida Department of Law Enforcement (FDLE).

OBJECTIVE:

Staff will monitor the FDLE's implementation of the Cybercrime Office.

METHODOLOGY:

Staff will consult with FDLE staff members on the status of implementing the Cybercrime Office.

INTERIM MONITOR PROJECT TITLE:

Law Enforcement Agency Adoption and Implementation of Statewide Eyewitness Identification Standards

DATE DUE: N/A

PROJECT NUMBER: 2012-446

ISSUE DESCRIPTION and BACKGROUND:

During the meetings of the Florida Innocence Commission members have focused on eyewitness misidentification as an apparent cause of wrongful convictions. The discussion led to two measures aimed at addressing eyewitness misidentification. One measure was at the legislative level, with the introduction of Senate Bill 1206 and House Bill 821. The other measure was the appointment of a workgroup by the Commission, comprised of the Florida Department of Law Enforcement, the Florida Sheriff's Association, the Florida Police Chief's Association, the Public Defender's Association, and the Florida Prosecuting Attorney's Association. The purpose of the workgroup was to create a statewide protocol for the administration of suspect identification lineups which might become one of the proposed reforms recommended by the Commission and that could be implemented by the agencies. The workgroup (without the participation of the Public Defender's Association) produced a document containing "commentary and guidelines." It appears that, with some revisions, the Commission has adopted the document as a proposed reform.

OBJECTIVE:

Although eyewitness identification legislation did not pass during the 2011 Session, law enforcement agencies and state attorneys plan to have 100% agency compliance with the agencies' guidelines (with some revisions, yet to be agreed upon by the agencies) as issued on March 1, 2011, with full compliance by November 1. Staff will monitor the agencies' progress.

METHODOLOGY:

Staff will make periodic inquiries of the agencies listed above in order to monitor their progress during the interim.

INTERIM MONITOR PROJECT TITLE:

Developing Case Law on Law Enforcement Provisions of Immigration Laws in Arizona and Other States

DATE DUE: N/A

PROJECT NUMBER: 2012-447

ISSUE DESCRIPTION and BACKGROUND:

In 2010, Arizona enacted SB 1070, as amended by HB 2162, to address the presence in that state of unauthorized immigrants. Many other states have introduced bills, some of which are patterned on Arizona's law, to address unauthorized immigration. In the 2011 Legislative Session, the Florida Senate passed CS/SB 2040, which, in part, requires the agency having custody of an arrestee to make a reasonable effort to determine the nationality of the arrestee and whether the arrestee is lawfully present in the United States. In 2010, the federal Secure Communities program was implemented statewide in Florida. During the booking process, an arrestee's fingerprints can be checked against both the FBI criminal history records and the biometrics-based immigration records maintained by the Department of Homeland Security.

Federal courts in Arizona have enjoined from enforcement many of the provisions of Arizona's law, including provisions involving immigration status checks and enforcement of immigration laws by state and local law enforcement officers. It is anticipated that litigation (primarily federal preemption challenges) will arise in the state or federal courts of states that pass such laws.

OBJECTIVE:

Staff will monitor developments in the current federal litigation involving Arizona's immigration law and other state and federal cases that may arise regarding states' efforts to address unauthorized immigration. Staff's focus will be on challenges to provisions of states' laws that involve immigration status checks and enforcement of immigration laws by state and local law enforcement officers.

METHODOLOGY:

Staff will conduct necessary legal research relevant to this monitor project.

EDUCATION PRE-K – 12

Interim Projects

INTERIM PROJECT TITLE:

Delivery of Educational Services in the Department of Juvenile Justice Facilities

DATE DUE: October 1, 2011

PROJECT NUMBER: 2012-119

ISSUE DESCRIPTION and BACKGROUND:

Current law provides for the delivery of educational services within Department of Juvenile Justice (DJJ) facilities commensurate with offerings available to students in traditional K-12 public schools. The majority of students in DJJ facilities are academically underperforming and lack the credits necessary to graduate with their peers. The Office of Program Policy and Governmental Accountability (OPPAGA) published two reports in 2010 citing major concerns with the delivery of educational and workforce skills sufficient to establish viable futures for DJJ students.

OBJECTIVE:

The project will seek to provide recommendations to efficiently improve the educational outcomes and job preparation of DJJ students.

METHODOLOGY:

The Senate professional staff will facilitate an interim workgroup comprised of appropriate agency contacts and legislative members to define successful education outcomes, identify characteristics of successful DJJ programs and impediments to such programs, and recommend an accountability system that holds such programs responsible for student outcomes and costs.

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Transfer of School Readiness Programs and the Voluntary Prekindergarten Program to the Department of Education

DATE DUE: N/A

PROJECT NUMBER: 2012-448

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature transferred the Office of Early Learning Services from the Agency for Workforce Innovation (AWI) to the Department of Education (DOE) as a separate budget entity within the DOE. The Office administers school readiness programs and the operational requirements of the Voluntary Prekindergarten Program (VPK) at the state level, and coordinates with the early learning coalitions in providing both programs at the local level.

OBJECTIVE:

To monitor the transition of administrative aspects of the school readiness programs and the VPK program from the AWI to the DOE.

METHODOLOGY:

Senate Professional staff will consult with DOE staff, early learning coalition representatives, and representatives of providers regarding the transition of the Office of Early Learning Services to the department.

INTERIM MONITOR PROJECT TITLE:

Broward County School District Reforms

DATE DUE: N/A

PROJECT NUMBER: 2012-449

ISSUE DESCRIPTION and BACKGROUND:

Subsequent to the Governor's convening of a grand jury to investigate allegations of corruption by the Broward County School District (Case No. SC09-1910), on January 21, 2011, the Nineteenth Statewide Grand Jury of the Florida Supreme Court returned a final report which detailed considerable findings of misbehavior and malfeasance. In its final report, the grand jury noted blatant noncompliance with building construction regulation and law, from initial selection of projects to procurement to construction to final permitting. Intermingled with this was evidence of other wrongdoing, such as the taking of gifts by interested parties, shoddy recordkeeping, and failure to provide required documents to the state Department of Education. In response to the report, the Broward County District School Board provided a letter to the Department of Education detailing a plan of correction. The purpose of this project is to monitor progress by the Broward County School District.

OBJECTIVE:

This interim project monitor will monitor the progress of the Broward County School District in addressing issues raised in the grand jury report.

METHODOLOGY:

Senate professional staff will monitor the implementation of reforms by the Broward County School District through contact with the Department of Education and the district.

INTERIM MONITOR PROJECT TITLE:

Learning Growth Model for the Evaluation of Instructional Personnel and School Administrators Implementation

DATE DUE: N/A

PROJECT NUMBER: 2012-450

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature revised the evaluation system for classroom teachers, other instructional personnel, and school administrators to focus on student performance. The law requires 50 percent of the evaluation for classroom teachers and other instructional personnel to be based on student performance for students assigned to them over a 3-year period. The law also specifies that 50 percent of a school administrator's evaluation is based upon the performance of the students assigned to the school over a 3-year period.

The Commissioner of Education is charged with establishing a learning growth model for the Florida Comprehensive Assessment (FCAT) and other statewide assessments to measure the effectiveness of a classroom teacher or school administrator based on what a student learns. The American Institutes for Research (AIR) is currently working to identify valid and reliable measures of student growth that can be used as a component of the evaluation system for educators and educator preparation programs. AIR will also identify eight different growth models, compare the model results against a system of empirical and policy criteria, and report the findings to the Florida Department of Education (DOE), the Student Growth Implementation Committee, and other stakeholders. Recommendations for the final model will be made to the Commissioner on June 1, 2011.

OBJECTIVE:

To monitor the development of the initial learning growth model for the evaluation of classroom teachers, other instructional personnel, school administrators, and educator preparation programs.

METHODOLOGY:

Senate Professional staff will consult with DOE staff and representatives of school districts regarding the implementation of the 2011 legislation.

INTERIM MONITOR PROJECT TITLE:
School Differentiated Accountability

DATE DUE: N/A

PROJECT NUMBER: 2012-451

ISSUE DESCRIPTION and BACKGROUND:

The U.S. Department of Education selected Florida to participate in the “Differentiated Pilot” initiative in 2008. Through differentiated accountability (DA), the federal Adequate Yearly Progress (AYP) under the federal No Child Left Behind Act (NCLB) and the Florida school grading system are streamlined to direct increasing school intervention to improve student achievement. Under DA, schools are categorized based on the level of student achievement. The lowest-performing schools must implement more robust interventions to improve student achievement. The Florida Department of Education (DOE) insists DA targets support and intervention to students in the lowest-performing schools. School districts decry that differentiated accountability has effectively replaced the state school grading system. The 2011 Legislature preserved current practice in determining which schools fall into the corresponding intervention categories by retaining the use of statewide assessments as the determining factor. In the high schools, the state has revised the school grading formula to consider graduation rates, postsecondary readiness, and college-credit and industry certifications of the students in the schools to determine the school’s grade, along with statewide assessments. This high school formula also emphasized participation in college credit courses, with the greatest weight provided in the 2010-2011 school year. As a result, there are high schools receiving more than satisfactory grades when more than 70 percent of their students are reading below grade level.

OBJECTIVE:

The purpose of the project is to monitor the DOE implementation of differentiated accountability.

METHODOLOGY:

Senate professional staff will examine the identification of schools within the various DA intervention levels using current practice, as well as using the new high school grading formula.

INTERIM MONITOR PROJECT TITLE:
Class Size Legislation Implementation

DATE DUE: N/A

PROJECT NUMBER: 2012-452

ISSUE DESCRIPTION and BACKGROUND:

In November 2002, s. 1, Art. IX of the Florida State Constitution, was amended to provide the maximum number of students assigned to a teacher who teaches core-curricula courses in public school classrooms for all grade levels. The 2011 Legislature enacted legislation to provide flexibility to school districts in meeting their class size obligations. The legislative changes include:

- Redefining the terms “core-curricula courses” and “extracurricular courses”;
- Providing requirements and limitations on the maximum number of students who can be assigned to a teacher when an existing class temporarily exceeds the class size maximums;

- Requiring the Department of Education (DOE) to identify core-curricula courses from the Course Code Directory consistent with the bill and graduation requirements for maximum class size; and
- Providing that only a school district that meets the maximum class size requirements may use the class size reduction operational categorical funds for any lawful operating expenditure.

OBJECTIVE:

To monitor the implementation of the 2011 class size legislation.

METHODOLOGY:

Senate Professional staff will consult with the DOE staff and representatives of school districts regarding the implementation of the 2011 class size legislation.

ENVIRONMENTAL PRESERVATION AND CONSERVATION

Interim Projects

INTERIM PROJECT TITLE:

Environmental Regulation Commission

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-120

ISSUE DESCRIPTION and BACKGROUND:

The Environmental Regulation Commission (ERC), established in section 20.255(7), F.S., exercises the standard-setting authority of the Department of Environmental Protection (DEP) under chapter 403, part II of chapter 376 and various sections of chapter 373, F.S. It is a non-salaried, seven-member board selected by the Governor, who represent agriculture, the development industry, local government, the environmental community, citizens and members of the scientific and technical community. The ERC sets standards and rules that protect Floridians and the environment based on sound scientific and technical validity, economic impacts, and risks and benefits to the public and Florida's natural resources. However, the ERC does not establish DEP policies, priorities, plans or directives. Common issues presented to the ERC relate to air pollution, water quality and waste management. The DEP staffs the ERC to provide the technical and scientific expertise necessary to conduct its business. Based on recent changes to the rulemaking provisions of chapter 120, F.S., and the need for legislative ratification for many agency rules, the relevance of the ERC should be examined.

OBJECTIVE:

The project will review the history of the development of the ERC, the statutory authority under which it operates and the interaction between it and the DEP. In addition, the project will review recent changes to law related to revisions to chapter 120, F.S., and the requirement that many rules be ratified by the Legislature. The project will provide findings and recommendations as to whether the ERC should be retained, modified or eliminated.

METHODOLOGY:

Professional staff will review the history of the ERC and its statutory authority, as well as any sunset review reports addressing the issue. Staff will also interview DEP staff and ERC board members, meet with stakeholders and attend meetings, if necessary.

INTERIM PROJECT TITLE:

Statewide Environmental Resource Permit

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-121

ISSUE DESCRIPTION and BACKGROUND:

Environmental resource permitting under part IV of chapter 373, F.S., is the main regulatory program shared by Department of Environmental Protection (department) and the Water Management

Districts (WMDs). Currently, there is no statewide rule that governs all environmental resource permits (ERPs) issued by the department or the WMDs. They have differing interpretations and implementation of rule provisions. The differences between the department and the WMDs create procedural and practical inconsistencies for applicants in applying for and complying with ERPs.

OBJECTIVE:

The project will review the ERP program to determine where inconsistencies exist in rule interpretation and implementation between the department and the WMDs. The project will provide findings and recommendations concerning development of a statewide ERP rule for adoption by the department and the WMDs.

METHODOLOGY:

Professional staff will review ERP statutes and rules adopted by the department and the WMDs, interview department and WMD staff responsible for implementing the ERP program and meet with stakeholders.

INTERIM PROJECT TITLE:

Bottle Deposits

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-122

ISSUE DESCRIPTION and BACKGROUND:

A bottle redemption program often referred to as a “bottle bill” require an additional fee on beverage containers, such as bottles and cans, at the time of purchase. These fees work like a deposit and are usually totally or partially recovered by individuals who recycle these containers. These programs have proven to be highly effective in reducing litter and waste and promoting recycling. Eleven states currently operate bottle bill programs, and these states differ in how unredeemed deposits are dispersed. Most states allow consumers to return beverage containers to either retailers or participating recycling centers.

OBJECTIVE:

This project will examine whether a bottle deposit law is a feasible way to increase Florida’s recovery of recyclable beverage containers, which, in turn, benefits the environment.

METHODOLOGY:

Professional staff will summarize the laws and regulations for recycling and current recycling rates. Professional staff will review the costs, benefits, and feasibility of requiring deposits on returnable beverage containers, including the effect this requirement would have on litter control and recycling activities. Staff will list how other states have implemented similar programs, with special attention to the financial and operational effects on state retailers, types of containers that should be subject to a bottle bill, and the existing recycling industry.

INTERIM PROJECT TITLE:

Combining Vehicle Registration with an Annual Pass for Florida State Parks

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-123

ISSUE DESCRIPTION and BACKGROUND:

There are several states that offer residents the ability to purchase annual passes to state park systems through their vehicle registration processes. Montana and Washington require that motorists opt-out of the annual state park pass. Conversely, Michigan has adopted an opt-in program. Nevada and Wyoming are considering similar programs. California voters rejected the imposition of a mandatory state park fee. The Department of Environmental Protection (DEP) is also evaluating these programs and would like to reduce the cost of state passes for residents.

OBJECTIVE:

The project will review the adopted and proposed programs in other states to determine the viability of those programs in their respective states and determine whether such a program will be effective in Florida. The project will provide findings and recommendations concerning development and adoption of a program that allows Florida residents the ability to purchase annual passes when registering their vehicles.

METHODOLOGY:

Professional staff will review the statutes of those states that have adopted programs, conduct interviews with the staffs of other states and DEP staff and meet with stakeholders.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Land Application of Septage from Onsite Sewage Treatment and Disposal Systems

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-216

ISSUE DESCRIPTION and BACKGROUND:

Land application of septage from onsite sewage treatment and disposal systems is an approved method of disposal in Florida. It is regulated by the Department of Environmental Protection, the Department of Health and the federal Environmental Protection Agency. When properly treated it is often used as a soil amendment (fertilizer). However, there are numerous examples of untreated septage being dumped into sensitive areas and of treated septage being applied as a soil amendment at higher agronomic rates than can be assimilated by the soil, resulting in runoff. During the 2010 Regular Session, the Legislature banned land application of septage after January 2016. Two Senate committees heard testimony from rural landowners with septic tank systems who were concerned with inspection and pumpout costs and questioned the necessity of the program in general in rural areas. Several bills filed during the 2011 Regular Session sought to repeal the ban on septage spreading, but none passed. If the ban remains, options for proper septage disposal must be developed prior to January 2016.

OBJECTIVE:

The objective of this brief is to examine current practices and regulations and highlight practical options for septage disposal if the ban on land spreading of septage is not repealed by future Legislatures. Additionally, the brief will address whether current regulations need to be updated if the ban on land spreading of septage is repealed.

METHODOLOGY:

Professional staff will work with the staffs of the Department of Environmental Protection, Department of Health, Department of Agriculture and Consumer Services and federal Environmental Protection Agency, as well as any other local, state or federal agencies, and meet with stakeholders to conduct a thorough review of current practices and policies for land spreading of septage and potential effects of the ban.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 267.076, F.S., Confidentiality of Certain Donor Information Related to Publicly Owned House Museums Designated as National Historic Landmarks

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-305

ISSUE DESCRIPTION and BACKGROUND:

The Open Government Sunset Review Act provides for the review of an exemption from open records or meetings requirements 5 years after enactment. Section 267.076, F.S., provides that information that would identify a donor or perspective donor to a publicly owned house museum designated by the United States Department of the Interior as a National Historic Landmark who desires to remain anonymous is confidential and exempt from s. 119.07(1), F.S. and s. 24 (a) Art. 1 of the State Constitution. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

The exemption will be reviewed using the standards provided in s. 119.15, F.S., the Open Government Sunset Review Act, to determine if it meets those standards and to determine if a recommendation should be made to save the exemption from repeal.

METHODOLOGY:

The agencies that hold the exempt information will be surveyed to determine their practices and to solicit their opinion regarding the need for the exemption. Further, Florida law and other state and federal laws may be reviewed if applicable to the exempt information.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Nonapplicant Third Party Burden of Proof in Administrative Hearings

DATE DUE: N/A

PROJECT NUMBER: 2012-453

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 Regular Legislative Session, the Legislature passed HB 993. The bill shifts the burden of persuasion for third party challenges for any proceeding arising under chapters 373, 378 or 403, F.S., to the nonapplicant third party. If this bill is signed into law by the Governor, or becomes law without the Governor's signature, a nonapplicant third party will have the burden of ultimate persuasion and the burden of going forward to prove the case. Currently, the permit or license applicant has the burden of ultimate persuasion to prove the permit or license was issued properly if challenged by a nonapplicant third party.

OBJECTIVE:

The objective of this project is to monitor how shifting the burdens of persuasion and going forward in a challenge from applicants to nonapplicant third parties affects permitting and licensing in Florida.

METHODOLOGY:

Professional staff will receive updates and attend meetings and workshops, if necessary, concerning the implementation of the requirements in the legislation.

INTERIM MONITOR PROJECT TITLE:

Water Management District Ad Valorem Taxing Authority Annual Legislative Review

DATE DUE: N/A

PROJECT NUMBER: 2012-454

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 Regular Session, the Legislature passed legislation requiring that the Legislature annually review the preliminary budget for each water management district including the authorized millage rate. The Legislature is required to set the maximum amount of revenue each district may raise through its ad valorem taxing authority. If the Legislature does not set the maximum amount to be levied by each water management district, the amount authorized reverts to the prior year's authorization. The water management districts are also required to provide monthly financial data to their respective governing boards and make the information public via their websites. The legislation also provides greater oversight of district budgets through the Legislative Budget Commission.

OBJECTIVE:

The objective of this project is to monitor the water management districts' compliance with these additional budgetary restraints and requirements.

METHODOLOGY:

Professional staff will receive updates from the staffs of the water management districts, the Legislative Budget Commission and the Governor's Office to track how the legislation is implemented and attend meetings and workshops if necessary.

INTERIM MONITOR PROJECT TITLE:

Onsite Sewage Treatment and Disposal System Inspection Implementation

DATE DUE: N/A

PROJECT NUMBER: 2012-455

ISSUE DESCRIPTION and BACKGROUND:

During the 2010 Regular Session, the Legislature passed a bill that required inspections of septic tank systems every five years beginning January 2011. Subsequently, during the November 2010 Special Session, the Legislature extended the deadline for implementation to July 1, 2011. While several bills were introduced during the 2011 Regular Session related to the inspection program, none passed. However, barcode 182684 to SB 2002, first engrossed, contains implementation language prohibiting the Department of Health (DOH) from expending funds to conduct rule making until the Legislative Budget Commission (LBC) approves the DOH plan. The DOH plan must include funding requirements to implement the inspection program.

OBJECTIVE:

The objective of this project is to monitor agency planning activities to implement a statewide septic tank system inspection program.

METHODOLOGY:

Professional staff will receive periodic briefings from the DOH on the progress of plan creation and submittal to the LBC. Further, if the LBC approves the DOH's plan, professional staff will monitor the DOH's rule making process and progress.

INTERIM MONITOR PROJECT TITLE:

Environmental Restoration Activities Due to the Deepwater Horizon Oil Spill

DATE DUE: N/A

PROJECT NUMBER: 2012-456

ISSUE DESCRIPTION and BACKGROUND:

The Department of Environmental Protection (DEP) has received funds from BP to continue environmental restoration and continued cleanup of oil released from the BP oil spill in the Gulf of Mexico in the summer of 2010. On April 21, 2011, the Natural Resource Trustees for the Deepwater Horizon oil spill announced that BP would provide an additional \$1 billion in funding assistance for early Gulf Coast restoration projects. Florida will receive a share of this money to conduct restoration activities.

OBJECTIVE:

The objective of this project is to monitor agency actions to restore ecosystems and environments damaged by the BP oil spill.

METHODOLOGY:

Professional staff will receive periodic briefings from DEP staff on the progress of restoration activities and will track current and future funding provided by BP or other sources for such activities.

INTERIM MONITOR PROJECT TITLE:

Funding of Phases II and III of the Nitrogen Reducing Septic Tank System Study

DATE DUE: N/A

PROJECT NUMBER: 2012-457

ISSUE DESCRIPTION and BACKGROUND:

Nitrogen in various forms is a byproduct of human waste. There are two dominate processes in Florida for processing such waste: centralized systems connected to a domestic wastewater facility and onsite sewage treatment and disposal systems, or septic tank systems. The Department of Health (DOH) has initiated a three phase study of potential nitrogen reducing septic tank systems. Each phase was further divided into multiple tasks. Currently, multiple tasks across all phases have either been completed or are ongoing, while some have not been started. The Legislature appropriated \$2.725 million to the DOH in for fiscal year 2011-2012 to continue phases II and III of the study.

OBJECTIVE:

The objective of this project is to monitor the scientific results and findings, preliminary or final, from the ongoing research of the nitrogen reduction study for passive onsite sewage treatment and disposal systems.

METHODOLOGY:

Professional staff will receive periodic updates from DOH staff and will attend meetings and workshops, if necessary, concerning the ongoing study.

INTERIM MONITOR PROJECT TITLE:

Implementation of Federal Numeric Nutrient Criteria Standards in Florida

DATE DUE: N/A

PROJECT NUMBER: 2012-458

ISSUE DESCRIPTION and BACKGROUND:

In 2008, environmental groups sued the federal Environmental Protection Agency (EPA) for failure to enforce provisions of the Clean Water Act in Florida. The ultimate outcome was that the EPA promulgated numeric nutrient criteria standards for Florida's lakes and flowing waters in November 2010. The rule allows Florida 15 months to implement the rule. Several groups, the Attorney General's Office and the Department of Agriculture and Consumer Services (DACS) have challenged the legality of the rule in federal court. Those challenges are currently pending.

OBJECTIVE:

The objective of this project is to monitor agency actions and any litigation activities concerning implementation of federal numeric nutrient criteria standards in Florida.

METHODOLOGY:

Professional staff will receive periodic briefings from the Department of Environmental Protection, DACS and the Attorney General's Office regarding any actions concerning implementation of federal numeric nutrient criteria standards in Florida. Staff will attend meetings and workshops, if necessary, to monitor the status of such activities.

INTERIM MONITOR PROJECT TITLE:

Florida House of Representatives Select Committee on Water Policy

DATE DUE: N/A

PROJECT NUMBER: 2012-459

ISSUE DESCRIPTION and BACKGROUND:

The Florida House of Representatives created the Select Committee on Water Policy in 2010. The Select Committee held numerous committee meetings during the past legislative session to receive public input and craft water policy. Committee staff is currently in the planning process to hold workshops and meetings around the state during the summer months in order to receive public input as to the challenges and priorities facing constituents.

OBJECTIVE:

The objective of this project is to monitor the activities of the House Select Committee on Water Policy to determine consistency with Senate policies.

METHODOLOGY:

Professional staff will receive updates from Select Committee staff and attend workshops and meetings if necessary.

INTERIM MONITOR PROJECT TITLE:

Recycling Reporting in Florida

DATE DUE: N/A

PROJECT NUMBER: 2012-460

ISSUE DESCRIPTION and BACKGROUND:

In 2010, the Legislature passed a recycling bill that directed the Florida Department of Environmental Protection (DEP) to develop rules establishing the method and criteria to be used by counties in calculating their recycling rates. Additionally, the Legislature required all public sector entities and encouraged private businesses to report their recycling rates. The rule development workshops have been cancelled due to Governor Scott's Executive Order 11-01 (January 4, 2011) regarding suspension of rulemaking.

OBJECTIVE:

To monitor agency efforts to implement the provisions of the legislation.

METHODOLOGY:

Professional staff will contact the DEP periodically to determine the status of the rule development.

INTERIM MONITOR PROJECT TITLE:

Coyote Task Force

DATE DUE: N/A

PROJECT NUMBER: 2012-461

ISSUE DESCRIPTION and BACKGROUND:

There has been an increase in the number of coyote sightings in Florida and animal experts do not know how many coyotes there are in Florida. In an effort to determine the size of the coyote population and address any safety concerns, the Florida Fish and Wildlife Conservation Commission (FWC) recently created a coyote taskforce to track the sightings of coyotes, recruit and train trappers, and develop plans to deal with aggressive coyotes.

OBJECTIVE:

To monitor FWC's coyote taskforce.

METHODOLOGY:

Professional staff will contact FWC periodically to review the findings of the task force.

INTERIM MONITOR PROJECT TITLE:

Florida Fish and Wildlife Conservation Commission (FWC) Establishment of Fishing Seasons and Bag Limits

DATE DUE: N/A

PROJECT NUMBER: 2012-462

ISSUE DESCRIPTION and BACKGROUND:

The FWC has regulatory authority to set the fishing seasons, size limits and bag limits in Florida. A bag limit is a law imposed on fisherman restricting the number of fish within a specific species that they may keep. Size limits and fishing seasons sometimes accompany bag limits which place restrictions on the size of the fish and the time of year in which the fish may be caught. FWC receives input from the public and their federal partners which help them set the fishing seasons and bag limits. FWC also monitors the health of the fisheries by monitoring population and water quality.

OBJECTIVE:

To monitor FWC's development of these rules.

METHODOLOGY:

Professional staff will review FWC procedures regarding how the harvesting seasons are set and how bag limits are set. This will include reviewing how environmental factors impact the health of the harvested seafood.

INTERIM MONITOR PROJECT TITLE:

Florida Fish and Wildlife Conservation Commission (FWC) Procedures for Listing and Removing Species from Florida's Endangered and Threatened Species List

DATE DUE: N/A

PROJECT NUMBER: 2012-463

ISSUE DESCRIPTION and BACKGROUND:

The FWC has established through a series of workshops and public input a procedure for listing, and removing species from Florida's Endangered and Threatened Species List. FWC adopted the federal lists of endangered and threatened species, incorporated certain species materials and modified the criteria in certain circumstances. The Joint Administrative Procedures (JAPC) Committee met on April 4, 2011, to discuss if FWC had the rulemaking authority to designate which species are endangered or threatened. The JAPC Committee decided that the FWC did not have the authority to determine which species were added to Florida's Endangered and Threatened Species List or to make criteria modifications. JAPC stated that by making the rule modifications that FWC delegated its duty to the federal government. FWC has agreed to remove the rule modifications for the species designations and the federal lists.

OBJECTIVE:

To monitor the FWC rule revisions.

METHODOLOGY:

Professional staff will attend meetings and monitor the changes to FWC's species designation procedures.

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Interim Projects

INTERIM PROJECT TITLE:

Transparency of Local Government Retirement Plans Financial Data

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-124

ISSUE DESCRIPTION and BACKGROUND:

Financial data from local government retirement plans is reported to the Department of Management Services' Division of Retirement, while data related to city finances is reported to the Department of Financial Services. Taxpayers, retirement plan members, and policy-makers may find it difficult to synthesize relevant financial data to understand the comprehensive financial picture of a municipality and its retirement plans, or to make meaningful comparisons between the retirement plans of different municipalities. Though CS/CS/SB 1128 will require that some data is presented in a way to increase transparency and facilitate comparisons between plans, more work can be done to increase the transparency and comparability of local government retirement plans.

OBJECTIVE:

The goal of the project is to recommend what changes, if any, should be enacted to existing financial reporting requirements in order to facilitate understanding the complete financial picture of municipalities and their retirement systems.

METHODOLOGY:

Senate professional staff will consult with relevant stakeholders, including appropriate representatives of cities, police and fire retirement systems, the Division of Retirement, the Department of Financial Services, the Auditor General, and the Legislature's Office of Economic and Demographic Research in order to understand existing reporting requirements and gather input into potential changes to those requirements.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Retired Judges Returning to Temporary Duty Status Within Six Months of Retirement

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-217

ISSUE DESCRIPTION and BACKGROUND:

Section 121.021(39), F.S., provides that a member of the Florida Retirement System (FRS) who retires or terminates Deferred Retirement Option Program (DROP) participation on or after July 1, 2010, and who becomes employed by any FRS employer during the first six calendar months after such time,

does not meet the requirements for “termination.” Such persons are therefore not considered retired and may not receive retirement benefits. There are currently no exceptions to this requirement.

Section 121.091(9), F.S., provides that a member of the FRS who retires or terminates DROP participation on or after July 1, 2010, who is not retired under the disability retirement provisions and who becomes employed by any FRS employer during the seventh to twelfth calendar months after his or her effective retirement date or DROP termination date, must suspend receipt of his or her retirement benefit during that time period. There are currently no exceptions to this requirement.

OBJECTIVE:

The purpose of this issue brief is to explore the current state of the law and issues pertaining to the return of retired judges to temporary duty status within six months of retirement.

METHODOLOGY:

Senate professional staff will review the applicable law and seek information from the Department of Management Services and the State Board of Administration.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 627.3121, F.S., Florida Workers’ Compensation Joint Underwriting Association, Inc.

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-306

ISSUE DESCRIPTION and BACKGROUND:

The Florida Workers’ Compensation Joint Underwriting Association, Inc. (JUA), created by the Legislature in 1993, is a nonprofit, self-funding entity that is the insurer of last resort for employers who are unable to secure workers’ compensation insurance coverage in the voluntary market.

Section 627.3121, F.S., provides that the following records and portions of meetings held by the JUA are confidential and exempt from constitutional and statutory public-records and -meetings requirements:

- Underwriting files, except that a policyholder or an applicant is authorized access to his or her own underwriting files;
- Claims files until the termination of all litigation and settlement of all claims arising out of the same accident, except that portions of the claims files may remain confidential or exempt if otherwise provided by law;
- Records obtained or generated by an internal auditor until the audit is completed, or if the audit is part of an investigation, until the investigation is closed or ceases to be active;
- Proprietary information licensed to the JUA under contract when the contract requires the association to maintain the confidentiality;
- Medical records, which include information relating to the medical condition or medical status of an individual;

- All records relative to the participation of an employee in an employee assistance program, except as otherwise provided in s. 440.102(8), F.S.;
- Information relating to negotiations for financing, reinsurance, depopulation, or contractual services, until the conclusion of the negotiations;
- Reports regarding suspected fraud or other criminal activity and producer appeals and related reporting regarding suspected misconduct until the investigation is closed or ceases to be active;
- Information secured from the Department of Revenue regarding payroll information and client lists of employee leasing companies authorized under ss. 440.381 and 468.529, F.S.;
- A public record prepared by an attorney retained by the JUA to protect or represent the interests of the JUA or prepared at the attorney's express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association;
- That portion of a meeting of the JUA's board of governors or any subcommittee thereof at which the confidential and exempt records are discussed; all exempt portions must be recorded and transcribed and preserved for a minimum of 5 years;
- The transcript and minutes of exempt portions of meetings; those portions of the transcript or the minutes pertaining to a confidential and exempt claims file are no longer confidential and exempt upon termination of all litigation with regard to that claim.

The public-records and public-meetings exemption authorizes the release of underwriting files and claims files to a carrier who is considering underwriting a risk insured by the JUA, a producer seeking to place such risk with such a carrier, or another entity seeking to arrange voluntary market coverage for association risks. Before such release, the carrier, producer, or other entity must agree in writing to maintain the confidentiality of the files until that entity agrees to underwrite the risk or provide voluntary market coverage. The exemption also allows the protected records to be released, upon written request, to another agency in the performance of that agency's official duties and responsibilities.

The exemption stands repealed on October 2, 2012, unless saved from repeal by the Legislature after review under the Open Government Sunset Review Act in accordance with s. 119.15, F.S.

OBJECTIVE:

Under the Open Government Sunset Review Act, s. 119.15, F.S., public-records and public-meetings exemptions are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature under the standards prescribed in the act. The objective of this mandatory review is to evaluate the public-records and -meetings exemption for specified records and meetings held by the JUA and recommend whether the Legislature should retain, modify, or repeal the exemption.

METHODOLOGY:

Senate professional staff will review the public-records exemption under the standards of the Open Government Sunset Review Act based on input solicited from the JUA, agencies, the First Amendment Foundation, and other interested parties.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 364.107, F.S., Personal Identifying Information of Lifeline Assistance Plan Participants

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-307

ISSUE DESCRIPTION and BACKGROUND:

The Universal Service program, created by the federal Telecommunications Act of 1996 (act), is intended in part to increase access to telecommunications services at reasonable rates, including those in low income, rural, insular, and high cost areas. To fulfill the goals of the act, the Federal Communications Commission (FCC) established four programs, one of which is the Low Income program.

The Lifeline Assistance Plan (Lifeline), which is part of the Low Income program, is designed to enable low-income households to afford basic local telephone service. Lifeline participants are entitled to up to four tiers of monthly federal support, as governed by FCC rules.

In Florida, oversight of Lifeline services is handled by the Public Service Commission (PSC). To enroll in Lifeline, a telecommunications customer must submit an application to the PSC that requires his or her name, address, telephone number, service provider, and the last four digits of his or her social security number.

Section 364.107, F.S., provides that personal identifying information of a participant in a telecommunications carrier's Lifeline Assistance Plan held by the Public Service Commission is confidential and exempt from disclosure under constitutional and statutory public-records requirements. This public-records exemption specifies that the protected information may be released to the applicable telecommunications carrier for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan. The exemption also authorizes an officer or employee of a telecommunications carrier to intentionally disclose the information only as:

- Authorized by the customer;
- Necessary for billing purposes;
- Required by subpoena, court order, or other process of court;
- Necessary to disclose to an agency as defined in s. 119.011 or a governmental entity for purposes directly connected with implementing service for, or verifying eligibility of, a participant in a Lifeline Assistance Plan or auditing a Lifeline Assistance Plan; or
- Otherwise authorized by law.

The exemption provides that any officer or employee of a telecommunications carrier who intentionally discloses the protected information commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

The exemption stands repealed on October 2, 2012, unless saved from repeal by the Legislature after review under the Open Government Sunset Review Act in accordance with s. 119.15, F.S.

OBJECTIVE:

Under the Open Government Sunset Review Act, s. 119.15, F.S., public-records and public-meetings exemptions are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature under the standards prescribed in the act. The objective of this mandatory review is to evaluate the public-records exemption for personal identifying information of a participant in a telecommunications carrier's Lifeline Assistance Plan held by the Public Service Commission and recommend whether the Legislature should retain, modify, or repeal the exemption.

METHODOLOGY:

Senate professional staff will review the public-records exemption under the standards of the Open Government Sunset Review Act based on input solicited from Lifeline Assistance Plan participants, the Public Service Commission, agencies, telecommunications carriers, the First Amendment Foundation, and other interested parties.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 119.071(1)(g), F.S., U.S. Census Bureau Address Information

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-308

ISSUE DESCRIPTION and BACKGROUND:

The Local Update of Census Addresses Program (LUCA Program) was a decennial census geographic partnership program designed to allow the United States Census Bureau to benefit from local knowledge in developing its master address file for the 2010 census. The LUCA Program was made possible by the Census Address List Improvement Act of 1994, which authorizes designated representatives of local and tribal governments to review the master address file.

The LUCA Program required that participating governments designate a LUCA liaison to review the portion of the census address list covering the area under their jurisdictions. The LUCA liaison was subject to the same confidentiality requirements as census workers and was prohibited from disclosing census information. LUCA Program participants were required to review a set of security guidelines and sign a confidentiality agreement promising to protect the confidential address list, which includes corresponding maps and address tallies.

The LUCA Program provided clear guidelines for local government participation and confidentiality; however, the federal law was less clear regarding confidentiality at the state level. Therefore, paragraph (g) of s. 119.071(1), F.S., provides that United States Census Bureau address information held by an agency pursuant to the LUCA Program is confidential and exempt from disclosure under constitutional and statutory public-records requirements. The information covered by the public-records exemption includes maps showing structure location points, agency records verifying addresses, and agency records identifying address errors or omissions.

The public-records exemption authorizes release of the protected information to another agency or governmental entity in the furtherance of its duties and responsibilities under the LUCA Program. The

exemption also provides that an agency performing duties and responsibilities under the LUCA Program shall have access to any other confidential or exempt information held by another agency if such access is necessary in order to perform its duties and responsibilities under the program.

The exemption stands repealed on October 2, 2012, unless saved from repeal by the Legislature after review under the Open Government Sunset Review Act in accordance with s. 119.15, F.S.

OBJECTIVE:

Under the Open Government Sunset Review Act, s. 119.15, F.S., public-records and public-meetings exemptions are subject to repeal five years after their enactment unless reviewed and saved from repeal by the Legislature under the standards prescribed in the act. The objective of this mandatory review is to evaluate the public-records exemption for United States Census Bureau address information held by an agency pursuant to the LUCA Program and recommend whether the Legislature should retain, modify, or repeal the exemption.

METHODOLOGY:

Senate professional staff will review the public-records exemption under the standards of the Open Government Sunset Review Act based on input solicited from the United States Census Bureau, agencies, the First Amendment Foundation, and other interested parties.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Implementation of 2011 Statutory Changes to the Florida Retirement System

DATE DUE: N/A

PROJECT NUMBER: 2012-464

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 Regular Session the Legislature passed Senate Bill 2100, which makes the following changes to the Florida Retirement System (FRS):

- Effective July 1, 2011, all FRS members except those participating in the Deferred Retirement Option Program (DROP) are required to pay an employee contribution of 3% of gross pre-tax compensation.
- For employees initially enrolled on or after July 1, 2011, the definition of “average final compensation” means the average of the 8 highest fiscal years of compensation for creditable service prior to retirement, for purposes of calculation of retirement benefits. For employees initially enrolled before July 1, 2011, the definition of “average final compensation” continues to be the average of the 5 highest fiscal years of compensation.
- Employees initially enrolled on or after July 1, 2011, who are members of the Pension Plan will vest in 100% of employer contributions upon completion of 8 years of creditable service. For members of the Pension Plan initially enrolled before July 1, 2011, 100% vesting of employer contributions will continue to occur upon completion of 6 years of creditable service.
- For employees initially enrolled on or after July 1, 2011, the normal retirement date is increased as follows:

- For Special Risk Class: from 55 to 60 years of age; and from 25 to 30 years of creditable service.
- For all other membership classes: from 62 to 65 years of age; and from 30 to 33 years of creditable service.
- Employees initially enrolled in DROP on or after July 1, 2011 will earn interest at a reduced accrual rate of 1.3%. For employees initially enrolled in DROP before July 1, 2011, the interest rate remains 6.5%.
- The cost-of-living adjustment (COLA) for service earned on or after July 1, 2011, is eliminated. Subject to the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the reinstatement of the COLA, the new COLA formula will expire effective June 30, 2016, and the prior 3% COLA will be reinstated.

OBJECTIVE:

The purpose of this monitor project is to track implementation of this legislation.

METHODOLOGY:

Senate professional staff will:

- Seek information from the Department of Management Services (department) and from the State Board of Administration (board) regarding the actions taken to implement and to inform employers and employees of the statutory changes.
- Monitor the meetings, discussions, and recommendations of department and board staff.

INTERIM MONITOR PROJECT TITLE:

Local Government Pension Plan Changes

DATE DUE: N/A

PROJECT NUMBER: 2012-465

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 Regular Session, the Legislature passed CS/CS/SB 1128, which requires local government pension plans to take specified actions that increase the transparency the financial data of local government pension plans, and specifies other requirements related to local government pension plans.

OBJECTIVE:

The objective of this interim monitor project is to keep abreast of the implementation of the bill's provisions, including policy and rule changes made by the Department of Management Services' Division of Retirement.

METHODOLOGY:

Senate professional staff will maintain contact with the Department of Management Services and other interested parties to stay abreast of all policy revisions and rule changes, and attend relevant meetings and workshops concerning the implementation of the requirements of the legislation.

HEALTH REGULATION

Interim Projects

INTERIM PROJECT TITLE:

Review 24-hour Admissions Limitations in Ambulatory Surgical Centers

DATE DUE: September 20, 2011

PROJECT NUMBER: 2012-125

ISSUE DESCRIPTION and BACKGROUND:

Ambulatory Surgical Centers (ASCs) are facilities where surgeries that do not require hospital admission are performed. They provide a cost-effective and convenient environment that is less stressful than what many hospitals offer. ASCs may perform surgeries in a variety of specialties or dedicate their services to one specialty, such as eye care. Each year, over 8 million surgeries are performed in more than 4,000 ASCs across the United States. Procedures performed in these centers include ophthalmology, gastroenterology, orthopedic, ENT (ear, nose & throat), gynecology, and plastic surgery.

The U.S. Department of Health and Human Services Office of the Inspector General (Office) surveyed Medicare beneficiaries who had one of four procedures in an ASC. The Office found that 98 percent of the people were satisfied with their experience. High patient satisfaction is based, in part, on convenient scheduling and good value for services.

Section 395.002, F.S., defines an ASC as a facility, the primary purpose of which is to provide elective surgical care, in which the patient is admitted to and discharged from that facility within the same working day and is not permitted to stay overnight, and which is not part of a hospital. In Florida, ASCs are licensed by the Agency for Health Care Administration if licensure requirements are met under part I, ch. 395, F.S.; part II, ch. 408, F.S.; ch. 59A-5, F.A.C.; and ch. 59A-35, F.A.C.

An ASC may be Medicaid and Medicare certified. The U.S. Department of Health, Centers for Medicare and Medicaid Services issues the list of procedure codes which may be performed in an ASC.

OBJECTIVE:

The objective of this project is to explore whether certain procedures in the specific areas of obstetrics, gynecology, and cardiology that would necessitate a patient's stay at the facility for longer than 24 hours can be safely and economically performed at an ASC. The report will recommend whether the same day requirement should be repealed for certain procedures and suggest appropriate safeguards that might be implemented if the same day limitation were repealed.

METHODOLOGY:

Senate professional staff will review Florida Statutes, rules, treatises, articles, and information from other states concerning the regulation and licensure of ASCs and will review articles, reports, or other documentation relating to patient satisfaction and treatment outcomes from those states, if any, that allow ASCs to service patients for more than 24 hours. Additionally, professional staff will consult with

medical practitioners, staff of the Agency for Health Care Administration, and other stakeholders to obtain additional information.

INTERIM PROJECT TITLE:

Review Consolidating, Eliminating, or Reorganizing Health Related State Agencies

DATE DUE: November 1, 2011

PROJECT NUMBER: 2012-126

ISSUE DESCRIPTION and BACKGROUND:

Recently, there has been much interest in the streamlining, reorganizing, or consolidation of health-related agencies in Florida in order to promote efficiencies, remove redundancies, and provide for better health care services.

In 2010, the Florida Legislature passed HB 5311, now s. 34, ch. 2010-161, Laws of Florida, which requires the Department of Health (DOH) to conduct a comprehensive evaluation and justification review of its divisions established in s. 20.43, F.S., and the programs within those divisions. Specifically, the new law requires that the DOH submit a report of its evaluation and justification review, including its findings and recommendations, to the President of the Senate, the Speaker of the House of Representatives, the chairs of the appropriate substantive committees, the Legislative Auditing Committee, the Governor, and the State Surgeon General by no later than March 1, 2011. As a result, the DOH submitted the “Florida Department of Health Evaluation and Justification Review Report on Findings and Recommendations” to the appropriate parties on March 1, 2011. The report recommended that:

- The Legislature amend s. 20.43(1), F.S., to revise the DOH’s purpose.
- The Legislature amend the DOH’s responsibilities outlined in s. 20.43(1), F.S.
- The Legislature discontinue allocation of the state’s general revenue to fund the provision of Primary Care/Adult and Primary Care/Child health care services.
- The Legislature approve a transition plan for the closure of the A.G. Holley State Hospital, which is a state hospital that provides inpatient treatment for patients with tuberculosis.
- The DOH develop and implement a state health improvement plan with priorities for statewide health improvement.
- The Legislature amend s. 20.43, F.S., to designate the agency head from the “State Surgeon General and Health Officer” to the “Secretary of Health” and repeal the requirement that the agency head be a physician, but require that at least one deputy secretary be a licensed physician if the agency head is not a licensed physician.
- The positions of the Deputy Secretary and Deputy State Health Officer for Children’s Medical Services are eliminated.
- The Legislature amend s. 20.34(2)(b), F.S., to eliminate the position of the Officer of Women’s Health Strategy and s. 381.04015, F.S., to eliminate the duties assigned to the Officer of Women’s Health Strategy.
- The Legislature review and direct the DOH with regard to its recommendations to reduce and restructure the DOH’s divisions, bureaus, and offices, from 11 to 6 divisions; 50 to 18 bureaus; 2 to 0 stand-alone bureaus; and 11 to 5 stand-alone offices.

On December 18, 2010, Governor Rick Scott's Health and Human Services Transition Team made a recommendation to the Governor to reorganize the state health and human services agencies, based on function and reduction of redundancy. The Health and Human Services Transition Team suggested that the DOH, the Department of Elder Affairs (DOEA), the Agency for Health Care Administration (AHCA), and the Agency for Persons with Disabilities (APD) be merged into a new agency. However, the Department of Children and Family Services (DCF) would not be included in the merger. The new agency would be called the Department of Health and Human Services.

In the 2011 General Legislative Session, two identical bills (SB 528 and HB 115) were introduced, which sought to merge the AHCA, APD, DCF, and the DOH into a new department, the Department of Health and Human Services. The mission of the new department under each bill was to:

- Work in partnership with local communities to implement state health policy.
- Identify technologies and opportunities for gains in productivity associated with the greater level of integration of the delivery of health and human services.
- Estimate the amount of workforce reduction as a result of the integration of service delivery systems.
- Estimate the reduction in the need for office or work space as a result of increased use of technology and the regionalization of health care operations.
- Eliminate duplicative functions as a result of the merging of the functions of the AHCA, APD, DCF, and DOH.

However, neither bill was heard in committee.

OBJECTIVE:

The objective of this project is to review and analyze the current structures, functions, missions, and duties, of health-related agencies in Florida in order to determine if improvements and efficiencies would be realized by merging any of the agencies and make recommendations based on professional staff's findings.

METHODOLOGY:

Senate professional staff will review Florida Statutes, rules, articles, reports, and other documentation concerning the structure, function, mission, and duties of the health-related agencies in Florida and will review reports and articles relating to the elimination, reorganization, or consolidation of such agencies. Additionally, professional staff will meet with staff from such health-related agencies, including the AHCA, DCF, APD, DOEA, and the DOH, as well as other stakeholders, to obtain additional information.

INTERIM PROJECT TITLE:

Review Eligibility of Dentist Licensure in Florida and Other Jurisdictions

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-127

ISSUE DESCRIPTION and BACKGROUND:

State boards of dentistry, licensure statutes, and rules can affect the population of eligible dental providers available in a state and some states have amended licensure regulations to attract dentists.

Examples of some of these common practices are: allowing foreign dental school graduates who complete U.S. dental residencies to meet eligibility requirements for licensure; conveying reciprocity or licensure by credentials; granting special licenses; or providing incentives (e.g., limiting liability) for dentists who work in public health/safety net clinics. Only 4 states and the U.S. Virgin Islands do not grant an unrestricted dental license by credentials (grant reciprocity): Delaware, Florida, Hawaii, and Nevada.

Some states such as Minnesota, Connecticut, Arkansas, Mississippi, and California have developed programs to utilize foreign-trained dentists as dentists and dental hygienists in facilities that care for special needs patients or in public health settings.

California enacted a law (Assembly Bill 1116) that provided the California dental board with the authority to determine whether unaccredited international dental programs are equivalent to similar accredited institutions in the U.S. Enacted in 1998, the law enabled the dental board to approve dental education programs outside the U.S. The Universidad De La Salle Bajio in the city of Leon, Mexico, applied for approval for its new 2-year international program in 2006. The California board of dentistry granted provisional approval to Universidad De La Salle in August 2002 after the first site visit. Following its second site visit, De La Salle's 5-year pre-doctoral dental education program received full certification in November 2004. Students who are admitted to the De La Salle's California-approved track program are required to sign a disclaimer stating that they know this program is not approved by the Commission on Dental Accreditation (CODA). They are also informed that they will only qualify to get a license to practice in California once all licensure requirements for the state of California are met.

In Florida, s. 466.08, F.S., provides guidelines for certifying foreign dental schools. The foreign schools must prove that their educational program is reasonably comparable to that of similar accredited institutions in the U.S. and that the program adequately prepares its students for the practice of dentistry. Any dentist who did not attend a CODA accredited dental program (e.g., foreign-trained dentists) are required to complete a 2-year supplemental education program at a CODA accredited dental school before they can sit for the Florida dental licensure examinations.

The trend to lessen licensure regulation or offer reciprocity in the field of dentistry may be a result of the shrinking of the pool of dentists to serve a growing population of Americans. The American Dental Association found that 6,000 dentists retire each year in the U.S., while there are only 4,000 dental school graduates each year to replace them. The projected shortage of dentists is even greater in rural America. Of the approximately 150,000 general dentists in practice in the U.S., only 14 percent practice in rural areas, 7.7 percent in large rural areas, 3.7 percent in small rural areas, and 2.2 percent in isolated rural areas. In 2003, there were 2,235 federally designated dental supply shortage areas, 74 percent of which were located in non-metropolitan areas. In contrast, dental hygiene is predicted to be one of the top ten fastest growing health care professions over the next decade, growing by a projected 43 percent between 2006 and 2020.

In 2010, there were 9,373 practicing dentists in Florida, meaning the ratio of dentists to the population in Florida is approximately 1 dentist for every 2,016 residents. The estimated underserved population in 2008, in Florida, was 2.9 million people or 15.8 percent of the population.

OBJECTIVE:

The objective of this project is to review the current process for licensure for dentistry in Florida, including licensure in Florida for foreign-trained and licensed dentists, and analyze whether the current

process could be improved to provide opportunities for foreign-trained and licensed dentists to become licensed in Florida, while keeping in place measures to protect the health and safety of dental patients.

METHODOLOGY:

Senate professional staff will review Florida Statutes, rules, and case law, as well as treatises, articles, and information from other states concerning the regulation and licensure of dentists, including foreign-trained and licensed dentists. Additionally, professional staff will interview members of the Florida Board of Dentistry, staff of the Department of Health, and other stakeholders, to obtain additional information.

INTERIM PROJECT TITLE:

Review Regulatory Oversight of Assisted Living Facilities in Florida

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-128

ISSUE DESCRIPTION and BACKGROUND:

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. An ALF may be operated for profit or not-for-profit, and can range from small houses resembling private homes to larger developments with hundreds of residential beds.

Assisted living facilities are currently licensed by the AHCA pursuant to part I of ch. 429, F.S., relating to assisted living facilities and part II of ch.408, F.S., relating to the general licensing provisions for health care facilities. Assisted living facilities are also subject to regulation under chapter 58A-5 of the Florida Administrative Code. These rules are adopted by the Department of Elder Affairs (DOEA) in consultation with the AHCA, the Department of Children and Family Services, and the Department of Health. As of March 2011, there were 2,932 ALFs licensed in Florida.

In addition to a standard license, an ALF may have specialty licenses that authorize an ALF to provide limited nursing services, limited mental health services, and extended congregate care services.

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility. Generally, the care and services include at a minimum:

- Supervising the resident in order to monitor the resident’s diet; being aware of the general health, safety, and physical and emotional well-being of the resident; and recording significant changes, illnesses, incidents, and other changes which resulted in the provision of additional services;
- Contacting appropriate persons upon a significant change in the resident or if the resident is discharged or moves out;
- Providing and coordinating social and leisure activities in keeping with each resident’s needs, abilities, and interests;
- Arranging for health care by assisting in making appointments, reminding residents about scheduled appointments, and providing or arranging for transportation as needed; and
- Providing to the resident a copy of, and adhering to, the Resident Bill of Rights.

Recently, the Miami Herald completed a three part series relating to ALFs in the state. This series highlighted concerns with the way facilities are being run and also with breakdowns in the state enforcement system. For example, the Miami Herald found that:

- Nearly once a month, residents die from abuse and neglect – with some caretakers even altering and forging records to conceal evidence – but law enforcement agencies almost never make arrests;
- Homes are routinely caught using illegal restraints, but the state rarely punishes the operators of these homes;
- Though the state has the power to impose fines on homes that break the law, the penalties are routinely decreased, delayed, or dropped altogether; and
- The state’s lack of enforcement has prompted other government agencies to cut off funding and, in some cases, refuse to send clients to live in homes that the state will not close.

The three part series brought to the forefront the potential lack of regulation and enforcement with ALFs in the state and gained the attention of many state lawmakers.

OBJECTIVE:

The objective of this project is to review the current regulatory oversight of assisted living facilities, analyze what problems may exist in the current system, identify what improvements can be made in protection and enforcement, and propose appropriate legislation to address the report’s findings.

METHODOLOGY:

Senate professional staff will review Florida Statutes, rules, and case law, as well as treatises, articles, and information from other states concerning the regulation and enforcement of assisted living facilities. Additionally, professional staff will meet with staff from the Agency for Health Care Administration, the Department of Children and Family Services, the Department of Elderly Affairs, the Florida Long-Term Care Ombudsman Program, Florida Disability Rights, Florida Assisted Living Association, and the Florida Association of Homes and Services for the Aging, as well as other stakeholders, to obtain additional information.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Referrals Between Health Care Providers in Delivery of Radiation Therapy Services

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-218

ISSUE DESCRIPTION and BACKGROUND:

It is well-recognized that the referral of a patient by a health care provider to a provider of health care services in which the referring health care provider has an investment interest represents a potential conflict of interest. The Legislature has found that these referral practices may limit or eliminate competitive alternatives in the health care services market, may result in overutilization of health care services, may increase costs to the health care system, and may adversely affect the quality of health care. Nonetheless, the Legislature has recognized that it may be appropriate in certain circumstances for such referrals to occur.

Accordingly, the Legislature enacted laws addressing financial arrangements between referring health care providers and providers of health care services in 1992, what is now codified in Section 456.053, F.S. The Legislature has amended the statute many times since initially enacted. During the 2011 Legislative Session, some members of the Legislature expressed interest in revising the definition of a group practice for purposes of lawful referrals for radiation therapy services.

A group practice is currently defined in s. 456.053(3)(h), F.S., as follows:

“Group practice” means a group of two or more health care providers legally organized as a partnership, professional corporation, or similar association:

1. In which each health care provider who is a member of the group provides substantially the full range of services which the health care provider routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;
2. For which substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and
3. In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

Some members of the Senate expressed an interest in a more thorough exploration of the public benefit and effect of revising the definition of a group practice for purposes of lawful referrals for radiation therapy services.

OBJECTIVE:

The issue brief will describe radiation therapy services, the patient populations receiving radiation therapy services, the infrastructure for the delivery of radiation therapy services, and the public benefit or detriment and effect of altering the status quo with respect to patient referrals for radiation therapy services.

METHODOLOGY:

Senate professional staff will review Florida Statutes and rules, as well as laws and rules of other states concerning patient referrals, focusing on referrals for radiation therapy services; medical treatises; articles; and public and private payment structures for radiation therapy services. Additionally, professional staff will consult with experts and interested stakeholders to obtain additional information.

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 458.3193, F.S., Physician Workforce Surveys

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-309

ISSUE DESCRIPTION and BACKGROUND:

Section 458.3191, F.S., requires each Florida-licensed allopathic or osteopathic physician, in conjunction with the renewal of his or her license, to furnish specified information to the Department of Health (DOH) in a physician survey. The information required to be submitted includes but is not limited to:

- Licensee information related to:
 - Frequency and geographic location of practice within the state.
 - Practice setting.
 - Percentage of time spent in direct patient care.
 - Anticipated change to license or practice status.
 - Areas of specialty or certification.
- Availability and trends relating to critically needed services including:
 - Obstetric care and services, including incidents of deliveries.
 - Radiological services, particularly performance of mammograms and breast-imaging services.
 - Physician services for hospital emergency departments and trauma centers, including on-call hours.
 - Other critically needed specialty areas, as determined by the DOH.

Annually, the DOH is required to analyze the results of the physician survey responses and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1 of each year.

Section 458.3193, F.S., creates an exemption from the requirements of the Public Records Law to make all personal identifying information contained in records provided by physicians in response to the physician workforce survey required as a condition of license renewal and held by the DOH confidential and exempt. The confidential and exempt information may be disclosed under certain conditions.

The exemption is set to be repealed on October 2, 2012, unless it is reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

To determine if the exemption from the Public Records Law contained in s. 458.3193, F.S., should be continued or modified under the criteria specified in the Open Government Sunset Review Act.

METHODOLOGY:

Senate professional staff will review the provisions and applicable law according to the criteria specified in the Open Government Sunset Review Act. Senate professional staff will seek input from the

DOH, Board of Medicine, and other interested stakeholders to determine if any aspects of s. 458.3193, F.S., should be revised and whether the exemption should be saved from repeal through reenactment.

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 459.0083, F.S., Osteopathic Physician Workforce Surveys

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-310

ISSUE DESCRIPTION and BACKGROUND:

Section 459.0081, F.S., requires each Florida-licensed allopathic or osteopathic physician, in conjunction with the renewal of his or her license, to furnish specified information to the Department of Health (DOH) in a physician survey. The information required to be submitted includes but is not limited to:

- Licensee information related to:
 - Frequency and geographic location of practice within the state.
 - Practice setting.
 - Percentage of time spent in direct patient care.
 - Anticipated change to license or practice status.
 - Areas of specialty or certification.
- Availability and trends relating to critically needed services including:
 - Obstetric care and services, including incidents of deliveries.
 - Radiological services, particularly performance of mammograms and breast-imaging services.
 - Physician services for hospital emergency departments and trauma centers, including on-call hours.
 - Other critically needed specialty areas, as determined by the department.

Annually, the DOH is required to analyze the results of the physician survey responses and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1 of each year.

Section 459.0083, F.S., creates an exemption from the requirements of the Public Records Law to make all personal identifying information contained in records provided by physicians in response to the physician workforce survey required as a condition of license renewal and held by the DOH confidential and exempt. The confidential and exempt information may be disclosed under certain conditions.

The exemption is set to be repealed on October 2, 2012, unless it is reviewed and saved from repeal through reenactment by the Legislature.

OBJECTIVE:

To determine if the exemption from the Public Records Law contained in s. 459.0083, F.S., should be continued or modified under the criteria specified in the Open Government Sunset Review Act.

METHODOLOGY:

Senate professional staff will review the provisions and applicable law according to the criteria specified in the Open Government Sunset Review Act. Senate professional staff will seek input from the DOH, Board of Osteopathic Medicine, and other interested stakeholders to determine if any aspects of s. 459.0083, F.S., should be revised and whether the exemption should be saved from repeal through reenactment.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Medicaid Managed Care Legislation Implementation

DATE DUE: N/A

PROJECT NUMBER: 2012-466

ISSUE DESCRIPTION and BACKGROUND:

CS/HB 7107, passed during the 2011 Legislative Session, directs the Agency for Health Care Administration (AHCA) to design and implement a statewide Medicaid managed care system with a medical assistance (MA) component and a long-term care (LTC) component, subject to federal waiver authority.

Under the bill, the new system should improve the Medicaid program in a number of ways, including access to health care services, quality of health care services, cost predictability and cost effectiveness, and reduction of fraud and abuse. All Medicaid recipients will be enrolled in a managed care plan unless specifically exempt. Recipients who are exempted include persons with limited eligibility or benefits and persons with developmental disabilities. Care coordination through managed care organizations should produce better health outcomes and help recipients avoid costly emergency care.

The bill creates a number of specific parameters, objectives, and deadlines for AHCA to meet during the preparation and implementation phases:

Date	Component	Deliverable	Language
1-Aug-2011	Both	Submit waiver request	The agency shall submit any state plan amendments, new waiver requests, or requests for extensions or expansions for existing waivers, needed to implement the managed care program by August 1, 2011.
1-Aug-2011	LTC	LTC technical workgroup	Before August 1, 2011, the agency shall establish a technical advisory workgroup [for the LTC component].
1-Aug-2011	Both	AHCA reorganization report	The agency shall develop a reorganization plan for realignment of administrative resources of the Medicaid program to respond to changes in functional responsibilities and priorities necessary for HB 7107.
1-Jul-2012	LTC	Issue ITNs for LTC	The agency shall provide notice of invitations to negotiate by July 1, 2012.
1-Jul-2012	LTC	Begin implementing LTC	By July 1, 2012, the agency shall begin implementation of the statewide long-term care managed care program, with full implementation in all regions by October 1, 2013.

Date	Component	Deliverable	Language
1-Jan-2013	MA	Issue ITNs for MA	The agency shall notice invitations to negotiate no later than January 1, 2013.
1-Jan-2013	MA	Begin implementing MA	By January 1, 2013, the agency shall begin implementation of the statewide managed medical assistance program, with full implementation in all regions by October 1, 2014.
1-Oct-2013	LTC	Finish implementing LTC	By July 1, 2012, the agency shall begin implementation of the statewide long-term care managed care program, with full implementation in all regions by October 1, 2013.
1-Oct-2014	MA	Finish implementing MA	By January 1, 2013, the agency shall begin implementation of the statewide managed medical assistance program, with full implementation in all regions by October 1, 2014.

OBJECTIVE:

The objective is to monitor the implementation of CS/HB 7107 and similar legislation to keep Senators apprised of the progress and to identify delays, obstacles, or enhancements that the Legislature might need to address in the 2012 Legislative Session.

METHODOLOGY:

Senate professional staff will monitor adherence with implementation timeframes in the Legislation and AHCA’s implementation plans; attend rule development workshops conducted by the agency, if any, and other AHCA hearings or public meetings; and monitor activities of the agency with respect to negotiating federal waiver approval and other aspects of implementation.

INTERIM MONITOR PROJECT TITLE:

Commission on Review of Taxpayer Funded Hospital Districts

DATE DUE: N/A

PROJECT NUMBER: 2012-467

ISSUE DESCRIPTION and BACKGROUND:

On March 23, 2011, Governor Scott issued Executive Order 11-63, “Creation of Commission on Review of Taxpayer Funded Hospital Districts.”

The Commission was created pursuant to the Governor’s intent to develop a “more rational approach to compensating hospitals with a higher degree of predictability and fairness” that does not incent inefficiency, higher cost, or irrational business practices. The Commission is charged with making recommendations on the role of hospital taxing districts, whether it is in the public’s best interest to have government entities operating hospitals, and the most effective model for improving health care access for the poor. This charge encompasses numerous parameters and objectives.

The Commission is composed of eight members appointed by the Governor. The President of the Senate and the Speaker of the House are invited by the Executive Order to appoint one member of their respective chamber to serve on the Commission.

The Commission is to submit a report with findings and recommendations, including any recommendations for Legislative action, to the Governor, the Senate President, and the Speaker of the House on or before January 1, 2012.

OBJECTIVE:

The objective is to monitor the progress of the Commission to keep Senators apprised of issues analyzed by the Commission and the direction the Commission may take as it carries out its charge, especially in relation to issues the Legislature might address in the 2012 Legislative Session.

METHODOLOGY:

Senate professional staff will attend Commission meetings and stay abreast of the Commission's discussions and work leading up to preparation of its final report.

INTERIM MONITOR PROJECT TITLE:

Regulating Controlled Substances in Pain Management Legislation Implementation

DATE DUE: N/A

PROJECT NUMBER: 2012-468

ISSUE DESCRIPTION and BACKGROUND:

Prescription drug abuse is the most threatening substance abuse issue in the State of Florida. The number of deaths caused by at least one prescription drug increased from 1,234 in 2003 to 2,488 in 2009 (a 102 percent increase). This translates to seven Floridians dying per day. The drugs that caused the most deaths were oxycodone; all benzodiazepines, methadone; ethyl alcohol; cocaine; morphine; and hydrocodone.

The population of Florida accounts for less than 6 percent of the total population of the United States, but Florida has 11 percent of the physicians who dispense oxycodone, and almost 50 percent of the physicians who dispense methadone in the U.S. Physicians in Florida dispense more than 85 percent of the oxycodone dispensed by physicians in the U.S., and over 93 percent of the methadone dispensed by physicians in the U.S.

In 2009 and 2010, legislation was enacted to regulate pain-management clinics and establish a prescription drug monitoring program that includes a prescription drug monitoring database. The database is a tool to assist practitioners with responsibly prescribing and dispensing controlled substances in Florida, deter "doctor shopping," and facilitate effective prosecution of persons who violate Florida law. The prescription drug monitoring program database is not yet operational in this state. Due to legal challenges and the narrow focus of the legislation, the prescription drug crisis persists.

CS/CS/HB 7095, 3rd Engrossed, passed during the 2011 Legislative Session, provides a more comprehensive approach to address the epidemic of prescription drug abuse and the untimely deaths that result from such abuse in this state. The bill provides for additional regulation of physicians, pain management clinics, pharmacies, and wholesale drug distributors. Physicians who are no longer authorized to dispense controlled substances are required to return them to their wholesale drug distributor or turn them over to a local law enforcement agency. Law enforcement agencies will

participate in quarantining and securing controlled substance inventories that are not available for lawful dispensing.

The bill requires the Department of Health (DOH) to adopt rules and assess national data to identify the national average of certain controlled substances distributed per pharmacy per month. The DOH is required to report the average for each substance to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2011.

The regulation of wholesale drug distributors is under the Florida Drug and Cosmetic Act, ch. 499, F.S., (FD&C Act). Chapter 2010-161, Laws of Florida, provides for the transfer of the administration of the FD&C Act from the DOH to the Department of Business and Professional Regulation (DBPR), effective October 1, 2011. Responsibilities for implementation of portions of the 2011 legislation regulating controlled substances will occur contemporaneously with the transfer of the administration of the FD&C Act.

OBJECTIVE:

The objective is to monitor the implementation of CS/CS/HB 7095 and similar legislation to keep Senators apprised of the progress and identify delays, obstacles, or enhancements that the Legislature might need to address in the 2012 Legislative Session.

METHODOLOGY:

Senate professional staff will monitor adherence with implementation timeframes in the Legislation and the DOH and DBPR implementation plans; attend rule-development workshops conducted by the agencies and relevant boards, hearings, and other public meetings; and monitor activities of the Department of Law Enforcement and local law enforcement agencies.

HIGHER EDUCATION

Interim Projects

INTERIM PROJECT TITLE:
PECO Process Review

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-129

ISSUE DESCRIPTION and BACKGROUND:

The Public Education Capital Outlay and Debt Service Trust Fund (PECO) is a source of state capital outlay funding for public educational facilities. PECO funds, which are generated by a levy on the gross receipts of utilities, are used for new construction, as well as remodeling, renovation, repair, and site improvement. The Florida College System institutions and state universities identify facility needs to be met through PECO funding and submit a list of proposed projects to the Department of Education (DOE), for Florida College System institutions, and the Board of Governors (BOG) of the State University System, for the state universities. The DOE and BOG then send lists of proposed construction projects to the Legislature for approval, and the Legislature determines which projects to fund through PECO funding.

Questions have been raised regarding the process for identification of postsecondary education facility needs and ultimate approval of projects.

OBJECTIVE:

The project will review the process for PECO funding of postsecondary educational facilities and make recommendations to improve PECO funding determinations.

METHODOLOGY:

Senate professional staff will review the PECO process, interview stakeholders, and examine similar programs and processes in other states.

Issue Briefs

(None)

Mandatory Reviews

INTERIM MANDATORY REVIEW TITLE:

Open Government Sunset Review of Section 267.1736(9), F.S., St. Augustine Historic District

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-311

ISSUE DESCRIPTION and BACKGROUND:

The 2007 Legislature (ch. 2007-77, L.O.F.) enacted a public records disclosure exemption for information held by the University of Florida's direct support organization that supports the university's historic preservation and historic preservation education responsibilities for the City of St. Augustine. The exemption applies to the identity of a donor or prospective donor to the direct support organization who desires to remain anonymous and all information identifying the donor or prospective donor. In accordance with the Open Government Sunset Review Act of 1995 under s. 119.15, F.S., this exemption shall be repealed on October 2, 2012, unless saved from repeal through reenactment by the Legislature.

OBJECTIVE:

The purpose of the project is to review, using the standards provided in the Open Government Sunset Review Act, the public records exemption to assist the Legislature in determining whether the exemption should be reenacted, revised, or eliminated.

METHODOLOGY:

Senate professional staff will review the exemption under the Open Government Sunset Review Act, examine the use of the public records exemption, and evaluate the records protected from public disclosure.

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

The Higher Education Coordinating Council

DATE DUE: N/A

PROJECT NUMBER: 2012-469

ISSUE DESCRIPTION and BACKGROUND:

The 2010 Legislature assigned new duties to the Higher Education Coordinating Council and required the council to issue a report by December 31, 2011, with recommendations on the following topics:

- The primary core missions of public and non-public postsecondary education institutions in terms of the student access to education and the state's economic development goals;
- Performance measures across sectors relating to student preparedness, retention, transfer, and completion;

- The state’s articulation policies to maximize cost benefits without jeopardizing quality and to ensure institutional compliance with the policies; and
- Workforce development education to align school district and Florida College System programs to ensure cost efficiency and mission delineation.

OBJECTIVE:

The purpose of the project is to monitor the activities of the Higher Education Coordinating Council.

METHODOLOGY:

Senate professional staff will monitor conference calls and meetings of the Higher Education Coordinating Council and will review documents as they are produced.

INTERIM MONITOR PROJECT TITLE:

The Articulation Coordinating Committee

DATE DUE: N/A

PROJECT NUMBER: 2012-470

ISSUE DESCRIPTION and BACKGROUND:

The 2011 Legislature codified the Articulation Coordinating Committee and expanded its responsibilities. The committee must review the statewide course numbering system, articulation agreements and articulation data; monitor the alignment between institutional requirements; and make recommendations relating to statewide articulation policies to the Higher Education Coordinating Council, the State Board of Education, and the Board of Governors.

OBJECTIVE:

The purpose of the project is to monitor the work of the Articulation Coordinating Committee.

METHODOLOGY:

Senate professional staff will review committee proposals and reports and observe committee meetings.

JUDICIARY

Interim Projects

INTERIM PROJECT TITLE:

Review Issues and Options Related to Foreclosure Processes

DATE DUE: October 1, 2011

PROJECT NUMBER: 2012-130

ISSUE DESCRIPTION and BACKGROUND:

During the nation's foreclosure crisis, Florida has maintained one of the highest foreclosure rates in the country. Currently, the judicial foreclosure process is the sole means for a mortgage holder to foreclose on a residential or commercial property in this state, other than a timeshare property. As a result of the high number of foreclosures, mortgage holders and borrowers have been encountering significant delays in obtaining foreclosures through the judicial process. The exponential increase in foreclosure filings strained the state courts system. Some circuit courts addressed the crisis with detailed administrative orders outlining the foreclosure process. In addition, the Florida Supreme Court in late 2009 enacted a foreclosure mediation program, based on recommendations from a taskforce on residential foreclosure cases.

Starting in late 2010, some large banks put a freeze on foreclosures due to potential problems with foreclosure and loan documents or insufficient service of process. In particular, attention was being drawn to "robo-signing," a practice under which someone signs many affidavits each day. The person signing the affidavit may have no personal knowledge of the case but swears to processes that may or may not have taken place. The reduction in new foreclosure filings, in turn, placed pressure on the budget for the state courts system, which is based in part on fees generated from these filings. By late spring 2011, however, there were indications that filing activity was resuming.

Although details of the process may vary, nonjudicial foreclosure generally is a mechanism under which the lender does not have to secure a court order to foreclose the property. During the 2010 Regular Session, the Legislature enacted a measure authorizing nonjudicial foreclosure of timeshare properties (ch. 2010-134, L.O.F.), under which an appointed trustee conducts the sale and distributes proceeds. During that same legislative session, legislation was proposed but not enacted authorizing nonjudicial foreclosure more generally (*see, e.g.*, CS/CS/HB 1523 and SB 2270). Recently enacted federal legislation, however, imposes limits on the use of nonjudicial foreclosure for most residential mortgages. Specifically, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), signed into law on July 21, 2010, prohibits any contractual requirement that would impose the use of nonjudicial foreclosure as the exclusive foreclosure process for mortgages on principal dwellings and for closed-end mortgages on secondary dwellings.

Although the federal legislation applies to most residential mortgages, its limitations do not apply to foreclosures on either timeshare properties or commercial properties. Some market analysts have projected an increase in foreclosures deriving from commercial mortgages. As a result, there may be future initiatives to reform the process for foreclosing on commercial properties that incorporate some of the nonjudicial foreclosure process for timeshare mortgages. For example, during the 2011 Regular

Session, SB 1288 proposed the creation of the “Nonjudicial Foreclosure of Commercial Real Property Act.” The measure died in the Committee on Judiciary. A similar House measure also died in committee (*see* HB 799).

OBJECTIVE:

The purpose of this interim project is to present issues and options related to expediting the foreclosure process, including the implementation of nonjudicial foreclosure or other options, should the Legislature desire to establish a new process in this state. Among other elements, the project will review the existing judicial process and efforts being made to facilitate that process; analyze the extent to which states can implement nonjudicial foreclosure in the residential context, in light of federal law changes; review the experiences of other jurisdictions that use nonjudicial foreclosure; consider due process, fiscal, and other issues related to use of nonjudicial foreclosure; and address, in particular, the application of nonjudicial foreclosure in the commercial property context.

METHODOLOGY:

Senate professional staff will consult with experienced practitioners and academicians, including in the banking and legal fields, as well as representatives of the state courts system; analyze federal law, statutes from other states, and the Uniform Nonjudicial Foreclosure Act developed by the National Conference of Commissioners on Uniform State Laws; and review relevant literature and studies on the topic.

INTERIM PROJECT TITLE:

Insurance Bad Faith

DATE DUE: November 1, 2011

PROJECT NUMBER: 2012-132

ISSUE DESCRIPTION and BACKGROUND:

An insurer generally owes two major contractual duties to its insured in exchange for premium payments – the duty to indemnify and the duty to defend. Florida courts for many years have recognized an additional duty that does not arise directly from the contract – the common law duty of good faith on the part of an insurer to the insured in negotiating settlements with third-party claimants. Additionally, s. 624.155, F.S., enacted in 1982, recognizes a claim for bad faith against an insurer not only in the instance of settlement negotiations with a third party, but also for an insured seeking payment from his or her own insurance company.

A first-party bad faith claim occurs when an insured sues his or her insurer claiming that the insurer refused to settle the insured’s own claim in good faith. A common example of a first-party bad faith claim is when an insured is involved in an accident with an uninsured motorist and does not reach a settlement with his or her own uninsured motorist liability carrier for costs associated with the accident. In a first-party action, there is never a fiduciary relationship between the parties, but an arm’s length contractual one based on the insurance contract.

A third-party bad faith claim arises when an insurer fails in good faith to settle a third party’s claim against the insured within policy limits, thus exposing the insured to liability in excess of his or her insurance coverage. A third-party claim can be brought by the insured, having been held liable for

judgment in excess of policy limits by the third-party claimant, or it can be brought by the third party either directly or through an assignment of the insured's rights. The Florida Supreme Court has defined the insurer's duty to the insured as a "fiduciary obligation to protect its insured from a judgment exceeding the limits of the insurance policy."

During the 2011 Regular Session, Senate Bill 1592 proposed a number of changes to Florida's "bad faith statute" codified in s. 624.155, F.S. The bill created specific statutory standards for a bad faith claim against an insurer that could not be limited by common law causes of action. The bill also changed the standard for when a bad faith claim arises and eliminated a claim brought directly by a third party. Finally, the bill specified that an insurer's duty to offer policy limits would not arise unless a plaintiff showed that during settlement negotiations the third party submitted a detailed written demand to settle with the insurer within policy limits which met certain criteria. (See CS/SB 1592, 2011 Reg. Sess.)

Currently there is disagreement regarding whether Florida's bad faith law is working as intended. Some proponents of changes to the law argue that current Florida law allows plaintiffs to pursue large settlements from insurance companies through unfair negotiation practices and that the 2011 legislation would have facilitated fair and prompt settlements while still protecting consumers. Some opponents of law changes argue that current law is working well and that the changes proposed in 2011 would have decreased insurer accountability.

OBJECTIVE:

The purpose of this interim project is to review the current bad faith statute in depth, as well as case law and legal scholarship relating to bad faith insurance claims in Florida; to evaluate how the bad faith law is affecting the claims-handling and litigation practices of insurers and claimants; to identify any issues related to operation of the law; and to identify any potential revisions to the statutory framework to address such issues if the Legislature determines that changes are warranted.

METHODOLOGY:

This interim project will entail researching statutory, case law, and legal scholarship relating to bad faith; comparing Florida's law to the laws of other states; soliciting input and insights from subject matter experts, practitioners, and other interested parties; and gathering qualitative and quantitative data, to the extent available, relating to bad faith claims. This interim project will be conducted in coordination with the professional staff of the Senate Committee on Banking and Insurance.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Current Issues in Evidence Law

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-219

ISSUE DESCRIPTION and BACKGROUND:

The Legislature and the Supreme Court share jurisdiction related to evidence law. The Florida Evidence Code, codified in ch. 90, F.S., is a product of the Legislature. Section 90.102, F.S., specifies that the chapter replaces and supersedes existing statutory or common law in conflict with its provisions.

However, the Supreme Court has constitutional authority over practice and procedure in all courts. Recognizing that the Evidence Code is both substantive and procedural in nature, the Court has adopted the Evidence Code as originally enacted as well as later amended by the Legislature. However, the Court has on occasion declined to adopt amendments enacted by the Legislature.

The Legislature regularly considers changes to the Evidence Code. In recent sessions, measures have been proposed, but not ultimately adopted, to revise the standard for Florida courts to admit expert witness testimony – to bring that standard into conformity with Federal Rule of Evidence 702 and the standard articulated in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). For example, during the 2011 Regular Session, legislation proposed the following additional criteria for a court to consider in determining whether an expert witness may testify in the form of an opinion or otherwise in a case:

- The testimony is based on sufficient facts or data;
- The testimony is the product of reliable principles and methods; and
- The witness has applied the principles and methods reliably to the facts of the case.

(See CS/SB 822 and CS/HB 391, 2011 Reg. Sess.) Currently, Florida courts employ the standard articulated in *Frye v. United States*, 293 F. 1010 (D.C. Cir. 1923), which requires the party who wants to introduce the expert opinion testimony into evidence to show that the methodology or principle has sufficient reliability. Under the 2011 legislation, *Frye* and subsequent Florida decisions applying or implementing *Frye* would no longer apply to a court’s determination of the admissibility of expert witness testimony in the form of opinion and a court’s determination of the basis of the expert’s opinion.

Aside from the issue of expert witness testimony, other evidence issues regularly arise as a result of decisions of courts and through experiences of trial practitioners. For example, according to a recent Florida Supreme Court decision, Florida statutes barring the admission of evidence of settlements do not contain implicit exceptions to admit the evidence – even to impeach or show bias. As another example, s. 90.616, F.S., dealing with exclusion of witnesses, states that “[a]t the request of a party the court shall order, or upon its own motion the court may order, witnesses excluded from a proceeding so that they cannot hear the testimony of other witnesses.” However, because the term “proceeding” is not defined, there may be ambiguity as to whether the term includes, for example, depositions. Sometimes the rule is applied to depositions, and other times it is not. Additionally, Florida’s Evidence Code does not recognize the hearsay exception of forfeiture by wrongdoing, unlike numerous other states’ evidence codes and the Federal Rules of Evidence. This fact could give defendants in Florida the ability to exclude hearsay statements made by a witness who would be available to testify but for wrongdoing by the defendant for the purpose of preventing the witness from testifying.

OBJECTIVE:

The purpose of this issue brief is to identify and analyze current issues in the area of evidence law, including but not limited to the issues related to admission of expert witness testimony. The further purpose of the issue brief is to provide senators with an information resource should those or similar evidence issues be the subject of legislation during the 2012 Regular Session.

METHODOLOGY:

Senate professional staff will review relevant case law and statutory provisions, consult with evidence scholars and litigation practitioners, and review Florida-based and national literature and continuing-education and practice materials in the field of evidence.

INTERIM ISSUE BRIEF TITLE:

Review Sunshine in Litigation Act

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-227

ISSUE DESCRIPTION and BACKGROUND:

The Sunshine in Litigation Act (Act), s. 69.081, F.S., prohibits a Florida court from entering an order or judgment for the purpose of concealing information related to a public hazard or information that may be useful to the public in avoiding injury resulting from a public hazard. The Act further states that any agreement or contract having the purpose of concealing information relating to a public hazard is void and unenforceable because such agreements are against public policy. First enacted in 1990, this section is invoked most commonly in products liability cases. “Any substantially affected person” has standing under the Act to contest an order, judgment, agreement, or contract, “including but not limited to representatives of news media.” Upon a motion and good cause shown by a party attempting to prevent disclosure of information, the court will examine the disputed information in camera. The statute defines a public hazard as “an instrumentality, including but not limited to any device, instrument, person, procedure, product, or a condition of a device, instrument, person, procedure or product, that has caused and is likely to cause injury.”

A recent *Bar Journal* article argued that the statutory definition of “public hazard” is too broad and does not set clear enough guidelines for courts and litigants, giving rise to constitutional concerns. The article also raised other potential constitutional issues relating to the Sunshine in Litigation Act and called for its repeal or significant revision. The Act has been the subject of legal scholarship from various perspectives in recent years questioning its effectiveness in fairly balancing the interests of public safety and protection of business secrets.

OBJECTIVE:

The purpose of this issue brief is to review case law, statutes, and legal scholarship relating to Florida’s Sunshine in Litigation Act; to identify issues affecting operation of the act; and to provide senators with an informational foundation for evaluating the law and any proposals to change it.

METHODOLOGY:

In addition to case law, statutory, and other legal research, this project will entail consulting with scholars, practitioners, and others with an interest in the Sunshine in Litigation Act. Senate professional staff will also analyze comparable statutes that may exist in other jurisdictions, as well as proposals under consideration at the federal level.

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Powers of Attorney Reforms Implementation

DATE DUE: N/A

PROJECT NUMBER: 2012-471

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 Regular Session, the Legislature enacted substantial reforms to the law governing powers of attorney. (See CS/SB 670.) The changes are designed to conform Florida law to the Uniform Power of Attorney Act adopted by the National Conference of Commissioners on Uniform State Laws. The bill creates ch. 709, part I, F.S., consisting of ss. 709.02-709.07, F.S., titled “Powers of Appointment.” The bill also creates ch. 709, part II, F.S., consisting of ss. 709.2101-709.2402, F.S., titled “Powers of Attorney.”

OBJECTIVE:

This monitor project will entail working with the Real Property, Probate, and Trust Law Section of the Florida Bar and other interested stakeholders to identify issues that may necessitate correction or other revision during the 2012 Regular Session.

METHODOLOGY:

Senate professional staff will communicate regularly with the Real Property, Probate, and Trust Law Section of the Florida Bar and other interested stakeholders to determine if issues are identified in the course of implementing the law changes which need to be addressed by additional legislation.

INTERIM MONITOR PROJECT TITLE:

Status of Electronic Filing Initiatives

DATE DUE: N/A

PROJECT NUMBER: 2012-472

ISSUE DESCRIPTION and BACKGROUND:

In 2009, the Legislature passed and the Governor signed into law Senate Bill 1718 (ch. 2009-61, L.O.F.). Among other provisions, the act required each clerk of the court to implement a statewide, uniform electronic filing process for court documents using standards to be specified by the Supreme Court. The Legislature’s expressed intent for requiring the implementation of electronic filing was “to reduce judicial costs in the office of the clerk and the judiciary, increase timeliness in the processing of cases, and provide the judiciary with case-related information to allow for improved judicial case management.” In response to the act, the Florida Supreme Court promulgated statewide standards for electronic filing which specified that electronic filing would be implemented through “a single statewide Internet portal for electronic access to and transmission of court records to and from all Florida courts.” The electronic filing system, which is currently functional, is called the Florida Courts E-Filing Portal (statewide portal). The statewide portal was developed by the Florida Courts Technology Commission

and is governed by the Florida E-Filing Authority, an entity made up of eight circuit court clerks and the Clerk of the Supreme Court.

Proviso language from the fiscal year 2010-11 General Appropriations Act required the state courts system to accelerate the implementation of the electronic filing requirements by implementing five of the 10 trial court divisions by 2011. The five civil divisions chosen for accelerated implementation were circuit civil, county civil, family, probate, and juvenile dependency. The statewide portal began with several counties signing on for the initial program, with clerks in those counties working with volunteer attorneys to use the portal on a pilot basis. The portal will eventually expand into all court divisions for use by all attorneys in each county in Florida.

During the 2011 session, the Legislature passed Senate Bill 170 (CS/CS/SB 170, 2011 Reg. Sess.), requiring each state attorney and public defender to electronically file court documents with the clerk of the court and electronically receive court documents from the clerk of the court. The Florida Prosecuting Attorneys Association and the Florida Public Defender Association are required to report to the President of the Senate and the Speaker of the House of Representatives by March 1, 2012, on the progress made in implementing electronic filing through the statewide portal or other portal for case types not yet approved for filing through the statewide portal.

OBJECTIVE:

The purpose of this monitor project is to track the progress of the statewide portal as it expands into all court divisions and every county, and as the offices of the state attorney and public defender develop the capability to use the statewide portal or other portal as necessary.

METHODOLOGY:

This monitor project will entail communicating with representatives of clerks of court, state attorneys and public defenders, the Florida Courts Technology Commission, and the Florida E-Filing Authority to track the progress and expansion of electronic filing and the statewide portal.

INTERIM MONITOR PROJECT TITLE:

Judicial Branch Issues

DATE DUE: N/A

PROJECT NUMBER: 2012-473

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 Regular Session, the Legislature considered various reforms to Article V of the State Constitution, which governs the Judicial Branch, including a proposal to create separate criminal and civil divisions of the Florida Supreme Court. The Legislature ultimately adopted Committee Substitute for House Joint Resolution 7111, which will be on the ballot for consideration by the voters in November 2012 and which provides for Senate confirmation of gubernatorial appointees to the Supreme Court; authorizes legislative repeal of court rules by a general law enacted by a simple majority vote (rather than a two-thirds vote of the membership of each house); and provides for increased access by the House of Representatives to records of the Judicial Qualifications Commission.

As part of the fiscal year 2011-12 General Appropriations Act, the Legislature appropriated \$400,000 to the Office of Program Policy Analysis and Government Accountability to contract for a study of the Judicial Branch. However, the Governor vetoed funding for the study.

Meanwhile, the Florida Supreme Court in 2009 established the Judicial Branch Governance Study Group to conduct an in-depth study of the current governance system of the Judicial Branch of the state. The study group's report to the Court, released in early 2011, concluded:

Clearly, during the entire course of the Governance Study Group's work, remarkable consensus occurred on the need to modernize the governance structure of the judicial branch, and develop a more unified systems approach to enhance progress, alignment, coherence, and functioning. ... [T]he Governance Study Group members strongly supported a unified systems approach that will more effectively enable the court system to anticipate and deal with current and emergent challenges, and improve functioning at a variety of levels.

... In particular, three areas were significantly important to the group members: 1) desire for the judicial branch to be more proactive rather than reactive; 2) consistent and strong leadership; and 3) better communication at all levels throughout the branch.

The study group recommended a variety of changes to court rules, as well as other policy or operational adjustments by the Judicial Branch.

OBJECTIVE:

The purpose of this monitor project is to track developments related to the Judicial Branch, focusing in particular on the Supreme Court's implementation of the findings and conclusions from its Judicial Branch Governance Study Group, in order to identify and assess any issues that may warrant legislative attention or action.

METHODOLOGY:

This monitor project will entail reviewing the report of the Judicial Branch Governance Study Group; communicating with the Office of the State Courts Administrator on implementation; tracking development and consideration of any proposed court rule changes; and attending any public meetings related to implementation of the study group's recommendations.

MILITARY AFFAIRS, SPACE, AND DOMESTIC SECURITY

Interim Projects

INTERIM PROJECT TITLE:

Attracting Student Veterans to Science and Engineering Degree Fields

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-133

ISSUE DESCRIPTION and BACKGROUND:

The National Science Foundation recognizes a critical shortage in the U.S. engineering and science workforce, which it attributes to the downward trend in student interest in engineering and science and the expected retirement of a large number of engineers and scientists during the coming decade. In an effort to mitigate this shortage, veterans leaving the military have been identified as a potential source of highly motivated, skilled talent that can help to address the decline of the technical workforce. A great opportunity exists to tap into the student veteran population to encourage these veterans to pursue postsecondary degrees in science and engineering and build upon the technical skill sets gained through intensive military training and experience.

The Post-9/11 Veterans Educational Assistance Act of 2008 (Post-9/11 GI Bill) provides substantial financial assistance to veterans, servicemembers, and their dependents pursuing postsecondary education. With the enhanced benefits provided by the Post-9/11 GI Bill, the number of veterans seeking higher education has significantly increased.

The increase of veterans attending postsecondary institutions coupled with the attractive skill sets many student veterans possess presents a gainful opportunity that may help offset the declining capacity of the U.S. technical workforce.

OBJECTIVE:

To identify opportunities in which higher education institutions in Florida can attract student veterans to pursue postsecondary degrees in the science and engineering career fields.

METHODOLOGY:

Senate professional staff will consult with the National Science Foundation to gather information on their efforts in utilizing the veteran population to enhance the science and engineering career fields. Staff will also research existing initiatives at Florida colleges and universities and other higher education institutions outside of Florida aimed at transitioning student veterans into technical degree fields.

INTERIM PROJECT TITLE:

Establishing a Campus Compact for Student Veterans and Institutions of Higher Learning

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-134

ISSUE DESCRIPTION and BACKGROUND:

Florida is third in the nation with the highest population of veterans with over 1.7 million veterans. Annually Florida's returning veterans are faced with numerous obstacles as they attempt to reintegrate into civilian life. Over the years, Florida has consistently looked for ways to better assist the needs of our returning veterans and implemented legislation to do so. During the first week of December 2010, Florida had over 2,400 members of the 53rd Infantry Combat Team return home from Operation Iraqi Freedom/Operation New Dawn. There are currently 868 members of Florida's military serving in the military actions in Iraq, Afghanistan, and other far flung places throughout the globe. With so many veterans living in Florida and more returning home from the military conflicts, there is a need to study the feasibility of the need to improve on-campus services at higher education intuitions for the veterans of Florida.

The State of Maryland has established a Campus Compact for Student Veterans with 21 of its community colleges and four-year public universities to improve on-campus services for veterans. The Compact calls on Maryland's higher education community to do more for the men and women who have served in the U.S. Armed Forces and seeks to ensure educational success of veterans who choose to return to a Maryland school through greater awareness and understanding of this unique challenges student veterans face.

The U.S. Department of Veteran Affairs is testing a program called "VetSuccess on Campus" program at eight colleges, including the University of South Florida (USF), offering personalized assistance to every veteran on campus. USF was the first college to get a full-time VA-funded VetSuccess representative on campus. It hopes to add more in 2012.

OBJECTIVE:

To identify opportunities in which higher education institutions in Florida can create an easier transition of veterans from combat to successfully complete their education and re-integrate into the society as productive citizens.

METHODOLOGY:

Senate professional staff will contact the state of Maryland to gather information on their Campus Compact for Student Veterans initiative and also reach out to the universities in Maryland which participate in the Compact. In addition, staff will collect data on the existing services offered to student veterans at colleges and universities in Florida to determine the feasibility and interest in creating such a compact in the state of Florida.

INTERIM PROJECT TITLE:

Expanding Florida's Role in the Space Industry

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-135

ISSUE DESCRIPTION and BACKGROUND:

Florida is a leader in the space industry as the home to a large number of major aviation and aerospace companies as well as other key space industry assets including NASA, Cape Canaveral Air Force Station, and additional U.S. military bases. In addition to the impressive space industry infrastructure, Florida's geographic location, optimal climate conditions, and extremely knowledgeable technical space workforce contribute to the state's ability to be a space industry leader.

With the looming retirement of NASA's space shuttle program, there is a need for Florida to diversify its capabilities in the space technology field. For over 50 years, Florida's geographic features and technological infrastructure has allowed the state to serve the space industry as an exceptional civil and military launch location. In an effort to preserve Florida's existing technological infrastructure and workforce, it is imperative that Florida create an environment that is conducive to exploiting space-based technologies outside the launch industry.

University-based scientific research is a crucial element needed to expand Florida's role in the space industry. Despite being a leader in the space industry, research universities in Florida are nonetheless lacking when it comes to attracting federally-funded scientific research opportunities. A recent study by the National Science Foundation reported the top 20 universities in the U.S. reporting the largest research and development expenditures in the science and engineering fields in fiscal year 2009. With John Hopkins University in Baltimore, Maryland ranked number one, not a single Florida university was listed in the top 20.

OBJECTIVE:

The objective of this project is to identify possible space-based applications and spinoffs of space technology which Florida can exploit to broaden the state's space-related capabilities and maintain its status as a space industry leader. In addition, this project will examine the federal grant opportunities available to research universities for space-based scientific research and determine to what extent Florida universities are competing for and acquiring these research grant opportunities.

METHODOLOGY:

Senate professional staff will consult with NASA, Space Florida, and Florida universities to gain insight into possible opportunities to expand Florida's space-based market. In addition, staff will contact federal grant-administering agencies, including NASA and the National Science Foundation, to obtain data on past and present space technology research grant opportunities. Staff will also contact the higher education institutions in Florida to inquire about the types of space technology research conducted at the institutions and their abilities in obtaining federal grant funding.

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

(None)

REAPPORTIONMENT

Interim Projects

(None)

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

<i>Public Testimony and Plans for Redistricting in 2011-2012</i>
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DATE DUE: N/A

PROJECT NUMBER: 2012-474

ISSUE DESCRIPTION and BACKGROUND:

The Florida Constitution provides: “The legislature at its regular session in the second year following each decennial census, by joint resolution, shall apportion the state in accordance with the constitution of the state and of the United States into not less than thirty nor more than forty consecutively numbered senatorial districts of either contiguous, overlapping or identical territory, and into not less than eighty nor more than one hundred twenty consecutively numbered representative districts of either contiguous, overlapping or identical territory.” *See* Fla. Const. art. III, § 16.

The 2012 Regular Session convenes January 10 and adjourns March 9. Based on the 2010 Census, the Legislature must set 30 to 40 new Senate districts, 80 to 120 new House districts, and 27 new congressional districts (2 more than the current 25). The new districts must comply with federal and state law, including new standards in the Florida Constitution for establishing district boundaries. *See* Fla. Const. art. III, §§ 20 & 21.

The 2010 Census population counts for Florida were delivered March 17, 2011, and the Florida Senate launched its District Builder web application on May 6, 2011. District Builder is available to Senators, staff, and the public. To use it, all that is required is a high-speed Internet connection and free registration for a personal District Builder account. *See* www.flsenate.gov/redistricting.

OBJECTIVE:

- Reach out to voters and constituents throughout Florida to collect ideas for drawing districts that work for particular communities and comply with federal and state law.
- Provide citizens free and easy access to District Builder and to the redistricting information that legislators and professional staff will use for drawing districts.
- Encourage citizens to build their own districts.
- Provide citizens an easy way to submit plans for consideration by the Senate Committee on Reapportionment. Plans submitted for public consideration, whether by citizens or legislators, will become part of the committee record and will be available to all.
- Document public testimony.
- Provide citizens and legislators simple tools for accessing public testimony and for viewing and analyzing public plans.

METHODOLOGY:

Listening to voters and constituents is where it starts:

- The Senate and House jointly will host 26 public hearings throughout Florida in June through September. The hearing schedule is at www.flsenate.gov/redistricting.
- The Senate Redistricting website also will invite citizens to register for secure District Builder accounts, to learn about the application using online training resources, to use District Builder to model their own districts, to formally submit districts they draw, and to present their plans at public hearings. A similar web application is hosted by the House Redistricting Committee. Plans developed on either system can be submitted to the Senate Committee on Reapportionment.
- The Senate web site will be enhanced to provide comprehensive redistricting information, schedules and records for public hearings, and statistics and interactive maps for public plans.

REGULATED INDUSTRIES

Interim Projects

INTERIM PROJECT TITLE:

Review Regulation of Irrigation Contractors

DATE DUE: October 1, 2011

PROJECT NUMBER: 2012- 136

ISSUE DESCRIPTION and BACKGROUND:

Senator Thrasher requested that Senate professional staff of the Regulated Industries Committee review the need to regulate irrigation contractors. Irrigation contractors are involved in various types of landscape projects, including planted landscape irrigation, and other cooling effects, erosion and dust control, athletic field safety, tourism aesthetics, property and community values, quality of life, irrigation of crops, and wildlife food and habitat protection. Consumers of irrigation services include homeowners, businesses, and local governments.

According to the Florida Irrigation Society, poor quality irrigation systems create wasted water use, wasted electricity, runoff and increased use of fertilizer, pesticides, and herbicides, and increased landscape waste. The society also noted that over 90% of potable water comes from Florida's groundwater supplies. The society maintains that groundwater supplies are economical to develop but are inadequate to supply the growing demand for water. Expensive alternative water supply development and more efficient use of existing water resources are necessary to sustain economic growth and Florida's natural resources. Approximately half of all Florida public water supplies are used for landscape irrigation. The Florida Department of Environmental Protection, Water Management Districts and water utilities have targeted landscape irrigation for significant reduction in water consumption.

The society also maintains that irrigation contractors face a challenging regulatory environment. It stated in its presentation to the Senate Regulated Industries Committee that irrigation contractors must maintain licenses with each county and municipality that requires a license and that there is no uniformity. Improper construction of landscape irrigation can lead to economic harm through the following: financial harm to consumers, loss of landscape material, potential health hazards due to backflow contamination, distribution of water-borne pathogens, building, and infrastructure damage, unsafe roadways due to overspray and undermining, water and energy waste, and excess demand on aquifers, surface water, and water utilities.

OBJECTIVE:

To ascertain, using the criteria in s. 11.62, F.S., whether irrigation contractors should be subject to statewide regulation.

METHODOLOGY:

Senate professional staff will contact appropriate professional organizations, state and local agencies and other interested persons to ascertain the need for statewide regulation of irrigation contractors.

INTERIM PROJECT TITLE:

Review Internet Cafes Used for Electronic Game Promotions

DATE DUE: October 1, 2011

PROJECT NUMBER: 2012-137

ISSUE DESCRIPTION and BACKGROUND:

In November 2008, the Senate Committee on Regulated Industries issued *Interim Report 2009-123: Review of Electronic Gaming Exceptions for Adult Arcades and Game Promotions*. The report was initiated in response to complaints and inquiries regarding whether the adult arcades and electronic game promotions/sweepstakes/Internet cafes (generally known as “Internet Cafes”) are operating legally under ch. 849, F.S., the chapter that governs gambling in the state.

Senator Dean requested that the Senate professional staff of the Regulated Industries Committee review the game promotion situation and tax structure again. Agriculture Commissioner Putnam was quoted in a recent newspaper article indicating that the legal status of the electronic game promotions needed to be clarified by the Legislature.

Section 849.094, F.S., requires that all game promotions register with the Department of Agriculture and Consumer Services (DACCS) if the prizes offered are greater than \$5,000. This section also imposes filing, posting, and bonding requirements on operators of game promotions.

The report found that Internet Cafes offer electronic game promotions in connection with the sale of Internet time or prepaid phone cards, which utilize machines that simulate gambling devices. Verifying that such devices are utilized to operate a game promotion rather than operate an illegal gambling device has proved problematic for law enforcement. The report indicated that law enforcement was seeking clarification as to what constituted a legal game promotion.

In the three years since the publication of *Interim Report 2009-123*, the number of businesses operating Internet Cafes has increased significantly. In addition, a number of legal issues have been raised concerning ambiguities in the game promotion statute. First, it is unclear how the provisions apply to non-profit organizations. Does the statute provide an exception to the requirements of s. 849.094, F.S., for non-profit groups or does the statute exclude those groups from conducting game promotions? Second, there have been issues raised concerning consideration and whether customers of Internet Cafes are purchasing sweepstakes entries.

In response to the increase in the number of Internet Cafes and concerns expressed by constituents, local governments have or are considering enacting ordinances concerning electronic game promotions. For example, Seminole County enacted an ordinance which bans “simulated gambling devices” in the county. The ordinance was challenged by an operator of an Internet Café, Allied Veterans of the World, Inc. On May 6, 2011, the U.S. District Court, Middle District of Florida, denied Allied Veterans’ request to enter a preliminary injunction against the county to stop the implementation of the new ordinance in *Allied Veterans of the World, Inc. and Phone-Sweeps, LLC. v. Seminole County, Florida*, F.Supp.2d (M.D. Fla 2011). In contrast to the ban in Seminole County, Jacksonville passed an ordinance that imposed additional regulations on Internet Cafes. In addition, at least one state, North Carolina, has implemented legislation to ban Internet Cafes.

Three bills were introduced during the 2011 legislative session concerning electronic game promotions. SB 222 by Senator Fasano proposed to require electronic game promotions that have a prize pot of \$1 or greater to register with the DACS, purchase a surety bond or maintain a prize escrow account, post their rules, and meet other statutory requirements. In contrast, SB 576 by Senator Oelrich and HB 217 by Representative Plakon proposed to ban all electronic game promotions. In addition, Senate professional committee staff met with representatives from some of the operators of electronic game promotions. Representatives of the industry recommended that all electronic based game promotions that utilize simulated gambling register with DACS. Some representatives further recommended that the statutory bond be increased and that DACS be given the authority to certify electronic game promotion software.

OBJECTIVE:

The objectives of this issue brief are to:

- Update the research concerning electronic game promotions presented in *Interim Report 2009-123: Review of Electronic Gaming Exceptions for Adult Arcades and Game Promotions*;
- Identify ambiguities in the game promotion statute;
- Identify local ordinances that either regulate or restrict the operation of electronic game promotions and review related legal challenges;
- Review 2011 Legislation that proposed to either regulate or restrict businesses operating as electronic game promotions; and
- Identify related laws in other states.

METHODOLOGY:

Senate professional staff will conduct the research necessary to update the electronic game promotion portion of the 2009 interim report; survey local governments to determine whether they have or are considering regulating or restricting the operation of electronic game promotions; review related legal challenges; and research related laws in other states.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Review Options for New Lottery Games and Game Distribution

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-220

ISSUE DESCRIPTION and BACKGROUND:

Senator Diaz de la Portilla requested that the Senate professional staff of the Regulated Industries Committee review of the potential for new games for the Florida Department of Lottery, including fast keno and multi-state games such as Mega Millions. Senator Diaz de la Portilla further requested a review of whether implementing these new games would have an impact on the revenue sharing from the Seminole Indian Compact.

The Florida Department of Lottery (department) is authorized to supervise and conduct the operation of the state lottery under ch. 24, F.S. Currently, the department operates both online games (games where the player picks numbers and the drawing occurs at a later time and location and are

connected to a central computer) and instant games (paper scratch-off tickets). The department conducts the state online games and also has joined the multi-state lottery game Powerball. Players can purchase tickets at one of over 13,000 retailers. Instant tickets can also be purchased from an instant ticket vending machine. Currently, there are approximately 1,500 instant ticket vending machines used across the state.

In 2010, the state entered into a compact with the Seminole Indian Tribe of Florida, granting the Tribe substantial exclusivity on Class III and casino-style gaming in exchange for revenue sharing with the State. The Compact specified that if an expansion of gaming occurs, Tribal payments may be reduced or may cease. However, the Compact also carved out exceptions for certain activities and for limited types of expansion. For example, the Compact provides that games authorized by ch. 24, F.S., as of February 1, 2010, have no impact on revenue sharing from the Tribe. In addition, the operation of “lottery vending machines,” as defined in the compact, has no impact on revenue sharing payments. The department has not implemented the lottery vending machines defined in the compact.

In March 2011, the Office of Program Policy Analysis and Government Accountability (OPPAGA) issued Report 11-12, *Lottery Profits Decline; Options Available to Enhance Transfers to Education*. The OPPAGA report suggested that the department expand the retailer network. One option for such an expansion would be to sell all types of lottery tickets, not just instant tickets, through the use of a lottery vending machine. The OPPAGA report also discussed an expansion of the types of lottery games offered as a way to attract new players and generate more revenue for the department. Some games suggested include fast keno, Mega Millions, video lottery terminals, and higher priced instant ticket games. Throughout the OPPAGA report, the issues of statutory authorization and revenue sharing with the Tribe are raised as potential issues that would need to be addressed for any additional games or new methods for game distribution.

OBJECTIVE:

To determine whether there are additional lottery games or distribution mechanisms that are currently authorized under law and permitted under the compact without an impact on revenue sharing payments. If not, the report will determine what impact any expansion would have on the revenue sharing payments and what, if any, legislative action would be necessary for such authorization.

METHODOLOGY:

Senate professional staff will review and analyze the OPPAGA report, the Seminole Indian Compact, and ch. 24, F.S., to determine what additional lottery games are currently permitted under ch. 24, F.S., and to determine whether conducting those games would have any impact on the compact. Staff will review the Seminole Indian Compact to determine if there are statutory changes required to implement the specified games in the compact that could be implemented without an impact on state revenue sharing. Staff will contact the Florida Department of Lottery, other state lotteries, and other interested parties to ascertain which, if any, new games are available or of interest to the department for potential expansion.

INTERIM ISSUE BRIEF TITLE:

Compulsive Gambling Programs for College Student Athletes and Military Veterans

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-221

ISSUE DESCRIPTION and BACKGROUND:

Senator Hill requested that Senate professional staff of the Regulated Industries Committee review the compulsive gambling programs available for college student athletes and Florida military veterans. The primary organization that is involved in addressing compulsive gambling in Florida is the Florida Council on Compulsive Gambling, Inc. The council is a not-for-profit organization under 26 U.S.C. 501(c)(3) that provides information, resource referrals, and support services for problem gamblers, their families, employers and others. It also offers prevention and education programs, as well as professional training for mental health, addiction and medical practitioners, gambling operators, governments, businesses, academia, law enforcement authorities, faith based organizations, and others.

Senator Jones, the Chair of the Senate Regulated Industries Committee requested the council to make a presentation on its programs before the committee during the 2011 Regular Legislative Session. Senator Hill requested this interim study in response to the council's presentation and responses to the Senator's inquiries regarding programs for both college student athletes and military veterans.

In response to Senator Hill's questions, the council indicated that it has worked with the Florida High School Coaches Association to address compulsive gambling in the student athlete population and it has found some coaches very supportive of its program and some coaches not receptive at all. The council has wanted to implement a compulsive gambling program across the state, but was not successful. The council noted an example of a high school athlete that was both Florida Mr. Football and Mr. Basketball in the same year and apparently had a gambling problem in high school that was not addressed. When he attended a state university, the athlete's problem gambling became excessive and resulted in him losing his scholarship and ruining a promising athletic career. According to the council, student athletes, because of their competitive nature are at high risk to become problem gamblers.

In addition, the council has tried to penetrate the needs of the veterans' population. The need has been identified by research and calls to the council's hotline, but coordination and support with different segments at the state level has been unsuccessful. It has also been a problem with access to the organizations that serve the veterans. The highest level of prevalence for gambling was for the veteran population according to 2001 Statewide Prevalence Study.

OBJECTIVE:

To ascertain what compulsive gambling programs, if any, are available to college student athletes and military veterans in the State of Florida.

METHODOLOGY:

Senate professional staff will conduct research regarding the status of compulsive gambling in the college student athlete and veteran population. Staff will review programs and referrals provided by the Florida Council on Compulsive Gambling, as well as other studies and reports prepared in other states to ascertain the extent of the problem and any compulsive gambling programs available. The National Collegiate Athletic Association and the major institutions with collegiate sports programs will be

contacted regarding what programs have been developed by these entities. Veterans' groups as well as state and federal agencies will be contacted to ascertain if any programs have been developed for military veterans regarding compulsive gambling, including to what extent compulsive gambling is a problem in the veteran population.

Mandatory Reviews

(None)

Monitor Projects

(None)

RULES

Interim Projects

(None)

Issue Briefs

(None)

Mandatory Reviews

(None)

Monitor Projects

(None)

RULES SUBCOMMITTEE ON ETHICS AND ELECTIONS

Interim Projects

INTERIM PROJECT TITLE:

Florida's Contribution Limits for Campaigns Study

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-138

ISSUE DESCRIPTION and BACKGROUND:

Florida's \$500 across-the-board limit on contributions by individuals and most groups to candidates, and political committees supporting or opposing candidates, has been in place since 1991. Previously, Florida followed a "tiered" approach to limiting these campaign contributions, allowing for contributions of between \$1,000 and \$3,000 depending upon the office sought.

Florida is a huge state where all but the smallest local elections are necessarily media-driven affairs; however, the \$500 limit is one of the lowest in the nation for statewide and legislative candidates. Candidates often depend upon the financial support of their political party or sympathetic third-party groups in order to effectively compete.

As such, the \$500 limit makes it more difficult for the public to follow the campaign money trail by introducing multiple players into the financing equation, effectively obscuring the "who-gave-it, who-got-it" policy underlying the reporting of campaign contributions and expenditures. And, it makes the candidates who decide *not* to court these outside funds and groups vulnerable to having their message *corrupted*, or their candidacy *defined*, by well-financed third party groups.

Notwithstanding, many "good government" organizations remain publicly and philosophically opposed to *any* increase in the contribution limits — or to any elections bill containing such a provision.

OBJECTIVE:

To determine whether Florida's \$500 contribution should be maintained, abolished, or increased, and, if the latter, to develop recommendations with respect to the appropriate limit(s).

METHODOLOGY:

Staff will examine the history of contribution limits; research contribution limits in other states, especially those with electoral demographics comparable to Florida; calculate the unrealized impact of inflation on Florida's 20-year-old, \$500 contribution limit; and, look at the increased costs and changing nature of the players involved in financing campaigns over the last decade or two.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Florida Election Case Law and Federal Preclearance Update

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-222

ISSUE DESCRIPTION and BACKGROUND:

Election laws and the regulation of political speech have always involved significant constitutional considerations — like free speech, freedom of association, and equal protection, to name a few. The 2000 election, however, saw an explosion of election-related litigation that continues to this day. The courts, consequently, have held a number of Florida’s election laws unconstitutional or narrowed their scope or application. Some laws, like those involving electioneering, have been re-written; others remain on the books in their original form.

In addition to decided cases, there are also a number of election cases currently pending, as well as several lawsuits that have been threatened as a result of the major elections bill that passed in the 2011 session (Ch. 2011-40).

Finally, the 2011 elections bill (along with HB 227) contain election administration provisions that need to be “precleared” by the U.S. Department of Justice (USDOJ). Under the federal Voting Rights Act of 1965 (“NVRA”), if the USDOJ determines that any of the provisions have a discriminatory intent or effect they will not take effect.

OBJECTIVE:

To identify and summarize adverse case decisions involving Florida’s election statutes; to review and summarize pending litigation; to explain the Voting Rights Act of 1965 and its impact on Florida election lawmaking; to identify any provisions of the 2011 election laws, if any, that are not precleared by USDOJ; and, to monitor the implementation of the provisions of Ch. 2011-40, L.O.F., by the various Supervisors of Elections.

METHODOLOGY:

Committee staff will conduct a comprehensive review of Florida election case law in the last decade; consult with the Department of State to identify any pending litigation; and, monitor federal preclearance of the 2011 election laws. Committee staff will also consult with the Supervisors of Elections and/or the Florida State Association of Supervisors of Elections and monitor any implementation of the provisions of Ch. 2011-40, L.O.F., that may occur.

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Administrative Rulemaking Resulting from the 2011 Election Bills

DATE DUE: N/A

PROJECT NUMBER: 2012-475

ISSUE DESCRIPTION and BACKGROUND:

Two election bills that passed during the 2011 Legislative session specifically authorize new rulemaking by the Florida Department of State, Division of Elections, House Bill 1355 and House Bill 227.

HB 227 expands the use of the Federal Write-In Absentee Ballot (FWAB) to include multi-candidate state and local elections. It directs the Department to adopt rules prescribing what markings constitute a valid vote on an FWAB, and further requires that such rules be consistent, to the extent practicable, with the rules for other voting systems (i.e., optical scan ballots).

HB 1355 is an omnibus elections bill that grants the Division specific rulemaking authority with respect to the following issues:

- *Third-Party Voter Registration Groups:* requires the Division to provide by rule the format and due dates for information on voter registration forms assigned to and received from third-party voter registration organizations; mandates that the Division ensure the integrity of the third-party voter registration process, including rules requiring third-party voter registration organizations to account for all state and federal registration forms used by their agents; authorizes that such rules may require organization and form specific identification information on each form to assist in the accounting of each form.
- *Minor Political Parties:* provides that the Division must adopt rules providing the manner in which all political parties may have their filings with the Department of State cancelled, which at a minimum must provide for the following: notice; adequate opportunity to respond; and, appeal of the decision to the Florida Elections Commission.

OBJECTIVE:

To ensure that the rules adopted accord with the statutory directives, and to identify any specific issues that may need to be remedied in the upcoming legislative session.

METHODOLOGY:

Committee staff will monitor rule development meetings, review proposed rule language, provide input to the Division, as necessary, and interact with the staff of the Joint Administrative Procedures Committee with respect to proposed rules, if appropriate.

TRANSPORTATION

Interim Projects

INTERIM PROJECT TITLE:

Review Requirements and Costs for Road Designations

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-139

ISSUE DESCRIPTION and BACKGROUND:

Section 334.071, F.S., explains the intent and limitations of legislative designations of transportation facilities for honorary or memorial purposes, or to otherwise, distinguish a particular facility in Florida. Since 1922, over 1,000 of these designations have been approved. Some roads and bridges have multiple or overlapping designations. Specifically, s. 334.071, F.S., provides:

- (1) Legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility, and may not be construed to require any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes;
- (2) When the Legislature establishes road or bridge designations, the Florida Department of Transportation (FDOT) is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility; and
- (3) The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, resolutions supporting the designations must be passed by each affected local government prior to the erection of markers.

The Florida Department of Transportation (FDOT or department) typically installs two signs per designation at a current cost of \$400 per marker. Upon the establishment of a designation, these costs can be absorbed within the existing budget authority of the department. In addition, FDOT will also incur the recurring costs of maintaining these signs over time, and for future replacement of the signs as necessary.

OBJECTIVE:

The purpose of this interim project is to provide an overview of the statutory requirements and procedures related to establishing legislative designations on roads and bridges in Florida. The interim project will also review the costs of these designations, including sign production, installation labor, and maintenance costs.

METHODOLOGY:

Senate professional staff will examine the relevant laws, rules, and current practices relating to establishing and maintaining legislative designations on roads and bridges in Florida. As part of this examination, professional staff will also confer with the FDOT as well as the other interested parties, if any, involved with these designations.

Issue Briefs

INTERIM ISSUE BRIEF TITLE:

Highway Beautification and Landscaping Programs

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-223

ISSUE DESCRIPTION and BACKGROUND:

It is the policy of the Florida Department of Transportation (FDOT, department) to conserve, protect, restore, and enhance Florida's natural resources and scenic beauty. Section 339.24, F.S., requires the department to plan a statewide beautification program for state transportation facilities and limits the expenditure of program funds to those specifically appropriated by the Legislature. Consistent with s. 334.044(26), F.S., no less than 1.5% of the amount contracted for construction projects in each fiscal year is allocated to beautification programs. In Fiscal Year 2010, the department programmed \$29,757,657 (amounting to approximately 1.85% of construction funds) for highway beautification and landscaping projects.

OBJECTIVE:

The issue brief will identify federal and state laws relating to highway beautification and landscaping programs, report expenditures related to the programs and quantify costs and benefits to the State.

METHODOLOGY:

Senate professional staff will review the federal and state laws that pertain to highway beautification and conduct interviews of FDOT personnel and program stakeholders including, landscaping contractors and relevant suppliers of plant materials. Data related to fund expenditures and resultant economic activity will be analyzed and presented.

INTERIM ISSUE BRIEF TITLE:

Florida Transit Systems Overview and Funding

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-224

ISSUE DESCRIPTION and BACKGROUND:

There are 21 fixed-route transit systems distributed across the state's urbanized areas. Each system is controlled by a local government or a regional association of local governments. While these transit systems play an important role in ensuring the mobility of many Floridians, none is financially self-supporting.

OBJECTIVE:

The issue brief will identify and describe Florida's fixed-route transit systems, their governance, services, funding sources, and present statistical data relating to ridership and farebox recovery.

METHODOLOGY:

Senate professional staff will research Florida transit system operations, ridership, and farebox recovery ratios by interviewing state and local transit officials and reviewing federal and state grant disbursement data.

INTERIM ISSUE BRIEF TITLE:

Development of Storm Water Treatment Facilities for Transportation Projects

DATE DUE: September 1, 2011

PROJECT NUMBER: 2012-225

ISSUE DESCRIPTION and BACKGROUND:

The Florida Department of Transportation (FDOT) operates under federal, state, and local laws and regulations relating to storm water management when developing transportation projects. The basic goal for storm water treatment for transportation projects is to assure that the post-development peak discharge rate, volume, timing and pollutant load does not exceed pre-development levels. Paramount in virtually all treatment plans is the temporary storage of storm water runoff in ponds. As such, the acquisition of properties for the location and development of storm water ponds can result in the consumption of a sizable portion of a transportation facility's budget.

OBJECTIVE:

The issue brief will present the basic processes used to locate and develop storm water treatment facilities for transportation projects. Particular emphasis will be placed on the right-of-way acquisition process used when developing storm water treatment facilities.

METHODOLOGY:

Senate professional staff will examine and summarize federal, state, and local laws and regulations relating to storm water management and interview process stakeholders including FDOT, the Florida Department of Environmental Protection, and water management districts.

Mandatory Reviews

(None)

Monitor Projects

INTERIM MONITOR PROJECT TITLE:

Transfer of the Florida Department of Transportation Office of Motor Carrier Compliance to the Department of Highway Safety and Motor Vehicles Division of Florida Highway Patrol

DATE DUE: N/A

PROJECT NUMBER: 2012-476

ISSUE DESCRIPTION and BACKGROUND:

During the 2011 Session, the Legislature adopted SB 2000, the General Appropriations Act, which transfers 315 full-time employees (FTE) and the associated budget of \$34.7 million from the Florida Department of Transportation to the Department of Highway Safety and Motor Vehicles to support the consolidation of law enforcement functions of the Office of Motor Carrier Compliance and the Florida Highway Patrol. Section 32 of SB 2160 transfers the Office of Motor Carrier Compliance to the Division of the Florida Highway Patrol within the Department of Highway Safety and Motor Vehicles and provides authority for the transfer of positions and funds between agencies upon approval by the Legislative Budget Commission. The consolidation of these two law enforcement units realized a \$1.3 million savings in Fiscal Year 2011-2012 and is expected to be a recurring savings of \$2 million beginning in Fiscal Year 2012-2013.

OBJECTIVE:

The purpose of this project is to monitor the transfer of the Office of Motor Carrier Compliance including the need for additional transfer of FTE or funds between the agencies and any additional savings that may be realized as a result of the consolidation.

METHODOLOGY:

Senate professional staff of the Transportation Committee in coordination with Senate professional staff of the Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations will attend meetings between the Department of Highway Safety and Motor Vehicles and the Department of Transportation as they prepare for the July 1, 2011 implementation of the transfer. Thereafter, staff will meet on a monthly basis, or as needed basis, for briefings on budgetary issues relating to the transfer for both Fiscal Year 2011-2012 and thereafter

INTERIM MONITOR PROJECT TITLE:

Law Enforcement Consolidation Task Force

DATE DUE: N/A

PROJECT NUMBER: 2012-477

ISSUE DESCRIPTION and BACKGROUND:

Senate Bill 2160 (section 31) passed during the 2011 Legislative Session creating a Law Enforcement Consolidation Task Force charged with evaluating the duplication of law enforcement functions throughout state government and identifying functions that are appropriate for consolidation. Specifically, the task force will evaluate administrative functions including, but not limited to accreditation, training, legal representation, vehicle fleets, aircraft, civilian-support staffing, information technology, geographic regions, and districts or troops currently in use. The task force is also directed to evaluate the effects of limiting the jurisdiction of the Florida Highway Patrol to the State Highway System or the Florida Intrastate Highway System.

The task force consists of the following eight members: the executive directors of the Department of Highway Safety and Motor Vehicles and the Department of Law Enforcement, the Colonels of the Florida Highway Patrol and the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, and one representative each from the Office of Attorney General, the Department of Agriculture and Consumer Services, the Florida Sheriffs Association, and the Florida Police Chiefs Association.

The task force is required to submit recommendations to the President of the Senate and the Speaker of the House of Representatives by December 31, 2011. If the task force determines that consolidation is appropriate, the recommendations should include a plan and methodology for consolidation.

OBJECTIVE:

This project will monitor the task force's progress as they review law enforcement functions for potential consolidation to identify issues that may need to be addressed in the 2012 legislative session.

METHODOLOGY:

Senate professional staff of the Transportation Committee in coordination with Senate professional staff of the Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations will attend task force meetings as the recommendations are developed and will also review and evaluate the statutory report to be received on December 31, 2011.